

TITLE 17

Zoning

Chapter 17.04 General Provisions

- 17.04.010 Title
- 17.04.020 Authority
- 17.04.030 Purpose
- 17.04.040 Application
- 17.04.050 Classification of districts
- 17.04.060 Zoning map

Chapter 17.08 Definitions

- 17.08.010 General
- 17.08.020 Words and terms
- 17.08.030 Accessory buildings/structures/ uses
- 17.08.040 Alley
- 17.08.050 Alter
- 17.08.060 Apartment house
- 17.08.070 Approved
- 17.08.080 Automobile and trailer sales area
- 17.08.090 Auto repair shop
- 17.08.100 Block
- 17.08.110 Board
- 17.08.120 Building area
- 17.08.130 Building
- 17.08.140 Building, accessory
- 17.08.150 Building, height of
- 17.08.160 Building line
- 17.08.170 Building, nonconforming
- 17.08.180 Building, principal
- 17.08.190 Business and professional office
- 17.08.200 Campgrounds and recreation areas
- 17.08.210 Carport
- 17.08.220 Church
- 17.08.230 Club
- 17.08.240 Clinic, dental or medical
- 17.08.250 Commission, Planning
- 17.08.260 Comprehensive plan
- 17.08.270 Condominium
- 17.08.280 Council
- 17.08.290 Density
- 17.08.300 Developmentally disabled, home for
- 17.08.310 District, zone
- 17.08.320 Drive-in restaurant or refreshment stand
- 17.08.330 Dwelling
- 17.08.340 Dwelling, multiple
- 17.08.350 Dwelling, single-family
- 17.08.360 Dwelling unit
- 17.08.370 Easement
- 17.08.380 Educational institution
- 17.08.390 Employee
- 17.08.400 Enclosed
- 17.08.410 Extended care facility
- 17.08.420 Fabrication
- 17.08.430 Family

17.08.440 Family care home
17.08.450 Farming
17.08.460 Feedlot
17.08.470 Floor area, gross
17.08.480 Floor area, net
17.08.490 Frontage
17.08.500 Garage
17.08.510 Grazing
17.08.520 Health Department
17.08.530 Home occupation
17.08.540 Hospital
17.08.550 Hotel
17.08.560 House, guest
17.08.570 Junk, salvage
17.08.580 Junkyard, (salvage)
17.08.590 Kennels and pet shops
17.08.600 Laundromat
17.08.610 Limited commercial
17.08.620 Living area
17.08.630 Loading space
17.08.640 Lodge
17.08.650 Lot
17.08.660 Lot, corner
17.08.670 Lot coverage
17.08.680 Lot depth
17.08.690 Lot, interior
17.08.700 Lot line
17.08.710 Lot line, front
17.08.720 Lot line, rear
17.08.730 Lot line, side
17.08.740 Lot, nonconforming
17.08.750 Lot, through
17.08.760 Lot, width
17.08.770 Machine shop
17.08.780 Manufacture
17.08.790 Manufactured home
17.08.800 Master plan
17.08.810 Mobile home
17.08.820 Mobile (manufactured) home park
17.08.830 Mobile (manufactured) home subdivision
17.08.840 Modular home
17.08.850 Motel
17.08.860 Museum
17.08.870 Nonconforming building
17.08.880 Owner
17.08.890 Parcel
17.08.900 Parcel, nonconforming
17.08.910 Parking
17.08.920 Parking, commercial
17.08.930 Parking, community
17.08.940 Parking lot
17.08.950 Parking, off-street
17.08.960 Parking space
17.08.970 Person
17.08.980 Planning Commission
17.08.990 Planned unit development

- 17.08.1000 Plat
- 17.08.1010 Premises
- 17.08.1020 Property line
- 17.08.1030 Public hearing
- 17.08.1040 Recreational vehicle
- 17.08.1050 Retail
- 17.08.1060 Right-of-way
- 17.08.1070 Road
- 17.08.1080 Road, principal arterial
- 17.08.1090 Road, minor arterial
- 17.08.1100 Road, collector
- 17.08.1110 Road, local
- 17.08.1120 Secretary
- 17.08.1130 Service station, gasoline
- 17.08.1140 Setback
- 17.08.1150 Sign
- 17.08.1160 Stable, commercial
- 17.08.1170 Street
- 17.08.1180 Street, center line of
- 17.08.1190 Structural alteration
- 17.08.1200 Structure
- 17.08.1210 Subdivision
- 17.08.1220 Tract
- 17.08.1230 Trailer
- 17.08.1240 Use
- 17.08.1250 Use, accessory
- 17.08.1260 Use by review
- 17.08.1270 Use by right
- 17.08.1280 Use, nonconforming
- 17.08.1290 Variance
- 17.08.1300 Warehouse
- 17.08.1310 Wholesale
- 17.08.1320 Wrecking yard
- 17.08.1330 Yard
- 17.08.1340 Yard, front
- 17.08.1350 Yard, rear
- 17.08.1360 Yard, side
- 17.08.1370 Zoning Administrator
- 17.08.1380 Zone district

Chapter 17.12 Single-Family Residential District (R-1)

- 17.12.010 Purpose
- 17.12.020 Uses by right
- 17.12.030 Uses by review
- 17.12.040 Lot area
- 17.12.050 Setback requirements
- 17.12.060 Lot coverage
- 17.12.070 Height of buildings
- 17.12.080 Floor area
- 17.12.090 Minimum off-street parking and loading requirements
- 17.12.100 Signs

Chapter 17.16 Mixed Residential District (R-2)

- 17.16.010 Purpose
- 17.16.020 Uses by right
- 17.16.030 Uses by review
- 17.16.040 Lot area

- 17.16.050 Setback requirements; principal and accessory
- 17.16.060 Lot coverage
- 17.16.070 Height of buildings
- 17.16.080 Floor area
- 17.16.090 Minimum off-street parking and loading requirements
- 17.16.100 Signs

Chapter 17.20 Local Commercial District (C-1)

- 17.20.010 Purpose
- 17.20.020 Uses by right
- 17.20.030 Uses by review
- 17.20.040 Lot area
- 17.20.050 Setback requirements; principal and accessory
- 17.20.060 Lot coverage
- 17.20.070 Height of buildings
- 17.20.080 Storage
- 17.20.090 Minimum off-street parking and loading requirements
- 17.20.100 Signs

Chapter 17.24 Light Industrial District (I-1)

- 17.24.010 Purpose
- 17.24.020 Uses by review
- 17.24.030 Lot area
- 17.24.040 Setback requirements; principal and accessory
- 17.24.050 Lot coverage
- 17.24.060 Height of building
- 17.24.070 Performance standards
- 17.24.080 Minimum off-street parking and loading requirements
- 17.24.090 Signs

Chapter 17.28 Supplementary District Regulations

- 17.28.010 Manufactured (mobile) home park
- 17.28.020 Manufactured (mobile) home subdivision
- 17.28.030 Maintenance plans
- 17.28.040 Exceptions to height regulations
- 17.28.050 Solar considerations
- 17.28.060 Home occupations
- 17.28.070 Meat processing and rendering plants
- 17.28.080 Parking and storage of certain vehicles
- 17.28.090 Parking, storage or use of major recreational equipment
- 17.28.100 Planned unit developments
- 17.28.110 Projections from buildings
- 17.28.120 Public utilities
- 17.28.130 Visibility at intersections
- 17.28.140 Ground-mounted satellite dish antennas

Chapter 17.32 Off-Street Parking and Loading

- 17.32.010 Off-street parking
- 17.32.020 General provisions; off-street parking and loading

Chapter 17.36 Signs

- 17.36.010 Purpose
- 17.36.020 General standards
- 17.36.030 Permitted accessory signs in residential districts
- 17.36.040 Permitted accessory signs in commercial and industrial district
- 17.36.050 Nonaccessory signs
- 17.36.060 Public agency signs
- 17.36.070 Removal of signs

Chapter 17.40 Nonconforming Uses and Structures

- 17.40.010 Purpose
- 17.40.020 Continuation of nonconforming use or structure
- 17.40.030 Nonconforming structure
- 17.40.040 Discontinuance of a nonconforming use
- 17.40.050 Change of a nonconforming use
- 17.40.060 Destruction of a nonconforming use
- 17.40.070 Completion of structure or building
- 17.40.080 Nonconforming lots of record
- 17.40.090 Nonconforming signs
- 17.40.100 Documentation of nonconforming uses and structures

Chapter 17.44 Administration

- 17.44.010 Zoning Administrator
- 17.44.020 Schedule of fees
- 17.44.030 Payment of fees
- 17.44.040 Secretary to the Planning Commission and Board of Adjustment
- 17.44.050 Right of entry
- 17.44.060 Zoning permits
- 17.44.070 Appeal
- 17.44.080 Appeal fee
- 17.44.090 Initiation of an amendment to zoning map or this Title

Chapter 17.48 Planning Commission

- 17.48.010 Application
- 17.48.020 Public hearings
- 17.48.030 Use by review
- 17.48.040 Appeal from Zoning Administrator
- 17.48.050 Variance
- 17.48.060 Zoning amendment
- 17.48.070 Actions
- 17.48.080 Time limit for consideration

Chapter 17.52 Board of Adjustment

- 17.52.010 Use by review, variance and appeal; application
- 17.52.020 Use by review, variance and appeal; public hearings
- 17.52.030 Use by review, variance and appeal; actions
- 17.52.040 Use by review, variance and appeal; legal remedies
- 17.52.050 Use by review, variance and appeal; time limit for consideration
- 17.52.060 Use by review, variance and appeal; reapplication
- 17.52.070 Zoning amendments and map changes
- 17.52.080 Zoning amendments and map changes; public hearings
- 17.52.090 Zoning amendments and map changes; actions
- 17.52.100 Zoning amendments and map changes; time limit for consideration
- 17.52.110 Zoning amendments and map changes; mandatory review
- 17.52.120 Zoning amendments and map changes; reapplication
- 17.52.130 Zoning amendments and map changes; legal remedies

Chapter 17.56 Violations and Penalties

- 17.56.010 Application
- 17.56.020 Violation; penalty

Chapter 17.60 Legal Status Provision

- 17.60.010 Interpretation

CHAPTER 17.04

General Provisions

17.04.010 Title.

This Title may be known and cited as the "Swink Zoning Ordinance." (Ord. 225 §1.1, 1994)

17.04.020 Authority.

Chapter 31-23-301 of the Colorado Revised Statutes, 1973, as amended, authorizes the governing body of the municipality to provide for the zoning of all, or parts of, the incorporated portion of such municipalities. (Ord. 225 §1.2, 1994)

17.04.030 Purpose.

The regulations contained herein are necessary to encourage the most appropriate uses of land; to maintain and stabilize the value of property; to reduce fire hazards, improve public safety and safeguard the public health; and to create a stable pattern of land uses which can be easily and equitably serviced. Interpreting and applying the provisions of this Title, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare. (Ord. 225 §1.3, 1994)

17.04.040 Application.

This Title classifies and regulates and restricts the height, number of stories and size of buildings and other structures; the percentage of the lot that may be occupied; the size of the yards, courts and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the incorporated areas of the Town. Except as otherwise provided, no zoning permit shall be issued for a use not specifically mentioned or described, unless in the judgment of the Zoning Administrator, the proposed use is similar to a use listed. (Ord. 225 §1.4, 1994)

17.04.050 Classification of districts.

For the purpose of this Title, the municipality is divided into zoning districts designated as follows:

<i>Districts</i>	<i>Abbreviated Designations</i>
Single-Family Residential	R-1
Mixed Residential	R-2
Local Commercial	C-1
Light Industrial	I-1

17.04.060 Zoning map.

(a) The location and boundaries of the district designed in Section 17.04.050 are established as shown on the map entitled "Zoning Map of Swink," and hereinafter referred to as the "zoning map."

(b) The zoning map and all the notations thereon are made part of this Title. (Ord. 225 §1. 6, 1994)

CHAPTER 17.08

Definitions

17.08.010 General.

(a) When not inconsistent with the content, words used in the present tense include the future; words in the singular number include the plural number; and the masculine includes the feminine.

(b) The word *shall* is mandatory.

(c) The word *may* is permissive.

(d) The word *person* includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(e) Whenever the words *dwelling* or *dwelling unit*, *roominghouse*, *rooming unit* or *premises* are used, they shall be construed as though they were followed by the words *or any part thereof*.

(f) The word *building* includes the word *structure*; and the term *used* includes the words *arranged*, *designed* or *intended to be used*; the term *occupied* includes the words *arranged*, *designed* or *intended to be occupied*.

(g) If a term or word causes difficulties in interpretation and is not herein defined or properly described, the Planning Commission shall define the terms and recommend to the governing body that it amend this Title to include an appropriate definition. (Ord. 225 §2.1(part), 1994)

17.08.020 Words and terms.

For the purpose of this Title, certain words and terms are defined as in this Chapter. (Ord. 225 §2.2 (part), 1994)

17.08.030 Accessory buildings/structures/ uses.

Accessory buildings/structures/uses means a building, structure or use on the same lot with the building or structure housing the principal use, but housing a use customarily incidental and subordinate to and customarily associated with the principal use. Including but not limited to gazebos, hot tubs and associated equipment, radio towers, etc. (Ord. 225 §2.2(part), 1994)

17.08.040 Alley.

Alley means any public space or thoroughfare less than twenty (20) feet but not less than ten (10) feet in width, which has been dedicated or deeded to the public for public use and which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street. (Ord. 225 §2.2(part), 1994)

17.08.050 Alter.

Alter means any structural change in the supporting or load-bearing members of a building, such as bearing walls, columns, beams, girders or floor joists. (Ord. 225 §2.2(part), 1994)

17.08.060 Apartment house.

See *dwelling, multiple*. (Ord. 225 §2.2(part), 1994)

17.08.070 Approved.

Approved means sanctioned by the appropriate official as required by law so long as all provisions of these zoning regulations are met. (Ord. 225 §2.2(part), 1994)

17.08.080 Automobile and trailer sales area.

Automobile and trailer sales area means street, used for the display, sale or rental of new or used automobiles, trailers and related vehicles, and where no repair work is done, except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the premises. (Ord. 225 §2.2(part), 1994)

17.08.090 Auto repair shop.

Auto repair shop means a shop or place of business for repair and maintenance of automobiles, trucks and other automotive and farm equipment, which carry a valid title and show a work order. (Ord. 225 §2.2(part), 1994)

17.08.100 Block.

Block means a distinct portion or plot of land in a platted subdivision described and numbered as a block on the recorded plat of the subdivision, or a distinct portion or plot of land bounded on all sides by public streets, alleys or easements. (Ord. 225 §2.2(part), 1994)

17.08.110 Board.

Board means the Board of Adjustment, which shall also be the Board of Trustees for the Town. (Ord. 225 §2.2 (part), 1994)

17.08.120 Building area.

Building area means that portion of a lot or parcel that can be occupied by a building or structure. (Ord. 225 §2.2(part), 1994)

17.08.130 Building.

Building means any structure used or intended for supporting or sheltering any use or occupancy. See *structure*. (Ord. 225 §2.2(part), 1994)

17.08.140 Building, accessory.

Accessory building means any building on a lot with and subordinate to a main building including, but not limited to, gazebo, hot tub enclosures, etc. (Ord. 225 §2.2 (part), 1994)

17.08.150 Building, height of.

Height of building means building's principal front measured from the established street grade to the highest point of the coping of a flat room, or to the center height between the eaves and ridge for pitched

roofs. For buildings set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building. (Ord. 225 §2.2(part), 1994)

17.08.160 Building line.

Building line means a line on a plat or the theoretical line on the ground between which line and a street, alley or private place no principal building or structure may be erected. This is the farthest extended part of the building; such as roof eaves or porches. (Ord. 225 §2. 2 (part), 1994)

17.08.170 Building, nonconforming.

See *structure, nonconforming*. (Ord. 225 §2.2(part), 1994)

17.08.180 Building, principal.

Principal building means a building in which is conducted the main or principal use of the lot or parcel on which such building is situated, and including garages, carports, storage sheds, etc., which are attached to the principal building. (Ord. 225 §2.2(part), 1994)

17.08.190 Business and professional office.

Business and professional office means attorney, dentist, doctor, engineer, insurance broker or other similar professional persons, and any office used primarily for accounting, correspondence research, editing or administration. (Ord. 225 §2.2(part), 1994)

17.08.200 Campgrounds and recreation areas.

Campgrounds and recreational areas means organized campgrounds including federal, state and municipally owned and designated parks and campgrounds; and privately owned campgrounds which are made available, either with or without fee to the public; and all public lands and surface waters of the state, other than campgrounds, used for picnicking, camping and other recreational activities. (Ord. 225 §2.2(part), 1994)

17.08.210 Carport.

Carport means a structure with a roof and at least two (2) open sides (it is considered a building). (Ord. 225 §2.2(part), 1994)

17.08.220 Church.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. (Ord. 225 §2.2(part), 1994)

17.08.230 Club.

Club means a building or rooms and accessory buildings and grounds occupied by a nonprofit association of persons for the promotion of some common objective such as, but not limited to, literature, science, politics, recreation and good fellowship, meeting periodically, limited to members, with not more than one-third ($\frac{1}{3}$) of the gross floor area occupied by the use used for residential occupancy. (Ord. 225 §2.2(part), 1994)

17.08.240 Clinic, dental or medical.

Dental or medical clinic means a building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying on their professions. A *clinic* may include a dental or medical laboratory, but not facilities for inpatient care or operating rooms for major surgery (See *hospital*). (Ord. 225 §2.2(part), 1994)

17.08.250 Commission, Planning.

Planning Commission means the Swink Planning Commission. (Ord. 225 §2.2(part), 1994)

17.08.260 Comprehensive plan.

Comprehensive plan means the sum of the policies, proposals, programs, maps and reports adopted and identified by the Planning Commission as components of the comprehensive plan. (Ord. 225 §2.2(part), 1994)

17.08.270 Condominium.

Condominium means an apartment house in which the apartments or dwelling units are individually owned. Each owner receiving a recordable deed enabling him or her to sell, mortgage, exchange, etc., his or her apartment independent of the owners of the other apartments in the building. (Ord. 225 §2.2(part), 1994)

17.08.280 Council.

Council means the Swink Board of Trustees. (Ord. 225 §2.2(part), 1994)

17.08.290 Density.

Density means the number of dwelling units per acre of land devoted to housing and usable open space. (Ord. 225 §2.2(part), 1994)

17.08.300 Developmentally disabled, home for.

Home for developmentally disabled means a home for those persons having cerebral palsy, multiple sclerosis, mental retardation, autism and epilepsy. (Ord. 225 §2.2(part), 1994)

17.08.310 District, zone.

Zone district means a land area or land areas as defined by the zoning map, within which the zoning regulations are uniform. (Ord. 225 §2.2(part), 1994)

17.08.320 Drive-in restaurant or refreshment stand.

Drive-in restaurant or refreshment stand means any place or premises used for sale, dispensing or serving of food, refreshments or beverages to customers while they remain in their automobile. (Ord. 225 §2.2 (part), 1994)

17.08.330 Dwelling.

Dwelling means any building or any portion thereof which contains dwelling units or guest rooms used, intended or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. (Ord. 225 §2.2(part), 1994)

17.08.340 Dwelling, multiple.

Multiple dwelling means any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments. (Ord. 225 §2.2(part), 1994)

17.08.350 Dwelling, single-family.

Single-family dwelling means any building or any portion thereof which contains one (1) dwelling unit used, intended or designed to be built, used, rented, leased, let or hired out to be occupied, or which is occupied for living purposes. (Ord. 225 §2.2(part), 1994)

17.08.360 Dwelling unit.

Dwelling unit means a single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (Ord. 225 §2.2(part), 1994)

17.08.370 Easement.

Easement means a right held by the public, a corporation or person to make use of the land of another for a limited purpose as right of passage. (Ord. 225 §2.2(part), 1994)

17.08.380 Educational institution.

Educational institution means schools and/or seminaries administered by churches or religious organizations, schools, colleges or universities administered by public agencies; nonprofit schools, colleges or universities operated under charter or license from the state; and any nonprofit institution, residence or home operated for the education of five (5) or more students. (Ord. 225 §2.2(part), 1994)

17.08.390 Employee.

Employee means a person employed full or part-time year round; this shall not mean temporary or seasonal employees. (Ord. 225 §2.2(part), 1994)

17.08.400 Enclosed.

Enclosed means surrounded by walls and/or fences and a roof. (Ord. 225 §2.2 (part), 1994)

17.08.410 Extended care facility.

Extended care facility means an establishment which provides lodging, board and personal services for the health, safety and comfort of persons residing therein. This term does not apply to hospitals. (Ord. 225 §2.2 (part), 1994)

17.08.420 Fabrication.

Fabrication means the stamping, cutting, assembling or otherwise shaping the processed materials into useful objects, excluding the refining or other initial processing of basic raw materials. (Ord. 225 §2.2(part), 1994)

17.08.430 Family.

Family means a group of persons related by blood, marriage or adoption living together on the premises in a single dwelling unit, or a group of not more than five (5) individuals living in a single dwelling unit not related by blood, marriage or adoption. (Ord. 225 §2.2(part), 1994)

17.08.440 Family care home.

Family care home means a facility for child care in place of residence of a family, person(s) for the purpose of providing family care and training for a child or children under the age of sixteen (16) years who are not related to the head of such home. The term includes any family care home receiving a child or children for regular part-time or regular full-time care, and anyone receiving a child or children for any state-operated institution for child care, or from any child placement agency. (Ord. 225 §2.2(part), 1994)

17.08.450 Farming.

Farming means the act or business of cultivating land and producing crops. (Ord. 225 §2.2(part), 1994)

17.08.460 Feedlot.

Feedlot means an enclosure for the feeding and fattening of fowl, sheep, hogs, cattle or other livestock where the livestock are kept within restricted areas, where a majority of the feed is purchased rather than being produced on this same property, and where the livestock are especially fed for gain prior to sale or slaughter. (Ord. 225 §2.2 (part), 1994)

17.08.470 Floor area, gross.

Gross floor area means the sum of the gross horizontal areas measured between the exterior faces of exterior walls of the several floors of a building and accessory buildings, including interior walls, balconies, mezzanine, hallways, wells, basements and cellars, and including the area of roofed porches, patios and carports having more than one (1) wall. (Ord. 225 §2.2(part), 1994)

17.08.480 Floor area, net.

Net floor area means the sum of the gross horizontal areas measured between the interior faces of exterior walls of the several floors of a building, including all floors having one-third ($\frac{1}{3}$) of their vertical dimension above grade; but excluding garages, accessory store rooms and/or areas, roofed porches and patios, carports, cellars and wells. (Ord. 225 §2.2(part), 1994)

17.08.490 Frontage.

Frontage means that portion of a lot, parcel, tract or block abutting upon a street. (See *yard, front.*) (Ord. 225 §2.2 (part), 1994)

17.08.500 Garage.

Garage means an enclosed structure for the parking of motor vehicles. (Ord. 225 §2.2 (part), 1994)

17.08.510 Grazing.

Grazing means feeding or growing grasses or herbage for the purpose of feeding livestock. (Ord. 225 §2.2(part), 1994)

17.08.520 Health Department.

Health Department means the County or Municipal Health Department. (Ord. 225 §2.2(part), 1994)

17.08.530 Home occupation.

Home occupation means a use for gain or support in a residential zone conducted on the parcel and carried on by the inhabitants there, and no others, which use is clearly incidental and secondary to the use of the parcel for residential purpose and which does not change the character thereof. (Ord. 225 §2.2(part), 1994)

17.08.540 Hospital.

Hospital means any building or portion thereof used for the accommodation, nursing and medical, surgical or psychiatric care of the sick, injured or infirm persons. (See *clinic, dental or medical.*) (Ord. 225 §2.2(part), 1994)

17.08.550 Hotel.

Hotel means a building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests. (Ord. 225 §2.2(part), 1994)

17.08.560 House, guest.

Guest house means living quarters within a semi-attached or detached accessory located on the same premises with the principal building for use by temporary guests of the occupants of the premises. (Ord. 225 §2.2(part), 1994)

17.08.570 Junk, salvage.

Salvage junk means old or used scrap copper, brass, rope, rags, batteries, trash, rubber, debris, wood, waste or junked, dismantled or wrecked automobiles or parts thereof, appliances or parts thereof, whether of value or not. (Ord. 225 §2.2(part), 1994)

17.08.580 Junkyard, (salvage).

Salvage junkyard means any lot, parcel or tract used for the storage, keeping, sale or abandonment of junk and/or for the dismantling, demolition or abandonment of automobiles, or other junk or parts thereof. (Ord. 225 §2.2(part), 1994)

17.08.590 Kennels and pet shops.

Kennel and pet shops means any lot, parcel, tract or structure in which pets are kept, maintained, housed, treated or sold for private gain. (Ord. 225 §2.2(part), 1994)

17.08.600 Laundromat.

Laundromat means an establishment providing washing; drying, ironing or dry-cleaning machines for hire to be used by customers on the premises. (Ord. 225 §2.2(part), 1994)

17.08.610 Limited commercial.

Limited commercial means commercial endeavors that require minimal exterior amenities. This type of use must impose little or no unusual pressure on the surrounding area. Example: residence converted to an architect's office. (Ord. 225 §2.2(part), 1994)

17.08.620 Living area.

See *floor area, net*. (Ord 225 §2.2(part), 1994)

17.08.630 Loading space.

Loading space means a space within the main building or on the same lot, parcel or tract providing for the standing, loading or unloading of vehicles or trailers. (Ord. 225 §2.2(part), 1994)

17.08.640 Lodge.

See *club*. (Ord. 225 §2.2(part)

17.08.650 Lot.

Lot means a distinct portion or plot of land in a recorded, platted subdivision described and numbered or lettered as a lot on the recorded plat of the subdivision. Also, see *parcel* and *tract*. (Ord. 225 §2.2(part), 1994)

17.08.660 Lot, corner.

Corner lot means a lot situated at the junction of two (2) or more streets. (Ord. 225 §2.2(part), 1994)

17.08.670 Lot coverage.

Lot coverage means that portion of the lot, parcel or tract shielded from the sky by buildings and/or structures. (Ord. 225 §2.2(part), 1994)

17.08.680 Lot depth.

Lot depth means the distance between the front and rear lot lines. (Ord. 225 §2.2 (part), 1994)

17.08.690 Lot, interior.

Interior lot means a lot other than a corner lot. (Ord. 225 §2.2(part), 1994)

17.08.700 Lot line.

Lot line means the perimeter or outer boundary of a lot, parcel or tract. (Ord. 225 §2.2(part), 1994)

17.08.710 Lot line, front.

Front lot line means the line separating such lot, parcel or tract from any public street right-of-way. (Ord. 225 §2.2(part), 1994)

17.08.720 Lot line, rear.

Rear lot line means the line which is opposite and most distant from a front line, or on an irregular or triangular lot, a line at least ten (10) feet long entirely within the lot, parallel to and furthest distance from the front lot line. (Ord. 225 §2.2(part), 1994)

17.08.730 Lot line, side.

Side lot line means a line connecting a front lot line with a rear lot line. (Ord. 225 §2.2(part), 1994)

17.08.740 Lot, nonconforming.

Nonconforming lot means *parcel, nonconforming*. (Ord. 225 §2.2(part), 1994)

17.08.750 Lot, through.

Through lot means an interior lot having frontage upon two (2) parallel or nearly parallel streets. (Ord. 225 §2.2(part), 1994)

17.08.760 Lot, width.

Lot width means the distance between the side lot lines measured at the required front building setback line, or in the case of an irregularly shaped lot, the front building line. (Ord. 225 §2.2(part), 1994)

17.08.770 Machine shop.

Machine shop means a structure containing machinery for the manufacture, modification or repair of metal goods and equipment. (Ord. 225 §2.2(part), 1994)

17.08.780 Manufacture.

Manufacture means the creation of a finished or semi-finished product. (Ord. 225 §2.2(part), 1994)

17.08.790 Manufactured home.

Manufactured home means a single-family dwelling which:

- (1) Is partially or entirely manufactured in a factory;
- (2) Is no less than twenty-four (24) feet in width and thirty-six (36) feet in length;
- (3) Is installed on an engineered permanent foundation;

(4) Has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and

(5) Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. (Ord. 225 §2.2(part), 1994)

17.08.800 Master plan.

See *comprehensive plan*. (Ord. 225 §2.2(part), 1994)

17.08.810 Mobile home.

Mobile home means a structure designed to be transported after fabrication and exceeding either ten (10) feet in body width or fifty (50) feet in body length. Such a structure is built on a chassis and retains the chassis on which it was built, whether or not such structure is placed on a permanent foundation. Such a structure is suitable for human habitation on a year-round basis when provided with the required plumbing, heating and electrical facilities. Built to HUD and Colorado Manufactured Housing Codes. (Ord. 225 §2.2(part), 1994)

17.08.820 Mobile (manufactured) home park.

Mobile (manufactured) home park means any plot of ground upon which two (2) or more mobile homes, occupied or intended to be occupied for dwelling or sleeping purposes, are located for periods of longer than ninety (90) days, regardless of whether or not a charge is made for such accommodation. (Ord. 225 §2.2(part), 1994)

17.08.830 Mobile (manufactured) home subdivision.

Mobile (manufactured) home subdivision means a parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single-family manufactured (mobile) home and its facilities. (Ord. 225 §2.2(part), 1994)

17.08.840 Modular home.

Modular home means a structure designed to be transported after fabrication and located as a permanent addition to, and becoming a part of the real property. Such structure must meet minimum construction requirements of the Uniform Building Code. Such structure must be set on a permanent foundation and is subject to all local building, zoning and housing regulations. Any such modular home meeting the requirements herein defined is not considered a mobile home and is not subject to these regulations. (Ord. 225 §2.2(part), 1994)

17.08.850 Motel.

Motel means a building or group of buildings containing guest rooms, usually with access directly from a parking lot. (Ord. 225 §2.2(part), 1994)

17.08.860 Museum.

Museum means a building or structure for the display of natural, scientific, literary or artistic objects of general, historic or other special interest. (Ord. 225 §2.2(part), 1994)

17.08.870 Nonconforming building.

Nonconforming building means the use of a building or portion thereof lawfully existing at the time of the passage of this Title and amendments thereto, which does not conform with the provisions of this Title or amendments hereto. (Ord. 225 §2.2(part), 1994)

17.08.880 Owner.

Owner means any person who, alone or jointly or severally with others, shall have legal title to any land or structure, or contract of purchase, with or without accompanying actual possession thereof; or shall have charge, care or control of any land or structure as owner or agent of the owner; or as executor, administrator, conservator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Title and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner. (Ord. 225 §2.2(part), 1994)

17.08.890 Parcel.

Parcel means a lot or tract, or contiguous groups or portions of such lots and/or tracts shown on the assessor's roll of Otero County, or a contiguous area of land under legal control of any one (1) person, partnership, firm, corporation, syndicate, agency or institution. Also see *lot* and *tract*. (Ord. 225 §2.2(part), 1994)

17.08.900 Parcel, nonconforming.

Nonconforming parcel means a parcel which lawfully existed at the time this Title or any amendments hereto became effective, but which does not now conform to the regulations applicable in the zone district in which it is located. (Ord. 225 §2.2(part), 1994)

17.08.910 Parking.

Parking means the assembling or standing of motor vehicles, boats and trailers for relatively temporary periods of time. (Ord. 225 §2.2(part), 1994)

17.08.920 Parking, commercial.

Commercial parking means parking lots or structures open to the public and operated for a profit. (Ord. 225 §2.2(part) , 1994)

17.08.930 Parking, community.

Community parking means parking lots or structures not open to the public but shared by several persons not residents on the premises. (Ord. 225 §2.2(part), 1994)

17.08.940 Parking lot.

Parking lot means a lot, parcel or tract for the parking of motor vehicles and trailers. (Ord. 225 §2.2(part), 1994)

17.08.950 Parking, off-street.

(a) *Off-street parking* means parking of motor vehicles off of public rights-of-way. An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designated, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley and so that any automobile may be parked and/or moved without moving another.

(b) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances, regulations and ordinances of the Town. (Ord. 225 §2.2(part), 1994)

17.08.960 Parking space.

Parking space means a rectangular area designated for parking with a minimum width of nine (9) feet and depth of eighteen (18) feet. (Ord. 225 §2.2(part), 1994)

17.08.970 Person.

Person means firms, corporations, associations, partnerships, societies and/or individuals. (Ord. 225 §2.2(part), 1994)

17.08.980 Planning Commission.

Planning Commission means the officially appointed Planning and Zoning Commission of the Town. (Ord. 225 §2.2(part), 1994)

17.08.990 Planned unit development.

Planned unit development means an area of land improved as a residential development in which normal restrictions of lot sizes, setbacks, densities, land uses and other criteria may be relaxed in return for development conformance to an approved plan for the total parcel. Approval may be given upon evidence of the provisions of open spaces, public facilities access and other considerations deemed important by the Planning Commission. (Ord. 225 §2.2 (part), 1994)

17.08.1000 Plat.

Plat means a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the Clerk and Recorder. (Ord. 225 §2.2(part), 1994)

17.08.1010 Premises.

Premises means a general term meaning part or all of any lot, parcel or tract or part or all of any building or structure or group of buildings or structures located thereon. (Ord. 225 §2.2(part), 1994)

17.08.1020 Property line.

Property line means the boundary of any lot, parcel or tract, and shall not include the streets or alleys upon which the said lot, parcel or tract may abut. (Ord. 225 §2.2(part), 1994)

17.08.1030 Public hearing.

Public hearing means a meeting called by a public body for which public notice has been given and which is held in a place to which the general public may attend to hear issues and express their opinions. (Ord. 225 §2.2(part), 1994)

17.08.1040 Recreational vehicle.

For the purpose of these regulations, *major recreational equipment* is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. (Ord. 225 §2.2(part), 1994)

17.08.1050 Retail.

Retail means sale to the ultimate consumer for direct consumption and/or use and not for resale. (Ord. 225 §2.2(part), 1994)

17.08.1060 Right-of-way.

Right-of-way means all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel. (Ord. 225 §2.2(part), 1994)

17.08.1070 Road.

A right-of-way owned and maintained by the Town for the benefit of its citizens. (Ord. 225 §2.2(part), 1994)

17.08.1080 Road, principal arterial.

Principal arterial road means federal highway. (Ord. 225 §2.2(part), 1994)

17.08.1090 Road, minor arterial.

Minor arterial road means state highway. (Ord. 225 §2.2(part), 1994)

17.08.1100 Road, collector.

Collector road means paved road. (Ord. 225 §2.2(part), 1994)

17.08.1110 Road, local.

Local road means unpaved road. (Ord. 225 § 2.2 (part), 1994)

17.08.1120 Secretary.

Secretary means the secretary to the Planning Commission and the Board of Adjustment or may be a designated employee. (Ord. 225 §2.2(part), 1994)

17.08.1130 Service station, gasoline.

Gasoline service station means a property where flammable liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles, and which may include, as an incidental accessory use only, facilities for polishing, greasing, washing or minor servicing of such motor vehicles, but not including auto body work or other major repairs. (Ord. 225 §2.2(part), 1994)

17.08.1140 Setback.

Setback means the distance from the lot line or right-of-way line to any building or structure on the lot. (Ord. 225 §2.2(part), 1994)

17.08.1150 Sign.

Sign means any words, lettering, figures, numerals, phrases, sentences, devices, designs, pictures, symbols or trademarks by which anything is made known, such as are used to designate a firm, an association, a corporation, a business, a service or a commodity or product or any type of publicity, whether placed on natural objects or on a building, fence or other manmade structure, which are visible from any public street or public right-of-way. (Ord. 225 §2.2(part), 1994)

17.08.1160 Stable, commercial.

Commercial stable means a building with more than four (4) stalls for horses not owned by the owner of the stable. (Ord. 225 §2.2(part), 1994)

17.08.1170 Street.

Street means any thoroughfare or public space not less than twenty (20) feet in width which has been dedicated or deeded to the public for public use. (Ord. 225 §2.2(part), 1994)

17.08.1180 Street, center line of.

Center line of street means the true center line of a dedicated public right-of-way as determined by the governing board. Where such public right-of-way is curved, offset, angular or any other question arises, the governing board shall determine the alignment of the center line. (Ord. 225 §2.2(part), 1994)

17.08.1190 Structural alteration.

Structural alteration means any change in the supporting members of a building, such as bearing walls, columns, beams or girders. (Ord. 225 §2.2(part), 1994)

17.08.1200 Structure.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but does not include fences and driveways. (Ord. 225 §2.2(part), 1994)

17.08.1210 Subdivision.

Subdivision means a division, subdivision or resubdivision of a lot, tract or parcel of land into two (2) or more lots, tracts or parcels of land as defined in the Town subdivision regulations. (Ord. 225 §2.2(part), 1994)

17.08.1220 Tract.

Tract means a portion of land, usually not platted, delineated by a metes and bounds description. Also see *lot* and *parcel*. (Ord. 225 §2.2(part), 1994)

17.08.1230 Trailer.

Trailer means a unit that is towed by a vehicle. (Ord. 225 §2.2(part), 1994)

17.08.1240 Use.

Use means any activity taking place upon land and/or in structures. (Ord. 225 §2.2(part), 1994)

17.08.1250 Use, accessory.

Accessory use means a subordinate use which is customarily incidental to the principal use of the parcel. (Ord. 225 §2. 2 (part), 1994)

17.08.1260 Use by review.

Use by review means a use that may be permitted only upon issuance of a special use permit by the Board of Adjustment. (Ord. 225 §2.2(part), 1994)

17.08.1270 Use by right.

Use by right means a use which may be permitted in a zone district upon issuance of a permit by the Zoning Administrator. (Ord. 225 §2.2(part), 1994)

17.08.1280 Use, nonconforming.

Nonconforming use means a use which lawfully occupied a building or land at the time the ordinance codified in this Title or an amendment hereto became effective and which does not now conform with the use regulations applicable in the zone district in which it is located. (Ord. 225 §2.2(part), 1994)

17.08.1290 Variance.

Variance means a relaxation of the terms of this Title where such relaxation will not be contrary to the public interest or the intent and purpose of this Title and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Title would result in unnecessary and undue hardship, and the condition or situation is not of so general or recurrent a nature as to make reasonable and practicable the formulation of an amendment containing a general regulation for such condition or situation. (Ord. 225 §2.2(part), 1994)

17.08.1300 Warehouse.

Warehouse means a building or portion thereof used and appropriated by the occupant: (1) for the deposit and safekeeping or selling of his or her own goods at wholesale or by mail order; or (2) not for the deposit and safekeeping or selling of his or her own goods but for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped. (Ord. 225 §2.2(part), 1994)

17.08.1310 Wholesale.

Wholesale means sale for resale, not for direct consumption. (Ord. 225 §2.2(part), 1994)

17.08.1320 Wrecking yard.

See *junkyard*. (Ord. 225§2.2(part), 1994)

17.08.1330 Yard.

Yard means an existing or required space not occupied or not to be occupied by a principal use of building on the same lot, parcel or tract with a principal use or building. (Ord. 225 §2.2(part), 1994)

17.08.1340 Yard, front.

Front yard means a yard extending the full width of the lot and situated between the street line and the required front setback line. (Ord. 225 §2.2(part), 1994)

17.08.1350 Yard, rear.

Rear yard means a yard extending the full width of the lot and situated between the rear line of the lot and the required rear setback line. (Ord. 225 §2.2 (part), 1994)

17.08.1360 Yard, side.

Side yard means a yard extending between the required side setback line and the adjacent side line of the lot and extending from the required front setback line to the required rear setback line. (Ord . 225 §2.2 (part), 1994)

17.08.1370 Zoning Administrator.

Zoning Administrator means the administrative and enforcing officer, as designated by the Board of Trustees, of the provisions of this Title with the authority to make all decisions and investigations necessary to properly carry out the provisions of this Title. *Zoning Administrator* means the Town Administrator unless otherwise designated by the Board of Trustees. (Ord. 225 §2.2(part), 1994)

17.08.1380 Zone district.

See *district, zone*. (Ord. 225 §2.2(part), 1994)

CHAPTER 17.12

Single-Family Residential District (R-1)

17.12.010 Purpose.

The standards of the R-1 District are designed to retain and provide areas of low to medium density development characteristically used for single-family dwelling units. (Ord. 225 §3.1.1, 1994)

17.12.020 Uses by right.

A use by right is any of the following uses, which are permitted upon issuance of a zoning permit by the Zoning Administrator:

- (1) Accessory buildings, uses and structures;
- (2) Dwellings, single-family;
- (3) Parks; and
- (4) Schools. (Ord. 225 §3.1.2, 1994)

17.12.030 Uses by review.

A use by review is any of the following uses, which are permitted only upon issuance of a special use permit by the Board of Adjustment. No other uses will be allowed without amending this Title.

- (1) Charitable institution;
- (2) Church;
- (3) Clinic;
- (4) Club;
- (5) Condominium;
- (6) Dwelling, multi-family;
- (7) Extended care facility;
- (8) Family care home;
- (9) Home for the developmentally disabled;
- (10) Home occupation;
- (11) Hospital;
- (12) Limited commercial;
- (13) Manufactured home;

(14) All uses by review will conform with the major consideration of visual impact and neighborhood continuity; and

(15) Duplexes. (Ord. 225 §3.1.3, 1994)

17.12.040 Lot area.

(a) No parcel of land, at the time of the passage of the ordinance codified in this Title can henceforth be divided for sale in units of less than seven thousand (7,000) square feet.

(b) Lot dimensions. No parcel of land shall be less than seventy (70) feet in width and one hundred (100) feet in depth. (Ord. 225 §3.1.4, 1994)

17.12.050 Setback requirements.

(a) Principal building.

(1) Interior lot.

a. Front: twenty-five (25) feet.

b. Side: ten (10) feet minimum.

c. Rear: twenty-five (25) feet minimum, except where there is an alley; then five (5) feet.

(2) Corner Lot.

a. Front: twenty-five (25) feet.

b. Side: ten (10) feet minimum.

c. Rear: twenty-five (25) feet minimum, except where there is an alley; then five (5) feet.

(b) Accessory building, structures and uses.

(1) Interior lot.

a. Front: twenty (20) feet or not less than principal building.

b. Side: ten (10) feet minimum.

c. Rear: twenty-five (25) feet minimum, except where there is an alley; then five (25) feet.

(2) Corner lot.

a. Front: twenty (20) feet or not less than principal building.

b. Side: ten (10) feet minimum.

c. Rear: twenty-five (25) feet minimum, except where there is an alley; then five (5) feet. (Ord. 225 §3.1.5, 1994)

17.12.060 Lot coverage.

The total ground area covered by all buildings on the parcel shall not exceed thirty-five percent (35%) of the total ground area of the parcel. (Ord. 225 §3.1.6, 1994)

17.12.070 Height of buildings.

- (a) Maximum height for principal uses: thirty-five (35) feet.
- (b) Maximum height for accessory uses: twenty (20) feet. (Ord. 225 §3.1.7, 1994)

17.12.080 Floor area.

Minimum net floor area: one thousand two hundred (1,200) square feet. (Ord. 225 §3.1.8, 1994)

17.12.090 Minimum off-street parking and loading requirements.

See Chapter 17.32, Off-Street Parking/ Loading. (Ord. 225 §3.1.9, 1994)

17.12.100 Signs.

See Chapter 17.36, Signs. (Ord. 225 §3.1.10, 1994)

CHAPTER 17.16

Mixed Residential District (R-2)

17.16.010 Purpose.

The standards of the R-2 District are designed to retain and provide areas with commingling of mobile homes with the traditional site-built housing. (Ord. 225 §3.2.1, 1994)

17.16.020 Uses by right.

A use by right is any of the following uses, which are permitted only upon issuance of a zoning permit by the Zoning Administrator:

- (1) Accessory building, uses and structures;
- (2) Condominium;
- (3) Dwelling, multi-family;
- (4) Dwelling, single-family;
- (5) Manufactured home;
- (6) Mobile home;
- (7) Mobile (manufactured) home park and mobile (manufactured) home subdivision;

- (8) Park; and
- (9) Parking, community. (Ord. 225 §3.2.2, 1994)

17.16.030 Uses by review.

A use review is any of the following uses, which are permitted only upon issuance of a special use permit by the Board of Adjustment. No other uses will be allowed without amending this Title:

- (1) Church;
- (2) Clinic;
- (3) Club;
- (4) Extended care home;
- (5) Family care home;
- (6) Home for the developmentally disabled;
- (7) Home occupation;
- (8) Hospital;
- (9) Hotel;
- (10) Limited commercial;
- (11) School; and
- (12) All uses by review will conform with the major consideration of visual impact and neighborhood continuity. (Ord. 225 §3.2.3, 1994)

17.16.040 Lot area.

(a) No parcel of land existing in a single ownership, at the time of the passage of the ordinance codified in this Title; can henceforth be divided for sale into lots of less than five thousand (5,000) square feet.

(b) Lot dimensions. No parcel of land shall be less than fifty (50) feet in width and one hundred (100) feet in depth. (Ord. 225 §3.2.4, 1994)

17.16.050 Setback requirements; principal and accessory.

- (a) Interior lot.
 - (1) Front: twenty-five (25) feet.
 - (2) Side: seven (7) feet for residential units, ten (10) feet for all others.
 - (3) Minimum rear yard: twenty-five (25) feet except where alley abuts; then five (5) feet.

(b) Corner lot.

(1) Front: twenty-five (25) feet.

(2) Side: seven (7) feet for residential units, ten (10) feet for all others.

(3) Rear: twenty-five (25) feet except where alley abuts; then five (5) feet. (Ord. 225 §3.2.5, 1994)

17.16.060 Lot coverage.

Total ground area covered by all buildings on the parcel shall not exceed fifty percent (50%) of the total ground area of the parcel. (Ord. 225 §3.2.6, 1994)

17.16.070 Height of buildings.

(a) Maximum height for principle uses: forty-five (45) feet.

(b) Maximum height for accessory uses: twenty (20) feet. (Ord. 225 §3.2.7, 1994)

17.16.080 Floor area.

Minimum net floor area: seven hundred (700) square feet. (Ord. 225 §3.2.8, 1994)

17.16.090 Minimum off-street parking and loading requirements.

See Chapter 17.32, Off-Street Parking/ Loading. (Ord. 225 §3.2.9, 1994)

17.16.100 Signs.

See Chapter 17.36, Signs. (Ord. 225 §3.2.10, 1994)

CHAPTER 17.20

Local Commercial District (C-1)

17.20.010 Purpose.

The standards of the C-1 District are designed to provide a central business district permitting those uses which are compatible with pedestrian traffic. (Ord. 225 §3.3.1, 1994)

17.20.020 Uses by right.

A use by right is any of the following uses, which are permitted upon issuance of a zoning permit by the Zoning Administrator:

(1) Accessory buildings, structures and uses;

(2) Banks, money institutions;

(3) Business and professional offices;

- (4) Churches, auditoriums;
- (5) Laundromats;
- (6) Hotels, motels;
- (7) Parking lots;
- (8) Restaurants, bars, lounges;
- (9) Retail and service, commercial uses excluding vehicular services;
- (10) Service stations, gasoline providing only minimal auto repair; and
- (11) Supermarkets, convenience stores. (Ord. 225 §3.3.2, 1994)

17.20.030 Uses by review.

A use by review is any of the following uses, which are permitted only upon issuance of a special use permit by the Board of Adjustment:

- (1) Any use not listed as a use by right, except junkyards which are prohibited in this zone;
- (2) All uses by review will conform with the major consideration of visual impact and neighborhood continuity;
- (3) Clubs, lodges, meeting halls;
- (4) Restaurants, bars, lounges. (Ord. 225 §3.3.3, 1994)

17.20.040 Lot area.

No parcel existing in single ownership at the time of the passage of the ordinance codified in this Title shall be divided for sale in units smaller than five thousand (5,000) square feet. (Ord. 225 §3.3.4, 1994)

17.20.050 Setback requirements; principal and accessory.

- (a) Interior lot.
 - (1) Front: ten (10) feet.
 - (2) Side: ten (10) feet.
 - (3) Rear: five (5) feet.
- (b) Corner lot.
 - (1) Front: ten (10) feet.
 - (2) Side: ten (10) feet.
 - (3) Rear: five (5) feet. (Ord. 225 §3.3.5, 1994)

17.20.060 Lot coverage.

No restrictions. (Ord. 225 §3.3.6, 1994)

17.20.070 Height of buildings.

(a) Maximum height for principal uses: forty-five (45) feet.

(b) Maximum height for accessory uses: thirty (30) feet. (Ord. 225 §3.3.7, 1994)

17.20.080 Storage.

All items held for sale or repair, with the exception of titled vehicles and farm equipment, will be stored in a fully enclosed building or adequately shielded from public view by a minimum of an eight-foot fence, during nonbusiness hours. (Ord. 225 §3.3.8, 1994)

17.20.090 Minimum off-street parking and loading requirements.

See Chapter 17.32, Off-Street Parking/ Loading. (Ord. 225 §3.3.9, 1994)

17.20.100 Signs.

See Chapter 17.36, Signs. (Ord. 225 §3.3.10, 1994)

CHAPTER 17.24

Light Industrial District (I-1)

17.24.010 Purpose.

The standards of the I-1 District are designed to retain and provide areas for the manufacture, warehousing, jobbing and limited retailing or products which by their inherent characteristics and the operation involved are not obnoxious to one another or surrounding uses. The operation of this use will be entirely within a completely enclosed structure. (Ord. 225 §3.4.1, 1994)

17.24.020 Uses by review.

A use by review is any of the following uses, which are permitted only upon issuance of a special use permit by the Board of Adjustment: Any other use not listed in any other zone as a use by right, except junkyards which are prohibited in this zone. (Ord. 225 §3.4.2, 1994)

17.24.030 Lot area.

No parcel of land shall be subdivided, after the passage of the ordinance codified in this Title, into units smaller than ten thousand (10,000) square feet. (Ord. 225 §3.4.3, 1994)

17.24.040 Setback requirements; principal and accessory.

(a) Front: ten (10) feet.

(b) Side: ten (10) feet.

(c) Rear: five (5) feet. (Ord. 225 §3.4.4, 1994)

17.24.050 Lot coverage.

No requirements. (Ord. 225 §3.4.5, 1994)

17.24.060 Height of building.

Maximum height of principal structure: fifty-five (55) feet. (Ord. 225 §3.4.6, 1994)

17.24.070 Performance standards.

(a) The volume of sound generated by this use shall not inherently or recurrently exceed sixty (60) decibels at any point of any boundary line of the zone lot on which the use is located.

(b) The vibrations generated by this use shall not inherently or recurrently be permissible, without instruments at any point of any boundary line of the zone on which the use is located.

(c) The emission of heat, glare, radiation or fumes by this use shall not emit any obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any point of any boundary line of the zone on which the use is located. (Ord. 225 §3.4.7, 1994)

17.24.080 Minimum off-street parking and loading requirements.

See Chapter 17.32, Off-Street Parking/ Loading. (Ord. 225 §3.4.8, 1994)

17.24.090 Signs.

See Chapter 17.36, Signs. (Ord. 225 §3.4.9, 1994)

CHAPTER 17.28

Supplementary District Regulations

17.28.010 Manufactured (mobile) home park.

(a) Purpose. The standards of this regulation are designed to provide areas of medium density development, strictly for manufactured homes (mobile homes), while promoting an acceptable living environment for the occupants of manufactured homes, whereby the property shall be retained under single ownership of individual lots to be rented or leased by manufactured (mobile) home owners.

(b) Allowed uses. An allowed use is any of the following uses which are permitted upon issuance of a zoning permit by the Zoning Administrator:

- (1) Manufactured homes (single and double wide);
- (2) Accessory buildings; and
- (3) Recreation and service facilities for the occupants of the manufactured home park.

(c) Lot requirements. No individual manufactured home lot or space shall be created that contains less than three thousand (3,000) square feet.

- (1) Minimum lot width: forty (40) feet.
- (2) Minimum lot depth: seventy (70) feet.

(d) Setback requirements. Principal and accessory.

- (1) Front: twenty (20) feet.
- (2) Side: ten (10) feet.
- (3) Rear: fifteen (15) feet.

(e) Lot coverage. The total ground area covered by all buildings on any manufactured home space shall not exceed fifty percent (50%) of the total ground area of the manufactured home space.

(f) Height of buildings. No manufactured home within a manufactured home park shall exceed fifteen (15) feet in height.

(g) Manufactured (mobile) home park development requirements.

(1) Frontage. Minimum frontage on a dedicated public right-of-way with an accepted roadway constructed on it shall be sixty (60) feet.

(2) Access. The main park ingress and egress shall be a minimum of two (2) lanes, hard-surfaced, thirty-two (32) feet in width with a minimum right-of-way width of sixty (60) feet.

(3) Roadways. The park interior roadways shall be hard-surfaced, twenty (20) feet in width, located on a minimum right-of-way width of forty (40) feet with attached concrete walkways, three (3) feet in width. The roadway may be privately or publicly maintained.

(4) Emergency access. There shall also be provided at least two (2) unobstructed, fifteen-foot-wide emergency access ways to the manufactured home park interior road system. One (1) of the access ways may be closed by means of a chain or other barrier acceptable to the fire prevention agency which has jurisdiction.

(5) Landscaping. The boundary of the mobile home park shall be landscaped including hedges, evergreens, shrubbery or a six-foot-high screening wall which will act as a buffer. Such landscaping, fences or walls and the set back areas adjacent thereto shall be properly maintained by the owner.

(6) Open space requirements. A minimum of eight percent (8%) of the total park shall be set aside for recreational purposes. Adequate pedestrian access shall be provided to the recreational facility which shall be maintained by the owner.

(7) Maintenance plan. A maintenance plan conforming to the requirements of this Title shall be submitted and approved by the governing board.

(8) Common area. A minimum of one hundred (100) square feet per mobile home, hard-surfaced, shall be set aside for outside storage.

(9) Skirting. All mobile homes are required to be skirted within seven (7) days of setting the manufactured home on the lot or space.

(10) Platting and submission requirements.

a. A submittal conforming to the requirements of the preliminary and final plats as stipulated in the subdivision regulations for the Town shall be submitted and reviewed as per those requirements.

b. Application for approval of a mobile home park shall be made to the Board of Adjustment. The application shall include but not be limited to the following:

1. A site plan drawn to scale as defined in the subdivision regulations for the Town;
2. Typical plot plans for individual mobile homes at the same scale as the site plan;
3. Typical street and walk sections;
4. Grading and drainage plans;
5. The number, location and size of all mobile home spaces;
6. The location and width of roadways, sidewalks and pedestrian ways;
7. The location and size of vehicle parking lots and recreation areas;
8. The location of service buildings and any other proposed structures;
9. Source of water supply, and methods to be used for sewage and garbage disposal;
10. Plans and specifications of all buildings, utilities and other improvements constructed or to be constructed within the mobile home park;
11. Hydrology studies and runoff studies;
12. All surveys studies must be performed by a registered land surveyor, registered in the State of Colorado;
13. All engineering studies must be performed by a registered engineer, registered in the State of Colorado.

c. All items required to be reviewed for a subdivision shall also be reviewed for the proposed mobile home park. All plats and studies required for a subdivision shall also be required for a mobile home park. Refer to the Town subdivision regulations, Title 16, for specific platting and submission requirements as well as additional survey and engineering studies. (Ord. 225 §4.1, 1994)

17.28.020 Manufactured (mobile) home subdivision.

(a) Purpose. The standards of this regulation are established for the purpose of providing minimum standards and provisions for the creation of a manufactured home subdivision. This type of subdivision,

which shall be utilized exclusively by manufactured type homes, is similar to conventional single-family medium density developments where land is subdivided into individual lots for individual ownership.

(b) Allowed uses. An allowed use is any of the following uses which are permitted upon the issuance of a zoning permit by the Zoning Administrator:

- (1) Single-family manufactured homes;
- (2) Accessory buildings, uses and structures;
- (3) Recreation and service facilities for the occupants of the manufactured home subdivision.

(c) Uses by review. A use by review is any of the following uses permitted only upon approval of a use by review application by the Board of Adjustment.

- (1) Home occupation; and
- (2) Family care home.

(d) Lot requirements. No individual manufactured or modular home lot shall be created that contains less than four thousand (4,000) square feet.

- (1) Minimum lot width: fifty (50) feet.
- (2) Minimum lot depth: eighty (80) feet.

(e) Setback requirements; principal and accessory.

- (1) Front: thirty (30) feet.
- (2) Side: ten (10) feet.
- (3) Rear: fifteen (15) feet.

(f) Parking. A minimum of two (2) nine-foot-by eighteen-foot off-street parking spaces shall be provided per lot.

(g) Lot coverage. The total ground area covered by all buildings on any lot shall not exceed fifty percent (50%) of the total ground area.

(h) Height of buildings. No building within a manufactured home subdivision shall exceed twenty (20) feet in height.

(i) Manufactured home subdivision development requirements.

(1) Frontage. Minimum frontage on a dedicated public right-of-way with an accepted roadway constructed on it shall be sixty (60) feet.

(2) Access. The main access to a manufactured home subdivision shall be a minimum of two (2) lanes, hard-surfaced, thirty-four (34) feet in width with a minimum right-of-way width of sixty (60) feet.

(3) Roadways. The subdivision interior roadways shall be hard-surfaced, thirty-four (34) feet in width, shall have concrete walkways three (3) feet in width and shall be publicly maintained.

(4) Emergency access. There shall also be provided at least two (2) unobstructed, fifteen-foot-wide emergency access ways to the subdivision interior road system, one (1) of which may be closed by means of a chain or other barrier acceptable to the fire prevention agency which has jurisdiction.

(5) Landscaping. The boundary of the manufactured home subdivision shall be landscaped, including hedges, evergreens, shrubbery or a six-foot-high screening fence which will serve as a buffer. Such buffer and/or planting areas adjacent thereto shall be properly maintained by the owner or owners of the subdivision.

(6) Open space requirements. A minimum of eight percent (8%) of the total developed area shall be set aside for recreational purposes with adequate approved pedestrian access provided and shall be properly maintained by the owner or owners of the subdivision.

(7) Maintenance plan. A maintenance plan conforming to the requirements of this Title shall be submitted.

(8) Common area. A minimum of one hundred (100) square feet per mobile home, hard-surfaced, shall be set aside for outside storage.

(9) Skirting. All manufactured homes are required to be skirted within seven (7) days of setting the manufactured home on the lot or space.

(10) Platting and submission requirements.

a. A submittal conforming to the requirements of the preliminary and final plats as stipulated in the subdivision regulations for the Town shall be submitted and reviewed as per those requirements.

b. Application for approval of a mobile home subdivision shall be made to the Board of Adjustment. The application shall include but not be limited to the following:

1. A site plan drawn to scale as defined in the subdivision regulations for the Town;
2. Typical plot plans for individual mobile homes at the same scale as the site plan;
3. Typical street and walk sections;
4. Grading and drainage plans;
5. The number, location and size of all mobile home spaces;
6. The location and width of roadways, sidewalks and pedestrian ways;
7. The location and size of vehicle parking lots and recreation areas;
8. The location of service buildings and any other proposed structures;
9. Source of water supply, and methods to be used for sewage and garbage disposal;

10. Plans and specifications of all buildings, utilities and other improvements constructed or to be constructed within the mobile home subdivision;

11. Hydrology studies and runoff studies;

12. All surveys studies must be performed by a registered land surveyor, registered in the State of Colorado;

13. All engineering studies must be performed by a registered engineer, registered in the state of Colorado.

c. All items required to be reviewed for a subdivision shall also be reviewed for the proposed mobile home subdivision. All plats and studies required for a subdivision shall also be required for a mobile home subdivision. Refer to Town subdivision regulations, Title 16, for platting and submission regulations as well as additional engineering and survey studies. (Ord. 225 §4.2, 1994)

17.28.030 Maintenance plans.

Documents establishing the continued responsibility, duties and assurance of ability to provide unified control and maintenance over common areas of the development, including but not limited to parking areas, malls, open spaces recreational areas, signs and public rest rooms, shall be submitted with the plot plan. Such documents shall set forth present ownership and, in the case of condominiums, apartments or subdivisions, the method of conveying title and the type of estate granted. Such documents shall be updated when any changes in the ownership or responsibility are made and shall be kept on file with the Zoning Administrator. Appropriate forms of unified control shall include corporations, partnerships, trusts, owners' associations or other legal entities having the right to assess individual landowners within the development and the power to enforce such assessments. If at any time said control and maintenance is discontinued, the Town may assume such and impose a lien upon the owner to cover the necessary expenses. (Ord. 225 §4.3, 1994)

17.28.040 Exceptions to height regulations.

The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. (Ord. 225 §4.4, 1994)

17.28.050 Solar considerations.

No construction shall be allowed that interferes with an existing conforming solar heating system. (Ord. 225 §4.5, 1994)

17.28.060 Home occupations.

(a) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(b) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation other than one (1) sign, not exceeding four (4) square feet in area, nonilluminated and mounted flat against the wall of the principal building.

(c) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(d) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, smoke, dust or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit, or conducted in other than a single-family residence.

(e) Vehicle repair shall be conducted only in completely enclosed buildings. (Ord. 225 §4.6, 1994)

17.28.070 Meat processing and rendering plants.

(a) Processing plants shall be operated in a manner that will not adversely affect other properties and uses in the area.

(b) No obnoxious or noxious odors resulting from the processing plant shall be discernible at the outer boundaries of the parcel.

(c) Wastes shall be deposited, stored and transmitted from the parcel as to not be objectionable to adjacent properties or create a public nuisance.

(d) Sounds resulting from the processing plants shall not exceed sixty (60) decibels at the outer boundary of the parcel.

(e) The applicable standards of the State Health Department shall be complied with, including methods of disposal of sewage and drainage water as outlined in the Colorado Water Quality Control Act. (Ord. 225 §4.7, 1994)

17.28.080 Parking and storage of certain vehicles.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property, unless they are in a totally enclosed building. (Ord. 225 §4.8, 1994)

17.28.090 Parking, storage or use of major recreational equipment.

(a) For purposes of this Title, *major recreational equipment* is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

(b) No major recreational equipment shall be parked or stored more than seven (7) days on any public property that is not designated for that specific use.

(c) Visitors may use their campers for no more than three (3) weeks if the camper is parked on private property. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use. (Ord. 225 §4.9, 1994)

17.28.100 Planned unit developments.

In any zone district and on contiguous land composed of two (2) or more contiguous parcels, a plan may be submitted to the Board of Adjustment proposing the unique development of such land or the rehabilitation or redevelopment of an existing area with unique planning, building or ownership techniques not adequately recognized by the terms of this Title for the zone district in which the land is located. A public hearing shall be held as required by Section 17.48.020 of this Title. If, in the judgment of the Board of Adjustment, the following objectives can be satisfied, then the Board may approve such a plan and its approval shall be final and binding and permits shall be issued. No subsequent change in the plan may be made unless approved by the Board after a public hearing.

(1) If residential, the overall net density of the area so planned, exclusive of the street rights-of-way, is not greater than if each individual parcel were built upon with a lot size conforming to the requirements of the zone district;

(2) The plan provides for the use and continuous maintenance of any remaining open space as public land if the local governing body will accept such land, or as land common to all properties or controlled by a corporation composed of all present and future owners of all property within the proposed development and provision is made for the recording of such with each deed;

(3) Exception to minimum setback and lot width and depth requirements for each building can reasonably be made so that the public health, safety and general welfare will be protected;

(4) Setbacks on the periphery of the area are not less than those required for the zone district in which the building complex is located; provided, however, that front setback requirements on interior streets or service drives may be changed;

(5) The plan is in accordance with the land use plan and provides appropriate conditions and safeguards in harmony with the general purpose and intent of this Title;

(6) The property is to be provided with adequate access to transportation, water supply, waste disposal, fire and police protection and other needed public facilities and services;

(7) The plan will cause no undue traffic congestion or create unnecessary traffic hazards in the surrounding neighborhood;

(8) The plan will provide traffic access ways, interior circulation ways and parking and loading spaces as required for the zone district in which the land is located;

(9) The plan will not have a substantially adverse effect upon the character of the neighborhood or upon adjacent property or property values in the area;

(10) The plan will incorporate adequate safeguards, screening, fences and landscaping to protect and maintain harmony with the surrounding area;

(11) This provision is specifically intended to facilitate and encourage unique or inventive development ideas such as cluster plans, variable density arrangements, condominium arrangements, garden apartments, shopping centers, industrial parks and common grounds and facilities; and

(12) All other zoning regulations apply to planned unit developments for each appropriate district. (Ord. 225 §4.10, 1994)

17.28.110 Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features may project not more than two (2) feet into a required yard or into required open space as established by coverage standards. (Ord. 225 §4.11, 1994)

17.28.120 Public utilities.

For the purpose of this Section, a *public utility* is defined to be water, irrigation, sewer, gas, electric, telephone, cable television, bus, taxi, ambulance or railroad system; or installation which serves five (5) or more customers, whether or not franchised or organized as a corporation or district. Public utility installations shall be subject to the following requirements:

(1) Distribution, transmission and service lines requiring simple easements or installation in public rights-of-way or installed under a franchise agreement with the Town, and usual customer facilities shall not be subject to zoning requirements.

(2) Special services facilities, such as water reservoirs, sewage lagoons, switching yards, pumping stations and other components equipment installations on land owned or leased and where the equipment is fenced or placed in a building shall not be constructed until a special use permit has been issued by the Board of Adjustment. (Ord. 225 §4.12, 1994)

17.28.130 Visibility at intersections.

In any district, except C-1, no structure, fence or planting shall be maintained within twenty (20) feet of any corner street lot line intersection and within the required front yard, above a height of two and one-half (2½) feet above curb level or so as to interfere with traffic visibility across the corner. (Ord. 225 §4.13, 1994)

17.28.140 Ground-mounted satellite dish antennas.

(a) Ground-mounted satellite dish antennas located within a R-1, single-family residential zoned district, or within a R-2, mixed residential zoned district, shall be allowed as an accessory use, provided that the following standards are met:

(1) Ground-mounted satellite dish antennas shall not exceed the minimum height requirement for accessory buildings as set forth within the specific zone requirements.

(2) Any satellite dish antenna shall be located in the rear yard and shall meet all setback requirements as set forth within the specific zone requirements.

(3) All cable and lines serving the satellite dish antenna shall be located underground.

(b) Ground-mounted satellite dish antennas located within any other zoned district shall be allowed as an accessory use, provided that the following standards are met:

(1) Ground-mounted satellite dish antennas shall not exceed the minimum height requirement for accessory buildings as set forth within the specific zone requirements.

(2) Any satellite dish antenna shall meet all setback requirements as set forth within the specific zone requirements. (Ord. 225 §4.14, 1994)

CHAPTER 17.32

Off-Street Parking and Loading

17.32.010 Off-street parking.

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district, off-street parking spaces shall be as provided in this Section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section. Where square feet are specified, the area measured shall be the net floor area.

<i>Use</i>	<i>Standard</i>
Residential	
Single-family dwellings	2 spaces per dwelling unit
Multi-family dwellings containing two or more dwelling units	2 spaces per dwelling unit
Housing restricted to aged, disabled, etc.	1 space per unit
Institutions	
Extended care facility	1 space per 2 beds
Hospital	1 space per 2 beds
Places of public assembly	
Church	1 space per 4 seats
School	
Elementary	1 space per 20 students
Jr. high	1 space per 10 students
High school	1 space per 6 students
Vocational or commercial school	1 space per 4 students
Auditoriums	1 space per 4 seats
Commercial	
Hotel	1 space per 1 guest room
Motel	1 space per guest room or suite plus 1 additional space for owner/manager
Club	Spaces to meet the combined requirements of the uses conducted such as hotel, restaurant auditorium, etc.
Stadium; arena, theater	1 space per 4 seats
Retail store	1½ spaces per 300 square feet of floor space
Service repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture	1 space per 300 square feet of floor area
Offices	1 space per 300 square of floor area plus 1 space per 2 employees
Medical and dental clinic	1 space per 200 square feet. of floor area plus 1 space per 2 employees
Eating or drinking establishment	1 space per 50 square feet of floor area
Mortuaries	1 space per 4 seats
Industrial	
Storage warehouse, manufacturing establishment; air, rail, or trucking freight terminal	1 space per employee
Wholesale establishment	1 space per employee plus 1 space per 700 square feet of patron service area

(Ord. 225 §5.1, 1995)

17.32.020 General provisions; off-street parking and loading.

(a) The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.

(b) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Board of Adjustment, based upon the requirements of comparable uses listed.

(c) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(d) Owners of two (2) or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Building Inspector in the form of deeds, leases or contracts to establish the joint use.

(e) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only; land shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use. (Ord. 225 §5.2, 1994)

CHAPTER 17.36

Signs

17.36.010 Purpose.

The purpose of this Chapter is to define the types of signs that will be permitted in the various zoning districts and those that will be prohibited, the manner in which sign areas and dimensions will be measured, and the exemption of certain types of signs from this Title. It is further the intent of this Chapter to encourage the erection of signs which are attractive and compatible with the adjacent property, and which will preserve and enhance property values within the municipality. (Ord. 225 §6.1, 1994)

17.36.020 General standards.

The following regulations shall apply to all signs, either accessory or nonaccessory, in all zoning districts regardless of designation:

- (1) No sign shall be erected on the roof of any building.
- (2) Signs shall not be illuminated by or contain flashing, intermittent, rotating or moving light or lights. The only exception shall be signs which provide a legitimate public service such as the giving of time and temperature.
- (3) No sign or part thereof shall contain or consist of ribbons, streamers, spinners or similar moving, fluttering or revolving devices. Such devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting.
- (4) Signs in need of paint, broken signs and signs of vacated buildings shall be removed from the premises or repaired or renovated by the owners of the premises, on order of the Administrative Official.

(5) Signs pertaining to special events, which refer to particular periods or points of time, such as meetings, sales, exhibitions and vacancy announcements, shall be permitted, provided that such signs shall be removed when no longer applicable in time.

(6) Along streets and roads, no sign shall obscure vision or views of the natural landscape or the larger urban area, nor shall any sign be distracting to motorists or create a traffic hazard.

(7) No sign shall be erected at the intersection of any street or road in such manner as to obstruct clear vision; nor shall any sign be erected at a location where, by reason of its position, shape or color, it may interfere with, obstruct the view of or be confused with any traffic sign or traffic control device.

(8) Signs will not be erected on a Town right-of-way. (Ord. 225 §6.2, 1994)

17.36.030 Permitted accessory signs in residential districts.

In the R-1 or R-2 District, no sign shall be erected or maintained, except the following permitted signs:

(1) No sign shall be higher from the ground than its distance to the nearest point on the property line, but in no case higher than the roof line or parapet of the highest building on the premises.

(2) Identification sign. A sign identifying property or the name of the owner or occupant of property or service performed thereon, provided that such sign is not in excess of three (3) square feet in area, and further that not more than one (1) such sign is allowed for each street upon which the property faces. Such signs shall not be illuminated except for the identification of house numbers.

(3) Temporary sign.

a. A sign pertaining to the lease or sale of the property on which the sign is located, or any building thereon, provided that such signs do not exceed twenty (20) square feet in area per sign, and further that not more than two (2) signs are located on any single lot or parcel and one (1) such sign is allowed for each street upon which the property faces.

b. Signs announcing the sale or leasing of a property or building, public events to be held, the builder, architect or tenant of a proposed building or property; election campaigns shall be located on the property for a maximum of three (3) months with two (2) renewals, each of two (2) months' duration upon application and approval of said application. Such signs shall not be illuminated.

(4) Directional sign. A sign used to direct the flow of traffic in and out of drives, parking areas or buildings, shall not exceed three (3) square feet in size, shall be limited to two (2) for each premises upon which such sign is necessary, plus two (2) for each street or road upon which each premises faces. Said signs shall be illuminated by indirect light only.

(5) Nonresidential identification sign. Signs used to announce the name, location, sponsor or occupant of a building or premises other than a dwelling, and including bulletin boards for churches, shall not exceed fifteen (15) square feet per sign. Two (2) signs per each street upon which the premises faces. Illumination will be allowed indirectly only. (Example: The Spencer Building.) (Ord. 225 §6.3, 1994)

17.36.040 Permitted accessory signs in commercial and industrial district.

In C-1, Commercial and I-1, Industrial Districts, accessory signs shall not be erected or maintained except in conformity with the following regulations:

(1) Temporary sign.

a. A sign pertaining to the lease or sale of the property on which the sign is located, or any building thereon, provided that such signs do not exceed twenty (20) square feet in area per sign, and further that not more than two (2) signs are located on any single lot or parcel, one (1) such sign is allowed for each street upon which the property faces.

b. Signs announcing the sale or leasing of a property or building, public events to be held, the building, architect or tenant of a proposed building or property; election campaigns shall be located on the property for a maximum of three (3) months with two (2) renewals, each for two (2) months' duration upon application and approval of said application. Such signs shall not be illuminated.

(2) Directional sign. A sign used to direct the flow of traffic in and out of drives, parking areas or buildings shall not exceed three (3) square feet in size, shall be limited to two (2) for each premises upon which such sign is necessary, plus two (2) for each street or road upon which each premises faces. Such signs shall be illuminated by indirect light only.

(3) Nonresidential identification sign. Signs used to announce the name, location, sponsor or occupant of a building or premises, other than a dwelling and including bulletin boards for churches, shall not exceed fifteen (15) square feet per sign. Two (2) signs per each street upon which the premises faces. Illumination will be allowed indirectly only. (Example: The Spencer Building.)

(4) Business sign. Signs used to announce the name of a business or service establishment and/or to indicate the type of goods sold or services performed shall not exceed fifty (50) square feet per sign and shall be limited to two (2) signs per premises. Indirect, nonflashing illumination is permitted where signs would not face into an R-1 or R-2, residential zone within one hundred (100) feet of the face of the sign measured perpendicularly. Such sign may exceed by eighteen (18) feet the maximum height of the roof or parapet wall.

(5) Outdoor advertising sign or device. Sign to advertise anything that may or may not be sold on the premises. Sign may not exceed five (5) square feet for every one hundred (100) feet of street frontage of the property upon which the sign is located, but in no case to exceed three hundred (300) square feet per sign. Total maximum square footage not to exceed three hundred (300) feet. There shall be no restrictions regarding illumination of outdoor advertising signs except where the sign faces an R-1 or R-2, residential zoned district, within one hundred (100) feet of the face of the sign measured perpendicularly thereto; no flashing signs or directly illuminated sign shall be permitted. (Ord. 225 §6.4, 1994)

17.36.050 Nonaccessory signs.

No outdoor advertising sign, billboard or other advertising media, not directly related to the use of the premises on which it is located, shall be permitted in any district, except as a use by review in such districts as is hereinafter provided. Any nonaccessory sign permitted as a conditional use shall be in harmony with the spirit and intent of these regulations. (Ord. 225 §6.5, 1994)

17.36.060 Public agency signs.

The provisions of this Chapter shall not apply to the signs erected by national, state, county or municipal governmental agencies, including traffic and informational signs. (Ord. 225 §6.6, 1994)

17.36.070 Removal of signs.

Any sign existing on or after the date of enactment of the ordinance codified in this Title, which identifies a business or activity which no longer exists or a product which is no longer sold on the premises, shall be removed by the owner of the premises upon written notice of the Zoning Administrator. The Zoning Administrator, upon determining that such sign exists, shall notify the owner of the premises. The owner of the premises shall remove such sign within six (6) months of the notice. (Ord. 225 §6.7, 1994; Ord. 2004-9 §§15, 16)

CHAPTER 17.40

Nonconforming Uses and Structures

17.40.010 Purpose.

Any use, parcel or structure that existed immediately prior to the adoption of the ordinance codified in this Title, which does not conform to the provisions of the ordinance at the time of adoption, shall be known as a nonconforming structure, use or parcel. It is the intent of this Chapter to allow the continuance of such nonconformance, but not to allow its enlargement nor to allow its continuance should the use be destroyed by fire or any other cause. (Ord. 225 §7.1, 1994)

17.40.020 Continuation of nonconforming use or structure.

A nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or enlarged. No building or use that is nonconforming as of the effective date of the ordinance codified in this Title shall be structurally altered or expanded in any way that would increase the degree or area of nonconformance. The following changes or alterations may be made to a nonconforming building:

- (1) Repair to a building or structure that is ordered by any public official to make it safe;
- (2) Maintenance repairs that are needed to keep the building in good condition;
- (3) Any structural alteration that would not increase the degree of nonconformance or would change the use of a conforming use. (Ord. 225 §7.2, 1994)

17.40.030 Nonconforming structure.

A structure conforming as a use but nonconforming as to height, setback or coverage may be altered or enlarged, provided the alteration or enlargement does not result in a violation of this Title. (Ord. 225 §7.3, 1994)

17.40.040 Discontinuance of a nonconforming use.

If a nonconforming use is discontinued from use for a period of three (3) months, further use of the property shall be a conforming use, unless the use is of a seasonal character; then twelve (12) months shall apply. (Ord. 225 §7.4, 1994)

17.40.050 Change of a nonconforming use.

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district and, after change, it shall not be changed back again to the original nonconforming use. The following changes or alterations may be made to a nonconforming building:

- (1) Repair to a building or structure that is ordered by any public official to make it safe;
- (2) Maintenance repairs that are needed to keep the building in good condition;
- (3) Any structural alteration that would not increase the degree of nonconformance or would change the use to a conforming one. (Ord. 225 §7.5, 1994)

17.40.060 Destruction of a nonconforming use.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion or other act to the extent exceeding fifty percent (50%) of the cost of replacement of the structure using new materials, a future structure or use on the property shall conform to the provisions of this Title. If destruction is determined to be less than fifty percent (50%), restoration must be started within twelve (12) months of such calamity and completed within twenty-four (24) months of initiating restoration. (Ord. 225 §7.6, 1994)

17.40.070 Completion of structure or building.

Nothing contained in this Title shall require any change in the plans, construction, alteration or designated use of a building for which construction work has commenced prior to the adoption of the ordinance codified in this Title. (Ord. 225 §7.7, 1994)

17.40.080 Nonconforming lots of record.

(a) Some nonconforming lots of record at the time of the passage of the ordinance codified in this Title may be built upon or used after the passage of the ordinance codified in this Title only:

- (1) With a use by right in the zone district; and
- (2) By approval of the Board of Adjustment.

(b) No lot that is conforming in size at the time of passage of the ordinance codified in this Title may be subdivided or reduced in size in such a way that it would become nonconforming, nor cause any building, space or use to become nonconforming.

(c) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption or amendment of the ordinance codified in this Title, and part or all of the said lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the lands shall be considered for the purpose of this Title an

undivided parcel, and no portion of such parcel shall be sold or used in a manner which diminishes compliance with lot width and area requirements established by this Title. (Ord. 225 §7.8, 1994)

17.40.090 Nonconforming signs.

(a) No sign may be enlarged or altered in such a manner as to increase its nonconformity; however, any sign or portion thereof may be altered to decrease its nonconformity.

(b) The right to operate any nonconforming sign shall terminate within one (1) year after the adoption of the ordinance codified in this Title or upon expiration the of sign lease agreement. (Ord. 225 §7.9, 1994)

17.40.100 Documentation of nonconforming uses and structures.

The Board of Trustees shall cause all nonconforming uses and structures to be documented within one (1) year of the adoption of the ordinance codified in this Title. The documentation shall show the date of the inspection and details of the nonconforming structures and/or uses. (Ord. 225 §7.10, 1994)

CHAPTER 17.44

Administration

17.44.010 Zoning Administrator.

All permits, certificates and stop orders required by this Title shall be issued by the Zoning Administrator, who shall be the administrative and enforcing officer of the provisions of this Title, and he or she shall have the authority to make all decisions and investigations necessary to properly carry out the provisions of this Title. The Zoning Administrator shall determine whether a use is similar to those uses listed, unless his or her decision be reversed by the Planning Commission and Board of Adjustment. No required permit, certificate or order shall be issued by him or her, if in his or her judgment, the requirements of this Title have not been met. No oversight or dereliction on the part of the Zoning Administrator or his or her authorized assistants or on the part of any official or employee of the municipality shall legalize or authorize the violations of any of the provisions of this Title. (Ord. 225 §8.1, 1994)

17.44.020 Schedule of fees.

All fees shall be established by the Board of Trustees and shall be subject to revisions by appropriate resolution adopted at any meeting of the Board of Trustees. (Ord. 225 §8.2, 1994)

17.44.030 Payment of fees.

At the time application is submitted, the appropriate fee shall accompany the application. Payment shall be made in the form and in the manner prescribed by the Board of Trustees. No application shall be accepted unless accompanied by the appropriate fee. (Ord. 225 §8.3, 1994)

17.44.040 Secretary to the Planning Commission and Board of Adjustment.

The Zoning Administrator or other duly appointed person as deemed appropriate by the Board of Trustees shall serve as the secretary to the Planning Commission and Board of Adjustment. (Ord. 225 §8.4, 1994)

17.44.050 Right of entry.

The Zoning Administrator or any duly authorized deputy inspector, members of the Planning Commission or members of the Board of Adjustment shall first secure permission of the occupant before entering upon any premises for the purpose of making any inspection and for such other purposes as may be necessary for the conduct of his or her duties in the administration and enforcement of this Title. (Ord. 225 §8.5, 1994)

17.44.060 Zoning permits.

Permits shall be secured from the Zoning Administrator or designated appointee prior to the construction, moving, conversion, extension, enlargement or structural alteration or change of use for buildings other structures, or any change of use of land.

(1) Application forms. Application for a zoning permit shall be made to the Zoning Administrator on forms provided for that purpose.

(2) Issuance. If, in the opinion of the Zoning Administrator, the proposal, as set forth in the application, is in conformity with the provisions of this Title, the Zoning Administrator shall issue a zoning permit.

(3) Disapproval. If, in the opinion of the Zoning Administrator, the proposal, as set forth in the application, is not in conformance with the provisions of this Title, the Zoning Administrator shall refuse to issue a zoning permit. If an application for a zoning permit is not approved, the Zoning Administrator shall state in writing, on the application, the reason for such disapproval.

(4) Null or void permits. Any permit issued in violation of any of the provisions of this Title shall be null and void and may not be construed as waiving any provision of this Title. Any zoning permit issued under the provisions of this Title shall be valid for one (1) year. If no construction has started within the one-year limit, then the zoning permit shall be null and void.

(5) Stop orders. Whenever any building work is being done contrary to the provisions of this Title or land or structures are being used contrary to this Title, the Zoning Administrator shall order the work or use stopped by notice in writing served on any person engaged in doing or causing such work to be done or such use to be continued, and any such person and all others engaged in doing or causing such work to be done or such use to be continued shall forthwith stop such work or use until authorized by the Zoning Administrator to proceed with the work or continue the use. (Ord. 225 §8.6, 1994)

17.44.070 Appeal.

Any person denied a permit, certificate or issued a stop order, when noncompliance with this Title is the grounds for such action, by the Zoning Administrator or any other public official, may appeal such action of the Zoning Administrator or public official to the Planning Commission within thirty (30) days from the date of such action by the Zoning Administrator. Appeals shall be filed on the form furnished and in the manner prescribed by this Title. (Ord. 225 §8.7, 1994)

17.44.080 Appeal fee.

No additional fee shall be required for an appeal filed for consideration of the Zoning Administrator's or any other public official's denial of a permit, certificate or for a stop order when such action by the Zoning Administrator is based upon noncompliance with this Title. (Ord. 225 §8.8, 1994)

17.44.090 Initiation of an amendment to zoning map or this Title.

An ordinance for the amendment of any portion of this Title or of any zone district boundaries may be initiated by any member of the governing body, the Planning Commission or an administrative office of the municipality or by one (1) or more of the owners of the property within the area for which the amendment is requested. The request for such change shall be submitted in writing to the Zoning Administrator on a form provided for the purpose. (Ord. 225 §8.9, 1994)

CHAPTER 17.48

Planning Commission

17.48.010 Application.

(a) All applications for uses by review, variances, zone amendments and appeals pursuant to this Title shall be referred by the Zoning Administrator to the Planning Commission within sixty (60) days after the application and all supporting documentation has been completed and filed with the Zoning Administrator. The Commission shall consider the application at the next regularly scheduled meeting; provided that, at the request of any member of the Planning Commission or other public official, the application may be placed on the agenda of an earlier regular or special meeting.

(b) The Planning Commission is authorized:

(1) To hold a public hearing upon the application and at such hearing receive testimony under oath and make such studies and surveys as are required;

(2) To request information or opinions relative to the application from the Zoning Administrator, any administrative officer of the municipality or any other person or persons having an interest or concern regarding the application;

(3) To make findings based upon the testimony and evidence adduced at the hearing, together with any other relevant matters considered by the Commission;

(4) To make a recommendation to the Board of Adjustment for approval or denial of the application. Such recommendation shall be in writing and shall include the findings of the Commission and shall include a statement setting forth those factors which the Commission considered controlling factors in making its recommendations;

(5) To include in its recommendation to the Board of Adjustment such requirements, conditions and/or reviews to actions or applications presented to it as it feels necessary to carry out the intent and purpose of this Title. (Ord. 225 §9.1(part), 1994)

17.48.020 Public hearings.

All proceedings during the public hearing shall be electronically recorded. All actions of the Planning Commission shall be taken at public hearings, notice of which has been given by the secretary of the Commission not less than fifteen (15) days before the date set for such action and, if for an amendment to the zoning map, use by review or variance, shall cause notice of the public hearing on the proposed application to be sent to owners of the lots included in said application and those immediately adjacent thereto extending one hundred (100) feet therefrom, and of those directly opposite thereto and extending one hundred (100) feet from the street frontage of such opposite lots and to such other persons as in the judgment of the secretary should be notified, in the following fashion:

(1) Such notice shall give the time, date and place of the hearing, a brief description of the application and the legal description and street address of such property, and shall be published once in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. If application is for a zone amendment or zoning map change, the notice of public hearing on the proposed zone changes shall be published in the same manner but shall be published thirty (30) days prior to the public hearing.

(2) The applicant submitting the request shall provide the names and mailing address of the afore-noted property owners. The listing of property owners shall be submitted in conjunction with the appropriate form. (Ord. 225 §9.1.2, 1994)

17.48.030 Use by review.

In considering a use by review, the Planning Commission shall find in writing, based upon evidence and testimony, that all of the following conditions do in fact exist:

(1) The requested use is a use listed as a use by review in the district in which the parcel is located;

(2) The granting of the use by review will not substantially modify the intent, purpose and spirit of this Title;

(3) The requested use by review incorporates a reasonable means to create an environment harmonious with that of the surrounding properties; and

(4) The use by review will not adversely affect the public health, safety or welfare. (Ord. 225 §9.1.3, 1994)

17.48.040 Appeal from Zoning Administrator.

In considering an appeal from actions of the Zoning Administrator, the Planning Commission shall find in writing, based on evidence and testimony that all of the following conditions do in fact exist:

(1) The granting of the appeal will permit only those uses listed in the zone district in which the parcel is located; and

(2) The action of the Zoning Administrator was arbitrary, capricious or not in harmony with the provisions, purposes, intent and spirit of this Title. (Ord. 225 §9.1.4, 1994)

17.48.050 Variance.

In considering a variance, the Planning Commission shall find in writing, based upon evidence and testimony, that all of the following conditions do in fact exist.

- (1) The variance will permit only those uses listed as a use permitted in the zone district in which the parcel is located;
- (2) The parcel for which the variance is made suffers unique or singular disadvantages such as, but not limited to, size, shape, topography, location or surrounding not shared by other parcels in the neighborhood;
- (3) The variance will not grant privileges inconsistent with limitations shared by other parcels in the zone district;
- (4) The variance will not have an injurious effect on the existing or future uses of adjacent parcels;
- (5) The variance will not injure or adversely alter the general character of the neighborhood in which the variance is sought; and
- (6) The variance is in harmony with the intent, purpose and spirit of this Title. (Ord. 225 §9.1.5, 1994)

17.48.060 Zoning amendment.

In considering a zoning amendment, the Planning Commission shall find in writing, based upon evidence and testimony, that all of the following conditions do in fact exist.

- (1) The zoning amendment will permit only those uses listed as a use permitted in the zone district in which the parcel is located;
- (2) The zoning amendment will not grant privileges inconsistent with limitations shared by other parcels in the zone district;
- (3) The zoning amendment will not have an injurious effect on the existing or future uses of adjacent parcels;
- (4) The zoning amendment will not injure or adversely alter the general character of the neighborhood in which the zoning amendment is sought; and
- (5) The zoning amendment is in harmony with the intent, purpose and spirit of this Title. (Ord. 225 §9.1.6, 1994)

17.48.070 Actions.

All actions of the Planning Commission shall be in writing, shall contain the required findings of fact and shall include a statement setting forth those factors which the Commission considered controlling factors in reaching its decision. The decision of the Planning Commission shall be mailed to the applicant by certified mail, return receipt requested. (Ord. 225 §9.1.7, 1994)

17.48.080 Time limit for consideration.

Decisions by the Planning Commission shall be rendered within thirty (30) days from the date of the public hearing. Upon mutual agreement between the Commission and the applicant, the time period within which the Commission shall act may be extended. Failure of the Planning Commission to render a decision within the allotted time shall constitute acceptance of such application. (Ord. 225 §9.1.8, 1994)

CHAPTER 17.52

Board of Adjustment

17.52.010 Use by review, variance and appeal; application.

(a) No variance, use by review or appeal application shall be granted except by the Board of Adjustment which shall be comprised of the Board of Trustees of the Town.

(b) Upon receipt of the recommendation of the Planning Commission upon an application for a use by review, variance or appeal, the Board of Adjustment shall be authorized:

(1) To hold a public hearing upon the application and at such hearing to receive testimony under oath and to make such studies and surveys as are required;

(2) To request information or opinions relative to the application from the Zoning Administrator, any administrative officer of the municipality or any other person or persons having an interest or concern regarding the application.

(3) To make findings based upon the testimony and evidence adduced at the hearing, together with any other relevant matters considered by the Board of Adjustment. (Ord. 225 §10.1(part), 1994)

17.52.020 Use by review, variance and appeal; public hearings.

(a) All proceedings during the public hearing shall be electronically recorded. The Board of Adjustment shall consider any application for a use by review, variance or appeal at a public hearing, notice of which has been given by the secretary of the Board of Adjustment not less than fifteen (15) days prior to the date set for such hearing for a use by review, variance or appeal.

(b) Such notice shall give the time, date and place of the hearing, a brief description of the application and the legal description and street address of such property and be published once in a newspaper of general circulation and, if for a use by review or variance, shall cause notice of the public hearing on the proposed application to be sent to owners of lots included in such application and those immediately adjacent thereto extending one hundred (100) feet therefrom, or of those directly opposite thereto, extending one hundred (100) feet front the street frontage of such opposite lots and to such other persons as in the judgment of the secretary should be notified, such notice to be given not less than fifteen (15) days before the date set for the hearing. Such notice may be served by depositing the same, properly addressed and postage paid in the post office. (Ord. 225 §10.1.2, 1994)

17.52.030 Use by review, variance and appeal; actions.

All actions of the Board of Adjustment shall be in writing. The Board of Adjustment may accept or reject the recommendations of the Planning Commission. The Board of Adjustment shall make written

findings, including a statement setting forth those factors it considered controlling in making its decision. Any applications granted by the Board of Adjustment shall not be personal to the applicant, but shall be transferable and shall run with the land except that the application granted must be exercised in full or construction started within not more than one (1) year from the date of granting such application; otherwise, the approval of the application becomes null and void and the parcel shall thereafter be subject to all the applicable regulations of this Title. (Ord. 225 §10.1.3, 1994)

17.52.040 Use by review, variance and appeal; legal remedies.

The findings and decisions of the Board of Adjustment in the case of variances, use by review and zoning appeal applications are final. Appeals to the district court shall be made within thirty (30) days from the date of the action by the Board of Adjustment. (Ord. 225 §10.1.4, 1994)

17.52.050 Use by review, variance and appeal; time limit for consideration.

The Board of Adjustment shall render a decision within thirty (30) days from the date of the public hearing. Upon mutual agreement between the Board and the applicant, set forth in writing, the time period within which the Board of Adjustment may act may be extended. (Ord. 225 §10.1.5, 1994)

17.52.060 Use by review, variance and appeal; reapplication.

In the event the proposed zoning amendment and/or map change is denied by the governing body, no new request for the same or substantially similar amendment shall be heard by the governing body within one (1) year of such denial. (Ord. 225 §10.1.6, 1994)

17.52.070 Zoning amendments and map changes.

(a) Any portion of this Title and or the zoning map may be changed whenever the public necessity, health, safety, general welfare and/or good zoning practices justifies such action. Any such change shall be made only by the governing body of the municipality.

(b) Upon receipt of the recommendation of the Planning Commission upon an application for a zoning amendment and/or map change, the Board of Adjustment shall be authorized:

(1) To hold a public hearing upon the application and at such hearing to receive testimony under oath and to make such studies and surveys as are required;

(2) To request information or opinions relative to the application from the Zoning Administrator, any administrative officer of the municipality or any other person or persons having an interest or concern regarding the application; and

(3) To make findings based upon the testimony and evidence adduced at the hearing, together with any other relevant matters considered by the Board of Adjustment. (Ord. 225 §10.2.1, 1994)

17.52.080 Zoning amendments and map changes; public hearings.

(a) All proceedings during the public hearing shall be electronically recorded. The Board of Adjustment shall consider any application for a zoning amendment and/or map change at a public hearing, notice of which has been given by the secretary of the Board of Adjustment not less than thirty (30) days prior to the date set for the Board of Adjustment hearing for the zoning amendment and/or map change.

(b) Such notice shall give the time, date and place of the hearing, a brief description of the application and the legal description and street address of such property, and be published once in a newspaper of general circulation and shall be published thirty (30) days prior to the public hearing conducted by the Board of Adjustment. (Ord. 225 §10.2.2, 1994)

17.52.090 Zoning amendments and map changes; actions.

All actions of the Board of Adjustment shall be in writing. The Board may accept or reject the recommendations of the Planning Commission. The Board of Adjustment shall make written findings, including a statement setting forth those factors it considered controlling in making its decision. (Ord. 225 §10.2.3, 1994)

17.52.100 Zoning amendments and map changes; time limit for consideration.

Recommendation by the Board of Adjustment to the governing body regarding the zoning amendment and/or map change shall be rendered within thirty (30) days from the date of the public hearing. Upon mutual agreement between the Board of Adjustment and the applicant, set forth in writing, the time period within which the Board shall act may be extended. (Ord. 225 §10.2.4, 1994)

17.52.110 Zoning amendments and map changes; mandatory review.

During the first thirty (30) days following the one-year anniversary of the effective date of any ordinance changing the zoning map, the Planning Commission shall review the proposed development of the subject area in the field to determine whether the development intended by the amendment is being undertaken in good faith. If such development is not underway, in keeping with said intent, the Planning Commission may initiate action to rezone the subject area back to the classification it had prior to the change in zoning, or to any more appropriate classification. (Ord. 225 §10.2.5, 1994)

17.52.120 Zoning amendments and map changes; reapplication.

In the event the proposed zoning amendment and/or map change is denied by the governing body, no new request for the same or substantially similar amendment shall be heard by the governing body within one (1) year of such denial. (Ord. 225 §10.2.6, 1994)

17.52.130 Zoning amendments and map changes; legal remedies.

The findings and decisions of the governing body shall be final. Appeals to district court shall be made within thirty (30) days from the date of the governing body's action. (Ord. 225 §10.2.7, 1994)

CHAPTER 17.56

Violations and Penalties

17.56.010 Application.

It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of the provisions of these regulations or any amendment thereof. Any person, firm or corporation, either as owner, lessee, occupant or otherwise, who violates any of the provisions of these regulations or any amendment thereof shall be guilty of a misdemeanor. (Ord. 225 §11.1, 1994)

17.56.020 Violation; penalty.

(a) Violation of the provisions of this Title or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, use by reviews, zone changes) shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense.

(b) Should it be necessary by the Board of Trustees of the Town to seek the order of the district court to enforce its cease and desist order and for the Town to successfully enforce and uphold its regulations, the landowner shall be responsible for all charges of litigations which includes any reasonable attorney fees and the proceeding costs herein. Both fees and costs incurred by the Town shall be charged solely at the discretion of the Board of Trustees of the Town.

(c) The owner or tenant of any building, structure, premises 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.

(d) Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 225 §11.2, 1994)

CHAPTER 17.60

Legal Status Provisions

17.60.010 Interpretation.

In the interpretation and application of the provisions of these regulations, the following criteria shall govern:

(1) Whenever both a provision of these regulations, and any other provisions of these regulations or any provision in any other law, ordinance, resolution, rule, regulation of any kind, contain any restrictions covering any of the same subject matter, the most restrictive or the ones which impose higher standards or requirements shall govern.

(2) These regulations are not intended to abrogate or annul any permits issued before the effective date of these regulations or any easement, covenant or any other private agreement. (Ord. 225 §12.1, 1994)