

**ORDINANCE NO. 7**  
**Series 2019**

October 2, 2019: Introduced as Council Bill 6, Series 2019 by Councilor Dan Sheldon, seconded by Councilor Mike Gallagher and considered in full text on first reading. Passed by a vote of 5 yes and 0 no.

October 15, 2019: Considered in full text on second reading. Passed by a vote of 4 yes and 0 no.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE,  
REPEALING CHAPTER 16, ZONING, OF THE CHERRY HILLS VILLAGE  
MUNICIPAL CODE AND REPLACING SUCH CHAPTER WITH AN UPDATED  
CHAPTER 16, ZONING; AMENDING SECTION 1-1-80 OF THE CHERRY HILLS  
VILLAGE MUNICIPAL CODE REGARDING FEES**

**WHEREAS**, the City of Cherry Hills Village is a home rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Home Rule Charter of the City of Cherry Hills Village ("Charter"); and

**WHEREAS**, in accordance with Article IV of the Charter, the City Council is authorized to adopt ordinances regarding the use and development of property, and provide for penalties for the violation thereof; and

**WHEREAS**, the City Council finds that the current Chapter 16 has become outdated and poorly organized, and that an updated Chapter 16 is desired in order to modernize the Chapter, resolve internal inconsistencies, make the Chapter more accessible, and resolve potential misunderstandings regarding its application; and

**WHEREAS**, at a duly noticed meeting held on September 10, 2019, the Cherry Hills Village Planning and Zoning Commission considered a proposed updated version of Chapter 16 and voted unanimously to recommend that the City Council adopt the updated Chapter 16, with minor amendments to parking standards and the addition of standards and procedures related to reasonable accommodations; and

**WHEREAS**, the City Council finds and determines that the updated Chapter 16 advances the health, safety, and general welfare of the public; and

**WHEREAS**, the City Council finds that Section 1-1-80 of the Cherry Hills Village Municipal Code as written is inconsistent with the updated Chapter 16, and finds that the ability to establish fees as required by that Code and to amend existing fees, costs, deposits, occupation taxes, and other charges required by the Code via City Council resolution will assist in implementing the Cherry Hills Village Municipal Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:**

**Section 1.** Chapter 16 Repealed and Replaced. Chapter 16 of the Cherry Hills Village Municipal Code is repealed in its entirety and replaced by a new Chapter 16, a copy of which is attached hereto as **Attachment A** and incorporated herein by reference.

**Section 2.** Section 1-1-80 Amended. Section 1-1-80 of the Cherry Hills Village Municipal Code is hereby amended as follows, with additions shown in underline:

Sec. 1-1-80. - Fee schedule.

The fees, costs, deposits, occupation taxes and other charges as required by this Code shall be set forth in the text of the Code and in Appendix A - Fee Schedule to the Code. In the event of a conflict between the fees, costs, deposits, occupation taxes and other charges listed in the text of any individual section of the Code and Appendix A, the provisions of the applicable section of the Code shall control. Notwithstanding the preceding sentences of this Section 1-1-80, City Council may adopt a fee schedule resolution to establish fees as required by this Code and to amend the fees, costs, deposits, occupation taxes, and other charges set forth in the text of this Code and Appendix A. In the event of a conflict between the charges listed in any individual

section of the Code or Appendix A and such fee schedule resolution, the fee schedule resolution shall control.

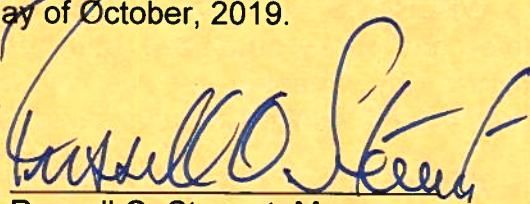
**Section 3.** Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

**Section 4.** Safety. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

**Section 5.** Codification Amendments. The codifier of the City's Municipal Code, Municode, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this ordinance within the Cherry Hills Village Municipal Code.

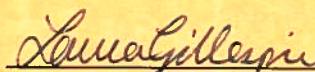
**Section 6.** Effective Date. This ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 7 Series 2019, by the City Council of the City of Cherry Hills Village, Colorado this 15<sup>th</sup> day of October, 2019.

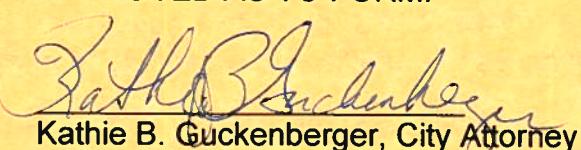


Russell O. Stewart, Mayor

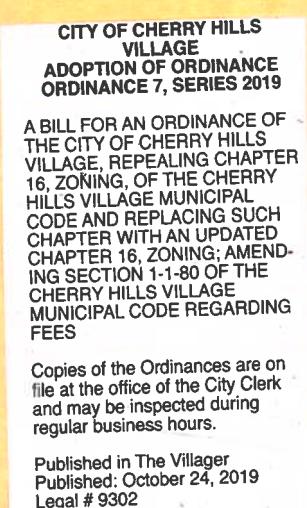
ATTEST:

  
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

  
Kathie B. Guckenberger, City Attorney

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**ATTACHMENT A**

# CHAPTER 16 -

## Zoning

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# Article I. - Preliminaries

## Division 1. - Title, Purpose, and Applicability

### Sec. 16-1-10. - Title.

This Chapter shall be known and may be cited as the "City of Cherry Hills Village Zoning Code," and may be referred to herein as "this Chapter" or "Zoning Code."

### Sec. 16-1-20. - Purpose.

(a) **General Purposes.** The purpose and intent of this Chapter is to promote the health, safety, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City of Cherry Hills Village, Colorado, by using the City's home rule, constitutional, and statutory powers to:

- (1) Implement the City's adopted Master Plan and other adopted plans, which plans:
  - a. Reflect the shared values of the City's residents with respect to the semi-rural character, form, and function of its future development; and
  - b. Promote planned, logical, fiscally and environmentally responsible, and orderly development within the City;
- (2) Establish zoning districts and development standards that allow for the use and development of property in ways that promote the interest of the City and its residents in:
  - a. Conserving and enhancing economic, social, cultural, recreational, and aesthetic property values;
  - b. Maintaining the semi-rural character of the City, ensuring adequate light and air, and maintaining appropriate open spaces; and
  - c. Ensuring peace and quiet enjoyment within the City's residential properties and neighborhoods.
- (3) Provide for sufficient, efficient, fiscally sustainable, and cost-effective transportation, water, sanitary sewer, school, park, stormwater conveyance and treatment, and other public and private facilities and services;
- (4) Promote public safety by securing safety from fire, flood, and other dangers through appropriate site design and adequate infrastructure and emergency services, in coordination with independent providers of public services and facilities;
- (5) Promote appropriate stewardship of natural resources, including water resources;
- (6) Provide for fair development approval procedures that respect private property rights and promote appropriate development; and

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

(b) **Other Specific Purposes.** Other specific purposes of the various provisions of this Chapter may be expressed therein.

**Sec. 16-1-30. - Authority**

(c) **Generally.** The provisions of this Chapter are authorized as provided in this Section. The City may be authorized or required to act in additional areas from time to time. This Section is not intended, in any way, to limit the City's ability to accept such additional authorizations or requirements.

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

(e) **Colorado Revised Statutes.** Supplemental authority for the provisions of this Chapter is provided by the Colorado Revised Statutes, if they are not inconsistent with the provisions herein, or if they are preemptive of charter ordinances. The following provisions of the Colorado Revised Statutes may be used as authority for certain provisions of this Chapter:

- (1) Regulate zoning, planning, subdivision, and development of land and building by C.R.S. Title 31, Article 23;
- (2) Designate and administer areas and activities of state interest by C.R.S. §§ 24-65.1-101 to 108, 201 to 204, 301, 401 to 407, 501 to 502 and 34-1-301 *et seq.*, as amended;
- (3) Regulate certain activities on, and uses of land by C.R.S. § 29-20-101 *et seq.*, as amended;
- (4) Regulate to avoid various types of pollution by virtue of C.R.S. § 25-7-112 (water pollution, radiation, noise);
- (5) Regulate annexation of land by C.R.S. § 31-12-101 *et seq.*, as amended;
- (6) Regulate medical marijuana uses by C.R.S. Title 12, Article 43.3;
- (7) Regulate recreation marijuana uses by C.R.S. Title 12, Article 43.4;
- (8) Recognize the vesting of property rights for site-specific development orders according to C.R.S. § 24-68-101, *et seq.*; and
- (9) Regulate surveying practices according to C.R.S. § 38-51-101, *et seq.*

(f) **United States Code.** Some of the regulations in this Chapter are authorized or required by federal law, which may include programs that are delegated to the State of Colorado for administration. Such regulations may include, but shall not be limited to:

- (1) Flood damage prevention, pursuant to 42 U.S.C. § 4022; and
- (2) Local implementation of the National Pollutant Discharge Elimination System (“NPDES”), pursuant to 33 U.S.C. § 1342.

(g) **Additional Authority; Limitations.** Should further authorizing legislation exist or be enacted, this Chapter is additionally deemed to be enacted or effective pursuant thereto, except:

- (1) This Chapter shall supersede inconsistent legislation if the City’s home rule authority so allows; and
- (2) This Chapter shall be superseded by such legislation only to the extent of any irreconcilable conflict if the City’s home rule authority does not subordinate such legislation.

### **Sec. 16-1-40. - Applicability.**

- (a) **Generally.** This Chapter applies to all development, redevelopment, and use of land in the City of Cherry Hills Village. Except as hereinafter provided, the regulations set by this Chapter within each zoning district shall be minimum regulations and shall apply uniformly and particularly to each class or kind of land, building, or structure.
- (b) **Conformity Required.**
  - (1) Except as provided in Article VI, *Nonconformities*, no structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be constructed, unless in conformity with all of the regulations of this Chapter.
  - (2) No yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the initial ordinance codified herein shall meet at least the minimum requirements established by this Chapter.
- (c) **Exclusivity.** Except as specifically provided herein, no part of a yard or other open space, or off-street parking or loading space required about or in connection with any structure for the purpose of complying with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other structure.
- (d) **Annexed Territory.** All territory which may hereafter be annexed to the City shall be zoned following the procedures outlined in C.R.S. § 31-12-101, *et seq.*

## **Division 2. - Interpretation and Severability**

### **Sec. 16-1-110. - Interpretation.**

- (a) **Generally.** In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

- (b) **Conflicts.** Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully City-adopted regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern. Where the standards are such that the "most restrictive" or "higher" standard is not obvious, the more specific shall control the more general. If none are more specific than any other, then the most recently adopted standard controls.
- (c) **Deed Restrictions or Covenants.** The City will not consider, interpret, or apply deed restrictions or covenants unless the City is a party to or beneficiary of them.

#### **Sec. 16-1-120. - Severability.**

It is declared to be the intention of City Council that the Articles, Divisions, Sections, Subsections, Paragraphs, Sub-Paragraphs, Sentences, Clauses, and Phrases (collectively, "PROVISIONS") of this Chapter are severable, and if any Provision of this Chapter shall be declared unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect any of the remaining Provisions, since the same would have been enacted by the City Council without the incorporation in this Chapter of any such unconstitutional or invalid Provisions, unless such incorporation would lead to an absurd or patently unjust result.

## Article II. - Zoning Districts and Land Use

### Division 1. - Establishment of Zoning Districts.

#### Sec. 16-2-10. - Establishment of Zoning Districts.

The zoning districts set out in Table 16-2-10, *Zoning Districts*, are established.

TABLE 16-2-10  
ZONING DISTRICTS

Symbol	Zoning District	Purpose
R-1	2½-Acre Residential	Provide for residential and agricultural uses on lots of 2½ acres or more in area
R-2	1½-Acre Residential	Provide for residential and agricultural uses on lots of 1½ acres or more in area
R-3	1-Acre Residential	Provide for residential and agricultural uses on lots of one acre or more in area
R-3A	Variable Lot Residential	Provide for residential and agricultural uses on varied lots that are 16,000 sf. or more in area, but with a maximum gross density of 3 units per 2 acres
R-4	½-Acre Residential	Provide for residential and agricultural uses on lots of ½ acre or more in area
R-5	16,000 Square Foot Residential	Provide for residential uses on lots of 16,000 sf. or more in area
O-1	Open Space, Park and Recreation Area	Provide for open spaces, agriculture, parks, and recreation facilities
O-2	Open Space, Conservation and Historic Area	Provide for public open spaces, agriculture, parks and recreation facilities, and other municipal uses that promote conservation values and historic preservation consistent with the Master Plan and semi-rural character of the City
C-1	Community	Provide for places of public assembly and governmental uses
C-2	Limited Commercial	Provide for limited commercial uses that front on East Hampden Avenue between South Lafayette Street and South Franklin Street

#### Sec. 16-2-20. - Official Zoning Map Adopted.

- (a) **Generally.** The zoning districts established by Section 16-2-10, *Establishment of Zoning Districts*, shall be located as shown on the official zoning map which, together with all explanatory matter thereof, is hereby adopted by reference and declared to be a part of this Chapter.
- (b) **Identification of Official Zoning Map.** The official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 16-2-20 of the Municipal Code of the City of Cherry Hills Village, Colorado," together with the effective date thereof.
- (c) **Amendments to Official Zoning Map.**
  - (1) If, in accordance with the provisions of this Chapter and Articles IV and VIII of the City Charter, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be made on the official zoning map after the amendment has been approved by the City Council, together with an entry on the official zoning map as follows: On (date) by official action of the City Council, the

following changes were made in the Official Zoning Map: (brief description of nature of change), which entry shall be signed by the Mayor and attested by the City Clerk.

(2) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Chapter.

(d) **Conflicting Maps.** Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the City Clerk shall be the final authority as the current zoning status of land and structures in the City.

(e) **Destruction and Replacement of Official Zoning Map.** In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor attested by the city clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map of the City of Cherry Hills Village, Colorado, as adopted in Section 16-2-20 of the Municipal Code."

### **Sec. 16-2-30. - Rules for Interpretation of Zoning District Boundaries.**

(a) **Generally.** Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following City limits shall be construed as following City limits.
- (4) Boundaries indicated as approximately following the centerlines of streams, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- (5) Boundaries indicated as parallel to or extensions of features indicated in subsections (a)(1) through (a)(4), above, shall be so construed.

(b) **Scale.** Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(c) **Other Features.** Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (a)(1) through (a)(5), above, the Director shall reasonably interpret the district boundaries, subject to appeal to the Board of Adjustment and Appeals.

## **Sec. 16-2-40. - Standards for Rezoning.**

(a) **Generally.** The City is essentially built-out in accordance with its Master Plan. As such, the City does not anticipate changes in the landscape that would create a need for amendments to the Official Zoning Map. Rezoning shall be allowed only in strict compliance with the standards of this Section.

(b) **Standards for Rezoning.**

(1) The City Council may approve an application for rezoning if it is demonstrated that any of the following conditions exist:

- a. The existing zoning was implemented in obvious error, and the rezoning is necessary to correct the error.
- b. Two adjacent lots that are located in different residential zoning districts are consolidated into a single lot, and the rezoning will apply the less intensive zoning district to both lots (*e.g.*, an R-3 zoned lot is combined with an R-1 lot, and the owner of the combined lot seeks to rezone so that the consolidated lot is zoned R-1).
- c. A lot line adjustment is approved along a lot line that is also a zoning district boundary line, and the rezoning is necessary to achieve a corresponding adjustment in the zoning district boundary line.
- d. The proposed new zoning district will better facilitate implementation of the City's Master Plan.

(2) The standards for rezoning set out in this Section apply to applications brought by property owners pursuant to Section 16-7-350, *Rezoning*, and do not limit the City Council's authority to initiate and thereafter enact amendments to the zoning map.

## **Division 2. - Land Use by Zoning District.**

### **Sec. 16-2-110. - Interpretation of Land Use by Zoning District Tables**

(a) **Generally.** The tables set out in this Division describe which land uses are allowed "as-of-right," allowed after public hearing if certain conditions are met, and not allowed in each zoning district.

(b) **Legend.** The following symbols are used in the tables in this Division:

- (1) "A" means "allowed as-of-right." These uses are subject to administrative review for compliance with the applicable standards of this Chapter.
- (2) "C" means "conditional use." Conditional uses are subject to public hearing review for compliance with conditional use standards and other applicable standards of this Chapter.
- (3) "—" means that the use is not allowed in the specified zoning district.

(c) **Multiple Uses.** In instances where a proposed development will combine more than one allowable principal use, each listed shall be evaluated independently for compliance with applicable standards.

### Sec. 16-2-120. - Land Use by Zoning District

The land uses that are allowed as-of-right, by conditional use approval, and not allowed in each zoning district are set out in Table 16-2-120, *Land Use by Zoning District*.

Land Use	Zoning District									
	R-1	R-2	R-3	R-3A	R-4	R-5	O-1	O-2	C-1	C-2
Residential Land Uses										
Single-Family Detached Dwelling Unit	A	A	A	A	A	A	—	A <sup>1</sup>	—	—
Community Land Uses										
Governmental Offices	—	—	—	—	—	—	—	A	A	A
Park	A	A	A	A	A	A	A	A	A	A
Place of Assembly	A	A	A	—	—	—	C	A	A	—
Private Club	—	—	—	—	—	—	C	—	—	—
School or Daycare	A	A	A	—	—	—	C	A	—	—
Commercial Land Uses										
Equestrian Facilities and Stables	—	—	—	—	—	—	C	A	—	—
Medical or Professional Office	—	—	—	—	—	—	—	—	—	A
Restaurant	—	—	—	—	—	—	—	—	—	A
Retail Sales and Services, Type A	—	—	—	—	—	—	—	—	—	A
Pet Day Care or Training	—	—	—	—	—	—	—	—	—	C
Veterinary Office	—	—	—	—	—	—	—	—	—	A
Fueling or Service Station	—	—	—	—	—	—	—	—	—	C
Vehicle Wash	—	—	—	—	—	—	—	—	—	C
Utilities and Communications Land Uses										
Major Utility Facility	C	C	C	C	—	—	—	C	C	—
Minor Utility Facility	A	A	A	A	A	A	—	C	C	—
Wireless Communications Facility Land Uses										
All Wireless Communications Facilities	See Chapter 20, Wireless Communications Facilities									
Agricultural Land Uses										
Agriculture (Crops) or Silviculture	A	A	A	—	—	—	A	A	—	—
Agriculture (Livestock)	A	A	A	—	—	—	C	A	—	—
<b>Table Note:</b>										
<sup>1</sup> Applies only to dwelling units that were in existence on the effective date of this Chapter. New single-family detached dwelling units are not allowed.										

### Sec. 16-2-130. - Land Uses That Are Not Allowed in Any Zoning District

The following land uses are not allowed in any zoning district:

- (1) Commercial greenhouses;
- (2) Disposal;
- (3) Farms operated for the disposal of garbage or biosolids (e.g., land application);
- (4) Industrial and logistics uses;
- (5) Industrial Hemp production;
- (6) Intensive agriculture;
- (7) Marijuana uses;
- (8) Overnight accommodations;
- (9) Outdoor shooting ranges;
- (10) Resource extraction;
- (11) Retail sales and services, Type B; and
- (12) Self-storage facilities.

#### **Sec. 16-2-140. - Land Uses That Are Not Listed**

(a) **Generally.** If a proposed use is not listed in the Section 16-2-120, *Land Use by Zoning District*, or specifically prohibited in Section 16-2-130, *Land Uses That Are Not Allowed in Any Zoning District*, then the Director shall determine whether the proposed use is functionally comparable to a use that is listed. A proposed use is functionally comparable to a use that is allowed if it is:

- (1) Reasonably comparable to the use, and
- (2) With regard to each of the decision criteria enumerated in subsection (b), the proposed use has no greater impacts than the use with which it is functionally comparable.

(b) **Decision Criteria.** The following decision criteria shall be evaluated when the Director determines whether a proposed use is functionally comparable to an allowed use:

- (1) Parking demand;
- (2) Average daily and peak hour trip generation (cars and trucks) and impacts on City streets and infrastructure;
- (3) Hours of operation and peak hours of use;
- (4) Lighting, noise, and vibration;
- (5) Security demands;
- (6) Dust and odors;
- (7) Potentially hazardous conditions, such as projectiles leaving the site;
- (8) Use or storage of hazardous materials;

- (9) Design of buildings, structures, and landscaping; and
- (10) Character of operation.

(c) **Effect of Determination.**

- (1) If the Director approves an application for a decision pursuant to this Section, then the use is permitted, subject to the same standards and procedures as the use to which it was compared for the purposes of the favorable decision.
- (2) If the Director determines that a proposed use is not functionally comparable to a use that is permissible in the table in the zoning district that applies to the subject property, then the proposed use is not allowed in that zoning district.

## Division 3. - Use-Specific Standards

### Sec. 16-2-210. - Community Land Uses.

- (a) **Generally.** Community Land Use, whether allowed as an allowed as-of-right use or a conditional use, are subject to the requirements of this Section.
- (b) **All Community Land Uses.** No community land use shall regularly conduct or permit on its premises activity of a commercial nature that is not central to the function of the land use, whether or not a fee or admission is charged for participation in or attendance at such activity. For example, a pro-shop at a private club, or a bookstore at a school, are central to the function of the respective land use, while the use of a place of assembly for co-working space is not central to the function of the land use.

### Sec. 16-2-220. - Commercial Land Uses.

- (a) **Generally.** Commercial Land Uses are subject to the applicable requirements of this Section.
- (b) **Pet Day Care and Training.** Pet day care and training uses shall be conducted entirely indoors.
- (c) **Fueling or Service Stations and Vehicle Washes.** Fueling or service station uses and vehicle washes (whether primary uses or accessory uses) shall be designed as follows:
  - (1) *Canopy and Accessory Building or Structure Design.*
    - a. Canopies and all other accessory buildings or structures (including vehicle washes) shall be architecturally comparable to the principal building through the use of the same or complementary materials, design motif, and colors.
    - b. Structural supports for canopies shall incorporate masonry elements as used on the principal building.
    - c. Canopy height shall not exceed 18 feet unless the roof structure has a pitched form that matches the principal building.

- (2) *Vehicle Washes.* Vehicle wash uses, whether principal or accessory, shall be conducted within enclosed buildings accessed by overhead doors.
- (3) *Lighting.* In addition to the standards of Section 16-4-120, *Exterior Lighting; Generally*, and Section 16-4-130, *Lighting of Parking Lots*, the following standards apply:
  - a. Any lighting fixtures or sources of light that are a part of the underside of the canopy shall be recessed into the underside of the canopy so as not to protrude below the canopy ceiling surface more than two inches.
  - b. The material and color used on the underside of the canopy shall not be highly reflective.
- (4) *Landscaping.* Except at points of ingress and egress, a six-foot wide landscape buffer shall be provided along all street frontages. The landscape buffer shall be planted with 20 shrubs and three small trees per 100 linear feet.

### **Sec. 16-2-230. - Utility Land Uses.**

- (a) **Generally.** Utility land uses are subject to the applicable standards of this Section.
- (b) **All Utilities.**
  - (1) Offices, repair shops, and storage facilities are not allowed on the site of utility land uses.
  - (2) No utility facility, plant, or system that requires a certificate of convenience and necessity from the Colorado Public Utilities Commission shall be approved unless such certificate is granted.
- (c) **Major Utilities.** In addition to the standards of subsection (b), above, the following standards apply to major utilities:
  - (1) Major utilities shall be completely screened from view from adjacent property and public rights-of-way through the use of landscaping, topography, and garden walls, or through enclosure in a building that is designed to appear as a residence or accessory building that is appropriate to the context.
  - (2) In approving the location of a major utility facility, the City shall consider whether the balance of the following factors weighs in favor of locating the facility in the City:
    - a. The demonstrated need for the facility;
    - b. The extent to which the proposed facility is consistent with the Master Plan;
    - c. Whether the proposed facility would exacerbate a natural hazard;
    - d. How the facility will comply with applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards;
    - e. The relative merit of any reasonably available and economically feasible alternatives proposed by the public utility or the City;

- f. The impact that the City's action would have on the customers of the public utility who reside within and without the boundaries of the jurisdiction of the City;
- g. The impact the proposed facility would have on residents within the City's jurisdiction including, in the case of a right-of-way in which facilities have been placed underground, whether residents have already paid to place such facilities underground; and
- h. The safety of residents within and without the boundaries of the City.

(d) **Minor Utilities.** In addition to the standards of subsection (b), above, the following standards apply to minor utilities:

- (1) Minor utilities shall be located to minimize risk to and impacts on adjacent and nearby properties.
- (2) Above-ground minor utilities with footprints that are 15 square feet or less and heights of five feet or less, are not required to be completely screened, but shall be designed to blend into their context to the extent practicable. Treatments may include, but are not limited to, integration with landscaping, use of color, and placement behind screen walls or berms.
- (3) Above-ground minor utilities with footprints that are larger than 15 square feet or heights that are greater than five feet shall be completely screened from view from adjacent property and public rights-of-way through:
  - a. The use of landscaping, topography, and garden walls; or
  - b. Enclosure in a building that is designed to appear as a residential or agricultural accessory building, as appropriate to its context.

### **Sec. 16-2-240. - Wireless Communications Facilities**

Wireless communications facilities are subject to the standards and review procedures in Chapter 20, *Wireless Communications Facilities*, CHERRY HILLS VILLAGE MUNICIPAL CODE, and may be subject to additional provisions of this Chapter as provided therein.

### **Sec. 16-2-250. - Agricultural Land Uses.**

- (a) **Generally.** No agricultural use shall be permitted if offensive or injurious because of odor, noise, dust, fumes, smoke, or other nuisances. However, the normal odors, noises, and other external impacts of animal keeping shall not be considered offensive or injurious unless they are also the result of violations of Chapter 7, Article V, CHERRY HILLS VILLAGE MUNICIPAL CODE.
- (b) **Certain Commercial Operations Prohibited.** No agricultural use shall include on-site retail sales of its products to the general public, except that pickup of agricultural products from a community supported agriculture ("CSA") farm by its shareholders or subscribers is allowed.

## **Division 4. - Requirements and Conditions for Conditional Uses**

### **Sec. 16-2-310. - Purpose and Application of Division.**

(a) **Purpose.** The City Council hereby declares that certain uses of land designated as conditional uses within any zoning district may be authorized by City Council subject to compliance with the standards and review and approval procedures set forth in this Division.

(b) **Application.**

(1) The standards of this Division apply to all land uses that are listed in Section 16-2-120, *Land Use by Zoning District*, as Conditional Uses, upon:

- a. The establishment or substantial modification of the land use or its operational characteristics;
- b. Additions to buildings or structures associated with the land use; or
- c. Construction or demolition of buildings or structures associated with the land use.

(2) The standards of this Division do not apply to:

- a. Maintenance of buildings;
- b. In-kind replacement or maintenance of previously approved structures (e.g., fences or retaining walls); or
- c. Construction, demolition, or modification of signs.

### **Sec. 16-2-320. - Conditional Use Permit Required.**

No conditional use shall be constructed, reconstructed, enlarged, relocated or otherwise established within the corporate limits of the City without a conditional use permit issued or amended in accordance with the requirements of this Division and the applicable requirements of Article VII, *Development Review Process*.

### **Sec. 16-2-330. - Approval Standards.**

(a) **Generally.** All uses that are listed in the tables of Section 16-2-120, *Land Use by Zoning District*, as conditional uses ("C") shall meet the standards of this Section in addition to the standards of Article II, Division 3, *Use-Specific Standards*, that apply to the proposed use.

(b) **Required Findings.**

(1) The proposed use, at the size and intensity contemplated, and at the proposed location, is necessary for the neighborhood immediately benefited by the proposed use, and physically and functionally compatible with the surrounding community.

(2) The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or to property, improvements, or potential development in the vicinity of the proposed use. This determination may, without limitation, be based on:

- a. The nature of the proposed site, including its size, shape, and topography and the proposed size, location, and arrangement of buildings, structures, and landscaping;
- b. The accessibility and patterns of pedestrian and vehicular traffic, including the type and volume of such traffic, location of points of ingress and egress, and the adequacy of off-street parking and loading, where applicable; and
- c. The provisions for landscaping, screening, unobstructed open space, service areas, and lighting.

(3) The proposed use will comply with the applicable zoning district regulations, use-specific standards, and all other applicable provisions of this Chapter and of this Code, and will not be inconsistent with the Master Plan.

(c) **Simultaneous Processing of Variance Applications.** Where an applicant for a proposed conditional use also requests a variance to a standard imposed by this Chapter, the City Council may grant such variance as part of the approval of the conditional use upon a finding that all criteria for approval of a variance are also met. *See Section 16-7-520, Variances.*

## **Division 5. - Temporary Uses and Temporary Structures**

### **Sec. 16-2-410. - Temporary Use Permit Required.**

Subject to issuance of a temporary use permit, the City may authorize the temporary uses and temporary structures only as identified in this Division.

### **Sec. 16-2-420. - Construction Yard or Construction Trailer.**

A lot or portion of a lot may be used for the storage of construction materials and/or a temporary trailer may be used as a construction office or for construction material storage within any zoning district in the City, provided that the following standards are met:

- (1) The construction yard or construction building shall be located upon the lot where the related construction activity is to be undertaken; except that where construction activity is to be conducted upon multiple lots, tracts, or parcels, or within rights-of-way within a subdivision, the construction yard or construction building may be located on a lot, tract, or parcel within the subdivision that is designated on the approved construction plans.
- (2) The construction yard or construction building shall be permitted only where a building permit or right-of-way permit (*see Chapter 11, Article II, CHERRY HILLS VILLAGE MUNICIPAL CODE*) has been issued and remains effective and valid for the location of the associated construction activity.
- (3) Construction buildings shall conform to the setback, height, and buffering standards of this Chapter that apply to permanent buildings, except as approved on building plans for good cause shown. Construction yards shall be completely screened from

view from adjacent property under separate ownership, and from public rights-of-way, except as approved on building plans for good cause shown.

### **Sec. 16-2-430. - Temporary Residential Sales Office.**

Temporary residential sales offices are not allowed.

### **Sec. 16-2-440. - Temporary Trailers and Temporary Structures.**

- (a) **Generally.** A temporary trailer or temporary structure may be used as a location for activities conducted by a community land use, provided that all of the following standards are met:
  - (1) The temporary trailer or temporary structure is located upon the same property that is used for the community land use.
  - (2) The use of the temporary trailer or temporary structure is limited to activities that may be lawfully conducted by the community land use.
  - (3) The temporary trailer or temporary structure is necessary to enable the continued delivery of services by the operator of the community land use during construction, remodeling, or renovation of its permanent building or buildings.
  - (4) A building permit has been issued for construction, remodeling, or renovation of the permanent building or buildings, and the permit is effective and valid during the term of use of the temporary trailer or temporary structure.
  - (5) Temporary trailers conform to the setback, height, and buffering standards of this Chapter that apply to permanent buildings, and temporary structures conform to the setback, height, and buffering standards of this Chapter (if any) that apply to comparable structures.
- (b) **Exemptions.** Mobile trailers and mobile structures used by the City shall be permitted upon any property and within any zoning district in the City, and shall be exempt from permitting requirements of this Section.

## **Division 6. - Major Special Events**

### **Sec. 16-2-510. - Purpose of Division.**

The purpose of this Division is to establish requirements for major special events of national or regional importance within the City. Due to the potential for significant impacts caused by major special events upon residents, streets and public improvements, law enforcement, and other administrative resources, this Division is intended to provide the City the greatest possible degree of discretion and authority in the review and approval of major special event permits.

### **Sec. 16-2-520. - Applicability; Permit Required.**

- (a) **Applicability.**

- (1) *Generally.* A major special event may only be conducted upon property owned by and used for a Park, a Place of Assembly, a Private Club, or a School or Daycare.
- (2) *Additional Property for Support Services.*
  - a. An application for a major special event permit may identify and propose the use of additional property, regardless of such additional property's zoning district designation, as necessary to provide support services to the site of the major special event.
  - b. No property shall be identified as a site for support services unless the applicant has first obtained express written authorization from the owner of the support service site consenting to the use of the owner's property for such support service use.
  - c. Unless otherwise approved by the City Council in its absolute discretion, support services shall not be conducted on property held by the City or any special district for use as a park, trail or open space, or any area used for public parking associated with a park, trail, or open space area.

(b) **Permit Required.**

- (1) *Generally.* A permit issued in accordance with this Division shall be required prior to the conduct of any major special event.
- (2) *Form of Permit.* Major special event permits shall be issued by resolution of the City Council. The resolution shall incorporate the approved application, conditions of approval imposed by the City Council, and any written agreement between the applicant and the City deemed necessary by the City Council to ensure compliance by the applicant with this Division and this Chapter.

(c) **Effect of Permit.** Issuance of a major special event permit shall constitute authorization to conduct the major special event and the support services only as specifically described in the resolution issuing the permit. Where a use expressly authorized in the resolution conflicts with a regulation imposed by the applicable zoning district(s) for the property or with a standard imposed by this Chapter, the approval of the application shall be deemed approval of a temporary exception to such regulation or standard only for the duration of the major special event.

**Sec. 16-2-530. - Standards for Approval of Major Special Event Permit.**

A major special event permit shall only be issued upon a finding that:

- (1) The proposed event qualifies as a major special event;
- (2) The major special event will provide one or more significant and important public benefits to the City;
- (3) The major special event is appropriately sized in relationship to the subject property and, together with any proposed support services, can be conducted in an organized and efficient manner;

- (4) The major special event will not result in unreasonable traffic congestion or create an unreasonable or disproportionate hazard to vehicular or pedestrian traffic;
- (5) The major special event will provide sufficient parking in terms of parking spaces and areas to accommodate parking demand;
- (6) The major special event will be conducted in a manner that eliminates, mitigates, or reasonably controls adverse impacts upon adjacent properties and upon the public generally; and
- (7) The major special event will not otherwise unreasonably impair the public health, safety, or welfare.

## Division 7. - Accessory Uses

### Sec. 16-2-610. - Guest Houses

- (a) **Generally.** Guest houses are allowed in the R-1 and R-2 zoning districts, subject to the standards of this Section. Guest houses are not allowed in other zoning districts.
- (b) **Number.** One guest house is allowed per single-family residential lot.
- (c) **Form.**
  - (1) A guest house may be attached to or integrated into the principal building, or may be located in an accessory building.
  - (2) A guest house that is attached to or integrated into a principal building shall not exceed 900 square feet or 25 percent of the floor area of the principal building, whichever is less.
  - (3) An accessory building that includes a guest house shall not cover more than:
    - a. In the R-1 zoning district, three percent of the lot area.
    - b. In the R-2 zoning district, four percent of the lot area.
- (d) **Use.** Guest houses shall be occupied only by family members or non-paying guests of the permanent occupants of the principal dwelling unit.

### Sec. 16-2-620. - Cemeteries or Columbaria

A cemetery or columbarium (or combination thereof) may be approved as an accessory to a place of assembly use, provided that:

- (1) The land that is put to cemetery use is dedicated for cemetery use in perpetuity with an appropriate recorded legal document approved as to form by the City Attorney.
- (2) The cemetery shall be an endowment care cemetery, as defined by Colorado Statutes.
- (3) Documentation is provided to the City at the time of application that demonstrates:
  - a. The necessity for the services the applicant seeks to provide;

- b. The applicant's fitness and ability to perform proposed services; and
- c. Compliance with Title 12, Professions and Occupations, Article 12, Cemeteries, Colorado Revised Statutes.

(4) The boundaries of the cemetery or columbarium are set back at least 50 feet from all property lines, and defined by fences, garden walls, building walls, and / or landscaping.

#### **Sec. 16-2-630. - Other Accessory Uses.**

Accessory uses that are not specifically enumerated in this Division shall be allowed on the same terms as the principal use. Business uses of the home that are enumerated in Article II, Division 8 shall not be considered "accessory uses" for the purposes of this Section.

### **Division 8. - Business Use of the Home**

#### **Sec. 16-2-710. - Home Occupations.**

- (a) **Generally.** Home occupations that are of a type that is not subject to another section of this Division shall meet the standards of this Section.
- (b) **Standards.** A home occupation may be operated only if it complies with all of the following conditions:
  - (1) The home occupation is operated in its entirety within an enclosed building on a lot that is used for a single-family dwelling unit, and only by the residents of the dwelling unit.
  - (2) If located within a principal building, the area used for the home occupation does not have an exclusive entrance from outside the building.
  - (3) The home occupation shall not result in an increase in the life safety hazard rating of the subject property as defined in the building code.
  - (4) No chemicals or substances that are physical or health hazards as defined in the fire code shall be sold in conjunction with a home occupation, nor shall they be used or stored in quantities that are larger than typical for household use.
  - (5) The operation of any wholesale or retail business is prohibited unless it is conducted entirely by mail or parcel delivery service, or sales are transacted on the premises no more than one time per calendar month. However, this restriction does not apply to incidental sales of products in conjunction with the provision of services (*e.g.*, hair care products sold in conjunction with a beauty salon, or instructional books sold in conjunction with music lessons).
  - (6) The home occupation does not involve physical alterations to buildings or structures that are perceptible from off-site that are obviously different from those of the residential use.

- (7) There shall be no deliveries to or from the subject property using a vehicle longer than 16 feet or rated over 8,000 pounds gross vehicle weight (a standard United Parcel Service truck), except that larger vehicles are permitted for the purpose of delivering or removing household or office furnishings.
- (8) The home occupation does not generate, in excess of levels customarily found in residential neighborhoods in the City, any vibration, smoke, dust, odors, noise, electrical interference with radio or television transmission or reception, or heat or glare that is noticeable at or beyond the property line of the subject property.
- (9) The home occupation does not have any employees or regular assistants who work on the subject property and who do not reside on the subject property.
- (10) No article may be sold or offered for inspection or sale from the premises. This restriction shall not apply to occasional garage sales, the sale of a single used car, the sale of a litter of animals, or other similarly noncontinuous and nonrepeated transactions.

(c) **Prohibited Home Occupations.** The following uses, regardless of whether they meet the standards of subsection B., above, are not permitted as home occupations:

- (1) Veterinary clinics, animal hospitals, or kennels;
- (2) Equipment rental;
- (3) Funeral chapels, mortuaries, or funeral homes;
- (4) Wedding chapels;
- (5) Medical or dental clinics;
- (6) Repair or painting of automobiles, motorcycles, trailers, boats, or other vehicles;
- (7) Repair of large appliances (*e.g.*, ranges, ovens, refrigerators, washers, dryers, and the like);
- (8) Repair of power equipment (*e.g.*, lawn mowers, snow blowers, chain saws, string trimmers, and the like);
- (9) Restaurants; and
- (10) Welding or metal fabrication shops.

#### **Sec. 16-2-720. - Home Child Care.**

(a) **Generally.** The standards of this Section apply to the child care uses within dwelling units (hereinafter "HOME CHILD CARE USES") that are listed in this subsection. Such uses require a major home occupation permit. Home Child Care Uses are:

- (1) Specialized group homes, as defined in § 7.701.2.B., 12 CCR 2509-8, except as provided in subsection (b)(2), below; and
- (2) Family child care homes, as defined in § 7.707.22.A. and B., 12 CCR 2509-8, and including:

- a. Three (3) under two (2) family child care homes, as defined in § 7.707.22.C., 12 CCR 2509-8;
- b. Family child care homes with infant/toddler licenses, as defined in § 7.707.22.D., 12 CCR 2509-8;
- c. Experienced child care provider, as defined in § 7.707.22.F., 12 CCR 2509-8; and
- d. Large child care homes, as defined in § 7.707.22.E., 12 CCR 2509-8.

(b) **Exceptions.** The following child care uses are allowed without a permit in all dwelling units, provided that all licenses (if any) that are required by state law (see 12 CCR 2509-8) are obtained prior to establishment of the use, and thereafter maintained:

- (1) Specialized group homes that are licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(10), but that are providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.
- (2) Exempt family child care home providers, as defined in C.R.S. § 26-6-102(12);
- (3) Foster care homes, as defined in C.R.S. § 26-6-102(14); and
- (4) Licensed host family homes, as defined in § 7.701.21., 12 CCR 2509-8.

(c) **Standards.** In addition to any state regulatory requirements, the following standards apply to the home child care uses that are subject to this Section:

- (1) The operator of the home child care use shall reside on the subject property.
- (2) The home child care use shall not generate, in excess of levels customarily found in residential neighborhoods, any noise that is noticeable at or beyond the property line of the premises upon which the home child care use is located.
- (3) Off-street parking shall be sufficient to accommodate the home child care use.
- (4) Commercial vehicles shall not be parked or stored on the subject property.
- (5) Home child care uses that serve more than five children who are not related to the operator shall be spaced from each other so that there are not more than two such facilities within a 500-foot distance, measured between the nearest property lines.

(d) **Maximum Number of Children.** The number of children that may be cared for in a home child care use is limited by the applicable state license or statutory definition and not by this Chapter.

### **Sec. 16-2-730. - Limited Horse Boarding; Equestrian Training**

(a) **Limited Horse Boarding.** A maximum of two horses that are not owned by the resident of a single-family detached dwelling unit may be boarded and stabled on the property on which the dwelling unit is located.

(b) **Equestrian Training.** Equestrian training is allowed as an accessory use to a single-family detached dwelling unit in the R-1 and R-2 zoning districts, and on lots that are larger than one acre in area in the R-3 and R-3A zoning districts, provided that:

- (1) The equestrian training does not involve more than 12 horses at one time;
- (2) Training is not provided after sunset or before sunrise, unless it is provided within a fully-enclosed riding arena; and
- (3) All parking (including for horse trailers) is provided on-site.

**Sec. 16-2-740. - Short-Term Rentals.**

Short-term rentals (terms of less than 30 days) of single-family dwelling units or accessory dwelling units are prohibited. Solicitation, advertising, or rental of a single-family dwelling unit or accessory dwelling unit for the purpose of holding a party, special event, social gathering, wedding, or similar use shall be considered a commercial use of the property and is also prohibited.

## Article III. - Lots, Buildings, and Structures

### Division 1. - Lot and Building Standards

#### Sec. 16-3-10. - General Lot and Building Standards for Residential Zoning Districts

(a) **Generally.** This Section sets out the general lot and building standards for the Residential Zoning Districts. In addition to these standards, the massing of buildings is controlled by the bulk plane regulations in Section 16-3-30, *Bulk Plane Regulations*, also apply within the R-1, R-2, R-3, R-4, and R-5 zoning districts.

(b) **Maximum Building Height.** Building height shall not exceed the maximums set out in Table 16-3-10.A., Maximum Building Height.

**TABLE 16-3-10.A.  
MAXIMUM BUILDING HEIGHT**

Standard	Residential Zoning District					
	R-1	R-2	R-3	R-3A	R-4	R-5
Max. Height (ft.)	35 ft.	35 ft.	35 ft.	35 ft.	30 ft.	30 ft.
Max. Stories Above Finished Grade <sup>1</sup>	2	2	2	2	2	2
Min. Stories Above Finished Grade <sup>1</sup>	1	1	1	1	1	1

**Table Note:**  
<sup>1</sup> A walk-out basement shall not be counted as a story for the purposes of this standard.

(c) **Minimum Lot Area.** Lot area shall not be less than the minimums set out in Table 16-3-10.B., Minimum Lot Area.

**TABLE 16-3-10.B.  
MINIMUM LOT AREA**

Standard	Residential Zoning District					
	R-1	R-2	R-3	R-3A	R-4	R-5
Min. Lot Area	2.5 ac.	1.25 ac.	1 ac.	Variable <sup>1</sup>	0.5 ac.	16,000 sf.

**Table Note:**  
<sup>1</sup> Lot areas vary in size. All existing residential lots within the R-3A zoning district are "conforming" to this Chapter in terms of lot area. Existing residential lots may be combined and / or re-subdivided, provided that, as a result: (1) the R-3A zoned area within the Highline Meadows in Cherry Hills subdivision will not include more than 31 residential lots and the R-3A zoned area within the Buell Mansion Subdivision will not include more than 94 residential lots; and (2) no resulting residential lot is less than 16,000 sf. in area.

(d) **Building Setbacks, Buffers, Floor Area Ratio, and Building Coverage.**

(1) **R-1, R-2, R-3, R-4, and R-5 Zoning Districts.** Building setbacks and floor area ratio in the R-1, R-2, R-3, R-4, and R-5 zoning districts shall not be less than the minimums set out in Table 16-3-10.C.1., *Minimum Building Setbacks and Maximum Floor Area Ratio*.

**TABLE 16-3-10.C.1.**  
**MINIMUM BUILDING SETBACKS AND FLOOR AREA RATIO**

Standard	Residential Zoning District				
	R-1	R-2	R-3	R-4	R-5
<b>Single-Family Detached Dwellings</b>					
Min. Front Setback	75 ft.	75 ft.	50 ft.	25 ft.	25 ft.
Min. Side Setback	50 ft.	40 ft.	25 ft.	10 ft. / 30 ft. <sup>1</sup>	7.5 ft.
Min. Rear Setback	50 ft.	40 ft.	25 ft.	25 ft.	25 ft.
Max. Floor Area Ratio <sup>2</sup>	23%	23%	25%	30%	30%
<b>Residential Accessory Buildings, Accessory Structures, and Recreational Facilities<sup>3</sup></b>					
Max. Number	3 <sup>4</sup>	3	3	2	2
Max. Combined Floor Area and Footprint <sup>5</sup>	1,100 sf. <sup>4</sup>	750 sf.	650 sf.	500 sf.	500 sf.
Front Setback	75 ft. <sup>4</sup>	75 ft.	50 ft.	25 ft.	25 ft.
Side Setback	25 ft. <sup>4</sup>	25 ft.	25 ft.	15 ft.	7.5 ft.
Rear Setback	25 ft. <sup>4</sup>	25 ft.	25 ft.	15 ft.	7.5 ft.
<b>Nonresidential Buildings</b>					
Min. Front Setback (Generally)	150 ft.	150 ft.	50 ft.	N/A <sup>6</sup>	N/A <sup>6</sup>
Min. Front Setback (State Highways)	50 ft.	50 ft.	50 ft.	N/A <sup>6</sup>	N/A <sup>6</sup>
Min. Side Setback	50 ft.	50 ft.	50 ft.	N/A <sup>6</sup>	N/A <sup>6</sup>
Min. Rear Setback	100 ft.	50 ft.	50 ft.	N/A <sup>6</sup>	N/A <sup>6</sup>
Max. Floor Area Ratio <sup>2</sup>	23%	23%	25%	N/A <sup>6</sup>	N/A <sup>6</sup>

**Table Notes:**

<sup>1</sup> The first measurement is minimum setback / the second measurement is minimum sum of side setbacks.

<sup>2</sup> The floor area ratio standard shall not apply on legal lots of record with a net lot area of 10,000 square feet or less.

<sup>3</sup> Guest houses are allowed only in the R-1 and R-2 zoning districts as provided in Sec. 16-2-610, *Guest Houses*. Guest houses are subject to the floor area limitations of Sec. 16-2-610, *Guest Houses*, and the floor area ratio limitations for the lot, but are not counted against the floor area and footprint limitations under this table subheading. Guest houses that are located in accessory buildings are counted against the maximum number limitations and are subject to the setback limitations under this table subheading.

<sup>4</sup> Lots in the R-1 zoning district that are at least 5 acres in area are allowed additional accessory buildings, accessory structures, and recreational facilities, as follows:

Lot Area		Max. Number	Max. Combined Floor Area and Footprint <sup>4</sup>
At least	Up to, but no including		
5 ac.	10 ac.	4	1,800 sf.
10 ac.	15 ac.	5	2,250 sf.
15 ac.	20 ac.	6	2,700 sf.
20 ac.	not limited	7	3,150 sf.

<sup>5</sup> Sum of floor area (for buildings) and footprint (for structures and recreational uses that are not buildings) for all accessory buildings, accessory structures, and recreational facilities.

<sup>6</sup> Nonresidential buildings are not allowed in the R-4 and R-5 zoning districts.

(2) *R-3A Zoning Districts.* Except as otherwise provided in this subsection (d)(2), building setbacks and building coverage in the R-3A zoning district shall be as set out in Table 16-3-10.C.2., *Minimum Building Setbacks and Maximum Building Coverage (R-3A)*.

**TABLE 16-3-10.C.2.**  
**MINIMUM BUILDING SETBACKS AND MAXIMUM BUILDING COVERAGE (R-3A)**

Standard	Adjusted Lot Area <sup>1</sup>				
	2.5 ac. or more	1.25 to 2.5 ac. <sup>2</sup>	1 to 1.25 ac. <sup>2</sup>	0.5 to 1 ac. <sup>2</sup>	16,000 sf. to 0.5 ac. <sup>2</sup>
<b>Minimum Setbacks for Principal Buildings</b>					
Front Setback	75 ft.	75 ft.	50 ft.	25 ft.	25 ft.
Side Setback	50 ft.	40 ft.	25 ft.	15 ft.	Total of 15 ft. <sup>3</sup>
Rear Setback	50 ft.	40 ft.	25 ft.	25 ft.	25 ft.
<b>Residential Accessory Buildings, Accessory Structures, and Recreational Facilities</b>					
Max. Number	3	3	3	3	2
Max. Combined Floor Area and Footprint <sup>4</sup>	1,100 sf.	750 sf.	650 sf.	500 sf.	500 sf.
Front Setback	75 ft.	75 ft.	50 ft.	25 ft.	25 ft.
Side Setback	25 ft.	25 ft.	25 ft.	15 ft.	7.5 ft.
Rear Setback	25 ft.	25 ft.	25 ft.	15 ft.	7.5 ft.
<b>Minimum Buffers<sup>5</sup></b>					
R-1 Zoning District <sup>6</sup>	—	100 ft.	100 ft.	100 ft.	100 ft.
R-2 Zoning District <sup>6</sup>	—	—	100 ft.	100 ft.	100 ft.
S. University Blvd. and E. Hampden Ave.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.
<b>Maximum Lot Coverage</b>					
Max. Lot Coverage	20%	20%	20%	30%	30%

**Table Notes:**

<sup>1</sup> Adjusted lot area is the Lot Area, plus the area of all adjoining public rights-of-way bounded by the lot line that bounds the right-of-way, the projections of the roughly side or rear (as applicable) lot lines into the right-of-way, and such lines or curves that represent an outward projection of the lot lines that bound the right of way up to a distance of 30 feet or to the centerline of the right-of-way, whichever distance is shorter.

<sup>2</sup> The first measurement is “at least” / the second measurement is “up to, but not including”.

<sup>3</sup> Side setbacks must total 15 feet, but one side setback may be as little as zero feet (a “zero lot line”), provided that: (1) if a side setback is less than 7.5 feet, the Director has confirmed that there is sufficient area between the building and the side lot line for adequate maintenance and emergency access, or appropriate easements are provided over the adjacent lot for these purposes; (2) the spacing between buildings that are constructed on adjacent lots is not less than 10 feet.

<sup>4</sup> Sum of floor area (for buildings) and footprint (for structures and recreational uses that are not buildings) for all accessory buildings, accessory structures, and recreational facilities.

<sup>5</sup> Buffers are measured from the zoning district or right-of-way boundary line, even if the boundary line is not a lot line.

<sup>6</sup> Improvements within these buffers are limited to a permanent landscaped area which may include trees, plants, trails, and comparable landscape features. Buffer areas must be free of all other improvements, buildings or structures.

## Sec. 16-3-20. - Lot and Building Standards for Nonresidential Zoning Districts.

(a) **Maximum Building Height.** Building height shall not exceed the maximums set out in Table 16-3-20.A., Maximum Building Height.

**TABLE 16-3-20.A.**  
**MAXIMUM BUILDING HEIGHT**

Standard	Nonresidential Zoning District			
	O-1	O-2	C-1	C-2
Max. Height (ft.)	35 ft.	—	30 ft.	45 ft.
Max. Stories Above Finished Grade	2	—	—	—

**TABLE 16-3-20.A.  
MAXIMUM BUILDING HEIGHT**

Standard	Nonresidential Zoning District			
	O-1	O-2	C-1	C-2
Min. Stories Above Finished Grade	1	—	1	1

(b) **Minimum Lot Area.** Lot area shall not be less than the minimums set out in Table 16-3-20.B., Minimum Lot Area.

**TABLE 16-3-20.B.  
MINIMUM LOT AREA**

Standard	Nonresidential Zoning District			
	O-1	O-2	C-1	C-2
Min. Lot Area	2.5 ac.	—	1 ac.	—

(c) **Minimum Building Setbacks, Floor Area Ratio, and Building Coverage.**

(1) Building setbacks in the O-1, O-2, C-1, and C-2 zoning districts shall not be less than the minimums, and floor area ratio shall not be more than the maximums, set out in Table 16-3-20.C., *Minimum Building Setbacks and Maximum Floor Area Ratio*. However, buildings that exist on the effective date of this Chapter shall be considered “conforming” for the purposes of this subsection as to their existing footprints.

**TABLE 16-3-20.C.  
MINIMUM BUILDING SETBACKS AND FLOOR AREA RATIO**

Standard	Nonresidential Zoning District			
	O-1	O-2	C-1	C-2
Min. Front Setback	175 ft.	20 ft.	50 ft.	20 ft. <sup>1</sup>
Min. Side Setback (Interior)	50 ft.	20 ft.	20 ft.	10 ft.
Min. Side Setback (Street)	175 ft.	20 ft.	50 ft.	10 ft.
Min. Rear Setback	175 ft.	20 ft.	20 ft.	10 ft.
Max. Floor Area Ratio	23%	—	—	—

**Table Note:**

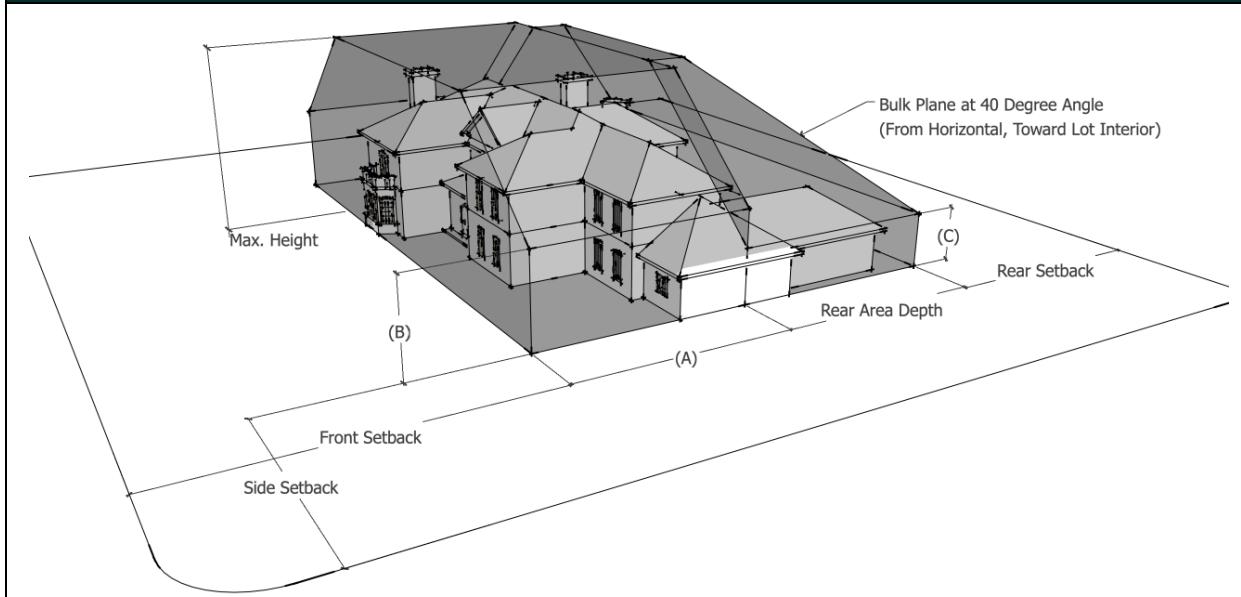
<sup>1</sup> Measured from the back of the curb along the Hampden Avenue property frontage.

### Sec. 16-3-30. - Bulk Plane Regulations.

(a) **Generally.** Bulk planes apply to principal and accessory buildings and structures in the R-1, R-2, R-3, R-4, R-5, and O-1 Zoning Districts.

(b) **Bulk Planes.** Bulk planes shall have the boundaries set out in Table 16-3-30, *Bulk Plane Standards by Zoning District*. They are applied along side and rear setback lines, beginning at the applicable starting height. Their boundaries are illustrated in Figure 16-3-30.B.1., *Illustrative Bulk Plane Boundaries*.

**FIGURE 16-3-30.B.1.**  
**ILLUSTRATIVE BULK PLANE BOUNDARIES**



**TABLE 16-3-30**  
**BULK PLANE STANDARDS BY ZONING DISTRICT**

Standard	Zoning District				
	R-1 and O-1	R-2	R-3	R-4	R-5
Front Area Depth (A) <sup>1</sup>	50 ft.	50 ft.	42 ft.	42 ft.	42 ft.
Starting Height (Front Area) (B) <sup>1, 2</sup>	21 ft.	21 ft.	21 ft.	21 ft.	12 ft. 6 in.
Rear Area Depth <sup>3</sup>	Varies	Varies	Varies	Varies	Varies
Starting Height (Rear Area) (C) <sup>1, 2</sup>	12 ft. 6 in.	12 ft. 6 in.	12 ft. 6 in.	12 ft. 6 in.	12 ft. 6 in.
Angle of Bulk Plane (Front and Rear Areas)	40°	40°	40°	40°	40°

**Table Notes:**

<sup>1</sup> See corresponding letter in Figure 16-3-30.B, Illustrative Bulk Plane Boundaries.

<sup>2</sup> Starting height is measured as set out in subsection (d), below.

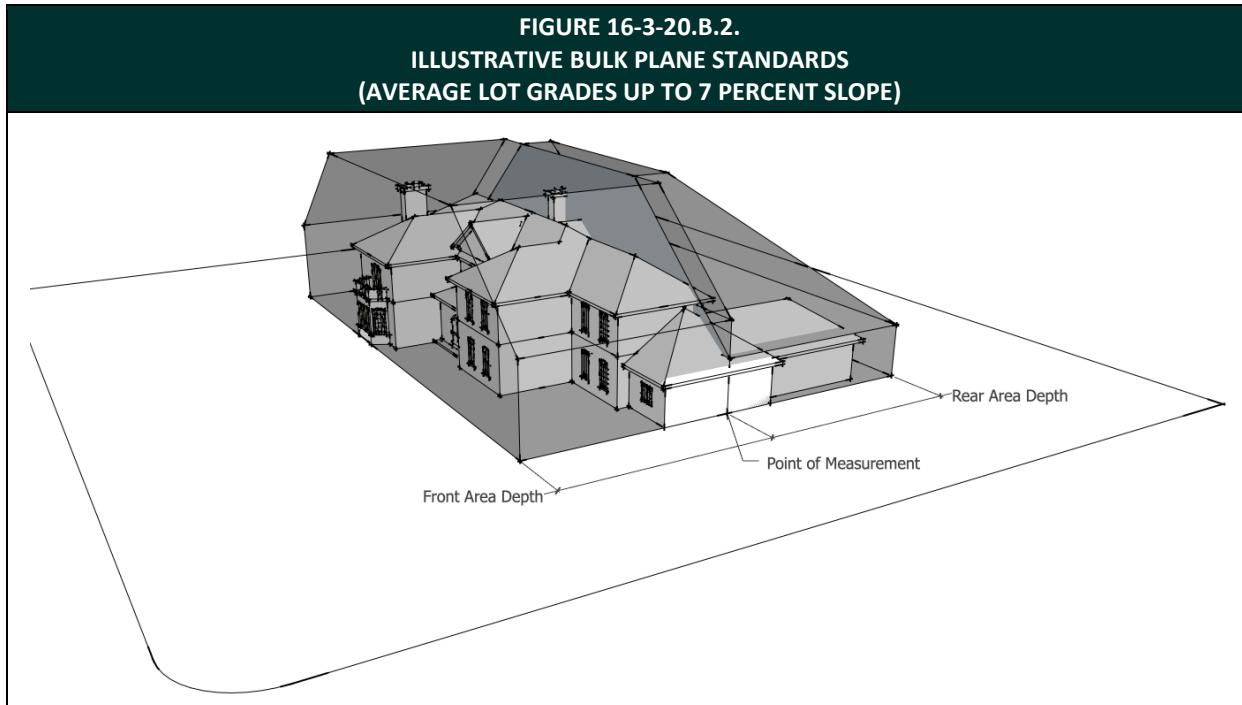
<sup>3</sup> Rear area depth is the area between the front area depth and the rear setback line. See Figure 16-3-30.B, Illustrative Bulk Plane Boundaries.

**(c) Special Standards for Accessory Buildings.**

- (1) For zoning districts where the minimum side or rear setback for an accessory building is less than the minimum side or rear setback specified for a primary building, a special accessory building bulk plane shall begin at a starting height of 12 feet, six inches above the minimum side and rear setback lines for accessory building.
- (2) The special accessory building bulk plane shall rise at a 40 degree angle towards the center of the lot until it reaches the maximum permitted height for the zoning district or intersects with the bulk plane that begins at the minimum side or rear setback for the primary building.

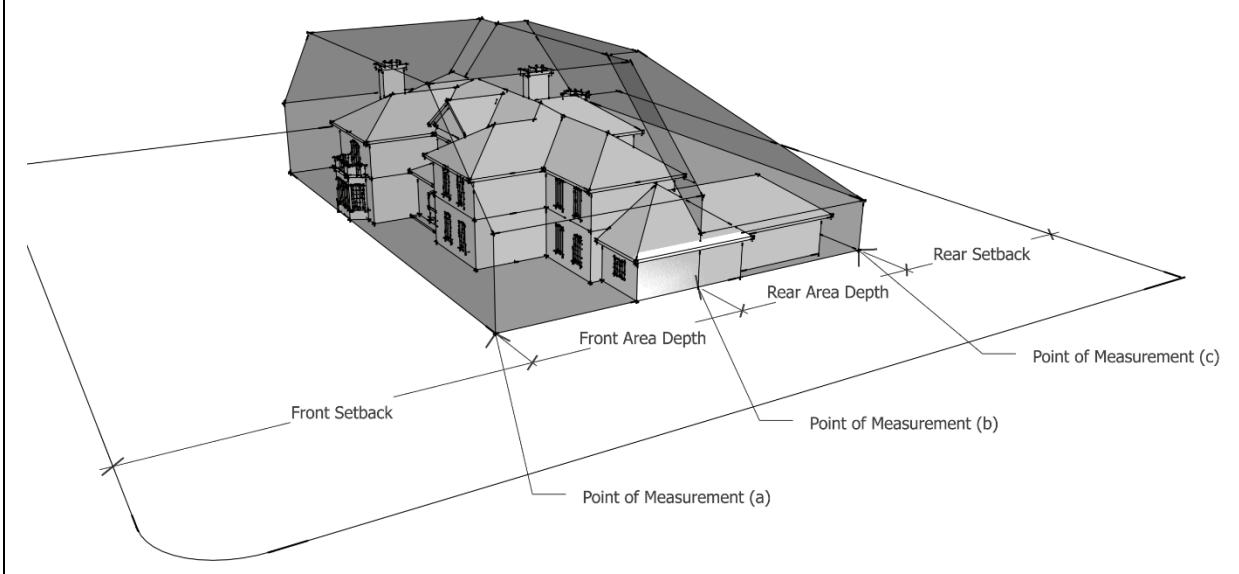
(d) **Measurement.** The starting height for the bulk plane shall be measured from the natural grade along the minimum side and/or rear setback lines using one of the following methods:

- (1) For a lot where the average natural grade does not differ by more than seven percent along the minimum front, side or rear setback lines: The starting height shall be measured from the points of measurement at each minimum side setback line that coincide with the minimum front area depth for the bulk plane as shown in Figure 16-3-20.B.2., *Illustrative Bulk Plane Standards (Average Lot Grades up to 7 Percent Slope)*.



- (2) For a sloping lot where the average natural grade differs by more than seven percent along the minimum front, side or rear setback lines: The starting height shall be measured at each of the following points of measurement as shown in Figure 16-3-30.B.3., *Illustrative Bulk Plane Standards (Average Lot Grades More than 7 Percent Slope)*:
  - a. The points at each minimum side setback line that coincide with the minimum front setback line;
  - b. The points at each minimum side setback line that coincide with the minimum front area depth for the bulk plane; and
  - c. The points at each minimum side setback line that coincide with the minimum rear setback line.

**FIGURE 16-3-30.B.3.**  
**ILLUSTRATIVE BULK PLANE STANDARDS**  
**(AVERAGE LOT GRADES MORE THAN 7 PERCENT SLOPE)**



(e) **Permitted Encroachments.** The following building elements may encroach beyond the bulk plane as specified.

- (1) Roof overhangs or eaves, provided that they do not extend more than 30 inches horizontally beyond the bulk plane.
- (2) A rooftop solar system (photovoltaic or solar water heater) that is flush-mounted to the roof or mounted at up to a 15 degree angle, measured from a horizontal plane, provided that the roof structure supporting the solar system does not extend beyond the bulk plane.
- (3) The gable end of a sloping roof form, provided that:
  - a. It does not extend more than 11 feet horizontally beyond the bulk plane including any roof overhang.
  - b. It does not extend more than nine feet vertically beyond the bulk plane.
  - c. It has a maximum width of 42 feet, including any roof overhang.
- (4) Dormers, provided that:
  - a. The highest point of any dormer is at or below the height of the primary roof ridge.
  - b. The portion of any dormer that extends beyond the bulk plane has a maximum width of 12 feet including any roof overhang.
  - c. The dormer does not extend more than six feet vertically beyond the bulk plane.
  - d. The combined width of all dormers does not exceed 50 percent of the length of the roof on which they are located.

- e. The space between dormers is not less than six feet.
- f. The dormer is inset at least three feet from the nearest building wall.

(5) Chimneys, provided that:

- a. The highest point of any chimney does not extend more than five feet vertically beyond the bulk plane.
- b. The portion of any chimney that extends beyond the bulk plane has a maximum width of six feet including any roof overhang.

(6) Wireless communications facilities provided that they conform to the requirements of Chapter 20, *Wireless Communications Facilities*, CHERRY HILLS VILLAGE MUNICIPAL CODE.

(7) Satellite dishes and antennae (including amateur radio antennae), provided that they conform to the requirements of Section 16-3-150, *Satellite Dishes and Antennae*.

## **Division 2. - Supplemental Standards**

### **Sec. 16-3-110. - Community Guardhouses**

(a) **Generally.** In addition to meeting all other requirements of this Article (except as provided in subsection (c), below), community guardhouses are permitted on tracts under common ownership ("GUARDHOUSE TRACTS") in the R-1, R-2, R-3, R-3A, R-4, and R-5 Zoning Districts, subject to the standards of this Section.

(b) **Standards.** Community guardhouses are subject to the following standards:

(1) *Location.*

- a. A community guardhouse may only be permitted on a guardhouse tract. The guardhouse tract must be separate from any tract that contains a private street.
- b. All guardhouse tracts shall be located within and entirely surrounded by a private street, or contiguous with a private street. For purposes of this standard, "contiguous" means having at least 25 percent of the perimeter coincident with the edge of one or more private streets.

(2) *Configuration.*

- a. All guardhouse tracts shall be adequate in area to allow for simultaneous parking of one employee vehicle and one service vehicle.
- b. There shall be at least four lanes of vehicular access past a community guardhouse, including two lanes in and two lanes out.
- c. No buildings or structures other than the community guardhouse, fencing, and gates are permitted on a guardhouse tract.

(3) *Other Standards.*

- a. Community guardhouses shall be lighted so as to ensure safe vehicular and pedestrian passage.
- b. No gate or gate opening/locking mechanism may be permitted unless approved by the South Metro Fire and Rescue District.

(c) **Exemptions.** Community guardhouses are exempt from the following standards of this Chapter:

- (1) Minimum lot area and lot width.
- (2) Accessory building setbacks.

(d) **Documentation.** The homeowners' association documents, including, but not limited to, the applicable covenants, conditions and restrictions ("COVENANTS") shall provide, or shall be amended to provide, adequate maintenance and operation of the guardhouse in a form acceptable to the City. The covenants shall state that the City shall have the right, but not the obligation, to enforce the community guardhouse maintenance and operation provisions.

### **Sec. 16-3-120. - Fences, Garden Walls / Perimeter Walls, and Enclosures**

(a) **Generally.** Fences, garden walls / perimeter walls, and enclosures are subject to compliance with the standards of this Section.

(b) **Fences, Garden Walls, and Gates on Residential Lots.**

(1) *Height and Opacity.* Fences and garden walls / perimeter walls on residential lots shall be subject to the height and opacity standards in Table 16-3-120, *Fence and Wall Height and Opacity: Residential Lots*.

Location / Standard	Zoning District					
	R-1	R-2	R-3	R-3a	R-4	R-5
<b>Area 1: Within Building Envelope, Behind Front Façade Line</b>						
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Opacity	100%	100%	100%	100%	100%	100%
<b>Area 2: Between Front Lot Line and Front Façade Line, Unless Also within Area 5 or 6<sup>1</sup></b>						
Max. Height	4 ft.	4 ft.	4 ft.	4 ft.	Not Allowed	Not Allowed
Max. Opacity	50%	50%	50%	50%	Not Allowed	Not Allowed
<b>Area 3: Within Rear Setbacks or Interior Side Setbacks, Unless Also within Area 4, 5, 6, or 7<sup>1</sup></b>						
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Opacity	50%	100%	100%	100%	100%	100%
<b>Area 4: Within Street Side Setbacks or Rear Setbacks Adjacent to a Street, Unless Also within Area 5 or 6<sup>1</sup></b>						
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Opacity	<i>Based on Fence Height and Orientation (See Below)</i>					
<b>Generally Parallel to Public Street</b>						
<i>If Height Does Not Exceed 4 ft.</i>	60%	60%	60%	60%	100%	100%
<i>If Height Exceeds 4 ft.</i>	25%	25%	25%	25%	50% <sup>2</sup>	50% <sup>2</sup>

**TABLE 16-3-120**  
**FENCE AND WALL HEIGHT AND OPACITY: RESIDENTIAL LOTS**

Location / Standard	Zoning District					
	R-1	R-2	R-3	R-3a	R-4	R-5
Generally Perpendicular to Public Street <sup>3</sup>						
Up to Maximum Height	50%	100%	100%	100%	100%	100%
Area 5: Within any Setback from a Lot Line that is a State Highway Right-of-Way Line						
Max. Height	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.
Max. Opacity <sup>4</sup>	100%	100%	100%	100%	100%	100%
Area 6: Within any Setback from a Lot Line that Also a Right-of-Way Line for South Clarkson Street or East Happy Canyon Road						
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Opacity <sup>4</sup>	100%	100%	100%	100%	100%	100%
Area 7: Within any Setback from a Lot Line that is Adjacent to Public Trail, Park, or Open Space, Unless Also Within Area 2 <sup>1</sup>						
Max. Height	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.	6 ft.
Max. Opacity	40%	40%	40%	40%	40%	40%
<b>Table Notes:</b>						
<sup>1</sup> If the fence or wall is also located within one of the specified areas, then the standards for that area apply.						
<sup>2</sup> Opacity may be increased to up to 100% if the setback and landscaping requirements of subsection (b)(2), below are met.						
<sup>3</sup> E.g., a connection from a fence within Area 4 that is parallel to a street to a fence within Area 1 or Area 3.						
<sup>4</sup> Subject to the requirements of subsection (b)(2), below.						

(2) *Setback and Landscaping Requirements in Residential Zoning Districts.* This subsection applies as set out in Table 16-3-120, *Fence and Wall Height and Opacity: Residential Lots*. Fence that are subject to this subsection shall:

- a. Be set back not less than four feet from right-of-way lines, with the area between the fence or garden wall and the street planted with not less than two trees or evergreen shrubs per 100 linear feet; or
- b. Be set back less than four feet (including 0 feet), but with regular offsets of not less than four feet, running for distances of not less than 15 nor more than 25 feet, such that not less than 25 percent of the length of the fence along each street right-of-way line is so offset; and with the street-side area of each offset planted with at least two trees or evergreen shrubs; or
- c. Be designed and constructed to meet two of the following three criteria:
  - i. A setback of 25 feet from the edge of pavement of the adjacent paved street or 40 feet from the centerline of the adjacent unpaved street.
  - ii. A landscaped area between the street and the fence is provided, with trees planted at a density of one tree for every 20 to 30 linear feet of fence as determined by the Director given the type and planting size proposed (note that compliance with this criterion may include use of City right-of-way if such use of the right-of-way is approved by the City Manager and the trees are subject to an ongoing maintenance agreement acceptable to the City).

iii. A landscaped area between the street and the fence is provided, and planted such that at least 25 percent of the face of the fence is screened from view from the street within three growing seasons (note that compliance with this standard shall not involve use of City right-of-way).

(3) *Exceptions for Gates in Residential Zoning Districts.*

- a. **Front Yard Gates, Generally.** Up to two gates that provide for ingress and egress from a street right-of-way to a front yard (including driveway gates) may exceed the otherwise applicable height limitations for a fence or garden wall by up to four feet, provided that:
  - i. The gates are, individually, not more than 18 feet in width; and
  - ii. The gates have an opacity of not more than 25 percent.
- b. **Driveway Gate Stacking Area.** Driveway gates must be located such that a minimum driveway area of nine feet wide by 18 feet deep is provided in front of and perpendicular to the gates, as measured from the street right-of-way line, front lot line, or back edge of the sidewalk, whichever provides more setback from the flowline of the street. For a property with a driveway located on a cul-de-sac or dead-end street, the Director may allow a reduction in the required setback if the Director finds that the reduction will not have an impact on public safety.
- c. **Other Gates.** One gate that provides for ingress and egress to each yard other than a front yard may exceed the otherwise applicable height limitations for a fence or garden wall by up to two feet, provided that the gate is not more than four feet in width.

(c) **Recreational Enclosures.**

- (1) ***Generally.*** Fenced enclosures surrounding recreational facilities (except swimming pools) on residential lots (*e.g.*, tennis courts, volleyball courts, etc.) may be up to 10 feet in height, provided that their opacity does not exceed 25 percent. For the purposes of this subsection, wind screens are not counted in the evaluation of opacity.
- (2) ***Swimming Pools.*** Swimming pools shall strictly comply with Section 305, *Barrier Requirements*, 2018 INTERNATIONAL SWIMMING POOL AND SPA CODE. Variances to this requirement shall not be allowed.

(d) **Fences and Garden Walls on Nonresidential Lots.**

- (1) ***Utility Stations.*** Fences and garden / perimeter walls that enclose utility stations shall not exceed eight feet in height and shall have an opacity of 100 percent.
- (2) ***Other Nonresidential Uses.***
  - a. Fences and garden / perimeter walls are allowed on nonresidential property for the following purposes:

- i. To enclose outdoor dining areas, gardens, or recreational facilities;
- ii. To enclose utilities, backup generators, loading areas, dumpsters, recycling bins, and / or utility meters;
- iii. To enhance safety or security, provided that the need for such additional safety or security is demonstrated; or
- iv. To comply with the requirements of this Chapter.

- b. The height of such fences or garden / perimeter walls shall not exceed eight feet within required setback areas or 10 feet within the building envelope, unless otherwise provided in this Chapter, or unless the decision-maker finds that:
  - i. Extraordinary circumstances justify the increased height; and
  - ii. The visual impact of the additional height of the fence or garden / perimeter wall on adjoining property is fully mitigated by way of setbacks, landscaping, topography, intervening structures or buildings, or design.

**(e) Fence and Retaining Wall Combinations.**

- (1) Fences and garden / perimeter walls may be constructed on, or in combination with, retaining walls, as follows:
  - a. On residential property, fences and garden / perimeter walls must comply with the requirements of Table 16-3-120, *Fence and Wall Height and Opacity: Residential Lots*, with height measured from the side of the retaining wall with the higher grade.
  - b. On nonresidential property, fences and garden / perimeter walls must comply with the requirements of subsection (d), above, with height measured from the side of the retaining wall with the higher grade.
- (2) In cases where guardrails are required by the applicable building code, fences and garden / perimeter walls shall also comply with the building code standards that apply to guardrails. If the building code standards conflict with the standards of this subsection (e), the building code standards shall control to the extent of the conflict.

**Sec. 16-3-130. - Retaining Walls**

- (a) **Generally.** Retaining walls are subject to the standards of this Section.
- (b) **Minimum Setbacks.**
  - (1) Where the exposed side of a retaining wall faces a public right-of-way or adjoining property, the retaining wall shall be set back a minimum distance from the lot line of:  $4/3 \times$  [height of retaining wall].
  - (2) For tiered retaining walls, the height used to determine the minimum setback shall be the tallest point of the combined height of all tiers, and the setback shall be measured from the closest point of the tiered retaining wall to the affected lot line.

(c) **Maximum Height.** The height of a retaining wall shall be measured from natural grade or finished grade, whichever is more restrictive.

- (1) For retaining walls that are located within a building envelope for a building or accessory building, the maximum height of the retaining wall shall be the same as the maximum building or accessory building height (as applicable) that is allowed within the building envelope within which the retaining wall is located.
- (2) For retaining walls located outside of a building envelope, the maximum height of the retaining wall (including the combined height of tiered retaining walls) is six feet.

(d) **Design.** Retaining walls must be tiered if they are more than six feet in height, measured from finished grade, and no individual tier shall exceed six feet in height, as measured from finished grade or the top of the wall upon which it is tiered. Tiers shall be set back from each other a horizontal distance of one foot per two feet of height of the higher tier.

### Sec. 16-3-140. - Berms

(a) **Generally.** The construction of berms is permitted only in accordance with this Section. With the exception of berms constructed within Area 3 of a Residential Lot (see Table 16-3-140, *Berm Height and Width*), a berm permit is required prior to construction of a berm.

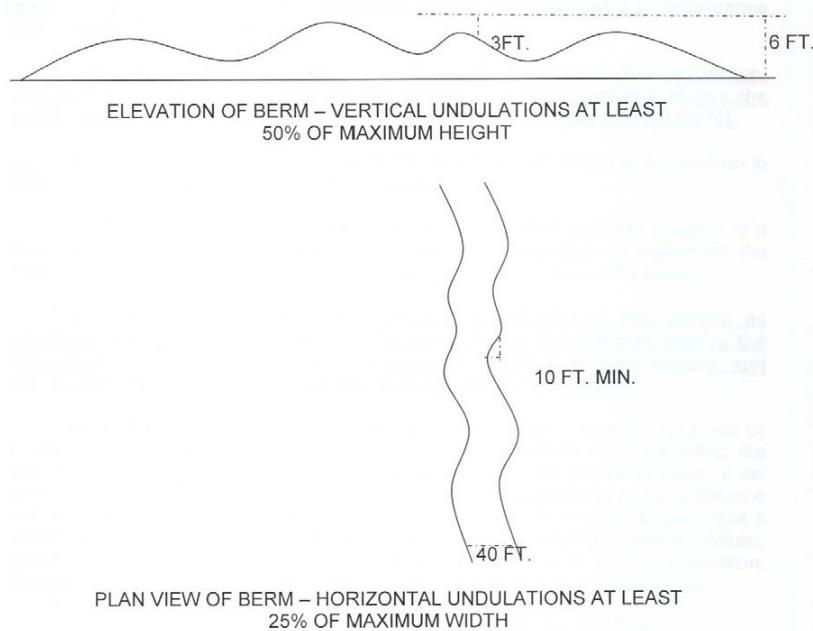
(b) **Maximum Height and Width.** The maximum height and width for berms, based on their location, is set out in Table 16-3-140, *Berm Height and Width*.

**TABLE 16-3-140**  
**BERM HEIGHT AND WIDTH**

Location / Standard	Land Use	
	Residential	Nonresidential
Area 1: Within Setbacks from Property Lines that are Coterminous with Right-of-Way Lines		
Max. Height	6 ft.	100 ft. or Less from Lot Line: 6 ft. More than 100 ft. from Lot Line: 10 ft.
Point of Measurement	Lower of Centerline of Street or Pre-Construction Grade Along Base of Berm	Pre-Construction Grade Along Base of Berm
Max. Width	52 ft.	52 ft.
Area 2: Within Setbacks from Interior Property Lines		
Max. Height	4 ft.	100 ft. or Less from Lot Line: 6 ft. More than 100 ft. from Lot Line: 10 ft.
Point of Measurement	Pre-Construction Grade Along Base of Berm	Pre-Construction Grade Along Base of Berm
Max. Width	36 ft.	52 ft.
Area 3: Within Building Envelope		
Max. Height	3 ft.	100 ft. or Less from Lot Line: 6 ft. More than 100 ft. from Lot Line: 10 ft.
Point of Measurement	Pre-Construction Grade Along Base of Berm	Pre-Construction Grade Along Base of Berm
Max. Width	52 ft.	52 ft.

- (c) **Maximum Slope.** Berms shall not exceed the maximum slope of one unit vertical to four units horizontal (1:4).
- (d) **Design Standards.**
  - (1) Berms are prohibited within sight triangles. *See Sec. 16-4-70, Visibility at Intersections.*
  - (2) All areas of a berm shall be covered with grasses, groundcovers, rock, mulch, or other landscaping materials that are appropriate and sufficient to prevent erosion. Such landscaping materials must be installed within 90 days after completion of finished grading.
  - (3) Berms shall not collect, redirect, or release surface water upon adjacent property in a manner that is inconsistent with the historic or pre-construction conditions or applicable law without the written consent of the adjacent landowner in the form of a drainage easement.
  - (4) No buildings or structures of any kind (except fences and garden walls) shall be permitted upon or within any berm.
  - (5) Berms shall be designed with both horizontal and vertical variation, so that the top of the berm undulates and the sides of the berm meander to form a natural-looking, serpentine-like pattern. To this end:
    - a. Vertical undulations shall be at least 50 percent of the maximum height of the berm (*see Figure 16-3-140, Illustrative Berm Variation*); and
    - b. Horizontal undulations shall be at least 25 percent of the maximum width of the berm (*see Figure 16-3-140, Illustrative Berm Variation*).

**FIGURE 16-3-140**  
**ILLUSTRATIVE BERM VARIATION**



(6) Berms shall connect smoothly into existing grades along the perimeter to ensure that berms appear natural.

**(e) Additional Requirements.**

- (1) Grading for berms is prohibited in City rights-of-way and easements, unless a right-of-way permit is issued by the City for such purpose.
- (2) Grading for berms is prohibited within any floodplain unless authorized by a City-issued floodplain development permit. *See Article V., Floodplain Management and Flood Damage Prevention.*
- (3) During construction of the berm and until all landscaping is completed, appropriate erosion control is required.

**Sec. 16-3-150. - Satellite Dishes and Antennae**

- (a) **Generally.** The standards of this section apply to satellite dishes and antennae that are typically associated with residential uses. They are not applicable to facilities that are used for commercial purposes or the provision of personal wireless services to people who do not reside on the lot on which the dish or antenna is located.
- (b) **TV Antennae, DTV Antennae, Wireless Cable Antennae, and Satellite Dishes.**
  - (1) The following are allowed if they are attached to a building or mounted on a mast that extends not more than 12 feet above the highest peak of the roof:
    - a. TV antennae;
    - b. DTV antennae;

- c. Wireless cable antennae; or
- d. Satellite dishes that are one meter or less in diameter; or
- e. Antennae for MMDS, ITFS, or Wireless Internet, that are one meter or less in diameter or diagonal measurement.

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

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

- a. An adequate signal cannot be obtained at a lower height; and
- b. The mast and antenna are lower than overhead utility lines, or set back from overhead utility lines such that a collapse of the mast will not result in contact with the lines.

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

- a. They are located on the ground in the rear yard and are not visible from ground-level views from public rights-of-way or abutting properties; or
- b. If the dish cannot be located in the rear yard, it is located on the ground within the permitted building envelope on the side of the building, and the dish or antenna is fully screened from view from public rights-of-way with:

  - i. A masonry wall; or
  - ii. An evergreen hedge or evergreen shrubs and understory trees.

(c) **Amateur Radio Antennae.** Amateur radio antennae are permitted if the height, setbacks, and screening for the antenna structure are as provided in Table 16-3-150, Amateur Radio Antennae.

**TABLE 16-3-150**  
**AMATEUR RADIO ANTENNAE**

Lot Area	Max. Height	Min. Front Setback	Min. Street Side Setback	Min. Side and Rear Setback
more than 2 ac.	120 ft.	100 ft.; or, alternatively, 20 ft. behind back wall of principal building	Height of antenna	Greater of required building setback or 70 ft.
more than 8,000 sf., up to 2 ac.	72 ft.	72 ft.; or alternatively, 15 ft. behind back wall of principal building	Height of antenna	Greater of required building setback or 25 ft.
8,000 sf. or less	40 ft.	Same as required for principal building		

### **Sec. 16-3-160. - Storage of Recreational Vehicles**

(a) **Generally.** It is unlawful to park or store recreational vehicles in the front yard of any property, or on any public street, highway, road, alley, or other right-of-way for a period of time in excess of 24 hours.

(b) **On-Lot Storage.** Recreational vehicles may be stored on residential lots, provided that:

(1) They are owned by the occupant of the lot, or by a guest of the occupant;

- (2) They are located behind the front facade line of the lot, unless the front yard of the lot is enclosed by a perimeter fence or wall, in which case they may be located within such enclosure; and
- (3) They are reasonably screened from view from adjacent property and public rights-of-way with a visual barrier (or combination of barriers, which may be structural or natural).

### **Sec. 16-3-170. - Trash Containers; Portable, On-Demand Storage; and Roll-Offs**

#### **(a) Trash Containers.**

- (1) *All Land Uses.*
  - a. Either portable or permanent containers may be used for the storage of non-hazardous solid waste (*e.g.*, brush, rubbish, trash, garbage, dung, etc.), generated on the same lot, in order to facilitate collection for proper permanent recycling or disposal.
  - b. Trash and recycling containers shall not be offensive or injurious because of odor, dust, windblown debris, pests, or other nuisances.
  - c. Trash and recycling containers shall have lids that remain closed except during the process of being filled or emptied; except that open containers for landscape wastes do not require lids.
- (2) *Residential and Agricultural Uses.* On residential or agricultural lots:
  - a. All trash and recycling containers shall be completely screened from the view of those off the property, except as provided in subsection (2)b., below.
  - b. Small, portable containers (96 gallon or less) may be set at the edge of the right-of-way on a temporary basis for pickup. Once the containers have been emptied, they must be returned to their storage areas within 12 hours.
- (3) *Nonresidential Land Uses.* On nonresidential (other than agriculture) lots, trash and recycling containers shall be located within the building envelope (unless the Director determines that a different location is required due to servicing needs, in which case they shall be located as close as possible to the building envelope), and completely screened from view from adjacent property and public rights of way.

### **Sec. 16-3-180. - Nonresidential Antennae**

In the C-1 zoning district, radio and television antennae that are not subject to Chapter 20, *Wireless Communications Facilities*, CHERRY HILLS VILLAGE MUNICIPAL CODE, may be built to a height not exceeding 50 feet. Such antennae are subject to the same setback requirements as a principal building.

## Division 3. - Signs

### Sec. 16-3-210. - Purpose; Application; Exceptions

- (a) **Purpose.** This Division is intended to regulate the erection and maintenance of both permanent and temporary signs within the City.
- (b) **Sign Permit Required.** Subject to certain exemptions provided by this Division, a sign permit from the City is required prior to the installation or posting of signs, in order to ensure conformance with the standards of this Division.
- (c) **Exceptions to Permit Requirement.** The following signs do not require a sign permit, but are subject to the standards of this Division, and may also be subject to applicable building and / or electrical codes:
  - (1) Temporary Signs.
  - (2) Any sign erected by the City acting in its governmental capacity (by way of illustration and not limitation, wayfinding signs, and signs identifying public facilities).
  - (3) Up to two flags located on any one platted lot, parcel, or tract of land, provided that no flag shall exceed 64 square feet in area, and no flagpole exceeds 35 feet in height.
  - (4) Signs that are required by applicable life-safety codes, or regulations related to public health and safety (*e.g.*, a sign identifying the address of a property).
  - (5) One sign incorporated into the design or architecture of a building (by way of illustration and not limitation, such signs typically include the building name, owner, and / or date of construction), provided that:
    - a. The building is nonresidential; and
    - b. The sign area does not exceed 12 square feet.
  - (6) Two residential signs, provided that:
    - a. The sign area does not exceed one square foot per sign;
    - b. Not more than one of the signs is detached, and if a detached sign is used, it is not more than three feet in height;
    - c. The signs are not internally illuminated.
  - (7) One scoreboard, located on or immediately adjacent to each athletic field owned and controlled by a private or public school, provided that no such sign shall be used for the purpose of commercial advertisement.
- (d) **Exemptions from Sign Regulation.** The following signs are not subject to the regulations of this Division, but may be subject to building and / or electrical codes, as applicable:
  - (1) Traffic control signs (*e.g.*, signs required by the Manual on Uniform Traffic Control Devices for Streets and Highways ("MUTCD")) that are installed by or required by

the City, Arapahoe County, or the Colorado Department of Transportation (“CDOT”), whether in a right-of-way or not.

- (2) Holiday decorations, clearly incidental and commonly associated with any national, local, or religious holiday, provided that such decorations do not advertise or identify a product or a business, and are located and configured so as not to conflict with traffic control devices or traffic safety.
- (3) Signs that are located wholly within a building that are not visible from any point within a public right-of-way.
- (4) Signs that are incorporated into and made part of a bus bench lawfully located within the public right-of-way, provided that such signs do not exceed 25 square feet in area.
- (5) Signs that are incorporated into and made part of a public transit shelter or public bus stop shelter lawfully located within a public right-of-way, provided that such signs do not exceed two panels, each measuring not more than 25 square feet in sign area.
- (6) Signs that are required by law, including but not limited to building and safety codes (*e.g.*, address signs, NFPA diamonds, etc.).

### **Sec. 16-3-220. - Prohibited Signs**

- (a) **Generally.** The following signs and sign designs are prohibited and within all zoning districts:
  - (1) Any sign not expressly permitted by or conforming to this Division (except legal nonconforming signs).
  - (2) Any permanent sign for which a permit is required but has not been issued.
  - (3) Animated or moving signs, including any sign for which all or any part or attachment moves, swings, rotates, flashes or twirls.
  - (4) Signs covered or painted in whole or in part with light-reflecting paint or materials (except retroreflective paint or materials used on traffic control devices designed in accordance with the MUTCD).
  - (5) Inflated or floating objects, balloons, dirigibles, or any similar type of object or sign designed to utilize air pressure, gas, or wind in its display (except flags).
  - (6) Off-premises commercial signs.
  - (7) Electronic message centers.
  - (8) Signs that include flashing or blinking illumination sources.
  - (9) Roof signs.
  - (10) Search lights.
  - (11) Portable signs or wheeled signs.

- (12) Vehicles used for sign purposes. Signs painted on, or attached to, a motor vehicle parked within 50 feet of a public right-of-way unless:
  - a. The vehicles are operational, regularly used as motor vehicles, and have current registration and tags;
  - b. The display of signage is incidental to the motor vehicle use; and
  - c. The motor vehicle is legally parked:
    - i. in a striped parking space;
    - ii. on-street, in a location where on-street parking is allowed; or
    - iii. in a residential driveway.
- (13) Trailers or containers used for sign purposes. Semi-trailers, shipping containers, or portable storage units, unless:
  - a. The trailers, containers, or portable storage units:
    - i. are structurally sound and capable of being transported;
    - ii. used for their primary purpose (e.g., storage, pick-up, or delivery); and
    - iii. if subject to registration, have current registration and tags; and
  - b. The display of signage is incidental to the primary purpose; and
  - c. The semi-trailer, shipping container, or portable storage unit is parked or placed in a designated loading area or on a construction site at which it is being used for its primary purpose.
- (14) Any sign found by the Director to be hazardous by reason of inadequate maintenance, dilapidated condition, or obsolescence such that the sign creates an imminent hazard to the public health or safety.
- (15) Signs designed, shaped, and/or painted to mimic, simulate, or represent official traffic control devices, such as but not limited to stop signs, yield signs, caution signs, or speed limit signs.

(b) **Prohibited Locations.** No sign shall be:

- (1) Attached to a tree.
- (2) Painted on a fence, garden wall, or building.
- (3) Posted on or projecting over public property, public rights-of-way, public street medians, islands or parkways, except by the entity that controls the right-of-way, or by permission of that entity.
- (4) Attached to traffic control devices or traffic control signs or fixtures, except by the entity that controls the right-of-way, or by permission of that entity.
- (5) Attached to utility equipment, poles, and wires, except as required by life-safety codes.

- (6) Posted in a location or manner that materially impedes visibility at a street intersection (a sign shall be presumed to materially impede visibility if it is located within a required sight triangle).
- (c) **Hazards.** The following signs are considered hazards in the City, and the Director may cause the them to be summarily removed at the owner's expense:
  - (1) Any sign that violates subsection (b)(2), (b)(3), (b)(4), (b)(5), or (b)(6); and
  - (2) Any sign that violates subsection (a)(12) or (a)(13).

### **Sec. 16-3-230. - Permanent Signs**

- (a) **Authorized Permanent Signs.** The following signs shall be authorized as permanent signs upon issuance of a sign permit in accordance with this Section:
  - (1) *R-1, R-2, R-3, R-3A, R-4, R-5, O-1, and O-2 Zoning Districts.* Within the R-1, R-2, R-3, R-3A, R-4, R-5, O-1, and O-2 Zoning Districts:
    - a. *Residential Subdivision Entrances.* Two permanent signs are allowed at each entry into a platted subdivision from a public right-of-way, provided that such signs are located within an easement, outlot, or on a lawfully existing permanent fence or structure owned or maintained collectively by the owners of lots within the subdivision (e.g., by a homeowners' association). Such signs shall not exceed a total of 25 square feet of sign area per entry, and shall not exceed eight feet in height.
    - b. *Residential Lots.* Each residential lot may include residential signs as allowed by Sec. 16-3-210(c)(6).
    - c. *Nonresidential Lots.* Each nonresidential lot may include:
      - i. One permanent sign (either attached or detached) not exceeding 25 square feet of sign area. If detached, the sign area is allowed for each face, the sign shall not exceed eight feet in height.
      - ii. One permanent detached sign not exceeding three square feet of sign area for each face (a total of six square feet of sign area for a two-sided sign), and three feet in height, located within 10 feet of the principal vehicular entrance to the property.
      - iii. Not more than 10 signs (either attached or detached) containing noncommercial messages. No sign shall exceed two square feet in sign area. If detached, the sign shall not exceed three feet in height.
  - (2) *C-1 and C-2 Zoning Districts.* Within the C-1 and C-2 Zone Districts:
    - a. Within the C-1 Zoning District: One sign not to exceed six square feet in sign area is allowed for each lot. If detached, the sign shall not exceed five feet in height.
    - b. Within the C-2, Limited Commercial Zone District:

- i. Attached signs that do not exceed 25 square feet of sign area are allowed as follows:
  - i. One per ground-floor tenant, located on the side of the building on which the principal entrance to the tenant's space is located;
  - ii. One per corner ground-floor tenant, located on the side elevation of the building; and
  - iii. One per ground-floor tenant, located on the rear elevation of the building.
- ii. Two detached signs, not to exceed 25 square feet of sign area, and not to exceed six feet in height.

**(b) *Illumination.***

- (1) Artificial illumination shall be permitted only for:
  - a. Subdivision entry signs; and
  - b. Detached signs on nonresidential lots.
- (2) Illumination, where allowed, shall be provided only from a concealed and focused light source directed in a manner that prevents illumination beyond the face or surface area of the sign.
- (3) If a sign is illuminated, the light source shall be turned off between the hours of 11:00 PM and sunrise the following morning.

**Sec. 16-3-240. - Temporary Signs**

- (a) **Generally.** Temporary signs may be posted on property in any zoning district, subject to the requirements of this Section and those applicable provisions stated elsewhere in this Division.
- (b) **Maximum Aggregate Sign Area.** The total (aggregate) sign area for all temporary signs posted on a lot, property, or parcel shall not exceed:
  - (1) *In All Zoning Districts Except C-2.* 12 square feet, with no individual sign face exceeding six square feet in area.
  - (2) *In the C-2 Zoning District.* 64 square feet, with no individual sign face exceeding the dimensions of four feet by eight feet.
- (c) **Location.**
  - (1) No temporary sign shall obstruct or impair access to a public sidewalk, public or private street, or driveway, traffic control sign, bus stop, fire hydrant, or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
  - (2) A temporary sign shall only be posted with the consent of the property owner or occupant.

**(d) Design.**

- (1) A temporary sign shall be designed to be stable under normal weather conditions. Signs constructed of plywood or metal shall be installed in a manner to withstand high winds.
- (2) No temporary sign shall be illuminated.
- (3) Temporary signs shall not be used as off-premises commercial signs.

**(e) Duration of Display.**

- (1) A temporary sign may be posted for a period of up to 90 days, at which time the sign shall be removed or replaced with a new sign.
- (2) In addition to the requirements stated above, temporary commercial signs shall comply with the following requirements:
  - a. A temporary sign advertising the availability of a property for-sale or for-rent shall be removed within five days after the date of closing or occupancy of the property, whichever occurs first.
  - b. All other temporary signs advertising commercial activity that is date-specific (such as those announcing yard sales and special events to occur on one or more particular dates), shall be removed within 24 hours after the conclusion of the sale or event that the sign is promoting.

**Sec. 16-3-240 - Special Events**

In addition to other signs allowed by Section 16-3-230, *Temporary Signs*, not more than six temporary signs, each sign not greater than eight square feet of sign area (per face), may be displayed for up to than 14 days for the purposes of a special event pursuant to a temporary sign permit for the special event. Not more than four special event sign permits may be issued for any property in any one calendar year.

# Article IV. - Site Design and Environmental Stewardship

## Division 1. - Parking and Circulation

### Sec. 16-4-10. - Off-Street Parking Requirements

(a) **Generally.** Off-street parking shall be provided in accordance with Table 16-4-10, *Off-Street Parking Requirements*. Where more than one use is conducted on a single lot, parking shall be required for each use, even if one use is accessory to the other.

**TABLE 16-4-10  
OFF-STREET PARKING REQUIREMENTS**

Land Use	Minimum Off-Street Parking Requirement
Residential Land Uses	
Single-Family Detached Dwelling Unit	2 sp. / du
Community Land Uses	
Governmental Offices	1 sp. / 300 sf. GFA
Park	special study <sup>1</sup>
Place of Assembly	1 sp. / 3 fixed seats in principal auditorium or meeting area; OR 1 sp. / 100 sf. (if no fixed seating area) in principal auditorium or meeting area
Private Club	(1 sp. / 4 persons at max. occupancy of principal building) + (2 sp. / golf course hole) + (2 sp. / tennis court) + (2 sp. / employee on max. shift)
School or Daycare	(by type; see below)
Daycare, kindergarten, elementary, junior high	(1 sp. / classroom) + (1 sp. / 10 students) + (1 sp. / 300 sf. office)
High school	(1 sp. / classroom) + (1 sp. / 5 students) + (1 sp. / 300 sf. office) + (1 sp. / 3 dormitory rooms)
Commercial Land Uses	
Medical or Professional Office	1 sp. / 300 sf. GFA
Restaurant	1 sp. / 175 sf. GFA
Retail Sales and Services, Type A	1 sp. / 200 sf. GFA
Pet Day Care or Training	1 sp. / 400 sf. GFA
Veterinary Offices	1 sp. / 300 sf. GFA
Fueling or Service Station	2 sp. / fueling station
Vehicle Wash	2 sp. / wash bay
Utilities and Communications Land Uses	
Major Utility Facility	special study <sup>1</sup>
Minor Utility Facility	NA
Wireless Communications Tower	NA
Wireless Communications Base Stations	NA
Alternative Communication Facility	NA
Agricultural Land Uses	
Agriculture (Crops)	NA
Agriculture (Livestock)	NA

**TABLE 16-4-10**  
**OFF-STREET PARKING REQUIREMENTS**

Land Use	Minimum Off-Street Parking Requirement
<b>Table Notes:</b>	
<sup>1</sup> See Sec. 16-4-30, <i>Special Parking Studies</i>	

## **Sec. 16-4-20. - Parking Reductions**

- (a) **Generally.** In conjunction with a site plan approval, the City may grant a parking reduction up to 50 percent of the parking spaces required by Section 16-4-10, *Off-Street Parking Requirements*, according to the standards of this Section.
- (b) **Required Findings.** Parking requirements may be reduced if the City makes the following findings, based on a parking study submitted pursuant to Section 16-4-30, *Special Parking Studies*:
  - (1) The parking needs of the use will be adequately served, in that the typical parking demands will not exceed parking supply, and in the case of extraordinary parking demands, appropriate locations are available to accommodate the additional vehicles; and
  - (2) If joint use of the parking areas is proposed, the relative hours of peak parking demand among the uses justifies the reduction in parking spaces based upon shared parking principles.
- (c) **Land Banking.** As a condition of approval of a parking reduction, the City may require that land be reserved or land-banked for additional parking if there is a demonstrably high probability that:
  - (1) The variability of the special parking study suggests that the land use may result in a materially higher parking demand than anticipated;
  - (2) The intensity or nature of the use of the subject property and its existing improvements is likely to change in a manner that results in a materially higher demand for parking.
- (d) **Mitigation Agreement.** If grass or other non-hardened surface area parking is proposed, a minimum of 50 percent of required parking shall comply with the hard-surface requirements set forth in Section 16-4-50, *Surfacing*, and the use of grass or other natural, non-hardened areas shall be solely to accommodate overflow, special event, or other similar temporary peak parking demands, provided that the applicant has agreed to enter into a written mitigation agreement with the City to address the use and maintenance of any such natural off-street parking areas, including but not limited to the establishment of monthly or annual usage limits, inclement weather usage restrictions, re-seeding and re-vegetation requirements, watering or irrigation requirements, and conditions designed to limit the amount of mud or debris tracked onto adjacent City rights-of-way, including but not limited to the required installation of a vehicle tracking control ("VTC") system.

## **Sec. 16-4-30. - Special Parking Studies**

### **(a) Generally.**

- (1) Some of the land uses that are listed in the tables set out in Section 16-4-10, *Off-Street Parking Requirements*, have nonlinear or widely varying parking demand characteristics. Accordingly, their parking requirements are listed in the tables as “special study.” Required parking for these uses shall be established according to the standards of this section.
- (2) Special parking studies may also be submitted to support a request to reduce the number of required parking spaces to less than that set out in Section 16-4-10, *Off-Street Parking Requirements*, due to the nature of the operations or specific location of a proposed use. Such special parking studies shall include and support all requested reductions in parking.

### **(b) Special Parking Study Technical Requirements.**

- (1) Special parking studies shall be conducted by a qualified professional transportation planner or traffic engineer at the applicant’s expense. The Director shall be responsible for determining whether the qualifications of any proposed transportation planner or traffic engineer are acceptable to the City for this purpose.
- (2) The special parking study shall provide:
  - a. A peak parking analysis of at least three functionally comparable uses.
  - b. Documentation regarding the comparability of the referenced uses, including: name, function, location, gross floor area, parking availability, access to transportation network (including vehicular, bicycle, pedestrian, and transit), use restrictions, and other factors that could affect the parking demand.
- (3) The City may rely upon the special study or may request additional information or analysis, including, but not limited to alternative or new data points, or consideration of additional or alternative factors related to comparability or peak demand, as supported by sound engineering principles.

## **Sec. 16-4-40. - Off-Street Parking Design**

### **(a) Generally.** Off-street parking shall be designed in accordance with the requirements of this Section.

### **(b) Location and Access.**

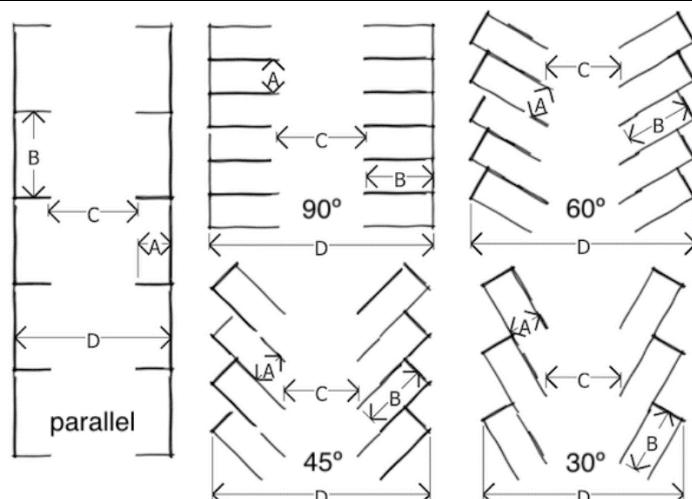
- (1) Off-street parking areas shall have adequate access to a public street or other thoroughfare.
- (2) Off-street parking areas shall be set back:
  - a. 10 feet from street right-of-way lines and nonresidential lot lines; and
  - b. 20 feet from residential lot lines.

(c) **Configuration of Parking Modules.**

- (1) All parking spaces located across from each other, on the opposite side of a drive lane, shall be located at the same angle to the drive lane, except that parallel parking may be provided on one side of the drive lane in order to enhance accessibility.
- (2) Angle parking located on a drive lane with a dead-end is not allowed unless:
  - a. The angle of the parking space is 90 degrees to the direction of travel and sufficient space is provided for turn-around; or
  - b. The geometry of the subject property requires such a configuration for an efficient parking layout and the Director determines that the design provides for safe circulation and emergency access.

(d) **Dimensions.** Parking spaces and aisles shall be dimensioned according to the standards set out in Table 16-4-40, *Parking Space, Aisle, and Module Dimensions*. Standards from the table are depicted in Figure 16-4-40, *Illustrative Parking Dimensions*, for illustrative purposes.

**FIGURE 16-4-40**  
**ILLUSTRATIVE PARKING DIMENSIONS**



**TABLE 16-4-40**  
**PARKING SPACE, AISLE, AND MODULE DIMENSIONS<sup>1</sup>**

Parking Angle	Stall Width (A) <sup>1</sup>		Stall Length (B)	Aisle Width (C)		Module Width (D) <sup>3</sup>	
	Standard	Accessible <sup>2</sup>		One-Way	Two-Way	One-Way	Two-Way
0°	9 ft.	13 ft.	23 ft.	12 ft.	18 ft.	30 ft.	36 ft.
30°	9 ft.	13 ft.	18 ft.	13 ft.	18 ft.	48 ft. 7 in.	53 ft. 7 in.
45°	9 ft.	13 ft.	18 ft.	20 ft.	20 ft.	58 ft. 2.2 in.	58 ft. 2.2 in.
60°	9 ft.	13 ft.	18 ft.	20 ft.	22 ft.	60 ft. 2.1 in	62 ft. 2.1 in.
90°	9 ft.	13 ft.	18 ft.	24 ft.	24 ft.	60 ft.	60 ft.

**TABLE 16-4-40**  
**PARKING SPACE, AISLE, AND MODULE DIMENSIONS<sup>1</sup>**

Parking Angle	Stall Width (A) <sup>1</sup>		Stall Length (B)	Aisle Width (C)		Module Width (D) <sup>3</sup>		
	Standard	Accessible <sup>2</sup>		One-Way	Two-Way	One-Way	Two-Way	
<b>Table Notes:</b>								
<sup>1</sup> For key to lettering in each column, see Figure 16-4-40, <i>Illustrative Parking Dimensions</i> . <sup>2</sup> Including 4 ft. wide access aisle. <sup>3</sup> Calculated values provided for informational purposes. These values assume "double-loaded" modules (parking spaces on both sides of the aisle) with the same parking angle on both sides. These values may be reduced as assumptions change, for example: (i) where parking spaces are located on only one side of the module, or (ii) where one side of the module is parallel parking and the other side is angled parking (see subsection (c)(1), above).								

- (e) **Overhangs.** The length of standard parking spaces may be reduced by up to two feet where the adjacent sidewalk or landscape area is protected by a curb and not less than seven feet in width, allowing for vehicle overhang and an unobstructed walkway or landscape area of at least five feet in width. The use of wheel barriers in such locations is prohibited.
- (f) **Alternative Parking Dimensions.** The Director may approve angles and dimensions that are different from those set out in Table 16-4-40, *Parking Space, Aisle, and Module Dimensions*, provided that the applicant demonstrates that the angles and dimensions will provide for safe circulation and parking within the parking lot based on an AASHTO 2011 (US) - P design vehicle template, or such other template as the Director determines is appropriate based on the proposed land use.
- (g) **Compact Parking Spaces.** Up to 30 percent of the parking spaces in a parking lot may be compact parking spaces. Compact parking spaces shall be at least eight feet in width and 16 feet in length. Compact parking spaces shall not be configured as parallel parking spaces.

### **Sec. 16-4-50. - Surfacing and Striping**

- (a) **Generally.** Off-street parking areas shall be hard-surfaced with asphalt, concrete or porous surfacing engineered to support the weight of vehicles but permitting grass to grow through.
- (b) **Striping.** Parking lots with more than five paved parking spaces shall be striped.
- (c) **Unpaved Parking Areas.** Off-street parking areas for which a mitigation agreement has been approved pursuant to Section 16-4-20, *Parking Reductions*, may be located on natural, non-hardened surfaces. Any natural area approved for parking shall be exempt from the landscaping, striping and lighting requirements of this Division and Section 16-4-130, *Lighting of Parking Lots*.

### **Sec. 16-4-60. - Structured Parking**

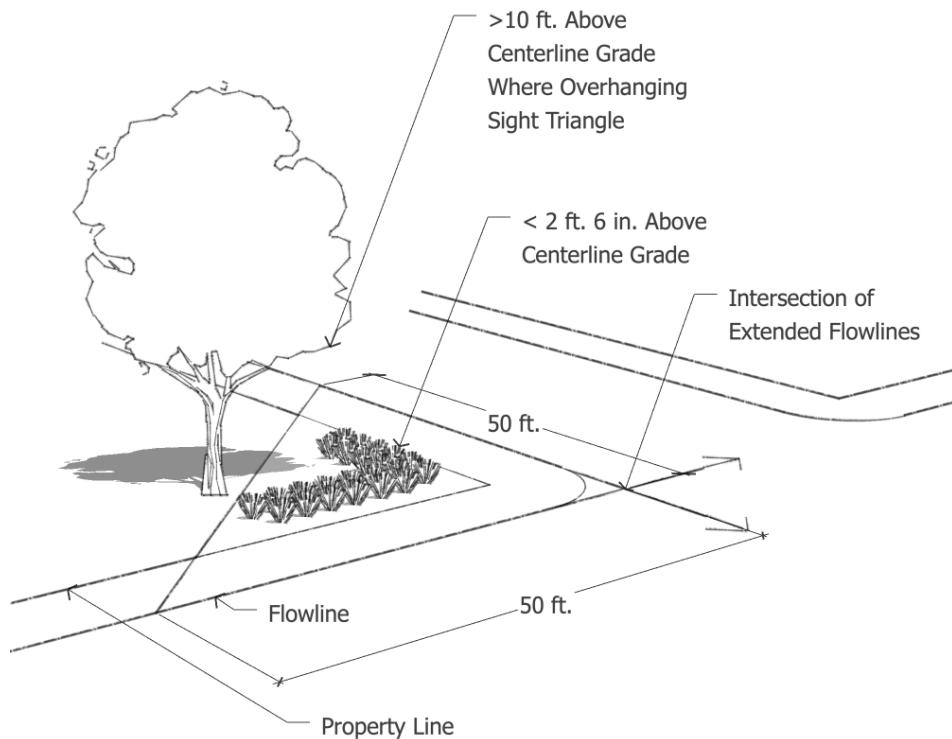
- (a) **Generally.** No structured parking, attached or detached, above or below ground, shall be permitted in any zoning district unless specifically permitted as set forth in this Section.
- (b) **Standards.** Structured parking may be accessory to nonresidential uses, provided that such structures meet the following criteria:

- (1) *Maximum Height.* The maximum height of structured parking shall be established as either:
  - a. No portion of any such structure fronting on or adjacent to any private or public property line or right-of-way shall exceed eight feet above the elevation of the natural grade at the midpoint (center point) of the footprint of the structure (plan view).
  - b. The maximum height above grade called for in this subsection (b)(1) may be increased to 12 feet above the midpoint of the structure at natural grade if additional fill is placed at a slope no greater than one vertical to three horizontal, so that no more than six feet of the structure projects above the revised grade at the structure.
- (2) *Screening.* Structured parking shall be screened from view from neighboring properties and rights-of-way by densely planted trees and shrubs, berms and other landforms or fences.
- (3) *Setback.* Structured parking shall be set back at least 50 feet from all property lines.

#### **Sec. 16-4-70. - Visibility at Intersections**

On a corner lot, nothing shall be constructed, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting streets within a "sight triangle" defined by the area bounded by the flowlines of the intersecting streets (extended to cross each other) and a line joining points along said flowlines 50 feet back from the point of their intersection. *See Figure 16-4-70, Illustrative Sight Triangle.*

**FIGURE 16-4-70**  
**ILLUSTRATIVE SIGHT TRIANGLE**



## Division 2. - Utilities and Lighting

### Sec. 16-4-110. - Utilities

- (a) **Generally.** The purpose and intent of this Section is to protect and improve the aesthetics of the City by requiring that new or existing service lines associated with public utilities (telephone, electric service, cable television, gas lines and other similar utilities) be placed underground in conjunction with new development and redevelopment.
- (b) **Requirements.** The burial of new or existing service lines shall also be required for:
  - (1) New development of a principal building on a lot; or
  - (2) Redevelopment of a lot.
- (c) **Exceptions.** The obligation to place service lines underground shall not extend to existing overhead transmission or distribution lines that provide service to other properties. Facilities appurtenant to underground facilities or other required equipment may be placed aboveground if the City determines it is necessary.

## Sec. 16-4-120. - Exterior Lighting, Generally

(a) **Generally.** The purpose and intent of this Section is to accommodate reasonable lighting needs in a manner that preserves the semi-rural character of the City and the qualities associated with this character, including the ability to view stars against a dark sky, while protecting the health, safety, and general welfare of the community. The City Council finds that these regulations are necessary in order to:

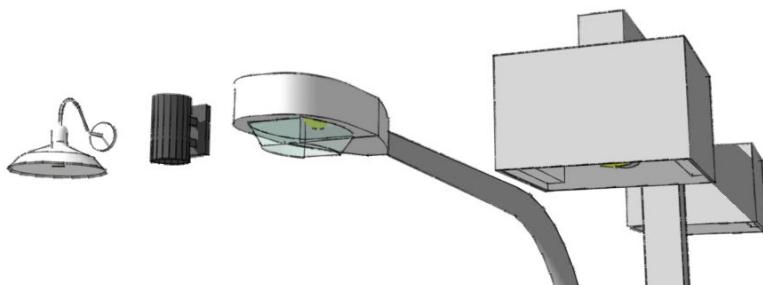
- (1) Promote safety and security;
- (2) Preserve the semi-rural character of the community;
- (3) Reduce the amount of nighttime light pollution;
- (4) Reduce offensive light glare and light trespass onto adjacent properties and rights-of-way;
- (5) Conserve energy; and
- (6) Promote appropriately designed and installed outdoor lighting.

(b) **Lighting Requirements.** Except as provided in subsection (c), below, all land uses are subject to the following lighting requirements:

(1) *Generally.*

- a. All exterior lights shall include full cut-off fixtures unless otherwise specified in this Section. See Figure 16-4-120, *Examples of Full Cut-Off Fixtures*.

**FIGURE 16-4-120  
EXAMPLES OF FULL CUT-OFF FIXTURES**



- b. Each light fixture shall not emit more than 1,800 lumens (approximately equivalent to a one-hundred-watt incandescent bulb) unless otherwise specified in this Section.
- c. All exterior lights shall be designed and oriented in a way to minimize glare and light spillover onto adjacent lots, streets, and rights-of-way. Exterior lights shall not be allowed to shine directly onto abutting residential lots or in any manner that creates a hazard to adjacent properties or to pedestrian or vehicular traffic on adjacent streets and rights-of-way.

(2) *Landscape and Architectural Accent Lighting.* Lighting used exclusively to illuminate landscape elements, such as trees, bushes, sculptures, and fountains, and lighting used exclusively to illuminate building facades and structures as accent lighting shall be turned off from 11:00 PM to sunrise the following day. Landscape and architectural accent lighting may include up-lighting as long as such lighting is shielded and the bulb is not visible by a direct line of sight from an adjacent property or right-of-way.

(3) *Recreation Use and Recreation Accessory Structure Lighting.*

- a. Light standards that are 12 feet or more in height and associated with accessory or recreational uses or structures shall be turned off between 11:00 PM and sunrise the following day.
- b. These fixtures may exceed 1,800 lumens, provided that:
  - i. The light source is not directly visible from adjoining lots or streets; and
  - ii. The lighting does not result in more than 0.2 foot-candles of additional illuminance at any property line, measured in the horizontal plane at ground level and the vertical plane at four feet above ground level.

(4) *Motion-Sensor Security Lighting.* Unshielded spotlights activated by a motion sensor shall be allowed with a maximum output of 2,800 lumens (approximately equivalent to a one-hundred-fifty-watt incandescent bulb). The light shall only be activated by movement located on the property on which the light is located, and shall turn off within five minutes after the detected motion ceases.

(c) **Exceptions.** The standards of this Section shall not apply to the following types of lighting:

- (1) Seasonal and holiday lighting displays, not to exceed 45 days per calendar year.
- (2) Up-lighting of flags when the light source is shielded from the sides.
- (3) Sign illumination as set forth in Article III, Division 4, *Signs*.
- (4) Outdoor lights associated with an approved permit for a nonresidential use that specifically addresses lighting and approves lighting that deviates from the standards of this Section.
- (5) Outdoor lights associated with an approved major special event permit that specifically addresses lighting and approves lighting that deviates from the standards of this Section.
- (6) Lighting that is required by an adopted building code or other life-safety code.
- (7) Lighting installed by the City, or required by the City, for the benefit of public health, safety, and welfare, including but not limited to traffic control devices, streetlights, and construction lights.

- (8) Decorative lighting fixtures, provided that no individual fixture produces more than 1,200 lumens.
- (9) Lighting of parking lots, which is subject to Section 16-4-130, *Lighting of Parking Lots*.

### **Sec. 16-4-130. - Lighting of Parking Lots**

- (a) **Generally.** The lighting of parking lots for nonresidential uses is subject to the standards of this Section. The following standards shall apply to such lighting plans and installations:
- (b) **Orientation and Arrangement of Lighting Fixtures.** Fixtures shall be oriented and shielded such that the source of illumination (bulb or direct lamp image) is not visible in a direct line of sight from any portion of any other property or right-of-way. Lights must be arranged so as not to create an unreasonable risk to the safety of vehicular or pedestrian traffic on a street or public property.
- (c) **Spillover.** The maximum horizontal illumination at the property line at ground level shall not exceed 0.2 foot-candles.
- (d) **Fixture Height.** Lighting fixtures shall not exceed 18 feet in height, inclusive of any base or support, measured from the parking lot surface. Any lighting fixture damaged to the extent of more than 75 percent of replacement cost must be brought into conformance with this standard upon replacement or repair.
- (e) **Hours of Operation.** Lights shall be off between 11:00 PM and sunrise the next day. The Director may, upon a showing of good and sufficient cause, grant an exception to the lighting curfew required by this Section for events that extend past the lighting curfew. Lights left on for these purposes shall nevertheless comply with the requirements of subsections (b), (c) and (d), above.

## **Division 3. - Landscaping and Tree Preservation**

### **Sec. 16-4-210. - Minimum Requirements for Landscape Materials**

- (a) **Generally.** Trees and shrubs that are required by this Chapter shall meet the minimum standards of Table 16-4-210, *Minimum Requirements for Landscape Materials*.

TABLE 16-4-210 MINIMUM REQUIREMENTS FOR LANDSCAPE MATERIALS	
Type of Plant	Minimum Plant Size for New Landscaping
Ornamental trees	2-inch caliper
Deciduous trees	1.5-inch caliper
Evergreen trees	6 feet in height
Shrubs	5-gallon container

(b) **Planting and Maintenance.** Landscaping shall be planted and maintained in a neat, clean, and healthy condition. Landscape maintenance shall include routine irrigation, pruning, mowing, and weeding as necessary to ensure an appearance of quality and care. Damaged or dead landscaped material shall be promptly repaired or replaced (weather permitting) in cases where the material is required by this Chapter; or removed, repaired, or replaced in cases where the material is not required by this Chapter.

## **Sec. 16-4-220. - Parking Lot Landscaping**

**(a) Screening.**

(1) The City shall require screening between off-street parking and uses on adjoining residential properties when:

- The use of the subject property is likely to generate traffic after sunset and the parking lot is configured such that light from headlights will create glare upon a dwelling unit; or
- The parking lot is located less than 50 feet from a residential property line; or
- The City finds that the land use will involve high-volume, high-turnover parking, and buffering is necessary to reduce the impacts of the use of the parking lot on adjoining property owners.

(2) Required screening may take the form of densely planted trees and shrubs, berms and other landforms or fences. Screening shall be opaque (*e.g.*, densely plated shrubs, perimeter walls, berms, or privacy fences) from ground level to a height of three feet above the parking surface, and within a period of not more than three years after installation of the buffer, at least 50 percent opaque between three and six feet above the parking surface.

(b) **Minimum Landscape Area.** In addition to the screening required by subsection (a), above, an area or a combination of areas within are adjacent to the parking lot, equal to at least 42 square feet per hard-surfaced parking space, shall be landscaped to beautify the area and avoid the appearance of an unbroken expanse of parking surface. The required landscaping must include a minimum 10-foot wide landscape strip along any street frontage. Any parking area in excess of 30 parking spaces shall include interior landscape islands.

**(c) Minimum Planting Requirements.**

(1) A minimum of 75 percent of all required landscaped areas must be covered by living material.

(2) Overall, parking lot landscaped areas shall contain a minimum of two trees and four shrubs per 500 square feet of landscaped area, plus one additional tree for every 50 feet of parking lot frontage along a public or private street; and these additional trees must be placed along the street frontage within 20 feet of the right-of-way line (or as close thereto as possible if planting within 20 feet of the right-of-way line will conflict with utility or drainage easements). Each island must contain a minimum of

one tree and four shrubs. One additional tree may be substituted for each four shrubs required herein.

## **Sec. 16-4-230. - Tree Preservation**

(a) **Generally.** The purpose and intent of this Section is to provide minimum requirements for protecting established trees in order to preserve the semi-rural character of the Village and qualities associated with that character, while protecting the health, safety and general welfare of the community. The City Council finds that these regulations are necessary in order to:

- (1) Preserve the privacy and value of existing homes;
- (2) Preserve the semi-rural character of the community;
- (3) Screen nighttime light pollution from roads and adjacent properties; and
- (4) Preserve wildlife habitat and shade.

(b) **Applicability.**

- (1) *Generally.* Any established tree removed from within the minimum setback area required in the R-1, R-2, R-3, R-3A, R-4, or R-5 zoning districts by Section 16-3-10, *General Lot and Building Standards for Residential Zoning Districts* must be replaced in accordance with the requirements of subsection (c)(2), below, if the tree was removed:
  - a. In conjunction with:
    - i. Development of a new residence; or
    - ii. An expansion of an existing residence that increases the floor area of such residence by 50 percent or more; or
  - b. Within the 12 months preceding the date upon which a building permit application for such development or expansion was submitted.
- (2) *City Rights-of-Way.* Established trees shall not be removed from City rights-of-way without prior written permission from the City. Where the City approves removal of an established tree from a City right-of-way (e.g., to facilitate development on an adjacent lot), the City may require replacement of the tree.
- (3) *Exceptions.* This Section does not require replacement of established trees that are:
  - a. Listed on the State of Colorado Noxious Weeds Lists A, B, or C, as designated by C.R.S. § 35-5.5-108(2)(a), as amended; or
  - b. Listed in Section 7-4-10, CHERRY HILLS VILLAGE MUNICIPAL CODE.

(c) **Transplantation.** In lieu of replacement, established trees may be transplanted to another location within the same lot, or from the right-of-way to the lot. However, if transplanted trees do not survive at least 36 months after planting, they shall be replaced as required by this section within six months after it is determined that they did not survive.

(d) **Replacement Requirements.**

(1) Established trees that have been or will be removed must be replaced as provided in Table 16-4-230, *Tree Replacement Schedule*.

TABLE 16-4-230 TREE REPLACEMENT SCHEDULE	
Size of Tree Removed	Aggregate Caliper Inches of Required Replacement Trees
Small (DBH 6 in. or more, but less than 10 in.)	2 in.
Medium (DBH 10 in. or more, but less than 20 in.)	6 in.
Large (DBH 20 in. or more)	10 in.

(2) All replacement trees shall have a minimum caliper size of two inches, and a maximum caliper size of two and on-half inches, at the time of planting.

(e) **Noxious Species.** No species of tree shall be planted if it is listed on the State of Colorado Noxious Weeds Lists A, B, or C, as designated by C.R.S. § 35-5.5-108(2)(a), as amended, or in Section 7-4-10, CHERRY HILLS VILLAGE MUNICIPAL CODE.

(f) **Waiver of Replacement Requirements.** The Director may authorize a waiver from the replacement requirements of this Section upon the written request of the applicant if it is demonstrated that:

(1) The removal of the established tree is beyond the reasonable control of the applicant, or a professional arborist has issued a written recommendation that the established tree be removed because of the poor or unhealthy condition of the tree; and

(2) The requested waiver of the replacement requirements affords reasonable protections to adjacent properties (*i.e.*, the removed tree did not have a substantial role in buffering the actively used areas of the subject property from the actively used areas of adjacent property); and will not cause a material, undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.

# **Article V. - Floodplain Management and Flood Damage Prevention**

## **Division 1. - Authorization; Findings; Purpose**

### **Sec. 16-5-10. - Statutory Authorization**

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Cherry Hills Village, Colorado, does hereby adopt the floodplain management regulations of this Article.

### **Sec. 16-5-20. - Findings of Fact**

- (a) **Generally.** The flood hazard areas of the City are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety, and general welfare of the public.
- (b) **Flood Loss Causes.** These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

### **Sec. 16-5-30. - Statement of Purpose**

It is the purpose of this Division to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure, and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is located in a flood hazard area.

## **Sec. 16-5-40. - Methods of Reducing Flood Losses**

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development that may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands.

## **Division 2. - General Provisions**

### **Sec. 16-5-110. - Lands to Which This Division Applies**

This Division shall apply to all Special Flood Hazard Areas and to areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill ("LOMR-F") within the jurisdiction of Cherry Hills Village, Colorado.

### **Sec. 16-5-120. - Basis for Establishing the Special Flood Hazard Area**

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Cherry Hills Village, Colorado," dated December 17, 2010, and the Flood Insurance Rate Map for Arapahoe County, Colorado and Incorporated Areas, Revised December 17, 2010 ("FIRM") and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas ("SFHAs") identified by the Flood Insurance Study ("FIS") and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the City Council. The Floodplain Administrator shall keep a copy of the FIS, Digital Flood Insurance Rate Maps ("DFIRMs"), FIRMs and/or Flood Boundary-Floodway Maps ("FBFMs") on file and available for public inspection.

### **Sec. 16-5-130. - Establishment of Floodplain Development Permit; Limitations**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Division. The scope of activities that may be permitted by Floodplain Development Permit is limited by Section 16-7-360, *Floodplain Development Permit*.

### **Sec. 16-5-140. - Compliance**

No building, structure, or land shall hereafter be located, altered (including construction of berms), or have its use changed within the Special Flood Hazard Area or area removed from the floodplain

by the issuance of a LOMR-F without full compliance with the terms of this Division and other applicable regulations. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet (at least) the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

### **Sec. 16-5-150. - Abrogation and Greater Restrictions**

This Division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Division and another ordinance, easement, covenant, or deed restriction (where same are enforceable by the City) conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

### **Sec. 16-5-160. - Interpretation**

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

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

### **Sec. 16-5-170. - Warning and Disclaimer of Liability**

- (a) **Warning.** The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Greater floods can and will occur, and flood heights may be increased by man-made or natural causes.
- (b) **Disclaimer of Liability.** This Division does not imply that land outside the special flood hazard area, areas covered by a LOMR-F, or uses permitted within such areas, will be free from flooding or flood damages. This Division shall not create liability on the part of the City of Cherry Hills Village or any official or employee thereof for any flood damages that may result from reliance on this Division or any administrative decision lawfully made hereunder.

### **Sec. 16-5-180. - Severability**

This Division and the various parts thereof are hereby declared to be severable. Should any section of this Division be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Division or this Chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

## **Division 3. - Flood Hazard Reduction**

### **Sec. 16-5-210. - General Standards for Flood Hazard Reduction**

In all special flood hazard areas the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (5) All manufactured homes shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other applicable State and City anchoring requirements for resisting wind forces.
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **Sec. 16-5-220. - Specific Standards for Flood Hazard Reduction**

- (a) **Generally.** The provisions of this Section apply in all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in:
  - (1) *Section 16-5-120, Basis for Establishing the Special Flood Hazard Area;*
  - (2) *Section 16-7-50, Floodplain Administrator; or*
  - (3) *Section 16-5-270, Standards for Subdivision Proposals.*
- (b) **Residential Construction.** New construction and substantial improvement of any residential building or structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the building or structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(c) **Nonresidential Construction.**

- (1) With the exception of critical facilities, outlined in Section 16-5-280, *Standards for Critical Facilities*, new construction and substantial improvements of any commercial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as provided in Section 16-7-50, *Floodplain Administrator*.

(d) **Enclosures.** New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(e) **Manufactured Homes.** All manufactured homes that are placed or substantially improved within special flood hazard areas designated A1-30, AH, or AE, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(f) **Recreational Vehicles.**

- (1) All recreational vehicles placed on sites within special flood hazard areas A1-30, AH, or AE shall:

- a. Be on the site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use; or
- c. Meet the permit requirements of Section 16-7-360, *Floodplain Development Permit*, and the elevation and anchoring requirements for “manufactured homes” in subsection (e), above.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(g) **Prior Approved Activities.** Any activity for which a Floodplain Development Permit was issued by the City, or a CLOMR was issued by FEMA prior to the effective date of this Chapter may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Division if it meets such standards.

### **Sec. 16-5-230. - Standards for Areas of Shallow Flooding (AO/AH Zones)**

- (a) **Generally.** Located within the Special Flood Hazard Area established in Section 16-5-120, *Basis for Establishing the Special Flood Hazard Area*, may be areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the provisions of this Section apply.
- (b) **Residential Construction.** All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
- (c) **Nonresidential Construction.**
  - (1) With the exception of Critical Facilities, outlined in Section 16-5-280, *Standards for Critical Facilities*, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional

Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied. *See Sec. 16-7-360, Floodplain Development Permit.*

- (2) Within Special Flood Hazard Areas AH or AO, adequate drainage paths around buildings and structures on slopes are required to guide flood waters around and away from proposed buildings and structures.

### **Sec. 16-5-240. - Floodways**

- (a) **Generally.** Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of "Floodway" in Section 16-9-130, *Definitions*). Located within the special flood hazard areas established in Section 16-5-120, *Basis for Establishing the Special Flood Hazard Area*, may be areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the provisions of this Section shall apply.
- (b) **Encroachments Prohibited; Exceptions.**
  - (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
  - (2) If subsection (b)(1), above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article 5.
  - (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the City first applies for a CLOMR and floodway revision through FEMA.

### **Sec. 16-5-250. - Alteration of a Watercourse**

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport

and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations, and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable Federal, State, and City floodplain requirements and regulations.
- (6) Within the regulatory floodway, stream alteration activities shall not be undertaken unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions resulting from the project (otherwise known as a "No-Rise Certification"), unless the City first applies for a CLOMR and Floodway revision in accordance with Section 16-5-240, *Floodways*.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

#### **Sec. 16-5-260. - Properties Removed from the Floodplain by Fill**

- (a) **Generally.** A Floodplain Development Permit shall not be issued for the construction of a new building or structure or addition to an existing building or structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill ("LOMR-F"), unless such new building or structure or addition complies with the standards of this Section.
- (b) **Residential Construction.** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.
- (c) **Nonresidential Construction.** The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

## **Sec. 16-5-270 - Standards for Subdivision Proposals**

- (a) All subdivision proposals shall be designed to be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions shall meet Floodplain Development Permit requirements of Section 16-5-130, *Establishment of Floodplain Development Permit*; Section 16-7-360, *Floodplain Development Permit*; and the provisions of this Division 3, *Flood Hazard Reduction*.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development that is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to Section 16-5-120, *Basis for Establishing the Special Flood Hazard Area*, or Section 16-7-50, *Floodplain Administrator*.
- (d) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

## **Sec. 16-5-280. - Standards for Critical Facilities**

- (a) **Generally.** A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- (b) **Classification of Critical Facilities.** It is the responsibility of the City Council to identify and confirm whether specific structures in the City meet the criteria of this Section. Critical Facilities are classified under the following categories: (1) Essential Facilities; (2) Hazardous Materials; (3) At-risk Populations; and (4) Vital to Restoring Normal Services.
  - (1) *Essential Facilities.*
    - a. Included in the Essential Facilities Category. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
      - i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
      - ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices,

- and non-urgent care medical structures that do not provide these functions);
  - iii. Designated emergency shelters;
  - iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
  - v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
  - vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars)).
- b. Specific Exemptions from Essential Facilities Category. Specific exemptions to this category include wastewater treatment plants ("WWTP"), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.
- c. Potential Exemptions from Essential Facilities Category. Public utility plant facilities may be exempted if it is demonstrated to the satisfaction of the City that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City on an as-needed basis upon request.

(2) *Hazardous Materials Facilities.*

- a. Included in the Hazardous Materials Facilities Category. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
  - i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

- ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - iii. Refineries;
  - iv. Hazardous waste storage and disposal sites; and
  - v. Above ground gasoline or propane storage or sales centers.
- b. Application of Threshold Limits. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (“OSHA”) to keep a Material Safety Data Sheet (“MSDS”) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (“TPQ”) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (“EHS”); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (“EPA”) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence on the effective date of this Article, but exclude later amendments to or editions of the regulations.
- c. Specific Exemptions from Hazardous Materials Category. Specific exemptions to this category include:
  - i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
  - ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the City by hazard assessment and certification by a qualified professional (as determined by the City) that a release of the subject hazardous material does not pose a major threat to the public.
  - iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

(3) ***At-Risk Population Facilities.*** At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:

- a. Elder care (nursing homes);
- b. Congregate care serving 12 or more individuals (day care and assisted living);
- c. Public and private schools (pre-schools, K-12 schools, before-school and after-school care serving 12 or more children);

(4) ***Vital to Restoring Normal Services Facilities.***

- a. **Included in the Vital to Restoring Normal Services Facilities Category.** Facilities vital to restoring normal services including government operations. These facilities consist of:
  - i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and
  - ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).
- b. **Potential Exemptions from Vital to Restoring Normal Services Category.** The facilities listed in subsection (a)(4)a., above, may be exempted if it is demonstrated to the City Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City Council on an as-needed basis upon request.

(c) ****Protection for Critical Facilities.**** All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- (1) Location outside the special flood hazard area; or
- (2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.

(d) **Ingress and Egress for New Critical Facilities.** New Critical Facilities shall, when practicable as determined by the City Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

# Article VI. - Nonconformities

## Division 1. - Generally

### Sec. 16-6-10. - Purposes

- (a) **Generally.** The purpose of this Article is to provide for the control, improvement and termination of uses or structures that do not conform to the regulations of this Chapter for the zoning district in which they are located, and to bring landscaping into conformance with this Chapter over time. The protection afforded owners of property under this Article exists only in order to permit the continuance of a legal nonconforming use of land, structure, or lot to the extent necessary to safeguard the investment of the property owner.
- (b) **Short-Term Rentals.** The specific purposes of requiring certification and licensure of legal non-conforming short term rental use of properties are to:
  - (1) ensure the safety of guests and occupants of short term rental properties through compliance with building code requirements applicable to transient residential occupancy;
  - (2) maintain the stability of the semi-rural, residential character of the City; and
  - (3) mitigate the negative effects that short term rentals pose within residential neighborhoods in terms of trash, parking, and noise issues.

### Sec. 16-6-20. - Application

- (a) **Generally.** Subject to the provisions of this Article, a nonconforming land use, a nonconforming building or structure, or a nonconforming lot shall be lawful only if one or more of the conditions set out in this Section apply.
- (b) **Land Use.**
  - (1) *Generally.* The land use was legally established and maintained on the effective date of this Chapter or of any amendment causing nonconformity, thereby constituting a non-conforming use. For purposes of this Section, "legally established and maintained" means compliance with each of the following criteria:
    - a. The land use was, at time of commencement, in compliance with all applicable federal, state and City regulations; and
    - b. The land use is determined to be legally established and maintained by City administrative certification as set forth in Section 16-6-40, *Administrative Certification*.
  - (2) *Limitations.* The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on a portion of a lot or parcel of land shall not be construed to establish a nonconforming use on the entire lot or parcel of land.

(c) **Building or Structure (including Signs and Lighting).** The building, structure, or portion of the building or structure was either:

- (1) In conformance with applicable regulations at the time it was constructed; or
- (2) Not legally established and maintained, but has existed, unmodified, in its current location for more than 20 years.

(d) **Lots.** The lot was either:

- (1) In conformance with applicable regulations at the time it was created; or
- (2) Not legally created, but was developed with a residence prior to September 6, 1987.

(e) **Other Nonconformities.** For nonconforming situations not enumerated in subsections (b) through (d), above, inclusive, the development was in conformance with applicable regulations at the time it was established, constructed, installed, or created, as applicable.

#### **Sec. 16-6-30. - Burden of Proof**

In any administrative or judicial proceeding wherein it is claimed that a building, structure, lot, or use is allowed as a legal nonconformity, the party asserting that such nonconforming status exists shall have the burden of providing proof of the same by a preponderance of the evidence. Evidence of legal nonconformity shall show that the applicable criteria in Section 16-6-20, *Application*, have been met, and may include (but are not limited to) the following: approved permits, copies of applicable zoning, building or other code provisions in effect at the time of establishment of legal nonconformity; leases; and verified affidavits of persons with personal knowledge of the circumstances of the nonconformity.

#### **Sec. 16-6-40. - Legal Nonconforming Certification**

(a) **Generally.** To obtain the status of a legal nonconformity (*e.g.*, nonconforming use, nonconforming building, etc.), the owner or designated representative of the owner must apply for and obtain a certification of the nonconformity ("LEGAL NONCONFORMING CERTIFICATION") from the Director.

(b) **Documentation.** The Director shall require appropriate documentation of the legal nonconformity, which may include:

- (1) Proof of ownership of the property;
- (2) Narrative explanation of the claimed nonconformity;
- (3) Documentation of the date that the use/activity commenced and evidence of continuous operation for each successive year;
- (4) Any judicial determinations affirming legal nonconforming use status; and
- (5) A site plan or survey including boundaries of the property, easements, total area of the property, use and dimensions of existing buildings and structures, setbacks, dimensioned parking layout, north arrow and scale, and precise location and limits of any nonconforming use to be certified;

- (6) A title commitment, title abstract, or title information binder, which may include the subject property and adjacent properties; and
- (7) Proof of compliance with the Rehabilitation Authority (if applicable) (see Ordinance No. 6, series 1950).

(c) **Decision.** The Director shall deny any certification if it appears that the evidence presented does not show the existence of a prior legal nonconforming use by a preponderance of the evidence in accordance with the applicable criteria in Section 16-6-20, *Application*. Any certification issued by the Director shall include a detailed description of the specific nonconformity that is present upon the property (e.g., details of a nonconforming use, description and location of nonconforming building or structure, etc.).

(d) **Term.** A certification of nonconforming use issued by the Director shall be invalid and void in the event that a certified nonconforming use is discontinued for a continuous period of six consecutive months.

## Division 2. - Specific Nonconformities

### Sec. 16-6-110. - Nonconforming Buildings and Structures

Except as provided in Section 16-6-180, Nonconforming Uses, a nonconforming building or structure may be structurally altered or expanded if: (1) the alteration or expansion is contained entirely within the building envelope of the lot, (2) the alteration or expansion reduces the overall extent or degree of nonconformity, or (3) the alteration or expansion is limited to an interior remodel or maintenance repairs needed to keep the building or structure in good condition, and (in all cases) the alteration or expansion otherwise meets the requirements of this Chapter.

### Sec. 16-6-120. - Nonconforming Fences, Garden Walls, and Perimeter Walls

Nonconforming fences and garden walls shall be brought into conformance with this Chapter upon substantial replacement. For the purposes of this Section:

- (1) Any repair or replacement of more than 25 percent of a fence or garden wall along any individual front, side, or rear lot line of a property within a twenty-four-month period shall constitute a replacement; and
- (2) Repair does not include painting, pressure washing, sealing, or staining.

### Sec. 16-6-130. - Nonconforming Lighting

Nonconforming light fixtures in existence prior to the date of enactment of this Chapter shall be deemed conforming and exempt from the requirements of 16-4-120, *Exterior Lighting, Generally*, except that:

- (1) All lighting shall be brought into conformance if the floor area of the associated land use is increased by 50 percent or more, measured cumulatively after the effective date of this Chapter, or if the subject property is redeveloped.

(2) Existing light fixtures shall be so oriented and shielded so that they do not shine directly onto any part of another lot, a street, or public property. For the purposes of this standard, a light shall be deemed to shine directly onto other property if the source of illumination (bulb or direct lamp image) is visible in a direct line of sight from any portion of the other property and the light is sufficiently strong to cast a plainly visible shadow on such other property, or create an unreasonable risk to the safety of vehicular or pedestrian traffic on a street or public property.

#### **Sec. 16-6-140. - Nonconforming Lots**

(a) **Generally.** Building permits may be authorized for construction on legally nonconforming lots, provided that the buildings or structures authorized by the permits meet all other requirements of this Chapter.

(b) **Subdivision After Effective Date.** No lot may be subdivided or reduced in size in such a way that it would be or become nonconforming, or cause any structure, lot space, or use to be or become nonconforming. No permit shall be issued for any property or lot created by such a subdivision or reduction in violation of this subsection; however, this subsection shall not apply to the sale, conveyance, transfer, disposition, division, or dedication of property to the City, accepted by the City, for the purpose of providing land for public use (e.g., parks, open spaces, trails, rights-of-way, or drainage facilities).

#### **Sec. 16-6-150. - Nonconforming Parking or Parking Lot Landscaping**

No existing building shall be deemed nonconforming because its parking lot or required parking lot landscaping area does not meet the requirements of this Chapter; however, in the event that building additions or site improvements requiring a building permit and resulting in an increase in the number of required parking spaces, are made after the effective date of this Chapter, the entire site must be brought into compliance with Article IV, Division 1, *Parking and Circulation* and Article IV, Division 3, *Landscaping and Tree Preservation*, in conjunction with the building additions or site improvements.

#### **Sec. 16-6-160. - Nonconforming Short-Term Rentals**

(a) **Generally.** A short-term rental that was certified as a nonconforming use pursuant to Section 7 of Ordinance No. 4 (2015) (formerly codified as Section 16-14-90, CHERRY HILLS VILLAGE MUNICIPAL CODE), may continue as a “nonconforming short-term rental,” subject to the provisions of subsection (b), below, provided that the owner timely brought the subject property into compliance with City codes as required by Ordinance No. 4, and an annual short-term rental license has been continuously maintained since City certification of the nonconforming short-term rental.

(b) **Annual License Requirements.** An annual short-term rental license issued by the City is required to operate a nonconforming short term rental. The following licensing requirements shall be met as a condition of license issuance and continued operation of a certified non-conforming short term rental property within the City:

- (1) Unless otherwise further limited in the certification of the nonconforming short-term rental, the maximum number of overnight occupants for any short-term rental period allowed shall not exceed the number of occupants that can be accommodated by the available off-street parking and shall not exceed two occupants per bedroom, up to a maximum of 10 occupants in total.
- (2) All parking shall be provided off-street on a paved driveway or in a garage. There shall be a minimum of one parking space per bedroom.
- (3) Notwithstanding any provision to the contrary in the City building code, single family dwellings used for short term rentals shall be considered a "Residential Group R-3 Boarding House" occupancy due to the transient nature of occupancy, and shall be subject to applicable building code regulations adopted by the City, as may be amended.
- (4) The structure and the property shall be brought into and maintained in compliance with the standards for Residential Group R-3 Boarding House occupancy under the International Building Code, as adopted by the City, except that Chapter 13, entitled Energy Efficiency, Chapter 14, entitled Exterior Walls, and Chapter 16, entitled Structural Design, of the International Building Code shall not apply, as a condition of issuance of a license to operate a legal non-conforming short term rental use. Such matters shall be subject to the International Existing Building Code, as amended by Chapter 18, CHERRY HILLS VILLAGE MUNICIPAL CODE.
- (5) Short term rental properties shall not be altered to change the residential character or outside appearance of the property or building through the use of paint colors, materials, signage, or lighting, or by the addition or alteration of accessory structures, recreational structures/uses, or garages.
- (6) Short term rentals shall have a designated local property manager that resides or is physically located within 60 miles of the short-term rental property, and is available by phone 24 hours per day to respond to tenant and neighborhood questions and concerns. The owner is required to provide to the City updated contact information of the local property manager, including address and telephone number.
- (7) Short term rental licenses are conditioned upon compliance with all applicable City ordinances and regulations including but not limited to zoning, noise, nuisance, lighting, and building codes.

**(c) Inspections and Documentation.**

- (1) By operating short term rentals of a single-family dwelling unit, the owner agrees to authorize, at a minimum, annual on-site inspections by appropriate building, fire and zoning officials to ensure compliance with these licensing requirements.
- (2) The owner of the non-conforming short term rental shall provide the City with a copy of each short term rental lease at least five business days in advance of the rental period.

(3) Prior to occupancy of each short-term rental of a single-family dwelling, the owner shall provide to the Community Development Department the name and home address of each occupant and relation of each occupant in order to confirm compliance with the City's definition of single family. Prior to occupancy, the owner shall also provide to the City a written acknowledgment signed by the primary adult occupant of the short term rental that such occupant:

- a. is legally responsible for compliance by of all occupants of the short term rental or their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the property;
- b. shall cooperate with City officials to determine compliance with this section; and
- c. shall provide identification of all occupants upon reasonable request of any City official.

(4) The owner shall provide the City with evidence of payment of all applicable taxes and fees, including any applicable state tax, for each period of short term rental use.

(d) **Licensing Fees; Revocation.** Application and licensing fees shall be set forth by City Council resolution. In accordance with the procedures set forth in Article I, Chapter 6, CHERRY HILLS VILLAGE MUNICIPAL CODE, the City may revoke a short term rental license if the owner, operator, tenants, or guests of a short-term rental property violate any provision of this Code or these licensing requirements. If a license is revoked, an owner or operator may not apply for a new license.

### **Sec. 16-6-170. - Nonconforming Signs**

(a) **Generally.** Except as provided in this Section, a nonconforming sign in any zoning district may be maintained, so long as such sign is kept in a state of good repair and is not relocated, replaced, or structurally altered.

(b) **Destruction; Damage; Restoration.**

- (1) Any legally nonconforming sign that is destroyed by fire or any other inadvertent, accidental, or otherwise uncontrollable cause to the extent that more than 75 percent of its replacement cost on the date of destruction may not be reconstructed except as a conforming sign.
- (2) Any sign that is destroyed by fire or any other inadvertent, accidental, or otherwise uncontrollable cause to the extent that less than 75 percent of its replacement cost on the date of destruction may be reconstructed, but not so as to expand the area or number of faces of the original sign.

(c) **End of Useful Life.** Any sign that has reached the end of its economic and/or useful life which is to be replaced voluntarily by the property or sign owner shall be replaced in a manner consistent with the provisions of Article III, Division 3, *Signs*.

## **Sec. 16-6-180. - Nonconforming Uses**

- (a) **Generally.** Nonconforming uses may be maintained and continued, provided there is no expansion in the area or volume occupied or devoted to the nonconforming use, and no increase in intensity of the nonconforming use, except as provided in this Section.
- (b) **Alterations.**
  - (1) *Generally.* No building or structure, conforming or nonconforming, that contains or encloses a nonconforming use shall be structurally altered or expanded in any way that would increase the degree or area or intensity of the nonconforming use.
  - (2) *Exceptions.* The following changes or alterations may be made to a structure, conforming or nonconforming, containing or enclosing a nonconforming use:
    - a. Repair to a structure that is ordered by any authorized public official to make it safe;
    - b. Maintenance repairs needed to keep the structure in good condition; and
    - c. Any structural alteration that would reduce the degree or area of the nonconforming use or that would change the use to a conforming one.
- (c) **Damage or Destruction.** Any building or structure that contains or encloses a nonconforming use and that is destroyed by fire or any other cause to the extent of more than 75 percent of its replacement cost on the date of destruction may not be reconstructed except as a conforming building or structure containing or enclosing a conforming use. If less than 75 percent of the replacement cost of a structure containing a nonconforming use, or any portion of a nonconforming structure, is destroyed, the structure may be reconstructed, but not so as to extend or expand the nonconforming use or the nonconforming portion of the nonconforming building or structure.
- (d) **Conversion.** A nonconforming use shall not be changed to another nonconforming use.
- (e) **Discontinuance of Use.** No land or structure or portion thereof used in whole or in part for a nonconforming use that remains idle or unused for a continuous period of six months, whether or not any equipment, fixtures, improvements, or facilities are maintained, shall again be used except in conformity with the regulations of the zoning district in which such land or structure is located.

# Article VII. - Development Review Process

## Division 1. - Development Review Bodies

### Sec. 16-7-10. - City Council

- (a) **Powers.** With respect to the implementation of this Chapter, the City Council shall have all powers conferred upon it by the City of Cherry Hills Village Home Rule Charter and the constitution and laws of the State of Colorado and the United States.
- (b) **Delegations.** The City Council may delegate authority as provided in this Chapter, the Cherry Hills Village Municipal Code, and the City of Cherry Hills Village Home Rule Charter.
- (c) **Appointments.** The City Council shall appoint members of the Planning Commission and Board of Adjustment, as provided in this Division and the City of Cherry Hills Village Home Rule Charter.
- (d) **Decisions.**
  - (1) The City Council shall decide applications or petitions for approval of:
    - a. Annexation;
    - b. Amendments to the text of this Chapter;
    - c. Rezoning (Zoning Map Amendments);
    - d. Creation or extension of statutory vested rights; and
    - e. Vacations of plats, easements, or rights-of-way.
  - (2) The City Council shall decide applications for approval or major amendment of
    - a. Conditional use permits; and
    - b. Development agreements (however titled).
- (e) **Appeals.** The City Council shall hear and decide administrative appeals from final decisions of the Planning and Zoning Commission.
- (f) **Planning Documents.** The City Council may also adopt or approve, as it determines appropriate, the Master Plan and other plans for the physical development of the City. If the City Council decides to adopt or approve the Master Plan or other plans for the physical development of the City, then subsequent amendments to said plans shall be subject to City Council adoption or approval, unless the ordinance or resolution adopting or approving the plan provides otherwise.

### Sec. 16-7-20. - Planning and Zoning Commission

- (a) **Generally.** The Planning and Zoning Commission is created by Section 8.3, CITY OF CHERRY HILLS VILLAGE HOME RULE CHARTER ("HOME RULE CHARTER") and Section 2-6-10, CITY OF CHERRY HILLS VILLAGE MUNICIPAL CODE.

(b) **Powers.** Without limiting the duties, responsibilities, or powers conferred upon the Planning and Zoning Commission by the Home Rule Charter or Chapter 2 of this Code, the Planning and Zoning Commission shall:

- (1) Review all applications listed in Section 16-7-130, *Discretionary Approval*, for which a recommendation from the Planning and Zoning Commission is required, and make a recommendation to the City Council to approve, approve with conditions, or deny the application based on whether the application complies with the applicable requirements of this Chapter; and
- (2) Review all preliminary applications for major special event permits, and identify pertinent issues and suggest conditions or changes to the proposal for inclusion in the final application that is presented to the City Council.

(c) **Membership, Term, and Rules of Procedure.** See Chapter 2, Article VI, Planning and Zoning Commission, CITY OF CHERRY HILLS VILLAGE MUNICIPAL CODE.

### **Sec. 16-7-30. - Board of Adjustment and Appeals**

(a) **Generally.** The Board of Adjustment and Appeals ("BOARD") is created by Section 8.2, CITY OF CHERRY HILLS VILLAGE HOME RULE CHARTER ("HOME RULE CHARTER").

(b) **Powers.** Except where the authority is specifically granted to the City Council elsewhere in this Chapter or in the Home Rule Charter, and without otherwise limiting the duties, responsibilities, or powers conferred upon the Board by the Home Rule Charter or other Chapters of this Code, the Board shall have the power to hear and decide:

- (1) Administrative appeals under this Chapter and Chapter 18 of this Code;
- (2) Requests for variances under this Chapter; and
- (3) Applications brought under Article VI, *Nonconformities*, as specified therein.

(c) **Membership.**

- (1) *Generally.* The Board shall consist of five members and one alternate member appointed by the City Council.
- (2) *City Council Membership.* The City Council may from time to time appoint a member of the City Council to serve as a member of the Board. At the time of such appointment, the City Council may designate the length of the City Council member's term on the Board.
- (3) *Alternate Member.* The alternate member may attend and participate in all meetings of the Board, but shall vote only in the event that one of the members is absent or abstains from considering a specific application.

(d) **Term.** Subject to the City Council's designation of the length of the term of any City Council member appointed to the Board, members and alternate members shall be appointed by the City Council for overlapping terms of three years each. Terms of office shall expire on the third Tuesday of May in each respective year.

(e) **Rules of Procedure.**

- (1) *Generally.* The Board may adopt reasonable rules and regulations for the conduct of its affairs that are consistent with the provisions of this Chapter and Chapter 18 of this Code. Such rules, and any amendments to such rules, shall be approved by the City Council.
- (2) *Hearings.*
  - a. The chairperson, or in the chairperson's absence the vice chairperson, may administer oaths and compel the attendance of witnesses.
  - b. All hearings before the Board shall be open to the public.
  - c. All evidence and testimony shall be presented publicly. The Board may take notice of, and may consider, any relevant facts within the personal knowledge of a member of the Board which are publicly stated into the record.
  - d. All relevant evidence and testimony presented shall be considered by the Board in reaching its decision.
  - e. The Board shall make specific findings as to each criterion upon which this Chapter requires its decision to be based.
- (3) *Decision-Making.* The concurring vote of four members of the Board shall be necessary to reverse or modify any order, requirement, decision, or determination of the Director on appeal; or to approve an application on any matter upon which the Board has been granted jurisdiction.
- (4) *Records.*
  - a. Minutes shall state the grounds for each decision, and shall indicate by name the maker and second of each motion and the vote on each motion.
  - b. The Board shall cause a record of its proceedings to be prepared, which shall include all documents and physical evidence considered in each case, together with minutes of the proceedings.
  - c. The record of proceedings shall be filed in the office of the City Clerk.

**Sec. 16-7-40. - Director**

- (a) **Generally.** The Director shall be selected by the City Manager. The City Manager may appoint himself or herself as the Director.
- (b) **Duties and Responsibilities.** The Director shall supervise the administration and enforcement of this Chapter, including the following functions:
  - (1) Developing and promulgating application forms and checklists as provided in Section 16-7-220, *Application*.
  - (2) Coordinating and conducting pre-application meetings.

- (3) Coordinating and conducting various meetings with applicants and citizens relating to development review and planning activities.
- (4) Processing and reviewing all applications (or causing applications to be reviewed) and either deciding the applications or making a recommendation regarding how the application should be decided based on the record documents and the applicable provisions of this Chapter.
- (5) Setting applications on the agendas of the Planning and Zoning Commission, Board of Adjustment and Appeals, or City Council, as appropriate.
- (6) Providing public notice (or verifying public notice) as required by this Chapter.
- (7) Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Chapter.
- (8) Maintaining the Zoning Map, including:
  - a. Updates to reflect rezoning;
  - b. Resolution numbers to indicate conditional use approvals.
- (9) Tracking the term of approvals, and keeping records of approvals that have expired.
- (10) Enforcing the provisions of this Chapter and approvals granted hereunder.
- (11) Making recommendations regarding amendments to this Chapter and to the Master Plan and other land use or strategic plans approved or adopted by the City.
- (12) Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the City Council.

**(c) Additional Authorization.**

- (1) The Director is authorized to:
  - a. Create illustrations, figures, and illustrative examples, and include them in this Chapter as the Director determines appropriate to provide additional clarity as to the intent of the standards set out herein;
  - b. Add and maintain cross-references within this Chapter as the Director determines appropriate to facilitate navigation of this Chapter;
  - c. Add and maintain external hyperlinks from this Chapter as the Director determines appropriate to facilitate access to materials referenced in this Chapter; and
  - d. Correct typographical and punctuation errors within this Chapter.
- (2) If the Director exercises the authority that is delegated by this subsection (c), the Director shall report same to the Planning and Zoning Commission and City Council at their next regular meetings.

## **Sec. 16-7-50. - Floodplain Administrator**

(a) **Generally.** A Floodplain Administrator shall be selected by the City Manager or designee. The City Manager or designee may appoint himself or herself as Floodplain Administrator.

(b) **Duties and Responsibilities.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all development permit applications to determine that all requirements of Article V, *Floodplain Management and Flood Damage Prevention*, and Section 16-7-360, *Floodplain Development Permit*, have been satisfied.
- (2) Review, approve, approve with conditions, or deny applications for Floodplain Development Permits.
- (3) Review Floodplain Development Permit applications to determine whether a proposed building site (including the placement of manufactured homes) will be reasonably safe from flooding.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of Article V, *Floodplain Management and Flood Damage Prevention*, and any related permit or variance conditions, including proper elevation of the building or structure.
- (6) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16-5-240, *Floodways*, are met.
- (7) Review and coordinate the issuance of building permits with the requirements of Article V, *Floodplain Management and Flood Damage Prevention*.
- (8) When base flood elevation data has not been provided in accordance with Section 16-5-120, *Basis for Establishing the Special Flood Hazard Area*, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source as a basis for administering the requirements of Article V, *Floodplain Management and Flood Damage Prevention*.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zone AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the City.

(c) **Information to be obtained and maintained.**

- (1) The Floodplain Administrator shall maintain and hold open for public inspection all records pertaining to the provisions of Article V, *Floodplain Management and Flood Damage Prevention* (including related permits and / or variances), including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article V, *Floodplain Management and Flood Damage Prevention*.
- (2) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved buildings or structures, and whether or not the building or structure contains a basement.
- (3) For all new or substantially improved floodproofed buildings or structures:
  - a. Verify and record the actual elevation (in relation to mean sea level) to which the building or structure has been floodproofed.
  - b. Maintain the floodproofing certifications required in Article V, Division 3, *Flood Hazard Reduction*.
- (4) Maintain for public inspection all other records pertaining to the provisions of Article V, *Floodplain Management and Flood Damage Prevention*.

(d) **Alteration of Watercourses.**

- (1) Notify adjacent communities, the Colorado Water Conservation Board and the Urban Drainage and Flood Control District prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) **Interpretation of FIRM Boundaries.** Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

## **Sec. 16-7-30. - Referral Agencies**

(a) **Generally.** The Director shall maintain a list of referral agencies that may be affected by land use and development within the City, or that may provide technical expertise with respect to development review. Such list shall include, but not be limited to:

- (1) The Colorado Department of Transportation ("CDOT");
- (2) Arapahoe County;
- (3) The City of Englewood;
- (4) The City of Greenwood Village;

- (5) The City and County of Denver;
- (6) The Urban Drainage and Flood Control District;
- (7) The Colorado Geological Survey;
- (8) The Tri-County Health Department;
- (9) The South Metro Fire Protection District;
- (10) The Cherry Creek School District;
- (11) Other affected special districts;
- (12) Ditch or reservoir companies;
- (13) Irrigation districts;
- (14) Homeowners' associations, upon request of said associations; and
- (15) Utility providers.

(b) **Referral.** The Director shall refer applications to affected referral agencies as required by this Chapter (e.g., Section 16-7-250, *Referrals*), intergovernmental agreement, or applicable law; or, if not so required, as the Director may determine appropriate.

## Division 2. - Permits and Approvals

### Sec. 16-7-110. - Approvals or Permits Required

Approvals or permits are required for development, redevelopment, and changes in the use of land in the City unless specifically exempted by this Chapter. The required approvals and permits are described in this Division.

### Sec. 16-7-120. - Administrative Approvals and Permits

(a) **Generally.** Administrative approvals and permits are issued by the Director upon a finding of compliance with the requirements of this Chapter. No public hearing is required.

(b) **Administrative Approvals and Permits Established.** The administrative approvals and permits that are required by this Chapter are set out in Table 16-7-120, *Administrative Approvals and Permits*. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, such as:

- (1) State or Federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
- (2) Adopted building and safety codes;
- (3) Ordinances that require permits for activities on public land or within public rights-of-way; or
- (4) Business licensing ordinances.

**TABLE 16-7-120**  
**ADMINISTRATIVE APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Decision-Maker	Reference <sup>1</sup>
<b>Land Use Approvals and Permits</b>					
Use Permit or Change in Use Permit	Check for zoning compliance as condition of issuance of building permit	Simultaneously with issuance of building permit	Building permits that are not related to the establishment of or change to a land use	Director	<i>passim</i> ; for new homes and expansions to existing homes, <i>see Sec. 16-7-315, New Residences or Expansions of Existing Residences</i>
Administrative Amendments to Conditional Use Permits	Minor amendments to a conditional use permit, as described in Sec. 16-7-325, <i>Conditional Uses</i>	Prior to implementation of change for which amendment is required	As provided in Sec. 16-7-325, <i>Conditional Uses</i>	Director	Sec. 16-7-325, <i>Conditional Uses</i>
Major Home Occupation Permit	Establishment or change in certain home occupations. <i>See Art. II, Div. 8, Business Use of the Home</i>	Prior to establishment or change in the home occupation	N/A	Director	Art. II, Div. 8, <i>Business Use of the Home</i>
Temporary Use Permit	Commencement of temporary use	Prior to commencement of temporary use	N/A	Director	Art. II, Div. 5, <i>Temporary Uses and Temporary Structures</i>
<b>Site or Design Related Permits and Approvals</b>					
Infrastructure Construction Plans	Construction of public improvements such as streets, utilities, and stormwater management systems	Processed with final plat or site plan; approved prior to commencement of construction of specified improvements	N/A	Director	Ch. 11, Art. II, CHERRY HILLS VILLAGE MUNICIPAL CODE
Berm Permit	Construction or modification of a berm	Prior to construction or modification of the berm	N/A	Director	Sec. 16-3-140, <i>Berms</i>
Grading, Erosion and Sediment Control Permit (" <u>GESC PERMIT</u> ")	Authorization for site grading	Prior to site grading, generally simultaneously with building permit or approval of infrastructure construction plans	<i>See Ch. 19, Art. I, CHERRY HILLS VILLAGE MUNICIPAL CODE</i>	<i>See Ch. 19, Art. I, CHERRY HILLS VILLAGE MUNICIPAL CODE</i>	Ch. 19, Art. I, CHERRY HILLS VILLAGE MUNICIPAL CODE

**TABLE 16-7-120**  
**ADMINISTRATIVE APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Decision-Maker	Reference <sup>1</sup>
Site Plan or Site Plan Amendment	All development that qualifies for administrative review pursuant to Sec. 16-7-320, <i>Site Plans</i>	Prior to issuance of building permit that expands or modifies a building or allows for intensification of its use; or prior to issuance of grading, erosion, and sediment control permit, whichever comes first	Single-family detached buildings and accessory buildings (including guest houses) on individual residential lots; changes in the use of a building that do not involve intensification of use, additional traffic or parking demand, exterior modifications, grading, or other site work; site plans or amendments that do not qualify for administrative review pursuant to Sec. 16-7-320, <i>Site Plans</i>	Director	<i>passim</i>
Development Agreement; Improvements Agreement; Public Improvements Agreement (however titled)	Providing timing and security for implementation of infrastructure construction plans or landscape plans, based on standard-form agreements approved by the City Council and, as to form, the City Attorney	Prior to issuance of infrastructure construction permits, or as set out in the development agreement or public improvements agreement	Development agreements that establish vested rights or materially depart from City-approved form	Director	
Sign Permit	Construction, installation, posting, or alteration of a sign for which a sign permit is required (see Art. III, Div. 3, <i>Signs</i> )	Prior to construction, installation, posting, or alteration of a sign for which a sign permit is required; may be issued in conjunction with a building permit	<i>See Sec. 16-3-210, Purpose; Application; Exceptions</i>	Director	Art. III, Div. 3, <i>Signs</i>
<b>Administrative Modifications</b>					
Administrative Modification to Bulk Plane Requirement	Deviations of up to 10 percent above the maximum angle of a required bulk plane, as limited by Sec. 16-7-510, <i>Administrative Modification to Bulk Plane Requirement</i>	Prior to issuance of a building permit for construction outside of the bulk plane limitation	N/A	Director	Sec. 16-3-30, Bulk Plane Regulations; Sec. 16-7-510, <i>Administrative Modification to Bulk Plane Requirement</i>
Reasonable Accommodation	Modification of development standards related to physical attributes of development in order to comply with the Federal Fair Housing Act	Prior to or simultaneously with issuance of building permit, or prior to construction if no building permit is required	<i>See Sec. 16-7-380, Reasonable Accommodation</i>	Director	Sec. 16-7-380, Reasonable Accommodation

**TABLE 16-7-120**  
**ADMINISTRATIVE APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Decision-Maker	Reference <sup>1</sup>
<b>Nonconformities</b>					
Legal Nonconforming Certification	Certification that nonconformities on a subject property are "legal nonconformities," subject to the regulations in Art. VI, <i>Nonconformities</i>	Any time; often prior to or simultaneously with permits for expansion of or changes to nonconforming buildings or uses	N/A	Director	Sec. 16-6-40, <i>Legal Nonconforming Certification</i>
Nonconforming Short-Term Rental License	Continuation of nonconforming short-term rental on an annual basis	Prior to expiration of license period	N/A	Director	Sec. 16-6-160, <i>Nonconforming Short-Term Rentals</i>
<b>TABLE NOTE:</b>					
<sup>1</sup> References are provided for convenience only and are not intended to limit the application of this Chapter					

### Sec. 16-7-130. - Discretionary Approvals

- (a) **Generally.** Discretionary approvals and permits are issued by the City after compliance with all applicable requirements of this Chapter is demonstrated to the decision-maker(s) at a hearing.
- (b) **Discretionary Permits Established.** The discretionary approvals and permits that are required by this Chapter are set out in Table 16-7-130, *Discretionary Approvals and Permits*. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, such as:
  - (1) State or Federal law, including, but not limited to, the Clean Water Act, Clean Air Act, and the Endangered Species Act;
  - (2) Further administrative permits (e.g., site plans or final plats);
  - (3) Adopted building codes;
  - (4) Ordinances that require permits for activities in public the rights-of-way; or
  - (5) Business licensing ordinances.

**TABLE 16-7-130**  
**DISCRETIONARY APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Issued / Adopted By	Reference <sup>1</sup>
<b>Land Use / Zoning</b>						
Conditional Use Permit	Establishment of a conditional use	Prior to the establishment of a conditional use	N/A	PZC	City Council	Art. II, Div. 4, <i>Requirements and Conditions for Conditional Uses</i>
Rezoning	Changing the zone that applies to a subject property	Prior to the application of standards from the requested zone	N/A	PZC	City Council	Sec. 16-2-40, <i>Standards for Rezoning</i>

**TABLE 16-7-130**  
**DISCRETIONARY APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Issued / Adopted By	Reference <sup>1</sup>
Major Special Event Permit	Setup, operation, and tear-down of major special event	Prior to commencement of setup of major special event	Special events that are not subject to permitting.	PZC (see Sec. 16-7-330, <i>Major Special Events</i> , for specific requirements)	City Council	Art. II, Div. 6, <i>Major Special Events</i> , and Sec. 16-7-330, <i>Major Special Events</i>
<b>Site Development</b>						
Site Plan or Site Plan Amendment	All development that is above the thresholds set out in Section 16-7-20(c); or that includes the development or expansion of a cemetery or columbarium that is accessory to a place of assembly	Prior to issuance of building permit that expands or modifies a building or allows for intensification of its use; or prior to issuance of GESC permit, whichever comes first	Single-family detached buildings and accessory buildings on individual residential lots	PZC	City Council	<i>passim</i>
Development Agreement; Improvements Agreement; Public Improvements Agreement (however titled)	Providing timing and security for implementation of infrastructure construction plans or landscape plans; vesting development rights	Prior to issuance of construction permits, or as set out in the development agreement	Agreements that may be approved administratively (see Table 16-7-120, <i>Administrative Approvals and Permits</i> )	PZC	City Council	Sec. 16-7-365, <i>Agreements (Development, Improvements, Major Special Events, and Vested Rights; Article VII, Division 5, Vested Rights</i>
Floodplain Development Permit	Development within a Special Flood Hazard Area (see Secs. 16-5-130, Establishment of Floodplain Development Permit, and 16-5-140, Compliance)	Prior to issuance of building permit or GESC Permit within Special Flood Hazard Area or area subject to a LOMR-F	N/A	Floodplain Administrator and PZC	City Council	Art. V, <i>Floodplain Management and Flood Damage Prevention; Sec. 16-7-360, Floodplain Development Permit</i>
<b>Vacation / Abandonment</b>						
Vacation of Easement or Right-of-Way	Vacation of plats or abandonment of easements or rights-of-way	N/A	N/A	N/A	City Council	Ch. 11, Art. V, CHERRY HILLS VILLAGE MUNICIPAL CODE
<b>Amendments</b>						
Text Amendment to this Chapter	Amending the text of this Chapter	N/A	N/A	PZC	City Council	Art. IV and Sec. 8.3, CHERRY HILLS VILLAGE HOME RULE CHARTER
Master Plan Amendment	Amending the text or maps of the Master Plan	N/A	N/A	PZC	City Council	Sec. 8.3, CHERRY HILLS VILLAGE HOME RULE CHARTER

**TABLE 16-7-130**  
**DISCRETIONARY APPROVALS AND PERMITS**

Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Issued / Adopted By	Reference <sup>1</sup>
<b>Relief</b>						
Variance	Authorizing development which does not strictly comply with the requirements of this Chapter	Prior to issuance of permits that authorize the construction or site work	Variances shall not authorize uses which are otherwise prohibited in the zoning district, nor authorize development that does not comply with the Floodplain Management Regulations	Director	BOAA	Sec. 16-7-410, <i>Variances</i>
Floodplain Variance	Authorizing departures from the standards set out in Art. V, <i>Floodplain Management and Flood Damage Prevention</i>	Prior to issuance of building permit or GESC Permit within Special Flood Hazard Area or area subject to a LOMR-F	N/A	Floodplain Administrator and PZC	City Council	Art. V, <i>Floodplain Management and Flood Damage Prevention</i> ; Sec. 16-7-530, <i>Floodplain Variances</i>
Administrative Appeals	<i>See Secs. 16-7-540, Administrative Appeals to Board of Adjustment and Appeals; and 16-7-550, Administrative Appeals to City Council</i>					
<b>TABLE NOTE:</b> <sup>1</sup> References are provided for convenience only and are not intended to limit the application of this Chapter or other parts of the Cherry Hills Village Municipal Code.						

## Division 3. - Standardized Procedures

### Sec. 16-7-205. - Standardized Review Process

- (a) **Generally.** The standard development approval procedures of this Division apply to all applications for approvals or permits that are set out in Article VII, Division 2, *Permits and Approvals*.
- (b) **Process.** The approval procedures set out in Section 16-7-215 to Section 16-7-295, inclusive, are undertaken in sequence until an application is considered and decided by the designated decision-maker for the type of application at issue. Table 16-7-205, *Standardized Procedures*, lists the approval steps that are required, based on the decision-maker. Figure 16-7-205, *Standardized Procedures*, illustrates the flow of application processing.

**TABLE 16-7-205**  
**STANDARDIZED PROCEDURES**

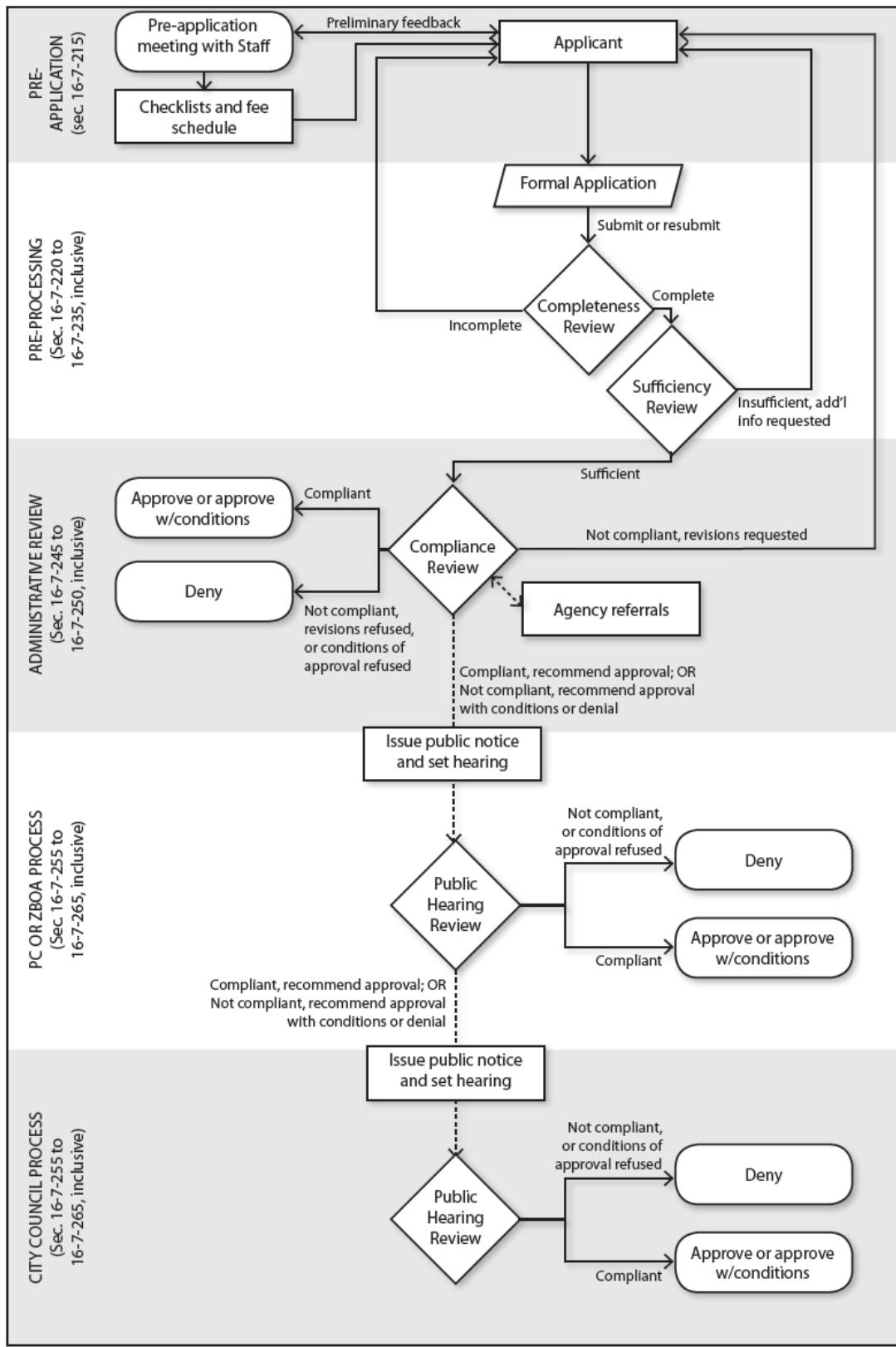
Process Step <sup>1</sup>	Decision-Maker		
	Director	Board of Adjustment	City Council
16-7-210	Not Applicable	Applicable	Applicable
16-7-215	Required Unless Waived by Director	Required Unless Waived by Director	Required Unless Waived by Director
16-7-220	Required	Required	Required
16-7-225	Required	Required	Required
16-7-230	Required	Required	Required
16-7-235	Required	Required	Required
16-7-240	Applicable	Applicable	Applicable
16-7-245	Required	Required	Required
16-7-250	Referrals may be required by Director if nature or location of application justifies referral	Required	Required
16-7-255	Not Required	Required	Required
16-7-260	Not Required	Required	Required for decisions and ratifications
16-7-265	Not Applicable	Applicable	Applicable
16-7-270	Applicable	Applicable	Applicable
16-7-275	Applicable as provided in Sec. 16-7-275	Applicable as provided in Sec. 16-7-275	Applicable as provided in Sec. 16-7-275
16-7-280	Applicable	Applicable	Applicable
16-7-285	Applicable	Applicable	Applicable
16-7-290	Applicable	Applicable	Applicable
16-7-295	Applicable	Applicable	Applicable

**TABLE NOTE:**

<sup>1</sup> The references in this column are to the Sections of this Division that describe the process step.

(c) **Special Review Types.** The communications uses that are listed in Table 16-2-20, Land Use by Zoning District, are subject to the review procedures set out in Chapter 20, *Wireless Communications Facilities*, CITY OF CHERRY HILLS VILLAGE MUNICIPAL CODE.

**FIGURE 16-7-205**  
**STANDARDIZED PROCEDURES**



## **Sec. 16-7-210. - *Ex Parte* Communications**

- (a) **Generally.** It is the policy and practice of the City to decide applications only on the merits presented in the application, on-record public comments, and at public hearings (if public hearings are required). Therefore, *ex parte* communications are not allowed.
- (b) **Timing.** The prohibition on *ex parte* communications begins on the date of application and ends when the appeal period for an issued development order has expired.
- (c) **Inadvertent Communications.**
  - (1) It is not always possible to prevent *ex parte* communications. Elected and appointed officials who hear applications required by this Chapter shall not privately discuss the merits of a pending application or appeal.
  - (2) If a communication is received outside of the record (*e.g.*, it is not in the application, agency comments, or public comments, nor was it presented at a noticed public hearing), then the official shall disclose the communication, including the speaker and the substance of the communication, on the record of the public hearing before the application is heard.
  - (3) The decision-maker or recommending body must base its decision only on the evidence presented on the record. The contents of the *ex parte* communication shall not be considered part of the record for decision-making unless the information in the communication is also presented at the hearing (other than through the required disclosure).

## **Sec. 16-7-215. - Pre-Application Meeting**

- (a) **Generally.**
  - (1) A pre-application meeting is an opportunity for the potential applicant to meet with City staff before filing an application, in order to:
    - a. Identify the applicable review procedures and likely timelines;
    - b. Review preliminary materials and identify potential issues and related information requirements; and
    - c. Identify what fees will be due, including whether an escrow payment will be required for professional consultant review.
  - (2) Suggestions and comments by City Staff at a pre-application meeting are advisory in nature and shall not bind the City with respect to decision-making on the subsequent application.
- (b) **When Required.**
  - (1) A pre-application meeting is required for all application types, except:
    - a. Permits for single-family detached dwelling units on individual lots;
    - b. Permits for fences on individual residential lots;

- c. Permits for accessory buildings and structures on individual residential lots;
- d. Permits for signs; and
- e. Permits for home occupations.

(2) Informal meetings may be scheduled prior to a pre-application meeting, at the discretion of the Director.

(c) **Meeting Logistics.** Pre-application meetings may be conducted in person, by telephone, or by internet-based communication tools, as may be agreed between the potential applicant and the Director.

(d) **Meeting Materials.** The potential applicant shall bring to (or submit prior to) the pre-application meeting sufficient supporting materials to explain, as applicable to the type of application to be submitted.

(e) **Summary.** Upon request by the potential applicant, within 21 calendar days of the pre-application meeting, the Director shall deliver to the applicant:

- (1) A checklist of submittal materials that will be necessary for the type(s) of application(s) sought; and
- (2) A copy of the City's application fee schedule.

(f) **Courtesy Presentations.** At the pre-application meeting, a potential applicant may request an opportunity to make a courtesy presentation of a proposed development concept or conceptual subdivision map in a design charrette process. Attendees may include appropriate staff, referral agencies, design professionals, and other persons identified by the Director or the potential applicant.

## **Sec. 16-7-220. - Application**

(a) **Generally.** Every application for approval that is required by this Chapter shall be submitted on a form approved by the Director, along with the corresponding application fee (fees are established by resolution of the City Council). Unless waived by the Director, all applications shall include electronic versions of all attachments in a format approved by the Director.

(b) **Forms.**

- (1) The Director shall promulgate and periodically revise, as necessary, forms for each type of application required by this Chapter.
- (2) Application forms shall include the specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the Director, and have the purpose of facilitating:
  - a. The evaluation of applications for compliance with the standards of this Chapter; and
  - b. The administration of this Chapter.

- (3) The Director is authorized to establish a standardized format for each type of required submittal, and to allow deviations from the format in instances where the Director finds that an alternative format would provide for more efficient review.
- (c) **Waiver or Expansion of Requirements.** Application requirements may be waived or expanded by the Director if the nature of the application is such that the requirements would serve no useful purpose, or such that additional information is needed to evaluate compliance with the requirements of this Chapter. The Director may not waive application fees.
- (d) **Schedule.** The Director is authorized, but not required, to establish regular intake days or times for any or all classifications of applications for development approval, except sign permits and administrative appeals.

### **Sec. 16-7-225. - Application Fees and Escrows**

- (a) **Generally.** Fees shall be charged to offset the cost of application processing (including any application for amendments of existing approvals), reviews, public notices, hearings, and recordkeeping. Application fees to be charged by the City shall be established, from time to time, by resolution adopted by the City Council.
- (b) **Recording Fees.** Recording fees of the Arapahoe County Clerk and Recorder's Office shall be paid to the County by the Applicant at the time of any required recording.
- (c) **Referral Agency Fees.** The Applicant may be required to pay any fees assessed by referral agencies in advance of their review and comment. Failure to obtain comments from referral agencies due to failure to pay review fees may result in delay or denial of an application.
- (d) **Escrow for Consultant Review.**
  - (1) *Consultant Review Authorized.*
    - a. The Director is authorized to retain professional consultants at the Applicant's expense to assist in the review of applications or petitions submitted pursuant to this Chapter, Chapter 15, Chapter 17, Chapter 18, Chapter 19, or Chapter 20.
    - b. The Director may make an initial determination as to the use of consultants at the time of the pre-application meeting, and may revise the determination at the time of application if new or changed information in the application materials justifies the revision.
  - (2) *Initial Escrow Payment.*
    - a. If the Director determines that an application will require review by professional consultants, then the Director shall execute an escrow agreement in a form approved by the City Attorney, and make an initial escrow payment in an amount sufficient to cover the estimated review costs. A schedule of minimum required escrows for different application types may be attached to the fee resolution described in subsection (a), above.

- b. The Director shall provide the Applicant with a preliminary estimate of professional consultant review fees at a time established during the pre-application meeting by agreement with the Applicant. Alternatively, the Director may advise the Applicant regarding the amount of a fixed-fee that has been established in advance for the type of application presented.
- (3) *Use of Escrow Payment.* The City may draw upon the escrow, in the City's discretion, to pay the fees and expenses of professional consultants retained by the City to review the application.
- (4) *Additional Escrow Funds.*
  - a. The Director may require additional escrow funds to be paid for additional services related to the application, should they become necessary. Failure of the applicant to timely provide additional escrow funds may result in delays in application processing.
  - b. If a balance is due at the time an application is approved, it shall be paid by the applicant as a condition of approval.
  - c. If a balance is due at the time an application is denied, it shall be paid by the applicant within 30 days after delivery of an invoice to the applicant.
- (5) *Return of Escrow Funds.* Escrow funds shall be returned to the Applicant as follows:
  - a. If the Director decides not to use consultants, then escrow funds shall be returned to the Applicant within 30 days of said decision.
  - b. If the Applicant withdraws the application, then the Director shall notify the consultants to stop work within one business day after the withdrawal. Promptly after receipt of a final invoice from the consultants, the Director shall return the escrow to the Applicant, less the amount required to pay the consultants for work actually performed.
  - c. When the application is decided, any positive escrow balance shall be returned to the Applicant within 60 days.
- (6) *Account Reports.* Applicants shall be provided with a monthly accounting of the use of escrow funds.
- (7) *Delinquent Payments.*
  - a. If the Applicant does not pay additional escrow funds required by subsection (d)(4), above within 10 days after written notice from the City, then, in addition to the other remedies the City may have, the City shall be entitled to a lien on the subject property, or the City may elect to certify the assessed costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. Such lien shall be perfected and may be foreclosed upon in accordance with applicable state laws.

- b. Nothing herein shall authorize the City to charge the applicant for costs and expenses the City incurs as a result of litigating a matter against the applicant or against a third party, unless such charges are otherwise authorized by law.
- (8) *Fixed-Fee Consultant Review.* The Director is authorized to establish:
  - a. A roster of consultants that are pre-qualified to conduct reviews of various types; and
  - b. For routine application types with predictable review fees, a schedule of fixed-fees for consultant review.

### **Sec. 16-7-230. - Completeness Review**

- (a) **Generally.** The Director shall review all submitted applications for completeness. A complete application includes all of the materials required on the application forms, materials requested at the pre-application conference, any required professional certifications, and all fees and escrows that are required for application processing.
- (b) **Schedule.** Generally, all applications shall be reviewed for completeness within seven calendar days after an application is submitted.
- (c) **Incomplete Applications.**
  - (1) Incomplete applications shall be returned to the Applicant, along with any fee included with the application, with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.
  - (2) An application that does not include the applicable processing fee shall not be considered complete.
  - (3) Incomplete applications are not considered filed.
- (d) **Complete Applications.** Complete applications shall be processed according to the applicable procedures of this Article.

### **Sec. 16-7-235. - Sufficiency Review**

- (a) **Generally.** All applications shall be technically sufficient for review, meaning that:
  - (1) The application materials are internally consistent and are presented as required by this Chapter and the applicable application forms.
  - (2) Materials are prepared by qualified professionals (where such qualifications are required), and signatures and certifications are present, if required.
  - (3) The application materials are technically sufficient (*e.g.*, legal descriptions and calls and distances on surveys describe closed polygons within acceptable tolerances, calculations that are provided are performed according to the methodologies set out in this Chapter, etc.) to demonstrate compliance with applicable standards of this Chapter.

(b) **Insufficient Applications.**

- (1) An application is insufficient if it does not meet the standards of subsection (a), above.
- (2) If an application is determined to be insufficient, the Director shall notify the Applicant and provide a written explanation regarding the materials that must be submitted, or revisions that must be made, in order to continue processing the application.
- (3) The Applicant shall provide the materials or revisions that are required to make the application sufficient within 21 days of the date of the notice.
- (4) If an Applicant fails to submit the required materials within the time period specified in subsection (b)(3), above, or if the Applicant fails to submit a sufficient application after three rounds of review, then the application fee shall be retained and the application shall be returned to the Applicant as insufficient.

(c) **Sufficient Applications.** Technically sufficient applications shall be processed according to the applicable standards and procedures of this Chapter.

### **Sec. 16-7-240. - Stale Applications**

- (a) **Generally.** This Section is intended to extinguish applications that become stale due to inaction by the Applicant.
- (b) **Expiration of Stale Applications.** When an action by the Applicant is required for further processing of an application (for example, if revisions are requested after agency referrals), the application shall become void:
  - (1) Six months after the date that the action is requested if the Applicant either fails to take action or fails to request an extension of time pursuant to subsection (c) below; or
  - (2) Upon failure to timely provide requested information to make an application technically sufficient pursuant to Section 16-7-235, *Sufficiency Review*.
- (c) **Extension of Time.** The time for expiration of an application may be extended by up to six additional months upon written request of the Applicant before the end of the period set out in Subsection (b), above.

### **Sec. 16-7-245. - Administrative Review**

- (a) **Generally.** Upon determination that an application is complete and sufficient, the Director shall cause the application to be reviewed for technical compliance with all applicable requirements of this Chapter, as follows:
  - (1) Appropriate City staff or consultants shall review the application; and
  - (2) The application shall be promptly referred to applicable referral agencies and individuals for review and comment pursuant to Section 16-7-250, *Referrals*.

**(b) Recommended Revisions.**

- (1) The Director shall provide comments from City staff or consultants (collectively, "STAFF COMMENTS"). The staff comments shall provide Staff or consultant input and address or include comments by referral agencies and interested individuals. The Applicant shall revise and resubmit the application with appropriate changes based on staff comments, and with responses to staff comments that did not result in changes to the application.
- (2) Upon receipt of the re-submittal, the Director may refer the application to referral agencies again if the changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments (or lack thereof), or require the agency's technical expertise for appropriate review.
- (3) The re-submittal shall not require an application fee unless both of the following conditions are met:
  - a. The revisions are inappropriate or incomplete; and
  - b. Repeated failure to address comments requires more than three rounds of revisions.

**(c) Administrative Recommendation, Decision, or Referral.** Promptly after determination that a complete application addresses the comments and recommendations provided pursuant to subsection (b), above (or, after finding that no revisions will be required):

- (1) If the application is for an administrative approval or permit, then the Director shall verify public notice has been given, if required (*see Sec. 16-7-255, Public Notice*), and:
  - a. Approve, approve with conditions, or deny the application, as appropriate, and promptly provide written notice, including the reasons for the decision, to the applicant; or
  - b. Upon a determination that the development, as proposed, may have material impacts on neighboring properties or City resources that are unusual in kind or degree, or that there is material potential for disagreement regarding whether the application complies with the standards of this Chapter, the Director may refer the application to the Planning and Zoning Commission for review and recommendation and City Council for decision, according to the applicable standards of this Chapter.
- (2) If the application is for a public hearing approval or permit, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

**(d) Meeting Logistics.**

- (1) If the application is for a public hearing approval or permit, then the Director shall set the application on the agenda of the next body that will consider the application.

- (2) Generally, the application shall be heard during the next regular meeting of the body which meets the following two conditions:
  - a. There is sufficient time to meet applicable public notice requirements; and
  - b. There is available room on the agenda.
- (3) The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.
- (4) The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.

### **Sec. 16-7-250. - Referrals**

- (a) **Generally.** Applications may be referred for additional review by agencies or consultants according to the procedures set out in this Section.
- (b) **Inter-Jurisdictional Referrals.**
  - (1) As part of the review process, the City may seek review and comment by referral agencies that have expertise in the subject matter impacted by the application, that have jurisdiction over one or more aspects of the proposed development, or whose operations will likely be affected by the proposed development. Referral agency comments are advisory to the City.
  - (2) The Director may refer an application to any agency, jurisdiction, ditch company, land management entity, utility, or department that the Director determines is likely to be materially affected by the application. The Director's determination regarding referrals is not appealable.
  - (3) The agency referral period is 21 calendar days, which can be extended by up to 30 additional days by mutual consent of the Applicant and the Director.
  - (4) Failure of an agency to respond within the prescribed time period (or extended period) is interpreted as consent by that agency to the contents of the application. However:
    - a. Such consent does not waive the authority of agencies which have concurrent jurisdiction with the City; and
    - b. Such consent is not implied if the Applicant fails to pay the agency's required review fees.
- (c) **Consultant Review.** Upon notice to the Applicant, the Director may refer the application to consultants selected by the City, in order to obtain technical review and recommendations. The cost of such referrals shall be borne by the Applicant.

### **Sec. 16-7-255. - Public Notice**

- (a) **Generally.** For applications that require public notice, public notice shall be provided according to the standards of this Section.

(b) **Contents of Public Notice.** Public notice shall include the following elements:

- (1) The phrase “PUBLIC NOTICE” or “NOTICE OF PUBLIC HEARING” at the top of the notice. For posted notice, these letters shall be not less than two inches in height.
- (2) A brief description of the type of application (*e.g.*, Conditional Use Permit).
- (3) The date, time, and place of the hearing.
- (4) A brief summary of what the Applicant is requesting (*e.g.*, approval of a 10,000 sf. place of public assembly).
- (5) The physical address of the subject property, or if an address is not available, a location map of the property or a statement that the legal description is on file with the Director.
- (6) A notice that interested persons may obtain more information from the Director.
- (7) Contact information for the Director.

(c) **Types of Public Notice.** Table 16-7-255C, *Types of Public Notice*, sets out standardized requirements for publication, posting, and mail notice that are used for different application types and different phases of the application process. The types of notice that are set out in the table are used to establish notice requirements for each type of application in Table 16-7-255D, *Required Public Notice by Application Type*.

TABLE 16-7-255C TYPES OF PUBLIC NOTICE			
Type of Notice	When Required	Frequency or Duration	Other Requirements
<b>Publication (PUB)</b>			
PUB.1	At least 15 days before public hearing	1 publication	NA
PUB.2	At least 7 days before public hearing	1 publication	NA
<b>Posting (PO)</b>			
PO.1	At least 15 days before public hearing	Post until public hearing commences	NA
<b>Mail (ML)</b>			
ML.1	At least 10 days before public hearing	1 mailing	Mail notice must be sent to all adjacent property owners and property owners directly across streets, alleys, trails, or ditches from the subject property.
ML.2	At least 15 days before public hearing	1 mailing	Mail notice must be sent to all property owners within 1,000 feet of the boundaries of the subject property.

(d) **Type of Public Notice Required by Application Type.** Table 16-7-255D, *Required Public Notice by Application Type*, sets out the notices that are required at each state of processing for each type of application for which notice is required.

**TABLE 16-7-255D**  
**REQUIRED PUBLIC NOTICE BY APPLICATION TYPE**

Application Type	Form of Required Public Notice for ...		
	Director or Floodplain Director Review	Board or Commission Review	Council Review (Where Applicable)
<b>Land Use / Zoning</b>			
Conditional Use Permit	N/A	PUB.1; PO.1; ML.2	PUB.1; PO.1; ML.2
Rezoning	N/A	PUB.1; PO.1; ML.2	PUB.1; PO.1; ML.2
Major Special Event Permit	N/A	PUB.1; PO.1; ML.2	PUB.1; PO.1; ML.2
<b>Site Development</b>			
Site Plan or Site Plan Amendment	N/A		
Development Agreement	N/A	By type of approval associated with development agreement; As provided in Sec. 16-7-430, <i>Special Notice Requirements</i> , if vested rights are requested	
Floodplain Development Permit	<i>See Sec. 16-7-360, Floodplain Development Permit</i>	N/A	<i>See Sec. 16-7-360, Floodplain Development Permit</i>
<b>Vacation / Abandonment</b>			
Vacation of Easement or Right-of-Way	N/A	<i>See Sec. 11-5-55, Notice, CHERRY HILLS VILLAGE MUNICIPAL CODE</i>	
<b>Amendments</b>			
Text Amendment to Chapter 16	N/A	N/A	N/A
Master Plan Amendment	N/A	PUB.1	PUB. 1
<b>Relief</b>			
Administrative Modification to Bulk Plane Requirement	<i>See Sec. 16-7-510, Administrative Modification to Bulk Plane Requirement</i>	N/A	N/A
Variance	N/A	PO.1; ML.1	N/A
Floodplain Variance	N/A		
Administrative Appeal	N/A	PO.1; ML.1	N/A
<b>Vested Rights</b>			
Vested Rights	N/A	As provided in Sec. 16-7-430, <i>Special Notice Requirements</i>	

**(e) Standards for Required Notices.**

- (1) *Publication.* Published notice shall be printed in a newspaper of general circulation in the City of Cherry Hills Village.
- (2) *Posting.* Posted notice shall be on a sign in a form approved by the City.
- (3) *Mail.* Mailed notice shall be delivered via first class U.S. Mail.

**(f) Optional Notices.**

- (1) *Electronic Mail.* Electronic mail notice may be delivered to an opt-in distribution list that is created for the purpose of notifying people about applications for approvals and permits in the City. Electronic mail notice shall include the subject line "PUBLIC NOTICE OF PROPOSED DEVELOPMENT," and the statement in the body of the e-mail that "Electronic mail notice is provided as a courtesy to opt-in subscribers. Failure of an e-mail communication to reach a subscriber does not constitute failure of public notice."
- (2) *Internet.* Internet notice may be posted on the official web site of the City, on a page or pages that are designated for such notices. However, internet notice is also provided as a courtesy and is not official notice. Therefore, failure of internet notice shall not constitute a failure of public notice.

(g) **Errors in Notices.** The standard for compliance with this Section shall be "substantial compliance." If the Director determines that there has been substantial compliance with the requirements of this Section, despite any particular technical error, then the decision or recommendation reached at the noticed hearing shall be final. If the Director determines that there has not been substantial compliance with the requirements of this Section due to an error, then the decision or recommendation reached at the noticed hearing shall be vacated (or the hearing on the item cancelled), and a new hearing shall be scheduled with proper notice provided.

### **Sec. 16-7-260. - Public Meetings and Public Hearings**

Public meetings and public hearings shall be carried out in accordance with the procedural rules of the body conducting the meeting or hearing.

### **Sec. 16-7-265. - Continuances and Withdrawal**

- (a) **Continuances.** Requests for continuance by the Applicant of any proceeding called for in this Chapter may be granted at the discretion of the body holding the public meeting or public hearing. If granted, the Applicant shall pay all additional costs associated with the rescheduling of the proceeding.
- (b) **Withdrawal.** Any application may be withdrawn, either in writing or on the record, prior to or during the meeting or hearing at which the application is considered, provided that it is withdrawn before official action is taken on the application.

### **Sec. 16-7-270. - Successive Applications**

- (a) **Generally.** It is the policy of the City not to hear successive applications for the same approval or permit after a substantially similar application is denied. The limitations of this Section prevent the consideration of successive applications.
- (b) **Time Required Between Substantially Similar Applications.** If an application for a permit or approval is denied, a substantially similar application will not be accepted for:
  - (1) Six months from the date of denial in the case of administrative permits; and
  - (2) 12 months from the date of denial for all other permits or approvals.

(c) **Exceptions to Successive Application Restrictions.** The Director may allow exceptions to this Section if there has been a material change of circumstances that justifies consideration of a substantially similar application. By way of example and not limitation:

- (1) If a spacing requirement was the reason for the denial, and the use from which spacing is required moved away; or
- (2) If a subsequent amendment to this Chapter now allows for approval of the application.

### **Sec. 16-7-275. - Recording of Approvals**

The following permits and approvals shall be recorded in the public records of Arapahoe County at the Applicant's expense:

- (1) Conditional Use Approvals
- (2) Development Agreements, Public Improvements Agreements, and Reimbursement Agreements

### **Sec. 16-7-280. - Effect of Approvals**

(a) **Generally.** It is the intent of the City that development approved pursuant to this Chapter be carried out in a timely manner pursuant to the specifications, terms, and conditions of approval; and that the steps within each approval process be carried out with diligence.

(b) **Effect of Approval or Permit.**

- (1) Approval of an application means that the City consents to the particular use, plan, or other specific activity for which the approval was granted. Physical development of land may require a sequence of related (and increasingly detailed) approvals.
- (2) Supplemental materials that are provided in support of an approval become part of the approval (*e.g.*, elevations, lists of building materials, etc.) unless otherwise noted in the approval itself.
- (3) Approvals and permits may be transferred to a subsequent owner of the property for which the approval or permit was issued, unless the approval or permit is specifically designated as non-transferable by condition of approval. Transferred permits shall continue to be valid for their full original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

### **Sec. 16-7-285. - Duration of Approvals**

(a) **Approvals.** Except as provided in subsections (b) and (c), below, the administrative approvals described in Table 16-7-120, *Administrative Approvals and Permits*, and in Table 16-7-130, *Discretionary Approvals and Permits*, shall expire one year from the date of approval if they are not utilized.

- (b) **Development Agreements.** A development agreement is valid for the term set out in the development agreement.
- (c) **Approvals That Do Not Lapse.** Rezonings, vacations or abandonments of easements or rights-of-way, text amendments, Master Plan amendments, and administrative appeals do not lapse.

### **Sec. 16-7-290. - Extensions of Approvals**

- (a) **Generally.** The term of permits and approvals may be extended by written request according to the standards and procedures of this Section.
- (b) **Timing of Application for Extension.** Expired permits and approvals cannot be extended. Written requests for extensions shall be received not later than 30 days prior to the expiration of the permit or approval. Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances (*e.g.*, an unusual severe weather event) justify the request.
- (c) **Extensions for Extraordinary Circumstances.** The City Council may, by resolution, extend the term of all permits and approvals City-wide or in designated areas of the City in response to extraordinary circumstances, such as flood, wildfire, tornado, or other natural or man-made disaster which makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be determined by the City Council.
- (d) **Administrative Extensions.** Unless otherwise provided in the permit or approval, the Director may grant one extension of any permit or approval for a period not to exceed the 12 months. Such extensions may be granted upon timely written request with good cause shown.
- (e) **Extensions after Hearing.**
  - (1) Unless otherwise provided in the permit or approval, a hearing is required for:
    - a. Extensions for terms that are longer than those which can be granted by the Director pursuant to subsection (d), above; and
    - b. Second (and subsequent) extensions.
  - (2) Extensions of discretionary permits and approvals pursuant to this subsection shall be heard by the body that granted the original approval. Extensions of administrative permits and approvals pursuant to this subsection shall be heard by the Planning Commission.
  - (3) Extensions may be granted after hearing if it is demonstrated that:
    - a. There is good and reasonable cause for the request; and
    - b. The Applicant has provided reasonable assurances that it will perform (or cause to be performed) the work authorized by the permit or approval within the extended term.

(f) **Extensions Pursuant to Permit or Approval Terms.** If a method of extension is provided within a permit, approval, or related development agreement between the Applicant and the City, then such method of extension shall supersede this Section with respect to said permit or approval.

(g) **Effect of Appeals, Litigation, or Mediation.**

- (1) If there is an appeal, litigation, or mediation during the time period that limits the Applicant's ability to use or develop land pursuant to a permit or approval granted by the City, then the term of the permit or approval shall be tolled for the duration of the appeal, litigation, or mediation, and the date shall be recalculated upon conclusion of the appeal, litigation, or mediation.
- (2) The new expiration date shall be established by adding the number of days that the approval would have remained valid before the appeal, litigation, or mediation commenced to the date the appeal, litigation, or mediation was concluded by:
  - a. The expiration of the subsequent appeal period after final judgment or order in the initial appeal or litigation, or, if no appeal is available, after issuance of the final judgment or order; or
  - b. The termination of mediation by resolution of the conflict or impasse.
- (3) This subsection does not apply to litigation which is related to enforcement of a violation of any part of the Cherry Hills Village Municipal Code.

### **Sec. 16-7-295. - Correction of Approvals**

- (a) **Generally.** Permits and approvals may be corrected pursuant to this Section.
- (b) **Correction of Scrivener's Errors.** Development approvals plats may be corrected by the Director or upon application to the Director as follows:
  - (1) *Generally.* The Director may approve an application to reform a scrivener's error in a development approval, including an error in an application or notice, which error causes the permit or approval to inaccurately reflect the decision-maker's intent, and where it is demonstrated that:
    - a. The correction does not include a change of judgment, policy, or prior intent of the decision-maker;
    - b. The reformation of the permit or approval is essential to ensure that the documentation reflects the intent and decision of the decision-maker;
    - c. The record, including, but not limited to, the Staff recommendation, minutes, and motion, evidences the clear intent of the decision-maker;
    - d. The substance of the decision was clearly evident at the time of the decision, and there was no intent to deceive the public or the decision-maker on the part of the current Applicant at any time;
    - e. Failure to approve the reformation would lead to an unjust result;

- f. The error in the development approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and
- g. Any errors related to public notice did not affect the legal sufficiency of the required notice.

(2) ***Correction Within 30 Days.*** In the alternative, the Director, within 30 days of the decision on an application for development approval, may correct a clerical or scrivener's error in the development approval if:

- a. The error is not related to public notice;
- b. The error causes the approval, as written, to inaccurately reflect the clear decision of the decision-maker; and
- c. The Director promptly notifies the applicant and the decision-maker regarding the corrections.

(c) **Effect on Approval.** A permit or approval that is modified pursuant to this Section shall relate back to the date of the corrected approval, such that the effective date of the corrected language shall be deemed to be the same as the effective date of the original approval.

## **Division 4. - Specific Review Provisions**

### **Sec. 16-7-310. - Purpose and Application of Division**

(a) **Purpose of Division.** The purpose of this Division is to set out specific provisions for review of certain applications that are listed in Article VII, Division 2, *Permits and Approvals*. Not all of the application types are covered in this Division. If an application type is not addressed in this Division, then it is reviewed in accordance with the applicable procedures set out in Article VII, Division 2 and Division 3 and the applicable substantive standards of this Chapter and / or this Code, and no additional modifications of those standards or procedures are applicable.

(b) **Application of Division.** This Division may establish or modify certain procedures from Article VII, Division 3, *Standardized Procedures*, for certain application types (e.g., time limitations, etc.). To the extent of a direct, irreconcilable conflict between the standardized procedures and this Division, the procedures articulated in this Division control.

### **Sec. 16-7-315. - New Residences or Expansions of Existing Residences**

For all new single-family dwelling units, and proposals to increase the floor area of a single-family dwelling unit by 50 percent or more, that applicant shall demonstrate that all lighting on the property will meet the requirements of Section 16-4-120, *Exterior Lighting, Generally* and Section 16-4-230, *Tree Preservation*.

## Sec. 16-7-320. - Site Plans

(a) **Generally.** Site plan review is required prior to the issuance of building permits or GESC permits for all development except single-family detached dwelling units and accessory buildings or structures on individual residential lots. Site plan review may be administrative or may require public hearings, as specified in Article VII, Division 2, *Permits and Approvals*.

(b) **Relationship to Former Expanded Use Permit.** For the purposes of this Chapter, Expanded Use Permits that were issued prior to the effective date of this Chapter (pursuant to Article XX of the former Chapter 16) shall be considered site plans, and shall be amended by site plan amendment.

(c) **Administrative Approvals of Site Plans and Site Plan Amendments.** Site plans and site plan amendments may be processed by the Director (as provided in Section 16-7-120, *Administrative Approvals and Permits*) in any of the following three situations:

- (1) The subject property is located in the C-2 zoning district.
- (2) The site plan approval is a required component of a wireless communications facility approval that is allocated to the Director under Chapter 20, *Wireless Communications Facilities*, CHERRY HILLS VILLAGE MUNICIPAL CODE, and does not provide for improvements unrelated to the wireless communications facility.
- (3) The site plan or site plan amendment does not:
  - a. Expand the total floor area of buildings and the footprint of structures on the subject property by more than:
    - i. 1,000 sf. on properties that are less than 50 acres; or
    - ii. 5,000 sf. on properties that are 50 acres or more.
  - b. Significantly change the location, extent, or configuration of any parking area. Re-striping of existing parking areas in conformance with Article IV, Division 1, *Parking and Circulation*, shall not be considered a significant change unless the flow of traffic is materially altered.
  - c. Reduce the number of parking spaces to less than that required by Article IV, Division 1, *Parking and Circulation*, including approved parking reductions; or increase the parking demand such that the subject property does not meet the requirements of Article IV, Division 1, *Parking and Circulation*.
  - d. Increase in number, size, or intensity of exterior lighting fixtures, or change the orientation of existing exterior lighting fixtures, unless the changes bring exterior lighting into greater conformance with the requirements of Article IV, Division 2, *Utilities and Lighting*.
  - e. Create, add, modify, or increase the area of outdoor recreational facilities, including, but not limited to, playgrounds, parks, play courts, or swimming pools, unless the facilities are set back at least 100 feet from property lines.

- f. Result in a predicted increase in traffic generation of more than 10 trips per day or a predicted decrease in the level of service of any City street or intersection.
- g. Result in an increase in the number of employees, enrollment, attendees, or memberships above:
  - i. Current City-approved limits (if any); or
  - ii. Maximum levels documented in a prior application reviewed and approved (or conditionally approved) by the City.

**(d) Public Hearing Approvals of Site Plans and Site Plan Amendments.**

- (1) Site plans and site plan amendments that do not qualify for processing by the Director as set out in subsection (c), above, shall be processed as discretionary approvals. *See Sec. 16-7-130, Discretionary Approvals.*
- (2) Even if a site plan or site plan amendment qualifies for processing by the Director, the Director may require processing as a discretionary approval if the Director finds that:
  - a. A condition of a prior approval or development agreement requires processing as a discretionary approval;
  - b. The unusual nature of the proposed site plan amendment justifies consideration at public hearing in order to ensure that the application is thoroughly considered from multiple perspectives; or
  - c. The cumulative effect of site plan amendments already processed by the Director, along with the proposed site plan amendment, would result in a material change to the subject property compared to its condition on the later of:
    - i. The effective date of this Chapter; or
    - ii. The date that construction pursuant to the most recent site plan or site plan amendment approved by the City Council was completed.

**(e) Approval Standards.** Site plans and site plan amendments may be approved if it is demonstrated that they comply with the applicable requirements of this Chapter, and:

- (1) The proposed development is consistent with and furthers or implements the goals and strategies of the Master Plan, including preservation of the semi-rural character of the City.
- (2) The proposed development complies with all applicable City ordinances and is consistent with all other City policies and plans.
- (3) The bulk and scale of any proposed buildings, structures, or expansions thereto is consistent with the context of the site, and does not materially change the physical character or function of the surrounding area.

- (4) Drainage systems are designed to utilize natural materials and low-maintenance best management practices to the maximum feasible extent, and to appear consistent with the character of the surrounding area.
- (5) The proposed development will not result in unreasonable traffic congestion or create a safety hazard to vehicular or pedestrian traffic and adequate provisions will be provided to manage any traffic-related issues.
- (6) Construction will be timed and staged to minimize impacts on adjacent residential properties, including but not limited to lighting, visual impacts, vibration, and noise.

### **Sec. 16-7-325. - Conditional Uses**

- (a) **Generally.** Conditional use permits are required as set out in Article II, Division 4, *Requirements and Conditions for Conditional Uses*. An application for a conditional use permit is separate and distinct from any other type of application under this Chapter. However, conditional use permit applications may be processed concurrently with other types of applications, such as site plans, site plan amendments, or variances.
- (b) **Approval Standards.** The standards for approval of conditional uses are set out in Article II, Division 4, *Requirements and Conditions for Conditional Uses*.
- (c) **Concurrent Processing of Site Plans.**
  - (1) *When Required.* An application for site plan or site plan amendment approval shall be submitted along with the conditional use application, unless the proposed conditional use will not involve modifications to the subject property or buildings or structures thereon that would require approval by site plan or site plan amendment.
  - (2) *When Not Required.* In cases where site plan or site plan amendment approval is not required pursuant to subsection (c)(1), above, the Director may require a survey or drawing depicting the current conditions of the subject property, including such additional information as the Director may determine necessary to evaluate compliance with the applicable standards of this Chapter.

### **Sec. 16-7-330. - Major Special Events**

- (a) **Generally.** Permits for major special events are subject to the procedures of Article VII, Division 3, *Standardized Procedures*, as modified by the provisions of this Section.
- (b) **Director and City Council Discretion.**
  - (1) The Director may waive the deadlines set out in this Section for good cause shown, provided that the Director determines that adequate time will be available to review the application, comprehensively evaluate the potential impacts of the major special event, and ensure that appropriate services and mitigation measures will be in place during the special event.
  - (2) The Director may waive requirements regarding application materials, including required reports and studies, if the Director determines that the materials, reports,

or studies are not necessary to evaluate the application. The Director may not waive fees or escrow requirements.

- (3) Even if waived pursuant to subsection (b)(2), above, the City Council may require the preparation and submission of any plans, studies, or reports, deemed by the City Council as necessary to evaluate fully the impacts of any major special event.
- (c) **Timing of Pre-Application Meeting.** The pre-application meeting required by Section 16-7-215, *Pre-Application Meeting*, shall be requested by the applicant at least one year prior to the date that the major special event is proposed to commence.

(d) **Preliminary Review Requirements.**

- (1) *Generally.* Following the pre-application meeting and not less than nine months prior to the date of the proposed major special event, an applicant for a major special event permit shall submit an application for preliminary administrative review by the Planning and Zoning Commission.
- (2) *Review Procedure.*
  - a. The preliminary application is subject to Section 16-7-210, *Ex Parte Communications*, and Section 16-7-220, *Application*, through Section 16-7-265, *Continuances and Withdrawals*, inclusive, except Section 16-7-255, *Public Notice*. The Planning and Zoning Commission shall consider the application administratively at a public meeting. A public hearing is not required.
  - b. The Planning and Zoning Commission shall administratively review the preliminary application to evaluate whether the application and proposed event are generally consistent with the applicable standards set forth in this Chapter and this Code.
  - c. The Planning and Zoning Commission may recommend or suggest changes to the application and proposed plan for the major special event.
  - d. Recommendations and suggestions by the Planning and Zoning Commission are advisory in nature, and shall not be deemed binding decisions by the City regarding the applicant's preparation of a formal application for a major special event permit.

(e) **Final Review Requirements.**

- (1) *Generally.* Following preliminary review as set out in subsection (d), above, and not less than six months prior to the commencement date of the proposed major special event, the applicant shall submit a complete final application for a major special event permit pursuant to this subsection (e).
- (2) *Review Procedure.* The final application is subject to Section 16-7-210, *Ex Parte Communications*, and Section 16-7-220, *Application*, through Section 16-7-295, *Correction of Approvals*, inclusive. Following administrative review and referrals, the City Council shall consider the application at a public hearing.

(f) **Major Special Event Agreement.**

- (1) Unless otherwise determined by the City Council as unnecessary or inappropriate for the particular major event request, the applicant shall enter into a written agreement memorializing the applicant's obligations and duties in, and the conditions imposed upon, the conduct of the major event.
- (2) The agreement shall include terms and conditions deemed appropriate by the City to guarantee and ensure the applicant's conduct of the major event in accordance with the approved major event permit.
- (3) The agreement may include requirements for the applicant to provide cash deposit(s) or other forms of financial security or guarantees, at the City's election, in amounts and forms sufficient to protect the City from incurring costs or expenses resulting from the applicant's nonperformance or default in the conduct of the major event.
- (4) The agreement shall require each applicant to agree to indemnify, hold harmless and defend the City, its City Council, agents and employees from any and all liability, actions, claims, damages, costs or expenses, including attorney's fees, that may be asserted by any person or entity, including the applicant, arising out of or in connection with any willful act or negligence of the applicant, its agents, employees, vendors and affiliates.
- (5) The agreement may provide, in the sole and absolute discretion of the City Council, that all or a portion of the review fees may be reimbursed to the applicant when the major event generates tax revenues pursuant to Article VI, Chapter 4 of this Code sufficient to fund such reimbursement.
- (6) The form of agreement shall be approved by the City Attorney.

**Sec. 16-7-335. - Sign Permits**

- (a) **Generally.** Before any sign for which a permit is required by Article III, Division 3, *Signs*, is erected, displayed, altered, relocated or reconstructed, an application for approval of such sign shall be submitted to the City and a sign permit issued by the Director. Other permits, such as building permits and electrical permits, may also be required, and may be processed concurrently with the sign permit application.
- (b) **Approval Standards.** Sign permits shall be issued if the Director finds that the proposed sign complies with the applicable requirements of Article III, Division 3, *Signs*.
- (c) **Timing of Administrative Review.** Administrative review of sign permits shall be conducted according to the following schedule:
  - (1) Completeness review (see Sec. 16-7-230, *Completeness Review*) shall be completed within three business days after the filing of the application (or revision thereto) for a sign permit;

- (2) Sufficiency review (*see* Sec. 16-7-235, *Sufficiency Review*) shall be completed within five business days after the filing of the application (or revision thereto) for a sign permit; and
- (3) The Director shall approve, approve with specified conditions, or deny the application for a sign permit within three business days after the application has been determined to be sufficient as provided in Sec. 16-7-235, *Sufficiency Review*. *See* Sec. 16-7-245, *Administrative Review*.

### **Sec. 16-7-340. - Temporary Uses and Temporary Structures**

- (a) **Generally.** This Section sets out supplemental procedural requirements for the issuance of temporary use permits described in Article II, Division 5, *Temporary Uses and Temporary Structures*.
- (b) **Relationship to Major Special Event Permit.** Nothing in this Section shall be construed to limit or prohibit the approval of a temporary use or temporary structure as part of a major special event permit or contract approved by the City. Temporary uses and temporary structures that are authorized by major special event permits are not subject to the requirements of this Section.
- (c) **Agreement and Security.**
  - (1) Prior to issuance of a temporary use permit, the applicant shall:
    - a. Execute an agreement with the City as to the duration of the temporary use or schedule for installation and removal of the temporary structure, which shall include the plan for the temporary use or structure, and which shall acknowledge that the Director has the authority to revoke the permit and terminate the temporary use or require removal of the temporary structure if the applicant fails to comply with the requirements of the permit and this Chapter; and
    - b. Provide security to the City in the form of a cash deposit, surety bond, or irrevocable standby letter of credit in a form approved by the Director, authorizing the City's use of such security to terminate the temporary use, remove the temporary structures, and restore the subject property upon the applicant's breach of the agreement described in subsection (d)(1)a., above. The amount of such security shall be equal to 125 percent of the City's estimated costs to complete said activities, including costs of administration and legal fees.
  - (2) The agreement described in subsection (c)(1), above may include such additional terms as the City determines are necessary to ensure that the risks and expenses associated with the temporary use or temporary structure (*e.g.*, potential damage to adjacent streets) are borne by the applicant.
- (d) **Approval Standards.** The Director shall administratively issue a written permit for a temporary use or temporary structure upon a finding by the Director that:

- (1) The proposed temporary use or temporary structure is permissible by this Chapter.
- (2) The proposed temporary use or temporary structure complies with all applicable requirements of this Chapter and this Code.
- (3) The temporary use or temporary structure will not present an unreasonable adverse impact upon an adjacent residential property; or, by the Director's imposition of conditions upon the permit, such adverse impacts will be appropriately mitigated (see subsection (f), below).
- (4) No previously issued permit for a temporary use or temporary structure has been revoked by the City for the same property within a period of five years prior to the date of application.

(e) **Permit Conditions.**

- (1) *Discretionary Conditions.* The Director is authorized to impose reasonable conditions upon any permit issued in accordance with this Section that the Director determines are necessary or desirable to mitigate potential adverse impacts of the proposed temporary use or temporary structure or to ensure the conformance of the proposed temporary use or temporary structure with this Chapter or other applicable law.
- (2) *Standard Conditions.* In addition to any conditions imposed by the Director pursuant to subsection (f)(1), above, the following standard conditions shall be imposed upon all permits issued in accordance with this Section:
  - a. The Director may revoke any permit upon a finding by the Director that:
    - i. The permittee failed to comply with any applicable provision of this Chapter or any condition imposed upon the permit; or
    - ii. The temporary use or temporary structure failed or fails to meet the requirements of Article II, Division 5, *Temporary Uses and Temporary Structures*, as applicable.
  - b. The permit shall expire on the first anniversary of the date of permit issuance; or at such earlier or later date that may be stated within the permit.
  - c. The permittee shall obtain all required building and other permits prior to commencing the temporary use or locating, installing, erecting, or constructing the temporary structure on the subject property.

(f) **No Renewal.** A permit for a temporary use or temporary structure issued in accordance with this Section shall be nonrenewable. Continuation of a previously permitted temporary use or temporary structure shall require reapplication for a new permit.

## **Sec. 16-7-345. - Major Home Occupation Permit**

- (a) **Generally.** This Section sets out supplemental procedural requirements for the issuance of major home occupation permits described in Article II, Division 8, *Business Use of the Home*. Only those business uses of the home that are specifically identified in Article II, Division 8, *Business Use of the Home*, as requiring major home occupation permits are subject to the major home occupation permit requirement.
- (b) **Approval Standards.** The Director shall administratively issue a written permit for a major home occupation upon a finding by the Director that:
  - (1) The proposed major home occupation is permissible by this Chapter.
  - (2) The proposed major home occupation complies with all applicable requirements of this Chapter and this Code.
  - (3) The proposed major home occupation will not present an unreasonable adverse impact upon an adjacent residential property; or, by the Director's imposition of conditions upon the permit, such adverse impacts will be appropriately mitigated (see subsection (c), below).
- (c) **Permit Conditions.**
  - (1) *Discretionary Conditions.* The Director is authorized to impose reasonable conditions upon any permit issued in accordance with this Section that the Director determines are necessary or desirable to mitigate potential adverse impacts of the proposed major home occupation, or to ensure the conformance of the proposed major home occupation with this Chapter or other applicable law.
  - (2) *Standard Conditions.* In addition to any conditions imposed by the Director pursuant to subsection (c)(1), above, the following standard conditions shall be imposed upon all permits issued in accordance with this Section:
    - a. Unless renewed in accordance with subsection (d), below, the permit shall expire on the anniversary of the date of permit issuance.
    - b. The permittee shall obtain all required building and other permits, as may be required by this Chapter and other applicable law, prior to commencing the major home occupation.
- (d) **Renewal.** A permit for a major home occupation issued in accordance with this Section is renewable by the applicant on an annual basis upon 30 days' notice to the Director and the payment of a renewal fee established by the City Council. The Director is authorized to refuse to renew a major home occupation permit if the Director finds that the applicant failed to comply with the requirements of the permit or this Chapter in the prior year.

## **Sec. 16-7-350. - Rezoning**

- (a) **Generally.** Amendments to the zoning map ("rezoning") at any scale may be initiated by the City Council without formal application. Rezoning of a specific parcel, lot, or property, may be initiated by application of the property owner.

- (b) **Planning and Zoning Commission Recommendation.** All applications for rezonings shall be referred to and considered by the Planning and Zoning Commission at a public hearing. The Planning and Zoning Commission shall examine the proposal and its conformity to the requirements of this Chapter and to the Master Plan. The Planning and Zoning Commission shall thereafter make a recommendation to the City Council, along with reasons therefor.
- (c) **Approval.** A rezoning shall not be approved without the affirmative vote of the majority of the membership of the entire City Council.
- (d) **Documentation.** The Director shall promptly document rezonings on the zoning map.

### **Sec. 16-7-355. - Wireless Communications Facilities**

Wireless Communications Facilities are processed as provided in Chapter 20, *Wireless Communications Facilities*, CITY OF CHERRY HILLS VILLAGE MUNICIPAL CODE.

### **Sec. 16-7-360. - Floodplain Development Permit**

- (a) **Generally.** The Floodplain Administrator may grant a floodplain development permit if it is demonstrated that the application complies with the applicable requirements of Article V, *Floodplain Management and Flood Damage Prevention*, and the criteria for approval set out in subsection (c), below. The floodplain development permit is required before construction or development commences within any special flood hazard area or area that is the subject of a LOMR-F.
- (b) **Limitations.**
  - (1) Floodplain development permits may be granted only for the following types of development:
    - a. Bank stabilization; and
    - b. Dredging of ponds and lakes
  - (2) Any other proposed development within any special flood hazard area or area that is the subject of a LOMR-F shall require a floodplain variance.
- (c) **Referenced Standards.**
  - (1) The bank stabilization design and / or description of dredging procedures (as applicable) shall follows all applicable regulations of the Arapahoe County Stormwater Management Manual (“ACSMM”) and Urban Drainage and Flood Control District (“UDFCD”) criteria, and, with regard to dredging of ponds and lakes, the state dam safety requirements, as each of them may be amended from time to time.
  - (2) Hydraulics shall meet the following standards, as determined by the City Engineer:
    - a. For bank stabilization, floodplain hydraulics shall be analyzed in accordance with Section 12.2.6 of the ACSMM, and the analysis shall demonstrate that the bank stabilization will not alter the floodplain boundary or increase base flood elevations.

- b. For dredging of ponds and lakes, the analysis shall demonstrate that the dredging will not alter the floodplain boundary or increase base flood elevations.

**(d) Special Notice Requirements.**

- (1) The applicant shall provide written notification of the request to all owners of property that are adjacent to the bank stabilization request and with floodplain intersecting the property. Such written notification shall be sent by certified mail, return receipt requested. No decision shall be made on the application until at least 15 days have elapsed after the date of the notice.
- (2) The Director may waive notice requirements for bank stabilization projects that are necessary to avoid an imminent threat to public safety.

**(e) Approval Standards.**

- (1) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on the applicant's demonstration of compliance with the standards set out in the referenced standards identified in subsection (c), above, and confirmation that the analysis in subsection (c)(2), above, is technically competent.
- (2) The Floodplain Administrator may also consider all of the provisions of Article V, *Floodplain Management and Flood Damage Prevention*, and the following relevant factors:
  - a. The danger to life and property due to flooding or erosion damage;
  - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - c. The danger that materials may be swept onto other lands to the injury of others;
  - d. The compatibility of the proposed use with existing and anticipated development;
  - e. The safety of access to the subject property in times of flood for ordinary and emergency vehicles;
  - f. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
  - g. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the subject property;
  - h. The necessity to the facility of a waterfront location, where applicable;

- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use, building, structure, or improvement; and
- j. The relationship of the proposed use to the Master Plan as it pertains to the subject property.

(f) **Decision or Referral to City Council.**

- (1) The Floodplain Administrator may approve, approve with conditions, or deny an application or, in the Floodplain Administrator's reasonable discretion, present the application for review and decision by the City Council at a public meeting.
- (2) The Floodplain Administrator's discretion includes, but is not limited to, applications that may negatively impact other properties.
- (3) Notice of the City Council meeting shall be provided as set out in subsection (d), above.
- (4) The City Council review shall be based on the approval standards of subsection (e), above.

**Sec. 16-7-365. - Agreements**

- (a) **Generally.** Certain approvals that are authorized by this Chapter require that the applicant and the City enter into an agreement regarding the approval. In addition to the specific requirements of this Chapter, the City may condition an approval on the execution of an agreement that sets out conditions of approval. Applicants may also propose agreements, for example, to create vested rights.
- (b) **Purposes.** Agreements may be used for any lawful purpose, including but not limited to:
  - (1) Establishing the terms and conditions for the installation of public improvements and landscaping, and providing security and warranties for same;
  - (2) Specifying and providing for the timing, staging, and / or phasing of development;
  - (3) Vesting development rights;
  - (4) Providing for the dedication of property and / or the payment of fees-in-lieu;
  - (5) Providing for the payment of other development-related fees and escrows;
  - (6) Specifying the parameters for the temporary use of property, the temporary installation or placement of structures, or the setup, conduct, and tear-down of major special events.
- (c) **Form of Agreements.** The City Council may approve form agreements for specific purposes (*e.g.*, escrow agreements, public improvements agreements, etc.), and may authorize the Director to execute agreements that are in substantially the approved form.

## **Sec. 16-7-370. - Text Amendments**

- (a) **Generally.** The City Council may amend any provision of this Chapter in its sole legislative discretion, subject to the limitations of the Colorado statutes that affect home rule municipalities and the Colorado and United States Constitutions. Text amendments shall be adopted by ordinance of the City Council.
- (b) **Referral to Planning and Zoning Commission.** All proposed text amendments to this Chapter shall be referred to and considered by the Planning and Zoning Commission at a duly noticed meeting. The Planning and Zoning Commission shall provide a recommendation to the City Council with regard to the likely effect of the proposed text amendment on the implementation of the Master Plan.
- (c) **Exceptions.** Amendments to the fee resolution referred to in Section 16-7-225, *Application Fees and Escrows*, shall not be considered text amendments to this Chapter.
- (d) **Documentation.** If an amendment should receive the required vote for adoption by the City Council, a certified copy of the amendment shall then be filed with the City Clerk.

## **Sec. 16-7-375. - Berm Permits**

- (a) **Generally.** A berm permit is required prior to the construction of a berm. Berm permits are issued by the Director.
- (b) **Term of Berm Permit.**
  - (1) A berm permit shall be valid for 90 days following the date the permit is issued. All work on the subject property that is authorized by such berm permit shall be completed within 90 days of the date of issuance thereof; thereafter, said berm permit shall expire and be deemed cancelled.
  - (2) If work is not completed within the term of the berm permit, a new berm permit will be required to complete the work. The new permit fee will be based on the remaining work to be completed.
  - (3) If a new berm permit is not obtained, the property shall be restored to its preconstruction grade within 90 days after the expiration of the berm permit.
- (c) **As-Built Survey Required.** At the time of completion of the berm and prior to final inspection, the property owner shall submit to the City an as-built survey that shows the width, height and length of the finished berm(s) along all points of the berm(s).

## **Sec. 16-7-380. - Reasonable Accommodation**

- (a) **Generally.** The Director may authorize a reasonable accommodation as provided in this Section, in order provide an efficient process for ensuring compliance with the requirements of the Fair Housing Act.

- (b) **Purpose and Scope.** The purpose and scope of the reasonable accommodation is to allow for the administrative modification of physical development standards of this Chapter (e.g., fence standards, building or structure setbacks, etc.) in order to afford a disabled person equal opportunity to use and enjoy a dwelling, compared to a person who is not disabled.
- (c) **Limitations.**
  - (1) A reasonable accommodation that is authorized pursuant to this Section shall be necessary (indispensable or essential) to ensure that the disabled person has the same housing opportunity that non-disabled people enjoy.
  - (2) Reasonable accommodations shall not be authorized in order to create opportunities or advantages (including but not limited to economic advantages) that are not also available to non-disabled people who do not receive a reasonable accommodation.
  - (3) This Section shall not be used to modify the definition of "family" or change the scope of any land use that is defined by this Chapter.

## **Division 5. - Vested Rights**

### **Sec. 16-7-405. - Purpose**

It is the purpose of this Division to provide procedures necessary to implement Article 68, Title 24, C.R.S., titled "Vested Property Rights".

### **Sec. 16-7-410. - Eligibility**

Vested property rights shall not be created except upon specific application for approval of such rights by a landowner, as hereinafter provided in this Division, and approval by the City Council of a site specific development plan. Any landowner may, but is not required to, apply for the creation of vested property rights, provided that at least the following conditions exist:

- (1) The site is located within the City.
- (2) The site is zoned to permit the specific use or uses for which vesting is sought.
- (3) A subdivision final plat has been approved and recorded in the County Clerk's office for the subject property, or for land of which the subject property is a part.
- (4) The landowner has completed and submitted all documents and information required by this Division, and notice and hearing requirements of this Chapter have been met.
- (5) The landowner has obtained all other related development approvals, including but not limited to variances, site plan, zoning changes, subdivision, or conditional uses.

### **Sec. 16-7-415. - Limitations**

The vesting procedure set forth in this Chapter shall not, under any circumstances, be construed as a means by which zoning changes, site plans, expanded uses (from former Chapter 16), variances,

or conditional uses, or changes in use, density, height limits, or other established development standards are warranted, varied, changed, waived or otherwise approved or amended, nor shall it be construed to extend the term of a variance, which variance, if granted, is only for the term set out in Section 16-7-285, *Duration of Approvals*.

### **Sec. 16-7-420. - Required Certifications**

- (a) **Generally.** The proposed site specific development plan shall include the certifications set out in this Section on its cover page.

(b) **Acknowledgment.** The acknowledgment of the property owner shall be in the following form (the notary block may be changed as appropriate to the type of entity and the location of the notary):

I, \_\_\_\_\_, owner, do hereby agree that the above described property will be developed in accordance with the uses, restrictions and conditions contained in this Site Specific Development Plan. I understand that failure to abide by the terms and conditions of this Site Specific Development Plan shall result in the forfeiture of any development rights which may be vested by virtue of the approval of this proposed Site Specific Development Plan.

Signature of Owner

State of Colorado }  
 }  
 } ss:  
 \_\_\_\_\_ County of \_\_\_\_\_ }

The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_, by \_\_\_\_\_ as  
\_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_.

Witness my hand and notarial seal.

My commission expires \_\_\_\_\_.

[SEAL]

## Notary Public

(c) **Vested Rights Notice and City Approval Certification.** The notice of creation of vested rights shall be in the following form:

**APPROVAL OF THIS PLAN MAY CREATE A VESTED PROPERTY RIGHT  
PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED  
STATUTES.**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Cherry Hills Village City Council.

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

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

This document was filed for record in the office of the County Clerk and Recorder of Arapahoe County at \_\_\_\_ .m. on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_, in Book \_\_\_\_\_, Map \_\_\_\_\_, Reception No. \_\_\_\_\_.

County Clerk and Recorder

By:

\_\_\_\_\_  
Deputy Clerk and Recorder

## **Sec. 16-7-425. - Record of Regulations at Time of Application**

- (a) **Meeting Required.** The Director shall schedule a completeness-check meeting with the Applicant to confirm the completeness of the application form and proposed site specific development plan. The meeting shall take place within the time specified for completeness review in Section 16-7-230, *Completeness Review*, or at such other time as may be agreed to between the City and the applicant.
- (b) **Record.** In order to ensure appropriate implementation of C.R.S. § 24-68-102.5, on the next business day following the Director's determination that the application form and proposed site specific development plan are complete, this Chapter and Chapter 17 of this Code and any amendatory ordinances in effect on that day shall be copied at the applicant's expense and become part of the City's official file on the matter.

## **Sec. 16-7-430. - Special Notice Requirements**

- (a) **Generally.** The notice requirements of this Section apply to the hearing on the vested rights application. Notice is required after the hearing (if the application is approved or approved with conditions) in accordance with Section 16-7-440, *Effective Date of Approval; Public Notice*.
- (b) **Notice Requirements.**
  - (1) *Mailing.* At least 10 calendar days prior to the public hearing date, the applicant shall send notice of the time, place, and subject matter of the public hearing by certified mail to the owners of all adjacent properties. The applicant shall obtain the names of said owners from the last preceding real property tax roll of the County Assessor's office.
  - (2) *Posting.*
    - a. Not less than 15 calendar days prior to the City Council public hearing date, the landowner shall cause the site to be posted by means of one or more signs, erected in a conspicuous location, with at least one sign posted along each street frontage of the subject property.
    - b. Signs shall be at least three feet by four feet in dimension, supported by corner posts, with the bottom of the sign face at least four feet above ground level. Letters shall be at least one inch in height, or large enough to be intelligible from the nearest public street.
    - c. Signs shall read as follows:

**NOTICE OF PUBLIC HEARING  
TO CREATE VESTED PROPERTY RIGHTS**

NOTICE IS HEREBY GIVEN THAT APPLICATION HAS BEEN MADE TO CREATE VESTED PROPERTY RIGHTS FOR THIS SITE PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S.

A PUBLIC HEARING WILL BE HELD BEFORE THE CITY COUNCIL AT THE VILLAGE CENTER, 2450 E. QUINCY AVENUE, CITY OF CHERRY HILLS VILLAGE, COLORADO 80110, AT \_\_\_\_\_ P.M. ON THE \_\_\_\_\_ OF \_\_\_\_\_, 20\_\_\_\_.

ALL THOSE WISHING TO BE HEARD SHOULD BE PRESENT AT THE TIME AND PLACE STATED ABOVE.

[NAME OF LANDOWNER]

(3) *Publication.* Notice of the public hearing shall be published in the City's legal newspaper at least 15 calendar days prior to the City Council hearing. The notice shall read as follows:

**NOTICE OF PUBLIC HEARING  
TO CREATE VESTED PROPERTY RIGHTS**

PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., NOTICE IS HEREBY GIVEN THAT APPLICATION HAS BEEN FILED WITH THE CITY OF CHERRY HILLS VILLAGE TO CREATE VESTED PROPERTY RIGHTS FOR THE PROPERTY DESCRIBED AS [general legal description or address].

A PUBLIC HEARING WILL BE HELD BEFORE THE CHERRY HILLS VILLAGE CITY COUNCIL AT THE VILLAGE CENTER, 2450 E. QUINCY AVENUE, CHERRY HILLS VILLAGE, COLORADO 80110, AT \_\_\_\_\_ P.M. ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT WHICH TIME ALL THOSE WISHING TO BE HEARD SHOULD BE PRESENT AT THE TIME AND PLACE STATED ABOVE.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[NAME OF LANDOWNER]

(c) **Certified Statements.** The landowner shall submit to the Director, not less than seven calendar days prior to the scheduled public hearing date, certified statements that the mailing, posting, and publication did occur in compliance with the requirements set out in subsection (b), above. The statement certifying to the adequacy of the sign posted on the subject property shall be accompanied by photographs showing the placement of the sign on the subject property, and shall be sufficiently legible to read the text of the notice on the sign. A publisher's affidavit is adequate to certify that the published notice meets City requirements.

#### **Sec. 16-7-435. - Special Provisions for Stale Vested Rights Applications**

(a) **Generally.** An application form and proposed site specific development plan shall expire one year after the Director determines completeness pursuant to Section 16-7-425, *Record of Regulations at Time of Application* if it is not pursued by the applicant.

(b) **Required Revisions.** After the date specified in subsection (a), above, a site specific development plan may continue to be processed if the applicant agrees to revise the application form and proposed site specific development plan to conform to the requirements of any changes to this Chapter and mandatory ordinances that have taken effect since the date of the completeness determination on the original application form and plan.

#### **Sec. 16-7-440. - Effective Date of Approval; Public Notice**

(a) **Generally.** For all purposes, including judicial review and referendum, the effective date that a vested property right is deemed to be created shall be the date of publication of a notice advising the general public of the approval of the vested property right.

(b) **Notice Requirement.**

(1) **Contents of Notice.** The landowner shall cause such publication to be made, which shall occur not later than 14 days following the date of the second reading of the ordinance adopted by the City Council approving the site specific development plan. Such notice shall read:

**NOTICE**  
**VESTED PROPERTY RIGHTS CREATED**

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the City Council of Cherry Hills Village approved a Site Specific Development Plan for the property described as [general legal description or address]. This publication of the approval of such Site Specific Development Plan may have created vested property rights pursuant to Article 68 of Title 24, C.R.S.

The approved Site Specific Development Plan, for the property described hereinabove, has been recorded in the County of Arapahoe in Book \_\_\_\_\_ at Page \_\_\_\_\_. Such approval is subject to all rights of referendum and judicial review.

[NAME OF LANDOWNER]

(2) *Proof of Notice.* A publisher's affidavit shall be provided to the Director as certification that the required notice pursuant to subsection (b)(1), above, was published.

**Sec. 16-7-445. - Subsequent Regulation Prohibited**

(a) **Generally.** Any vested property right, once established, shall not be subject to any zoning or land use action by the City which would alter, impair, prevent, diminish or otherwise delay the development or use of the site as set forth in an approved site specific development plan, with the following exceptions:

- (1) Without payment of compensation by the City, upon the consent of the affected landowner;
- (2) Without payment of compensation by the City, upon the discovery of natural or man-made hazards on or in the immediate vicinity of the site, which hazards could not reasonably have been discovered at the time of site specific development plan approval or, if reasonably discoverable, are not the result of error or misrepresentation by the applicant or his agents, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or
- (3) As long as neither subsection (a)(1) nor (a)(2), above has occurred, to the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning and marketing, legal and other consultant fees incurred after approval of the site specific development plan

by the City Council, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the site that is caused by such action.

(b) **Limitations.** The establishment of a vested property right pursuant to this Division shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property within the City, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.

### **Sec. 16-7-450. - Extension and Amendments**

(a) **Extensions.**

(1) *Generally.* No extension of the vesting period shall be granted unless such extension is approved by the City Council in its sole discretion following a public hearing. Such request for extension shall be filed by the landowner, together with all materials and fees required by this Chapter to be submitted for original approval.

(2) *Limitation.* No extension shall be granted by the City Council for a period greater than one year.

(b) **Amendments.**

(1) Applications for amendment to an approved site specific development plan must be submitted and reviewed under the same procedures set forth in this Chapter as required for original approval.

(2) Amendments to an approved site specific development plan shall not automatically extend the approved vesting period. Specific application for the extension of an approved vesting period shall be processed in the same manner as the original approval.

### **Sec. 16-7-455. - Repealer**

Nothing in this Division is intended to create any vested property right, but only to implement the provisions of Article 68, Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof shall no longer be in effect.

## **Division 6. - Variances and Administrative Appeals**

### **Sec. 16-7-510. - Administrative Modification to Bulk Plane Requirement**

(a) **Generally.** The Director may authorize a modification of up to 10 percent above the maximum angle limitations specified in Section 16-3-30, *Bulk Plane Regulations*, to provide for up to a maximum of 200 square feet of additional floor area or additional building coverage, subject to the standards and requirements of this Section.

(b) **Application Requirements.** The Director may request any reasonable information deemed necessary to evaluate the variance request, including but not limited to an improvement survey, site plan, landscape plan, building elevations and renderings.

(c) **Approval Standards.** The Director may grant a requested modification if the Director finds all of the following:

- (1) The reasons set forth by the applicant justify the granting of the variance. For the purposes of making this finding, the City Manager may not consider issues of inconvenience or aesthetics.
- (2) Unique physical circumstances or conditions exist, not caused or created by the applicant, that create the need for the modification, including, but not limited to, the configuration of the applicant's property boundaries, the location of existing buildings and structures on the property, or the existence of exceptional topographic conditions on the property.
- (3) The requested modification will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.
- (4) The requested modification is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(d) **Decision; Effect of Decision.** The Director may approve, approve with conditions or deny an application for an administrative modification. The variance shall only authorize the specific improvement described in the modification application and shall not constitute or be construed as a precedent, grounds or cause for any other administrative modification.

(e) **Term; Extension.**

- (1) A modification shall be initially effective for a period of one year commencing upon the date the modification is granted. A modification shall expire and be void in the event that a building permit is not issued prior to the expiration of the one-year time period for the improvement authorized by the modification.
- (2) The Director may approve an extension of the initial one-year time period for an additional one year where the Director finds that:
  - a. The applicant requested an extension in writing prior to the initial one-year expiration date;
  - b. Just cause for the extension exists; and
  - c. The extension would not adversely affect or harm adjacent property owners.
- (3) Following the construction of the improvement authorized by the modification, the modification shall remain effective only during such period of time that the specific improvements described in the application for the modification exists.
- (4) Repairs and cosmetic alteration of the improvement shall be permitted subject to applicable requirements imposed by uniform building or safety codes, provided that

such repair or alteration does not increase or enlarge the improvement. The destruction of the improvement by any cause or for any reason whatsoever other than destruction by act of God shall cause the modification to expire and be void.

(f) **Special Notice Requirements.** The applicant shall be responsible for:

- (1) Providing written notice of the modification request to all adjacent property owners. The notice shall include a statement that the Director may act upon the variance request after 15 days elapses from the date of the notice. Such written notice shall be sent by certified mail with return receipt requested. Addressees shall be identified as provided in Section 16-7-255, *Public Notice*.
- (2) Posting a notice sign on the subject property. Such notice sign shall be furnished by the City, and posted continuously for 15 days on the subject property in a location clearly visible from an adjoining street. Final decision by the City Manager may not take place until the City has received the certified mail and return receipts and the 15-day posting period has expired.

### **Sec. 16-7-520. - Variances**

- (a) **Generally.** The Board of Adjustment and Appeals (“BOARD”) may authorize variances from the requirements of this Chapter subject to terms and conditions fixed by the Board. A variance from the terms of this Chapter shall be considered an extraordinary remedy, and the limitations set forth in subsection (c), below are intended to constrain the Board’s power to authorize variances.
- (b) **Limitations.** No variance shall be authorized unless the Board finds all of the following:
  - (1) The applicant would suffer an exceptional and unnecessary hardship as a result of the application of this Chapter, which hardship is not generally applicable to other lands or structures in the same zone district because:
    - a. The unusual configuration of the subject property boundaries;
    - b. Unique or highly unusual circumstances related to the location of existing buildings or structures thereon;
    - c. The existence of exceptional topographic conditions thereon; or
    - d. Comparable circumstances that are specific to the subject property.
  - (2) There are no design alternatives or alternative locations for buildings or structures that would obviate the need for the requested variance or would reduce the amount of the variance required.
  - (3) The strict enforcement of the provisions of this Chapter deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Chapter.
  - (4) The need for the variance does not result from the intentional, reckless, or grossly negligent actions of the applicant or his agent, a violation of any provision of this Chapter, or a previously granted variance.

- (5) Reasonable protections are afforded adjacent properties.
- (6) The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.
- (7) The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (8) The reasons set forth by the applicant justify the granting of the variance. For purposes of making this finding, the Board may not consider issues of inconvenience or aesthetics.
- (9) The granting of the variance will:
  - a. Reflect the spirit of this Chapter;
  - b. Secure the public safety and welfare; and
  - c. Ensure that substantial justice is done.

(c) **Conditions of Approval.** In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter and the Master Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and punishable as provided in Article VIII, *Enforcement*.

(d) **Use Variances Prohibited.** Under no circumstances shall the Board grant a variance to allow a use that is prohibited by this Chapter in the zone district in which the subject property is located. Also, neither a nonconforming use of neighboring lands or structures in the same zone district, nor a permitted or nonconforming use of lands or structures in other districts shall be considered grounds for the issuance of a variance.

(e) **Variances Run with the Land.** Every variance shall transfer and run with the land.

(f) **No Precedent.** The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.

(g) **Effect and Limitations of Approval.** Unless otherwise expressly provided by a written resolution of the Board granting a variance, every variance shall be limited in its effect as follows:

- (1) A variance shall only authorize the specific improvement described in the application for variance subject to such conditions affecting such improvement as may be imposed by the Board.
- (2) A variance shall be initially effective for a period of one year commencing upon the date the variance is granted by the Board. A variance shall expire and be void in the event that a building permit is not issued prior to the expiration of the one-year time period for the improvement authorized by the variance.
- (3) The Director may approve an extension of the initial one-year time period for an additional one year where the Director finds that:

- a. The applicant requested an extension in writing prior to the initial one-year expiration date and just cause exists; and
- b. The extension would not adversely affect or harm adjacent property owners.

(4) Following the construction of the improvement authorized by the variance, the variance shall remain effective only during such period of time that the specific improvements described in the application for variance exists. Repairs and cosmetic alteration of the improvement shall be permitted subject to applicable requirements imposed by uniform building or safety codes, provided that such repair or alteration does not increase or enlarge the improvement beyond the scope of the improvement approved by the Board. The destruction of the improvement by any cause or for any reason whatsoever other than destruction by act of God shall cause the variance to expire and become void.

### **Sec. 16-7-530. - Floodplain Variances**

- (a) **Generally.** Floodplain variances are required for development within areas of special flood hazards or areas covered by a LOMR-F, except for the limited development that is permissible by Floodplain Development Permit.
- (b) **Variances for Historic Buildings and Structures.** The City Council may issue variances for the reconstruction, rehabilitation, or restoration of buildings or structures listed on the National Register of Historic Places or the State Inventory of Historic Places upon a determination that the proposed repair or rehabilitation will not preclude the building or structure's continued designation as historic, and the variance is the minimum necessary to preserve the historic character and design of the building or structure.
- (c) **Quantum of Proof.**
  - (1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in area, contiguous to and surrounded by lots with existing buildings or structures constructed below the base flood level, provided that the record shows compliance with the approval standards set out in (and referenced by) this Section.
  - (2) As the lot area increases beyond one-half acre, the technical justification required for issuing a floodplain variance increases.
- (d) **Conditions of Approval.** Upon consideration of the relevant factors in Section 16-7-360, *Floodplain Development Permit*, subsection (c) (including standards referenced therein), and the intent of Article V, *Floodplain Management and Flood Damage Prevention*, the City Council may attach such conditions to the granting of floodplain variances as it deems necessary to further the purpose and objectives of Article V, *Floodplain Management and Flood Damage Prevention*, as stated in Section 16-5-30, *Statement of Purpose*.
- (e) **Limitations.** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(f) **Approval Standards (Generally).** A floodplain variance may be granted for purposes other than Functionally Dependent Uses (see subsection (g), below, for Functionally Dependent Uses) only upon a finding by the City Council that:

- (1) The relevant factors in Section 16-7-360, *Floodplain Development Permit*, subsection (e)(2) (including standards referenced therein) have been weighed, and favor the grant of the floodplain variance.
- (2) The floodplain variance is the minimum necessary, considering the flood hazard, to afford relief.
- (3) The floodplain variance is only issued upon:
  - a. Showing a good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, fraud on or victimization of the public, or conflict with other City laws or ordinances.
- (4) Any applicant to whom a variance is granted shall be given written notice that the building or structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(g) **Approval Standards (Functionally Dependent Uses).** A floodplain variance may be granted for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

- (1) The grant of the floodplain variance is limited by the provisions of subsections (b), (c), (d), (e), and (f), above, as applicable; and
- (2) The building, structure, or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(h) **Records.** The Floodplain Administrator shall maintain a record of all actions on floodplain variances, and shall report outcomes to the Federal Emergency Management Agency upon request.

## **Sec. 16-7-540. - Administrative Appeals to Board of Adjustment and Appeals**

- (a) **Generally.** The Board of Adjustment and Appeals (“BOARD”) shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Director or City Manager in the administration of this Chapter and Chapter 18 of this Code. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the Board finds that the Director or City Manager acted:
  - (1) Without clear and convincing evidence to support the order, requirement, decision or determination; or
  - (2) Beyond the City Manager’s authority.
- (b) **Prerequisite.** Except where specifically provided otherwise, all questions of administration and enforcement of this Chapter and Chapter 18 of this Code by the Director shall first be presented to the City Manager, within 15 days after the decision of the Director. Questions shall be presented to the Board only on appeal from the decision of the City Manager.
- (c) **Timing.** Appeals made to the Board must be made in writing and filed with the City Manager within 30 days following the action or decision of the City Manager from which the appeal is taken.
- (d) **Automatic Stay; Exception.** An appeal from an order, requirement, decision or determination made by the City Manager shall stay all proceedings unless the City Manager certifies that such stay would cause imminent peril to life or property.

## **Sec. 16-7-550. - Administrative Appeals to City Council**

- (a) **Generally.** The City Council shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Floodplain Administrator or Planning and Zoning Commission in the administration of this Chapter and Chapter 18 of this Code. With regard to appeals from the Floodplain Administrator, the appeal shall first be heard by the Planning and Zoning Commission at a public hearing, after which the Planning and Zoning Commission shall make a recommendation to the City Council.
- (b) **Parties to Appeal.** Any person or persons who are aggrieved by the decision of the Floodplain Administrator or Planning and Zoning Commission may file an appeal. If the appeal is not brought by the applicant, the applicant shall be promptly notified that the applicant is a party to the appeal and has a right to participate in the processing of the appeal.
- (c) **Form of Relief.** The City Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the City Council finds that the Floodplain Administrator or Planning and Zoning Commission acted:
  - (1) Without clear and convincing evidence to support the order, requirement, decision or determination;

- (2) In error as to the interpretation of the applicable requirements of this Chapter; or
- (3) Beyond its authority.

(d) **Timing.** Appeals made to the City Council must be made in writing and filed with the City Manager within 21 days following the action or decision of the Floodplain Administrator or Planning and Zoning Commission from which the appeal is taken.

(e) **Records.** The Floodplain Administrator shall maintain a record of all actions involving an appeals of the Floodplain Administrator and shall report outcomes to the Federal Emergency Management Agency upon request.

## **Article VIII. - Enforcement**

### **Division 1. - Responsibility and Procedures**

#### **Sec. 16-8-10. - Responsibility for Enforcement.**

- (a) **Generally.** The Director shall administer and enforce this Chapter. The Director may be provided with the assistance of such other persons as the City Manager may direct.
- (b) **Notices of Violation.** If the Director finds that any of the provisions of this Chapter are being violated, he or she shall notify in writing the person who is allegedly responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.
- (c) **Authority to Enforce.** The Director may:
  - (1) Order the discontinuance of illegal use of land, buildings, or structures;
  - (2) Order the removal of illegally constructed buildings or structures, or the discontinuance of any illegal construction being done and the restoration of the subject property; or
  - (3) Take any other action authorized by this Chapter or this Code which, in the Director's reasonable judgment, will promote compliance with or prevent violation of the requirements of this Chapter.

#### **Sec. 16-8-20. - Complaints regarding violations.**

Whenever a violation of this Chapter occurs or is alleged to have occurred, any person may file a written complaint, stating fully the causes and basis thereof, shall be filed with the Director, who shall properly record such complaint, promptly investigate, and take action thereon as provided by this Chapter.

#### **Sec. 16-8-30. - Enforcement Methods**

- (a) **Generally.** The provisions of this Chapter may be enforced by any or all of the following methods, or any other method authorized by law:
  - (1) Requirement of a building permit;
  - (2) Requirement of a certificate of occupancy;
  - (3) Inspection and ordering removal of violations;
  - (4) Proceedings in any court of competent jurisdiction, including municipal court (to the extent of its jurisdiction), which may involve, but are not limited to:
    - a. Temporary or permanent injunction (including mandatory injunction);
    - b. Abatement;
    - c. Damages;

- d. Declaratory judgment;
- e. Civil or criminal fines;
- f. Restitution; or
- g. Incarceration

(b) **Additional Enforcement Procedures.** In addition to the enforcement provisions of this Chapter, specific conditions of development approval may provide additional or alternative enforcement procedures or remedies.

## **Division 2. - Violations, Penalties, and Remedies**

### **Sec. 16-8-110. - Violations; Penalties in General**

- (a) **Generally.** Violation of any provision of this Chapter, or any condition attached to an approval granted hereunder, or any provision of an agreement entered into hereunder (except to the extent that the agreement provides for specific remedies in the event of a default), or failure to maintain in good condition the landscaping that is required by an approved landscape plan, shall constitute a violation of this Chapter.
- (b) **Floodplains.** The failure of a building, structure, or other development to be fully compliant with the Floodplain Management Regulations is a violation of this Chapter. A building, structure, or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Floodplain Management Regulations is presumed to be in violation until such time as the documentation is provided.
- (c) **Nature of Violations.** Violations of this Chapter may be prosecuted as civil or criminal matters. Any person who violates this Chapter may be convicted of a misdemeanor, and shall, upon conviction, be fined as set forth in Section 1-4-20 of this Code.
- (d) **Each Day a Separate Offense.** Each day an offense continues shall be considered a separate offense.
- (e) **Potentially Responsible Parties.** The owner or tenant of any structure, land or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

### **Sec. 16-8-120. - Penalty (Signs)**

- (a) **Generally.** In addition to the other enforcement procedures and remedies authorized by this Article, the provisions of this Section apply to certain violations of Article III, Division 3, *Signs*.
- (b) **Summary Removal of Certain Prohibited Signs.** The Director, or the Director's designee, may immediately remove any of the following signs found by the Director to be a safety hazard, a public nuisance, or a trespass upon City property, and in violation of Article III, Division 3, *Signs*:

- (1) Unauthorized signs posted by private parties on public property; within public rights-of-way; on public street medians, islands or parkways; on traffic control devices or traffic control signs and fixtures; or attached to utility equipment, poles, or wires.
- (2) Unauthorized signs protruding or projecting over, into, through, or within the airspace over any public right-of-way.
- (3) Unauthorized signs that materially impede visibility of cross-traffic at street intersections. A sign shall be presumed to materially impede vision if located within a required sight triangle.
- (4) Any sign found by the Director to be hazardous by reason of inadequate maintenance, dilapidated condition, or obsolescence such that the sign creates an imminent hazard to public health or safety. Such hazardous signs are declared a nuisance and unlawful.
- (5) Signs that are designed, shaped and/or painted to mimic, simulate, or represent official traffic control devices, such as but not limited to stop signs, yield signs, caution signs or speed limit signs.

(c) **Summary Removal of Unlawful Temporary Signs.** It shall be unlawful for the owner or occupant of any property upon which a temporary sign is posted to permit, condone, maintain, or authorize the posting of such temporary sign where the removal or replacement of such sign is required by this Article III, Division 3, *Signs*. Temporary signs posted in violation of Article III, Division 3, *Signs* shall be deemed a public nuisance, and the Director may remedy and abate such nuisance in accordance with this Code. Upon the failure of the owner or occupant to remove or replace a temporary sign in accordance with Article III, Division 3, *Signs*, the Director is authorized to enter upon private property and remove any temporary sign that is in violation of Article III, Division 3, *Signs*.

(d) **Recovery of Costs.** The Director may seek recovery of the costs of removal of signs listed in subsections (b) or (c), above.

### **Sec. 16-8-130. - Penalty (Berms)**

Unauthorized berms may alter drainage patterns and are therefore declared a public nuisance. Consequently, in addition to any other penalty or remedy, the City may require the immediate removal of any berm constructed in violation of this Chapter, and reimbursement to the City of any costs associated with such action.

### **Sec. 16-8-140. - Penalty (Unlawful Creation or Modification of Lots)**

(a) **Generally.** No lot may be subdivided or altered (*e.g.*, through a lot-line adjustment) in such a way that it would not conform to the requirements of this Chapter; or cause any building, structure, setback, or use to not conform to the requirements of this Chapter. No permit shall be issued for any property or lot created by such a subdivision or reduction in violation of this Subsection.

(b) **Subdivision.** Except as specifically permitted by Chapter 17 and this Chapter, it is unlawful for any person to sell, convey, transfer, dispose of or otherwise divide any property within the City where such sale, conveyance, transfer, disposition or division would divide a lot of record into two or more parcels of land. In addition to any other remedy available to the City, the City shall not recognize or permit the use of a parcel of land created in violation of this Section, unless and until such parcel of land is lawfully subdivided in accordance with Chapter 17 of this Code and meets all applicable requirements of this Chapter.

(c) **Exceptions.** This Section shall not apply to the following:

- (1) Any division of land resulting from the foreclosure of a deed of trust, mortgage or other security interest recorded prior to the effective date of this Section;
- (2) Any division of land ordered by a court of competent jurisdiction pursuant to the law of eminent domain;
- (3) Any division of land that is to be created by a contract concerning the sale of a part or parcel of such land where the contract is expressly contingent upon the purchaser's obtaining final approval from the City of a subdivision plat accurately describing such division of land pursuant to Chapter 17 of this Code and such approval is granted by the City; or
- (4) The sale, conveyance, transfer, disposition, division, or dedication of property to the City that is accepted by the City, for the purpose of providing land for a public use including, but not limited to, park, open space, trail, right-of-way, utility access, and drainage management.

# Article IX. – Measurements, Calculations, Acronyms and Definitions

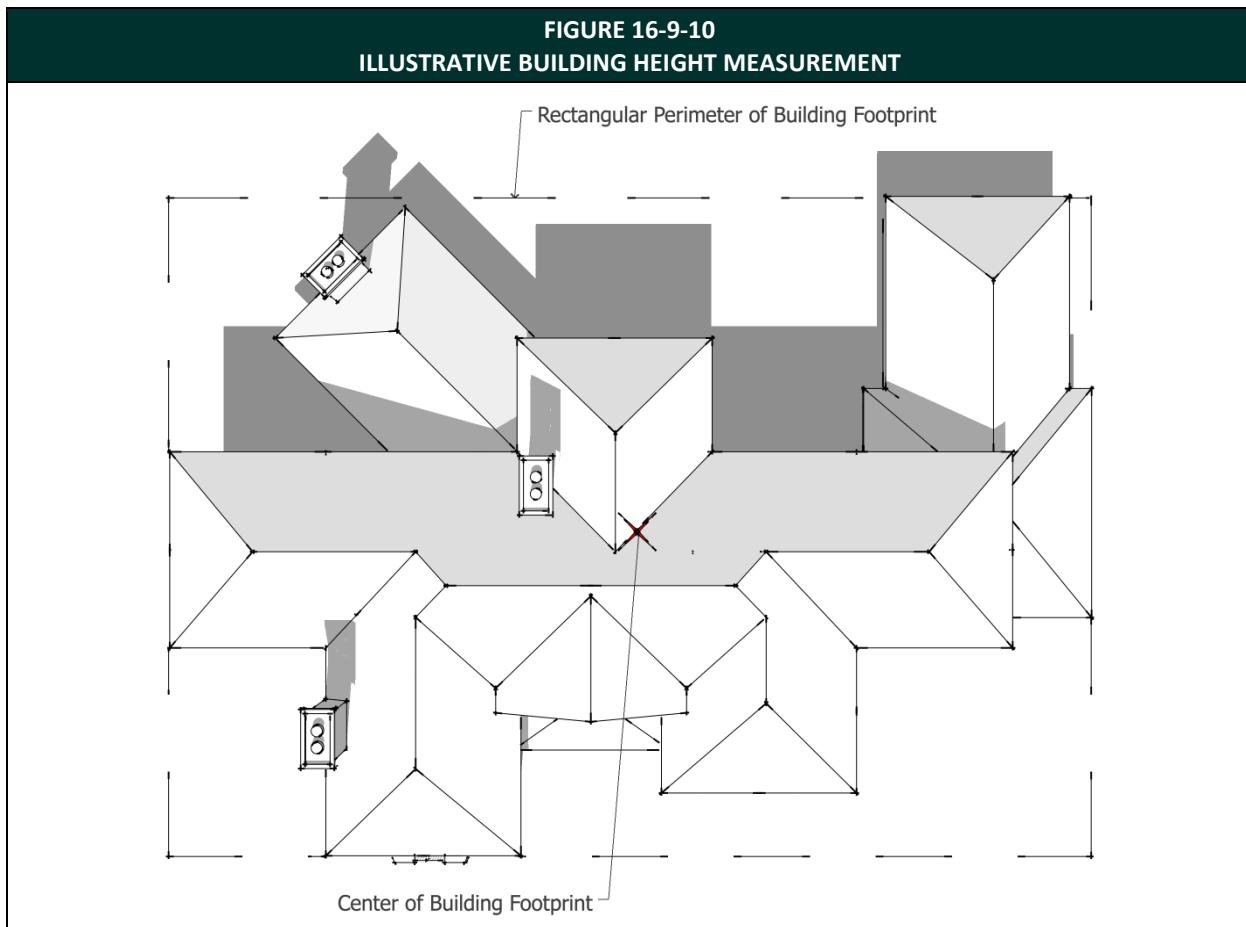
## Division 1. - Measurements and Calculations

### Sec. 16-9-10. - Building Height

(a) **Measurement of Height.** Building height is measured from the natural grade at the center of the rectangular perimeter of the building footprint to the highest point of the roof.

(b) **Exceptions.**

- (1) In all zoning districts, Chimneys may be built to a height of five feet above the highest point of the roof.
- (2) In the C-2 zoning district, roof-mounted mechanical equipment may be built to a height of five feet above the highest point of the roof, provided that it is screened from view from surrounding rights-of-way.



**FIGURE 16-9-10**  
**ILLUSTRATIVE BUILDING HEIGHT MEASUREMENT**



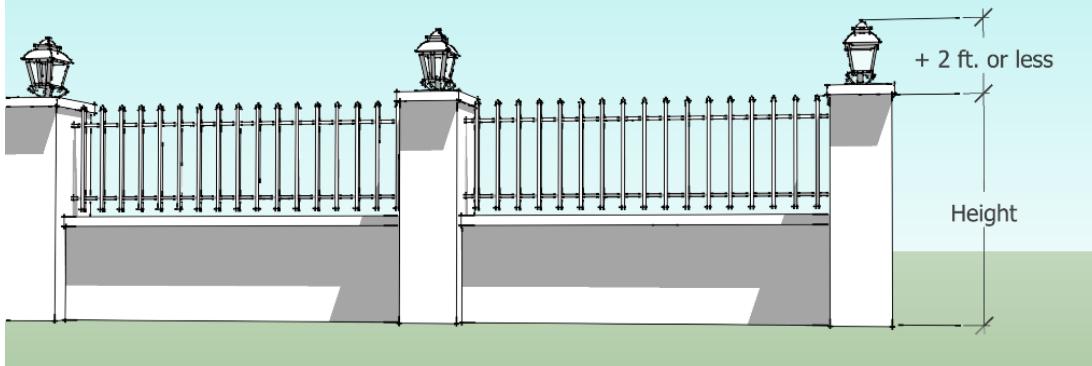
**Sec. 16-9-15. - Fence, Garden Wall, and Perimeter Wall Height**

(a) **Generally.**

- (1) The height of fences and garden walls is calculated by measuring the vertical distance between the natural grade, or from the grade of an approved overlot grading plan, to the top of the fence.
- (2) Where fences are constructed upon berms, the height of such fences shall be measured as the sum of the height of the fence and the berm.

(b) **Exceptions.** Neither a column nor a light fixture attached to a column shall be included within the calculation of the height of a fence so long as the height of the column, or combination of the height of the column and the light fixture, is not more than two feet greater than the otherwise applicable height limitations for the fence, and the columns that exceed the otherwise applicable height limitations are spaced at least six feet apart.

**FIGURE 16-9-15**  
**ILLUSTRATIVE FENCE AND GARDEN WALL HEIGHT MEASUREMENT**



### Sec. 16-9-20. - Structure Height

- (a) **Structures Without Roofs.** The height of structures that do not have a roof is calculated by measuring the vertical distance from the average natural grade, or from the grade of an approved overlot grading plan, around the base of the structure to the highest point on the structure (including any attachments thereto, such as antennae).
- (b) **Structures With Roofs.** The height of roofed structures that are not "buildings" (e.g., gazebos and loafing sheds) is calculated in the same manner as the height of buildings. See Section 16-9-10, *Building Height*.

### Sec. 16-9-25. - Setbacks

- (a) **Generally.** Setbacks are the minimum required distances between lot lines and buildings, patios, decks, porches, or impervious surfaces not specifically exempted in subsection (b), below. They are generally measured as an offset from the referenced lot lines (or curves) toward the interior of the lot. This Chapter may establish different setbacks for different types of buildings or structures.
- (b) **Exceptions.**
  - (1) The following are not subject to setback requirements except where specifically identified in this Chapter:
    - a. Fences;
    - b. Perimeter walls;
    - c. Driveways;
    - d. Sidewalks;
    - e. Utility boxes or equipment (not including HVAC equipment or generators); and
    - f. Landscape features.

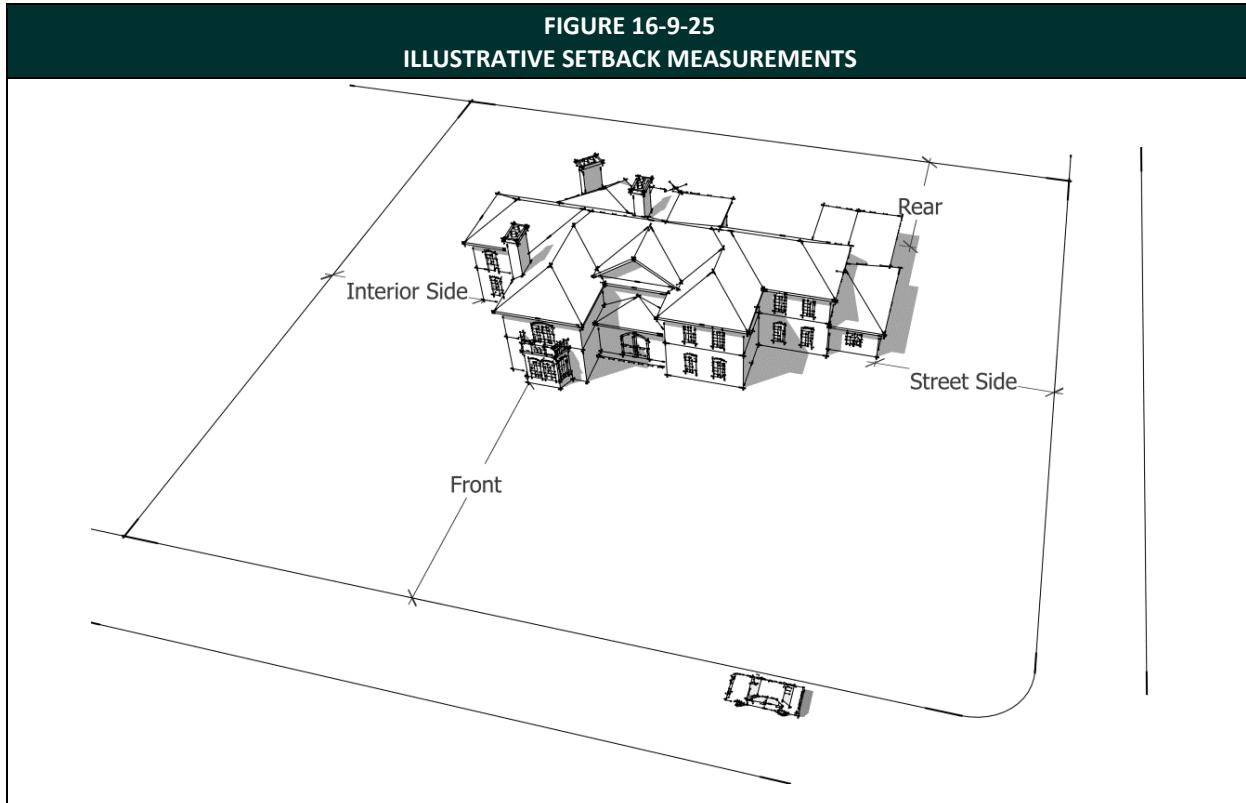
(2) Wall signs may extend up to 18 inches from a building wall, and may encroach into required setbacks.

(c) **Specific Setbacks.**

(1) *Measurement.* Setbacks are measured as follows:

- Front Setbacks. Front setbacks are measured from the front property line.
- Interior Side Setbacks. Interior side setbacks are measured from side property lines that are not street right-of-way boundaries.
- Street Side Setbacks. Street side setbacks are measured from street side property lines.
- Rear Setbacks. Rear setbacks are measured from rear property lines.

(2) *Director Discretion.* For corner lots, through lots, and odd-shaped lots, the Director shall determine which property lines are front, interior side, street side (where applicable), and rear.



### Sec. 16-9-30. - Lot Width

Lot width is measured as the linear distance between the points where the front setback line intersects with the side lot lines.

### Sec. 16-9-35. - Lot Depth

Lot depth is measured as the shortest distance between the front lot line and the rear lot line.

## **Sec. 16-9-40. - Lot Area**

- (a) **Generally.** Lot area is the total area within the lot lines of a lot.
- (b) **Addition to Lot Area.** Areas outside of the lot lines of a lot may be counted towards lot area in certain zoning districts, as follows:
  - (1) *R-1, R-2, R-3, R-4, O-1, and C-1 Zoning Districts.* In the R-1, R-2, R-3, R-4, O-1, and C-1 zoning districts, lot area may also include adjoining public street rights-of-way to the centerlines of the streets, or the area extending 30 feet into the right-of-way from the street lot lines, whichever results in less additional area.
  - (2) *R-3A Zoning District.* In the R-3A zoning district, lots that are at least one-half acre in lot area may include (within the one-half acre or more) the area identified in subsection (B)(1), above, provided that such area does not exceed 20 percent of the total area of the lot.
  - (3) *Exception for Lawful Lots of Record.* Lots of record that were measured to the centerline of a street that is more than 30 feet from the lot line shall be considered conforming as to lot area if they were lawfully created before the effective date of this Chapter.
- (c) **Canals.** The measurement of lot area does not include any areas within canal rights-of-way that are under separate ownership from the lot (e.g., Highline Canal).

## **Sec. 16-9-45. - Floor Area**

- (a) **Generally.** Floor area is equal to the sum of the area of standard building areas (as defined in subsection (b), below) and two times the area of high volume building areas (as defined in subsection (c), below), but not including the area of exempt areas (as defined in subsection (d), below).
- (b) **Standard Building Areas.** Standard building areas are the areas of the following spaces and building elements:
  - (1) Rooms, mezzanine, loft and attic spaces where the distance between the floor and the ceiling or roof rafters directly above is greater than six feet but not more than 16 feet;
  - (2) Stairways with a maximum footprint of 100 square feet;
  - (3) Utility areas;
  - (4) Attached garages;
  - (5) Roofed porches, balconies, loggias and breezeways that are enclosed on more than two sides.
  - (6) Walkout basement areas.
- (c) **High Volume Building Areas.** High volume building areas are the areas of the following spaces and building elements:

- (1) High volume spaces where the distance between the floor and the ceiling or roof rafters directly above is greater than 16 feet.
- (2) Stairways with a footprint greater than 100 square feet.

(d) **Exempt Areas.** Exempt areas are the areas of the following spaces and building elements:

- (1) Attic areas where the distance between the floor and the roof rafters directly above is six feet or less;
- (2) Accessory structures that are detached from the primary structure;
- (3) Roofed porches, balconies, loggias and breezeways that are not enclosed by solid walls on more than two sides; and
- (4) Standard basement areas.

#### **Sec. 16-9-50. - Floor Area Ratio**

Floor area ratio is the floor area of the principal building (measured as provided in Section 16-9-45, *Floor Area*), divided by the lot area (measured as provided in Section 16-9-40, *Lot Area*, subsection (a), and not including any of the additions set out in subsection (b)).

#### **Sec. 16-9-55. - Sign Area**

- (a) **Generally.** Sign area is the area within a continuous polygon with up to eight straight sides that completely encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign's contents from the background against which they are placed.
- (b) **Inclusions and Exclusions.** Sign area does not include the structure upon which the sign is placed (unless the structure is an integral part of the display or used to differentiate it), but does include any open space contained within the outer limits of the display face, or between any component, panel, strip, or figure of any kind composing the display face, whether this open space is enclosed by a frame or border or not, except that wall signs that are separated by a distance of more than three feet shall be considered separate signs.
- (c) **Multiple Sign Faces and Three-Dimensional Sculptural Elements.** Free-standing and projecting signs may include multiple faces or three-dimensional sculptural elements.
  - (1) If two sign faces are parallel to each other and facing opposite directions (a "back-to-back" configuration), or offset from each other along the horizontal plane by an internal angle of less than 45 degrees, then the sign area is measured as the area of one of the sign faces (if the sign faces have different areas, the larger sign face is measured).
  - (2) If a sign with multiple sign faces or three-dimensional sculptural elements does not qualify for measurement according to subsection (c)(1), above, then the area of such signs is measured using the vertical cross-section that represents the sign's maximum projection upon a vertical plane.

## Division 2. - Rules of Construction, Acronyms, and Definitions

### Sec. 16-9-110. - Rules of Construction

(a) **Generally.** For the purposes of this Chapter and unless the context clearly indicates otherwise, certain terms and words used herein shall be interpreted as follows:

- (1) The present tense includes the future tense;
- (2) The singular number includes the plural and the plural number includes the singular;
- (3) The word shall is mandatory and the word may is permissive;
- (4) The words used or occupied include the words intended, designed or arranged to be used or occupied; and
- (5) The word lot includes the words plot or parcel.

(b) **Specific Words and Phrases.**

- (1) The term "construct" or "construction," as used herein shall also mean reconstruction, structural alteration, placement, erection, or movement of a building or structure.

### Sec. 16-9-120. - Table of Acronyms.

Table 16-9-120, Table of Acronyms, sets out the acronyms that are used in this Chapter.

**TABLE 16-9-120  
TABLE OF ACRONYMS**

Acronym	Meaning
AASHTO	American Association of State Highway Transportation Officials
ac.	Acre
ADA	Americans with Disabilities Act
ADA 502	2010 ADA Standards for Accessible Design § 502, as amended from time to time, and however subsequently titled or numbered
ADT	Average Daily Traffic
Art.	Article
ASTM	American Society for Testing and Materials
ATM	Automated Teller Machine
BFE	Base Flood Elevation
BMP	Best Management Practice
BoA	Board of Adjustment
CAAP	Concentrated Aquatic Animal Production
CAFO	Concentrated Animal Feeding Operation
CATV	Cable Television
CC	City Council

**TABLE 16-9-120**  
**TABLE OF ACRONYMS**

Acronym	Meaning
CCR	Colorado Code of Regulations
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
C.F.R.	Code of Federal Regulations
CLOMR	Conditional Letter of Map Revision
CMRS	Commercial Mobile Radio Service
CNSDA	Colorado Notification of Surface Development Act, C.R.S. § 24-65.5-101, <i>et seq.</i>
C.O.	Certificate of Occupancy
COGCC	Colorado Oil and Gas Conservation Commission
C.R.S.	Colorado Revised Statutes
CSA	Community Supported Agriculture
DAS	Distributed Antenna Systems
dBA	A-weighted Decibels
DBH	Diameter at Breast Height
DFIRM	Digital Flood Insurance Rate Map
Div.	Division
du	Dwelling Unit
du/ac	Dwelling Units per Acre
e.g.	exempli gratia (translation: "for example"), which is followed by illustrative, non-exclusive examples
EHS	Extremely Hazardous Substances
EIFS	Exterior Insulation Finishing Systems
EOPC	Engineer's Opinion of Probable Cost
EPA	United States Environmental Protection Agency
ESMR	Enhanced Specialized Mobile Radio
ET	Evapo-Transpiration
FAR	Floor Area Ratio
FHBM	Flood Hazard Boundary Map
FBFM	Flood Boundary-Floodway Map
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
ft.	Feet
GESC	Grading, Erosion, and Sediment Control
GFA	Gross Floor Area
i.e.	id est (translation: "that is"), which is followed by an elaboration of the topic
lf.	Linear Feet
LAN	Local Area Network
LEED	Leadership in Energy and Environmental Design

**TABLE 16-9-120**  
**TABLE OF ACRONYMS**

Acronym	Meaning
LOMR	Letter of Map Revision
LOMR-F	Letter of Map Revision Based on Fill
Max.	Maximum
MED	Colorado Department of Revenue, Marijuana Enforcement Division
Min.	Minimum
MUTCD	Manual on Uniform Traffic Control Devices for Streets and Highways
MSDS	Material Safety Data Sheet
N/A	Not Applicable
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
OGC Act	Colorado Oil and Gas Conservation Act, C.R.S. § 34-60-101, <i>et seq.</i>
OSHA	Occupational Safety and Health Act
PC	Planning Commission
PCS	Personal Communications Services
RF	Radio frequency
ROW	Right-of-Way
RV	Recreational Vehicle
Sec.	Section
sf.	Square Feet
SFHA	Special Flood Hazard Area
SI	International System of Units
sp.	Parking Space (or Parking Spaces)
TPQ	Threshold Planning Quantity
UDFCD	Urban Drainage and Flood Control District
U.S.	When preceded and followed by numbers, United States Reports (a Supreme Court Reporter); otherwise United States
U.S.C.	United States Code
U.S. DOJ	United States Department of Justice
USDCM	Urban Storm Drainage Criteria Manuals
VTC	Vehicle Tracking Control
WWTP	Wastewater Treatment Plant

## **Sec. 16-9-130. - Definitions**

### **1-9**

**100-Year Flood** means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The phrases “one-hundred-year flood” and “one percent chance flood” are synonymous with the phrase “100-year flood.” The phrase does not imply that the flood will necessarily happen once every one hundred years.

**100-Year Floodplain** means the area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

## **A**

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**Accessory Building** means a building that is:

- (1) Subordinate to the use and scale of the principal building or principal structure, or supportive of and incidental to an outdoor land use;
- (2) Customary in connection with the principal building, principal structure, or use of land; and
- (3) Ordinarily located on the same lot with the principal building, principal structure, or outdoor use of land.

Examples of accessory buildings include, but are not limited to, detached garages, storage sheds, playhouses, maintenance buildings, and barns.

**Accessory Structure** means a detached subordinate structure located on the same lot as a principal building, the use of which is customary and incidental to the use of the principal building. Examples of accessory structures include, but are not limited to gazebos and agricultural or livestock structures, where permitted. Swimming pools and tennis courts (when not enclosed) shall not be considered accessory structures, except for setback requirements. The phrase "accessory structure" does not include the phrase "landscape feature."

**Accessory Use** means a use of land that:

- (4) Is clearly subordinate to the principal use in terms of extent and purpose;
- (5) Is essential or convenient to the operation or function of the principal use, or within the City is customarily associated with the principal use;
- (6) Is conducted by the owner of the principal use; and
- (7) Is located on the same lot or parcel as the principal use.

**Addition**, with respect to a building or structure, means any activity that expands the enclosed footprint or increases the floor area of an existing building or structure.

**Agricultural Land Uses** means a general classification of principal land uses that includes Agriculture (Crops) and Agriculture (Livestock).

**Agriculture (Crops)** means apiaries, aquaculture involving only plants, crop production, floriculture, horticulture, silviculture, or viticulture, operated for commercial purposes, with no on-site retail sales of agricultural products. The phrase "Agriculture (Crops)" does not include the phrase "intensive agriculture," "hemp production" or "marijuana uses," nor does it include the treatment of wastewater or biosolids (*e.g.*, sprayfields or land application).

**Agriculture (Livestock)** means animal husbandry, aquaculture involving fish or invertebrates, raising livestock, or milking dairy cows or goats, for commercial purposes, with no on-site slaughter, processing of meat products, or retail sales of agricultural products. The phrase

“Agriculture (Livestock)” does not include the phrase “intensive agriculture” or “community garden.”

**Area of Shallow Flooding** means a designated Zone AO or AH on the City’s Flood Insurance Rate Map (“FIRM”) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

## **B**

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**Base Flood** means the flood that has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (“NFIP”) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

**Base Flood Elevation** (“BFE”) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

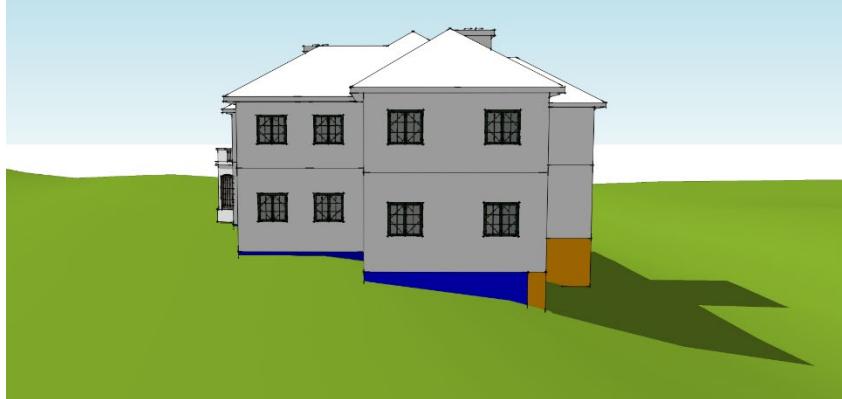
**Basement**, for the purposes of the Floodplain Management Regulations, means any area of a building having its floor sub-grade (below ground level) on all sides. For all other purposes in this Chapter, it means “Basement, Standard” or “Basement, Walkout,” depending upon the context.

**Basement, Standard** means any interior floor area having a ceiling height of at least six feet and bounded by an exterior wall that is not exposed more than four feet above the adjacent finished grade, or by the standard basement’s interior boundary, which is a vertical plane that connects two vertical lines on the outer walls that are located at the point where the exterior wall is exposed at a height of four feet. *See Illustration: Standard Basement Versus Walkout Basement.*

**Basement, Walkout** means any interior floor area on the same level as a basement, having a ceiling height of at least six feet and bounded by an exterior wall that is exposed to a height of more than four feet above the adjacent finished grade or by the interior perimeter of a standard basement. *See Illustration: Standard Basement Versus Walkout Basement, and definition of Basement, Standard.*

**ILLUSTRATION**  
**STANDARD BASEMENT VERSUS WALKOUT BASEMENT**

Exposed areas 4 ft. or less (standard basement) shown in blue;  
more than 4 ft. (walkout basement) shown in orange.



**Berm** means a graded or constructed mound, pile, hill, or bank composed of soil or rock, or a combination of earth materials and other suitable building material (as approved by the Director), the peak or ridge of which is perceptibly above the preconstruction grade, usually constructed for the purpose of noise mitigation, privacy, surface drainage alteration or control, or landscaping amenity.

**Buildable Area** means the portion of a lot remaining after required yards have been provided.

**Building** means an enclosed, roofed structure intended for the shelter or enclosure of persons, animals, chattels, property, or substances of any kind. The term “building” includes portions of the structure that are not fully enclosed, such as covered porches, balconies, patios, and attached decks. The term “building” does not include uncovered, at-grade hardscape elements (*e.g.*, walkways, concrete slabs, paved areas, pool decks, etc.) that are installed adjacent to the building.

**Building Envelope** means the three-dimensional space within which a building may be constructed on a lot, the boundaries of which are generally defined by maximum height regulations, bulk plane requirements, and minimum yard requirements.

**Building Permit** means a written document granting permission to construct, erect, repair, or alter buildings or structures in accordance with the building and zoning codes of the City in effect at the time the application for the permit is filed.

**Bulk Plane** means a plane that begins at a specified starting height above the minimum side and rear yard lines on a lot or parcel, then rises at an angle towards the center of the lot until it reaches the maximum permitted height in the applicable zoning district or intersects with a bulk plane rising from another yard line. The starting height for the bulk plane may vary for the front and rear areas of a lot. *See Section 16-3-030, Bulk Plane Regulations.*

**C**

**Caliper** means the diameter measurement of the stem or trunk of nursery stock. The location of the measurement depends on the plant type. For fruit trees, small fruits, understock, and seedling trees

and shrubs, caliper measurement is taken at the root collar or at other points expressly described in ANSI Z60.1. For all other nursery stock, caliper measurement is taken six inches above the ground level for field grown stock, from the soil line for container grown stock (generally at or near the top of the root flare), and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (*i.e.*, from four inches up to, but not including, 4.5 inches). If the caliper measured at six inches is four and one-half inches or more, the caliper is measured at 12 inches above the ground level, soil line, or root flare, as appropriate.

**Candela** means the SI unit of luminous intensity in a given direction.

**Cemetery** means any place, including a mausoleum, niche, or crypt, in which there is provided space below the surface of the ground for the interment of the remains of human bodies.

**Channel** means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

**Channelization** means the artificial creation, enlargement or realignment of a stream channel.

**Code of Federal Regulations** (“CFR”) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

**Columbarium** means a sepulchral vault or other structure with recesses in the walls to receive the ashes of human remains.

**Column** means a sporadic structural support pillar or architectural element with comparable aesthetic effect, used in the construction of a fence or perimeter wall.

**Commercial Greenhouse** means the use of greenhouse buildings or open land for the propagation and cultivation of trees, shrubs, ornamental plants, flowers, herbs, fruiting plants, and vegetable plants that are sold as live plants at wholesale (*e.g.*, to landscape contractors or retail stores) or retail.

**Commercial Land Uses** means a general classification of principal land uses that includes medical or professional offices; restaurants; retail sales and services, type A; pet day care or training; veterinary offices; fueling or service stations; and vehicle washes.

**Common Building** means a building located on property under common ownership, that is available for access and use by its common owners (*e.g.*, a community clubhouse, restroom facility, etc.), or is used to provide services to or storage for the benefit of its common owners (*e.g.*, a maintenance facility or building used to store landscaping equipment to maintain commonly owned property).

**Common Ownership**, with respect to real property, means that fee title or a leasehold interest in the real property is held by an association that is organized under the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101, *et seq.*), or an association or corporation of condominium unit owners as provided by C.R.S. § 38-33-105, or a cooperative housing corporation organized under C.R.S. § 38-33.5-101, *et seq.*

**Community Land Uses** means a general classification of principal land uses that includes governmental offices; parks; places of assembly; private clubs; schools or daycares; and cemeteries and columbaria.

**Community Guardhouse** means a building or structure, associated parking area, and gates operated for the benefit of a subdivision or area's residents, for the purpose of monitoring access to private streets. A community guardhouse is not a private club.

**Community Supported Agriculture Farm ("CSA FARM")** means an agricultural use in which, in return for subscribing to a harvest, shareholders or subscribers who invest in the harvest prior to the start of the season, or who contributed labor in lieu of share or subscription costs, periodically receive a box of produce or other agricultural goods during the production season.

**Conditional Letter of Map Revision ("CLOMR")** means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**Construction Trailer** means a temporary trailer used for storage of construction materials and equipment, construction site security, or construction site administration.

**Construction Yard** means an area of land that is used on a temporary basis for the parking and storage of equipment used in a construction project, and / or the storage and preparation of materials and other items used in the construction project.

**Critical Facility** means a building, structure, or related infrastructure, but not the land on which it is situated, as specified in Section 16-5-280, *Standards for Critical Facilities*, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 16-5-280, *Standards for Critical Facilities*.

## **D**

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**Development** means:

- (8) For all purposes except the application and administration of Floodplain Management Regulations:
  - a. The principal use of any building, structure, or land, specifically including:
    - i. New principal land uses;
    - ii. Changes of principal land use;
    - iii. Material physical expansions of existing principal land uses;
    - iv. Material changes in the operations of existing principal land uses; and
  - b. The accessory use of any building, structure, or land;
  - c. The temporary use of any building, structure, or land; and
  - d. The disturbance of land, soil, vegetation, or waterways, including alteration of land for construction or other purposes, but not including:
    - i. Routine landscape maintenance;
    - ii. Customary agricultural operations on lots where agriculture is a principal land use;

- iii. Installation or removal of landscaping on residential or agricultural lots, except as such landscaping may be subject to an approved landscape plan (if applicable);
- e. Construction or installation of buildings, infrastructure, or other structures, except as may be exempt from City regulation under Colorado law;
- f. Any division of land for sale or lease, whether by metes and bounds, subdivision plat, condominium plat / declaration of condominium, or other technique; and
- g. Expansions or modifications of buildings or structures which change their footprint and / or height, but not including exterior modifications that do not perceptibly affect the dimensions of the building (*e.g.*, reroofing, repainting, changing windows, etc.).

(9) For the purposes of the application and administration of the Floodplain Management Regulations: any man-made change to improved or unimproved real estate, including but not limited to construction or substantial improvement of buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials located within the special flood hazard area.

**DFIRM Database** means a database (usually spreadsheets containing data and analyses) that accompanies DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

**Diameter at Breast Height ("DBH")** means the outside bark diameter of a tree at 4.5 feet above the ground on the uphill side of the tree ("breast height"). Diameter at breast height is used to measure trees in their natural environment, or after they are planted. Nursery stock is generally measured by caliper (see definition of "Caliper.").

**Digital Flood Insurance Rate Map ("DFIRM")** means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

**Director** means the Community Development Director or designee thereof.

**Disposal**, with regard to land use, means the use of land for permanent disposal of wastes, including such activities that are required to obtain a Certificate of Designation under C.R.S. § 25-15-201 (hazardous waste disposal sites), or Title 30, Article 20, Colorado Revised Statutes (various other types of disposal sites).

**Domestic Employee** means an employee who works within the employer's household, performing domestic services, including but not limited to childcare, housekeeping, cooking, driving, laundry, and shopping.

**Dwelling Unit** means any building or part thereof, providing complete independent living facilities for one or more persons (with areas for living, cooking, eating, sanitation, bathing, and sleeping), that is designed to be occupied for residential purposes. The phrase "dwelling unit" does not include hotels, motels, resorts, boarding or rooming houses, assisted living units, congregate care

units, nursing home rooms, convalescent care rooms, memory care rooms, tents, recreational vehicles, or other structures designed or used primarily for temporary or transient occupancy.

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**E**

**Elevated Building** means a non-basement building:

- (10) Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and
- (11) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**Enclosure** means a fence, wall, or other barrier that regulates access to an area of land, including recreational facilities such as swimming pools.

**Established Tree** means a small tree, medium tree, or large tree that is present on a subject property at the time an application under this Chapter is filed.

**Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community. As of the Effective Date of this Chapter, there are no Existing Manufactured Home Parks or Subdivisions in the City.

**Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). As of the Effective Date of this Chapter, there are no Existing Manufactured Home Parks or Subdivisions in the City.

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**F**

**Family** means one or more persons occupying a single dwelling unit as a single housekeeping unit, related by blood, marriage or adoption; or not more than three unrelated persons living together as a single housekeeping unit; provided that domestic employees who work on the premises may reside on the premises without being counted towards the limitations on unrelated persons set out in this definition; and provided further that residents of a group home, as defined in this Article, shall also be deemed to constitute a family for the purposes of this Chapter.

**Federal Register** means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

**FEMA** means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

**Fence** means a structure that serves as an enclosure, barrier, screen, or boundary, or that serves to mark a boundary, enclose a piece of land or divide a piece of land into distinct portions and that is usually constructed from wood, metal, wire, vinyl, masonry, stone, or other manufactured material.

**Flood or Flooding** means:

- (12) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (*i.e.*, mudflows) which are proximately caused by flooding as defined in paragraph (1)b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (13) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1) of this definition.

**Flood Control Structure** means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood Elevation Determination** means a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**Flood Hazard Boundary Map** ("FHBM") means an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (*i.e.*, mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

**Flood Insurance Rate Map** ("FIRM") means an official map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**Flood Insurance Study** ("FIS") means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (*i.e.*, mudflow) and/or flood-related erosion hazards. A "Flood Insurance Study" may also be referred to as a "Flood Elevation Study".

**Floodplain or Flood-Prone Area** means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

**Floodplain Administrator** means the official designated by title to administer and enforce the floodplain management regulations. *See Sec. 16-7-50, Floodplain Administrator.*

**Floodplain Development Permit** means a permit required before construction or development begins within any Special Flood Hazard Area ("SFHA"). If FEMA has not defined the SFHA, the City shall require Floodplain Development Permits for all proposed construction or other development (including the placement of manufactured homes), so that it may determine whether such construction or other development is proposed within flood-prone areas. Floodplain Development Permits are required to ensure that proposed development projects meet the requirements of the NFIP and the Floodplain Management Regulations.

**Floodplain Management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations** means, collectively, Article V, *Floodplain Management and Flood Damage Prevention*; Section 16-7-50, *Floodplain Administrator*; Section 16-7-360, *Floodplain Development Permit*; Section 16-7-530, *Floodplain Variances*; and Section 16-7-550, *Administrative Appeals to City Council*, to the extent that it involves Floodplain Development Permits. The phrase "Floodplain Management Regulations" also includes any other provision of this Chapter (e.g., the standard approval procedures set out in Article VII, Division 2, *Permits and Approvals*, and Article VII, Division 3, *Standardized Procedures*), to the extent they are applied to a Floodplain Development Permit, Floodplain Variance, or appeal from a decision of the Floodplain Administrator; and any definitions set out in this Article that refer to the Floodplain Management Regulations or that define terms or phrases that are used in other parts of the Floodplain Management Regulations.

**Floodproofing** means any combination of structural and/or non-structural additions, changes, or adjustments to buildings or structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, buildings, structures, and their contents.

**Floodway (Regulatory Floodway)** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. On the Effective Date of this Chapter, the Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

**Floor Area.** *See Section 16-9-45, Floor Area.*

**Floor Area Ratio ("FAR").** *See Section 16-9-50, Floor Area Ratio.*

**Flowline** means the curb line of a street, or where a curb is not present, the edge of pavement of a street.

**Foot-Candle (fc)** means a non-SI unit of illuminance or light intensity on a surface. A foot-candle is the amount of illumination on the inside surface of a sphere with a one-foot-radius if there is a

uniform point source of light that is one candela in intensity in its exact center. A foot-candle is also the illuminance on a one-square foot surface on which there is a uniformly distributed flux of one lumen.

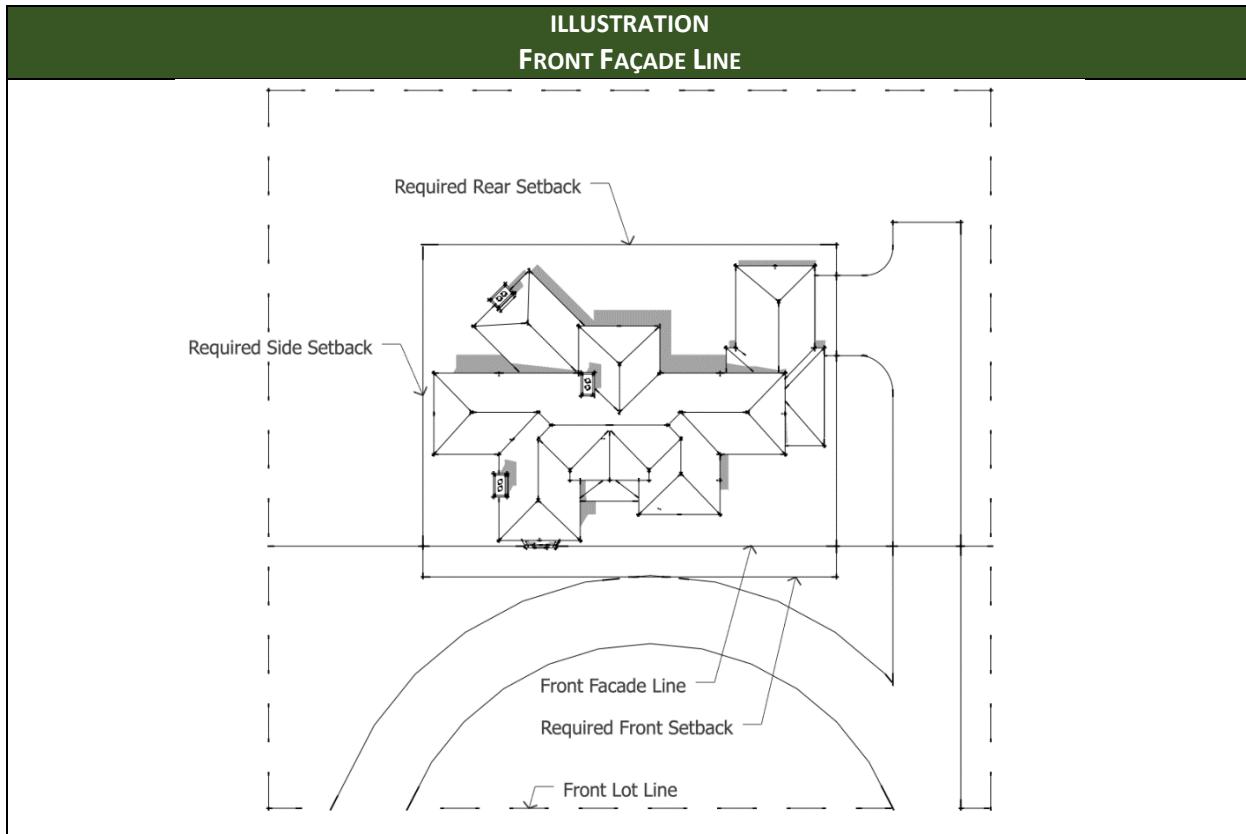
**Footprint** means the area of ground that is encompassed within the outer perimeter of a building, structure, or other improvement, measured on a horizontal plane.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Front Area**, with reference to a bulk plane, means the buildable area of the lot closest to the front setback line. *See Section 16-3-030, Bulk Plane Regulations.*

**Front Area Depth**, with reference to a bulk plane, means the horizontal depth of the front area, measured from the front setback line towards the rear of the lot along the side setback lines. *See Section 16-3-030, Bulk Plane Regulations.*

**Front Façade Line** means a line generally perpendicular to the side property lines emanating from the outer wall of the façade of the house at the point closest to the front property line. The front façade line is not necessarily the same as the front setback line.



**Front Setback Line** means a line, curve, or combination thereof that is offset into a lot from the front lot line, the distance of the required front setback. The front setback line may also be referred to as the Required Front Setback, Front Yard Line, or Minimum Front Yard Line.

**Front Yard Line, Minimum.** See "Front Setback Line"

**Fueling or Service Station** means:

- (14) Gasoline service stations or fuel stations (e.g., hydrogen, compressed natural gas, or liquefied petroleum gas) for alternative fuel vehicles;
- (15) Gasoline or fuel station convenience marts (a gasoline service station, fuel station, and / or charging station with a convenience store);
- (16) Automated, self-service, or full-service car wash or detailing (cars, light trucks, and sport utility vehicles only);
- (17) Quick service oil, tune-up, brake, and muffler shops in which:
  - a. Repairs are made in fully enclosed bays;
  - b. Repairs are of a type that is typically completed in less than two hours (e.g., oil changes, brake service, tire rotation and balancing, glass repair, battery replacement, tire replacement, fluid checks and replacement, muffler service, spark plug replacement, and comparable services); and
  - c. Vehicles are generally not stored on-site, and on the occasion when overnight storage is necessary, vehicles are stored indoors; or
- (18) Any combination of items (1), (2), (3), or (4), above.

**Functionally Dependent Use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

## **G**

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**Gate** means a part of a fence that can be readily moved to block or provide access through an entrance or passageway.

**Governmental Offices** means offices, meeting rooms, and other facilities in which public employees engage in the administration of federal, state, municipal, or quasi-municipal governments with jurisdiction or service areas in Cherry Hills Village. The phrase "governmental offices" includes, but is not limited to, the Village Center, the Joint Public Safety Facility, and South Metro Fire Rescue Authority fire stations.

**Group Home** means a state-licensed group home that is specifically identified in C.R.S. §§ 31-23-303(2)(a) (community residential homes with eight or fewer residents), (2)(b)(II) (group homes for the aged with eight or fewer residents), and (2)(b.5) (group homes for persons with behavioral or mental health disorders with eight or fewer residents). Group homes are subject to the spacing requirements set out in the referenced provisions of the Colorado Revised Statutes without modification. The phrase "group home," for the purposes of this Chapter, specifically does not

include any other type of group living arrangement involving more than three unrelated persons or involving any number of unrelated persons who do not operate as a single housekeeping unit.

**Guardhouse Tract** means a tract of land created by a plat or deed, held in common ownership, on which a community guardhouse is located or anticipated.

**Guest House** means a residential accessory building that may be occupied by members of the family occupying the dwelling, their non-paying guests (on a temporary basis), or domestic servants.

## **H**

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**High Volume Space** means a room, attached garage or other building element with an especially tall ceiling height, such as an entry area with a cathedral ceiling.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a building or structure.

**Historic Building or Structure** means any building or structure that is:

- (19) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (20) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (21) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (22) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or;
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Home Occupation** means a commercial use carried out within a dwelling unit, which is clearly incidental and secondary to the use for residential purposes.

## **I**

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**Industrial and Logistics Uses** means a general category of principal land uses that involve industrial, logistics, or storage activities, including but not limited to airports, bulk storage facilities, disposal (landfill) facilities of any type, energy production involving either combustion or nuclear reactions, food or beverage (including alcoholic beverage) processing and packaging, heavy industrial uses, helistops, light industrial uses, product testing, recycling drop-off or processing centers, resource extraction, salvage yards, shipping terminals, storage yards, warehousing, and waste transfer stations.

**Industrial Hemp** means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

**Industrial Hemp Production** means cultivation of industrial hemp for commercial or research and development purposes.

**Intensive Agriculture** means:

- (23) Any use where animals are tightly confined in buildings or outdoor pens or pastures with more than one animal equivalent unit per acre, including feedlots, hog farms, and poultry operations;
- (24) Concentrated animal feeding operations ("CAFOs") of any size, as defined by 40 C.F.R. § 122.23, Concentrated Animal Feeding Operations;
- (25) Concentrated aquatic animal production facilities ("CAAPs"), as defined by 40 C.F.R. § 122.24, Concentrated Aquatic Animal Production Facilities;
- (26) Fur farms; or
- (27) Any other agricultural use that is required to obtain a discharge permit under the Federal Clean Water Act due to animal wastes.

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**J**

**Joint Public Safety Facility** means the public facility for the administration of police and fire protection services, located at 2460 East Quincy Avenue, Cherry Hills Village, Colorado.

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**K**

**Kennel** means a facility in which four or more household pets of the same species (except fish) are boarded overnight, and may also be groomed, bred, trained, or incidentally treated for medical conditions. The term "kennel" includes for-profit facilities (*e.g.*, facilities where animals are boarded, or facilities where animals are both bred and sold); as well as not-for-profit or public facilities (*e.g.*, facilities at which abandoned or rescued animals are housed and offered for adoption). The term "kennel" does not include the breeding or boarding of animals as an accessory to an agricultural use. Kennels may be accessory to retail uses that principally involve the sale of pets or pet supplies.

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**L**

**Land** means an area of ground (regardless of its surface, whether earth, water, landscaping, or improvements) that is located within specific boundaries.

**Land Use** means the principal use of land ("principal land use"), which is the use of land on an ongoing basis for a particular purpose, or an ongoing use which occupies permanent buildings or facilities on the land (*e.g.*, a dwelling unit, a farm, or a retail center). Land uses are classified and enumerated in Article II, Division 2, *Land Use by Zoning District*, and defined in this Article. Land uses that are not listed in Section 16-2-120, *Land Use by Zoning District*, or specifically prohibited

throughout the City by Section 16-2-130, *Land Uses That Are Not Allowed in Any Zoning District*, may be permitted pursuant to Section 16-2-140, *Land Uses that are Not Listed*.

**Landscape Features** means natural features that include: lawns, trees, plants, other natural materials such as rock and wood chips, as well as decorative landscaping features, including but not limited to sculptures, sidewalks, fountains, ponds, mailbox structures, or trellises. The phrase "landscape features" is not included within the definition of the phrase "accessory structure."

**Large Tree** means an established tree that measures 20 inches or larger DBH.

**Letter of Map Revision ("LOMR")** means FEMA's official revision of an effective Flood Insurance Rate Map ("FIRM"), or Flood Boundary and Floodway Map ("FBFM"), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations ("BFEs"), or the Special Flood Hazard Area ("SFHA").

**Letter of Map Revision Based on Fill ("LOMR-F")** means FEMA's modification of the Special Flood Hazard Area ("SFHA") shown on the Flood Insurance Rate Map ("FIRM") based on the placement of fill outside the existing regulatory floodway.

**Levee** means a man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR § 65.10.

**Levee System** means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Livestock** means cattle, llamas, alpaca, sheep, goats, pigs, rabbits, chickens, turkeys, pheasants, ducks, and other animals when raised for the purposes of commercial food or fiber production. The term "livestock" does not include bees, donkeys, horses, or mules, nor does it include animals that produce food or fiber exclusively for domestic consumption by the animals' owners.

**Lot** means a defined area of land that is intended for development.

**Lot Frontage** means the boundary of a lot that is also the boundary of a public or private street right-of-way.

**Lot Line** means a legal boundary of a lot.

**Lot of Record** means a lot that is identified on an approved subdivision plat that is recorded in the office of the Arapahoe County Clerk and Recorder, or a lot that is created by deed or other similar instrument recorded with the Arapahoe County Clerk and Recorder prior to the effective date of this Chapter (which may describe the lot with reference to a plat, by metes and bounds, or by aliquot parts). If a defined area of land was conveyed with reference to a plat, but includes multiple lots or combinations of partial lots from that plat, the entire area of land is considered a "lot" for the purposes of this Chapter if it is developed or used as a single development site or was conveyed by a single recorded deed referencing the multiple lots or portions of lots or a metes and bounds description, after the plat was recorded, but prior to the effective date of this Chapter.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation, or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home, or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

**Lumen** (lm) means a measure of the total quantity of visible light emitted by a source per unit of time.

## **M**

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**Major Special Event** means any organized assemblage of more than 2,000 people during any one day for the purpose of participation, attendance and observation of a nationally or regionally advertised or televised sporting, recreational, entertainment, conference, seminar, or other similar event or activity. A major special event shall not include normal day-to-day, routine, regularly scheduled or seasonal operations lawfully conducted by places of assembly, schools, private clubs, or parks within the City, such as but not limited to regularly scheduled or seasonal religious services, funerals, weddings, or regularly scheduled local high school sporting events. A major special event shall not include events or functions expressly authorized by a development approval, a development agreement, or other contract approved by the City.

**Major Utility Facility** means:

- (28) Electrical generation facilities of any type, except photovoltaic panels and small wind generators that are designed to offset the power requirements of the property upon which they are located;
- (29) Substations used for switching, regulating, transforming, or otherwise modifying the characteristics of electricity;
- (30) Transmission lines and distribution feeder lines operated at one hundred ten (110) kilovolts or more;
- (31) Structures and equipment associated with such substations or transmission lines;
- (32) Centralized water treatment plants; or
- (33) Centralized wastewater treatment plants.

The phrase "major utility facility" does not include utility or communications uses that are more specifically defined elsewhere in this Chapter, such as minor utilities and wireless communications facilities.

**Manufactured Home**, for the purposes of the Floodplain Management Regulations, means a building that is transportable in one or more sections, which is built on a permanent chassis and is

designed for use with or without a permanent foundation when connected to the required utilities. The phrase "manufactured home" does not include the phrase "recreational vehicle."

**Manufactured Home Park or Subdivision**, for the purposes of the Floodplain Management Regulations, means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Marijuana** means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. The term "marijuana" does not include the phrase "industrial hemp," nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

**Marijuana Use** means the following operations, as the same are defined by the Colorado Statutes or rules of the Colorado Department of Revenue, Marijuana Enforcement Division ("MED"), from time to time:

- (34) A medical marijuana center;
- (35) A medical marijuana-infused product manufacturer;
- (36) An optional premises cultivation operation;
- (37) A medical marijuana testing facility;
- (38) A retail marijuana store;
- (39) A retail marijuana cultivation facility;
- (40) A retail marijuana products manufacturing facility; or
- (41) A retail marijuana testing facility.

If the MED establishes additional licenses with respect to marijuana production, testing, sale, or on-premises consumption, the phrase "marijuana use" shall include any land use that requires such a license.

**Material Safety Data Sheet ("MSDS")** means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

**Mean Sea Level**, for purposes of the Floodplain Management Regulations, means the North American Vertical Datum ("NAVD") of 1988 or other datum, to which Base Flood Elevations shown on the City's Flood Insurance Rate Map are referenced.

**Medical or Professional Office** means:

- (42) A facility that provides medical, psychiatric, or surgical service for sick or injured persons, or provides preventative care or monitoring, exclusively on an outpatient

basis, including such activities as diagnostic services, medical treatment, training, administration, and related services to outpatients, employees, or visitors, with or without appointment;

(43) Immediate care facilities, where urgent (non-emergency) care treatment is the dominant form of care provided at the facility, medical laboratories to the extent necessary to carry out diagnostic services for the medical clinic's patients, and physical therapy, licensed massage, chiropractic, acupuncture, hypnotherapy, nutrition counseling, homeopathy, Ayurveda, and other comparable services; and

(44) Offices from which professional, business, or financial services are provided, including but not limited to such services as accounting, auditing and bookkeeping; advertising and graphic design; architectural, engineering, and surveying services; attorneys and court reporters; "back-office" operations of banks, mortgage companies, insurance companies, and financial services ("front office" services are classified as "Retail Sales and Services, Type A"); call centers; web design, application development, and computer programming; corporate headquarters or administrative offices; counseling services (except medical counseling services); consulting services; data processing, data mining, and word processing services; detective agencies; interior design; retail catalog, internet, and telephone order processing (but not warehousing); and virtual office services.

**Medium Tree** means an established tree that measures more than 10 inches, but less than 20 inches DBH.

**Minor Utility Facility** means above- and below-ground electrical transmission lines (except as included in the definition of "major utility"); above- and below-ground natural gas lines; flood control or drainage facilities; communications lines and related poles, pedestals, or vaults, and similar facilities of public agencies or public utilities; utilities that are necessary to support legally established uses that involve only minor structures such as electrical distribution lines, poles, or cables; switch boxes; transformer boxes; cap banks; and underground water and sewer lines. Such "minor utility" facilities generally do not have employees on site, and the services may be publicly or privately provided. The phrase "minor utility" does not include uses more specifically defined elsewhere in this Chapter, such as wireless communications facilities.

**Mobile Home** means a detached residential dwelling unit designed, after fabrication, for transportation on streets or highways on its own wheels, or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. The phrase "mobile home" does not include the phrase "recreational vehicle" or the phrase "manufactured home."

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**N**

**National Flood Insurance Program ("NFIP")** means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of

the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

**Natural Grade** means the grade of a lot undisturbed by construction techniques such as adding or removing fill, landscaping, or berthing. If the natural grade has been disturbed prior to a proposed development, the Director shall determine the natural grade based on the best available information. The phrase "Natural Grade" may be used interchangeably with the phrase "Preconstruction Grade."

**New Construction**, with respect to the Floodplain Management Regulations, means the construction of a new building or structure (including the placement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed.

**New Manufactured Home Park or Subdivision**, with respect to the Floodplain Management Regulations, means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the Floodplain Management Regulations.

**No-Rise Certification** means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map ("FIRM") or Flood Boundary and Floodway Map ("FBFM").

## **0**

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**Off-Premises Commercial Sign** means a sign that is displayed for the purpose of conveying information regarding goods, services, commercial opportunities, or commercial events that are unrelated to and not available at the premises on which the sign is located. An off-premises commercial sign does not include any sign that displays only noncommercial messages.

**Off-Street Public Trail** means any area included in a publicly dedicated bridle path, trail, or similar pedestrian easement, but excludes trails or sidewalks that are located within street rights-of-way and on-street designated trails.

**Official Zoning Map** means a map that displays the locations of the various zoning districts that are established by this Chapter. *See Sec. 16-2-20, Official Zoning Map Adopted.*

**Other Wireless Communications Facility** means:

- (45) Communications facilities that are mounted on a base station; or
- (46) Modification of an existing wireless communications tower or base station that involves:
  - a. Collocation of new transmission equipment;
  - b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

**Opacity** means the degree to which a structure obstructs a view. For the purposes of fence, garden wall, and gate regulation, “opacity” is measured from a vantage point that is perpendicular to the elevation view of the fence, garden wall, or gate.

**Outdoor Shooting Range** means an outdoor facility for shooting firearms at targets or clays.

**Overlot Grading Plan** means a plan for grading of a site that is not related to an individual building permit. The overlot grading plan is usually associated with a new subdivision.

**Overnight Accommodation Unit** means an individual room, rooms, or suite that is occupied, designed to be occupied, or held out to be occupied as a single unit for temporary occupancy. Overnight accommodation units are a component of overnight accommodations uses.

**Overnight Accommodations** means a facility containing one or more overnight accommodation units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than 30 days, regardless of the form of ownership of the property or unit, regardless of whether the occupant has a direct or indirect interest in the property or unit; and regardless of whether the right of occupancy arises from a rental agreement, fractional ownership, membership agreement, other agreement, or the payment of consideration.

**Owner** means an individual or entity holding a fee-simple or leasehold ownership interest in property that is subject to this Chapter, and includes an applicant for approval under this Chapter who is acting with the consent or direction of a fee-simple owner.

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**P**

**Park** means an outdoor place for passive or active recreation, which may include facilities such as equestrian trails, playgrounds, tennis courts, racquetball courts, fitness courses, picnic areas, polo grounds, botanical gardens, jogging trails, cycling facilities, tot-lots, playing fields, outdoor swimming pools, golf courses, and wildlife sanctuaries.

**Person** means an individual person, but in the context of provisions related to administration and enforcement (Article VII and Article VIII of this Chapter) may also mean a joint venture, estate, receiver, syndicate, firm, association, organization, partnership, trust, corporation, limited liability company, public benefit corporation, nonprofit corporation, homeowners' association, this City and any other municipality, special district, or other political subdivision or officer thereof.

**Pet Day Care or Training** means a place kept or maintained for the care, grooming, training, exercising, and socializing of dogs or other common household pets by a person other than the owner of the animal. The phrase “pet day care or training” does not include facilities that:

- (47) breed or sell animals, or
- (48) provide overnight accommodations for animals, or
- (49) provide licensed veterinary services.

**Physical Map Revision (“PMR”)** means FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

**Place of Assembly** means a building in which people assemble for scheduled civic, educational, religious, or cultural purposes, such as civic clubs, lecture halls, places of worship, conference centers, and meeting halls.

**Post**, with respect to signs, means to erect, attach or affix in any manner, including without limitation nailing, tacking, tying, taping, gluing, pasting, painting, staking, marking or writing.

**Principal Land Use** means the use of land on an ongoing basis for a particular purpose, or an ongoing use which occupies permanent buildings or facilities on the land (*e.g.*, a dwelling unit or a park).

**Private Club** means buildings and land that are operated for the benefit of members, which are not generally open to the public, for the purposes of providing social engagement, space for special events (*e.g.*, receptions, parties, weddings, etc.), and indoor and / or outdoor recreational activities such as golf, tennis, racquetball, squash, basketball, swimming, personal fitness training, lacrosse, polo, horseback riding and equestrian training, and other comparable or compatible activities. The phrase “private club” does not include the word “guardhouse.” While private clubs are not generally open to the public, they may host special events that are open to the general public pursuant to a major special event permit (*see Article II, Division 6, Major Special Events*).

**Property Line** means a legal boundary of a lot, tract, or other defined parcel of land.

**Public Right-of-Way** means a strip of land, generally located between private property boundaries, which is owned by a governmental entity, dedicated to public use, or impressed with an easement for public use, which is primarily used for pedestrian or vehicular travel, and which is publicly maintained, in whole or in part, for such use. Public right-of-way may include without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, on-street parking area or parking strip, drainage swale, planting strip, and any public way.

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## **Q**

**Qualified Professional** means a person who has education, training, licensure, certification, and / or experience (as determined by the Director or applicable law) in a given field (*e.g.*, civil engineering, landscape architecture, architecture, etc.).

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## **R**

**Rear Area**, with reference to a bulk plane, means the portion of the lot that is not within the front area as specified for the zone district. *See Section 16-3-030, Bulk Plane Regulations.*

**Rear Yard Line, Minimum** means the virtual line created by the minimum rear yard requirements for a zone district, beyond which buildings and certain structures may not be built. *See Section 16-3-030, Bulk Plane Regulations.*

**Recreational Path** means paths used by the public for activities such as walking, jogging, bicycling, and horseback riding, but not for use by motorized vehicles except for maintenance or public safety purposes.

**Recreational Use or Structure** means swimming pools, tennis and other play courts when not enclosed by walls (safety fences are not considered enclosures for this purpose).

**Recreational Vehicle** for all purposes other than Floodplain Management Regulations, means: (1) a vehicular portable structure built on a chassis, either towed or self-propelled, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet; (2) watercraft; and (3) trailers used to transport watercraft, motorcycles, or all-terrain vehicles. The phrase "recreational vehicle" does not include trailers used to transport horses.

For the purposes of Floodplain Management Regulations, the phrase "recreational vehicle" means a vehicle that is:

- (50) Built on a single chassis;
- (51) 400 square feet or less when measured at the largest horizontal projections;
- (52) Designed to be self-propelled or permanently towable by a light duty truck; and
- (53) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Redevelopment** means renovation, modification, or reconstruction of a site that is already developed with one or more buildings, such that:

- (54) More than 50 percent of the aggregate floor area of buildings on the site is demolished and reconstructed (regardless of how many buildings are affected);
- (55) There is a cumulative increase in the aggregate floor area of buildings (regardless of how many buildings are affected), or the footprint of a use, by at least 50 percent, compared to the condition that existed on the effective date of this Chapter; or
- (56) The value of new building permits exceeds two times the appraised value of the existing land and improvements.

**Residential Land Uses** means a general classification of principal land uses that includes single-family detached dwelling units.

**Residential Sign** means a small wall sign affixed to a residential building on its front elevation, or a small detached sign. Typically such signs include the name of the owner, the name of the property, or a welcome message, but the sign may include any noncommercial message.

**Restaurant** means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, and where the design or principal method of operation includes at least one of the following characteristics:

- (57) Customers are served their food and/or beverages by a restaurant employee at a table or counter, at which the items are consumed;
- (58) Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building; or
- (59) Customers are served their food and/or beverages for consumption on-site or off-site, and food is generally prepared and packaged within five minutes and served in disposable containers.

A restaurant may include outdoor eating areas and / or drive-up or drive-through facilities. Fermented malt beverages, and/or malt, special malt, or vinous and spirituous liquors may be produced on the premises as an accessory use pursuant to applicable alcohol beverage licenses.

**Resource Extraction** means the extraction of, or exploration for, oil, gas, coal, or other mineral resources (whether solid, liquid, or gas in form) from the land (surface or subsurface). The phrase "resource extraction" does not include water wells, cut and fill operations within a property, construction or maintenance of canals or reservoirs, or the removal and transportation of fill from one property to another as part of an approved development plan (provided that both properties are controlled by the same landowner).

**Retail Sales and Services, Type A** means a use involving the sale, lease, or rental of consumer, home, and business goods to consumers. Such uses include but are not limited to department stores, furniture stores, clothing stores, and establishments providing the following products or services: antiques, appliances, art, art supplies, beauty supplies, bicycles, books, magazines and newspapers, craft supplies, copies, costumes, dry goods, electronics, fabric, framing, garden supplies, gifts, groceries, hardware, home improvement goods, household products, jewelry, music, musical instruments, office supplies, party supplies, pet supplies, pharmaceuticals, phones, photography equipment, produce, signs, sporting goods, stationary, toys, and videos; and new automotive parts and accessories. The phrase "Retail Sales and Services, Type A" also includes services such as banking, picture framing, installation of electronics (e.g., audio systems and navigation systems) into motor vehicles, real estate offices that are open for walk-in traffic; repairs of products sold by the establishment (e.g., a computer store may also repair computers), repairs of consumer electronics, and comparable services. The phrase "Retail Sales and Services, Type A" does not include uses that are classified or defined more specifically in this Chapter, including but not limited to Retail Sales and Services, Type B; Restaurants (all types); and Marijuana Uses.

**Retail Sales and Services, Type B** means the following types of establishments: attended charitable donation collection centers; coin laundries; off-track betting centers; second-hand stores; thrift shops; consignment stores; head shops or drug paraphernalia stores; tattoo parlors; check cashing stores; payday loan providers; motor vehicle sales and rentals; outdoor retail uses; and pawn shops.

**Right-of-Way** means 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. Right-of-way excludes any trails or recreational paths used for pedestrian, bicycle, or equestrian use.

**Roof Sign** means any sign posted on or attached to or that extends or protrudes above the lowest elevation point of a roof, typically identified by the existence of a gutter, eave, overhang, soffit, parapet or other similar structural or building element.

## S

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**School or Daycare** means:

(60) A public or private licensed preschool; a public, private, or charter K-8, elementary (which may also include kindergarten), middle, junior high, or high school;

- (61) A vocational or language school; or
- (62) A facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children under the age of 16 years and not related to the owner, operator, or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes, including:
  - a. Facilities commonly known as "day care centers," "day nurseries," "nursery schools," "kindergartens," "preschools," "play groups," "day camps," "summer camps," "centers for mentally retarded children;"
  - b. Facilities that provide 24-hour care for dependent and neglected children; and
  - c. Facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school.

**Searchlights** means any artificial light source used in a manner that is intended to attract public attention from outside of a subject property by illuminating a building, clouds, uses, or activities, whether temporary or permanent. Searchlights do not include lawfully permitted or authorized lighting of parks, school or institutional playing fields, major special events, or parking areas, provided that such lighting meets any illumination standards or requirements imposed by this Chapter.

**Self-Storage Facility** means a facility that provides individual storage compartments for household or commercial goods within a building, with individual compartments accessed from either interior hallways or individual outside doors.

**Setback.** *See Section 16-9-25, Setbacks.*

**Short-Term Rental** means the renting or leasing of a single-family detached dwelling unit for a term of less than 90 consecutive days, other than a house exchange for which there is no payment. The phrase "short-term rental" does not include month-to-month tenancies that immediately follow lease terms of 90 days or more.

**Sign** means any writing, pictorial representation, illustration, decoration (including any material used to differentiate sign copy from its background), landscaping form, emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, statute, or any other figure or character that:

- (63) Is a structure or any part thereof (including the roof or wall of a building); or
- (64) Is written, printed, projected, painted, constructed, or otherwise placed or displayed upon or designed into landscaping, a structure, or a building, or a board, plate, canopy, awning, marquee, or vehicle, or upon any material object or device whatsoever; and
- (65) By reason of its form, color, wording, symbol, design, illumination, or motion attracts or is designed to attract attention to the subject thereof or is used as a

means of identification, advertisement, or announcement, or political or artistic expression or decoration.

However, notwithstanding any other provision of this definition, landscaping constitutes a sign only to the extent that it is planted, trimmed, graded, arranged, or installed in such a manner as to convey an explicit commercial message.

**Sign Permit** means a building permit issued for the erection, construction, enlargement, alteration or moving of any sign, issued pursuant to the building and zoning code of the City.

**Sign Structure** means the supports, uprights, braces, and framework of a sign, but does not include any portion of the sign message.

**Single-Family Detached Dwelling Unit** means a dwelling unit other than a mobile home or manufactured home, that is designed for use and occupancy by one family on a stable and permanent basis, and located within a building that is free-standing and surrounded on all sides by open areas or yards.

**Small Tree** means an established tree that measures more than six inches, up to and including 10 inches DBH.

**Start of Construction**, for the purposes of the Floodplain Management Regulations, means the date the building permit was issued, provided the physical commencement of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Starting Height**, with reference to a bulk plane, means the specified vertical distance above the minimum side and rear setbacks where the bulk plane begins. *See Section 16-3-030, Bulk Plane Regulations.*

**Street Line** means the boundary line of a street right-of-way.

**Structure** means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. The term "structure" includes, but is not limited to, perimeter walls, fences, swimming pools, and tennis courts. The term "structure" may also include the term "building" where the context so indicates; however, the regulations of this Chapter that apply to buildings may be different from the regulations that apply to other types of structures.

**Structured Parking** means a structure that is composed of one or more above-ground or below-ground levels that are used for the parking of passenger motor vehicles. Structured Parking may be totally below grade (underground structured parking); or partially or totally above grade (above-

ground structured parking); and may be separate from or integrated into a building that is used for other purposes. Structured parking includes parking lifts associated with nonresidential land uses. The phrase "structured parking" does not include:

- (66) Garages that are attached to or incorporated into single-family detached dwelling units;
- (67) Free-standing garage buildings that are accessory to single-family detached dwelling units; or
- (68) Surface parking spaces that are covered by shade structures, hail protection canopies, or solar panels.

**Substantial Damage**, for the purposes of the Floodplain Management Regulations, means damage of any origin sustained by a building, roofed structure, or above-ground storage tank, whereby the cost of restoring the building or above-ground storage tank to its before damaged condition would equal or exceed 50 percent of the market value of the building, roofed structure, or above-ground storage tank before the damage occurred.

**Substantial Improvement**, for the purposes of the Floodplain Management Regulations, means any reconstruction, rehabilitation, addition, or other improvement of a building, roofed structure, or above-ground storage tank, the cost of which equals or exceeds 50 percent of the market value of the building, roofed structure, or above-ground storage tank before the "start of construction" of the improvement. The phrase "substantial improvement" includes the building, roofed structure, or above-ground storage tank that have incurred "substantial damage," regardless of the actual repair work performed. The phrase "substantial improvement" does not include either:

- (69) Any project for improvement of a building, roofed structure, or above-ground storage tank to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe occupancy or use conditions or
- (70) Any alteration of an "historic building" or historic roofed structure, provided that the alteration will not preclude the building or structure's continued designation as a "historic".

**Substantial Modification**, with reference to a land use or its operational characteristics, means a change or expansion of the nature of the land use, or a change in the operation of the land use, resulting in an obvious change with respect to the impacts of the land use on surrounding property or public infrastructure. For example, adding a school or day care to a place of assembly would be a substantial modification if it resulted in obvious changes to traffic patterns, outside activities, or peak hours of use.

**Support Services** means any use of property to provide services in support of a major special event, including but not limited to parking areas, passenger drop-off and pick-up areas, concession or vendor booths, equipment staging and storage areas, media equipment areas, information centers, bus stops and bus staging areas, sanitation facilities, and trash collection areas.

**Swimming Pool or Pool** means a body of water having a depth at any point in excess of two feet in an artificial or semi-artificial receptacle or other container located outdoors and used, or intended

to be used, for public, semipublic, or private swimming by adults or children. The phrase "swimming pool" includes in-ground swimming pool installations and above-ground pool structures, and further includes, but is not limited to, hot tubs, spas, portable spas, and non-portable wading pools.

**T**

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**Temporary Land Use** means the temporary use of land (with or without temporary structures or temporary trailers) for a purpose that is related to construction, sales, special events, or emergency response.

**Temporary Mobile Wireless Communication Facility** means a wireless communication facility that is capable of being moved and consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer designed to provide expanded cellular network coverage or capacity.

**Temporary Structure** means a structure without any foundation or footing, that is designed for temporary placement or installation for a particular purpose or event. The phrase "temporary structure" includes, but is not limited to, tents, portable stages, portable bleachers, portable amusement rides and game booths, farm stands, or other purposes, provided that the purposes are authorized by Article II, Division 6, *Major Special Events*; Section 16-2-440, *Temporary Trailers and Temporary Structures*; or other applicable provisions of this Chapter.

**Temporary Trailer** means a transportable container or building that is constructed on a permanent chassis, which may be used for storage, office, security, classroom, meeting room, or other purposes, provided that the purposes are authorized by (as applicable) Article II, Division 6, *Major Special Events*; Section 16-2-440, *Temporary Trailers and Temporary Structures*; or other applicable provisions of this Chapter.

**Text Amendment** means any amendment to the text of this Chapter.

**Threshold Planning Quantity ("TPQ")** means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

**Tower**, when used in the context of wireless communications facilities, means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for 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, and the associated site.

**U**

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**Utility and Communications Land Uses** means a general classification of principal land uses that includes major utility facilities; minor utility facilities; wireless communications towers; wireless communications base stations; and alternative communications facilities.

**V**

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**Vehicle Wash** means any commercial self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation (e.g., as an accessory use to Fueling or Service Station), or as a stand-alone operation, of any type.

**Veterinary Office** means an office in which medical care is provided for household pets. The phrase "veterinary office" does not include medical care for wild animals or livestock.

**W**

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**Wall Sign** means a sign that is attached flat or flush against a wall (within 18 inches of the wall surface) that comprises a structural and supporting exterior component of a lawfully existing structure or building, and which does not extend above the height of the wall to which it is attached, or above the lowest point of any roof, parapet, or gutter.

**Water Surface Elevation** means the height, in relation to the North American Vertical Datum ("NAVD") of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Wireless Communication Facilities** mean facilities that transmit and/or receive electromagnetic wireless communication signals. It includes antennas, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals, communication towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development. A wireless communication facility 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 otherwise permitted under other provisions of this Chapter.

**Wireless Communications Tower.** *See "Tower."*

**X**

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**Xeriscape** means a set of garden design and landscape maintenance principles that promote good horticultural practices, drought-tolerant landscaping, and efficient use of water. The term "xeriscape" is a registered trademark of the National Xeriscape Council.

**Y**

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**Yard** means that portion of any land or lot on which no building, structure, or improvement other than fences, walls, driveways, sidewalks, utility boxes or equipment, or landscape features is constructed or placed. Yards are defined based on the actual position of buildings and structures on a lot in relation to the lot lines, that is, a yard may be a larger area than what minimum setback distances require, or if setbacks are nonconforming, it may be a smaller area. There are three types of yards:

(71) *Front Yard* means that portion of a yard between the front lot line and the principal building, and between the two side lot lines, the depth of which is measured as the

least distance between the front lot line and the principal building or other improvement or structure that is not allowed in a yard.

(72) *Rear Yard* means that portion of a yard between the rear of a structure and a rear lot line, and between the two side lot lines, the depth of which is measured as the least distance between the rear lot line and the principal building or other improvement or structure that is not allowed in a yard.

(73) *Side Yard* means all the yard between the front and rear yards, the width of which is measured as the least distance between the side lot line and the principal building or other improvement or structure that is not allowed in a yard.

**Z**

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**Zoning District** means a specifically delineated area within which uniform development standards govern the use, placement, spacing, area, size, and design of land, buildings, and structures.