TITLE 16

UNIFIED DEVELOPMENT CODE*

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*__Editor's note—__Ord. No. 04-05, adopted Jan. 20, 2004, approved the adoption of the Unified Development Code as a reenactment of Title 16 of this Code. The text of such Unified Development Code (UDC) is set forth herein. Chapters 1 through 10 of such Title have been spanned across two columns to form a single, wide column in order to accommodate the numerous tables, images, and deep textual indentions which occur throughout the document. Any obvious misspellings have been corrected without comment.

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Chapter 1

GENERAL PROVISIONS

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16-1-1: Title.

This Title shall be known and may be cited as the "Unified Development Code of the City of Englewood". It shall hereafter be referred to as "this Title 16" or "this Title".
(Ord. 04-5)

16-1-2: Authority.

This Title is adopted through the exercise of powers granted and acquired in the Home Rule Charter adopted by the City of Englewood in 1958, as amended from time to time, and in accordance with the powers granted to municipalities by the Constitution and Laws of the State of Colorado, including without limitation C.R.S. 29-20-101 et seq., as amended (Local Government Land Use Control Enabling Act).
(Ord. 04-5)

16-1-3: Overview.

This Title is an adopted document that executes the policies and objectives of the City of Englewood's Comprehensive Plan and associated small area plans. The Comprehensive Plan provides a vision for the future of Englewood, and incorporates specific small area plans, to provide more detailed policies for identified areas within the city limits.
(Ord. 04-5)

16-1-4: Purpose and Intent.

A. *General Intent and Purpose.* The City Council hereby finds, determines, and declares that the uniform regulation of land development in the City, in accordance with a Comprehensive Plan and as established by the standards, procedures, and enforcement provisions of this Title, is necessary for the immediate preservation of the public peace, health, safety, convenience, and welfare.

B. *Intent to Supersede General Colorado Law.* The City of Englewood recognizes that zoning is ultimately a local and municipal matter, and intends with this Title to supersede within the territorial limits and other jurisdiction of the City any general law of the State of Colorado in conflict herewith.

C. *Specific Purposes.* The regulations of this Title are intended to implement the Englewood Comprehensive Plan, as amended, and more specifically to:

1. Encourage and facilitate land use by designating and regulating the distribution and location of buildings, structures, and land for residential, commercial, industrial, recreational, or other appropriate uses.

2. Promote land uses that support and encourage economic and sustainable development.
3. Regulate uses within floodplains to mitigate hazards to the public and damage to property.
4. Promote development that preserves and enhances quality of life and protects environmental resources of the City.
5. Facilitate the provision of infrastructure such as water, sewerage, streets, transportation, and other public facilities.
6. Regulate the division, transfer and conveyance of realty within the City.
7. Provide a comprehensive, consistent, and efficient development review process.

(Ord. 04-5; Ord. 8-13, § 1)

16-1-5: Applicability and General Compliance.

A. *General Applicability.* The regulations, requirements, limitations, and provisions of this Title shall extend and apply only to land and the use of land within the corporate limits of the City of Englewood, Colorado.

B. *Applicability to Prior Building Permits.* This Title is not intended to abrogate or annul any building permit, certificate of occupancy, or variance issued and in full force and effect on the effective date of this Title.

C. *Street Dedications and Building Permits.* When the Englewood Master Street Plan requires a street dedication, the City shall not issue a building permit for a building or structure on that portion of the lot necessary for the public right-of-way, whether or not such portion has been dedicated.

D. *Minimum Standards.* The provisions of this Title may be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, and welfare.

E. *General Compliance Requirements.*

1. No building, structure, or land may hereafter be used or occupied, and no building or structure or part thereof may hereafter be erected, constructed, moved, or altered except in conformity with all of the regulations of this Title.
2. No part of a lot area, open space, off-street parking area, or yard required about or in connection with any building for the purposes of complying with this Title, may be included as part of a lot area, an open space, off-street parking area, or yard similarly required for any other building or use, except as otherwise specifically permitted by the provisions of this Title.
3. Any building or occupancy permit issued in conflict with the provisions of this Title shall be null and void and may not be construed as waiving any provision of this Title.

(Ord. 04-5)

16-1-6: Relationship to Other Regulations.

This Title relates to the zoning and subdivision of land, and it does not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those repealed herein. Where this Title imposes a greater restriction upon land, buildings, or structures than imposed or required by such existing provisions of law or ordinance, the provisions of this Title shall control.
(Ord. 04-5)

16-1-7: Effective Date.

This Title shall take effect and be in force from and after its final passage, which date is February 23, 2004.
(Ord. 04-5)

16-1-8: Official Zone District Map.

A. *Necessity for District Designation.* It is the intent of this Title that all land within the boundaries of the City of Englewood shall be located within one of the zone districts enumerated and listed in Chapters 16-3 EMC. If, for any reason, any land within the boundaries of the City shall be determined not to be within one of the aforesaid districts, no permits shall be issued for the erection or alteration of any building or structure in the area found wanting classification until the area has been examined by the City Planning and Zoning Commission and the City Council and a zone classification enacted and established therein. Action to zone land to the appropriate zone classification shall be completed by the City within ninety (90) days from the effective date of the annexation ordinance, or from the date of such other final action that rendered the area to be without proper zone classification. In determining the zone classification to be applied to land, the City shall evaluate the physical characteristics of the land and the development in the adjacent area and shall consider the plans for development of the site submitted by the owner of the property to be zoned.

B. *Adoption of Official Zoning Map.* The zone designations and the boundaries of the zone districts shall be shown upon maps adopted by Ordinance No. 5, Series of 2003/2004 as amended, and made a part hereof, and collectively shall constitute the Official Zoning Map of the City of Englewood. Said Map and all of the notations, references and other information shown thereon are as much a part of this Title as if the matters and information set forth by said Map were fully described herein. For clarification to and the convenience of the public, a representative copy of said Map and the amendments thereto, shall be on display in the City of Englewood. The City Clerk shall maintain a true copy of said Map and the amendments thereto.

C. *Amendments to Official Map to be Documented.* All amendments to the Official Zoning Map shall be listed in the order adopted in a separate register maintained in, and kept current by, the City and in addition, such amendments shall be shown on the true copy maintained by the City Clerk.

D. *District Regulations to be Uniform.* The regulations herein established shall apply uniformly to all geographical areas having the same district classification and bearing the same designation on the official map.

E. *Locating Boundaries of Zone Districts.*

1. General Rules. In determining the boundaries of zones shown on the map, the following rules shall apply:

    a. Unless otherwise indicated, the zone boundaries are the centerlines of streets, alleys, parkways, or channelized waterways, or such lines extended. Where a district boundary line is shown as adjoining a railroad right-of-way, said line shall be deemed to coincide with the boundary line of such railroad right-of-way.

    b. If a district boundary line extends in the direction of the length of a block, the district boundary line shall be deemed to coincide with the centerline of such block.

    c. If a district boundary line is shown as approximately following platted lot lines, said boundary line shall be deemed to coincide with such platted lot lines.

    d. If a district boundary line divides a platted lot or crosses unsubdivided property, the location of the district boundary line shall be determined by dimensions shown upon the zoning map.

e. If a district boundary line is shown by a specific dimension, such specific dimension shall control.

f. If a district boundary line is located with reference to a fixture or monument, the location of such fixture or monument shall control.

g. If the street layout or stream course actually on the ground varies from the layout as shown on the map, the City Planning and Zoning Commission shall interpret said Map according to the reasonable intent of this Title.

h. In the event a dedicated street or alley shown on the map is vacated by ordinance, the property formerly in said street or alley shall be included within the zone of the adjoining property on either side of said vacated street or alley. In the event said street or alley was a zone boundary between two (2) or more different zones, the new zone boundary shall be the former centerline of said vacated street or alley.

2. Exception. The regulations herein established shall apply uniformly to all geographical areas having the same district classification and bearing the same designation on the official map; provided, however, that if a district boundary line established by this Title, or by an amendment hereto, divides an area of land held in one ownership of record on the date the district boundary line was established, then and in that event:

a. *Land Under One Ownership Having Less Than Eighteen Thousand Square Feet.*

(1) Each portion of land in the area so divided may be used in conformance with and subject to the regulations herein established for the district in which each portion of land is located.

(2) The entire parcel of land may be used in conformance with, and subject to, the regulations herein established for the district in which is located the portion of land which contains more than one-half (1/2) of the entire area held in one ownership.

b. *Land Under One Ownership Having More Than Eighteen Thousand Square Feet.* Any parcel of land containing more than eighteen thousand (18,000) square feet, shall be used only in conformance with and subject to the regulations herein established for the zone districts in which each portion of the parcel falls.

c. *Medical Zone Districts.* In cases where an assemblage of property under one (1) ownership is split by a zoning boundary dividing the M-1 and M-2 zone districts, the entire property shall be developed according to the requirements for the M-2 zone district, with the exception that the first floor retail portion of the structure shall be confined to the original M-2 zoned portion of the property.

d. *M-O-2 Medical Overlay District.* Properties located within the M-O-2 Medical Overlay District are required to develop under all R-2-B base zone district regulations, unless the property is developed as part of a larger development including adjacent property zoned M-2 fronting on Hampden Avenue. In such a case, the entire property shall be developed according to the requirements for the M-2 zone district, with the exception that the first floor retail portion of the structure shall be confined to the original M-2 zoned portion of the property.

(Ord. 04-5; Ord. 09-28, § 1)

16-1-9: Rules of Construction and Interpretation.

A. *Meaning and Intent.* All provisions, terms, phrases, and expressions contained in this Title shall be construed according to this Title's stated purpose and intent.

B. *Text Controls.* In case of any difference of meaning or implication between the text of this Title and any heading, drawing, table, or figure, the text shall control.

C. *Lists and Examples.* Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities.

D. *Computation of Time.* Periods defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days. However, if the last day falls on a Saturday, Sunday, or legal holiday, the period extends to the next day that is not a Saturday, Sunday, or legal holiday.

E. *Delegation of Authority.* Whenever this Title requires the City or City Manager to perform an act or duty, the City Manager may delegate the responsibility to subordinates, unless this Title specifies otherwise.

F. *Technical and Non-Technical Words.* Words and phrases not otherwise defined in this Title shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Title that may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.

G. *Public Officials and Agencies.* All public officials, bodies, and agencies to which references are made are those of the City of Englewood, unless otherwise indicated.

H. *Mandatory and Discretionary Terms.* The words "shall," "must," or "will" are always mandatory, and the words "may" or "should" are always discretionary.

I. "*Occupied*" *or* "*Used*". The terms "occupied" or "used" shall be considered as though followed by the words, "or intended, arranged, or designed to be used or occupied".

J. *Conjunctions.* Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions, or events shall apply; and
2. "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

K. *Tense and Usage.* Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

L. *Gender.* The masculine shall include the feminine, and vice versa.
(Ord. 04-5)

16-1-10: Severability.

If any article, section, subsection, sentence, clause, or phrase of this Title is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Title. The City Council of the City of Englewood hereby declares that it would have phrased this Title and each article, section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses and phrases be declared unconstitutional.
(Ord. 04-5)

Chapter 2

DEVELOPMENT REVIEW AND APPROVAL PROCEDURES

16-2-1:	Administrative and Review Roles.
16-2-2:	Summary Table of Administrative and Review Roles.
16-2-3:	Development Application Procedures.
16-2-4:	Comprehensive Plan Amendments.
16-2-5:	Annexation Petitions.
16-2-6:	Amendments to the Text of Title 16 (UDC).
16-2-7:	Official Zoning Map Amendments (Rezonings).
16-2-8:	Planned Unit Development (PUD) Rezoning Process and Requirements.
16-2-9:	Site Improvement Plan Review.
16-2-10:	Major Subdivisions.
16-2-11:	Minor Subdivisions and Administrative Land Review Permits.
16-2-12:	Conditional Use Permits.
16-2-13:	Limited Use Permits.
16-2-14:	Temporary Use Permits.
16-2-15:	Development Agreements.
16-2-16:	Zoning Variances.
16-2-17:	Administrative Adjustments.
16-2-18:	Appeals.
16-2-19:	Vested Rights.

16-2-1: Administrative and Review Roles.

The following entities comprise the review and decision-making bodies with respect to administering this Title. The roles and functions of these bodies are described in this Section and summarized in the table contained in Section 16-2-2 EMC below.

A. *City Council.*

1. Administrative and Review Roles Under this Title. The City Council ("Council") shall have those administration and review roles as shown in Section 16-2-2 EMC, "Summary Table of Administrative and Review Roles," below. In addition, the Council shall have the following responsibilities in administering this Title:

   a. *Land Use Plans.* Review and approve, approve with conditions, or deny new comprehensive land use plans, open space/parks/trails plans, and similar plans, and any updates or amendments to such plans. The Council shall also implement the Englewood Comprehensive Plan and other adopted plans.

   b. *Accept Public Improvements.*

   c. *Schedule of Fees.* Approve a schedule of fees necessary to effectively administer and enforce the provisions of this Title.

2. Council Hearings and Decisions.

   a. After a public hearing before the Council is closed, the Council may take any of the following actions:

      (1) Continue the matter by remanding consideration of the subject matter to the Planning and Zoning Commission for further proceedings as the Council may direct.

      (2) Adopt findings of fact and either approve, approve with conditions, or deny the subject action.

      (3) Table its decision to a specified date, not more than once.

b. Final action by the Council shall be taken within forty-five (45) days after the date of the Council's public hearing. Failure to take final action within such period shall be considered a final decision of the Council denying the subject application or action. If the Council votes to table an action, an additional fourteen (14) days shall be added to the time limitation.

B. *Planning and Zoning Commission.* The Planning and Zoning Commission ("Commission") shall have those administration and review roles as shown in Section 16-2-2 EMC, "Summary Table of Administrative and Review Roles". In addition, the Commission shall have the following responsibilities in administering this Title:

1. Title Interpretation. Except as to the classification of unlisted uses (see Section 16-5-1.B EMC), the Commission is authorized to interpret the provisions of this Title, and when deemed necessary by the Commission, submit reports to the Council suggesting amendments to this Title to clarify the intent and purpose of any article, section, or paragraph on which it has occasion to rule.

2. Fact-Finding Hearing for Rezoning Applications. The Commission shall function as the fact-finding hearing agency on all rezoning applications. Procedures to be followed by the Commission regarding its fact-finding function in the review of rezoning applications are located in Section 16-2-7 EMC.

3. Comprehensive Plan. Periodically review and make recommendations to the Council regarding amendments to the Englewood Comprehensive Plan. The Commission shall also implement the Comprehensive Plan and other adopted plans, through its powers and duties as set out in Chapter 16-2 EMC.

4. Updates of this Title and Official Zoning Map. Periodically review this Title and the Official Zoning Map to determine if they remain relevant in light of the Comprehensive Plan and current development trends and planning concerns, and make recommendations to the Council for any changes.

C. *Board of Adjustment and Appeals.*

1. Administrative and Review Roles Under this Title. The Board of Adjustment and Appeals ("Board") shall have the following responsibilities in administering this Title:

a. *Appeals from Building Permit Denials.* The Board shall have power to hear and determine appeals from refusal of building permits.

b. *Administrative Appeals.* In addition to such other jurisdiction as authorized by law, the Board shall have the jurisdiction and power:

(1) To hear and decide appeals from and to review any order, requirement, decision, or determination by the Chief Building Official or any employee in the enforcement of this Title, or Uniform Codes adopted by the City, except the Model Traffic Code, and to hear and decide all matters referred to it, or upon which it is required to pass under this Title or any amendment hereto.

(2) In deciding upon appeals, the Board may reverse or affirm, wholly or partly, or modify any notice, order, requirement, decision, or determination of any employee of the City in the enforcement of this Title, and to make such order, requirement, decision or determination as in its opinion ought to be made and, to that end, shall have all the powers of the enforcing agent.

c. *Zoning Variances.* The Board shall have the jurisdiction and power in specific cases to make specific exceptions to the terms, or modify the strict application of the provisions of this Title, according to the procedures within and consistent with the general purpose of this Title.

2. Procedures:

a. *Rules and Regulations.* The Board shall adopt, publish, and make available such procedural rules and regulations as the Board deems necessary to carry into effect the provisions of this Title.

b. *Board Shall Keep Minutes.* The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.

c. *Render Decision Within Thirty-Five Days.* The Board shall render its decision within thirty-five (35) days after the public hearing is closed.

d. *Decisions to be Based on Findings.* Every decision shall be based on findings of fact and every finding of fact shall be supported in the record of the hearing. All testimony shall be presented publicly; the Board shall not take notice of any fact and shall not consider the personal knowledge of any member unless, the fact of which, notice is taken and made part of the record.

e. *Authority to Attach Conditions.* The Board shall have the authority to require any reasonable stipulation or condition that it finds might be necessary to properly protect the general welfare.

f. *Required Number of Votes.* The quorum for the Board shall be five (5) members thereof. The following chart outlines the number of affirmative votes required to approve any decision based on the number of board members present:

TABLE 16-2-1.1: REQUIRED NUMBER OF VOTES

Number of Board Members Present	Number of Affirmative Votes Required
7	5
6	5
5	4

D. *City Manager or Designee.* The City Manager, including but not limited to the Development Review Team, shall have those administration and review roles as shown in Section 16-2-2 EMC, "Summary Table of Administrative and Review Roles". In addition, the City Manager or designee shall have the following responsibilities in administering this Title:

1. Approval of Unlisted Uses. The City Manager or designee shall have the authority to approve principal or accessory uses that are not listed in the use tables contained in Chapter 16-5 EMC. The applicable procedures and review criteria for such determinations are found in Section 16-5-1.B EMC, "Unlisted Uses".

(Ord. 04-5; Ord. 05-25; Ord. 7-13, § 2)

16-2-2: Summary Table of Administrative and Review Roles.

The following table summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in this Chapter. For purposes of this table, an "(Approval) Lapsing Period" refers to the total time from the application's approval that an

applicant has to proceed with, and often complete, the approved action. Failure to take the required action within the specified "lapsing period" will automatically void the approval. See Section 16-2-3.L EMC, "Lapse of Approval," below.

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES

Procedure	Section Ref.	Pre-App. Mtg. Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required[1]			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
Adaptive Reuse of Designated Historical Buildings	16-5-3	✓	R	R	D		✓		✓	None
Administrative Adjustments	16-2-17	✓	D			A				None
Administrative Land Review Permit	16-2-11	✓	D	A						60 days to record
Amendments to the Text of this Title	16-2-6		R	R	D		✓			None
Annexation Petitions	16-2-5	✓	R	R	D		✓		✓	None
Appeals to Board	16-2-18	✓				D	✓			None
Comprehensive Plan Amendments	16-2-4		R	R	D		✓			None
Conditional Use Permits	16-2-12	✓	R	D	A		✓		✓	1 year
Conditional Use - Telecommunication	16-7	✓	R	D	A		✓	✓	✓	None
Development Agreements	16-2-15		R		D					As stated in Agreement
Floodplain Dev't. Permit and Floodplain Variances	See Chapter 16-4 for applicable procedures and standards									
Historic Preservation	16-6-11	✓	R	R	D		✓		✓	None
Landmark Sign	16-6-13	✓		D	A		✓		✓	
Limited Review Use Permits	16-2-13	✓	D	A						1 year
Major Subdivisions	16-2-10									
Preliminary Plat		✓	R	R	D		✓	✓	✓	6 months to submit Final Plat
Final Plat			R	R	D		✓	✓	✓	60 days to record
Simultaneous Review Preliminary Plat/Final Plat		✓	R	R	D		✓	✓	✓	60 days to record
Recorded Final Plat										None
Minor Subdivision	16-2-11									
Preliminary Plat		✓	D	A						6 months to submit Final Plat
Final Plat			D	A						60 days to record
Recorded Final Plat										None
Nonconforming Lots	16-9-4	✓	R	D	A		✓		✓	None
Nonconforming Structures	16-9-3	✓	D			A				
Official Zoning Map Amendments (Rezonings)	16-2-7	✓	R	R	D		✓	✓	✓	None
PUD and TSA Rezonings	16-2-7	✓	R	R	D		✓	✓	✓	None
Temporary Use Permits	16-2-14	✓	D	A						As stated in Permit
Unlisted Use Classifications	16-5-1.B	✓	D	A						None
Site Improvement Plan	16-2-9		D	A						180 days
Zoning Variances	16-2-16	✓	R			D	✓		✓	180 days

CM/D = City Manager or Designee (Including the Development Review Team)
PC = Planning and Zoning Commission
CC = City Council
BAA = Board of Adjustment and Appeals
[1]**Notice Required: See Table 16-2-3.1 Summary of Mailed Notice Requirements**

(Ord. 04-5; Ord. 05-25; Ord. 08-48, § 1; Ord. 11-52, § 1; Ord. 47-12, § 10; Ord. 8-13, § 2; Ord. 21-14, § 1; Ord. 29-14, § 2, Ord. 45-14, § 1)

16-2-3: Development Application Procedures.

Prior to any change in use and/or development activity on any real property within the City of Englewood, a permit must be obtained from the City for such action according to Chapter 16-2 EMC. The appropriate type of permit will be decided upon the filing of an application, and may be subject to an application processing fee.

A. *Authority to File Applications.* An application for review or approval under this Title shall be filed by a person having legal authority to take action in accordance with the approval sought. Those persons include:

1. The record owner of the property, and
2. A purchaser under a sale authorized in writing to do so,
3. An agent of the record owner authorized in writing to do so, or
4. Any other party specifically identified as being eligible to file a particular type of application in this Title.

The Council or Commission may also initiate amendments to the text of this Title or to the Official Zoning Map with or without an application from affected property owners.

B. *Application Form with Required Submittal Materials.* Applications required under this Title shall be submitted on forms provided by the City in such numbers as required by the City, and shall be accompanied by such submittal documents as required by each type of permit requested, in addition to any other requirements the City Manager or designee may from time to time designate through administrative action.

C. *Processing and Other Applicable Fees.*

1. *Fee Schedule.* Each applicant for a development review or approval, or the issuance of a permit under this Title, or for review and approval of a subdivision, or for a Zoning Variance or appeal to the Board, shall pay fees as determined by Council by resolution to partially or wholly defray the expenses attendant upon the City's consideration of the application. A schedule of fees is on file with the City. Fees shall not be required with applications initiated by the Council, Commission, or City departments. All fees shall be non-refundable, unless otherwise expressly stated in writing at the time of acceptance by the City.

   In the case of telecommunications license fees, the schedule of fees may provide for a reduction or waiver of fees in the case of:

   a. Construction of new towers with excess capacity, where the applicant commits in advance to allow co-location;
   b. Co-location of antennae on existing towers and/or alternative tower structures;

c. Location of antennas on existing alternative tower structures;

d. Other conditions that the City believes will minimize the need for construction of new towers.

2. Judicial Review. Any person applying to the courts for a review of any final and reviewable decision made under this Title by the Council, Commission or Board, shall pay the cost of preparing any necessary transcript and any necessary record of proceedings.

3. Cost Recovery Fees for City Acquired Rights-of-Way. Where it is necessary to acquire right-of-way for City purposes associated with streets and utilities through purchase or eminent domain, the City may recover the cost thereof by a development fee applied to property adjoining the acquisition area and from which parcel the right-of-way was originally acquired (hereinafter "benefited property"). The development fee shall equal an amount based on an individualized determination of the extent of impact the benefited property has on such right-of-way or the extent of benefit the benefited property extracts from the acquired right-of-way. In no case shall the amount of the development fee exceed the cost of acquisition. The development fee shall be applied at the time the benefited property is subdivided or developed, and shall be paid at the time of development or construction by the owner of the property. No fee shall be imposed for right-of-way dedicated at no cost to the City.

4. Recording Fees. The expenses of recording documents required by this Title to be recorded with the Arapahoe County Clerk and Recorder shall be borne by the applicant and shall be paid prior to the recording.

D. *Development Review Team.* The Development Review Team (DRT) shall consist of representatives from City departments as requested by the applicant or required by the City Manager. The DRT performs both a pre-application and post-application review role: the Development Review Team functions as an ad hoc pre-application review body and will conduct a pre-application conference as needed. In addition, the DRT is responsible for referrals of submitted applications, as appropriate, to government agencies, utilities, neighborhood organizations, and other interested or affected persons or organizations. The DRT provides responses to the proposed application and those comments are forwarded to the applicant for consideration in a final application.

E. *Application Completeness.* The applicant shall prepare an application and submit it to the City to determine its completeness, as described below:

1. The City shall only initiate the review and processing of an application if such application is complete. Only complete applications, as set forth in this Title, shall be considered an "application" for purposes of compliance with C.R.S. 24.68-101 et. seq., as amended.

2. An application shall be considered complete if it is submitted in the required form, includes all submittal information, including all items or exhibits specified by the City Manager or designee during the pre-application conference, and is accompanied by the applicable processing fee.

3. The City shall review an application for completeness within ten (10) days of its filing. If the City determines that the application is complete, the application shall then be processed pursuant to this Title. If the City determines that the application is incomplete, the City shall notify the applicant of that fact and specify the specific ways in which the application is deficient. No further processing of the incomplete application shall occur until the deficiencies are corrected. If the applicant does not correct the deficiencies within thirty (30) days after the date shown on the notice from the City, the application shall be considered withdrawn. Any re-submittal of the application by the applicant will be treated as a new application.

F. *Pre-Application Conferences.*

1. Prior to filing an application to annex any parcel of land to the City, or rezone any parcel of land (including PUD rezoning), the applicant shall participate in a pre-application review with the Development Review Team. No additional application for these types of approvals shall be accepted until after the pre-application review is completed and the applicant receives written notification of the DRT's conclusions. This review should take place prior to any substantial investment, such as land acquisition for a proposed development, site and engineering design, or the preparation of other data. At or prior to this review, the applicant shall submit those materials included in the City's list of submission items, and it is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal to enable staff to make the determinations required below.

2. In addition to a pre-application review with the DRT, the City Manager or designee may review the application to determine if public improvements may be necessitated as a result of the proposed action. The City Manager or designee may require public improvements after making a determination of need based on the consideration of the following items:

   a. The extent of existing and contemplated development of the property.

   b. The need to ensure that the health, safety, and welfare of the public will be maintained.

   c. Whether the proposed action may ultimately create a need for public improvements to serve the area.

   d. The need to ensure that any required public improvements are roughly proportional to the additional burdens that proposed action will place on existing public improvements or services.

3. If public improvements are necessary, standards, criteria, timing and extent of public improvements as specified by the Department of Public Works shall apply, except that all rights-of-way, easements, and access rights shall be required at the time of zoning or rezoning and other public improvements shall be constructed at a time designated by the City Manager or designee, unless otherwise required by law.

4. Within ten (10) days after the date of the pre-application review, the DRT shall notify the applicant in writing of its informal recommendation regarding the desired development activity with respect to the following items:

   a. Applicability of City policies, plans, and requirements as they apply to the proposed development.

   b. Appropriateness of the development with respect to the policies set forth in the Comprehensive Plan and the regulations in this Title.

   c. Need, if any, to prepare a subdivision plat.

   d. Any site plan considerations or requirements.

   e. Any concerns or requirements related to the anticipated impact upon public rights-of-way and public improvements and appropriate requirements to mitigate those impacts.

   f. Any concerns related to land use, landscaping concepts, and overall project design.

   g. Possible alternatives or modifications related to the proposed application.

   h. Procedures that will need to be completed to review and approve the proposed change.

5. The informal recommendations of the DRT are not binding upon the applicant or the City, but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of any issues which will or may subsequently be presented to the Commission and Council.

G. *Notice Requirements.*

1. *Published Notice.* Notice shall be by one (1) publication on the City's official website or in the newspaper designated by City Council as the City's official newspaper at least ten (10) days before any hearing before the Council, the Commission, or the Board. The City shall be responsible for all required published notices, and for providing evidence of timely published notice at the time of the hearing or consideration.

2. *Posted Notice.* The property shall be advertised by posting for not less than ten (10) consecutive days prior to a hearing before the Council, the Commission, or the Board; provided, however, that where the case does not involve a specific property, no posted notice shall be required. A posted notice shall consist of a sign not less than twenty-two inches (22") by twenty-eight inches (28") in size, located not less than four feet (4') above ground level in a conspicuous place, with letters not less than one inch (1") in height in black paint, which letters can be read from the adjoining street right-of-way. The applicant shall be responsible for complying with posted notice provisions and for providing evidence of timely posted notice at the time of the hearing or consideration. All required posted notices shall remain in place until after the date of the hearing or consideration, and shall be removed by the applicant within seven (7) days after the hearing or consideration.

3. *Mailed Notice.*

a. *Mailed Notice to Applicant.* The City shall give written notice of the date, time, and place of any scheduled hearing to the applicant in person or by first class mail.

b. *Summary of Mailed Notice Requirements.* Table 16-2-3.1 below summarizes the mailed notice requirements of this subsection, and includes requirements for: Responsible party for mailing notice, the minimum deadline by which notice must be mailed, the intended recipients and the geographic scope of mailed notice, whether the applicant must provide a mailing list and receipt, and the type of mail service required.

c. *Mailed Notice of Neighborhood Meeting and Certain Public Hearings.* Whenever a mailed notice is required by Table 16-2-3.1, the applicant shall mail written notification of the neighborhood meeting or hearing at least ten (10) days prior to the meeting or hearing to occupants and property owners within one thousand feet (1,000') of the perimeter of the proposed development. Notification shall be sent to property owners of record from data available within thirty (30) days before the required mailing date from the Arapahoe County Assessor's office.

d. *Mailed Notice for Conditional Use Telecommunications Towers and Antenna(s).* At least ten (10) days prior to the first public hearing on any request for a conditional use permit for a telecommunications tower or antenna(s), the applicant shall provide written notice to all occupants and property owners within one thousand feet (1,000') of the property boundary of the site upon which the tower or antenna(s) are proposed to be located. Notification shall be sent to property owners of record from data available within thirty (30) days before the required mailing date from the Arapahoe County Assessor's office.

e. *Proof of Mailing Required.* Whenever mailed notice is required according to this subsection, the applicant shall provide a mailing list to staff and certify that letters

were mailed via the U.S. Postal Service to the listed addresses within the time frame specified in Table 16-2-3.1 below prior to the meeting or hearing. A USPS receipt shall be attached to the certification.

TABLE 16-2-3.1: SUMMARY OF MAILED NOTICE REQUIREMENTS

Type of Application	Notice Mailed by	When Mailing Must Occur - # of Calendar Days Prior to Meeting or Hearing:	Notice Shall be Mailed to:	Notification Area for Receipt of Mailed Notice	Mailing List and Mailing Receipt Required?	Type of Mailing
PUD, TSA, other Rezoning Neighborhood Meeting	Applicant	10 (prior to neighborhood meeting and Planning and Zoning Commission hearing)	Property owners of record [1] and Occupants	1,000 feet radius measured from boundary lines of subject parcel	Yes	1st Class Mail
Major Subdivision	Applicant	10 (prior to neighborhood meeting and Planning and Zoning Commission hearing)	Property owners of record [1] and Occupants	1,000 feet radius measured from boundary lines of subject parcel	Yes	1st Class Mail
Conditional Use for Telecommunication Facility	Applicant	10 prior to Planning and Zoning Commission hearing	Property owners of record [1] and Occupants	1,000 feet radius measured from boundary lines of subject parcel	Yes	1st Class Mail

Notes to Table:
[1] Property owners of record at the Arapahoe County Assessor's office from data available within thirty days (30) before the required mailing date.

4. *Contents.* Unless otherwise stated above, each required published, posted, or mailed notice shall contain:
   a. The name of the applicant;
   b. The date, time and location of the public hearing or consideration; or alternately, the date of the proposed decision by the City Manager or designee;
   c. A brief summary of the proposed action;
   d. A statement as to where the application and accompanying material may be reviewed;
   e. Any other information required pursuant to this Title for a specific type of application; and
   f. To assist in reaching any non-literate or non-English speaking populations, all posted and mailed notices shall include a prominent question mark symbol followed by the telephone number of the City.
5. *Errors in Notice.* If there has been a failure to comply with any applicable notice requirement, the public hearing or consideration may be continued and/or action on the application may be postponed until such time as the notice requirements are fulfilled.

H. *Public Hearings.*

1. Hearings Required. A public hearing shall be required for those types of applications for which a decision is to be made by the Commission, the Board, or the Council.
2. Representation at Any Hearing. At any hearing, any party-in-interest may appear in person, or may be represented by a duly authorized person, or by an attorney.
3. Scheduling a Hearing. Following the acceptance of a completed application, the City shall set a tentative date for a public hearing before the first body required to hold a hearing on

the matter. The tentative hearing date may be changed by the City Manager or designee at any time prior to the publication or posting of notices if the City Manager or designee determines that more time is needed for a more thorough review of the application, but no such change shall result in the delay of the tentative hearing date by more than thirty (30) days.

4. Conduct of Public Hearings.

   a. During the public hearing, the review- or decision-making body shall hear any relevant evidence or statement provided by the applicant or its representative, by the City Manager or designee or any member of the staff, and by any person in attendance at the hearing. The review- or decision-making body may, in its sole discretion, hear and consider any other relevant statement or evidence, written or oral.

   b. The review or decision-making body shall cause its public hearing to be recorded. When a transcript of a public hearing is required, the person or entity requesting the transcription shall pay the cost of the transcript. If the Council acquires a copy of the transcription of the proceedings, its copy of the transcription shall be made available to any person at reasonable times for inspection and study. A written summary of the relevant testimony and evidence presented at the review- or decision-making body hearing may be utilized in place of the transcript if a transcript is not required.

   c. Within thirty-five (35) days after the hearing, the review- or decision-making body shall adopt written findings of fact, and shall make a recommendation or take action on the application. Before adoption of the findings of fact, members of the review- or decision-making body may elaborate on their reason for the vote. The written findings and recommendations shall include a statement of the body's findings and conclusions upon all relevant issues of fact or law raised by the application, and a recommendation or decision for approval or denial thereof. A copy of the written findings of fact and recommendation shall be mailed to the applicant and to any other person who requested a copy thereof.

5. Continuing a Hearing. Once a hearing before the Council, Commission, or Board has commenced, it may be continued to a later date for purposes of accepting additional testimony, or for preparation or submission of additional requested materials, or at the request of the applicant. A hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Chapter, provided that the continued hearing is set for a date certain and the date and time of the continued hearing is announced at the time of continuance.

I. *Limitations on Conditions of Approval.* The decision-making body shall be authorized to impose such conditions upon any site-specific development application as may be necessary to carry out the general purpose and intent of this Title or the Comprehensive Plan, provided that any requirements for the payment of money, the dedication of land, or the provision of services attached to a specific development application on a discretionary (non-formula) basis may only be imposed following an individualized determination that such requirements are directly related to the anticipated impacts of the proposed development and are roughly proportional in both extent and amount to the anticipated impacts of the proposed development.

J. *Simultaneous Processing of Development Applications.*

1. At the applicant's request and with the City's approval, applications for different types of reviews and approvals may be processed simultaneously to shorten the total review and processing time for a proposed development.

2. When a final plat is submitted for simultaneous review with the preliminary plat, both shall be reviewed according to the preliminary plat approval process as outlined in this Chapter. Unless simultaneous review is approved, the City shall not accept applications for final plat approval before preliminary plat application approval.

3. The expected time frame and approval process for a consolidated application shall follow the longest time frame and approval process required from among the joined application types.

K. *Times for City Review.* Maximum times for City review are recommended in various subsections of this Chapter. All times for review stated in this Chapter are estimated and advisory only. Unless otherwise expressly allowed, failure to keep within the recommended time for review shall not be deemed an approval or recommendation of approval on behalf of the review body, decision-making body, or appeal body.

L. *Lapse of Approval.*

1. *Lapse of Approval—General.* Many City decisions to approve applications covered by this Title are based on an expectation that the applicant intends to proceed with the proposed action as described within a reasonable amount of time, and many approvals are therefore time-limited. The table in Section 16-2-2 EMC above summarizes those lapsing time frames or periods. City approvals of these types must be followed by action by the applicant to develop or alter the property as described in the approved application before the end of the lapsing period—or the approval shall be of no further force and effect.

2. *Extension of Approval Periods.* An applicant may request, and the decision-making body that granted the original approval may grant one (1) extension of the approval for a period equal to the original lapsing period. Extension requests shall be evaluated on the basis of compliance with regulations and policies in effect at the time of the extension request, and will be allowed only when the following conditions exist:

   a. The provisions of this Title or this Chapter must not expressly prohibit the extension; and

   b. The extension request must be filed in a form established by the City and include all exhibits and fees; and

   c. The applicant evidences that the delay in taking action under the approval was caused by circumstances beyond the applicant's control.

   An appeal from a determination to extend an approval time frame shall be made to the appeal body who would have heard an appeal of the original approval.

3. *Termination of Postponed Application.* Any application made pursuant to this Title which has been postponed or continued for a period of one hundred eighty (180) days shall lapse.

(Ord. 04-5; Ord. 05-25; Ord. 08-24, § 10; Ord. 08-48, § 2; Ord. 11-52, § 2; Ord. 7-13, § 3)

16-2-4: Comprehensive Plan Amendments.

The Comprehensive Plan is an adopted vision of the City's values and desires, achieved through current and future planning practices. It is a document developed by the City to guide development and provide policies on which to base zoning and planning decisions that are then incorporated into the adopted Unified Development Code. To reflect changing conditions in the City, the Comprehensive Plan may be amended from time to time in accordance with the procedure set forth in this Section.

A. *Initiation.* An amendment to the Comprehensive Plan may be initiated by those parties identified in Section 16-2-3.A EMC, or by any resident of the City.

B. *Notice*. The City shall require that published notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

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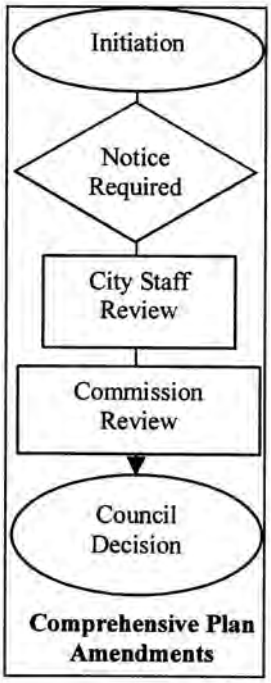
C. *City Review.* The City shall review the proposed amendment, and may refer the application to any City department or agency for its review and comments, and shall prepare a report of its recommendations for review by the Commission and Council. A copy of the report shall be furnished to the applicant.



D. *Commission Review.* The Commission shall review the proposed amendment and the recommendation of City staff, and shall hold a public hearing on the proposed amendment. Following such hearing, the Commission may recommend to the Council adoption, rejection, or modification of the proposed amendment.

E. *Council Action.* The Council shall review the proposed amendment, the recommendation of City staff, and the recommendation of the Commission, and shall hold a public hearing on the proposed amendment. Following such hearing, the Council may adopt, reject, or amend the proposal.

F. *Criteria.* Amendments to the Comprehensive Plan shall be made in the interest of promoting the health, safety, and general welfare of the community. The review- or decision-making body shall only recommend approval of, or shall only approve, a proposed amendment if it finds that the proposed amendment meets at least one of the criteria listed below:

1. It corrects an error in the current Comprehensive Plan;

2. Events, trends, or facts evident after adoption of the current Comprehensive Plan have changed the Council's original findings made upon plan adoption; or

3. Events, trends, or facts evident after adoption of the Comprehensive Plan have changed the character or condition of the community so as to make the proposed amendment necessary to promote the public health, safety, or welfare of the community.

G. *After Approval.* An approved amendment to the Comprehensive Plan shall not lapse, but shall remain in effect until superceded by a later or inconsistent amendment to, or replacement of, the Comprehensive Plan.

(Ord. 04-5)

16-2-5: Annexation Petitions.

A. *Statutory Procedures.* The City shall accept, review, and act on petitions to annex property into the City pursuant to those procedures and requirements established in Colorado Revised Statutes ("C.R.S.") Sections 31-12-101 through 123, as amended, as supplemented by the following policies and clarifications.

B. *Additional Requirements.*

1. An annexation agreement shall be negotiated between the applicant and the City, and signed by the applicant, before an annexation petition will be accepted.

2. All decisions as to whether to approve a petition for annexation are discretionary decisions of Council.

3. Any area annexed to the City after the effective date of this Title shall be considered to be without zone classification, and shall be subject to the provisions of Section 16-1-8.A EMC, "Necessity for District Designation."

4. The procedure for the initial zoning of property annexed or to be annexed to the City shall follow, to the extent practicable, the rezoning provisions of Section 16-2-7 EMC.

5. The zoning procedures may be initiated at any time after the City commences annexation pursuant to C.R.S. Sections 31-12-101 et. seq., as amended, but must be completed no later than ninety (90) days after the effective date of the annexation ordinance.

6. No ordinance initially zoning property annexed to the City shall be adopted on second reading prior to the date the annexation ordinance is adopted on second reading.

C. *Criteria.* All annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary, legislative act. The City shall never be compelled to annex, unless otherwise required by State law, even if all these review criteria have been satisfied.

1. The annexation is in compliance with the Municipal Annexation Act of 1965 (C.R.S. Section 31-12-101, et. seq., as amended).

2. The annexation is consistent with the Comprehensive Plan and complies with all applicable criteria governing annexations stated in the Comprehensive Plan.

3. The property is capable of being integrated into the City in compliance with all applicable provisions of the Englewood Municipal Code.

4. At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities and facilities and appropriate urban level services.

5. The proposed zoning is appropriate, based upon consideration of the following factors:

   a. The proposed zoning is consistent with the Comprehensive Plan designation of the property;

   b. The proposed land uses are consistent with the purpose and intent of the proposed zoning district; and

c. The proposed zoning is not improper spot zoning, such as a relatively small island of land that is afforded privileges not afforded surrounding, similar-situated properties.

6. The concept plan, as applicable, shows the following:

a. Appropriate land use, utility, and transportation design, given the existing and planned capacities of those systems; and

b. Mitigation of potential adverse impacts on adjacent properties and neighborhoods.

7. The annexation boundaries are configured such that:

a. The property can be efficiently served by utilities, facilities, and services; and

b. The annexation will not limit the ability to integrate surrounding land into the City or cause variances or exceptions to be granted if the adjacent land is annexed or developed.

(Ord. 04-5)

16-2-6: Amendments to the Text of Title 16 (UDC).

Whenever the public necessity, convenience, health, safety, general welfare, or appropriate zoning practice justifies an amendment to any section of this Title, and after the amendment has been submitted at a public hearing for consideration and recommendation by the Commission, the Council may, after a public hearing on the proposed text amendment, change the text of this Title.

A. *Initiation.* A proposed amendment to any section of this Title may be initiated by any party identified in Section 16-2-3.A EMC.

B. *Notice.* The City shall require that published notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

C. *City Review.* The City shall review the proposed amendment, and may refer the application to any City department or agency for its review and comments, and shall prepare a report of its recommendations for review by the Commission and Council. A copy of the report shall be furnished to the applicant.

D. *Commission Review.* The Commission shall review the proposed amendment and the recommendation of City staff, and shall hold a public hearing on the proposed amendment. Following such hearing, the Commission may recommend to the Council approval, denial, or modification of the proposed amendment.

E. *Council Action.* The Council shall review the recommendation of City staff, and the recommendation of the Commission, and shall hold a public hearing on the proposed amendment. Following such hearing, the Council may approve, deny, or modify the proposed amendment.

Amendments to the Text of the UDC

F. *Criteria.* Amendments to the text of this Title shall be made in the interest of promoting the health, safety, and general welfare of the community. The review- or decision-making body shall only recommend approval of, or shall only approve, a proposed amendment if it finds that the proposed amendment meets at least one of the criteria listed below:

1. It corrects an error in the current text of this Title, and correction of such error will be consistent with the adopted Comprehensive Plan;

2. Events, trends, or facts evident after adoption of the text of this Title have changed the character or condition of the community so as to make the proposed amendment inconsistent with the Comprehensive Plan, and the amendment is necessary to promote the public health, safety, or welfare of the community.

G. *After Approval.* An approved amendment to text of this Title shall not lapse, but shall remain in effect until superseded by a later or inconsistent amendment to, or replacement of, the text of this Title.

(Ord. 04-5)

16-2-7: Official Zoning Map Amendments (Rezonings).

The City may initially zone annexed property, or the boundaries or areas of any zone district may be changed, or the zone classification of any parcel of land may be changed pursuant to this Section. Rezonings shall not be used as a way to legitimize nonconforming uses or structures, and should not be used when a conditional use, Zoning Variance, or Administrative Adjustment could be used to achieve the same result. Rezonings to a Planned Unit Development district (PUD) shall follow the procedures and criteria as set forth in Section 16-2-8 for Planned Unit Developments.

A. *Initiation.*

1. A proposed rezoning may be initiated by any party identified in Section 16-2-3.A EMC.

2. A rezoning application shall expire one (1) year after submittal unless a public hearing on the application has been held by the Council on or before that date; provided, however, that the City Manager or designee may extend the application for six (6) months if the reason for the delay was due to circumstances beyond the control of the applicant.

B. *Thresholds for Rezoning.*

1. Thresholds for Base District Rezonings:

a. *General.* A base district rezoning results in the change of a property's existing base zoning district classification to a base zoning district classification identified in Table 16-3-1.1, other than a PUD or TSA district.

b. *Minimum District Size.* A base district rezoning application shall only be considered for properties greater than thirty-seven thousand five hundred (37,500) square feet of land area and contiguous to a compatible zone district.

c. For purposes of this Section, "compatible zone districts" are districts within the same base zoning district headings as identified in Table 16-3-1.1 (i.e. R-2-A and R-2-B are compatible zone districts within residential headings.) The contiguity to compatible zone district requirement does not apply if the rezoning request is consistent with and implements the Comprehensive Plan.

2. Thresholds for Transit Station Area (TSA) Rezonings:

a. *District Location.* The location of a Transit Station Area (TSA) district shall be consistent with the following criteria:

(1) The location of the proposed TSA district shall be consistent with the locations described or depicted for transit-related and/or mixed-use development in the Comprehensive Plan.

(2) The TSA district shall be located generally within a one-quarter (¼) mile radius of an existing, or a planned and approved light-rail rapid transit station.

(3) The one-quarter (¼) mile radius may be augmented by an extended area which would include up to a one-half (½) mile radius where the area is contiguous to the

TSA district and that it can be demonstrated that the area creates a transitional zone when the Planning and Zoning Commission makes a finding that such an extension is a benefit to the adjoining zone districts.

b. *Minimum District Size.*

(1) An application to rezone to a TSA district shall include a minimum gross land area of three (3) acres.

(2) The City may allow smaller incremental and contiguous additions to an existing TSA district, if the subsequent rezoning application:

(a) Includes a minimum gross land area of twenty thousand (20,000) square feet;

(b) Is consistent with the intent of the TSA district;

(c) Provides uses or a mix of uses complementary to the mix of uses planned or developed in the adjoining, existing TSA district; and

(d) Demonstrates site and building designs that will be compatible with, and integrated with, the adjoining, existing TSA district.

C. *Pre-Application Review and Neighborhood Meeting.*

1. Pre-Application Conference. All applicants for rezoning shall be required to participate in a pre-application conference pursuant to Section 16-2-3.F EMC.

2. Pre-Application Neighborhood Meeting. Following the pre-application conference, each applicant for a rezoning shall hold a neighborhood meeting in accordance with City procedures to describe their proposal before an application for rezoning can be accepted by the City. The neighborhood meeting is an opportunity for the applicant to describe the proposal as well as for area residents and property owners to offer input about the proposal at an early stage. The applicant shall hold the meeting at a time and location accessible and convenient for the public. The City shall be represented at the meeting. Following the neighborhood meeting the City representative may prepare a written report summarizing the general discussion of the neighborhood meeting and make copies available to the City staff, the applicant, and the public.

3. The maximum time between a required neighborhood meeting and a public hearing before the Commission shall not be more than one hundred eighty (180) days. In the event the public hearing is not held within one hundred eighty (180) days, the applicant shall be required to hold another neighborhood meeting.

D. *Notice.* The City Manager or designee shall require that notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

E. *City Review.* The City Manager or designee shall review the proposed rezoning, and may refer the application to any City department or agency (including any utility providers, other municipalities or other agency as determined by the City) for its review and comments, and shall prepare a report of its recommendations for review by the Commission and Council. A copy of the report shall be furnished to the applicant.

F. *Commission Review and Recommendation.*

1. The Commission shall review the proposed rezoning and the recommendation of City staff, and shall hold a public hearing on the proposed rezoning. Following such hearing, the Commission may make a recommendation to approve, deny, or modify the proposed rezoning.

2. The Commission may recommend to the Council that an application for an initial zoning or a rezoning be approved upon condition that the applicant, or the applicant's successors and assigns, obtain approval by the Commission and Council of a site plan or subdivision plat of the subject property either prior to Council action, within a certain time after Council action, or prior to any site development.

3. In its review of the rezoning application, in addition to any other criteria and findings applicable to the decision, the Commission's recommendations shall include its written findings on each of the following points:

   a. The application is or is not consistent with the Comprehensive Plan and this Title; and

   b. The application is or is not in conformance with adopted and generally accepted development standards in the City, and any other ordinance, law, or requirement of the City; and

   c. The application is or is not substantially consistent with the goals, objectives, and policies, of the City.

G. *Council Action.*

1. The Council shall review the proposed rezoning, the recommendation of City staff, and the recommendation of the Commission, and shall hold a public hearing on the proposed amendment. Following such hearing, the Council may approve, deny, or refer a proposed amendment back to the Commission.

2. Refer Back to Commission. No substantial amendment to an application for a rezoning may be made by the Council after a recommendation on the rezoning has been made by the Commission, unless it is first referred back to the Commission for comment on the proposed substantial amendment.

H. *Criteria.* Rezonings shall be made in the interest of promoting the health, safety, and general welfare of the community, and shall be consistent with the Comprehensive Plan. In addition, the review- or decision-making body shall only recommend approval of, or shall only approve, a proposed rezoning, if it finds that the proposed rezoning meets the criteria listed below.

1. For base district rezonings, the proposed rezoning shall meet at least one of the following criteria:

   a. That there has been a material change in the character of the neighborhood or in the City generally, such that the proposed rezoning would be in the public interest and consistent with the change; or

   b. That the property to be rezoned was previously zoned in error; or

   c. That the property cannot be developed, or that no reasonable economic use of the property can be achieved, under the existing zoning.

   The criteria in subsections 1.a through c above shall not apply to the initial zoning of property annexed to the City or to rezonings that may occur incidental to a comprehensive City-initiated revision of the City's Official Zoning Map.

2. For TSA rezonings, the proposed development shall comply with all applicable use, and development standards set forth in this Title that are not otherwise modified or waived according to the rezoning approval; and the proposed rezoning shall meet at least one of the following criteria:

   a. The proposed development will exceed the development quality standards, levels of public amenities, or levels of design innovation otherwise applicable under this Title, and would not be allowed or practicable under a standard zone district with conditional uses or with a reasonable number of Zoning Variances or Administrative Adjustments; or

   b. The property cannot be developed, or no reasonable economic use of the property can be achieved, under the existing zoning, even through the use of conditional uses or a reasonable number of Zoning Variances or Administrative Adjustments.

3. All rezonings shall meet the following criterion:

   a. The resulting rezoned property will not have a significant negative impact on those properties surrounding the rezoned area and that the general public health, safety and welfare of the community are protected.

I. *After Approval—Lapsing Period.*

1. An approved rezoning shall not lapse, but shall remain in effect until and unless superseded by a later or inconsistent amendment to, or replacement of, the Official Zoning Map.

2. TSA rezoning. An approved TSA district rezoning shall not lapse, but shall remain in effect until superseded by a later or inconsistent amendment to, or replacement of, the TSA District Official Zoning Map.

(Ord. 04-5; Ord. 08-48, § 3; Ord. No. 11-52, § 3; Ord. 29-14, §§ 3, 4; Ord. 2-15, § 1)

16-2-8: Planned Unit Development (PUD) Rezoning Process and Requirements.

A. *Intent*. The PUD Zone District is an alternative to conventional land use regulations resulting in the creation of a unique zone district that offers the City and Applicant forms or qualities of development or amenities not allowed through existing base zone districts. The PUD Zone District combines use,

density, height, design and site plan considerations into a unified process. Each PUD Zone District must include its own list of permitted and conditional uses and shall identify what development standards will apply.

The PUD Zone District is specifically intended to:

1. Provide an opportunity for the developer and the City to review the type and intensity of development being proposed, and to identify any elements of the proposed plan that may not comply with existing City development standards.

2. Provide development opportunities not otherwise permitted within existing zone districts by reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards.

3. Permit and encourage innovative design, flexibility, and diversity in land planning and development.

4. Provide the opportunity for unified development control for a single parcel or multiple properties in harmony with the environment and respecting the context of the surrounding neighborhoods by establishing design and development standards for the general character of the properties within the PUD.

5. Plan for the general configuration of land uses, common elements, major transportation and pedestrian circulation elements, utilities and necessary easements to serve the site and to connect to existing and planned transportation networks, pedestrian networks and utilities.

6. Plan for proposed amenities, such as parks, open space and recreational facilities.

7. Identify natural features of the site that should be enhanced, protected or remain undeveloped.

8. Ensure consistency with the Englewood Comprehensive Plan.

9. Provide for the public health, safety, integrity and general welfare, and otherwise achieve the purposes provided in the Planned Unit Development Act of 1972 as amended (C.R.S. 24-67-101, et seq.).

B. *Applicability.* The provisions of this Section shall apply to all lands, uses, and structures to be rezoned to Planned Unit Development (PUD) Zone District. The provisions of this Section shall not apply to:

1. Planned Developments (P.D.) approved prior to July 1, 1996, which shall continue to be governed by the respective development plans and the regulations of the underlying zone districts. However, any major amendments to an existing P.D., as determined by the City Manager or designee, shall require review and approval under the new requirements of this Section.

2. Any land currently zoned PUD, and partially developed prior to the date of the adoption of this Section. Such approved PUDs may continue and complete such development under the terms and conditions of approval for that PUD. However, any major amendments to an existing PUD, as determined by the City, shall require review and approval under the new requirements of this Section.

C. *Initiation*.

1. A proposed rezoning may be initiated by any party identified in Section 16-2-3(A) EMC. All property owners within the boundaries of a proposed PUD zone district shall consent in writing to the application for a PUD.

2. A PUD application shall expire one (1) year after submittal unless a public hearing on the application has been held by the Council on or before that date; provided however, that the City Manager or designee may extend the application for six (6) months if the reason for the delay was due to circumstances beyond the control of the applicant.

3. No application for substantially the same PUD shall be accepted within twelve (12) months following a final decision on a prior rezoning application relating to all or any portion of that same property. A "final decision" shall mean denial of a rezoning by the Council.

D. *Permitted Uses.* Uses permitted in a PUD zone district may include any use which is a permitted use in any zone district of the City, or as may be permitted through the unlisted uses determination process of Section 16-5-1(B) EMC Unlisted Uses. Each PUD application shall include its own list of allowed or conditional uses and shall identify applicable design and development standards. A PUD District Plan or a PUD Site Development Plan may vary the provisions of Title 16 EMC, but only to the extent specifically shown on an approved PUD District Plan or Site Development Plan.

E. *General Use and Development Requirements and Limitations.* PUDs shall be subject to the following:

1. PUD applications shall only be considered for properties equal to or greater than one-half (½) acre.

2. Requests for rezoning to a PUD zone district shall be filed on application forms provided by the City, together with all plans, maps and any other information as may be necessary, reasonable and relevant for review by the City. Applications shall be submitted with fees established by City Council resolution.

3. Requests for rezoning to a PUD zone district shall be authorized in writing by the landowner(s) or an authorized agent.

4. All PUD zone districts shall be established through a map amendment to this Title pursuant to the procedures and criteria set forth in this Title.

5. The terms and conditions of each PUD zone district shall be based on negotiations between the applicant and the City. However, all PUD zone districts shall be consistent with the Comprehensive Plan and applicable provisions of this Title.

6. If a PUD proposal requires the creation of one (1) or more new lots of record, or amendment of the boundaries of existing lots of record, then approval of a subdivision plat shall also be required.

7. The area of land for the PUD zone district may be controlled by one (1) or more landowners and shall be developed under unified control or a unified plan of development.

8. Provisions shall be made for the establishment of an organization for the ownership and maintenance of areas designated as private streets and/or common space unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the City Council.

9. The PUD zone district shall be subject to all applicable use and development standards of this Title unless otherwise waived or modified by the applicant and approved by City Council in the terms of the approved PUD.

F. *Approval Criteria*. PUD rezonings shall be made in the interest of promoting the health, safety, and general welfare of the community, and shall be consistent with the Comprehensive Plan. In addition the review or decision making body shall only recommend approval of, or shall only approve, a proposed PUD rezoning if it finds that the proposed rezoning meets the criteria listed below:

1. The proposed development shall comply with all applicable use, development, and design standards set forth in this Title that are not otherwise modified or waived according to the rezoning approval. In addition, the proposed rezoning shall meet at least one of the following criteria:

    a. The proposed development will exceed the development quality standards; levels of public amenities; or levels of design innovation otherwise applicable under this Title, and the proposed development would not be allowed or practicable under a standard zone district with conditional uses or with a reasonable number of Zoning Variances or Administrative Adjustments; or

    b. The property cannot be developed, or no reasonable economic use of the property can be achieved, under the existing zoning, even through the use of conditional uses or a reasonable number of Zoning Variances or Administrative Adjustments.

2. All PUD rezonings shall meet the following criterion:

    a. The resulting rezoned property will not have a significant negative impact on those properties surrounding the rezoned area and the general public health, safety and welfare of the community will be protected.

G. *PUD Approval Process Summary*: The Planned Unit Development zone district requires three (3) steps for PUD project review and approval: 1) Pre-application review and neighborhood meeting; 2) PUD District Plan review and approval; 3) PUD Site Development Plan review and approval. If an applicant provides site-specific development plans, the PUD District Plan and PUD Site Development Plan steps may be combined.

The PUD rezoning may be processed in one (1) phase or two (2), at the option of the developer. A complete and final PUD shall not take effect until and unless all of the information required below for both a PUD District Plan and a PUD Site Development Plan have been reviewed and approved by the City.

The PUD District Plan is a general plan for the land within the boundaries of the application, and includes general land uses and densities, building heights, general design intent, parking ratios, and a conceptual layout of the site. Approval of PUD District Plan requires a later approval of a PUD Site Development Plan prior to any development or issuance of a Building Permit.

The PUD Site Development Plan is a more detailed plan for the development of the site by applying the standards set forth in the District Plan, but shall also include a statement of architectural intent; design standards necessary to achieve the architectural intent; location of major transportation and circulation systems; parking standards; landscaping requirements; common elements and other details required to demonstrate that the development will meet or exceed the standards set forth on the District Plan and the qualities of development otherwise required by City standards in the base zone district.

1. *Pre-Application Conference and Neighborhood Meeting:* Applicant shall submit a preliminary proposal indicating the property to be included in the proposed PUD; the size of the land in acres and square feet; proposed land uses; maximum density and/or number of units; anticipated

building heights; and approximate location of major circulation elements. Staff may review the preliminary proposal and provide written comments and recommendations to potential applicants. No project approval is implied or granted at this early review stage.

Neighborhood Meeting: Following the pre-application conference, each applicant for a PUD shall hold a neighborhood meeting in accordance with City Procedures to describe their proposal before an application for rezoning can be accepted by the City. The neighborhood meeting is an opportunity for the applicant to describe the proposal as well as for area residents and property owners to offer input about the proposal at an early stage. The applicant shall hold the meeting at a time and location accessible and convenient for the public. The City shall be represented at the meeting. Following the neighborhood meeting, the City representative may prepare a written report summarizing the general discussion of the neighborhood meeting and make copies available to the City staff, the applicant, and the public.

The maximum time between a required neighborhood meeting and a public hearing before the Commission shall not be more than one hundred eighty (180) days. In the event the public hearing is not held within one hundred eighty (180) days, the applicant shall be required to hold another neighborhood meeting.

2. *Notice.* The City Manager or designee shall require that notice of required public hearings be given in accordance with Section 16-2-3 (G) EMC.

3. *City Review.* The City Manager or designee shall review the proposed PUD, and may refer the application to any City department or agency (including any utility providers, other municipalities or other agency as determined in the City) for its review and comments, and shall prepare a report of its recommendations for review by the Commission and Council. A copy of the report shall be furnished to the applicant.

4. *Commission Review and Recommendation.* The Commission shall review the proposed PUD and the recommendation of City staff and shall hold a public hearing on the PUD. Following such hearing the Commission may make a recommendation to approve, approve with conditions, deny, or modify the PUD.

   a. In its review of the PUD application, in addition to any other criteria and findings applicable to the decision, the Commission's recommendations shall include its written findings on each of the following points:

      (1) The application is or is not consistent with the Comprehensive Plan and this Title; and

      (2) The application is or is not in conformance with adopted and generally accepted development standards, and any other ordinance, law or requirement of the City; and

      (3) The application is or is not substantially consistent with the goals, objectives, and policies of the City.

5. *Council Action.* The Council shall review the proposed PUD, the recommendation of the City staff, and the recommendation of the Commission, and shall hold a public hearing on the proposed PUD. Following such hearing, the Council may approve, deny, or refer a proposed PUD back to the Commission for modifications based on the requirements of this Title.

6. *After Approval—Lapsing Period.* An approved PUD shall not lapse, but shall remain in effect until superseded by a later or inconsistent amendment to, or replacement of, the PUD or the Official Zoning Map.

   a. Following approval of a PUD and the execution of all certificates appearing on the final PUD document, the applicant shall submit the final PUD and all other required documents to the City and the City shall record them with the Arapahoe County Clerk and Recorder. All expenses for recording shall be borne by the applicant and be paid prior to recording.

H. *Submittal Requirements*.

1. *PUD District Plan:* The PUD District Plan shall include all submittal requirements as listed below. The Planning and Zoning Commission shall make a recommendation to City Council for final action on a PUD District Plan zoning request. If a PUD District Plan is submitted for review without inclusion of a PUD Site Development Plan, then the Planning and Zoning Commission action on the PUD District Plan shall include a recommendation for final action on the Site Development Plan, which may include requiring review by staff only, review at a public hearing by the Planning and Zoning Commission, and additional review at a public hearing by the City Council, depending upon the size, uses, and complexity of the plan or issues remaining for review.

   PUD Site Development Plan: If a PUD Site Development Plan is submitted with a PUD District Plan, the Site Development Plan shall be reviewed at the same time as the PUD District Plan. If a PUD Site Development Plan is submitted subsequently to a PUD District Plan, then the Site Development Plan shall be reviewed as specified in the approved District Plan.

2. *PUD District Plan:* The applicant shall submit for City review a minimum of twelve (12) sets of the proposed PUD District plan. Applications shall be deemed complete only upon submittal of all required information and payment of all application fees. Review will not occur until the application is complete. The PUD District Plan shall be sufficiently detailed to indicate the general land uses; locations; development densities and/or minimum lot areas per unit; building heights, major transportation and circulation elements; the intended design character of the development and shall include but shall not be limited to, the following:

   a. The name and location of the proposed development; and

   b. The names, addresses and phone numbers of the applicants, owners, developers and designers of the development; and

   c. Documentation confirming that the applicant has legally sufficient interest in the property proposed for development, or is the duly authorized agent of such a person; and

   d. A PUD District Plan, drawn at a scale of not less than one inch per fifty feet (1"=50') along with north arrow, written and graphic scale, of the proposed development. The District Plan shall be of sufficient detail to determine impacts, both on and off-site that may require mitigation. The District Plan shall additionally include the following, where applicable:

      (1) A boundary survey and legal description prepared by a Colorado registered Professional Land Surveyor.

      (2) A description of the location of the property, and an identification of the primary developments, sensitive areas and other surrounding uses, features and major transportation networks in the immediate vicinity of the property.

      (3) Adjacent streets, proposed points of access and internal vehicular circulation routes.

      (4) Existing zoning and land use for all properties within at least three hundred feet (300') of all property boundary lines.

      (5) Location and area of proposed land uses, including private, public and quasi-public facilities; for plans with multiple uses, applicant shall provide a land use schedule listing permitted land uses.

      (6) Maximum heights of proposed structures.

      (7) Parking ratios for allowed uses, plus a statement of the intent to use surface or structured parking.

      (8) The maximum allowed density of the site, including any density maximums or minimums on individual uses.

(9) A description of the intended parks, recreation and open space features necessary and major amenities proposed to achieve the intended goal of the development, including the approximate location and area of open space and recreation areas.

(10) General intent and location of landscape areas, including percent of site dedicated to natural and landscaped areas, and transitional buffer areas.

(11) Location of existing bus stops, bike paths and pedestrian networks.

(12) The existing topography of the land and existing natural features, together with areas subject to 5-year and 100-year flooding.

(13) Locations of any existing easements on the property.

(14) Required major extensions of utilities, including conceptual layout of utilities and storm sewer systems.

(15) A description of the architectural design concept and development standards for exterior building materials sufficient to demonstrate that the development will be compatible with the surrounding neighborhood or will achieve a higher level of design. Development standards shall include a list of allowed and prohibited exterior materials, standards for articulation of street facing façades, and minimum transparency (windows) for building elevations.

(16) Minimum perimeter setbacks and other setbacks as appropriate.

(17) A Traffic Impact Study describing existing conditions, projected traffic generation from the new development, and anticipated impacts on the external street network in the vicinity of the proposed PUD.

(18) A written statement generally describing the proposed PUD and the market which it is intended to serve, its relationship to the Comprehensive Plan, and how the design and architectural concept of the proposed PUD will relate to adjacent property. Where the applicant's objectives are not substantially consistent with the Comprehensive Plan, the statement shall include the changed or changing conditions that justify approval of the proposal.

(19) Other information deemed necessary, reasonable, and relevant to evaluate the application as determined by City Manager or designee, Planning and Zoning Commission, or City Council.

3. *PUD Site Development Plan:* After or concurrent with the review of the PUD District Plan, the applicant shall submit for City review a minimum of twelve (12) sets of the proposed PUD Site Development Plan. Applications shall be deemed complete only upon submittal of all required submittal information and payment of applicable fees. Review will not occur until the application is complete. The PUD Site Development Plan may include the entire area within the PUD District Plan or the PUD Site Development Plan may consist of one or more phases, provided however, that the approval of any one phase may be contingent on improvements that involve other or all phases. The PUD Site Development Plan shall be sufficiently detailed and shall contain such information and documentation to fully indicate the ultimate operation and appearance of the project and shall include, but shall not be limited to, the following:

a. A boundary survey and legal description prepared by a Colorado registered Professional Land Surveyor.

b. Structure footprints, locations, gross floor areas, building heights and dimensioned setbacks from streets, as well as other structures and other features.

c. Sight lines and shadow studies.

d. Locations of major vehicular circulation system elements, including streets, curb cuts, and parking areas. Circulation systems shall be designed to connect with existing or planned street networks.

e. Pedestrian circulation elements including sidewalks, pathways, bus stops, plazas, with materials indicated: pedestrian circulation systems shall be designed to connect with existing or planned sidewalks and pathways.

f. Drainage features including retention and detention areas.

g. Overall grading showing existing and proposed grades.

h. Location, dimensions and descriptions of all existing utility easements on the property.

i. Parking areas and a preliminary design of internal circulation for parking areas or structures.

j. Location and amount of bicycle parking.

k. Loading and trash areas.

l. A schedule of dwelling units (if applicable) by building, and dwelling unit density based on units divided by acres of net lot area remaining after right-of-way dedications.

m. Location and area of parks, open space and recreation facilities, including amounts and locations of play areas for children and other recreational areas shown on the PUD District Plan.

n. Landscaping to include a material schedule listing quantities, plant types (e.g., deciduous street trees, evergreen shrubs, etc.), common name, minimum size at planting, area calculations for required and provided landscape area.

o. Fences, walls or year-round natural screen planting and landscaping when necessary to shield adjacent residential areas from commercial, industrial and parking areas.

p. Site lighting elements, including street lights, pedestrian lights and any other lighting elements.

q. Areas subject to flooding from a major storm including the 5-year and 100-year storms, detention and retention areas and provisions for controlled release of water from detention or retention areas following a major storm.

r. Site signage locations, and lighting of signs including specifically adopted sign standards where applicable.

s. Public amenities that may be included in the development proposal, including public art.

t. Conceptual building elevations that illustrate how the design standards established in the PUD District Plan are being implemented, including architectural concepts, façade treatments, and exterior building materials, as necessary to establish how the proposed PUD uses and structures relate internally and/or to the neighboring properties.

u. Other information deemed necessary, reasonable, and relevant to evaluate the application as determined by City Manager or designee, Planning and Zoning Commission, or City Council.

I. *Amendments.*

1. *District Plan Amendments.*

   a. Major Amendments to the PUD District Plan: Major amendments may be made to the approved Planned Unit Development District Plan pursuant to the procedures as provided within this Section 16-2-8 EMC, including a neighborhood meeting. Major amendments shall include any of the following:

      (1) An increase in the maximum building height beyond that allowed in the approved PUD District Plan.

      (2) An increase in the maximum allowed density or number of units beyond that allowed in the approved PUD District Plan.

      (3) A change in land use to a use not otherwise allowed in the approved PUD District Plan.

      (4) A reduction of the perimeter setbacks from those required in the approved PUD District Plan.

      (5) A reduction in the amount of landscaping required in the approved PUD District Plan.

      (6) An increase in the allowed lot coverage above that approved in the PUD District Plan.

      (7) Any change not considered a minor amendment by the City Manager or designee.

   b. Minor Amendments to the PUD District Development Plan: The City Manager or designee may approve minor amendments in the location of structures or facilities, or location of streets or walkways if required by engineering or other circumstances not foreseen at the time the Planned Unit Development District Plan was approved so long as no amendment violates any standard or regulation set forth in this Section; or any change not listed as a "Major Amendment" in Section 16-2-8(I)(1)(a) above.

2. *Site Development Plan Amendments:* All PUD Site Development Plans and documents may be changed and/or amended in whole or in part from time to time as provided in this Section.

   a. Major Amendments to PUD Site Development Plans: PUD Site Development Plans approved and recorded hereunder may only be amended as provided in Section 16-2-8(H)(3) and (G) EMC. This shall include those amendments which meet any of the following criteria:

      (1) A change in the character of the development; or

      (2) A change in the allowed land uses; or

      (3) A change in the general location of land uses; or

      (4) An increase in the maximum allowed building or structure height; or

      (5) An increase in the number of dwelling units, or in the ratio of the gross floor area of structures to the land area, or increases in the proposed gross floor area within any particular land use; or

      (6) A change in the required setbacks from property lines, or "build-to" lines; or

      (7) An increase of more than two percent (2%) in ground coverage by structures or surface parking; or

      (8) A reduction by more than two percent (2%) in the land area designated for landscaping; or

      (9) A reduction in the ratio of off-street parking and loading space to gross floor area or number of dwelling units in structures; or

      (10) A change affecting the access from and through public right-of-way.

b. Minor Amendments to PUD Site Development Plan: The City, through the City Manager or designee, may authorize minor deviations from the PUD Site Development Plan when such deviations appear necessary in light of technical or engineering considerations, Minor Amendments shall not be permitted for any changes included with the list of Major Amendments in Section 16-2-8(I)(2)(a) above.

J. *Appeals.*

1. *PUD District Plan:* The applicant may appeal any determination or action taken by the City Council under this Chapter to an Arapahoe County Court of competent jurisdiction. Said appeal to the court must comply with Rule 106 of Colorado Rules of Civil Procedure.

2. *PUD Site Development Plan:* The applicant may appeal any determination or action taken by the City Council under this Chapter to an Arapahoe County court of competent jurisdiction. Said appeal to the court must comply with Rule 106 of Colorado Rules of Civil Procedure.

(Ord. 2-15, § 2)

16-2-9: Site Improvement Plan Review.

A. *Applicability.* No land or structure shall be used, occupied, built, constructed upon, altered or developed for any use without complying with the Site Improvement Plan requirements and procedures provided in this Section, as applicable. A Site Improvement Plan shall be required for any of the following:

1. The commencement of any development, improvement, or construction requiring a building permit, except for interior remodel or interior tenant finish.

2. The construction or expansion of fences, walls, or accessory structures (e.g., garages, carports, storage sheds, decks) in any zone district, including decks and patios less than thirty inches (30") in height and residential accessory structures containing less than two hundred (200) square feet in floor area, or commercial accessory structures containing less than one hundred twenty (120) square feet that may not otherwise require a building permit.

3. Accessory uses, not including home occupations, marked as "A" in the applicable table cell in Table 16-5-1.1, "Table of Allowed Uses".

4. The construction, re-installation, expansion, alteration, removal, surfacing, paving, or resurfacing of a parking area, except for a residential driveway.

5. Site work, landscaping, grading, or excavation in excess of five thousand dollars ($5,000.00) in value as determined by a reasonable contract or bid consistent with prices for such materials and services in the Denver metropolitan area.

6. Additions and exterior alterations of any structure resulting in a change equal to or greater than ten percent (10%) of the floor area of the structure.

7. Any change that reduces the setback to a property line.

B. *Initiation.* An application for a Site Improvement Plan may only be initiated by those parties identified in Section 16-2-3(A) EMC. The "Applicant" shall be the person, persons or legal entity that initiates the application for a Site Improvement Plan.

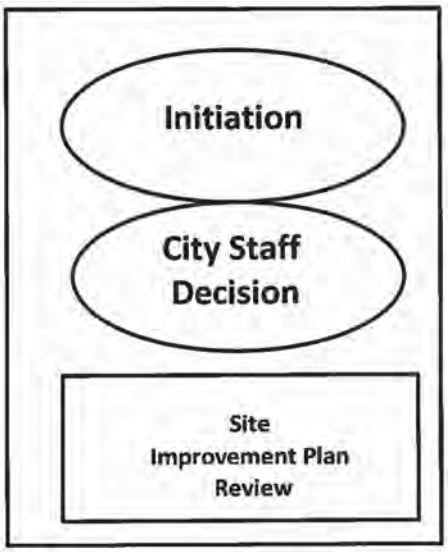
C. *City Review.* The Applicant shall submit a plan of the proposed development or improvement showing the location of all property boundaries, the location and dimensions of all existing and proposed structures (including accessory structures such as garages, sheds, outbuildings, trash enclosures, shelters, etc.), the location and surface material of all parking areas, driveways and sidewalks, the location of all landscaping (including species and size), fences and retaining walls. Applicant shall also

submit plans showing the location of all existing and proposed storm water detention facilities as required by Section 16-6-8 EMC. The Applicant shall submit copies of plans, including site plan, floor plans and elevations of all proposed structures. In addition, the applicant shall submit either as-built plans or photographs of all existing structures on the property.

1. *General Development Applications:*

   a. *Development / Use Requiring a Building Permit.* The City Manager or designee shall review the proposed Site Improvement Plan as part of the building permit application process. Based on the results of that review, the City Manager or designee shall act to approve, approve with conditions, or deny the proposed Site Improvement Plan based on the review criteria stated in Section 16-2-9(D) EMC, below.

   b. *Development / Uses Not Requiring a Building Permit.* The City Manager or designee shall review the proposed Site Improvement Plan for compliance with applicable standards of this Title. Based on the results of that review, the City Manager or designee shall act to approve, approve with conditions, or deny the proposed Site Improvement Plan based on the review criteria stated in Section 16-2-9(D) EMC, below. A copy of the approved Site Improvement Plan shall be maintained by the City.



2. *Preliminary Review:* Applicants are encouraged to contact the City in advance of submittal for formal Site Improvement Plan Review or application for a Building Permit to obtain preliminary feedback on the proposed development.

3. *Plan Format:* The Site Improvement Plan shall meet the following requirements:

Sites <10,000 square feet:	Scale: 1" = 20' or 1" = 10' Sheet size: 24" x 36" or 8 ½" x 11" or 11" x 17"
Sites ≥10,000 square feet:	Scale: 1" = 10' or other increments of 10' as approved by the City of Englewood. Sheet size: 24" x 36" or 30" x 42" or 36" x 48"

Site plans shall depict the property corners and all permanent survey monuments. All plans shall clearly indicate the size of the site (in square feet and in acres), existing and proposed building areas (in square feet), building setbacks to property lines, and proposed building height. In addition, all existing and proposed exterior building materials shall be shown on the plan elevations. A landscaping plan shall accompany all site plans and shall include existing and proposed ground surfaces, location of all existing trees and other significant vegetation, as well as size, species and number of all proposed landscaping. (Exception: A landscaping plan shall not be required for development that does not involve the removal of existing landscaping, or the addition of new landscaping.)

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D. *Criteria.* All Site Improvement Plans shall be reviewed, and shall be approved, approved with conditions, or denied based on the following criteria:

1. *Consistency with Adopted Plans and Standards.*

   a. Consistency with the spirit and intent of the City's Comprehensive Plan and this Title;

   b. Compliance and consistency with any applicable Station Area Standards and Guidelines for property in the TSA district;

   c. If approval of a conditional use is being requested as part of a Site Improvement Plan, compliance with all applicable conditional use standards and criteria listed in this Section and in Section 16-2-12 EMC; and

   d. If approval of a limited use is being requested as part of a Site Improvement Plan, compliance with all applicable limited use standards and criteria listed in this Section and in Section 16-2-13 EMC; and

   e. Compliance with all other applicable standards, guidelines, policies, and plans adopted by Council.

2. *Impact on Existing City Infrastructure and Public Improvements.* The proposed development shall not result in undue or unnecessary burdens on the City's existing infrastructure and public improvements, or arrangements shall be made to mitigate such impacts.

3. *Internal Efficiency of Design.* The proposed design of the site shall achieve internal efficiency for its users, provide adequate recreation; allow for safe public access; provide adequate storm drainage facilities, and promote public health and convenience. All sites shall be designed and constructed to safely accommodate pedestrians, bicyclists and automobiles.

4. *Control of External Effects.* The proposed development shall reduce external negative effects on nearby land uses and movement and congestion of traffic. This shall include negative impacts from noise, lighting, signage, landscaping, accumulation of litter and other factors deemed to affect public health, welfare, safety and convenience.

E. *Approval.*

1. The City shall approve the proposed Site Improvement Plan if the plan meets all requirements of this chapter or an applicable Planned Unit Development (PUD); complies with all required adopted plans, codes and standards; and any negative impacts on existing or planned City infrastructure have been mitigated.

   Compliance with Site Improvement Plan Approval. The Site Improvement Plan shall limit and control the issuance and validity of all building permits and occupancy permits and shall restrict and limit the construction, location, use, and operation of all land and structures included within the Site Improvement Plan to all limitations and conditions set forth in the approved Site Improvement Plan. Failure to maintain a property in compliance with its approved Site Improvement Plan shall be a basis for enforcement action under this Title.

2. Lapse: General Development Applications. A Site Improvement Plan shall lapse and be of no further force and effect if a building permit, or City Manager or designee approval, as required, is not issued for the property subject to the Site Improvement Plan within one hundred and eighty (180) days from the date of approval of the Site Improvement Plan.

F. *Modification and Amendment of Site Improvement Plans.*

1. Any approved Site Improvement Plan may be modified or amended as provided in this subsection or entirely withdrawn by the Applicant if a building permit has not been issued. Once a building

permit has been issued, the building permit and Site Improvement Plan shall control, unless both the building permit and Site Improvement Plan are thereafter amended or abandoned as identified in this Chapter.

2. The City Manager or designee may approve, or approve with conditions, an administrative modification to an approved TSA district Site Improvement Plan without notice to the public, if the proposed change does not produce any of the following conditions:

   a. An increase in residential density, nonresidential floor area ratio (FAR), or ground coverage of structures of more than ten percent (10%).

   b. An increase in external effects concerning traffic, circulation, safety noise, or provision of utilities.

   c. A reduction or increase in building setbacks that would violate the requirements of the TSA district standards by more than ten percent (10%).

   d. A reduction in the amount of required off-street parking.

   e. A reduction in the amount of required landscaping.

3. Any proposed amendment that does not qualify for review and approval as an administrative modification to a Site Improvement Plan shall be reviewed and approved in the same manner as an application for a new Site Improvement Plan, and shall be subject to the same approval criteria and appeal as a new application for a Site Improvement Plan.

4. An application for administrative modifications to an approved Site Improvement Plan shall be subject to the administrative rules and regulations established by the City Manager or designee. Any proposed amendment shall comply with the current regulations, standards, and guidelines for development in the zone district in which the property is located.

(Ord. 04-5; Ord. 08-48, § 5; Ord. 1-11/12, § 7; Ord. 29-14, § 1)

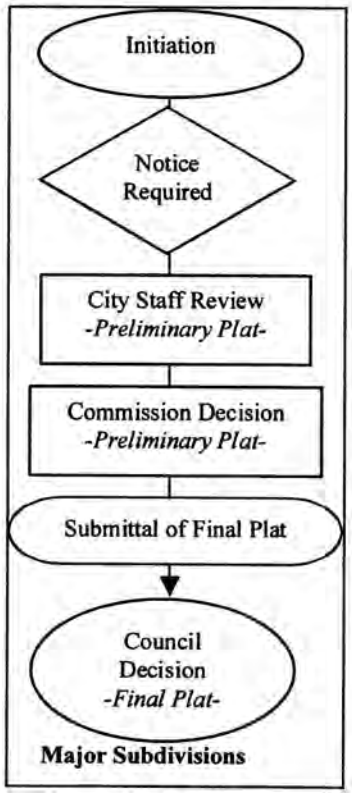
Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

16-2-10: Major Subdivisions.

Approval of a Major Subdivision Plat is required whenever a subdivision of land requires the dedication of land for public rights-of-way or public areas. Approval of a Major Subdivision Plat requires a two-stage process involving (1) approval of a preliminary plat by the Commission, and (2) approval of a final plat document by the Council. The Minor Subdivision process in Section 16-2-11 EMC, shall apply where dedication of land is not required and to certain boundary adjustments and lot consolidations.

A. *Initiation.*

1. An application for a Major Subdivision may be initiated by those parties identified in Section 16-2-3.A EMC.
2. The applicant shall first prepare a preliminary plat of the proposed subdivision, and following approval of such preliminary plat, shall prepare a final plat of the subdivision.
3. Upon approval of the City Manager or designee, a preliminary and final plat may be submitted simultaneously according to Section 16-2-3.J EMC.



B. *Notice.* The City shall require that notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

C. *City Review of Preliminary Plat.*

1. Upon receipt of a completed application for a preliminary plat, the City Manager or designee shall submit one (1) or more copies of such materials to each of the following for their recommendations in connection with the application:
   a. The Development Review Team.
   b. Urban Drainage and Flood Control District (as necessary).
   c. All affected utility companies.
   d. The Colorado Department of Transportation, if the property borders a State or Federal highway.
   e. Adjacent municipalities, if the realty borders or impacts any adjacent municipality.
   f. Any municipality that has requested written notification of development applications.
   g. Any other department or agency whose operations or facilities the City Manager or designee believes may be affected by the proposed development.
2. The DRT, and all private agencies as may wish to be represented, shall discuss the preliminary plat at a technical review meeting held within thirty (30) days of the receipt of the complete application for the preliminary plat. Recommendation of the technical review meeting will be forwarded to the applicant, and the preliminary plat should be amended accordingly prior to submission for Commission review.

D. *Commission Review and Final Action on the Preliminary Plat.*

1. The Commission shall review the proposed preliminary plat and the recommendations of the reviewing departments and agencies, and shall hold a public hearing on the proposed preliminary plat.
2. The applicant or designee shall attend the public hearing.
3. If the Commission determines, based on City or other agency report, that due to the location, topography, natural drainage or other unusual feature of the area proposed to be subdivided, or due to the character of the proposed development of the area, the proposed preliminary plat would create drainage or traffic problems in or near the area, or lead to congested development, or render the supplying of governmental or utility services to the

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area impractical or difficult, then the Commission may approve the preliminary plat subject to such reasonable conditions as may be required by the City department or agency to accomplish the development contemplated.

4. Following such hearing, the Commission may approve, deny, or conditionally approve the preliminary plat.

5. After completion of its consideration of the preliminary plat and determination of whether any further conditions or requirements should be imposed, the Commission shall present to the applicant written findings of fact stating whether the Commission has approved, conditionally approved, or denied the same. In the event that the Commission conditionally approves the preliminary plat, the written statement of the Commission shall set forth the conditions and requirements to be met by the applicant and the reasons for the imposition of those conditions. In the event of a denial of the preliminary plat, the written statement of the Commission shall set forth the reasons for the denial, and the applicant may appeal such denial in the manner set forth in Section 16-2-18 EMC.

E. *Criteria.* The Commission shall review and consider the preliminary plat application with particular attention to the following matters:

1. The zoning of the property proposed for subdivision, together with the zoning of the areas immediately adjacent thereto.

2. The proposed layout of lots and blocks and the proposed dimensions thereof to demonstrate compliance with applicable yard area requirements.

3. The availability of all utilities, and the proximity thereof to the area proposed for subdivision.

4. Topography and natural features of the land with special reference to floodplains.

5. The continuity of streets and alleys within the area proposed for subdivision, and the design and location of such streets and alleys, with relation to existing streets and alleys, both within and without the area proposed for subdivision, and the Master Street Plan.

6. Whether rights-of-way are designed and located to facilitate the safe movement of pedestrians and bicyclists.

7. Whether bicycle and pedestrian facilities have been selected, located, and designed in accordance with current City standards.

8. The location of utility and other easements.

9. The location of, and provision for, public areas, including land reserved for parks, schools and other public uses.

10. The method of handling drainage and surface water.

11. Any other matters that the Commission deems important to be considered in order to accomplish the purposes set forth in this Title.

F. *Review of Final Plat.*

1. General Requirements. Upon receipt by the applicant of the Commission's written statement of approval or conditional approval of a preliminary plat, the applicant shall, within six (6) months, submit to the City Manager or designee the final plat, together with such accompanying papers and documents as may be required. One (1) additional six (6) month extension may be granted by the City Manager or designee if the applicant demonstrates that the delay in filing the final plat was due to reasons beyond his or her control. The final plat shall reflect the preliminary plat considered at the public hearing and as previously

approved or conditionally approved by the Commission, and shall adequately address all conditions (if any) specified in any conditional approval by the Commission, and shall contain information and supporting materials as specified by the City Manager or designee.

2. Council Review and Action. In reviewing the final plat and any land proposed to be dedicated, the Council shall consider the recommendations of the Commission and City staff. The Council shall approve, approve with conditions, or deny the final plat.

3. Criteria. The Council shall only approve a final plat based upon findings that the final plat conforms to the preliminary plat approved or conditionally approved by the Commission, and adequately addresses all conditions attached to any conditional approval by the Commission, and conforms to all Colorado statutory requirements for subdivision plats. The approval, conditional approval, or denial of the final plat shall be in writing.

G. *After Approval.*

1. Following approval of the final plat and the due execution of all certificates appearing upon the final plat, the applicant shall submit the final plat and all other required documents to the City and the City shall record them with the Arapahoe County Clerk and Recorder. All expenses of recording shall be borne by the applicant and shall be paid prior to the recording of the plat.

2. No approval of any final plat shall be effective until it is recorded.

3. A final plat that has not been recorded within sixty (60) days after its approval shall lapse and shall be of no further force or effect.

H. *Modifications and Amendments.* A recorded final plat may be modified through the same procedure used to approve the final plat, unless it qualifies for treatment as a Minor Subdivision under Section 16-2-11 EMC.

(Ord. 04-5; Ord. 05-25; Ord. 8-13, § 3)

16-2-11: Minor Subdivisions and Administrative Land Review Permits.

Approval of a Minor Subdivision Plat or Administrative Land Review Permit is required whenever a division or combination of land occurs that does not require land dedication for public purposes. If land dedications are required, or if a proposed action does not meet one (1) or more conditions listed below, then the Major Subdivision process in Section 16-2-10 EMC, shall apply.

A. *Applicability.*

1. A Minor Subdivision Plat shall be required for the following actions:

a. Unplatted land is to be platted, divided, or combined with other land whether platted or unplatted.

b. A single platted lot is to be divided into two (2) or more lots.

c. A parcel previously platted into lots is to be divided into two (2) or more new lots inconsistent with the historical platted lines.

d. Adjustment of boundary line(s) between previously platted parcels inconsistent with historical platted lines.

e. The creation of condominiums, town home communities, and other forms of airspace ownership or air-right subdivisions, as described and defined in C.R.S. § 38-33-101, et seq., as amended.

When a proposed Minor Subdivision involves significant issues of public health, welfare or safety, the City Manager or designee may require that the action be reviewed as a Major Subdivision.

2. An Administrative Land Review Permit shall be required for the following actions:
   a. A parcel previously platted into lots is to be divided into two (2) or more lots consistent with the historical platted lines.
   b. Adjustment of boundary line(s) between previously platted parcels consistent with historical platted lot lines, provided no new lot is created.
   c. The consolidation of one (1) or more previously platted lots in conformance with combination request requirements established by Arapahoe County.

   When a proposed Administrative Land Review Permit involves significant issues of public health, welfare or safety, the City Manager or designee may require that the action be conducted as a minor or Major Subdivision.

B. *Initiation.* An application for a Minor Subdivision or an Administrative Land Review Permit may be initiated by those parties identified in Section 16-2-3.A EMC. Approval of a Minor Subdivision Plat requires a two-stage process involving City Manager or designee approval of (1) a preliminary plat, and (2) a final plat. Approval of an Administrative Land Review Permit requires City Manager or designee approval of materials appropriate to the application. Submittal requirements for Minor Subdivision and Administrative Land Review Permits shall be identified on City submittal requirement forms.

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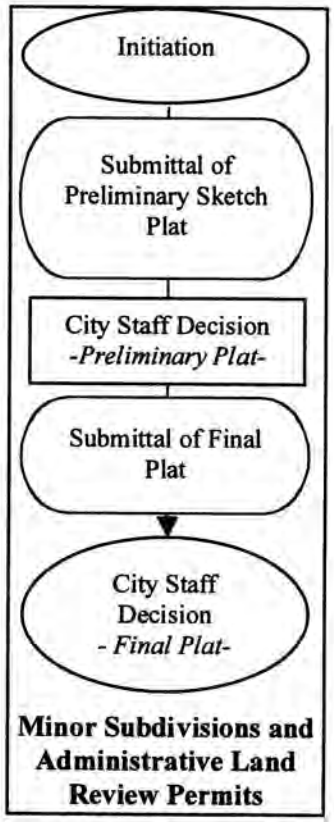
C. *City Review of Minor Subdivision Preliminary Plat.*



1. Upon receipt of a completed application and the Minor Subdivision preliminary plat, the City Manager or designee may submit one (1) or more copies of such materials to each of the following for their recommendations in connection with the application:

   a. Development Review Team.

   b. Urban Drainage and Flood Control District (as necessary).

   c. All affected utility companies.

   d. The Colorado Department of Transportation, if the property borders a State or Federal highway.

2. The DRT and all private agencies as may wish to be represented, shall discuss the application materials at a technical review meeting of the DRT, held within thirty (30) days of the receipt of the complete application for the preliminary plat.

3. Following such review, and within fifteen (15) days of the technical review meeting, the City Manager or designee shall either approve the preliminary plat in concept and permit Minor Subdivision final plat submittal, may state the conditions or changes required for Minor Subdivision final plat submittal, or may deny the preliminary plat based on criteria listed in Section 16-2-11-F EMC, below. The approval, conditional approval, or denial shall be in writing.

D. *City Review of Minor Subdivision Final Plat.*

1. Upon receipt by the applicant of the City Manager or designee's written statement of approval or conditional approval of the preliminary plat, the applicant shall, within six (6) months, submit a Minor Subdivision final plat, together with such accompanying papers and documents as may be required. One (1) additional six (6) month extension may be granted by the city manager or designee if the applicant demonstrates that the delay in filing the final plat was due to reasons beyond his or her control. The Minor Subdivision final plat shall reflect the preliminary plat as previously approved or conditionally approved by the City Manager or designee, and shall adequately address all conditions (if any) specified in any conditional approval, and shall contain information and supporting materials as specified by the City Manager or designee.

2. Upon receipt of a completed application for a Minor Subdivision final plat, the City Manager or designee may submit one (1) or more copies of such materials to any department or

agency that previously commented on the preliminary plat for their recommendations on the final plat application. In reviewing the proposed final plat, the departments and agencies shall take into account those criteria listed below, as applicable to the proposed Minor Subdivision. Such departments and agencies of the City shall complete their review and submit any comments and recommendations to the City Manager or designee within fifteen (15) days.

3. Following receipt of any department or agency comments or recommendations, the City Manager or designee shall approve, conditionally approve, or deny the Minor Subdivision final plat within thirty (30) days after receiving the comments or recommendations. The City Manager or designee shall only approve a Minor Subdivision final plat if a determination is made that the plat conforms to the approved or conditionally approved preliminary plat, and adequately addresses all conditions attached to any conditional approval of the preliminary plat, and conforms with those criteria listed in Section 16-2-11-F EMC, below, as applicable, and conforms with all Colorado statutory requirements for subdivision plats. The approval, conditional approval, or denial of the final plat shall be in writing.

E. *City Review and Approval of Administrative Land Review Permit.*

1. Upon receipt of a completed application for an Administrative Land Review Permit, the City Manager or designee may submit one (1) or more copies of such materials to each of the following for their recommendations in connection with the application:

   a. Development Review Team.

   b. Urban Drainage and Flood Control District (as necessary).

   c. All affected utility companies.

   d. The Colorado Department of Transportation, if the property borders a State or Federal highway.

2. The DRT and all private agencies as may wish to be represented, shall discuss the application materials at a technical review meeting of the DRT held within thirty (30) days of the receipt of the complete application for the Administrative Land Review Permit.

3. Following such review and within fifteen (15) days of the technical review meeting, the City Manager or designee shall either approve the permit, may state the conditions or changes required to approve the permit, or may deny the permit based on criteria listed in Section 16-2-11-F EMC, below. The approval, conditional approval, or denial shall be in writing.

4. Additional Steps if Permit Application is Conditionally Approved.

   a. If the original permit application is conditionally approved, upon receipt by the applicant of the City Manager or designee's written statement of conditional approval of the permit, the applicant shall, within sixty (60) days, submit all revised, final materials and documents, as may be required, to adequately address the conditions of approval. One (1) additional sixty (60) day extension may be granted by the City Manager or designee if the applicant demonstrates that the delay in filing the required materials or documents was due to reasons beyond his or her control.

   b. Upon receipt of the revised, final materials and documents, the City Manager or designee may submit one (1) or more copies of such materials to any department or agency that previously commented on the application. Such departments and agencies shall complete their review and submit any comments and recommendations to the City Manager or designee within fifteen (15) days.

   c. Following receipt of any department or agency comments or recommendations, the City Manager or designee shall approve, conditionally approve, or deny the Adminis-

trative Land Review Permit within thirty (30) days after receiving the comments or recommendations. The approval, conditional approval, or denial of the permit shall be in writing.

F. *Criteria.* The City Manager or designee shall review and consider Minor Subdivision and Administrative Land Review Permit applications with particular attention to the following matters:

1. Consistency with the Comprehensive Plan.
2. Consistency with the requirements of the zoning district in which it is located.
3. Conformance with all applicable use, development, and design standards set forth in this Title.
4. Adequacy of street access and utility easements to provide service to each resulting parcel. No recorded easement may be altered without the prior approval of the easement holder.
5. Potential adverse impacts on surrounding properties.
6. The action may not create any nonconformity, or increase the degree of nonconformity, of any existing structure, lot, or use.
7. Conformance with other applicable City codes, including but not limited to City building and safety codes.

G. *After Approval.*

1. Minor Subdivision Final Plat.
   a. Following approval of the Minor Subdivision final plat, and the due execution of all certificates appearing upon the final plat, the applicant shall submit the Minor Subdivision final plat and all other required documents to the City and the City shall record them with the Arapahoe County Clerk and Recorder. All expenses of recording shall be borne by the applicant and shall be paid prior to the recording of the plat.
   b. No approval of any Minor Subdivision final plat shall be effective until it is recorded.
   c. A Minor Subdivision final plat that has not been recorded within sixty (60) days after approval by the City Manager or designee shall lapse and shall be of no further force or effect.
2. Administrative Land Review Permit.
   a. Following approval of the Administrative Land Review Permit the applicant shall submit all required materials and documents to the City and City shall record the permit and accompanying documents with the Arapahoe County Clerk and Recorder. All expenses of recording shall be borne by the applicant and shall be paid prior to the recording.
   b. No approval of any Administrative Land Review Permit shall be effective until it is recorded.
   c. An Administrative Land Review Permit that has not been recorded within sixty (60) days after approval by the City Manager or designee shall lapse and shall be of no further force or effect.

H. *Modifications and Amendments.* A recorded Minor Subdivision final plat or Administrative Land Review Permit may be modified through the same procedure used to approve the application.

(Ord. 04-5; Ord. 08-48, § 6)

16-2-12: Conditional Use Permits.

There are some principal and accessory uses that raise issues of compatibility with their surrounding neighborhoods, but which could be compatible if subject to certain conditions and safeguards through the conditional use permit process. The Commission has been given authority to approve conditional use permits, after notice and public hearing, in those cases where Table 16-5-1.1, "Table of Allowed Uses," shows that a conditional use (marked as a "C" in the applicable table cell) may be available in a specific zone district.

A. *Initiation.* An application for a conditional use permit may be initiated by those parties identified in Section 16-2-3.A. EMC, or by any other party who can demonstrate a substantial, continuing interest in the property covered by the conditional use application.

B. *Notice.* The City shall require that notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

C. *City Review.* The City Manager or designee shall review the proposed conditional use permit, and may refer the application to any department or agency for its review and comments, and shall prepare a report of its recommendations for review by the Commission. A copy of the report shall be furnished to the applicant.

D. *Commission Decision.* The Commission shall review the proposed conditional use permit application and the recommendation of City staff, and shall hold a public hearing on the application. Following such hearing, the Commission shall make written findings either approving, conditionally approving, or denying the conditional use. The decision on whether to approve or deny an application for a conditional use permit shall be in writing, based upon substantial evidence presented at the public hearing. A copy the decision of the Commission shall be provided to the applicant.

E. *Criteria.* Conditional uses shall only be approved if they promote the health, safety, and general welfare of the community, and are consistent with the Comprehensive Plan. In addition, before approving a conditional use permit, the Commission shall make written findings that the conditional use will implement the purposes of this Title and will meet the following requirements:

1. The use must be permitted as a conditional use in the zone district in which it is proposed to be located.

2. Taking into consideration any proposed mitigation measures, conditional use shall not create significant adverse impacts on either the existing development in the surrounding neighborhood or on any future development permitted by this Title. Significant adverse impacts include but are not limited to:

   a. Significant increases in traffic generation and parking beyond what would be generated by a use-by-right;

b. Building heights or bulk that are significantly larger or more massive than those on nearby properties;

c. Lack of screening of parking, loading, traffic circulation, or outdoor activities; garbage collection facilities and storage;

d. Significant intrusions of noise, light, dust, or glare onto nearby properties;

e. Significant increases in burdens on housing, schools, public utilities, or governmental services beyond those that would be generated by a use-by-right; or

f. Hours of operation that begin significantly earlier or end significantly later than those on nearby properties.

3. The number of off-street parking spaces shall not be less than the requirements of Section 16-6-4 EMC.

4. The conditional use shall meet all other applicable provisions of the Englewood Municipal Code.

5. If the application is for a conditional use telecommunications tower or antenna, it shall also conform with any additional standards and requirements for such uses specified in Chapter 16-7 EMC, "Telecommunications".

F. *After Approval.*

1. All approved plans for the conditional use, including all modifications or conditions on such use, shall be recorded with the Arapahoe County Clerk and Recorder. All expenses of recording shall be borne by the applicant and shall be paid prior to recording.

2. Any person or persons using property under a conditional use permit shall operate such use in compliance with all terms of the approval of that conditional use permit. All stipulations submitted as part of the conditional use application and all conditions imposed by the Commission shall be maintained in perpetuity with the conditional use.

3. The City shall review all building permits that have been issued for the conditional use and shall examine the construction that has taken place on the site to ensure conformance with the approved conditional use.

G. *Annual Review for Compliance.* The City Manager or designee shall review all approved conditional uses on an annual basis for compliance with all terms of approval of the conditional use permit.

1. If the conditional use is found to be in compliance with the terms of the conditional use permit, the permit shall be renewed for one (1) year.

2. If the conditional use is no longer operating, the conditional use permit shall be voided and notice shall be recorded with the office of the Arapahoe County Clerk and Recorder.

3. If the conditional use is found not to be in compliance with the terms of the conditional use permit, the conditional use shall be in violation of this Title and subject to enforcement pursuant to Chapter 16-10 EMC, "Enforcement and Penalties".

H. *Appeals.* Appeals of the Commission decisions on a conditional use application shall be made to the Council.

(Ord. 04-5)

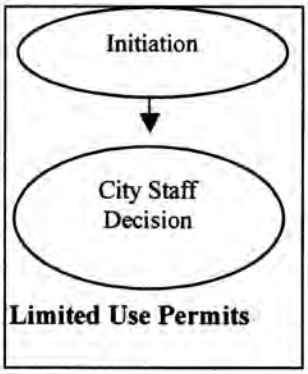
16-2-13: Limited Use Permits.

Administrative review is required for specified principal uses that, while generally appropriate in the zoning district, may have the potential for limited impacts on adjacent properties or on the character of

the neighborhood. Accordingly, Limited Use Permits are intended as an administrative review that grants the City Manager or designee authority to impose restrictions on the specified use to mitigate any potential adverse impacts. See Table 16-5-1, "Table of Allowed Uses" for uses that require Limited Use Permits under this subsection (such uses are noted as "L" in the applicable table cell).

A. *Initiation.* An application for a Limited Use Permit may be initiated by those parties identified in Section 16-2-3.A. EMC, or by any other party who can demonstrate a substantial, continuing interest in the property covered by the Limited Use Permit application. An application for a Limited Use Permit may be submitted with an application for Site Improvement Plan review and processed simultaneously.

B. *City Review and Action.* The City Manager or designee shall review the proposed Limited Use Permit, and may refer the application to any department or agency for its review and comments. Following such reviews, the City Manager or designee shall approve, conditionally approve, or deny the application, based on the criteria in subsection C, below. The City Manager or designee shall take final action on the Limited Use Permit application within thirty (30) days of the City's receipt of the complete application.



C. *Criteria.* All applications for Limited Use Permits shall demonstrate compliance with the following criteria:

1. Compliance with any special conditions and standards listed in Chapter 16-5 EMC, "Use Regulations," and/or Table 16-5-1.1, "Table of Allowed Uses," in Chapter 16-5 EMC.

2. The use is compatible with the surrounding neighborhood and surrounding existing uses, in terms of the proposed use's as-built intensity, operations, and sitings of accessory uses or activities. Restrictions may be imposed on a proposed Limited Use Permit to ensure that potential adverse impacts on surrounding uses and properties will be substantially mitigated, including but not limited to conditions or measures addressing:

   a. Location on a site of activities that generate potential adverse impacts such as noise, dust, odor, and glare;

   b. Location on a site of buildings or structures that may be incompatible with existing development on adjacent properties;

   c. Location of outdoor activity or storage areas;

   d. Hours of operation and deliveries;

   e. Light intensity and hours of full illumination;

   f. Placement and illumination of outdoor vending machines;

   g. Screening and/or buffering of the proposed use;

   h. Litter control;

   i. Placement and screening of trash receptacles;

   j. On-site parking configuration and facilities;

   k. Environmental impacts; or

   l. Privacy concerns of adjacent uses.

3. On-site and off-site traffic circulation patterns related to the use shall not adversely affect adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.

4. The use will be adequately served by public facilities and services. Public facilities and services that may be considered in light of this standard include, but are not limited to, water, sewer, electric, schools, streets, fire and police protection, storm drainage, public transit, and public parks/trails.

5. The application for the proposed use mitigates, to the maximum extent feasible, potential adverse impacts on nearby properties, land uses, public facilities and services, and the environment.

D. *After Approval.*

1. Upon approval or conditional approval of the Limited Use Permit, all applicable terms and conditions of approval shall be placed directly on the approved Site Improvement Plan.

2. Any person or persons using property under a Limited Use Permit shall operate such use in compliance with all terms and restrictions of the approval of that Limited Use Permit. All stipulations submitted as part of the Limited Use Permit application and all terms and/or restrictions imposed by the City Manager or designee shall be maintained in perpetuity with the limited use.

E. *Annual Review for Compliance.* The City Manager or designee shall review all approved limited uses on an annual basis for compliance with all terms of approval of the Limited Use Permit.

1. If the limited use is found to be in compliance with the terms of the Limited Use Permit, the permit shall be renewed for one (1) year.

2. If the limited use is no longer operating, the Limited Use Permit shall be voided.

3. If the limited use is found not to be in compliance with the terms of the Limited Use Permit, the limited use shall be in violation of this Title and subject to enforcement pursuant to Chapter 16-10 EMC, "Enforcement and Penalties".

F. *Appeals.* Appeals of the City Manager or designee's decisions on a Limited Use Permit application shall be made to the Commission.

(Ord. 04-5; Ord. 29-14, § 4)

16-2-14: Temporary Use Permits.

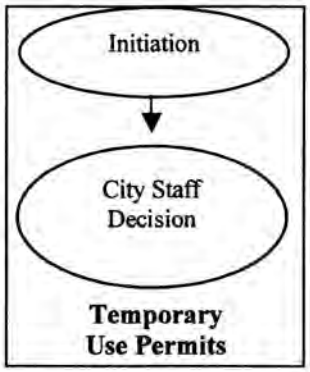
All temporary uses and structures allowed under Section 16-5-5 EMC, shall be subject to the procedures and requirements for a Temporary Use Permit set forth in this Section.

A. *Initiation.*

1. A Temporary Use Permit may be initiated by those parties identified in Section 16-2-3.A. EMC, or by any other party who can demonstrate a substantial, continuing interest in the property covered by the Temporary Use Permit application.

2. No more than one (1) Temporary Use Permit application shall be required for any organized special event involving more than one activity or site or held over a period of more than one (1) day, so long as the application is otherwise complete as to each such activity, site, or time period.

3. Temporary Use Permits shall not apply to residential garage/yard sales. (See Title 15 EMC.)



B. *Notice.* No notice shall be required for a Temporary Use Permit.

C. *City Review.* The City shall review the proposed Temporary Use Permit, and may refer the application to any department or agency for its review and comments. Following such reviews, the City Manager or designee shall approve, conditionally approve, or deny the application, based on the criteria in subsection D, below. Approved or conditionally approved temporary use permits shall be valid for a specified period of time stated in the permit.

D. *Criteria.* Temporary Use Permit application shall be approved or conditionally approved by the City Manager or designee if it meets all of the following criteria, or would meet such criteria if operated in accordance with conditions attached to the approval:

1. The proposed temporary use will be located, operated, and maintained in a manner consistent with the policies of the Comprehensive Plan and the provisions of this Title.

2. The proposed temporary use complies with all general and specific requirements for the proposed use stated in Section 16-5-5 EMC (Temporary Uses and Structures).

3. The proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.

4. The particular location requested can reasonably accommodate the proposed temporary use, given the proposed use's nature, size, or duration.

5. The applicant or operator has received or complies with any other required permits, such as health department permits, or other Federal, State, or County regulations.

E. *Conditions of Approval.* The City Manager or designee may impose restrictions on a proposed temporary use to ensure that potential adverse impacts on surrounding uses and properties will be substantially mitigated, including but not limited to conditions or measures addressing:

1. The provision of temporary parking facilities, including vehicular access and egress;

2. The control of potential nuisance factors such as glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;

3. Regulation of temporary buildings, structures, and facilities, including placement, height, size, location of equipment and open spaces, including buffer areas and other yards;

4. Use of an alternative location or date for the proposed temporary use, or modification or elimination of certain proposed activities;

5. Provision of sanitary and medical facilities, or other security and safety measures; or

6. Hours of operation.

F. *After Approval.*

1. A Temporary Use Permit shall not lapse, but shall remain in effect only until the ending date stated in such permit. The City Manager or designee shall be permitted to grant one (1) extension to the proposed ending date, provided that:

   a. The need for the extension is caused by circumstances beyond the control of the applicant; and

   b. The extension will be for a period not to exceed the original time period, but not more than thirty (30) days; and

   c. There have not been significant complaints from the surrounding community regarding the operation of the temporary use prior to the request for an extension.

2. Any person or persons using property under a Temporary Use Permit shall operate such use in compliance with all terms of the approval of that Temporary Use Permit. Noncompliance with the terms or conditions of approval of a Temporary Use Permit shall be grounds for enforcement action permitted by Chapter 16-10 EMC, including but not limited to revocation of the permit.

(Ord. 04-5)

16-2-15: Development Agreements.

The City may negotiate and execute Development Agreements in connection with any land use approval where it would further the purpose and intent of this Title and the Comprehensive Plan. Development Agreements are contracts between an applicant and the City in order to reduce the uncertainties associated with large-scale, long-term, or phased developments. They may be executed in connection with rezonings, Site Improvement Plans, or Major Subdivisions, and must be negotiated, reviewed, and executed simultaneously with the development approvals to which they relate. No Development Agreement shall be valid unless and until executed by the Council and recorded with the Arapahoe County Clerk and Recorder.

A. *Initiation.* A Development Agreement may be initiated by those parties identified in Section 16-2-3.A EMC, but must be initiated in connection with a proposed rezoning, Site Improvement Plan application, or Major Subdivision application. Each proposed Development Agreement shall set forth the responsibilities of the developer and the City for the project related to the agreement. The agreement may address, but is not limited to, the following topics:

   1. Types of infrastructure required;

   2. Timing and phasing of infrastructure or building construction;

   3. Assurances that public improvements (including roads, water, sewer, fire protection and emergency medical services) will be available as needed to serve new development;

   4. Infrastructure financing arrangements or payments to the City for infrastructure construction;

   5. Provisions for public benefits or improvements in excess of what is required by current City policy or law; and

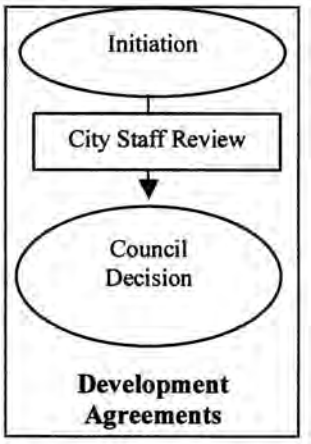
   6. Vesting of property rights.

B. *Notice.* The City shall require that published notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

C. *City Review.* The City Manager or designee shall review the proposed Development Agreement in connection with its review of the related development approval application, and may refer the

application to any department or agency for its review and comments, and shall prepare a report of its recommendations for review by the Council. A copy of the report shall be furnished to the applicant.

D. *Council Action.* The Council shall review the proposed Development Agreement, the recommendation of City staff, and shall hold a public hearing on the proposed agreement (even if a public hearing is not required on the related development application). Following such hearing, the Council may approve, deny, or conditionally approve the agreement.



E. *Criteria.* Development Agreements shall only be executed if they promote the health, safety, and general welfare of the community, and only if they are consistent with the Comprehensive Plan. In addition, the review- or decision-making body shall only recommend approval of, or shall only approve, a proposed Development Agreement if it finds that the proposed action meets the criteria listed below:

1. The benefit of the Development Agreement to the City outweighs its costs.
2. The Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable; and
3. The City has received adequate assurances that the development will go forward as planned in return for any vesting of property rights beyond the three-year vesting period set forth in C.R.S. Section 24-68-101 et. seq., as amended.

F. *After Approval.*

1. After the Council approves the agreement, it shall be signed by the applicant and by the City Manager or designee.
2. The City shall record each executed Development Agreement with the office of the Arapahoe County Clerk and Recorder. Unless otherwise stated in the Development Agreement, it shall be effective upon recording.
3. The burdens and benefits of an approved Development Agreement shall run with the land in accordance with the Development Agreement.
4. Amendments to an approved Development Agreement shall be reviewed and considered through the same procedure used to execute the original Development Agreement.

(Ord. 04-5; Ord. 08-48, § 7; Ord. 29-14, § 4)

16-2-16: Zoning Variances.

Two (2) different types of variance are available: (1) Zoning Variances and (2) Floodplain Variances. Zoning Variances are addressed in this section, and Floodplain Variances are addressed in Chapter 16-4 EMC (Floodplain Regulations). (Note that the Planning Commission is the decision-making body on

Floodplain Variances rather than the Board of Adjustment and Appeals.) The Board of Adjustment and Appeals pursuant to the procedures in this Section may grant Zoning Variances from the zoning provisions of this Title otherwise applicable to a property.

A. *Jurisdiction / Scope for Zoning Variances.*

1. Nothing in this Title shall be construed to empower the Board to change the terms of this Title or to effect changes in the Official Zoning Map of the City of Englewood. The powers of the Board shall be narrowly interpreted and strictly construed so that this Title and the Official Zoning Map shall be strictly enforced.

2. The Board shall have the authority to require any reasonable stipulation or condition that might be necessary to properly protect the general welfare when granting a Zoning Variance.

3. The Board's granting of Zoning Variances shall not result in any encroachment into a recorded easement or right-of-way.

4. The Board shall not consider a Zoning Variance application relating to the use of property.

5. The Board shall not consider a Zoning Variance application to allow additional dwelling units in residential districts above the maximum number permitted by zone district standards for lot area and lot width.

6. The Board shall not consider a Zoning Variance application relating to Temporary Use Permits.

7. The Board shall not consider a Zoning Variance application relating to Conditional Use Permits.

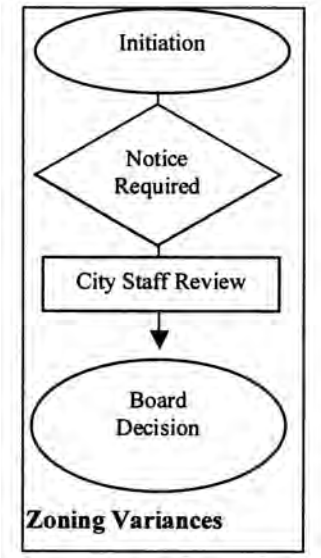
B. *Initiation.* An application for a Zoning Variance may be initiated by those parties identified in Section 16-2-3.A EMC.

C. *Notice.* The City shall require that notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

D. *City Review.* The City Manager or designee shall review the Zoning Variance application, and may refer the application to any department or agency for its review and comments.

E. *Board Decision.* The Board shall review the proposed Zoning Variance application and the report of City staff, and shall hold a public hearing on the proposed Zoning Variance. Following such hearing, the Board shall make written findings either approving, conditionally approving, or denying the Zoning Variance. The decision on whether to approve or deny an application for a Zoning Variance shall be in writing, based upon substantial evidence presented at the public hearing. A copy of the decision of the Board shall be provided to the applicant.

F. *Criteria for Considering a Zoning Variance.*



1. General Zoning Variances. In passing upon Zoning Variances that do not involve provisions of the Sign Code, the Board may vary the application of the regulations set forth in this Title only if the Board finds the following:
   a. That unique physical conditions exist, such as size, shape, location, topography or surroundings, which are peculiar to the land or structure involved, which deprive the applicant of privileges enjoyed by other properties in the vicinity; and
   b. The variance is consistent with the intent of the zone district regulations to secure public health, safety and welfare; and
   c. The variance will not permanently impair the use or development of adjacent conforming properties or alter the essential character of the neighborhood; and
   d. The variance is not a self-imposed difficulty or hardship.
2. Sign Code Variances. In passing upon Zoning Variances to the Sign Code, Section 16-6-13 EMC, the Board may vary the application of the regulations set forth in this Title only if it determines that:
   a. There are special circumstances or conditions such as the existence of buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent public right-of-way, which would substantially restrict the effectiveness of the sign in question; provided, however, that such special circumstances or conditions must be peculiar to the particular business or enterprise to which the applicant desires to draw attention, and do not apply generally to all businesses or enterprises; and
   b. The variance will not weaken the general purpose of this Title nor the regulations prescribed for the district in which the sign is located; and
   c. The variance will not alter the essential character of the district in which the sign is located; and
   d. The variance will not substantially or permanently impair the appropriate use of adjacent conforming property.

G. *After Approval.*

1. All Zoning Variances shall be effective on the date of final action by the Board. For the purpose of this subsection, final action by the Board shall be deemed to be the approval of the findings of fact for the Zoning Variance request.
2. The City shall record all Zoning Variances with the office of the Arapahoe County Clerk and Recorder.
3. Any Zoning Variance granted by the Board shall run with the land unless the Board specifies otherwise as a condition of the Zoning Variance.
4. Any Zoning Variance granted by the Board shall automatically lapse within one hundred eighty (180) days of the date it was effective, or within such other time as the Board may prescribe, unless a building permit for the action that was the subject of the variance is obtained and work started.

H. *Post Decision Remedies.* Initiation of the following remedies must occur within thirty (30) days of the Board decision. For the purpose of this subsection, Board decision shall be the vote on the Zoning Variance request.

1. Rehearing. If the applicant or an interested third party finds evidence that was not available at the time of the hearing that may materially bear on the case, a request for a rehearing may be made to the Board. The request shall be in writing and contain the following:

   a. A summary of the new evidence.

   b. The reason the evidence was not available to the Board at the original hearing.

   c. A statement as to why it is believed that the evidence will materially affect the decision of the Board.

   The Board shall hear the request for rehearing and shall vote on the issue of granting a rehearing. The chairperson shall announce the Board's decision. If a rehearing is granted, a new date will be set for a public hearing and all posting and publication requirements shall apply and shall be the responsibility of the original applicant. If a rehearing is denied, the original Board decision shall stand.

2. Reconsideration. If a Board Member believes that the Board would benefit from reviewing a Board decision, a motion for reconsideration of the decision may be made. If the motion to reconsider fails, the original decision stands. If the motion to reconsider is approved, the original variance request shall be reheard by the Board. The Board may reconsider the variance request immediately or may continue the reconsideration to a date certain.

   The reconsideration shall be limited to the facts presented in the original variance request and no new evidence shall be taken. The Board may confirm, reverse, or modify the original decision.

I. *Appeals of Board Decisions.* Appeals of final decisions of the Board may be made pursuant to Section 16-2-18 EMC, "Appeals".

(Ord. 04-5; Ord. 08-48, § 8; Ord. 8-13, § 4)

16-2-17: Administrative Adjustments.

A. *Purpose.* The City Manager or designee may vary, in minor ways, some provisions of this Title otherwise applicable to a property pursuant to the procedures in this Section. Administrative Adjustments are to be used when the small size of the adjustment requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Zoning Variance process. In addition, the Federal Fair Housing Act, as amended, requires that local governments be prepared to make "reasonable accommodations" in order to permit housing for certain protected groups to occur in certain types of residential areas. Administrative adjustments may be used when the City determines that an adjustment to the provisions of this Title is required or advisable to comply with these requirements of the Federal Fair Housing Act.

B. *Initiation.* An application for an Administrative Adjustment may be initiated by those parties identified in Section 16-2-3.A.

C. *Notice.* The City shall require that the applicant notify adjacent property owner(s) and/or occupant(s) by written notice of any application for Administrative Adjustment.

D. *Permitted Adjustments.*

1. General Rules.

a. Except when requested as a reasonable accommodation for Federal Fair Housing Act ("FFHA") purposes, a request for an Administrative Adjustment shall not be used to further modify a development standard that, as applied to the subject property, already qualifies as an exception to, or modification of, a generally applicable development standard required under Chapter 16-6 EMC, (Development Standards). For example, the developer of a residential project that qualifies for a special variation in the required side setback under the residential design provisions in Section 16-6-10.B EMC, cannot seek an Administrative Adjustment to further reduce the side setback allowed under the special variation.

b. Unless specifically stated in the Scope of Authority below, the City Manager or designee shall not approve any Administrative Adjustment that results in an increase in permitted maximum development density or intensity; a change in permitted uses; an increase in building height; or a decrease in the amount of common or dedicated open space required by this Title or other City policies, standards, or regulations.

2. Scope of Authority—All Adjustments Except Reasonable Accommodations Under FFHA. An application for an Administrative Adjustment that is not related to a request for "reasonable accommodation" under the Federal Fair Housing Act may request only the following types of adjustments:

a. *Setbacks:* Adjustments to any setback standard may be permitted as follows:

TABLE 16-2-17.1: PERMITTED ADJUSTMENTS TO SETBACKS

Required Setback	Permitted Maximum Adjustment
3 feet	6 inches
5 feet	1 foot
7 feet	1 foot
20 feet	2 feet
25 feet	3 feet

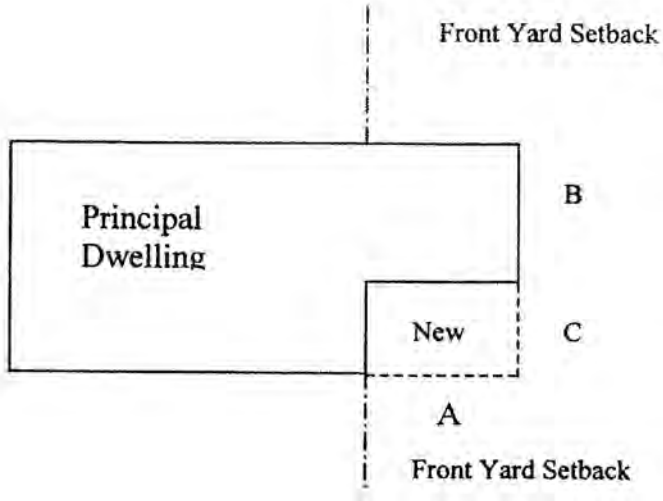
b. *Principal Dwelling Unit Expansion:* Adjustments may be permitted to the front and/or side setback standards for one-unit residential dwellings to allow expansion of the principal dwelling's habitable space to match an existing front setback encroachment as follows:

(1) The front and/or side setback encroachment existed on the effective date of this Title.

(2) The linear frontage of the facade of the expansion shall be less than or equal to the linear frontage of the portion of the dwelling that already encroaches into the setback. (See Figure 16-2(1): C must be less than or equal to B.)

(3) The addition or expansion shall not extend beyond the front and/or side building line of the principal dwelling (not beyond the leading edge of the existing encroachment.) However, no addition or expansion may encroach more than five feet (5') into the required front setback. (See Figure 16-2(1): A may not be greater than five feet (5').

Figure 16-2(1)



c. *Existing Front Porch:* Adjustments may be permitted to existing, unenclosed, covered front porches that encroach into the front setback, subject to compliance with the following conditions:

(1) The porch encroached into the front setback prior to the effective date of this Title.

(2) The adjustment shall not increase the existing encroachment into the front setback; and

(3) The porch shall not be enclosed.

d. *Off-Street Parking:* Adjustments of ten percent (10%) or less of the minimum number of required off-street parking spaces, as set forth in Section 16-6-4 EMC, except such adjustment is not available for one-unit or multi-unit uses containing two (2) dwelling units.

e. *Minimum Lot Width or Lot Area:* Adjustments may be permitted to the minimum lot width or minimum lot area in the "Summary Table of Dimensional Requirements for Principal Uses and Structures" in Section 16-6-1 of this Title, subject to the following requirements:

(1) The adjustment shall not exceed five percent (5%) of the required minimum lot width or minimum lot area; and

(2) The adjustment in the minimum lot width or minimum lot area may result in an alternate permitted land use in the base zone district where the property is located; and

(3) A development for which a minimum lot width or minimum lot area adjustment is granted shall not be eligible for additional variances or additional administrative adjustments based on the reduced lot width or area; and

(4) The result of an approved adjustment may result in an increase in the maximum development density or intensity; for residential developments, the result of the administrative adjustment shall not exceed one (1) additional residential dwelling unit.

3. Scope of Authority—Reasonable Accommodations Under the FFHA. In response to a written application identifying the type of housing being provided and the portions of the Federal Fair Housing Act that require that reasonable accommodations be made for such housing, the City Manager or designee is authorized to take any of the following actions in order to provide reasonable accommodations without the need for a rezoning or Zoning Variance:

   a. Modify any facility spacing, building setback, height, lot coverage, or landscaping requirement by no more than ten percent (10%); or

   b. Reduce any off-street parking requirement by no more than one (1) space.

   c. The City Manager or designee may approve a type of reasonable accommodation different from that requested by the applicant if the City Manager or designee concludes that a different form of accommodation would satisfy the requirements of the Federal Fair Housing Act with fewer impacts on adjacent areas. The decision of the City Manager or designee shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a Zoning Variance or rezoning process.

E. *City Review and Decision.*

1. The City Manager or designee shall review the proposed Administrative Adjustment, and may refer the application to any department or agency for its review and comments.

2. The applicant shall provide a Site Improvement Plan, written request and justification for the adjustment, proof of adjacent property notification, and any other document or materials appropriate to the application.

3. Following such reviews, the City Manager or designee shall approve, conditionally approve, or deny the application. Denials of Administrative Adjustments by the City Manager or designee may be heard before the Board pursuant to Section 16-2-16 EMC, "Zoning Variances".

F. *Criteria.* An Administrative Adjustment shall only be approved by the City Manager or designee if it meets all of criteria 1 through 5 below, or if it meets criteria 6 below:

1. The requested adjustment is consistent with the Comprehensive Plan and the stated purpose of this Title.

2. The requested adjustment meets all other applicable building and safety codes.

3. The requested adjustment does not encroach into a recorded easement.

4. The requested adjustment will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated.

5. The requested adjustment is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard sought to be modified. For purposes of this provision only, determination of "practical difficulty or some unusual aspect" may include consideration of:

   a. The historic aspect and development of the subject property;

   b. The use and development of the subject property compared to similar properties in the vicinity and in the same zone district;

   c. The property's use and development under previously applicable zoning, as relevant;

d. Any intervening public action (e.g., condemnation for public right-of-way); or

e. Other similar factors that support a finding of a practical difficulty or unusual aspect that is not of the applicant's own making or under the applicant's direct control.

6. The requested adjustment is required or advisable to comply with the requirements of the Federal Fair Housing Act, and does not create significant adverse impacts on the surrounding neighborhood.

(Ord. 04-5; Ord. 05-25; Ord. 08-37, § 1; Ord. 29-14, § 4; Ord. 25-15, §§ 1, 2)

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16-2-18: Appeals.

All final decisions made under the review or development procedures outlined in Sections 16-2-4 through 16-2-17 EMC, may be appealed pursuant to the procedures in this Section. Much of this information is summarized in the table in Section 16-2-2 EMC, above.

A. *Initiation.* An appeal of a decision made pursuant to this Title may be filed by:

1. The applicant in the action being appealed;
2. Any owner of property located within three hundred feet (300') of the property that is the subject of the action being appealed;
3. Any resident of the City who participated in the decision being appealed, either by submitting written comments on the application, or by testifying at any public hearing on the application; or
4. Any department of the City or public agency providing services in the City, if the appeal is based on an alleged impact on its services or facilities.

B. *Appeals from Administrative Decisions.* Any person aggrieved by any notice, order, or final decision issued by the City Manager or designee, or by any administrative officer of the City pursuant to the provisions of this Title, may appeal the notice, order, or final decision to the Board of Adjustment and Appeals, unless this Title specifies that the appeal shall be to another body. Such appeal shall be filed within thirty (30) days from the date of receipt of such notice, order, or decision in the manner provided by the rules of procedure adopted by said Board. The Board shall, at its next regular meeting, schedule a public hearing on the appeal, after which it shall reverse or affirm, wholly or in part or modify the notice, order, or decision and may remand the matter to the original decision-maker for further proceedings not inconsistent with the Board's decision. Such appeals shall be reviewed by the Board pursuant to the same criteria used by the decision-maker whose notice, order, or decision is being appealed. The decision of the Board shall be in writing, and a copy of the written decision shall be given to the appellant. The Board's decision on the appeal shall be final.

C. *Appeals from Commission.* Any person aggrieved by any decision made by the Commission pursuant to the provisions of this Title may appeal the decision to the Council, unless this Title specifies that the appeal shall be to another body. Such appeal shall be filed within thirty (30) days from the date of receipt of such final decision in the manner provided by the Rules of Procedure adopted by the Council. The Council shall, at its next regular meeting, schedule a public hearing on the appeal, after which it shall approve, modify, or reverse the Commission's actions and shall remand the matter to the Commission for further proceedings consistent with Council's decision. Such appeals shall be reviewed by the Council pursuant to the same criteria used by the Commission in making the decision being appealed. The decision of the Council shall be in writing, and a copy of the written decision shall be given to the appellant.

D. *Further Appeals from the Board or Council.* Any person or persons aggrieved by any final decision of the Board or the Council, or any resident, taxpayer, or other officer, department, Board or Commission of the City, may appeal such final decision by appropriate legal action to a court of record having jurisdiction. Such appeal shall be filed no more than thirty (30) days from the date of the Board or Council final decision.

(Ord. 04-5)

16-2-19: Vested Rights.

A. *Purpose.* The purpose of this Section is to provide the procedures necessary to implement the provisions of C.R.S. Article 68 of Title 24, which establish vested property right to undertake and complete development and use of real property under the terms and conditions of an approved "site-specific development plan," and which further establish the applicable rules and regulations governing applications for a site-specific development plan.

B. *Applicability.* A vested property right shall attach only to an approved site-specific development plan. A "site-specific development plan" shall mean final approval after the effective date of this Title, including the applicant's acceptance of any terms and conditions of approval, of any of the following types of applications:

1. Final Major Subdivision Plats;
2. Conditional use permits; and
3. Site Improvement Plans.

C. *Process Requirements for Vested Rights Notice and Hearing.*

1. Final Subdivision Plats. In the case of final subdivision plats, the notice and public hearing requirements for a statutory vested property right shall be satisfied by the notice and public hearing before the Commission to consider the preliminary subdivision plat pursuant to this Title, and the Commission shall indicate that such vested right shall only be created upon approval of the required final plat by the Council pursuant to Section 16-2-10 EMC.
2. Conditional Use Permits. In the case of conditional use permits, the notice and public hearing requirements for a statutory vested property right shall be satisfied by the notice and public hearing before the Commission to consider the conditional use pursuant to Section 16-2-12 EMC.
3. Site Improvement Plans. In the case of Site Improvement Plans, which are approved by the City Manager or designee pursuant to Section 16-2-9 EMC, the notice and public hearing requirements for a statutory vested property right shall be satisfied by a separate hearing before the Council following the City Manager or designee's decision on the Site Improvement Plan. The applicant shall request a vested right hearing within thirty (30) days following the approval of the Site Improvement Plan, or the right to request such a hearing shall be waived.

D. *Criteria for Review of Vested Rights Requests.* In addition to the review criteria for the particular type of development application designated as the site-specific development plan, an application for approval of a vested property right shall evidence compliance with the following criteria:

1. The site-specific development plan describes with reasonable certainty the type and intensity of development and provides adequate information regarding all factors that could affect the type and intensity of development.
2. The City's grant of vested rights is reasonable given the proposed development's benefits to the surrounding properties, surrounding community, or to the City in general.
3. The applicant provides adequate assurances to the City that the development will go forward as planned in return for the vesting of property rights allowed by Colorado law.

E. *Start Date of Vesting Period.* The starting date of the statutory vesting period for an approved site-specific development plan shall be the date of publication, in a newspaper of general circulation within the City of Englewood, of a notice advising the general public of the site-specific development plan approval and creation of a vested property right pursuant to this Section and Colorado law. Such publication shall occur no later than fourteen (14) days following approval of the final subdivision plat or conditional use permit, or no later than fourteen (14) days following the Council's decision to grant a vested property right for a Site Improvement Plan, as applicable.

F. *After Approval.*

1. Final approval of a site-specific development plan shall create a vested right to undertake and complete development and use of real property pursuant to Colorado Statutes, but only as to those terms and conditions contained in the approved site-specific development plan.

2. The grant of a vested property right in an approved site-specific development plan shall not prevent the City, in subsequent actions, from applying any of the following to the subject property:

   a. New ordinances, rules, regulations, and policies that do not conflict with those rules, regulations, and policies in effect as of the site-specific development plan's effective date of approval;

   b. New ordinances, rules, regulations, and policies that are specifically anticipated and provided for in the terms or conditions of the approved site- specific development plan;

   c. New ordinances, rules, regulations, and policies that are necessary for the immediate preservation of the public health and safety; or

   d. New ordinances, rules, regulations, and policies when the City finds that the site-specific development plan is based on substantially inaccurate information supplied by the applicant.

3. A vested property right shall remain vested for a period of three (3) years from the start date of vesting, unless a longer term is agreed to by the City in a Development Agreement (see Section 16-2-15 EMC). An amendment to any site-specific development plan shall not extend the period of vested rights, unless otherwise authorized by agreement approved by the City.

G. *Plat or Plan Language Required.* Each site-specific development plan shall contain the following language: "Approval of this plan [or plat] creates a vested property right subject to all conditions of approval pursuant to C.R.S. Section 24-68-103 et. seq., as amended. The effective date of vesting is [insert date]."

H. *Pending Applications for a Site-Specific Development Plan—Applicable Rules and Regulations.*

1. General Rule. Pursuant to Colorado Revised Statutes, the review, approval, approval with conditions, or denial of a complete application for a site-specific development plan shall be governed by the duly adopted laws and regulations in effect at the time a complete application for a site-specific development plan is submitted pursuant to this Section and Chapter.

2. Exception. Notwithstanding the limitations contained in subsection 1 above, the City may apply to the pending complete application for a site-specific development plan any subsequently enacted or amended ordinances, rules, regulations, or policies that are necessary for the immediate preservation of the public health and safety.

3. Definition of "Complete Application for a Site-Specific Development Plan". For purposes of this subsection, a "complete application for a site-specific development plan" shall be defined as set forth in Chapter 16-11 EMC and shall refer only to a complete application for approval of a final Major Subdivision Plat, conditional use permit, or Site Improvement Plan. For purposes of this subsection, each separately numbered section of this Chapter (Sections 16-2-1 through 16-2-17 EMC) sets forth a completely separate approval process for a particular development application. None of the procedures contained in any numbered section (such as rezoning review) shall be interpreted to be the first stage of any other procedure in any other numbered section (such as Major Subdivision review).

I. *Waiver.* A landowner may waive a vested property right by separate agreement, which shall be recorded in the office of Arapahoe County Clerk and Recorder. Unless otherwise agreed to by the City, any landowner requesting annexation to the City shall waive in writing any pre-existing vested property rights as a condition of such annexation.

J. *Other Provisions Unaffected.* Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to annexation, development, and use of property.
(Ord. 04-5; Ord. 29-14, § 4)

Chapter 3

ZONE DISTRICTS

16-3-1: General Provisions.
16-3-2: District Characteristics.

16-3-1: General Provisions.

A. *Establishment of Base Zoning Districts.* The following base zoning districts are hereby established:

TABLE 16-3-1.1: BASE ZONING DISTRICTS	
Name	**Description**
Residential One Dwelling Unit Districts	
R-1-A	A large lot size, one dwelling unit residential district
R-1-B	A medium lot size, one dwelling unit residential district
R-1-C	A small lot size one dwelling unit residential zone district
Residential One and Multi-Dwelling Unit Districts	
R-2-A	A low-density one and multi-dwelling unit residential zone district
R-2-B	A medium-density one and multi-dwelling unit residential zone district
Mixed-Use Residential/Limited Office-Retail Districts	
MU-R-3-A	A low-density residential and limited office zone district
MU-R-3-B	A medium to high density residential and limited office zone district
MU-R-3-C	A high density residential and limited office zone district
Mixed-Use Medical Districts	
M-1	A mixed-use medical, office, and high density residential zone district
M-2	A mixed-use medical, office, high density residential and limited retail zone district
Mixed-Use Commercial Districts	
MU-B-1	A mixed-use central business zone district
MU-B-2	A general arterial business zone district
TSA	A mixed-use district intended for land uses adjacent to light rail transit stations
Industrial Districts	
I-1	A light industrial zone district
I-2	A general industrial zone district
Special Purpose Districts	
PUD	Planned Unit Development

B. *Relationship of Base Districts to Overlay Districts.* Lands within the City may be classified into one of the base zoning districts, as described above, and may also be classified as an overlay district. An overlay district is a land use classification that lies over the base zoning allowing for additional uses and development standards different from the base zoning. Where the property is classified in an overlay district as well as a base zoning district, then the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying district. In the event of an express conflict between the standards governing a base district and those governing an overlay district, the standards governing the overlay district shall control.

TABLE 16-3-1.2: OVERLAY DISTRICTS	
Name	**Description**
M-O-2	A medical overlay district covering a portion of the R-2-B base residential zone district.
NPO	A neighborhood preservation overlay district covering a portion of the MU-R-3-B base residential zone district.

C. *Compliance with District Standards.* No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with the zoning district regulations of this Chapter 16-3 EMC, the use regulations of Chapter 16-5 EMC, the development standards of Chapter 16-6 EMC, and all other applicable regulations of this Title.
(Ord. 04-5; Ord. 08-48, § 9; Ord. 09-28, § 2; Ord. 23-12, § 2; Ord. 26-12, § 2; Ord. 8-13, § 5)

16-3-2: District Characteristics.

One of the goals of the City is to encourage a variety of housing types to meet the needs of differing income levels and varying household structures. The regulations for these districts are designed to stabilize and protect the essential characteristics of the districts, to allow for certain conditional and limited uses that are controlled by specific limitations governing the impact of such uses, and to promote a compatible neighborhood environment.

A. *Residential Districts.* The purposes of the residential base zoning districts are set forth below. The allowed uses and use-specific standards for each of the districts are set forth in Chapter 16-5. All uses shall comply with the general dimensional standards set forth in Section 16-6-1 EMC.

1. R-1-A, R-1-B, and R-1-C: One dwelling unit residential districts. The R-1 districts primarily consist of one dwelling unit residential neighborhoods. Each district is defined by its dimensional requirements for development of a single lot, such as lot size, lot frontage, setbacks, etc. Multi-unit dwellings are not allowed in these districts.

2. R-2-A, R-2-B: One and Multi-Dwelling Unit Residential Districts. The R-2 districts provide a range of housing types between the low-density one-unit areas and the high-density multi-unit areas. The two (2) zone districts allow for a mixture of one-unit development with low and medium density multi-unit housing developments.

3. MU-R-2-A, MU-R-3-B and MU-R-3-C: Mixed-Use Residential/Limited Office Districts. The MU-R-3 districts are composed of those areas that are conducive to low, medium, and high-density residential and limited office development of a character unlikely to develop a concentration of traffic and people. To these ends, these districts are protected against the encroachment of general industrial uses and certain commercial uses.

B. *Mixed-Use Commercial Districts.* The uses in these districts are primarily commercial in nature, and the residential development is incorporated into the retail businesses, such as first floor retail, second floor residential. One-unit dwellings are not permitted in these districts.

1. MU-B-1: Mixed-Use Central Business District. This district is a mixed-use district that is applied to the central business section of Englewood. The district is designed to create an environment having urban characteristics within a relatively small area of land through the close proximity of activities and increased social and cultural opportunities. The uses within this district are those that provide retailing and personal services to residents of the City and the surrounding area, and are compatible with adjacent development. In order to make the central business district viable twenty-four (24) hours a day, and not just during the traditional business hours, medium and high-density residential units are permitted.

2. MU-B-2: Mixed-Use Arterial Business District. This district is composed of certain land and structures used primarily to provide retailing and personal services to the residents of the City and surrounding area and urban residential uses. The MU-B-2 district is usually located on major access routes and is easily accessible from the surrounding residential area which it serves.

3. TSA: Transit Station Area. This district is a mixed-use district intended to ensure a diverse mix of uses within convenient walking distance to Regional Transportation District (RTD)

light rail stations in the City of Englewood. The district encourages appropriate residential development patterns with sufficient density to support transit use and neighborhoods for residents, as well as commercial retail uses to serve the shopping and service needs of district residents, employees, and commuters.

4. M-1: Mixed-Use Medical, Office, and High Density Residential District. This district allows hospitals and medical uses, as well as general office, high density residential, and hotels as primary land uses.

5. M-2: Mixed-Use Medical, Office, High Density Residential and Limited Retail District. This district allows hospitals and medical uses as well as general office, high density residential, hotels, and limited retail as primary land uses.

C. *Industrial Districts.* The industrial districts allow for certain uses that are inappropriate in other zone districts due to the impacts associated with their operation, such as noise, dirt, dust, hours of operation, unsightly conditions, traffic, and outdoor storage of equipment and materials. The I districts should be located near major roadways and truck routes so that traffic generated from the I districts will not negatively affect the residential streets in the area.

1. I-1: Light Industrial District. This district is intended to provide for light manufacturing and industrial uses, and for warehousing and wholesaling uses of a limited nature and size that do not create appreciable nuisances or hazards.

2. I-2: General Industrial District. This district is intended to provide for industrial and manufacturing uses that are more intense in nature than those in the light industrial district.

D. *Special Purpose Districts.*

1. *PUD: Planned Unit Development District.* The PUD district is intended as an alternative to conventional land use regulations. The PUD district combines use, density, design, and Site Improvement Plan considerations into a single process, and substitutes procedural protections for many of the substantive requirements of this Title. Designation of a PUD district shall comply with the procedural requirements of Section 16-2-7 EMC.

2. *M-O-2: Medical Overlay District.* This overlay district covers a portion of the R-2-B base residential zone district and allows a property the option to develop under R-2-B regulations or under M-2 regulations when it is included as part of a larger adjacent M-2 zoned site with street frontage on Hampden Avenue. Retail use shall be prohibited in the M-O-2 overlay district.

3. *NPO: Neighborhood Preservation Overlay District.* An overlay district covering a portion of the MU-R-3-B base residential zone district that is intended to preserve the existing character and balance of land uses within a mature residential neighborhood area. Existing multi-unit developments retain rights to redevelop at existing residential density levels and subject to all other MU-R-3-B zone district dimensional standards. Existing single unit homes may only be redeveloped as similar single and two unit developments.

(Ord. 04-5; Ord. 08-37, § 2; Ord. 08-48, § 10; Ord. 09-28, § 2; Ord. 23-12, § 3; Ord. 26-12, § 3; Ord. 29-14, § 4)

Chapter 4

FLOODPLAIN REGULATIONS*

16-4-1:	Authority and Purpose.
16-4-2:	Jurisdiction and Applicability.
16-4-3:	Permitted Uses.
16-4-4:	Similar Uses.
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16-4-14:	Floodplain Appeals and Variances.
16-4-15:	Enforcement.
16-4-16:	Floodplain Definitions.

16-4-1: Authority and Purpose.

A. *Statutory Authority.* The legislature of the State has in Title 29, Article 20 C.R.S., as amended, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry by minimizing flood losses.

B. *Findings of Fact.*

1. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in special flood hazard areas that cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately anchored, elevated, floodproofed or otherwise protected from flood damage.

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

1. Protect human life and health;
2. Protect property and minimize damage to critical facilities infrastructure and other public facilities such as water, sewer, and gas mains; electrical and communications stations; and streets and bridges located in floodplains;
3. Minimize expenditure of public money for costly flood control projects;
4. Protect the natural areas required to convey flood flows so that they develop in a manner consistent with reasonable floodplain management;

*__Editor's note—__Ord. 10-44, § 1, adopted Nov. 1, 2010, amended Ch. 4 in its entirety and enacted the provisions set out herein. The former Ch. 4 pertained to Flood Plain Overlay District and derived from Ord. 04-5.

5. Protect and preserve the water-carrying characteristics and capacities of all watercourses, including gulches, sloughs, and artificial water channels used for the conveyance of storm and floodwater;

6. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

7. Minimize prolonged business interruptions;

8. Help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize future flood blight areas; and

9. Insure that potential buyers are notified that property is in a flood hazard area.

D. *Methods of Reducing Flood Losses.* In order to accomplish its purposes, this Chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

4. Control filling, grading, dredging and other development which may increase flood damage; and

5. Prevent or regulate the construction of flood barriers, including fences and walls, which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-2: Jurisdiction and Applicability.

A. *Applicability.* The provisions of this Chapter shall apply to all land within the City defined as:

1. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study - Arapahoe County, Colorado, and Incorporated Areas" dated December 17, 2010, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto, and

2. The boundaries of the West Harvard Gulch Flood Hazard Area as shown on Sheets 13 and 14 in a report entitled "Flood Hazard Area Delineation, Harvard Gulch, West Harvard Gulch, and Dry Gulch" dated December 1979, prepared by Gingery Associates, Inc., and approved by the Colorado Water Conservation Board on January 30, 1980.

   The above Official Flood Studies are hereby adopted by reference and declared to be a part of this Title.

B. *Basis for Establishing Special Flood Hazard Areas.* The City hereby establishes floodplains and floodways whose boundaries are those of the designated 100-year floodplain, special flood hazard areas and the designated floodways as are shown or tabulated in the Flood Insurance Study for the City of Englewood.

C. *Compliance.* No structure or land located in a special flood hazard area shall hereafter be constructed, located, extended, converted, altered or have its use changed without full compliance with the terms of this Chapter and all other applicable regulations. These regulations meet the minimum requirements set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

1. *Floodplain Development Permit.* A Floodplain Development Permit shall be required prior to commencement of any construction or other development to ensure conformance with the provisions of this Chapter.

2. *Certificate of Compliance.*

   a. No vacant land shall be occupied or used and no building shall be hereafter erected, altered, or moved on the floodplains of any watercourse, nor shall such buildings be occupied, until a certificate of compliance has been issued by the Floodplain Administrator.

   b. The applicant shall submit a certification by a registered Colorado professional engineer to the Floodplain Administrator that the finished fill and building floor elevations, floodproofing measures, or other protection factors were accomplished in compliance with the provisions of this Chapter. This certification shall also state whether or not the structure contains a basement. Within ten (10) days after receipt of such certification from the applicant, the Floodplain Administrator shall issue a certificate of compliance only if the building or premises and the proposed use thereof, conform with all of the requirements of this Chapter.

D. *Abrogation and Greater Restrictions.* The regulations of this Chapter shall be construed as being supplementary to the regulations imposed on the same lands by the underlying zone classification. This Chapter is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this Chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall apply.

E. *Interpretation.* In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, shall be liberally construed in favor of the City, and shall be deemed neither to limit nor repeal any other powers granted under State Statutes.

F. *Warning and Disclaimer of Liability.* The degree of flood protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods may occur on occasions, or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that the areas outside of special flood hazard areas or land uses permitted within such areas will always be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

G. *Severability.* See Section 16-1-10 EMC, (Severability).
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-3: Permitted Uses.

The following open uses shall be permitted within a special flood hazard area to the extent that they are not prohibited in a particular area by any underlying zone district classification:

A. Agricultural uses, such as general farming and the raising of plants, flowers, and nursery stock.

B. Public and private recreational uses such as parks, swimming areas, golf courses, driving ranges, picnic grounds, fishing, and hiking and biking trails not requiring permanent or temporary structures designed for human habitation.

C. Utility facilities such as: flowage areas, transmission lines, pipelines, water monitoring devices, roadways and bridges.

D. All uses allowed by the underlying zone district classification within a special flood hazard area shall be permitted as long as the use complies with conditions set forth in Subsection 16-4-7(B) EMC, (Floodplain Development Permit Criteria).

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-4: Similar Uses.

Uses very similar in nature to permitted uses may be allowed by the Floodplain Administrator, provided that they are consistent with the provisions of this Chapter.
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-5: Nonconforming Uses.

Existing nonconforming uses in a special flood hazard area may be modified, altered, or repaired to incorporate floodproofing measures; but such nonconforming uses shall not be expanded.
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-6: Administration.

A. *Floodplain Administrator.* The City Manager or designee shall be the Floodplain Administrator and shall enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. The Department of Public Works shall provide the Floodplain Administrator with a technical review of all applications to build within the floodplain or a drainage way prior to the issuance of a Floodplain Development Permit.

B. *Floodplain Administrator Duties and Responsibilities.* The Floodplain Administrator's duties and responsibilities shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter. For all new or substantially improved structures the Floodplain Administrator shall maintain the following information:

   a. The actual elevation (in relation to mean sea level) of the lowest floor (including basement).

   b. The actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

   c. The floodproofing certifications required in Section 16-4-11 EMC (Minimum Floodproofing Criteria).

2. Review all applications within ten (10) working days for Floodplain Development Permits required by this Chapter. Such review shall:

   a. Determine whether such construction or development is located within a special flood hazard area.

   b. Assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

c. Determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

d. Consider the following:

1) The danger that materials may be swept onto other lands to the injury of others.

2) The danger to life and property due to flooding or erosion damage.

3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

4) The importance of the services provided by the proposed facility to the community.

5) The availability of alternative locations for the proposed use that is not subject to flooding or erosion damage.

6) The compatibility of the proposed use with existing and anticipated development.

7) The relationship of the proposed use to the Comprehensive Plan.

8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

9) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

10) The costs of providing governmental services during and after flood such as sewer, gas, electrical, and water systems, and streets and bridges.

11) Flood barriers, including fences, which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

3. Review all Building Permit applications for construction or development in a special flood hazard area within ten (10) working days. Approval of a building permit shall be deemed to neither limit nor repeal any other powers granted under State Statutes. Applications for building permits shall be reviewed on a case-by-case basis to:

a. Determine if the proposed development is located in a special flood hazard area.

b. Assure the building site will be reasonably safe from flooding.

c. Assure all necessary permits have been obtained from the Federal, State, or local governmental agencies from which prior approval is required.

d. Assure all new construction and substantial repairs, improvements, or alterations shall be made in accordance with the minimum floodproofing criteria specified in Section 16-4-11 EMC (Minimum Floodproofing Criteria), or elevation criteria in Subsection 16-4-7(B)(2) EMC.

e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.

4. Interpret, where needed, the exact location of the boundaries of special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to present a case to the Floodplain Administrator and to submit supporting technical evidence. The decision of the Floodplain Administrator may be appealed as provided in Section 16-4-14 EMC, (Floodplain Appeals and Variances).

5. When base flood elevation data has not been provided in accordance with Section 16-4-8 EMC, (Floodplain Regulations), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer this Chapter.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. When a regulatory floodway has not been designated, the Floodplain Administrator shall require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot (½') at any point within the City.

8. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Floodplain Administrator may approve certain development in Zones A1-30, AE, AH, on the FIRM which increases the water surface elevation of the base flood by more than one-half foot (½'), provided that the City first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfill the requirements of such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

9. Shall keep a copy of the Flood Insurance Study (FIS), DFIRMS, FIRMS on file and available for public inspection.

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-7: Floodplain Development Permit.

A. *Floodplain Development Permit Process.*

1. *Application.* A Floodplain Development Permit shall be obtained before a building permit may be issued or construction or development begins on lands within a special flood hazard area as identified in Subsection 16-4-2(A) EMC (Applicability). Application for a Floodplain Development Permit shall be made on forms provided by the City and may include, but is not limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of proposed landscape alterations; existing and proposed structures; fill, storage of materials, and drainage facilities; and the location of the foregoing in relation to special flood hazard areas. Specifically, the following information is required:

   a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

   b. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;

   c. A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 16-4-11 EMC, (Minimum Floodproofing Criteria); and

   d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

2. *Decision of Floodplain Administrator is to be Based on Certain Factors.* The determination of the Floodplain Administrator on each Floodplain Development Permit shall be based on applicable provisions of this Chapter and the following relevant factors:

   a. The danger to life and property due to flooding or erosion damage;

   b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

h. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

i. The relationship of the proposed use to Roadmap Englewood: 2003 Englewood Comprehensive Plan, as amended.

3. *Floodplain Administrator Decisions on Permits for Public Facilities or Utility Development in a Floodway.* Subject to Section 16-4-10 EMC, (Development in Floodways), the Floodplain Administrator shall act on an application for public facilities or utility development in a floodway within thirty (30) days from receiving the application.

4. *Conditions Attached to Development Permits.* Upon consideration of the factors listed above and the purposes of this Chapter, the Floodplain Administrator shall attach such conditions, in addition to those required by the Floodplain Development Permit, as are necessary to further the purposes of this Chapter. Such conditions may include specifications for, without limitation because of, specific enumeration, modification of waste disposal methods and facilities, landscaping, period of operation, operational controls, sureties, deed restriction, and adequate floodproofing.

B. *Floodplain Development Permit Criteria.*

1. *Structures Accessory to Open Uses.* Structures accessory to open uses permitted in Section 16-4-3 EMC, (Permitted Uses), whether temporary or permanent, may be permitted only upon a determination by the Floodplain Administrator that:

a. Structures will not be designed for human habitation.

b. Structures will have low flood damage potential.

c. The structure or structures, if permitted, will be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

1) Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of floodwaters.

2) So far as is practicable, structures will be placed so that their longitudinal axis are approximately on the same line as those of adjoining structures.

3) Structures will be firmly anchored to prevent the structure or building from floating away and thus threatening to further restrict bridge openings and other restricted sections of the stream or river.

4) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

5) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

6) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. *Other Structures, Temporary or Permanent, to be Occupied by People.* Other structures, whether temporary or permanent, which are to be occupied by people, may be permitted only upon a finding by the Floodplain Administrator that:

   a. Such structures shall comply with Section 16-4-7 EMC, (Floodplain Development Permit); and Section 16-4-11 EMC, (Minimum Floodproofing Criteria).

   b. The lowest floor, including the basement, of any structure to be erected, constructed, reconstructed, or moved on or within a special flood hazard area, shall be constructed at or above a point one foot (1') above the 100-year flood elevation for the particular area and the fill shall extend at such elevation at least fifteen feet (15') beyond the limits of any structure or building erected thereon.

   c. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and to withstand hydrodynamic loads.

3. *Fills or Deposition of Materials.* Fills or deposition of materials may be permitted only upon a finding by the Floodplain Administrator that:

   a. Any fill or deposition of materials will comply with applicable sections of Chapter 16-6 EMC, (Development Standards).

   b. The fill or deposition of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill or other material and the use to which the filled land will be put.

   c. The fill or deposition of materials does not encroach on that portion of the floodplain, which would have significant and perceptible flow during the flood, and which for that reason would help convey the floodwaters.

   d. The fill or other materials will be protected against erosion by riprap, strong vegetative cover, or bulkheading.

4. *Storage or Processing of Materials.* The storage or processing of materials that are buoyant, flammable, explosive, or in time of flooding, could be injurious to human, animal or plant life, shall be above the flood protection elevation for the particular area or floodproofed in compliance with Section 16-4-11 EMC, (Minimum Floodproofing Criteria). Solid waste disposal facilities, such as salvage yards or areas for the dumping of refuse or the storage of non-operable vehicles, shall not be permitted.

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-8: Floodplain Regulations.

The following regulations shall apply to all uses within a special flood hazard area, notwithstanding that such uses may be specifically permitted under the terms of this Chapter:

A. *Flood Protection Elevation or Height.* The flood protection elevation or height shall correspond to a point one foot (1') above the elevation or "flood profile" shown on or attached to the FIRM.

B. *Flood-Carrying Capacity.* No floodplain uses shall adversely affect the efficiency of, or unduly restrict the capacity of any channel, any tributary to any main stream, drainage ditch, or any other drainage facility or systems; nor shall any watercourse be altered or restricted unless the flood-carrying capacity of the watercourse shall be maintained.

C. *General Standards.* In all special flood hazard areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

D. *Specific Standards.* In all special flood hazard areas where base flood elevation data has been provided as set forth in Subsections 16-4-2(B) EMC (Basis for Establishing Special Flood Hazard Areas), 16-4-6(B)(5) EMC, or 16-4-13(D) EMC (Subdivision Plats), the following provisions are required:

1. *Residential Construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot (1') above the base flood elevation. A registered Colorado professional engineer, architect, or land surveyor shall certify and submit the elevation of the lowest floor, including basement, to the Floodplain Administrator.

2. *Nonresidential Construction.* With the exception of Critical Facilities, outlined in Subsection 16-4-8(H) EMC (Standards for Critical Facilities), new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot (1') above the base flood elevation or together with attendant utility and sanitary

facilities, be designed so that at one foot (1') above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

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

   a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

   b. The bottom of all openings shall be no higher than one foot (1') above grade.

   c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. *Manufactured Homes.*

   a. *Zones A1-30, AH and AE:* All manufactured homes that are placed or substantially improved on sites (i) outside of a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; or (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated one foot (1') above the base flood elevation and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

      This Subsection shall apply in an expansion to an existing manufactured home park or in an existing manufactured home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced.

   b. *Zones A1-30, AH, and AE:* Manufactured homes, in an existing manufactured home park, not subject to the provisions of 4.a. above shall be elevated so that either:

      1) The lowest floor of the manufactured home and electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) are one foot (1') above the base flood elevation, or

      2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than

thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Manufactured homes shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes shall be elevated and anchored to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Any additions to the manufactured home shall be similarly anchored.

5. *Recreational Vehicles.* Recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either:

   a. Be on the site for fewer than one hundred eighty (180) consecutive days,

   b. Be fully licensed and ready for highway use, or

   c. Meet the permit requirements of Subsection 16-4-7(B) EMC (Floodplain Development Permit) and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this Subsection. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

E. *Standards for Areas of Shallow Flooding (AO/AH Zones).* Located within special flood hazard areas established in Subsection 16-4-2(A) EMC (Applicability) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet (1'—3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. *Residential Structures:* All new construction and substantial improvements shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot (1') above the depth number specified in feet on the FIRM (at least three feet (3') if no depth number is specified).

   Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. *Non-residential Structures:* With the exception of Critical Facilities, outlined in Subsection 16-4-8(H) EMC (Standards for Critical Facilities), all new construction and substantial improvements shall:

   a. Have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot (1') above the depth number specified in feet on the FIRM (at least three feet (3') if no depth number is specified), or;

   b. Together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot (1') above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer or architect. Such certification shall be submitted to the Floodplain Administrator.

3. Within Zones AH or AO, adequate drainage paths around structures on slopes shall be required to guide floodwaters around and away from proposed structures.

F. *Alteration of a Watercourse.* For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

4. Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or Certified Professional Hydrologist.

5. All activities within the regulatory floodplain shall meet all applicable Federal, State and City of Englewood floodplain requirements and regulations.

6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more that a 0.00-foot rise in the proposed conditions compared to existing Floodway conditions resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Subsection 16-4-8(D) EMC (Specific Standards).

7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

G. *Properties Removed from the Floodplain by Fill.* A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR_F), unless such new structure or addition complies with the following:

1. *Residential Construction:* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot (1') above the base flood elevation that existed prior to the placement of fill.

2. *Nonresidential Construction:* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot (1') above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facility be designed so that the structure or addition is watertight to at least one foot (1') above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

H. *Standards for Critical Facilities.* A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. *Classification of Critical Facilities.* It is the responsibility of the City to identify and confirm that specific structures in the community meet the following criteria.

   Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

   a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:

      (1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers);

      (2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions);

      (3) Designated emergency shelters;

      (4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduit);

      (5) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

      (6) Air Transportation lifelines (airports, municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

      (7) Exemptions.

         (a) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

         (b) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the City that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Section, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City on an as-needed basis upon request.

b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

(1) *These facilities may include:*

(a) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

(b) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

(c) Refineries;

(d) Hazardous waste storage and disposal sites; and

(e) Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010) also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification." 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards.) 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this ordinance, but exclude later amendments to or editions of the regulations.

(2) *Specific exemptions to this category include:*

(a) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.

(b) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction, by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority), that a release of the subject hazardous material does not pose a major threat to the public.

(c) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

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

c. At-risk population facilities include medical care, congregate care, and schools.

(1) *These facilities consist of:*

(a) Elder care (nursing homes);

(b) Congregate care serving twelve (12) or more individuals (day care and assisted living);

(c) Public and private schools (preschools, K-12 schools), before-school and after-school care serving twelve (12) or more children);

d. Facilities vital to restoring normal services including government operations.

(1) *These facilities consist of:*

(a) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);

(b) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the City that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City on an as-needed basis upon request.

(2) *Protection for Critical Facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one (1) of the following:

(a) Location outside the special flood hazard area; or

(b) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet (2') above the Base Flood Elevation.

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

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-9: (Reserved)
(Ord. 8-13, § 6)

16-4-10: Development in Floodways.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Section 16-4-16 EMC (Floodplain Definitions). Located within special flood hazard areas established in Subsection 16-4-2(A) EMC (Applicability) are area designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless it has been demonstrated through hydrologic and hydraulic analyses

performed by a registered Colorado professional engineer in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels (a No-Rise Certification is required) during the occurrence of the base flood discharge.

B. If Subsection A., above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

1. The Floodplain Administrator shall act on an application in the manner above described within thirty (30) days from receiving the application.

C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-11: Minimum Floodproofing Criteria.

A. All new construction and substantial improvements of non-residential structures within zones A-AE on the FIRM that do not have the lowest floor, including basement, elevated to or above the base flood level shall be floodproofed. All floodproofed structures, together with attendant utility and sanitary facilities, shall be so designed that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The Floodplain Administrator shall require that the applicant submit a plan or document certified by a registered Colorado professional engineer that the floodproofing measures are consistent with the flood protection elevation for the particular area.

B. Floodproofing measures include the following:

1. Anchorage to resist flotation and lateral movement.
2. Installation of watertight doors, bulkheads and shutters.
3. Reinforcement of walls to resist water pressures.
4. Use of waterproof paints, membranes, or mortars to reduce seepage of water through walls.
5. Addition of mass or weight to structures to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into the floodwaters.
9. Pumping facilities for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.
10. Construction to resist rupture or collapse caused by water pressure or floating debris.
11. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
12. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
13. Other floodproofing measures certified by a registered Colorado professional engineer to be consistent with the flood protection elevation for the particular area.

C. Where a non-residential structure is intended to be made watertight below the base flood level.

1. A registered Colorado professional engineer shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of Section 16-4-7 EMC, "Floodplain Development Permit."

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-12: Special Flood Hazard Area Amendments.

The boundaries of the Special Flood Hazard Areas shall be subject to periodic review and shall be amended in the manner provided by law, to conform to any revised, corrected or additional hydrological data available from Federal, State or regional agencies or from a consulting engineer retained by the City.
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-13: Subdivision Plats.

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be designed to minimize flood damage.

B. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

C. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

D. Base flood elevation data shall be provided for subdivision proposals and other proposed developments including the placement of manufactured home parks and subdivisions that contain at least fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to Subsections 16-4-2(B) EMC (Basis for Establishing Special Flood Hazard Areas) and 16-4-5(B) EMC (Floodplain Administrator Duties and Responsibilities).

E. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet requirements of Section 16-4-7 EMC (Floodplain Development Permit).
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-14: Floodplain Appeals and Variances.

A. *General.* The Planning and Zoning Commission shall hear and decide appeals and requests for variances from the requirements of this Chapter.

1. Appeals and floodplain variance requests shall be processed pursuant to the general zoning appeals and variances requirements of 16-2-18 EMC (Appeals) and 16-2-16 EMC, (Variances), respectively.

2. Those aggrieved by the final decision of the Commission may appeal such decision by appropriate legal action to a court of record having jurisdiction. Such appeal shall be filed no more than thirty (30) days from the date of the Commission's final decision.

B. *Appeals.* The Commission shall hear and decide appeals only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

C. *Variances.*

1. Any applicant to whom a variance is granted to build the lowest floor elevation below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
2. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant items 1—11 in Subsection 16-4-6(B)(2)(d) EMC have been fully considered. As the lot size increases beyond one-half (½) acre, the technical justification required for issuing the variance increases.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
5. In passing upon a Floodplain Variance application, the Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Title.
6. Criteria for Considering a Floodplain Variance. The Commission shall grant a Floodplain Variance only upon a showing of good and sufficient cause and determination that:
   a. The variance is the minimum necessary, considering the flood hazard, to afford relief;
   b. Failure to grant the Floodplain Variance would result in exceptional hardship to the applicant; and
   c. The granting of a Floodplain Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.
7. Upon consideration of the above and the intent of this Chapter, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-15: Enforcement.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without being in full compliance with the terms of this Chapter and other applicable regulations. Enforcement of the provisions of this Chapter shall be pursuant to Chapter 16-10 EMC, (Enforcement and Penalties).
(Ord. 10-44, § 1; Ord. 8-13, § 6)

16-4-16: Floodplain Definitions.

The following definitions pertain specifically to Chapter 16-4 EMC, (Floodplain Regulations) and are intended to be used only in the regulation of special flood hazard areas as identified in this Chapter. For the purposes of floodplain regulation, these definitions supersede the same terms as defined in 16-11-2 EMC, (Definition of Word, Term, and Phrases) of this Title.

100-Year Flood: A flood having a recurrence interval that has a one-percent (1%) chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-hundred flood." The term does not imply that the flood will necessarily happen once every one-hundred years.

100-Year Floodplain: The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-Year Flood: A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five-hundred years.

500-Year Floodplain: The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Addition: Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Area of Shallow Flooding: A designated AO, AH, or VO zone on the City's Flood Insurance Rate Map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (1'—3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood: A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.

Basement: Any area of a building having its floor sub-grade (below ground level) on all sides.

Channel: The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Conditional Letter of Map Revision (CLOMR): FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical Facility: A structure or related infrastructure, but not the land on which it is situated, as specified in Subsection 16-4-8(H) EMC (Standards for Critical Facilities) that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Development: Any manmade change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Digital Flood Insurance Rate Map (DFIRM): FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated Building: For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by (i) foundation walls, shear walls, posts, piers, pilings, columns, or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls and openings sufficient to facilitate the unimpeded movement of floodwaters.

Existing Construction: For the purposes of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain regulations adopted by the City.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA: Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood (or Flooding): A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters, and/or

(B) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage Potential: The susceptibility of a specific land use at a particular location to damage by flooding, and the potential of the specific land use to increase off-site flooding or flood related damages.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both special flood hazard areas and the risk premium zones applicable to the City of Englewood.

Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Flood Profile: A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to location along a stream or river.

Flood Protection Elevation: An elevation one foot (1') above the elevation of "flood profile" of the 100-year flood under existing channel and floodplain conditions. It is one foot (1') above the elevation of the flood for a special flood hazard area as shown on the City's official Flood Insurance Rate Maps maintained in the office of the Community Development Department.

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain development permit: A permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain regulations.

Flood-prone Area: Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, primarily for the reduction or elimination of flood damage to lands, water, and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (½'). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard: The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

(A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(C) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(D) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision (LOMR): FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevation (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access,

or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured Home: A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.

National Flood Insurance Program (NFIP): A Federal program that authorizes the sale of federally subsidized flood insurance in participating communities.

Natural Drainage: The pattern of surface and stormwater drainage from a particular site before the construction or installation of improvements or prior to any regrading.

New Construction: For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-Rise Certification: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Recreational Vehicle: A vehicle which is:

(A) Built on a single chassis;

(B) Four hundred (400) square feet or less when measured at the largest horizontal projections;

(C) Designed to be self-propelled or permanently towable by a light duty truck; and

(D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain within the City of Englewood subject to a one percent (1%) or greater chance of flooding in any given year, i.e. the 100-year floodplain.

Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as

the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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

(A) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or

(B) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Violation: The failure of a structure or other development to be fully compliant with the City's floodplain regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in NFIP Standards Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5), as amended, is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation: The height, in relation to the National American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplain.

Watercourse: A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainageways for carrying urban storm runoff.
(Ord. 10-44, § 1; Ord. 8-13, § 6)

Chapter 5

USE REGULATIONS

16-5-1: Table of Allowed Uses.
16-5-2: Use-Specific Standards.
16-5-3: Adaptive Reuse of Designated Historical Buildings.
16-5-4: Accessory Uses.
16-5-5: Temporary Uses and Structures.

16-5-1: Table of Allowed Uses.

Table 16-5-1.1 below sets forth the categories and types of uses allowed within the respective zoning districts.

A. *Explanation of Table Abbreviations.*

1. *Permitted Uses.* A "P" in a cell indicates that the use type is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Title, including the development standards set forth in Chapter 16-6 EMC.

2. *Conditional Uses.* A "C" in a cell indicates that the use type is allowed only if reviewed and approved as a conditional use subject to a public hearing, in accordance with the conditional use review procedures of Section 16-2-12 EMC.

3. *Accessory Uses.* An "A" in a cell indicates that the use type is allowed only as incidental to the principal use on a site; see Section 16-5-4 EMC for regulations governing accessory uses.

4. *Limited Uses.* An "L" in a cell indicates the use type is generally appropriate in the zoning district, yet may have the potential for limited impacts on adjacent properties or on the character of the district. These uses are subject to an administrative review that grants the City the authority to impose conditions on the specified use to mitigate potential impacts. See Section 16-2-13.

5. *Temporary Uses.* A "T" in a cell indicates the use type is allowed only for a limited duration. See Sections 16-2-14 and 16-5-5 EMC, for regulations governing temporary uses.

6. *Prohibited Uses.* A blank cell indicates that the use type is prohibited in the zoning district.

7. *Additional Regulations.* Regardless of whether a use category is permitted by right or as a conditional, accessory, limited, or temporary use, there may be additional regulations that are applicable to a specific use. The existence of these use-specific regulations is noted through a reference in the last column of the use summary table entitled "Additional Regulations." References refer to subsections of Section 16-5-2 EMC, "Use-Specific Standards." Such standards apply to all districts unless otherwise specified.

B. *Unlisted Uses.*

1. *Procedure for Approving Unlisted Uses.* Where a particular use category or use type is not specifically allowed under this Title, the use category or type may be permitted by the City Manager or designee upon a finding that the criteria of subsection B.2. below are met. The City Manager or designee shall give due consideration to the intent of this Title concerning the district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question.

2. *Criteria for Approving Unlisted Uses.* The City Manager or designee may allow an unlisted use (permitted, conditional, limited, accessory, or temporary) in the zoning district if he finds that the proposed use has an impact that is similar in nature, function, and duration

to the other uses allowed in a specific zoning district. In making such finding, the City Manager or designee shall assess all relevant characteristics of the proposed use, including but not limited to the following:

a. The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;

b. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;

c. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders hazardous or not);

d. The type, size, and nature of buildings and structures;

e. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;

f. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site;

g. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;

h. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes;

i. Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

j. The impact on adjacent properties created by the proposed use will not be greater than that of other uses allowed in the zoning district.

3. *Effects of Finding by the City Manager or Designee.*

a. *Typical Uses: Added to this Title:*

(1) The City shall initiate periodic amendments to this Title if the City Manager or designee finds that the particular use or class of use(s) is likely to be common or to recur frequently, or that omission of specific inclusion and reference to this Title is likely to lead to public uncertainty and confusion.

(2) Until final action has been taken on such proposed amendment, the determination of the City Manager or designee shall be binding on all officers and departments of the City.

b. *Atypical Uses: Determination Binding.* In making a determination whether to approve an unlisted use, the City Manager's or designee's determination shall thereafter be binding on all officers and departments of the City, without further action or amendment of this Title, if the City Manager or designee finds the particular use or class of use(s) is of an unusual or transitory nature, or is unlikely to recur frequently.

c. *Appeals.* Appeals of decisions to approve or deny unlisted uses shall be appealed to the Commission.

C. *Table of Allowed Uses.*

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential								Non-Residential							Additional Regulations
		R1A	R1B	R1C	R2A	R2B	MUR3A	MUR3B	MUR3C	M1	M2—MO2	MUB1	MUB2	TSA	I1	I2	
RESIDENTIAL USES																	
Group Living	Group living facility, large/special						C	C	C	C	C	P	P				16-5-2.A.1
	Group living facility, small	P	P	P	P	P	P	P	P	P	P	P	P	P			16-5-2.A.1
	Small treatment center						C	C	C	C	C	P	P				16-5-2.A.1
Household Living	Live/work dwelling									P	P	P		P	L	L	16-5-2.A.2
	Manufactured home park														P		16-5-2.A.3
	Multi-unit dwelling				P	P	P	P	P	P	P	P	P	P			16-5-2.A.4 16-6-1.C.4
	One-unit dwelling	P	P	P	P	P	P	P	P	P	P						16-5-2.A.5 16-5-2.A.6
	One-unit dwelling on a small lot	P	P	P	P	P	P	P	P	P	P						16-5-2.A.6
	Boarding or rooming house				C	C	C	C	C	C	C						16-5-2.A.7
PUBLIC/INSTITUTIONAL USES																	
Animal Shelter	Not-for-profit animal shelter														P	P	
Emergency Temporary Shelter	Housing shelter, food shelter						C						C				
Government and City	All other buildings and facilities not specified under the public/ institutional uses category	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Library	Public									P	P	P	P	P			
Museum/Cultural	All uses						P	P		P	P	P	P	P			
Park and Open Space	Athletic field	C	C	C	C	C	C	C	C					C	P	P	
	Community garden	C	C	C	C	C	C	C	C	C	C			C			
	Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Religious Assembly	Religious institutions and associated accessory uses	P	P	P	P	P	P	P	P	P	P	L	L	L	L	L	
School	Education institution	P	P	P	P	P	P	P	P	P	P	P	P	C			
Telecommunication Facility *(See Chapter 16-7, "Telecommunications," for applicable use-related guidelines and standards)*	Alternative tower structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Antenna (microwave antenna, sectorized panel antenna, whip antenna)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Tower structure	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	
Transportation Facility	RTD maintenance facility													P	P		
	Transit center													P			
Utility Facility (not including Telecommunication Facility)	Major utility facility														P	P	16-5-2.B.1
	Minor utility facility (as a principal use of land)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
COMMERCIAL USES																	
Adult Use	All types as defined in Chapter 16-11												P		P		16-5-2.C.1
Agricultural Use	Greenhouse/ nursery, raising of plants, flowers, or nursery stock														P	P	16-5-2.C.2
Animal Sales and Service	Animal shelter														P	P	
	Kennel/day care												L		P	P	
	Pet store (live animal sale)										P	P	P	P	P	P	
	Small animal veterinary hospital or clinic										L	L	P	C	P	P	

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Use Category	Use Type	Residential								Non-Residential							Additional Regulations
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MUR 3 A	MUR 3 B	MUR 3 C	M 1	M 2 — MO 2	MUB 1	MUB 2	TSA	I 1	I 2	
Assembly	Assembly hall or auditorium, hall rental for meetings or social occasions										P	P	P	C	P	P	
	Membership organization (excluding adult use)										P	P	P	C	P	P	
Dependent Care	Dependent care center (less than 24-hour care, any age)	C	C	C	C	C	P	P	P	P	P	P	P	C			16-5-2.C.7
Entertainment/Amusement: Indoor	Amusement establishment										C	C	C	C	C	C	
	Hookah lounge										P	P	P		P	P	
	Physical fitness center/spa										P	P	P	P	P	P	
	Theater and performance/concert venue, not including adult entertainment											P	P	P	P	P	
Entertainment/ Amusement: Outdoor	General outdoor recreation												C		C	C	
Financial Institution	Check cashing facility										P		P		P	P	
	Financial institution, with drive-through service												L		P	P	
	Financial institution, without drive-through service										P	P	P	P	P	P	
Food and Beverage Service	Brew Pub										P	P	P	P	P	P	
	Caterer										P		P		P	P	
	Restaurant, bar, tavern with or without outdoor operations										P	P	P	P	P	P	
	Restaurant, with drive-through service												L		P	P	
	Sales Room (associated with Brewery, Distillery or Winery)										C	C	C		C	C	
	Take out and delivery only										P		P		P		
Medical/Scientific Service	Clinic							P	P	P	P	P	P	P	P	P	
	Hospital							P		P	P		P		P	P	
	Laboratory (dental, medical or optical)						P	P	P	P	P	P	P	P	P	P	
Medical Marijuana	Medical marijuana center										P	P	P		P	P	16-5-2.C.13 16-5-4.C.1.f
	Medical marijuana optional premises cultivation operation										A	A	A		P	P	16-5-2.C.13 16-5-4.C.1.f
	Medical marijuana infused products manufacturer										A	A	A		P	P	16-5-2.C.13 16-5-4.C.1.f
Office	Office, type 1 (general)							P	P	P	P	P	P	P	P	P	
	Office, type 2 (limited)						P	P	P	P	P	P	P	P	P	P	16-5-2.C.8
Retail Sales and Service (Personal Service)	Crematorium															C	
	Dry cleaner, drop-off site only										P	P	P	P	P	P	
	Instructional service										P		P	P	P	P	
	Massage therapy								P	P	P	P	P	P	P	P	
	Mortuary										P		P				
	Personal care										P	P	P	P	P	P	
	Service: photography studio and photo lab, upholstery, printer, locksmith, tailor										P	P	P	P	P	P	
	Tattoo and body-piercing establishment														P	P	
	Temporary employment business														C	C	16-5-2.C.11

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Use Category	Use Type	Residential								Non-Residential							Additional Regulations
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MUR 3 A	MUR 3 B	MUR 3 C	M 1	M 2 — MO 2	MUB 1	MUB 2	TSA	I 1	I 2	
Retail Sales and Service (Repair and Rental)	Equipment rental												L		P	P	
	Repair shop (not including auto)										P	P	P	P	P	P	
Retail Sales and Service (Sales)	Antique store										P	P	P	P	P	P	
	Art gallery										P	P	P	P	P	P	
	Auction house												P		P	P	
	Buy-back, second-hand, thrift, consignment stores, large										P		P		P	P	
	Buy-back, second-hand, thrift, consignment stores, small										P	P	P		P	P	
	Convenience store										P		P	P	P	P	
	Grocery/specialty food store										P	P	P	P	P	P	
	Internet sales location										P		P		P	P	
	Liquor store										P	P	P	P	P	P	
	Pawnbroker														P	P	16-5-2.C.10
	Retail sales, general merchandise										P	P	P	P/C	P	P	For TSA, P if ≤ 20,000 sq. ft., C if > 20,000 sq. ft. of gross leasable floor area
School	Trade or business school										P	P	P	C	P	P	16-5-2.C.12
Studio	Radio/television broadcasting studio, recording/film studio										P		P		P	P	
Vehicle and Equipment	Automobile pawnbroker												P		P	P	16-5-2.C.10
	Automotive sales, rental												L		P	P	16-5-2.C.3
	Automotive service and repair, including body or fender work														P	P	16-5-2.C.4
	Automotive service and repair, not including body or fender work												L		P	P	16-5-2.C.4
	Automotive service station (gasoline facility)												L		P	P	16-5-2.C.5
	Car wash, auto detailing												L		L	L	16-5-2.C.6 16-5-2.C.4
	Commercial storage of operable vehicles														P	P	16-5-2.C.3
	Fuel dispensing												L		P	P	
	Parking facility, structure (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.3 16-5-2.C.9
	Parking area, surface (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.9 16-5-2.C.3
	Recreational vehicles and boats, sales or rental												L		P	P	
Visitor Accommodation	Bed and breakfast									P	P			P			
	Hotel									P	P		P	P	P		
	Hotel, extended stay									P	P				P		
Wholesale	Sales and distribution														P	P	

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		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MUR 3 A	MUR 3 B	MUR 3 C	M 1	M 2 — MO 2	MUB 1	MUB 2	TSA	I 1	I 2	
MANUFACTURING/INDUSTRIAL USES																	
Industrial Service	Industrial service, light													C	P	P	16-5-2.D.3 (TSA only)
	Industrial service, heavy															P	
Manufacturing, Including Processing, Fabrication, or Assembly	Brewery										C	C	C		P	P	16-5-2.C.14
	Distillery										C	C	C		P	P	16-5-2.C.14
	Winery										C	C	C		P	P	16-5-2.C.14
	Manufacturing, light													C	P	P	16-5-2.D.4 (TSA only)
	Manufacturing, heavy															P	
Warehouse/Storage	Fuel storage (principal use)															L	
	Mini-storage facility														P	P	
	Moving and storage														P	P	
	Outdoor storage														P	P	16-6-7.G
	Storage yard for vehicles, equipment, material, and/or supplies														P	P	16-5-2.D.6
	Warehousing and/or storage														P	P	
Waste/Salvage	Automobile wrecking/ salvage yard														C	P	16-5-2.D.1
	Commercial incinerator															C	
	Hazardous waste handling														C	C	16-5-2.D.2
	Recycling operation, all processing occurs within enclosed structure														P	P	16-5-2.D.5
	Recycling operation, some or all processing occurs outside an enclosed structure														C	C	16-5-2.D.5
	Sanitary service															C	
	Waste transfer station (not including hazardous waste)														C	C	
ACCESSORY USES - See Section 16-5-4 for additional regulations																	
Home Care Accessory Uses (Accessory to Principal One-Unit Dwelling Uses Only)	Adult dependent care	C-A	A	A	A	A	A	A	A	A	A						
	Family child care home	C-A	A	A	A	A	A	A	A	A	A						
	Infant/toddler home	C-A	A	A	A	A	A	A	A	A	A						
	Large child care home		L-A	L-A	L-A	L-A											
Other Accessory Uses	Caretaker's quarter									A	A	A	A		A	A	
	Dormitory												A		A	A	
	Home occupation		A	A	A	A	A	A	A	A	A			A			16-5-4.C.1
	Minor utility facility (as accessory use of land)	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	L-A	16-5-2.B.1
	Parking area (surface)					A	A	A	A	A	A	A	A	A	A	A	16-5-4.C.2
	Parking garage (structure)									A	A			A			
	Satellite dish antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	16-5-4.C.3
	Service units or facility							A	A	A	A			A			16-5-4.C.4
	Swimming pool	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	16-5-4.C.5
	Wholesale sales and distribution									A	A	A	A				16-5-4.C.6

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Use Category	Use Type	Residential								Non-Residential							Additional Regulations
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TEMPORARY USES - See Section 16-5-5 for additional regulations																	
	Car wash	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
	Expansion or replacement of existing facilities	T	T	T	T	T	T	T	T	T	T	T	T		T	T	
	Farmers market										T	T	T	T	T	T	
	Food vendor carts									T	T	T	T	T	T	T	
	Mobile storage (with or without building permit)	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
	Real estate sales or leasing office (also model homes)	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
	Outdoor sales (e.g., tent sales, parking lot sales, seasonal sales, windshield repair, sales from retail vendor carts, etc.)										T	T	T	T	T	T	
	Special event (e.g., carnival, bazaar, fair)	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
	Tents, canopies	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
USES NOT MENTIONED		See 16-5-1.B for procedures and criteria for approving unlisted uses, including unlisted accessory and temporary uses.															

(Ord. 04-5; Ord. 05-25; Ord. 08-13, § 1; Ord. 08-37, § 3; Ord. 08-55, § 1; Ord. 08-48, § 11; Ord. 09-4, § 1; Ord. 09-28, § 4; Ord. 10-20, § 1; Ord. 11-27, § 1; Ord. 23-12, § 4; Ord. 7-13, § 4; Ord. 45-13, § 1)

16-5-2: Use-Specific Standards.

A. *Residential Uses.*

1. Group Living Facility. All group living facilities shall be subject to the following standards, except that, as noted, some of the standards below apply only to group living facilities approved as conditional uses:

   a. A group living facility approved as a conditional use shall not be significantly different from adjacent uses in terms of appearance, site design, hours of operation, traffic generation, noise, odor, dust, and other external impacts or, if the use is different, any adverse impacts resulting from the use will be mitigated to the maximum extent practicable.

   b. No group living facility shall be located closer than:

      (1) Seven hundred fifty feet (750') from any state-licensed child care facility or any elementary, middle, or high school; or

      (2) One thousand two hundred fifty feet (1,250') from another group living facility.

      (3) Measurement of Distance. All distances in this Section shall be measured by following a straight line from the nearest point of the property line of the proposed group living facility to the nearest point of the property line of any existing group living facility, childcare facility or school. Measurements based on one inch (1") to one hundred feet (100') Arapahoe County Assessor maps shall be deemed acceptable for this purpose.

   c. Twenty-four (24) hour supervision shall be provided by qualified staff.

   d. Any group living facility whose residents include any individual who has been convicted by any court of more than one (1) misdemeanor or felony involving property damage or personal injury that was committed while he or she was a resident of the group living facility shall be deemed to be a public nuisance, and shall be subject to those enforcement actions and penalties applicable to other public nuisances within the City.

   e. The operator of each group living facility shall submit to the City a photocopy of a valid and current certificate or license issued by the State of Colorado, if any such certificate or license is required for the operation of the facility. The certificate or license shall be submitted prior to initiating operations and on or before December 31 of each calendar year thereafter.

   f. A group living facility approved as a conditional use shall be considered abandoned if active and continuous operations are not carried on for a period of twelve (12) consecutive months. The use may be reinstated only after obtaining a new conditional use approval.

   g. As authorized by 42 U.S.C. 3604(f)(9), no group living facility shall provide housing to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical danger to the property of others.

   h. A conditional use permit application for a group living facility shall include provisions for automobile access that will prevent traffic hazards and avoid traffic congestion on adjacent public streets and alleys.

   i. Structures containing a group living facility shall be no taller than the average height of the three (3) principal structures on the same block located closest to the group living structure.

   j. All group living facilities shall register with the City prior to commencing operation.

2. Live/Work Dwelling. Live/work dwellings are subject to the following standards:

   a. When the live/work dwelling includes a ground floor at street level, the commercial activity shall occur at least in part on the ground floor of the dwelling, and shall be directly accessible from an adjacent public street, public sidewalk, or Transit Station Area plaza.

   b. Repair, assembly, or fabrication of goods is limited to the use of equipment appropriately scaled and operated to be reasonably compatible with adjoining live/work uses.

   c. A live/work dwelling shall not be interpreted to be or include a home occupation, and shall not be subject to the limitations on home occupations stated in this Title.

3. Manufactured Home Park.

   a. *Procedure for Development of Manufactured Home Parks.*

      (1) A Manufactured Home Park Development Plan is required. At the time the application is submitted for the manufactured home park planned development, either for the expansion of an existing park or for a new park, the applicant shall submit twenty-five (25) copies of a development plan for the proposed park. This plan shall comply with all applicable City codes and with the provisions of this Chapter.

      (2) The procedure for processing the development plan shall be in accordance with the same steps and notice requirements as for a PUD rezoning (Section 16-2-7 EMC); however, where additional information or specific procedure is required herein, those provisions shall prevail.

   b. *Standards for Development of Manufactured Home Parks.*

      (1) Manufactured Home Park Site Location.

         (a) The manufactured home park shall be located on a well-drained site, shall not be within the lines of a 100-year floodplain or flood hazard area, and the site shall be made free from marshes, swamps or other potential breeding places for insects or rodents. The site should not be exposed to undue chronic nuisances such as noise, smoke, fumes, or odors.

         (b) The topography on the manufactured home park site should be favorable to minimum grading, manufactured home placement, and ease of maintenance. The longitudinal grade for the individual space shall not exceed five percent (5%) and an adequate crown or cross-gradient for surface drainage shall be provided.

      (2) Information to Accompany the Manufactured Home Park Development Plan. A complete development plan for the purpose of obtaining a manufactured home park permit shall be submitted and shall include information and supporting materials as specified by the City Manager or designee.

      (3) Minimum Area of Manufactured Home Park. Eight (8) acres.

      (4) Maximum Density. Eight (8) manufactured home dwelling unit spaces per acre.

      (5) Maximum Lot Coverage. The maximum coverage of the manufactured home lot shall be thirty-five percent (35%) except as provided herein:

         (a) Where a roof area, such as a carport or outdoor recreation shelter, is open for fifty percent (50%) or more of its perimeter, its lot coverage shall be computed as one-half (½) the area covered by the roof.

         (b) Where the lot is adjacent and has access to improved common open space, other than vehicular areas, and not less than twenty feet (20') in width, an additional five percent (5%) of the lot may be occupied.

(6) Minimum Lot Dimensions and Shapes. Minimum lot widths and areas shall be as required to meet lot coverage and yard, manufactured home and building spacing, and other requirements as set forth herein. So long as these requirements are met, and the resulting layout of the lots is functional and provides for efficient provision of utilities and for convenient pedestrian and vehicular access, lot lines shall not be required to be perpendicular to streets or radial to curves, and lot shapes may take any form, provided, however, that in no case shall any area on the lot more than fifty feet (50') from the manufactured home, nor any portion of the lot less than ten feet (10') in minimum dimension between opposing lot lines, be included in required lot or open space area.

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(7) Perimeter Yards.

(a) *Adjoining Public Streets.* Where one (1) or more boundaries of the manufactured home park planned development adjoin public streets, a yard of at least twenty-five feet (25') in depth shall be provided adjacent to such boundary.

(b) *Adjoining Alleys.* Where the boundary of a manufactured home park planned development adjoins an alley, a yard of at least ten feet (10') in depth shall be provided adjacent to such boundary.

(c) *Adjoining a Residential District.* Where a manufactured home park planned development adjoins a residential district (R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, MU-R-3-B) without an intervening street or alley, a yard of at least twenty feet (20') in depth shall be provided adjacent to such boundary.

(d) *Adjoining a Business or Industrial District.* Where a manufactured home park planned development adjoins a business or industrial district (MU-B-1, MU-B-2, TSA, I-1, I-2) without an intervening street or alley, a yard of at least twenty feet (20') in depth shall be provided adjacent to such boundary.

(e) *Exceptions.* If determined necessary in order to provide protection to residents within a manufactured home park planned development from excessive traffic noise, lights or other adverse influences from outside of the development, a greater depth and/or approved screen planting, walls or fences may be required in a yard. Such determination shall be made by the Commission in conjunction with the consideration of the manufactured home park planned development plan.

(f) *Inclusion as Part of Individual Lots and Yards.* Except as otherwise may be specifically provided, the yard may be included in individual lots and used to meet yard or area requirements for the manufactured home thereon, if the yard is appropriately located and improved.

(g) *Limitations on Use of Yards Adjoining Residential Districts.* No group parking facilities and no active recreation facilities for common use shall be located in any required yard adjoining lots in a residential district.

(8) Livable Open Space on Lots. Livable open space shall be provided on lots for manufactured homes in an amount equal to not less than ten percent (10%) of the lot area, provided that in no case shall the required livable space be less than three hundred (300) square feet. Such required livable space shall have a minimum dimension of not less than fifteen feet (15'). Such space shall be located for privacy, convenience, and optimum use and shall be walled, fenced or planted to assure reasonable privacy. Within such area, an area suitably surfaced for the placement of garden or lawn furniture shall be provided, which surfaced area shall be not less than one hundred (100) square feet in area with a minimum dimension of ten feet (10'). The surfaced area may be a movable element in order to permit maximum flexibility in providing for a variety of manufactured home widths, floor plans and locations on the lot. This area may be covered with a roof, creating a recreational shelter, subject to limitations on maximum lot coverage. Parking areas and driveways shall not be included in required livable open space.

(a) *Yards, Open Space Abutting Manufactured Home Units and Spacing of Units.*

(1) Intent. Yards and other open spaces required herein in relation to the manufactured home dwelling units are intended to perform a variety of functions. Among these are to assure adequate privacy, and to provide usable outdoor living space, a desirable outlook from the principal living

room exposure, natural light and ventilation, access to and around the units, off-street parking and spacing between the manufactured home dwellings and between the dwelling unit and other buildings for reducing potential adverse effects of noise, odor, glare or hazards from fire.

It is intended in these regulations to relate requirements to performance of these functions, allowing maximum flexibility in detailed site planning and use in so long as performance standards are met.

(2) Dwelling Unit Exposure and Outlook. For purposes of relating requirements to function, yards, and other open spaces around the manufactured home dwelling units, distances between dwelling units and other buildings shall be determined by exposures and outlooks from the portions of the dwelling units involved. Exposures of portions of dwelling units and the minimum open space depth are defined and classified as follows:

Class A. Portions of walls containing principal living room exposure to outdoor living area through major windows and/or glassed doors. Prime consideration here is direct view of, and convenient access to, outdoor livable space. In cases where two (2) walls of the dwelling unit provide this type of exposure from the living room, either may be selected as the Class A exposure, and the other shall be considered Class C.

Class A Exposures. Minimum open space depth for Class A exposures shall be fifteen feet (15'). The Class A exposure shall be to livable space, required or other, on the lot, and not to parking area or driveway area.

Class B. Portions of walls containing the only windows for bedrooms, or principal windows and/or glassed doors for bedrooms, where privacy, moderate outlook, light, and air are principal considerations.

Class B Exposures. Minimum open space depth for Class B exposures shall be ten feet (10'). This may include livable open space, and parking and driveway areas on the lot.

Class C. Portions of walls containing secondary windows for bedrooms, windows for kitchens, bathrooms, utility rooms, and the like, secondary windows for living rooms, or exterior doors other than entries with Class A orientation, where windows involved do not involve privacy or are so located, shielded, or are of such a nature that necessary privacy is assured, and where light, air, and fire protection are principal considerations.

Class C Exposures. Minimum open space depth for Class C exposures shall be eight feet (8'). This may include the same types of open space as for B.

Class D. Portions of walls containing no windows, doors, or other openings, but not so constructed or safeguarded as to be suitable for attachment to other dwelling units or principal buildings. Principal concern in such cases is with fire protection.

Class D Exposures. Minimum open space depth for Class D exposures shall be five feet (5'). This may include the same types of open space as for B.

Class E. Portions of walls containing no windows, doors, or other openings, and so constructed or safeguarded as to provide at least one (1) hour fire protection if it were attached to another manufactured home dwelling unit or to a permitted building.

Class E Exposures. No minimum open space depth requirements.

(9) Distance to Common Areas. Except as provided above, distance from any exposure to a street pavement or to the edge of a common driveway, a common parking area, a common walk, or other common area shall be at least eight feet (8'). For Class A exposure this distance shall be at least fifteen feet (15'). Carports open in a manner which assures compliance with the provisions of subsection (B)(5), "Maximum Lot Coverage," may extend to within four feet (4') of a common sidewalk abutting a street or common parking area, or to within four feet (4') of the street pavement or common parking area if no such sidewalk is involved; but the carport may not be in the required livable space or in any portion of the open space which constitutes a Class A exposure.

(10) Carports, Individual Recreational Shelters, Storage Facilities in Required Open Space.

(a) *Carport.* A carport enclosed for fifty percent (50%) or less of its perimeter, and with enclosure of ten percent (10%) or less of the portion of its perimeter opposite any Class B or C exposure, may be located in any portion of the open space on the lot which is not required livable space and does not constitute Class A exposure.

(b) *Individual Recreational Shelter.* An individual recreational shelter as described in subsection (B)(8), enclosed for fifty percent (50%) or less of its perimeter in a manner which does not constitute undesirable impediment to view or fire hazard may be located in any livable space on the lot.

(c) *Storage Facilities.* Storage facilities may be included as part of the enclosure for carports and recreational structures subject to the limitations set forth above. Independent storage structures containing not more than one hundred (100) cubic feet of storage space may be located in any portion of required open space on the lot, provided that as located and constructed such structures do not constitute undesirable impediments to view or fire hazards.

(11) Spacing of Manufactured Home Dwelling Units on Abutting Lots. Minimum required distances between manufactured home dwelling units, or additions thereto enclosed for more than fifty percent (50%) of their perimeters, shall be the sum of the required distances for the exposures involved.

(12) Equivalent Spacing Alternative. As an alternative to providing required open space between units or portions of units as the sum of adjoining open spaces on individual lots, where equivalent spacing can be assured in a form appropriate to the exposures involved by decreasing clearance from the lot line on one lot and increasing clearance from the lot line on the other, this arrangement may be permitted, provided that access for servicing and maintenance of units involved can be assured, and further, provided that minimum open space depth for Class A exposures shall be located on the same lot as the unit. Thus, for example, in a row of lots on which Class A exposures faced Class C exposures, calling for minimum open space depth of fifteen feet (15') on the lots with Class A exposure and eight feet (8') on the lots with Class C, the units could all be moved to the lot line on the Class C exposure side if the minimum depth on the Class A exposure side was increased to twenty-three feet (23').

(13) Occupancy of Manufactured Homes.

(a) No manufactured home shall hereafter be occupied unless it is parked in an approved manufactured home park.

(b) No manufactured home shall be occupied in a manufactured home park unless the manufactured home is situated within a designated space and on a HUD approved foundation or on a concrete slab of not less than four inches (4") in thickness and no smaller than the outside dimensions of the manufactured home to be accommodated.

(c) Jacks, or stabilizers, or precast concrete block with a base not less than sixteen inches (16") by sixteen inches (16") by four inches (4"), must be placed under the frame of the manufactured home to prevent movement on the springs while the home is parked for occupancy.

(14) Skirting. All manufactured homes shall be permanently sited according to HUD standards or shall be completely enclosed from the floor to the ground with a noncombustible material. Enclosures shall be vented by the installation of two (2) openings not less than one (1) square foot each, located at diagonal corners from each other and covered with a corrosion-resistant screen or grill having openings not less than one-quarter inch (1/4") or more than one-half inch (1/2") in any dimension. One (1) access door, a minimum of eighteen inches (18") by twenty-four inches (24"), shall be installed in the skirting ahead of the front axle and one behind the rear axle of the manufactured home.

(15) Manufactured Home Wind Security. Each manufactured home in a manufactured home park shall be protected against wind forces by the installation of overhead ties and frame ties anchoring the home securely to the ground, as follows:

(a) *Required Number and Types of Ties.*

(1) Manufactured homes thirty feet (30') to fifty feet (50')—three (3) frame ties per side.

(2) Manufactured homes fifty feet (50') to seventy feet (70')—four (4) frame ties per side.

(3) Manufactured homes over seventy feet (70')—five (5) frame ties per side.

(4) Over-the-home ties as close to each end as possible with straps at stud end and rafter location.

(5) Posts for cabanas and awnings must be securely anchored to a concrete patio or equivalent footing.

(b) *Anchoring Specifications.*

(1) Auger or deadman type anchors, six inches (6") in diameter. Arrowhead type anchors, eight inches (8") in diameter.

(2) Auger or arrowhead anchors should be sunk to depth of four feet (4'). "Deadman" type anchors should be sunk to depth of five feet (5').

(3) Anchor rod, five-eights inch (5/8") diameter with ends welded closed to form an eye. Must be hooked into concrete where used in deadman anchors.

(c) *Tie and Connector Specifications.*

(1) Ties shall be galvanized steel straps 1 1/4" x .035" or woven wire, galvanized or stainless steel cable three-eights inch (3/8") diameter or one-quarter inch (1/4") aircraft cable.

(2) Connectors shall be turnbuckles five-eights inch (5/8") diameter of drop-forged steel with ends welded or forged closed to form an eye or other tensioning devices of similar strength.

(16) Standards for Street System.

(a) The street system within the park shall be so designed that access to all lots used for parking manufactured homes shall be from within the park. No lot shall be so laid out or improved as to permit direct access to any public street or highway.

(b) Streets leading into the park from public streets and highways shall be paved to a width of at least forty feet (40') for a distance of at least one hundred feet (100') from the public street or highway, and no parking shall be permitted on such streets within twenty-five feet (25') of the public street or highway.

(c) Other streets in the park shall be paved to a minimum width (curb to curb) of twenty-eight feet (28') for one-way streets, thirty-eight feet (38') for two-way streets, where parking is permitted. For each side of such streets on which parking is prohibited, minimum width may be reduced by eight feet (8').

(d) Curves on all access roads shall have a minimum inside radius of not less than twenty feet (20').

(e) Dead-end streets may be used, provided that no such street shall exceed four hundred feet (400') in length, and that such streets shall be provided at the closed end with a turn around of at least a forty-five foot (45') radius at the outside edge of the paving.

(f) All streets within the park shall be built to City of Englewood construction specifications, and shall include curb and gutter.

(g) Signs shall be placed at street intersections within the park designating the manufactured home space numbers located along each street. The letters on such signs shall be a minimum of three inches (3") in height and shall be reflective.

(17) Parking. In manufactured home parks, not less than two (2) parking spaces shall be provided for each manufactured home space. Parking spaces shall be conveniently located with respect to normal anticipated use by tenants and visitors and in relation to service facilities. Such parking spaces shall be not less than nine feet (9') by twenty feet (20').

(18) Walkways. Concrete walkways not less than twenty-four inches (24") wide shall be provided from manufactured home spaces to streets, and all other concrete walkways shall be at least thirty inches (30") wide.

(19) Screening. Adequate protection shall be provided the residents of the park from any undesirable off-site views or any adverse influence from adjoining streets and properties. To this end, the park shall be surrounded by a fence, wall, or planting screen on all sides abutting other private property, or an arterial street or highway. If a fence or wall is used, it shall be at least six feet (6') in height and of solid construction. If vegetation is used in place of a fence or wall, it shall be of a nature that provides equivalent protection to the property and to neighboring property. Notwithstanding other requirements of this provision, no fence, wall or vegetative screening shall be permitted to extend into any required exterior yard at a height or in a manner that materially impedes the visibility of a motorist exiting from the park onto a public street.

(20) Recreational Area. For children's play and adult recreation, not less than eight percent (8%) of the gross area shall be set aside and appropriately improved, and this area shall not be used for any other purpose. The children's play area shall be so located and protected as to minimize danger from traffic. Recreation areas may include space for a community building and community use facility such as indoor recreation area, swimming pool, or hobby workshop.

(21) Lighting.

(a) Street and yard lights shall be provided in such number and intensity as to insure safe movement of vehicles and pedestrians at night.

(b) Each service building shall be adequately lighted inside, and shall have outside lights large enough to illuminate the immediate area, which lights shall be placed in such a manner that identifying signs are readable at night.

(22) Clothes Drying Area Required. Adequate inside drying facilities adjacent to the washing facilities in the service building shall be provided. Umbrella-type drying facilities may be installed in the individual manufactured home space as a part of the basic facilities.

(23) Fire Protection Requirements.

(a) All portions of any park shall be within five hundred feet (500') of fire hydrant of size and design conforming to the fire code adopted by the City.

(b) Every park shall be equipped at all times with supplementary fire extinguishing equipment in accordance with the fire code adopted by the City.

(c) Each park shall have designated fire lanes, the location, dimensions and construction of which shall conform to the fire code adopted by the City.

(24) Service Building Requirements.

(a) *Service Building Requirements for Manufactured Home Parks.* Every manufactured home park shall provide adequate sanitary facilities for emergency use in a service building or buildings. These facilities shall consist of at least one (1) flush type toilet and one (1) lavatory for each sex. Such facilities shall be maintained in a clean and sanitary condition and in working order at all time.

(b) *Additional Service Building Requirements.* Service buildings:

(1) Shall be located at least fifteen feet (15') from any manufactured home space.

(2) Shall be of moisture-resistant material on the inside, to permit frequent washing and cleaning and shall be adequately lighted.

(3) Shall be of permanent construction of one-hour fire rating, complying with City of Englewood Building Codes.

(4) Shall have adequate heating facilities to maintain a temperature of sixty-eight degrees (68°) Fahrenheit during cold weather, and to supply adequate hot water during peak hour demands.

(5) Shall have all rooms well ventilated with all openings effectively screened.

(6) Shall provide separate compartments for each water closet, adequately screening other compartments from view. The toilet and other sanitation facilities for males and females shall be either in separate buildings or shall be separated, if in the same building, by a soundproof wall. The sanitation facilities for males and females shall be distinctly marked to denote the sex for which they are intended.

(25) Water and Sanitary Sewer Service and Plumbing Regulations.

(a) *Water Supply.*

(1) An accessible, safe, and potable supply of water, with a residual pressure of not less than twenty (20) PSI at each manufactured home site under normal operating conditions, shall be provided in each manufactured home park. Where a public supply of water is available, connection shall be made thereto and its supply shall be used exclusively except a private water supply may be used for irrigation purposes.

(2) The development of an independent water supply to serve the park shall be made only after express approval has been granted by the City and plans and specifications for the water system have been approved by the City and State Department of Health.

(b) *Public Sewer System Connection Required.* Parks shall be connected to the public sewer system, and such connection shall be approved by the City. All sewage disposal apparatus, including appurtenances thereto, shall be provided, maintained, and operated so as not to create a nuisance or health hazard. The usage of the sewer shall conform to all City ordinances.

(c) *Plumbing Regulations.* All plumbing in the manufactured home park shall comply with state and City of Englewood Plumbing Codes and Regulations.

(26) Electrical Requirements.

(a) *Services.*

(1) Electrical services in manufactured home parks shall comply with the requirements of the National Electrical Code, the Electrical Code of the State of Colorado, and the Municipal Code of the City of Englewood.

(2) Electrical distribution systems in manufactured home parks shall be installed underground. Such installation shall be in conformance with the National Electrical Code.

(3) Manufactured home spaces shall be provided with an approved rain tight power outlet panel with pedestal containing one hundred (100) amps. main disconnect, one 110V 20A GFI receptacle, and one (1) receptacle rated at fifty (50) amps. protected by a fifty (50) amp. circuit breaker. Each pedestal shall be installed within eighteen inches (18") of the manufactured home. The pedestal shall be permanently installed on a poured concrete post or approved metal frame secured in concrete set thirty inches (30") below grade. Bottom of pedestal housing shall have a minimum height of eighteen inches (18") above grade.

(4) Lighting shall be in accordance with subsection (B)(21), "Lighting".

(b) *Branch Circuits.* Extension cords shall terminate in a panel inside the manufactured home. Said panel shall be supplied by an approved cord fifty (50) amp, four (4) wire single phase.

(27) Fuel Storage and Connections.

(a) Manufactured homes using liquefied petroleum gas for cooking and heating units are subject to inspection for compliance with the State of Colorado law in liquefied petroleum gasses. These units may be converted to use natural gas. For the safety of occupants, it shall be the responsibility of the park owner or operator to ensure that no natural gas units in a manufactured home are connected or used until such gas units are inspected and approved by a gas utility company

supplying the service. All rules and regulations of the gas utility company as filed with the Public Utilities Commission shall be adhered to prior to gas service being provided.

(b) All piping from outside fuel storage tanks or cylinders to heating units in manufactured homes shall conform to applicable state law and applicable Englewood City ordinances. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the manufactured home.

(c) Oil storage shall conform to applicable state law and applicable City ordinances.

(28) Refuse Disposal. The storage, collection and disposal of refuse in the manufactured home park shall be so managed as not to create health hazards, rodent harborage, insect-breeding areas, accident hazards, or air pollution. All refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be provided in sufficient number and capacity to accommodate all refuse from the park. Satisfactory container racks or holders shall be provided at permanent locations, convenient to the manufactured home spaces, in areas appropriately screened from view, and shall comply with all health regulations. Methods of storage, collection, and disposal are subject to approval by the City Manager or designee.

(29) Additions to Manufactured Homes.

(a) No additions shall be built onto or become a part of any manufactured home except:

(1) Skirting of manufactured homes as set forth in subsection (B)(14).

(2) Cabanas, patios, or porches.

(3) An attached garage will be permitted if it does not damage the integrity of the manufactured home.

(b) A building permit shall be required for any addition permitted in subsections (a)(2) or (a)(3) above.

(30) Storage Space Required.

(a) Each manufactured home space shall be provided with not less than one hundred (100) cubic feet of storage space. Such storage space may be provided within individual units located on each manufactured home space or in a central building no more than one hundred feet (100') from the manufactured home space for which the storage is provided. All such storage units and buildings shall be of weather resistant materials and one-hour fire resistant construction.

(b) No storage shall be permitted underneath any manufactured home.

(31) Parking of Manufactured Homes.

(a) No manufactured home shall be parked or permitted to stand upon any public street, highway, road, alley, or other such right-of-way for more than twenty-four (24) hours unless a special permit is obtained from the Police Department of the City.

(b) No manufactured home shall be maintained upon any private or public property in the City when the same is used for living purposes unless the property is registered as a manufactured home park. No manufactured home shall be stored within any required front, side, or rear yard as specified by this Title.

(c) Where an existing individual manufactured home is parked on a private lot and occupied as a dwelling on the effective date of this Section, it shall be registered with the City within ninety (90) days after the effective date of this Section.

(32) Building Permit Required.

(a) No person shall commence the development of land for a manufactured home park, or alter, install or remove any structural improvement in any manufactured home park without first securing a building permit from the Division of Building and Safety authorizing such alterations, installation, or removal.

(b) An application for a permit authorizing any structural installation, alteration or removal within an existing park or for the development of land for a manufactured home park shall set forth the following information, insofar as the same is applicable and is known or can be ascertained by the applicant through the exercise of due diligence. The application for a permit to develop land for a manufactured home park shall be accompanied by the approved development plan.

(1) A survey by a registered land surveyor showing the location, boundaries, dimensions, and area of the proposed manufactured home park.

(2) The number, location, and size of all manufactured home spaces.

(3) Names and right-of-way and roadway widths of adjacent streets.

(4) Zoning and land use of surrounding property.

(5) Proposed routes of access to and egress from the manufactured home park.

(6) The location and width of roadways and walkways, recreational areas, and off-street parking areas within the park.

(7) The location of service buildings and any other proposed structure, and the location, dimensions and plan for development of the required recreation area.

(8) The location, size, and type of water and sewer lines, traps, vents, and risers for water and sewer.

(9) Plans and specifications of all buildings and other improvements constructed or to be constructed within the manufactured home park.

(10) Such other information as may reasonably be required.

(c) The permit shall be valid only for the plan submitted with the application and shall not be transferable to any person other than the permittee, nor to any other lot, tract, or parcel of land within the corporate limits of the City of Englewood.

(d) The permit shall expire six (6) months after the date of issuance if construction has not begun and is not diligently pursued.

(e) All buildings and utilities to be constructed, altered, or repaired in a park shall comply with all applicable codes and engineering specifications of the City of Englewood and State of Colorado, and all applicable permits shall be obtained.

(33) Certificates of Occupancy.

(a) It shall be unlawful to permit any person to occupy, maintain, or operate a manufactured home park within the corporate limits of the City of Englewood unless and until a valid certificate of occupancy has been obtained.

(b) No certificate of occupancy shall be issued unless and until all of the roadways are constructed within the park and not less than fifty percent (50%) of the park has been completed and is in compliance with the terms of this Title.

(34) Existing Parks; Certificate of Occupancy.

(a) The owner or operator of each existing manufactured home park shall be mailed forms on which to apply to the City for a certificate of occupancy. Application shall be, in writing, and shall contain such information as the City may require to determine wherein the park does not conform to all requirements of this Title.

(b) The City Manager or designee shall issue a certificate of occupancy to the owner or operator of legally existing parks. The certificate shall list the requirements of the Englewood Municipal Code with which the park does not conform. Nonconformance with health and safety requirements shall be listed separately from nonconformance with other requirements.

(c) It shall be unlawful to permit any person to occupy any manufactured home in any manufactured home park within the corporate limits of the City of Englewood until all facilities therefore have been inspected and approved by the Division of Building and Safety and a permit to occupy the unit has been issued.

(35) Existing Parks; Alteration, Extensions. Any existing park that does not currently meet the requirements of this Section shall not be remodeled, reconstructed, redeveloped, altered, extended, or reduced in size, except in a manner that increases the degree of compliance with this Section.

(36) Compliance with Regulations. The person to whom a manufactured home park occupancy permit is issued shall at all times operate the park in compliance with this Section and regulations issued hereunder, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition at all times.

(37) Annual Inspections Required.

(a) The City is hereby authorized and directed to inspect each manufactured home park located within the City of Englewood annually in order to determine the degree of compliance or noncompliance with the terms of this Section and to enforce compliance with the provisions of this Section. The inspector shall have the power to enter at a reasonable time, upon reasonable notice, any private or public property for the purpose of inspecting and investigating conditions related to the enforcement of this Section or any regulation that may be promulgated hereunder. The inspector shall make such additional inspections as may be necessary to assure compliance with this Section.

(b) It shall be unlawful for any person to refuse the inspector access to a manufactured home park for the purposes of inspection.

4. Multi-Unit Dwelling. The conversion of any existing dwelling to two (2) or more dwelling units, if permitted in this Title, must be so carried out that separate kitchen and bath facilities are supplied for each dwelling unit.

5. One-Unit Dwelling. The conversion of any existing dwelling to two (2) or more dwelling units, if permitted in this Title, must be so carried out that separate kitchen and bath facilities, and separate sewer, water and utilities are supplied for each dwelling unit.

6. One-unit dwelling in the M-1 and M-2 Zone districts are permitted only as replacement uses for one-unit dwellings that existed on the effective date of this Title.

7. *Boarding or Rooming House.* Boarding or rooming houses are subject to the following standards:

a. The use shall apply for and receive a Conditional Use Permit.

b. The use shall be limited to an owner occupied, one-unit dwelling.

c. The use shall submit a Site Improvement Plan for review by the City for compliance with all zoning and housing regulations.

d. The use shall be non-transferable.

e. The use shall have a City Sales Tax License if required.

f. The use shall comply with all applicable City Codes.

g. The use shall have no more than four (4) boarders per dwelling.

h. No signs shall be permitted except as specified in Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit).

B. *Public/Institutional Uses.*

1. Utility Facility. Within a special flood hazard area, all utility facilities allowed by the underlying zone district classification shall be permitted provided the facility complies with the conditions set forth in Chapter 16-4 EMC (*Floodplain Regulations*).

C. *Commercial Uses.*

1. Adult Use. An adult use shall be permitted so long as it complies with the following requirements:

a. *Distance Limitation.*

(1) No adult entertainment or service facility shall be located on any site unless such site is a minimum of one thousand feet (1,000') from the location of another such adult entertainment or service facility, whether inside or outside of the City of Englewood city limits; and

(2) No adult use shall be located on a site unless such site is located a minimum of five hundred feet (500') from the boundary line of:

(a) Any residential district defined in this Title, including, but not limited to, all "R" districts and the TSA district;

(b) A manufactured home park or similar residential zone district in an area adjoining the City of Englewood; or

(c) Any religious institution, public park, public library, community center, or educational institution, whether within or without the City of Englewood.

b. *Measurement of Distance.* All distances in this Section shall be measured by following a straight line from the nearest point of the property line of the proposed adult use, to the nearest point of the boundary of the residential districts noted above or nearest point of the property line of:

(1) Any existing adult use;

(2) Manufactured home park;

(3) Religious institution;

(4) Public park;

(5) Public library;

(6) Community center; or

(7) Educational institution.

Measurements based on one inch (1") to one hundred feet (100') Arapahoe County Assessor maps shall be deemed acceptable for this purpose.

2. Agricultural Use. Within a special flood hazard area, all uses allowed by the underlying zone district classification shall be permitted provided the use complies with the conditions set forth in Chapter 16-4 EMC (*Floodplain Regulations*).

3. Automotive Sales, Rental; Commercial Storage of Operable Vehicles; Parking Area, Surface (Operable Vehicles); and Parking Facility, Structure (Operable Vehicles).

a. *Standards.*

(1) *Drainage, Surfacing and Maintenance.* Areas subject to wheeled traffic, whether for parking, sales, or storage, shall be properly graded for drainage, provide on-site detention of storm runoff, and be surfaced with a hard surface, pursuant to 11-3-5 EMC and the storm drainage criteria adopted by the City.

(2) *Screening.* An obscuring fence or wall, at least four (4) feet in height, shall be installed along any property line adjacent to a residentially zoned property. Fences may not be required at access points or where a building provides adequate screening.

(3) *Marking of Parking Lots, Structures, and Car Sales Lots.* Parking spaces shall be marked and maintained on the pavement, and any other directional markings or signs shall be installed as permitted or required by the City to ensure the approved utilization of space, direction of traffic flow, and general safety. Spaces designed and used for the display or storage of inventory in a sales lot shall not be required to be marked.

(4) *Bumper and Curb.* To ensure the proper maintenance and utilization of these facilities, parking areas shall be designed so that a parked vehicle does not overhang the public right-of-way, or public sidewalk. A permanent curb, bumper, or similar device shall be installed that shall be adequate to protect the public right-of-way or public sidewalk from vehicular overhangs and to protect any structure from vehicular damage.

(5) *Entrances and Exits.* Areas subject to wheeled traffic shall be provided with entrances and exits so located as to minimize traffic congestion. Vehicular ingress and egress to major or minor arterials from off-street parking shall be so combined, limited, located, designed, and controlled with flared and/or channelized intersections as to direct traffic to and from such public right-of-way conveniently, safely and in a manner which minimizes traffic interference and promotes free traffic flow on the streets without excessive interruption.

(6) *Lighting.* All lighting shall be designed and located so as to confine direct rays to the premises. Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic. Lighting facilities shall not exceed twenty-five (25) feet in height.

(7) *Proximity to Public Right-of-Way.* No equipment at filling stations or public garages for the service of gasoline, oil, air, water, etc., shall be closer to the public right-of-way line than fifteen (15) feet and shall not be located within the required sight triangle.

(8) *Restrictions on Use of Parking Area.* No public or required parking area shall be used for the sale, storage, repair, dismantling or servicing of any vehicles, equipment, materials, or supplies. This shall not preclude emergency repairs to a motor vehicle.

(9) *Back-Out Parking.* Parking areas shall be designed so that vehicles are not permitted to back out of the parking area onto a public street.

(10) *Alley Improvements.* Whenever access to the parking lot or loading areas in any business or industrial district is by way of any alley, the developer shall improve such alley access to City specifications.

(11) *Lot Frontage.* There shall be a minimum of seventy-five (75) feet of frontage on a major collector or arterial roadway for any use established under 16-5-2(C)(3) EMC. Frontage is based on the most significant adjacent roadway. Frontage on more than one major collector or arterial shall not be combined to meet minimum frontage requirements.

(12) *Buildings.* Upon the establishment, development, or commencement of operation of an automotive sales or rental business use; new or existing buildings shall be brought up to the current specific codes adopted by the City, including but not limited to: building, electric, plumbing, mechanical and zoning, or the buildings must be removed prior to operating any use under this paragraph.

(13) Parking facilities, (structure) immediately adjacent to Hampden Avenue within the M-1 and M-2 zone districts shall incorporate leasable, ground floor commercial space to a minimum depth of twenty (20) feet along seventy-five percent (75%) of the entire width of Hampden Avenue frontage.

b. *Implementation Periods for Automotive Sales or Rental Use Specific Standards.*

(1) If an automotive sales and rental use has not existed since January 1, 1995, on the subject property, all Use Specific Standards of this paragraph 3 shall apply.

(2) If the owner of an automotive sales and rental use property documents that an automotive sales and rental use was licensed to operate by the State of Colorado on the subject property after January 1, 1995, but has not been licensed to operate an automotive sales or rental use for the five-year period prior to the date of application for limited use, then the property shall meet all the Use Specific Standards under this Subsection 3 except the requirement to provide seventy-five (75) feet of frontage set forth in 16-5-2(C)(3)(a)(11) EMC.

4. *Automotive Service and Repair, Not Including Body or Fender Work.* Such uses shall not include body or fender work, dismantling, or collision repair, and shall comply with the following standards. Examples of services include muffler repair, tune-ups, oil changes, tire and brake work.

a. Motor vehicles being serviced or stored while waiting to be serviced or called for shall not be parked on streets, alleys, public sidewalks, or parking strips.

b. All work shall be performed within an enclosed structure.

c. No materials or parts are deposited or stored on the premises outside of an enclosed structure.

d. Any area subject to wheeled traffic or storage shall be screened from adjacent or adjoining residential districts by a closed-face wood fence, or block or brick wall.

5. *Automotive Service Station (Gasoline Facility).* Automotive service stations shall comply with the following conditions:

a. *Uses Permitted.* An automotive service station shall be a retail place of business engaged in the sale of motor fuels and in supplying goods and services generally required in the operation and maintenance of automotive vehicles. Minor repair work, as permitted at automotive service and repair uses, shall be permitted. Major automotive repair, painting, body, and fender work is prohibited.

b. *Exterior Displays and Trash and Storage.* No displays or storage of merchandise, automobiles, parts or refuse shall be located closer than twenty feet (20') from the ultimate street right-of-way line, and all trash and refuse shall be stored in a building or within an area enclosed by a wall or a solid fence, at least six feet (6') high.

c. *Lighting.* All lighting shall be designed and located so as to confine direct rays to the premises.

d. *Outside Activity.* Outside activities may include the sale of motor fuels. All other activities, particularly auto repair, are prohibited outside of the main building.

e. *Screening.* A masonry wall shall be installed and maintained along property lines where the use abuts a residential area. Such wall shall have a total height of not less than six feet (6'), except within any sight distance triangles as designated by the traffic engineer.

f. *Landscaping.* Landscaping shall comply with the landscaping requirements of this Title.

6. *Car Wash, Auto Detailing.* Such uses shall comply with the use standards in subsection 16-5-2.C.3a(1)-(10) EMC, above, and with the following standards. In case of any conflict between the standards in subsection C.3, above, and in this Subsection, the most restrictive standard shall apply.

a. *Parking.* A minimum of two (2) parking spaces, or stacking areas, shall be provided on the site for each washing stall.

b. *Paving.* The site shall be paved to the specifications of the City.

c. *Wastewater.* All wastewater shall be discharged into the sanitary sewer line after having been run through a sand trap.

d. *Lighting.* All lighting shall be designed and located so as to confine direct rays to the premises.

e. *Landscaping.* Landscaping shall comply with the landscaping requirements of this Title.

7. *Dependent Care Center (Less than 24-Hour Care, Any Age).*

a. *Expansion of Dependent Care Center Facilities.* Any dependent care facility that was in existence on the date this Title applied to the property on which the dependent care facility is located, and which by this Title becomes a nonconforming use, may not expand to care for a larger number of dependents than the maximum licensed capacity as authorized by the State of Colorado on the effective date of this Title.

b. *Accessory Equipment/Structures.* Accessory equipment/structures shall be located behind the rear building line of the principal structure.

8. Office.

a. *Office, Type 2 (Limited).*

(1) In the MU-R-3-A, MU-R-3-B, and MU-R-3-C districts, this includes administrative and professional offices where the following activities are prohibited:

(a) Sale of goods or merchandise;

(b) On-site storage of materials or equipment, except incidental to office operation;

(c) On-site storage of materials, equipment, or vehicles; and

(d) On-site dispatch of personnel or equipment.

9. *Parking Area, Surface (Operable Vehicles) (TSA District Only).* A surface parking area is allowed as a short-term, interim principal use of vacant parcels in the TSA district, subject to compliance with the following standards:

a. *Location.*

(1) Surface parking lots developed or used as a principal use shall be permitted in the TSA district, except within the transit station subarea.

(2) A surface parking lot developed or used as a principal use shall not be located adjacent to another surface parking lot use developed or used as a principal use.

(3) A surface parking lot developed or used as a principal use in the district shall be located at least fifty feet (50') away from the intersection of two (2) public streets.

b. *Parking Surfaces.* All surface parking lots shall not be surfaced with grass.

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c. *Landscaping/Screening.* The perimeter and interior of all surface parking lots along a public street, public plaza, or other public open area or right-of-way, shall be screened and landscaped as stated in the Station Area Standards and Guidelines.

d. *Allowed As Interim Use Only.* In order to encourage more high-intensity and pedestrian-friendly development in the TSA district, principal commercial parking uses on surface lots shall be considered an interim use only. Accordingly, the City shall attach the following conditions to all conditional use approvals of any principal commercial parking/vehicle storage use in the TSA district:

(1) Such use shall automatically lapse and expire after three (3) years from the date of the City's approval action, unless otherwise expressly allowed by the City in the terms of conditional use approval, or unless the City approves an extension of time prior to the end of the three-year period.

(2) If the surface parking lot use is not converted to another permitted principal use within one (1) year after such use expires, the owner shall remove the paved surface and all appurtenant structures, re-vegetate the parcel with grass seed or other landscaping material approved by the City, and maintain such landscaping until such parcel is redeveloped.

(3) An applicant shall request an extension of the expiration period at least sixty (60) days prior to the end of the original three (3) year (or extended) expiration period. All such requests shall be reviewed according to the procedures for review of a conditional use, as set forth in Section 16-2-12 EMC. The City shall review such request according to the review criteria in Section 16-2-12 EMC, and considering the purpose of the TSA district and the status of existing and planned development activity in the district. The City shall act to either extend the conditional use approval for a specified term of years, but in no case longer than three (3) years, or allow the conditional use approval to expire.

10. Pawnbroker and Automobile Pawnbroker. Pawnbrokers and automobile pawnbrokers are required to be licensed by Title 5 EMC.

a. *Distance Limitation.* No pawnbroker or automobile pawnbroker use shall be located on any site unless such site is a minimum of five thousand feet (5,000') from the location of another pawnbroker or automobile pawnbroker.

b. *Measurement of Distance.* All distances in this Section shall be measured by following a straight line from the nearest point of the property line of the proposed pawnbroker or automobile pawnbroker use to the nearest point of the property line of any existing pawnbroker or automobile pawnbroker.

Measurements based on one inch (1") to one hundred feet (100') Arapahoe County Assessor maps shall be deemed acceptable for this purpose.

c. *Existing Pawnbrokers and Automobile Pawnbrokers.* Existing pawnbrokers or auto pawnbrokers licensed and operating on the effective date of this Section shall be granted nonconforming use status and are subject to the nonconforming use regulations of this Title.

d. *Hours of Pawnbrokers.* Pawnbrokers may operate only during the following hours and on the following days:

(1) Eight o'clock (8:00) A.M. to ten o'clock (10:00) P.M., Monday through Saturday.

e. *Sale and Display of Weapons.* If a pawnbroker sells and displays weapons, all use-specific standards shall comply with all applicable requirements of the Englewood Municipal Code in addition to the following:

(1) It shall be unlawful for any pawnbroker or secondhand dealer, or any other person engaged in the wholesale or retail sale, rental or exchange of any of the weapons hereinafter named to display or place on exhibition in any show window facing upon any street, any pistol, revolver or other firearm with barrel less than twelve inches (12") in length, or any brass or metal knuckles, or any club loaded with lead or other weights, or any blackjack or billyclub.

(2) Every pawnbroker, secondhand dealer, or other person engaged in the sale, rental or exchange of any weapons described in this Section shall keep a record of each such weapon purchased, sold, rented or exchanged at retail. Said record shall be made at the time of the transaction, in a book kept for that purpose, and shall include the name of the person to whom or from whom such weapon is purchased, sold or rented, or with whom exchanged; his age, physical description, occupation, residence and if residing in a city, the street and number where he resides; the make, caliber and finish of the firearm, together with the number or serial letter thereof if any; the date of the purchase, sale, rental or exchange of such weapon; and the name of the employee or other person making such a purchase, sale, rental or exchange. Said record shall be open upon request at all reasonable times to the inspection of any duly authorized police officer of the City.

(3) It shall be unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol, or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation or excitability or to any minor under the age of eighteen (18) years.

11. Temporary Employment Business. Temporary employment businesses, as defined by and which are required to be licensed under Title 5 EMC, shall comply with the following requirements in addition to the provisions of Section 16-2-12 EMC, "Conditional Use Permits."

a. *Distance Limitations.* No temporary employment business shall be located on a site unless such site is located a minimum of one thousand feet (1,000') from the boundary line of:

(1) Any residential zone district defined in this Title, including, but not limited to all "R" districts and the TSA district;

(2) Any establishment selling alcohol by the package or drink; or

(3) Any public assembly or gathering facility.

b. *Measurement of Distance.* With respect to the distancing requirements in this subsection between a business premises for which a temporary employment service is proposed and another use, the distance shall be measured by following a straight line from the nearest point of the property line of the business premises of the proposed temporary employment service to the nearest point of a residentially zoned district or the property line of the specific use listed.

Measurements based on one inch (1") to one hundred feet (100') Arapahoe County Assessor maps shall be deemed acceptable for this purpose.

12. Trade or Business School. Includes schools for training in occupational skills. Enrollment may be open to the public or limited, and such uses may not include dormitories for students and instructors. If dormitories are included, then a conditional use permit approval is required.

13. *Medical Marijuana.*

a. All medical marijuana uses shall comply with State regulations and City of Englewood Licensing requirements.

b. Facilities in MU-B-1, MU-B-2, and M-2 zone districts: Cultivation and infused product manufacturing uses are allowed only as accessory uses to a principal medical marijuana center provided the square footage of the total operation does not exceed five thousand (5,000) square feet.

c. Medical marijuana optional premises cultivation operations shall not exceed five thousand (5,000) square feet.

14. *Breweries, Distilleries, Wineries and Vintner's Restaurants.*

a. Within the M-2, MU-B-1 and MU-B-2 districts, these uses shall be permitted only in conjunction with a restaurant, tavern, retail sales or sales room located on the same premises as the manufacturing of the beverage.

b. Within the M-2, MU-B-1 and MU-B-2 districts, these uses shall not exceed ten thousand (10,000) square feet of gross floor area.

c. An on-premises sales room may be a part of the principal use as long as the floor area utilized for the sales room is less than or equal to thirty percent (30%) of the total floor area of the facility or one thousand square feet (1,000), whichever is greater, subject to State and Federal regulations.

d. These uses may include the sale of food for consumption on the premises, subject to State Liquor Code requirements.

e. These uses shall be designed and operated in such a manner so as not to create nuisance impacts on surrounding uses.

D. *Manufacturing/Industrial Uses.*

1. *Automobile Wrecking/Salvage Yard.* Any automobile wrecking or salvage yard approved under the provisions of this Title shall have a minimum area of one and one-half (1½) acres, and shall comply with the provisions of Chapter 10, Title 5 EMC, as amended, Section 16-6-7 EMC, "Landscaping and Screening," and any other applicable codes or ordinances. An automobile wrecking or salvage yard does not include auto shredding or crushing uses.

2. *Hazardous Waste Handling.* Hazardous waste handling, including but not limited to the storage, processing, collection, or warehousing of hazardous waste, shall meet all of the conditions listed below.

a. Hazardous waste operations shall conform to all applicable State and Federal requirements necessary for the operation of a hazardous waste facility.

b. Hazardous waste operations shall conform to all applicable City regulations.

c. Processing of hazardous waste shall be conducted entirely within an enclosed structure. Storage of hazardous waste shall be contained entirely within an enclosed structure or within an approved aboveground storage tank.

d. Hazardous waste operations shall be located a minimum of five hundred feet (500') from the boundary line of any residential zone district, residential use, or park.

3. *Industrial Service, Light (TSA District Only).* Light industrial service is subject to the following standards in addition to the review criteria in Section 6-2-12.E EMC:

a. The use is prohibited within the transit station subarea.

b. The use is contained completely in an enclosed building; no outdoor storage or activity is allowed.

c. The use does not produce any adverse noise, glare, odor, or vibration impacts that are discernable to a reasonable person beyond the property lines of the use.

d. The building housing the use shall be designed to be compatible in terms of scale, height, mass, and void-to-solid ratios with conventional commercial office design.

4. *Manufacturing, Light (TSA District Only).* Light manufacturing is subject to the following standards in addition to the review criteria in Section 16-2-12.E EMC:

a. The use is prohibited within the transit station subarea.

b. The use is contained completely in an enclosed building; no outdoor storage or activity is allowed.

c. The use does not produce any adverse noise, glare, odor, or vibration impacts that are discernable to a reasonable person beyond the property lines of the use.

d. The building housing the use shall be designed to be compatible in terms of scale, height, mass, and void-to-solid ratios with conventional commercial office design.

5. *Recycling Operation.*

a. *General Applicability.*

(1) The use includes, but is not limited to, the processing of batteries, construction waste, food waste, glass, metals and/or alloys, papers, plastics and tires. Recycling operation uses do not include automobile shredding or crushing.

(2) Buyback centers that do not process recycled materials and store their materials within an enclosed structure or a roll-off container, semi-trailer, or similarly self-contained apparatus shall be exempt from this subsection.

b. *Use Standards for Permitted By-Right ("P") Recycling Operations.* The processing of all materials shall occur within an enclosed structure. The storage of materials may occur outside of the structure provided said storage is in a roll-off container, semi-trailer, or similarly self-contained apparatus.

c. *Use Standards for Conditional Use ("C") Recycling Operations.*

(1) All recycling operations established after the effective date of these use regulations shall be located on one (1) or more contiguous parcel(s) with a total area of at least one (1) acre.

(2) The manufacturing and storage of all processed and unprocessed materials shall be enclosed with a solid, opaque vertical wall or fence with a maximum height of eight feet (8') on the parcel's frontage and twelve feet (12') on the parcel's side and rear boundaries. Fences of woven plastic, wire, or chain link shall be prohibited.

(3) The stockpiling of all processed and unprocessed materials shall not exceed the height of the screening wall or fence.

(4) No more than seventy-five percent (75%) of the parcel's total area may be utilized for the storage of processed or unprocessed materials.

6. *Storage Yard for Vehicles, Equipment, Material, and/or Supplies.* A storage yard for vehicles, equipment, material, and/or supplies shall comply with all of the following conditions:

a. The site shall not be surfaced with grass. The site shall comply with 11-3-5 EMC regarding storm drainage.

b. The site shall be maintained in good condition, free of weeds, dust, trash, and debris.

c. The site shall be screened by a solid fence.

d. No materials or supplies shall be stored above the level of the screening fence.

E. *Neighborhood Preservation Overlay Uses.*

1. *Prohibited Uses.* The following uses are prohibited:

a. Hospital.

b. Clinic.

c. Laboratory.

d. Office, type 1, (general).

e. Office, type 2, (limited).

f. Parking facility, structure, and principal use.

g. Parking area, surface, principal use.

h. Conversions as described in Section 16-6-1(C)(2)(b) EMC.

i. Multi-unit dwelling, except for two-unit dwellings.

2. *Prohibited Conditional Uses.* The following Conditional Uses are prohibited:

a. Group living facility, large/special.

b. Small treatment center.

c. Boarding or rooming house.

3. *Limitation on Number of Units for New Multi-unit Residential Developments.* A maximum of two (2) residential units per fifty feet (50') of lot frontage are allowed for new multi-unit residential developments replacing existing single and two unit structures.

4. Any multi-unit structure or Office Type 2 in existence at the time of the effective date of the ordinance creating this overlay district (insert date) shall be considered a legal conforming use. Should any such structures be destroyed or intentionally be demolished by more than sixty percent (60%) of its value, the structure shall be allowed to be reconstructed with up to a ten percent (10%) increase or the same number of units or less; or the same floor area for Office Type 2 in its previous location on the lot, regardless of whether or not the requirements of the underlying zone district are met, including but not limited to minimum lot area, maximum lot coverage, maximum height, minimum setbacks, parking and landscaping. Maximum lot coverage may be increased to eighty percent (80%).

5. All other non-conforming uses and/or structures are subject to the non-conforming regulations of the Unified Development Code.

(Ord. 04-5; Ord. 04-66; Ord. 05-25; Ord. 08-5, § 3; Ord. 08-37, § 4; Ord. 08-55, § 2; Ord. 08-48, §§ 12, 13; Ord. 09-28, § 5; Ord. 11-27, § 2; Ord. 1-11/12, §§ 8, 9; Ord. 23-12, § 5; Ord. 26-12, § 4; Ord. 47-12, § 11; Ord. 8-13, § 7; Ord. 45-13, § 2; Ord. 29-14, § 4)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

16-5-3: Adaptive Reuse of Designated Historical Buildings.

In order to help ensure the preservation, maintenance, and continued economic value of any historical buildings so designated by an agency of the State or Federal government, any vacated historic building, school, church, or public building that cannot feasibly be used for a permitted use in the zone district in

which such building is located, may be eligible for reuse subject to the review and approval by the Commission and Council. The approval of the reuse of the historic building, vacated school, church, or public building shall be subject to the following conditions:

A. The property cannot feasibly be used for a use permitted in the zone district in which the property is located.

B. No exterior alteration, remodeling, or architectural change will be allowed; this does not limit any necessary restoration or repair work.

C. Alterations will be limited to interior changes necessary to accommodate the adaptive reuse of the building or to comply with the applicable City codes.

D. The reuse of the building shall be limited to such use approved by the Commission and Council following a public hearing.

E. The application shall include: the location of the property, the zone classification in which it is located, the previous use of the property, the proposed use of the property, and a statement demonstrating that the proposed reuse will not adversely affect the neighborhood by reason of excess traffic, hours of operation of the use, or any external effects created, such as noise or lights, that would unreasonably disturb adjacent residents. The application shall include a Site Improvement Plan, an off-street parking plan, a drainage plan, and a landscaping plan for the site.

(Ord. 04-5; Ord. 1-11/12, § 10; Ord. 29-14, § 4)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

16-5-4: Accessory Uses.

A. *General Provisions.*

1. *Purpose.* This Section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The City's intent in adopting this Section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the performance criteria set forth in this Section in order to reduce potentially adverse impacts on surrounding properties.

2. *Approval of Accessory Uses.* A permitted accessory use may be approved in conjunction with approval of the principal use.

3. *Compliance with Code Requirements.* All accessory uses, shall be subject to the general, dimensional, operational, and use-specific regulations set forth in this Section. In the case of any conflict between the accessory uses and standards of this Section and any other requirement of this Title, the standards of this Section shall control.

4. *General Conditions.* All accessory uses shall comply with the following general conditions:

   a. Be clearly incidental and customarily found in connection with the principal use; and

   b. Be conducted and/or located on the same lot as the principal use; and

   c. Be operated and maintained under the same ownership, or by lessees or concessionaires thereof, and on the same lot as the permitted principal use.

5. *Accessory Structures.* For regulations applicable to accessory structures, see Sections 16-6-1.H and 16-6-1.I EMC.

B. *General Development and Operational Standards.* The following general standards shall apply to all accessory uses in all zoning districts, unless otherwise specified in this Title:

1. *Time of Establishment.* No accessory use shall be established or allowed on the subject parcel until all required permits and approvals for the principal use or activity have been obtained.

2. *Temporary Accessory Uses.* Temporary accessory uses shall be governed by the standards and Temporary Use Permit procedures set forth in Sections 16-2-14 and 16-5-5 EMC.

C. *Accessory Uses Permitted.* Table 16-5-1.1 includes accessory uses and shows in which zoning district a specific accessory use is permitted. If an accessory use is not listed in Table 16-5-1.1, but satisfies all the general standards set forth in subsection 16-5-4.B EMC, the City Manager or designee may allow its establishment according to the procedures and criteria in Section 16-5-1.B EMC, "Unlisted Uses." In addition, all unlisted accessory uses shall be subject to compliance with the general, dimensional, and operational standards set forth in this Section 16-5-4 EMC.

1. *Home Occupation.* Occupations which are secondary to the principal use as a residence may be allowed when conducted in the same dwelling, provided the following standards are met:

   a. *Districts Allowed.* Home occupations are allowed in the following districts: R-1-A, R-1-B, R-1-C, R-2-A, and R-2-B, MU-R-3-A, MU-R-3-B, MU-R-3-C, M-1, M-2, MO-2, and TSA. Home occupations may be permitted accessory to principal residential uses located in nonresidential districts (e.g., in a manufactured home park located in an industrial district, in a PUD that allows residential uses, or in any residential dwelling unit otherwise approved by the City) provided the home occupations comply with all requirements of residential district home occupations herein.

      (1) *Additional Restrictions in the R-1-A District:*

         (a) Within the R-1-A District, the following additional restrictions shall apply to Home Occupations:

            (i) Commercial delivery services shall only be allowed between the hours of 7:00 a.m. and 9:00 p.m.

            (ii) Only one (1) customer shall be allowed to visit at a time.

            (iii) No exterior signage shall be allowed in the R-1-A District.

   b. *Where Allowed on Site.* The home occupation shall be operated entirely within the dwelling unit and only by the person or persons maintaining a dwelling unit therein. The home occupation shall not have a separate outside entrance. The home occupation shall not be conducted in a detached accessory structure. A detached accessory structure may be used for incidental storage.

   c. *Sales.*

      (1) *On the Premises.* The sale on the premises of items that have been made, grown, or prepared on the premises shall be permitted. The sale on the premises of any item that has not been made, grown, or prepared on the premises shall be prohibited.

      (2) *Off the Premises.* Sales off the premises of such items as personal or household goods such as those products offered by Avon, Amway, Fuller Brush, Watkins, etc., shall be permitted.

   d. *Operational Requirements.*

      (1) No more than one (1) assistant or employee that is not a resident of the principal dwelling unit shall work at the residence/dwelling unit.

(2) The hours and manner of such uses and the impacts created thereby shall not interfere with the peace, quiet, or dignity of the neighborhood and adjoining properties which creates a nuisance under Title 15 of this Code.

(3) Incidental storage shall be allowed for items made on the premises and/or sold off the premises consistent with this Section. All storage shall be indoors, including all materials, equipment, inventory and supplies.

(4) The home occupation, including storage of materials, equipment, inventory, and/or supplies, shall not utilize more than fifty percent (50%) of indoor space of the dwelling unit; provided, however, that this does not apply to permitted home care accessory uses.

(5) Only one (1) exterior sign, up to a maximum of one (1) square foot in area, shall be allowed. The sign shall be affixed to the building, and shall be unlighted and unanimated. A Sign Permit shall be required.

(6) No window displays shall be allowed and no sample commodities shall be displayed outside the dwelling.

e. *Prohibited Uses.* In no event shall any home occupation include the following business or commercial activities (except for the administrative or clerical functions related to these businesses, such as bookkeeping, marketing, and customer phone calls):

(1) Animal hospital or kennel, animal daycare, breeders, except licensed canine and feline breeders.

(2) Asphalt paving business.

(3) Barbers, hairdressers, cosmetologists, beauticians or any activity involving the skin, hair or nails.

(4) Body, mechanical repair, or modification of motor vehicles.

(5) The sale, storage, manufacture, or assembly of guns, knives or other weapons or ammunition.

(6) Dump trucks.

(7) Restaurants.

(8) Towing business.

(9) Processes involving the dispensing, use, or recycling of hazardous or flammable substances and materials.

(10) Automotive vehicles sales requiring a state dealer's license.

(11) Medical Marijuana Centers.

(12) Medical Marijuana-Infused Products Manufacturers.

(13) Medical Marijuana Optional Premises Cultivation Operation.

(14) Manufacture of wine, distilled spirits, or malt beverages.

(15) Landscaping supplies, installation, maintenance or repair.

2. *Parking Area.*

a. *Parking Area, (R-2-B District Only).* When an R-2-B district abuts or is adjacent to a MU-B-2 district, the parking area must be screened from the residential portion of the lot by a six foot (6') opaque fence. Side yard fences must also be provided to screen adjacent

property. These fences shall also be six feet (6') in height except that, within ten feet (10') of the rear property line, the fences cannot exceed thirty inches (30") in height or be less than fifty percent (50%) open.

(1) The parking area shall not have a grass surface.

(2) Parking stops or other devices allowing snowfall maintenance must be placed in the parking area to prevent damage to the fence by vehicles.

(3) Provisions must be made for the collection of trash as per City ordinance.

(4) The minimum width of the parking area shall be fifty feet (50').

b. *Parking Area, Surface (TSA District Only).* Surface parking areas, noncommercial and accessory to a principal use, are allowed subject to the following additional conditions:

(1) *General.* Such surface parking area shall be maintained as long as the principal permitted use is maintained, or until alternative parking is provided for such principal use.

(2) *Location.*

(a) An accessory surface parking area may be located within six hundred feet (600') of the lot containing the principal use, either within the TSA district or within a zone district that permits noncommercial parking lots, subject to a City-approved alternative parking plan and pursuant to the Station Area Standards and Guidelines, as applicable.

c. *Remote Parking Areas.* Pursuant to Section 16-6-4 EMC, required parking may be provided as an accessory use within four hundred feet (400') of the principal use, either within the same district or within a district that permits noncommercial parking lots. Such parking lots must be maintained as long as the principal permitted use is maintained, or alternate parking provided. Approval of an alternative parking plan is required (administrative process), pursuant to Section 16-6-4.D EMC. Such lots shall be paved, shall require a building permit, and shall be subject to the landscaping requirements of Section 16-6-7.M EMC.

3. *Satellite Dish Antenna.*

a. *Small Satellite Dish Antennas.* Satellite dish antennas of one (1) meter or less in diameter are permitted accessory uses in all residential and nonresidential zoning districts. Such dishes shall not be located within the public right-of-way.

b. *Large Satellite Dish Antennas.*

(1) Satellite dish antennas measuring one (1) meter or more are permitted accessory uses in all zoning districts. Any roof-mounted dishes shall submit an engineer's certificate to the City. Such dishes shall not be located within the public right-of-way.

(2) As applied only to large satellite dish antennas accessory to a principal residential use, to the maximum extent feasible, but only where there is no substantial impairment to acceptable signal quality, such antennas shall:

(a) Be located in the rear yard of the residential use; and

(b) Be screened from view from adjacent public rights-of-way; and

(c) Be of a color harmonious with their surroundings. There shall be no advertising in words or pictures, other than the manufacturer's name in small letters.

4. *Service Unit or Facility.* Service units or facilities shall be allowed as accessory uses in the MU-R-3-B district. Such uses include, but are not limited to, barber or beauty shops, gift shops,

coffee shops, and dining facilities for the convenience of the tenants. Such uses shall comply with underlying zone district requirements, including the dimensional requirements set forth in Section 16-6-1 EMC.

5. *Swimming Pool.* Swimming pools are allowed as accessory uses in all districts. See Title 8 EMC.

6. *Wholesale Sales and Distribution.* Wholesale sales and distribution shall be allowed as an accessory use in MU-B-1 and MU-B-2 districts, provided the principal use maintains an active retail license and is open to the public for retail trade.

D. *Prohibited Accessory Uses.*

1. *Prohibited in All Zoning Districts.* The following activities shall not be regarded as accessory to a principal use on any site and are prohibited in all zoning districts:

   a. *Use of Travel Trailer or Recreational Vehicle (RV) as a Residence.* The use of a travel trailer as a residence, permanent or temporary, with the exception of a trailer approved as a temporary use for security under Section 16-5-5 EMC, shall be prohibited in all zoning districts.

   b. *Use of Motor Vehicle or Trailer for Sales, Service, Storage, or Other Business.* The use of any motor vehicle, trailer, mini-mobile storage container, or shipping container as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted, shall be prohibited in all zoning districts. However, this subsection shall not prohibit the following:

      (1) The sale of goods or merchandise at a City-approved or sponsored event; or

      (2) Use of a motor vehicle, trailer, or shipping or storage container in connection with an approved recycling operation; or

      (3) Use of a trailer or shipping or storage container in conjunction with construction authorized by a valid building permit; or

      (4) Use of a trailer, shipping, or storage container for the temporary loading and unloading of goods, provided that no individual trailer or container is in place longer than forty-eight (48) hours.

2. *Prohibited in Residential Zoning Districts.* The following activities shall not be regarded as accessory to a residential principal use and are prohibited in all residential (R) districts:

   a. *Automotive Repair.* Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one time owned by a person not residing at that address, regardless of whether compensation was paid for the service.

   b. *Outdoor Storage of Inoperative Vehicles.* The outdoor storage of inoperable vehicles shall comply with Title 15 EMC.

   c. *Parking of Commercial Vehicles.*

      (1) No commercial vehicle shall be stored on public property or in the public right-of-way.

(Ord. 04-5; Ord. 08-48, § 14; Ord. 11-27, § 4; Ord. 1-11/12, §§ 11, 12; Ord. 13-13/14, §§ 1—3)

Editor's note—Parking on private property issues were passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

16-5-5: Temporary Uses and Structures.

A. *Purpose.* This Section allows for the establishment of certain temporary uses of limited duration, provided that such uses are discontinued upon the expiration of a set time period.

B. *Temporary Use Permits.* All uses and structures identified as temporary uses in Table 16-5-1.1, "Table of Allowed Uses" shall be required to obtain a Temporary Use Permit pursuant to the procedures set forth in Section 16-2-14 EMC. Temporary Use Permits shall not apply to residential garage/yard sales (See Title 5 EMC).

C. *Summary Table of Allowed Temporary Uses or Structures.* Table 16-5-5.1 summarizes the temporary uses and structures that are allowed within the City and any general use or specific regulations that apply. Temporary uses or structures not listed in Table 16-5-5.1 are not allowed under this Title.

TABLE 16-5-5.1: SUMMARY OF ALLOWED TEMPORARY USES AND STRUCTURES

Temporary Use or Structure	Temporary Use Permit Required (See Section 16-2-14)	General Regulations Apply (See Section 16-5-5.D)	Maximum Allowable Time Frame	Specific Regulations
Car wash (e.g., fundraiser)	Yes	Yes	3 days	
Expansion or replacement of existing facilities	Yes	Yes	12 months	Section 16-5-5.E.1
Farmers market	Yes	Yes	Per Section 16-5-5.E.2	Section 16-5-5.E.2
Food vendor carts	Yes	Yes, as applicable	90 days	Section 16-5-5.E.8
Mobile storage/containers	Yes	Yes	Per Section 16-5-5.E.3	Section 16-5-5.E.3
Real estate sales or leasing office or model home	Yes	Yes	12 months	Section 16-5-5.E.4
Outdoor sales (e.g., tent or parking lot sales, Christmas tree lot, plant/garden, hail/windshield repair, sales from retail vendor carts, or similar uses)	Yes	Yes	30 days	Section 16-5-5.E.5
Special event (e.g., carnival/circus, fair, bazaar)	Yes	Yes	30 days per calendar year	Section 16-5-5.E.6
Temporary wireless facilities	Yes	Yes	6 months	Section 16-5-5.E.7
Tent, canopy	Yes	Yes	30 days	
Temporary use not falling into above categories and occurring wholly within an enclosed building	Yes	Yes	Based on City Manager or designee review	Based on City Manager or designee review — See Section 16-5-1.B for procedures

D. *General Requirements for All Temporary Uses and Structures.* All temporary uses and structures shall meet the following general requirements:

1. A Site Improvement Plan containing sufficient information to show compliance with standards and requirements of this Section shall be submitted to and approved by the City prior to installation of the temporary use or structure.
2. No more than two (2) Temporary Use Permits shall be issued for the same site or address within a twelve-month period.
3. The temporary use shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
4. The temporary use shall not have substantial adverse or noise impacts on nearby residential neighborhoods.
5. Permanent alterations to the site are prohibited.

6. All signs associated with the temporary use shall comply with sign regulations of this Title and shall be removed when the Temporary Use Permit expires.

7. No banners, balloons, or inflatable devices shall be permitted.

8. The temporary use shall not violate any applicable conditions of approval that apply to the principal use on the site.

9. If the property is undeveloped, it contains sufficient land area to allow the temporary use to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers.

10. If the property is developed, it contains an area that is not actively used that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability.

11. Tents, canopies, and other temporary structures will be located so as to not interfere with the normal operations of any permanent use located on the property.

12. The use shall not negatively affect the availability of parking and shall demonstrate adequate parking to accommodate the proposed temporary use for the duration of the permit.

13. All permits required by applicable building, electrical, fire, plumbing, and mechanical codes shall be obtained from the City prior to operation of the temporary use.

14. All applicable licenses required for the operation of the temporary use shall be obtained from the City prior to operation of the temporary use.

15. Temporary uses or structures shall not be located within existing vegetated buffers, designated setbacks, required parking areas, public rights-of-way, designated easements, or any areas that interfere with sight triangle, unless allowed by Section 16-5-5.E EMC, for the particular temporary use or structure.

16. In approving or extending a Temporary Use Permit, the City Manager or designee may impose other requirements as deemed necessary to avoid adverse impacts that the temporary use may have on adjacent properties or the community as a whole.

17. The duration period for a temporary use shall include set-up, clean-up, dismantling, and removal of the temporary use.

E. *Specific Regulations for Certain Temporary Uses and Structures.*

1. Expansion or Replacement of Existing Facilities.

   a. *Applicability.* Temporary use of factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy, except for minor unpacking, anchoring, and connection to utilities, and designed for removal to and installation at other sites, may be placed on a property to serve as the following:

      (1) Expansion space for existing permitted principal uses provided that the City has issued a building permit for the permanent expansion of the existing facility;

      (2) Temporary offices for construction and security personnel during the construction of a development for which the City has issued a building permit;

      (3) Temporary quarters for a nonresidential use when the permanent building has been destroyed by a fire or other physical catastrophe, provided that a building permit for the permanent facility is obtained within ninety (90) days after approval of the temporary building. The City Manager or designee may approve a written request for

an extension of an additional ninety (90) days for good cause shown. Failure to obtain a building permit within the time frame allowed will revoke approval for the temporary building; or

(4) One (1) temporary office per site to include, but not be limited to, the following uses: hiring, membership solicitation, and other general office uses. The number of temporary buildings shall be limited to one, in addition to those already allowed by this Section. Such temporary buildings shall not be placed on the property prior to the issuance of a building permit for a permanent facility.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all temporary buildings approved pursuant to this subsection shall meet the following standards and requirements:

(1) The temporary structure shall be factory-fabricated and transportable and meet all applicable building code requirements.

(2) Underskirting shall be installed around all temporary structures.

(3) For those temporary structures requiring Site Improvement Plan approval, the temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.

(4) Parking spaces shall be provided on the lot in a number sufficient to meet the requirements set forth for the use in Section 16-6-4.F EMC.

c. *Duration.* Temporary structures under this Section may remain on the site until a certificate of occupancy has been issued, but not more than twelve (12) months. This period may be extended for one (1) twelve-month period, for good cause shown, upon approval of a written request, submitted to the City Manager or designee thirty (30) days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than two (2) years.

2. Farmers Market.

a. *Applicability.* Temporary use for a farmers market that provides seasonal offering for sale of fresh agricultural produce, fruits, flowers, food and beverages, and arts and craft items (but not including second-hand goods) directly to the consumer at an open-air market.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all temporary farmers markets approved pursuant to this Section shall meet the following standards and requirements:

(1) Goods may be sold or displayed from a motor vehicle or trailer.

(2) Sale of alcoholic beverages is prohibited.

(3) Hours of operation shall be limited to six-thirty o'clock (6:30) a.m. to nine o'clock (9:00) p.m. including set-up and cleanup.

c. *Duration.* Farmers markets may operate two (2) days per week per site during the period from May 1 to October 31. The City Manager or designee may consider extensions based on seasonal conditions.

3. Mobile Storage/Containers.

a. *Applicability.* Temporary use for mobile storage containers (e.g., sealed, contained mini-mobile storage) for the purpose of temporary storage of goods and materials. Temporary use for mobile storage containers shall not apply to roll-off trash collection containers.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all mobile storage/containers approved pursuant to this Section shall meet the following standards and requirements:

(1) The storage container may not be located in required parking areas or spaces.

c. *Duration.*

(1) Mobile storage/containers in conjunction with an approved building permit for a permitted permanent structure (e.g., remodel of structure requires temporary storage of contents): may be placed on site for a period of up to ninety (90) days. This period may be extended for one (1) sixty-day period, upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

(2) Mobile storage/containers (e.g., estate settlement, Municipal Code enforcement) may be placed on site for a period of up to thirty (30) days. This period may be extended for one (1) thirty-day period, upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

4. Real Estate Sales or Leasing Office or Model Home.

a. *Applicability.* Temporary use for real estate sales or leasing office or model sales home incidental to a new residential or nonresidential development.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all temporary real estate sales or leasing offices or model sales homes approved pursuant to this Section shall meet the following standards and requirements:

(1) The temporary use is located on a permitted lot or within a multi-unit development that was approved by the City as part of a residential development, or within an approved nonresidential development.

(2) The temporary use is aesthetically compatible with the character of the community and the surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.

(3) Underskirting shall be installed around all temporary structures.

(4) Parking spaces shall be provided in a number sufficient to meet the requirements set forth for offices in Section 16-6-4.F EMC.

(5) Upon termination of the temporary real estate sales or leasing office or model sales home, the structure shall be removed, or converted into or replaced with a permanent residential use.

c. *Duration.* Temporary real estate sales or leasing offices and model sales homes may be approved for a period of up to twelve (12) months. This period may be extended for additional twelve-month periods, for good cause shown, upon approval of a written request, submitted to the City Manager or designee thirty (30) days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than three (3) years.

5. Outdoor Sales.

a. *Applicability.* Temporary use for the outdoor sale of goods. This Section shall apply to tent and parking lot sales, seasonal sales such as Christmas tree lots, plant and garden centers, hail damage repair, and similar seasonal/occasional uses. This Section shall not apply to residential garage or yard sales, public sidewalk sales approved by the City, or farmers markets.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all temporary sales of goods approved pursuant to this Section shall meet the following standards and requirements:

(1) Outdoor sale of goods shall be permitted only in business and industrial districts.

(2) The site contains an area that is not actively used that would support the proposed temporary sale of goods without encroaching into or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability.

(3) No display and/or sale of goods, products, and/or services may occur within one hundred feet (100') of a residential district.

(4) Off-street parking shall be adequate to accommodate the proposed sale of goods.

(5) The hours of operation of the temporary sale of goods shall be from no earlier than seven-thirty o'clock (7:30) A.M. to no later than ten o'clock (10:00) P.M., or the same as the hours of operation of the principal use, whichever is more restrictive.

c. *Duration.*

(1) Christmas Tree Lots: may be allowed to operate only from November 15 to January 4, including set-up and tear-down. No extensions shall be permitted.

(2) Plant and Garden Centers: Ninety (90) days. This period may be extended for one (1) thirty-day period, upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

(3) All Other Temporary Sales and Service Uses: As determined by the City Manager or designee based on community need. In no event, however, shall such uses be permitted for more than sixty (60) days and no extensions shall be permitted.

6. Special Event.

a. *Applicability.* Temporary use for special events including, but not be limited to the following: circus, carnival, bazaar, fair, or any other temporary activity not identified in this Section.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, the City Manager or designee shall, on a case-by-case basis, determine standards and requirements for special event.

c. *Duration.* A special event may be approved for a period of up to thirty (30) days at the discretion of the City Manager or designee. This period may be extended for one (1) thirty-day period, for good cause shown, upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

7. Temporary Wireless Facilities.

a. *Applicability.* Temporary use for telecommunications facilities (commonly referred to as "cell-on-wheels") intended to operate on the same property where approval of a permanent telecommunications facility is pending, or is approved but not yet erected. Temporary telecommunications facilities typically consist of telecommunication equipment supported on a pole that is attached to a mobile trailer.

b. *Standards and Requirements for Approval.* A Temporary Use Permit may be approved for a temporary telecommunications facility, subject to the facility's compliance with the following standards:

(1) An application to install a permanent telecommunication facility shall be pending at the time the Temporary Use Permit application for the same property is submitted.

(2) If the application for a permanent telecommunication facility is withdrawn or denied, the approval of the temporary telecommunications facility shall be automatically void and the temporary use shall immediately cease operations. The applicant shall remove the temporary telecommunications facility from the subject property within ten (10) days of the aforesaid application's withdrawal or denial.

(3) Temporary telecommunications structures shall comply with all applicable building and zoning regulations, including but not limited to Chapters 16-5 EMC (Use Regulations), Section 16-6-1 EMC (Dimensional Requirements), and Chapter 16-7 EMC (Telecommunication Facilities Standards).

c. *Duration.* A Temporary Use Permit for a temporary telecommunications structure may be approved for a period of up to six (6) months at the discretion of the City Manager or designee. This period may be extended for one (1) six-month period, for good cause shown, upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

8. Food Vendor Carts.

a. *Applicability.* Temporary use for the sale of food products from a mobile vending cart.

b. *Standards and Requirements for Approval.* In addition to meeting the general standards listed above, all temporary sales of goods approved pursuant to this Section shall meet the following standards and requirements:

(1) Food vendor carts shall be permitted only in business and industrial districts.

(2) Food vendor carts shall be movable by one person and may not exceed six feet (6') in length, including a trailer hitch.

(3) Food vendor carts may display one (1) sign, not to exceed five (5) square feet in area.

(4) Food vendor carts shall not be located within one hundred feet (100') of a residential district.

(5) Food vendors shall be limited to one (1) cart per site and shall provide a plan for storage of the food vendor cart during non-operational hours.

(6) The hours of operation for food vendor carts shall be from no earlier than seven-thirty o'clock (7:30) A.M. to no later than ten o'clock (10:00) P.M., or the same as the hours of operation of the principal use of the site, whichever is more restrictive.

(7) The site contains an area that is not actively used that would support the proposed temporary sale of goods without encroaching into, or creating a negative impact on, existing buffers, open space, landscaping, traffic movements, or parking space availability.

c. *Duration.*

(1) Food vendor carts may operate for ninety (90) days. This period may be extended for an additional ninety-day period upon approval of a written request, submitted to the City Manager or designee fifteen (15) days prior to the expiration of the permit. The permit may be extended only upon a finding that there will be no substantial adverse impact on surrounding property, public facilities and services, or the community at-large.

(Ord. 04-5; Ord. 05-25; Ord. 08-48, § 15; Ord. 29-14, § 4)

Chapter 6

DEVELOPMENT STANDARDS

16-6-1:	Dimensional Requirements.
16-6-2:	Development on Land Designated as and/or Adjacent to Landfill Sites.
16-6-3:	Streets and Vehicle Access and Circulation.
16-6-4:	Off-Street Parking and Loading Requirements.
16-6-5:	Pedestrian and Bicycle Access and Connectivity.
16-6-6:	Fences and Retaining Walls.
16-6-7:	Landscaping and Screening.
16-6-8:	Storm Water Drainage and Erosion/Siltation Control.
16-6-9:	Underground Utilities
16-6-10:	Design Standards and Guidelines.
16-6-11:	Historic Preservation.
16-6-12:	Operating Standards.
16-6-13:	Signs.
16-6-14:	Development Standards for the TSA District.

16-6-1: Dimensional Requirements.

A. *Rules of Measurement.*

1. Residential Density.

   a. *Net Density.* Net density shall be calculated by dividing the net acreage of a parcel by the minimum lot area required for each dwelling unit. Net acreage is equal to gross acreage, less land area devoted to public rights-of-way.

   b. *Gross Density.* Gross density shall be calculated by dividing the gross acreage of a parcel by the minimum lot area required for each dwelling unit.

   c. *Rounding.* When applying a density standard to a parcel's land area, all resulting fractions shall be rounded down to the next lower whole number.

   d. *Maximum Density Not Guaranteed.* The number of dwelling units allowed on a site is based on the presumption that all other applicable site development standards shall be met. The maximum density established for a zone district in this Chapter is not a guarantee that such densities may be obtained, nor a valid justification for varying other dimensional or development standards.

2. Lot Area. Lot area is measured as the amount of gross land area contained within a horizontal plane bounded by the front, side, and rear lot lines (but not including streets or rights-of-way).

3. Lot Coverage.

   a. *General Rule.* Lot coverage is the percentage of total lot area which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves. It is calculated by dividing the square footage of structure cover by the square footage of the lot. Unless specifically exempted by subsection (B) below, the term "structure" includes private walkways, driveways, and other paved surface areas used or intended for parking vehicles (e.g., parking pads). See Figure 16-6(1).

   b. *Exemptions from the calculation of lot coverage.*

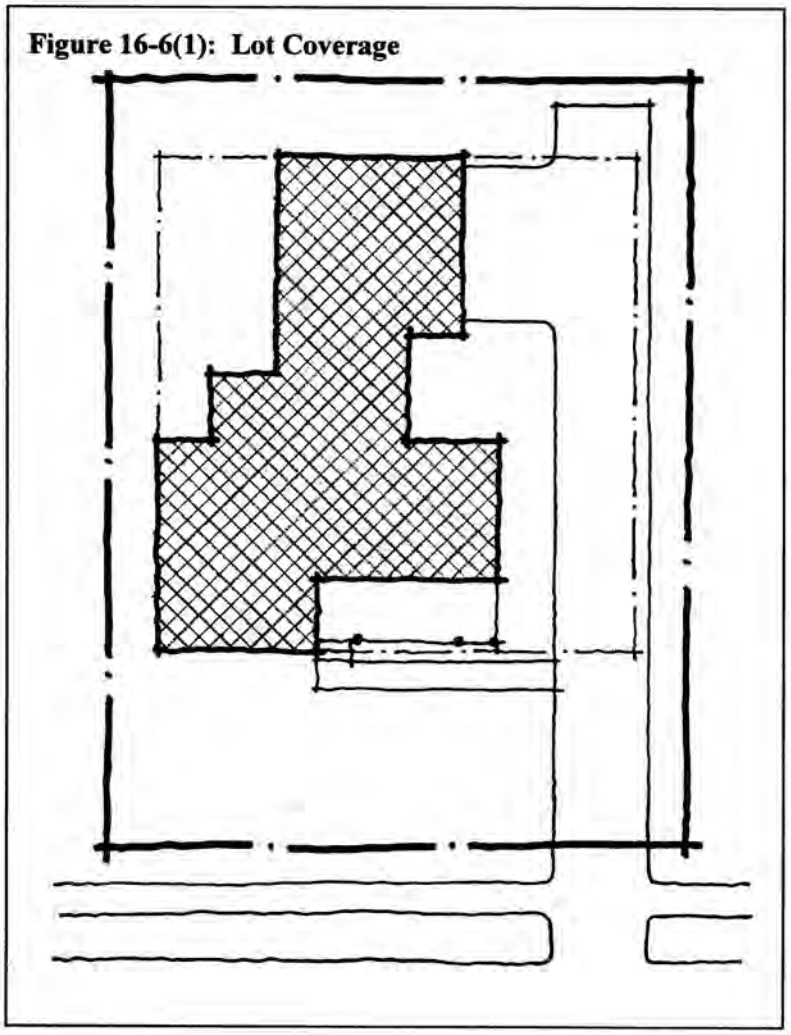
      (1) Driveways, or portions thereof, twelve feet (12') or less in width;

      (2) Private walkways, or portions thereof, five feet (5') or less in width;

      (3) Areas covered by swimming pools, hot tubs, and ornamental ponds;

(4) Open (uncovered) decks or patios less than thirty inches (30") above grade; or

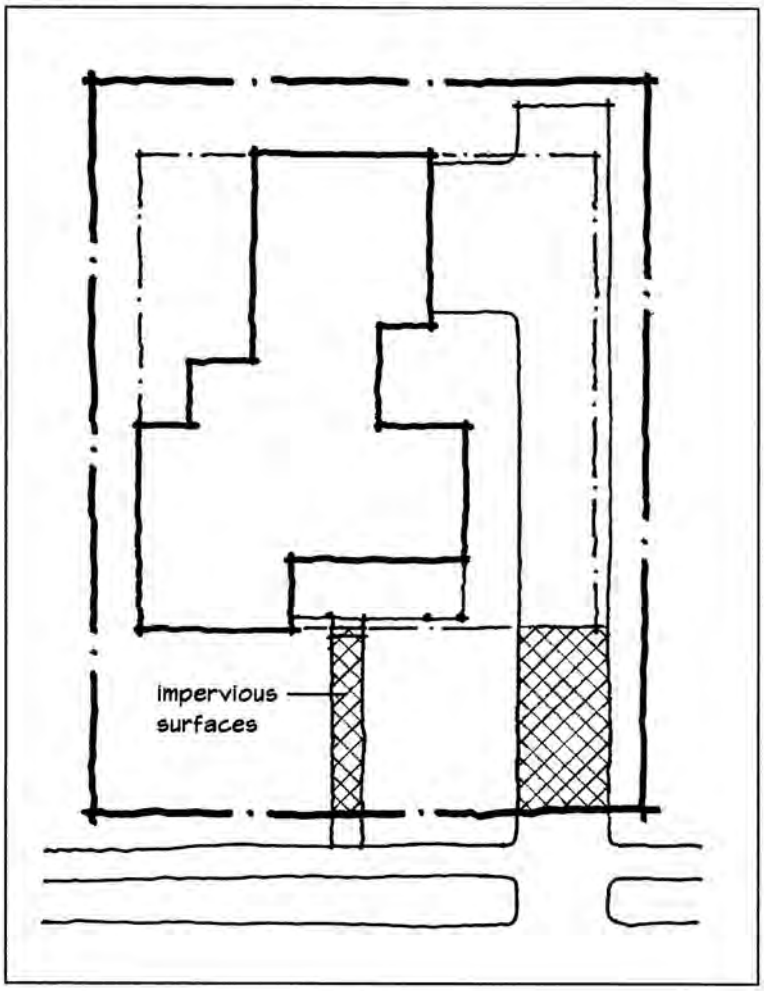
(5) Covered, unenclosed porches.



Commentary to Figure 16-6(1) Lot Coverage [above]: The cross-hatching shown represents total lot coverage, including portions of the lot covered by the principal dwelling and an attached garage, but not including the paved driveway (when the driveway width is twelve feet (12') or less) and not including an unenclosed front porch or narrow front walkway.

4. Front Lot Coverage. Front lot coverage is the portion of the front setback or front yard area, whichever is larger, of a residential lot covered by (a) an impervious material, including but not limited to driveways, sidewalks and parking pads, and/or (b) any structure or portion thereof permitted to encroach into the front setback area. Front lot coverage is expressed as a percentage.

Figure 16-6(2): Front Lot Coverage



Commentary to Figure 16-6(2) Front Lot Coverage [above]: The cross-hatching shown in this figure illustrates those parts of this home's front setback area that are covered by impervious materials or surfaces—in this case, the portion of the paved driveway within the front setback area and the front walkway between the sidewalk and the home's front porch. The total area covered by those impervious materials or surfaces, divided by the entire area of the front setback, equals the total front lot coverage.

5. Lot Width. Lot width refers to the horizontal distance parallel to the front lot line measured between side lot lines at the front setback line, or if no setback line is established, the distance between the side lot lines measured along the street line.

6. Setbacks. Setbacks are measured along a line at right angles from the lot line to a point equivalent to the minimum setback. Setbacks shall be unobstructed from the ground to the sky except for the projections specifically allowed in Section 16-6-1.F EMC.

7. Floor Area Ratio (FAR). FAR is measured as the total floor area on a lot divided by the land area of that lot. "Total floor area" includes the total floor areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding:
   a. Garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade;
   b. Basement and cellar areas devoted exclusively to uses accessory to the operation of the structure; and
   c. Areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, and electrical equipment.
8. Building or Structure Height. Building or structure height is the vertical distance of a building or structure, as measured from the average elevation of the finished grade at the corners of the building or structure base, to the highest point of the building or structure. When referring to a tower or other similar structure, height is measured from the average ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
9. Street Frontage. Street frontage is the horizontal distance between side lot lines along the front lot line abutting the street. On corner lots, street frontage is measured along both lot lines abutting streets.

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B. *Summary Table of Dimensional Requirements for Principal Uses and Structures.* All principal structures and uses shall be subject to the intensity and dimensional standards set forth in the following Table 16-6-1.1. These standards may be further limited by other applicable sections of this Title. Additional regulations for the residential districts, and special dimensional regulations related to lot area, setbacks, height, and floor area are set forth in the subsections immediately following the table. Rules of measurement are set forth in subsection 16-6-1.A EMC. Dimensional requirements for accessory structures are set forth in subsection 16-6-1.I EMC.

TABLE 16-6-1.1: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
R-1-A District								
One-Unit Dwelling	9,000	None	35	75	32	25	7	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
All Other Allowed Uses	24,000	None	35	200	32	25	25	25
R-1-B District								
One-Unit Dwelling	7,200	None	40	60	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
R-1-C District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,500 [4]	None	40	37	32	25	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
R-2-A District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	40	40	32	25	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
Multi-Unit Dwelling (Maximum 2 units)	3,000 per unit	None	40	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
R-2-B District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20

TABLE 16-6-1.1: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES								
	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
One-Unit Dwelling on a Small Lot [5]	4,000	None	40	40	32	25	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
MU-R-3-A District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	40	40	32	25	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	25	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	25
Private Off-Street Parking Lots	12,000	None	70	None	n/a	25	15	15
Office, Limited	15,000	1.5 (Excluding the gross floor area of parking structures)	50	None	32	25	15	25
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
MU-R-3-B District (See Additional Regulations Following the Table)								
One-Unit Dwelling	6,000	None	40	50	32	15	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	40	40	32	15	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	15	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	2-4 units: 3,000 per unit; Each additional unit over 4 units: 1,000 per unit [4]	None	75	None	2-4 units: 32 More than 4 units: 60	15	2-4 units: 5 More than 4 units: 15	25
Office, Limited	24,000	1.5 (Excluding the gross floor area of parking structures)	75	None	60	15	15 [3]	25
All Other Allowed Uses	24,000 [4]	None	75	None	60	15	15	25
MU-R-3-C District (See Additional Regulations Following the Table)								
One-Unit Dwelling	6,000	None	40	50	32	15	5	20

TABLE 16-6-1.1: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
One-Unit Dwelling on a Small Lot [5]	4,000	None	40	40	32	15	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	None	40	25 [7]	32	15	3	20
Multi-Unit Dwelling	6,000	None	75	None	40	15	5	20
Office, Limited	6,000	None	75	None	40	15	5	20
All Other Allowed Uses	24,000 [4]	None	75	None	40	15	5	20
M-1, M-2, M-O-2 Districts (See Table 16-6-1.1a)								
MU-B-1 District (See Additional Regulations Following the Table)								
Live/Work Dwelling	None	None	None	None	100	0 and no more than 5 feet	0	5
Multi-Unit Dwelling [4]	None	None	None	None	100	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	100	0 and no more than 5 feet	0	5
MU-B-2 District (See Additional Regulations Following the Table)								
Multi-Unit Dwelling [4]	None	None	None	None	60	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	60	0 and no more than 5 feet	0	5
TSA District								
Please refer to Section 16-6-14 EMC, of this Chapter and the applicable Station Area Design Standards and Guidelines for intensity and dimensional standards.								
I-1 AND I-2								
All Allowed Uses Except Manufactured Home Parks	None	2:1	None	None	None	Where a building abuts upon, adjoins, or is adjacent to a residential zone district, minimum setbacks of 10 ft on all sides are required, except as required in Section 16-6-7.G, "Screening Requirements."		
Manufactured Home Parks	See Section 16-5-2.A.3, above.							

Notes to Table:

[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.

[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this Table, shall apply to such dwellings that existed on the Effective Date of this Title. However, principal residential dwellings existing on the Effective Date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this Table, shall not be considered nonconforming structures due solely to the dwelling's noncompliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See Section 16-9-3 (Nonconforming Structures), below.

[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').

[4] See Section 16-6-1.C for additional dimensional standards appropriate to the zone district.

[5] Small lot of record on or before February 23, 2004.

[6] Urban lot of record that contained or contains a one-unit dwelling that existed on or before the Effective Date of this Title (February 23, 2004). Vacant Urban Lots follow same process as Nonconforming Lots, see Section 16-9-4.

[7] For Urban Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width follow same process as Nonconforming Lots, see Section 16-9-4.

TABLE 16-6-1.1a: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES LOCATED WITHIN MEDICAL ZONE DISTRICTS AND OVERLAYS

	Min Lot Area (sq ft)	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Max Retail Gross Floor Area (sq ft)	Minimum Setbacks (ft)						
						Front	Front Upper Story Setback Above 60 Feet	Side: Adjacent Street [1] & [2]	Side: Adjacent Alley [1] & [2]	Side: Adjacent Side [1] & [2] (Lots fronting Hampden, Jefferson or the 3500 blocks of Logan and Clarkson)	Side: Adjacent Side [1] & [2] (Lots fronting all other streets)	Rear
M-1 and M-2 Districts and M-O-2 Overlays (See Additional Regulations Following the Table)												
Live/Work Dwelling	6,000 [4]	None	None	32	10,000 [4]	0 and no more than 10	NA	0 and no more than 10	5	0	5	5 [4]
One-Unit Dwelling	6,000	40	50	32	NA	15	NA	5	5	5	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	40	40	32	NA	15	NA	3	3	3	3	20
One-Unit Dwelling on an Urban Lot [6]	3,000 [7]	40	25 [7]	32	NA	15	NA	3	3	3	3	20
All Other Allowed Uses	6,000 [4]	None	None	Height Zone 1:145 Height Zone 2:60 Height Zone 3:32 [4]	10,000 [4]	0 and no more than 10	20 [4]	0 and no more than 10	5	0	5	5 [4]

Notes to Table:

[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.

[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this table, shall apply to such dwellings that existed on the effective date of this Title. However, principal residential dwellings existing on the effective date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this table, shall not be considered non-conforming structures due solely to the dwelling's non-compliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See section 16-9-3 (Non-Conforming Structures), below.

[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').

[4] See section 16-6-1.C for additional dimensional standards appropriate to the zone district.

[5] Small lot of record on or before February 23, 2004.

[6] Urban lot of record that contained or contains a one-unit dwelling that existed on or before the Effective Date of this Title (February 23, 2004). Vacant Urban Lots follow same process as Nonconforming Lots, see Section 16-9-4.

[7] For Urban Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width follow same process as Nonconforming Lots, see Section 16-9-4.

C. *Additional Dimensional and Development Standards.*

1. *Multi-Unit Development Standards in R-2-A, R-2-B, MU-R-3-A and MU-R-3-B Districts.*

a. *Applicability.* The following standards apply to all multi-unit dwellings constructed or converted after the effective date of this Section.

b. Multi-unit dwellings existing on the effective date of this Section and which as of that date are not in compliance with standards established by this Section, shall not be considered nonconforming due solely to the dwelling's noncompliance with the standards of this Section. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title.

c. *Property having rear alley access.*

(1) Minimum lot width shall be twenty-five feet (25') per unit except in the MU-R-3-B District the minimum lot width shall be per Table 16-6-1.1 EMC.

(2) Driveway access from the public street shall be prohibited, except for:

(a) Corner lots where garage, carport or parking pad may be accessed from the side street.

(b) Dwellings with four (4) or more units may have one (1) driveway accessing the street.

(3) Parking pads within the front yard or front setback shall be prohibited.

d. *Property without rear alley access.*

(1) Minimum lot width shall be thirty feet (30') per unit; except in the MU-R-3-B District the minimum lot width shall be per Table 16-6-1.1 EMC.

(2) Garages, carports and parking pads shall be off-set behind the front building line of each unit by a minimum of five feet (5').

(3) Minimum separation between driveways or parking pads of attached units shall be twenty feet (20').

(4) Maximum driveway and/or parking pad width within front yard or front setback shall be ten feet (10') per unit.

(5) The maximum garage door width on the front facade of the structure shall be 9 feet (9') per unit.

(6) A parking pad may be located in the front yard or front setback only when a garage or carport is not provided.

(7) An opaque fence or wall shall be provided between driveways or parking pads on adjacent properties.

(8) Units that provide attached garages behind the rear building line of the principal structure may reduce the principal structure's rear setback to ten feet (10').

(9) It is recognized that because of the wide variety of multi-unit development options, the City Manager or designee may on a case-by-case basis consider minor deviations to d(2) through (7) above, whenever such deviations are more likely to satisfy the intent of this subsection.

2. *MU-R-3-B District.*

a. The minimum lot area standards set forth in Table 16-6-1.1 apply to parcels of land containing less than forty-three thousand five hundred sixty (43,560) square feet (one (1)

acre). Parcels of land containing forty-three thousand five hundred sixty (43,560) square feet (one (1) acre) or more may be developed at a density of one (1) unit per one thousand eighty-nine (1,089) square feet.

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b. The minimum lot area standards set forth in Table 16-6-1.1 for "office limited" and "all other allowed uses" shall not apply to an existing structure converted to accommodate an allowed nonresidential principal use on a lot having less than twenty-four thousand (24,000) square feet, provided the allowed conversion complies with district residential design standards and required off-street parking and landscaping requirements.

3. *MU-R-3-C District.*

a. The maximum office building floor area (as defined in 16-11-2 EMC) is limited to no more than thirty thousand (30,000) square feet.

4. *Residential Use in MU-B-1 and MU-B-2 Districts.*

a. Dwelling units may be incorporated into the same building as the commercial use (not as a stand-alone use)

b. The commercial use occupies the majority of the ground floor of the building, and is directly accessible from an adjacent public street or sidewalk.

5. M*U-B-2 District.*

a. Relief from front setback requirements set forth in Table 16-6-1.1 may be provided in the situations listed below conditioned on the establishment of a strong development edge along the front property line.

(1) Addition to an existing building.

(2) Commercial lots with more than two hundred fifty (250) feet of commercial zoning and lot depth.

(3) Drive-thru uses.

(4) Outside dining.

6. *M-1, M-2, and M-O-2 Districts.*

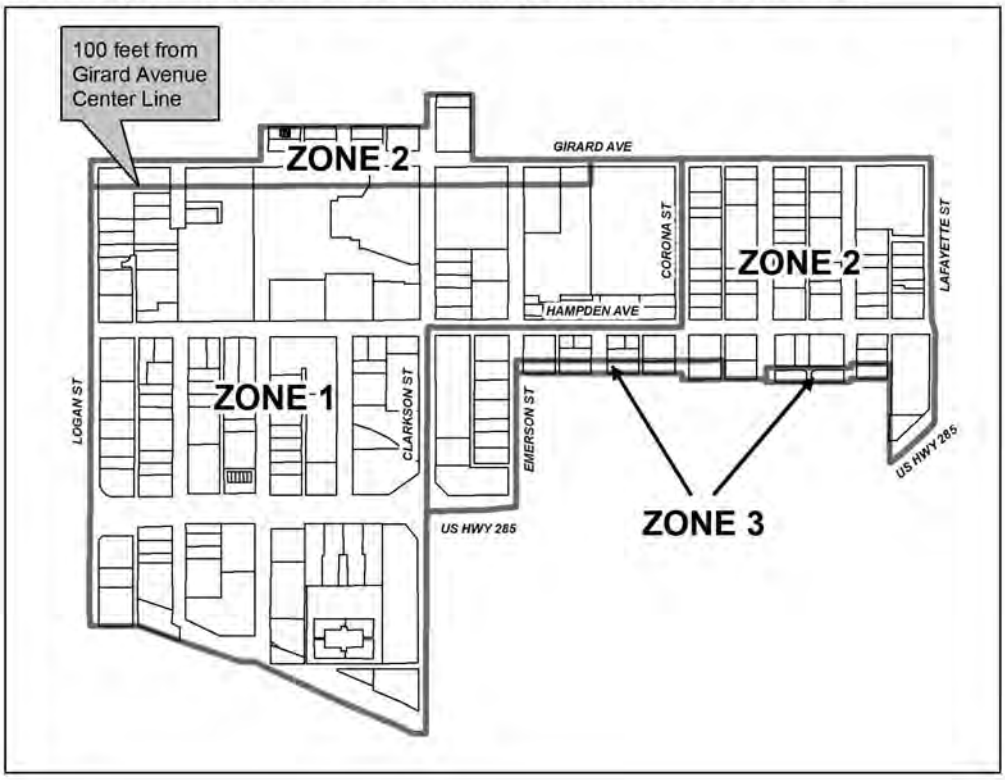
a. *Minimum Lot Size Exemption:*

Lots less than six thousand (6,000) square feet in size in existence on the effective date of this title are exempt from the minimum lot size requirements.

b. *Height Zones.*

Height Zone boundaries are depicted in Figure 16-6(2a).

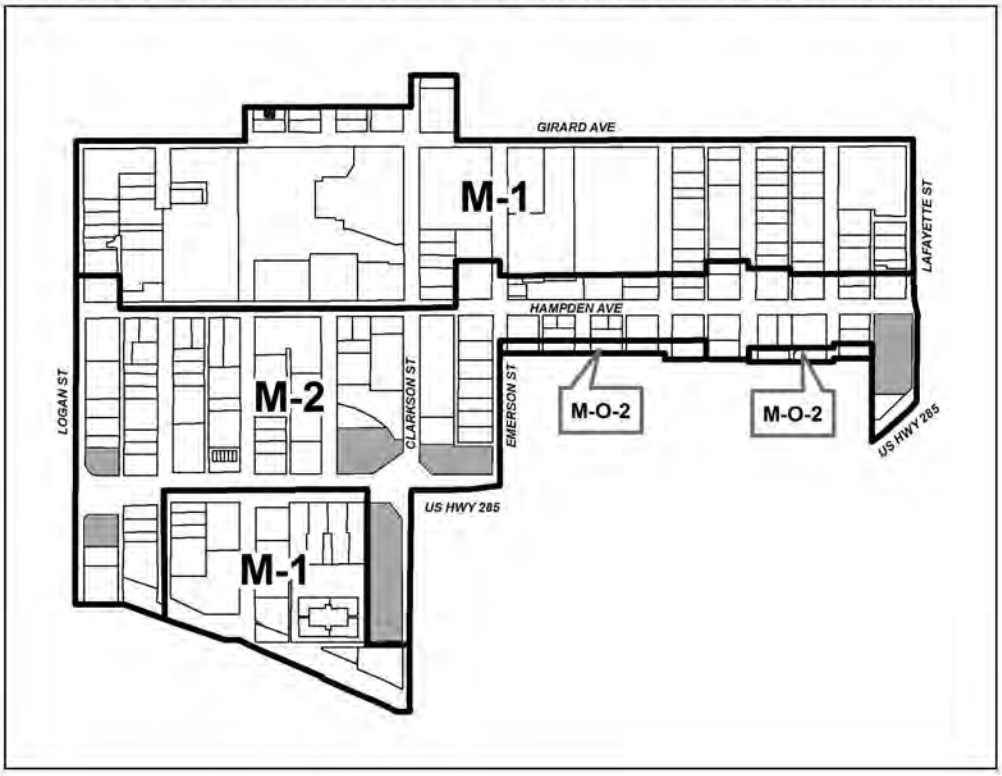
Figure 16-6(2a): Medical Zone and Medical Overlay District Height Zone Boundaries



c. *Maximum Retail Gross Floor Area Exemption:*

Properties directly adjacent on two sides to an arterial street and a collector street as classified by the Department of Public Works are exempt from the maximum retail gross floor area restriction.

Figure 16-6(2b): Properties Exempt from the Max. Retail Gross Floor Area Requirement (Gray)



d. *Minimum Lineal Street Frontage:*

1. Building frontages are required to cover a minimum distance of 75% of the length of the front lot line, measured adjacent to and parallel with the front lot line.

2. Building frontages are required to cover a minimum distance of 25% of the length of the side lot line abutting a street, measured adjacent to and parallel with the side lot line.

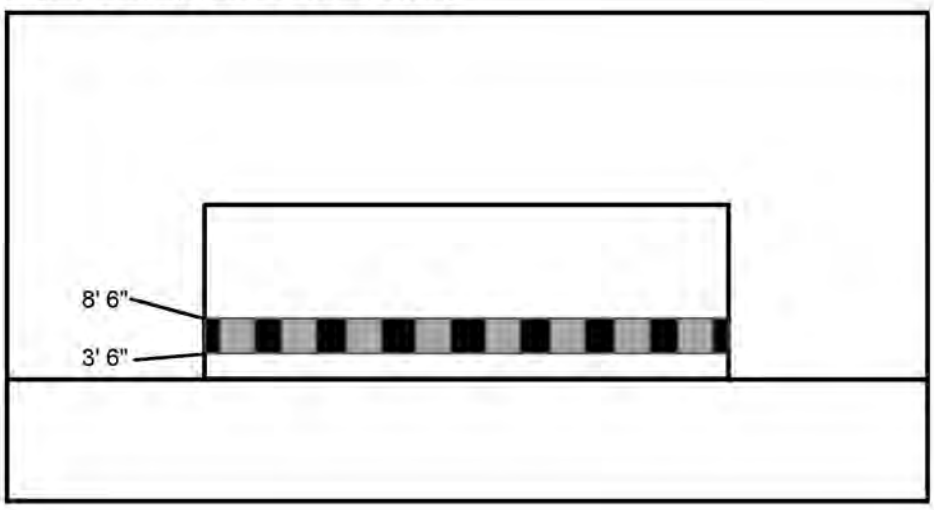
Figure 16-6(2c): Minimum Lineal Street Frontage Example: 100 x 100' Lot

e. *Zone of Transparency:*

New construction and additions of ground floor retail space fronting on a public street, shall incorporate transparent glass for a percentage of the lineal street frontage of the first floor. These windows shall be a minimum of five feet (5') high and mounted not more than three feet six inches (3'6") high above the interior floor level for a total height of eight feet six inches (8'6").

1. A 60% minimum building lineal zone of transparency measured adjacent to and parallel with the front lot line is required.
2. A 25% minimum building lineal zone of transparency measured adjacent to and parallel with the side lot line fronting a public street is required.

Figure 16-6(2d): Zone of Transparency



f. *Required Building Entrances:*

All buildings shall have a primary ground floor entrance fronting a public street.

g. *Setback Requirements:*

1. Minimum side setback may be reduced to zero (0) feet to conform with an adjacent structure's zero (0) foot rear or side setback.
2. Minimum rear setback may be reduced to zero (0) feet for lots less than one hundred feet (100') deep.
3. Open air balconies may extend ten feet (10') into the upper story front setback.
4. Relief from front setback requirements set forth in Table 16-6-1.1 may be provided for outside dining areas on the establishment of a strong development edge along the front property line.

D. *Lots: Special Regulations.*

1. Lot Area Exceptions.

a. *Reduction in Lot Area.* No lot, existing and of record on the effective date of this Title, shall be so reduced that the lot area shall be smaller than prescribed by this Title. No portion of

a lot, necessary to provide the required area per dwelling unit, shall be separated in ownership from that portion of the lot upon which the building containing the dwelling unit or units is located.

b. *Utility Installations.* Subsection (a) above shall not apply to utility installations that are necessary for the public use and convenience of the area. In such instances, utility installations may occupy not in excess of six hundred seventy-five (675) square feet of the lot area. An utility installation in excess of one hundred (100) square feet shall be screened and landscaped from adjacent and adjoining residences.

2. Residential Corner Lot Regulations.

a. On rectilinear blocks, the minimum front setback requirement stated in Table 16-6-1.1 above shall apply to the lot side that abuts the long side of the block. For all other block or lot configurations, the City Manager or designee shall determine to which side the minimum front setback applies. Appeals to the City Manager or designee's determination shall be to the Planning and Zoning Commission.

b. Reverse corner lots are prohibited.

3. Obstruction of View on an Interior or Corner Lot. Nothing shall be permitted in the front yard, side yard, or rear yard which will obstruct the view of the oncoming cars or pedestrians a distance of three hundred feet (300'). This shall not preclude the installation of necessary utility company poles and/or traffic regulatory devices.

E. *Height: Special Regulations.*

1. Height Exceptions. The following items may exceed the maximum height allowed in the applicable zone district, as specifically limited. All of the following items shall be typically associated with the structure to which they are attached. Applicants may request other exceptions to the height limitations stated in this Section according to the variance procedures in Section 16-2-16 EMC.

a. Spires, steeples, belfries, cupolas, and domes, provided they are not intended or used for dwelling purposes, and provided they extend the height of the principal building by no more than thirty percent (30%) above the maximum height permitted in the zone district.

b. Bulkheads, elevator penthouses, observation towers, transmission towers, chimneys, ventilators, smoke stacks, skylights, derricks, conveyors, water towers and tanks, fire towers, hose towers, cooling units, enclosed stairwells, or other structures where the manufacturing process requires a greater height, provided they extend the height of the principal building by no more than thirty percent (30%) above the maximum height permitted in the zone district.

c. Chimneys, including chimney termination devices and decorative features, on residential dwelling structures may exceed the height limitation by no more than four feet (4').

F. *Setbacks and Yards: Special Regulations.*

1. Maximum Residential Front Yard. The maximum front yard for any dwelling shall not be greater than one-third (1/3) of the depth of the lot.

2. Maximum Front Lot Coverage. See Section 16-6-10 EMC, "Design Standards and Guidelines," below for limits on total front lot coverage applicable in the residential (R) zone districts.

3. Use of Required Setback or Yard by Another Building. No part of a setback, yard, court, or other open space provided for any building or structure for the purpose of complying with the provisions of this Title shall be included as a part of a yard, court, or other open space required under this Title for another building or structure.

4. Exceptions to Setback and Yard Requirements.

   a. *Applicability.* The exceptions stated in this subsection shall be applicable only in the residential districts (i.e., they are not applicable in the business or industrial districts.)

   b. *Through Lots.* At each end of a through lot, there shall be a front setback of the depth required by this Title for the district in which each lot frontage is located.

   c. *Multi-Unit Dwellings.* For the purpose of side setback regulations, multi-unit dwellings with common party walls shall be considered as one (1) building occupying one (1) lot.

   d. *Reduction of Setbacks.* No required setback around an existing building shall be separated in ownership from the lot upon which the building is located.

   e. *Rear Setbacks for Shallow Lots.* If a lot in a residential district was less than one hundred feet (100') deep on the effective date of this Title, the rear setback may be reduced to fifteen feet (15').

5. Permitted Projection Into Setbacks/Yards.

   a. *Driveways/Sidewalks.* Accessory driveways and sidewalks or walkways may encroach into any part of a required setback/yard.

   b. *Architectural Features.* Architectural features, which include cornice, eave belt course, sills, canopies, roof overhangs, bay windows, vertical projections, or other similar architectural features, may project into required setbacks subject to the following conditions:

      (1) Projections into Required Side Setback: Four inches (4") for each foot of width of side setback required.

      (2) Projections into Required Front or Rear Setback: Maximum of thirty inches (30").

   c. *Chimneys.* Chimneys may project into required setbacks as follows:

      (1) Projections into Required Side Setback: No more than one foot (1'), provided the width of such setback is not reduced to less than two feet (2').

      (2) Projections into Required Front or Rear Setback: Maximum of twenty-four inches (24").

   d. *Fire Escapes.*

      (1) Fire escapes shall not project into a required side setback.

      (2) Projections into Required Front or Rear Setback: No more than three feet (3').

   e. *Porches, Stoops, Decks, Terraces, and Patios.*

      (1) Enclosed porches and any porch, stoop, deck, terrace, or patio greater than thirty inches (30") above grade may not extend or project into required front or side setbacks.

      (2) Uncovered porches, stoops, decks, terraces, and patios with a walking surface which is less than thirty inches (30") above grade, may extend no more than thirty percent (30%) of the required setback distance into the required setback area.

      (3) Covered porches, stoops, decks, terraces, and patios with a walking surface which is less than thirty inches (30") above grade, may extend no more than five feet (5') into a required front or rear setback, or five feet (5') into a required side setback that abuts

a street, provided they do not encroach into or hang over an easement or a property line and the encroachment does not obstruct sight distance requirements per City standards.

f. *Mechanical Equipment.*

(1) *Residential zone districts.*

(a) HVAC condensers and window-mounted air conditioning units may be located within side or rear setbacks.

(2) *All zone districts.*

(a) Other small-scale mechanical equipment may be permitted within setbacks at the discretion of the City Manager or designee.

g. *Handicap Access Ramp.*

(1) Ramps designed for handicap access may project into any required setback.

G. *Bulk Plane Requirements.*

1. *Intent.* The bulk plane requirements in this subsection are intended to ensure that new residential development, including additions and expansions of existing dwellings, provides adequate light and privacy to neighboring properties. In addition, the bulk plane requirements are intended to assure greater design compatibility in terms of building mass and scale within Englewood neighborhoods.

2. *Applicability and Exceptions.*

a. *Applicability.* Except as exempt by this subsection, the bulk plane requirements in this subsection shall apply to:

(1) All new residential development of four (4) dwelling units or less in the R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B zone districts;

(2) All new residential development on legal, nonconforming lots that have lot widths less than the minimum required by the applicable zone district; and

(3) All new residential development on small lots and urban lots.

b. *Exceptions.*

(1) The bulk plane requirements in this subsection shall not apply to new residential developments of five (5) or more units, or non-residential development, or accessory structures in the R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B zone districts. The bulk plane requirements in this subsection shall not apply to any development in the MU-R-3-C, MU-B-1, MU-B-2, M-1, M-2, M-O-2, I-1, I-2 or TSA zone districts.

(2) Dormers with window(s) may partially protrude through the bulk plane defined below for a maximum cumulative length of fifteen (15) linear feet, measured horizontally at the point of intersection with the bulk plane, and provided the vertical height of a dormer window does not extend above the height of the ridgeline of the roof surface from which the dormer protrudes.

(3) Eaves may extend up to twenty-four inches (24") into the bulk plane, provided it does not project further into a side setback than the maximum projection allowed by 16-6-1:F5(b)(1). The extension shall be measured horizontally from the building wall to the furthest extent of the eave.

(4) Gutters may extend into the bulk plane, regardless of whether the eave projects into the bulk plane.

(5) Chimneys may extend vertically into the bulk plane a maximum of ten feet (10').

(6) Patio or deck railings may extend vertically into the bulk plane a maximum of forty-two inches (42") if the railing is at least seventy-five percent (75%) open or transparent.

3. *Bulk Plane Requirements.* Except as specifically excepted in subsection G(2), above, no part of any structure subject to these bulk plane requirements (including air conditioner, elevator penthouses, and other mechanical equipment) shall project through the following defined bulk planes, which define a building envelope for the subject lot:

a. For all applicable zone districts, the base plane for the vertical measurement of the bulk plane shall be established by taking the average of the existing grades of the midpoints of the two side property lines.

b. The maximum side wall height shall be measured at the point where the side wall of the structure intersects the highest roof framing member (typically roof sheathing). The top of any parapet wall shall not extend beyond the defined bulk plane.

c. *R-1-A and R-1-B Zone Districts*.

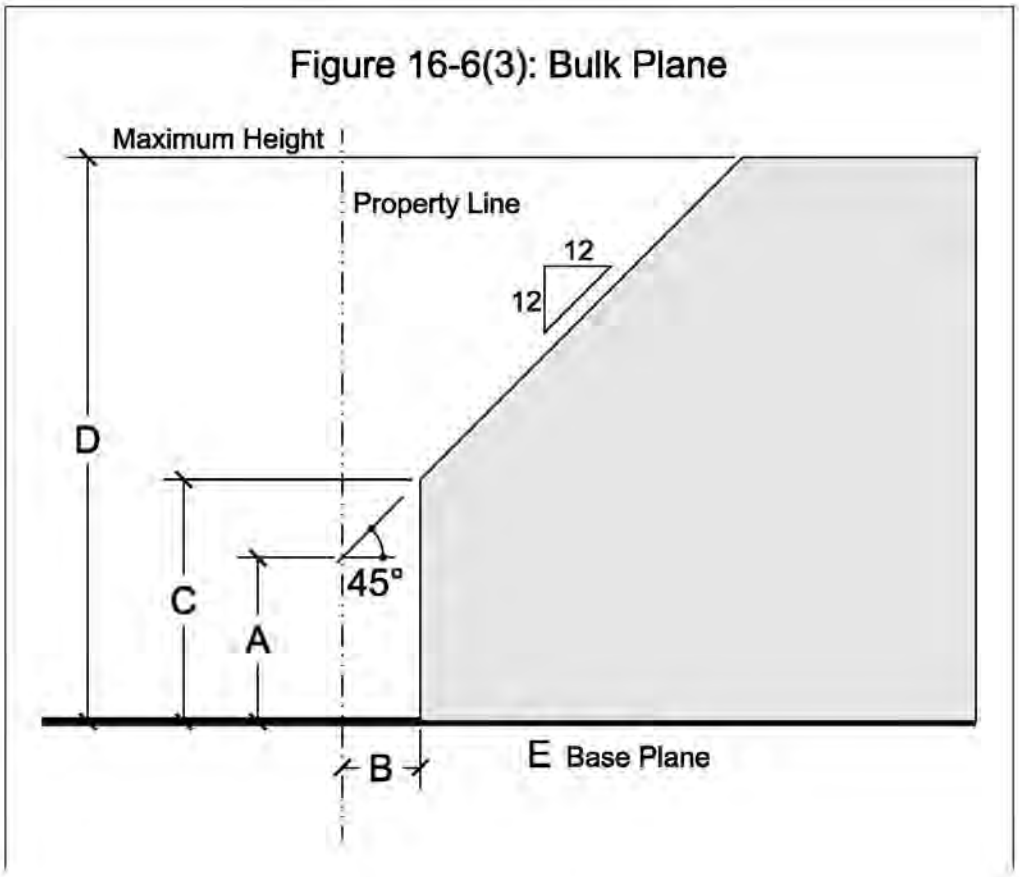
(1) A horizontal line that is located directly above the side lot line and which passes through a point twelve feet (12') above the base plane described in paragraph (a), above; and

(2) The intersecting lines that extend over the lot at a pitch of 12:12 (45-degree angle) from the horizontal lines defined in paragraph (c)(1) above.

d. *R-1-C, R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B Zone Districts*.

(1) A horizontal line that is located directly above the side lot line and which passes through a point seventeen feet (17') above the base plane described in paragraph (a) above; and

(2) The intersecting lines that extend over the lot at a pitch of 12:12 (45-degree angle) from the horizontal lines defined in (d)(1) above.



A Beginning point of Bulk Plane shall be:

- Twelve feet (12') above Base Plane for R-1-A and R-1-B Districts.
- Seventeen feet (17') above Base Plane for R-1-C, R-2-A, R-2-B, MU-R-3-A and MU-R-3-B zone districts.

B Side setback varies by zone district and lot type, see table 16-6-1.1 EMC.

C Maximum Side wall height (A+B=C), where side wall of structure intersects the highest roof framing member.

D Maximum height of structure, see Table 16-6-1.1 EMC.

E Base Plane, average existing grade of the two side property line mid-points.

Commentary to Figure 16-6(3) Bulk Plane (above): The shaded portion of the illustration above depicts the defined bulk plane, which must contain the entire dwelling structure (with limited exceptions for projecting dormers, chimneys, and railings). The bulk plane is measured at a forty-five degree (45°) angle from a horizontal line located directly above each side lot line and which passes through a point twelve feet (12') above the base plane in the R-1-A and R-1-B zone districts, or seventeen feet (17') above the base plane in the R-1-C, R-2-A, R-2-B, MU-R-3-A and MU-R-3-B zone districts. The maximum side wall height is the point where the side wall of the structure intersects the highest roof framing member.

H. *Requirements for Accessory Structures.*

1. General Provisions.

   a. *Purpose.* This subsection authorizes the establishment of accessory structures that are incidental and customarily subordinate to the principal use and structure on a property. The City's intent in adopting this subsection is to allow a broad range of accessory structures, so long as such structures are located on the same site as the principal use, and so long as they comply with the performance criteria set forth in this subsection in order to reduce potentially adverse impacts on surrounding properties.

   b. *Approval of Accessory Structures.* A permitted accessory structure may be approved in conjunction with approval of the principal structure.

   c. *Compliance with Title Requirements.* All accessory structures shall be subject to the dimensional regulations set forth in this subsection, including Table 16-6-1.2, below. In the case of any conflict between the accessory standards of this subsection and any other requirement of this Title, the standards of this subsection shall control.

2. General Conditions. All accessory structures shall comply with the following general conditions:

   a. Be clearly incidental and customarily found in connection with the principal use;

   b. Be located on the same lot as the principal use and structure; and

   c. Be operated and maintained under the same ownership, or by lessees or concessionaires thereof, and on the same lot as the permitted principal use and structure.

3. General Development and Operational Standards. The following general standards shall apply to all accessory structures in all zoning districts, unless otherwise specified in this Title:

   a. *Time of Establishment.* No accessory structures shall be allowed on the subject parcel until all required permits and approvals for the principal use or activity have been obtained.

   b. *Location of Accessory Structures.* Unless otherwise specified, all accessory structures shall comply with the following general requirements:

      (1) An accessory structure shall not be located within a required setback.

      (2) No accessory structure shall be located within any platted or recorded easement or over any known utility.

   c. *Residential Occupancy.* No accessory structure shall allow residential occupancy, except as permitted for approved accessory structures occupied by caretakers or watchmen.

   d. *Temporary Accessory Structures.* Temporary accessory structures shall be governed by the standards and Temporary Use Permit procedures set forth in Sections 16-2-14 and 16-5-5 EMC.

   e. *Materials.* No accessory structures shall be constructed using cloth, canvas, tarp, plastic, vinyl, or other materials not approved by the City Manager or designee.

I. *Summary Table of Dimensional Requirements for Accessory Structures.* Table 16-6-1.2 below sets forth what types of structures are permitted as accessory in each of the City's zoning districts, and the applicable dimensional standards for the accessory structure. If an accessory structure is not listed in the table, but satisfies all the general standards set forth in subsection 16-6-1.H EMC, the City Manager or designee may permit the structure subject to the unlisted use procedures in Section 16-5-1.B EMC and the dimensional standards set forth in this Section 16-6-1 EMC.

TABLE 16-6-1.2: SUMMARY TABLE OF DIMENSIONAL REQUIREMENTS FOR ACCESSORY STRUCTURES

Use	Districts Allowed	Maximum Number	Max. Height (ft)	Minimum Setback (ft)			Maximum Total Floor Area (sq ft)	Add'l Regulations
				Front	Side	Rear		
Detached garages and all carports	All Residential Districts	1-unit dwelling: 1 garage and 1 carport, 2-unit dwelling: 1 garage and 1 carport per unit. More than two-unit dwelling: 1 garage or carport per unit	16	Shall conform to the zone district's minimum front setback applicable to the principal structure and to applicable residential development and design standards of this Chapter	R-1-A: 5 Other districts: 3	If entrance faces alley: 6 If entrance faces street or side lot line: 3	Combined maximum total floor area of all garages and carports shall not exceed 1,000 square feet per unit.	If a garage or carport is converted to another use, an equivalent amount of off-street parking shall be provided. When a garage or carport is converted to another use the existing driveway or carport in the front setback shall be subject to parking pad regulations, standards and guidelines.
Detached garages and all carports	TSA, and all Medical, Business and Industrial Districts	Shall conform to zone district standards for principal structures.						
Storage sheds	All Residential Districts, TSA, Medical, Business, and Industrial Districts	1	10	All R Districts: Shall be located behind the rear building line of the principal structure B Districts: Shall be located behind the front building line of the principal structure TSA & I Districts: Shall conform to zone district standards for principal structures	R-1-A: 5; Other R Districts: 3; M M, B, TSA, I Districts: Shall conform to zone district standards for principal structures	R-1-A: 5; Other R Districts: 3; M B, TSA, I Districts: Shall conform to zone district standards for principal structures	150	See 16-2-9.A.2 for structures 120 square feet or smaller
Other accessory structures not listed above	All Residential and Medical Districts	1	12	Other accessory structures shall be located behind the rear building line of the principal structure	R-1-A: 5 Other R Districts: 3	R-1-A: 5 Other R Districts: 3	200	See 16-2-9.A.2 for structures 120 square feet or smaller

(Ord. 04-5; Ord. 05-25; Ord. 05-26; Ord. 08-37, § 5; Ord. 08-48, §§ 16—19; Ord. 09-28, § 6; Ord. 1-11/12, § 13; Ord. 23-12, § 6; Ord. 7-13, § 5; Ord. 45-14, § 3; Ord. 3-15, § 1; Ord. 4-15, § 1)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

16-6-2: Development on Land Designated as and/or Adjacent to Landfill Sites.

A. *Purpose and Applicability.*

1. Purpose. The purpose of this Section is to establish reasonable and uniform limitations, safeguards, and controls over uses of land designated as and/or adjacent to, an operating or former solid waste disposal site. The requirements of this Section are intended to assure the protection of life and property from such related hazards as flammable gas, gas migration, asphyxiation, settlement, and explosion.

2. Applicability. Any building, excavation, construction, or other use proposed on or within one thousand feet (1,000') of an operating or former solid waste disposal site ("landfill site") shall require flammable gas testing and approval as indicated in this Section prior to commencing development.

B. *Review of Proposed Development on Landfill Sites.*

1. No construction of structures or other land uses shall be allowed on any parcel of land that is or has been a landfill site, until the proposed action is reviewed and approved by the City and the Tri-County District Health Department.

2. The applicant shall pay and be responsible for obtaining flammable gas readings from the site and supplying safety information related to construction on the landfill site.

3. The City Manager or designee shall review the proposed land use and the proposed engineering design and recommend changes and/or mitigation measures, as necessary, to reduce or avoid potential hazards.

4. All comments and recommendations shall be presented to the City Manager or designee for review and decision according to this Section 16-6-2 EMC.

C. *Standards for Development on Former Landfill Sites.* The City shall not issue building permits for any development on a landfill site until the City finds that the following criteria have been met based on the twenty percent (20%) lower explosive limit (LEL) standard formulated by the National Institute of Occupational Safety and Health of the Bureau of Mines of the U.S. Department of the Interior.

1. Flammable gas testing shall be conducted at the proposed site in order to determine if flammable gas is present in concentrations of five percent (5%) or more by volume (five percent (5%) flammable gas is the lower explosive limit).

2. All new construction shall be designed by a registered professional engineer to exclude, monitor, and protect against buildup of over one percent (1%) of flammable gas in the building.

3. For construction on a known landfill area, the following steps shall be taken during the construction activity:

   a. A flammable gas indicator shall be utilized at all times during trenching, excavating, drilling, or when working within ten feet (10') of an open excavation.

   b. When trenching, excavating, or drilling deeper than two feet (2') into the fill, or in the presence of detectable concentrations of one percent (1%) flammable gas, the soils shall be wetted and the operating equipment shall be provided with spark-proof exhausts.

   c. A dry chemical fire extinguisher, per applicable fire code requirements, shall be provided on all equipment used in the landfill.

   d. Personnel within or near an open trench or drill hole shall be fully clothed, wear shoes with non-metallic soles, wear a hard hat, and wear safety goggles or glasses.

e. Exhaust blowers shall be used in instances where trenches may show a buildup of flammable gas of one percent (1%) or less than eighteen percent (18%) oxygen.

f. Smoking shall not be permitted in any area within one hundred feet (100') of the excavation.

g. Personnel shall be kept upwind of any open trench unless the trench is continuously monitored.

h. Before personnel are permitted to enter an open trench, the trench shall be monitored for flammable gas and at least an eighteen percent (18%) oxygen sufficiency. When in the excavation, each work party shall be working no more than five feet (5') from a continuous flammable gas and oxygen monitor.

4. The applicant shall submit an affidavit by a registered professional engineer stating that all testing and monitoring as required by these regulations has been conducted, and stating the result of the testing and monitoring.

5. All construction or excavation sites shall be subject to inspection by the City.

D. *Standards for Development Within One Thousand Feet of Known Landfill Area.* The City shall not issue building permits for any development within one thousand feet (1,000') of a known landfill site until the City finds that all of the following safety precautions have been taken:

1. The area under construction shall be checked with a flammable gas indicator before excavation in order to determine if flammable gas is in the area.

2. Any excavation shall be monitored for the presence of flammable gas reading of a maximum of one percent (1%) and oxygen deficiency reading of a minimum of eighteen percent (18%). This shall be carried out continuously unless there is no presence of flammable gas in the area.

3. Should flammable gas of one percent (1%) or oxygen of less than eighteen percent (18%) occur, those precautions applicable to development on a former landfill site as outlined above shall also apply.

4. The applicant shall submit an affidavit by a registered professional engineer stating that all testing and monitoring as required by these regulations has been conducted and stating the result of the testing and monitoring.

5. Any construction or excavation site shall be subject to inspection by the City.

E. *Responsibility to Monitor.* It shall be the responsibility of the company last operating a landfill site prior to development on or within one thousand feet (1,000') of said landfill site to monitor for the presence of methane gas on and/or within one thousand feet (1,000') of such a site, if gas has previously been detected or if so requested by the City. It shall also be the responsibility of said operator to install methane alarm systems in all structures within one thousand feet (1,000') of a sanitary landfill if so directed by the City.
(Ord. 04-5)

16-6-3: Streets and Vehicle Access and Circulation.

A. *Purpose.* Within each development, the vehicle access and circulation system shall accommodate the safe, efficient, and convenient movement of vehicles, bicycles, pedestrians, and transit through the development as well as to and from adjacent properties and land uses.

B. *Applicability.* This Section shall apply to all new developments and subdivisions, except where varied through approval of a Planned Unit Development or through the variance process stated in Section 16-2-16 EMC.

C. *Consistency Required.* The layout of streets and highways shall comply with the street classification and configuration designated in the Englewood Comprehensive Plan, with all adopted Master Street Plans or transportation plans, with City design and construction standards, and with the provisions of this Title.

D. *Streets.*

1. General Design Standards.

   a. *General.* The design of public streets shall reflect the nature and function of the street in relation to proposed and existing abutting land uses.

   b. *Compliance with City Standards.* Construction and design of all public streets, including alleys, shall conform to the applicable City design and construction standards and specifications. The City may allow exceptions to the street standards on a case-by-case basis, provided that the City shall first find that special circumstances make these standards impractical and that the exception is in conformance with the intent and purpose of the Englewood Municipal Code, or City Engineering Standards and Specifications, and providing that such exception does not lessen the intent of the design requirement, or the level of safety, service, and quality intended by the City Engineering Standards and Specifications minimum requirements.

   c. *Connectivity.*

      (1) The proposed street layout should provide for the continuation or projection of existing streets in the surrounding area unless the City determines that such extension is undesirable for specific reasons of topography or design.

      (2) Where streets are stubbed to the subject property line, or where arterial, collector, or local streets are designated to connect to the property, the City may require rights-of-way and construction of those streets through and into the area contained within the development application.

      (3) Street layout and design shall provide for the future projection of principal streets into adjoining, unsubdivided lands.

      (4) When a proposed street does not allow intersections to be aligned, the center of the proposed street not in alignment shall be offset by a minimum of one hundred fifty feet (150').

      (5) Whenever there exists a dedicated or platted half street or alley adjoining or abutting the property to be developed, the other half of the street or alley shall be platted or dedicated.

2. Street Grade/Consideration of Existing Topography.

   a. The topography of the land shall be respected and all streets shall be designed to avoid steep grades and deep cuts to the maximum extent feasible given each site's natural topography.

   b. Unless otherwise determined by the City Manager or designee, street grades should not be less than five-tenths of one percent (0.5%) nor more than six percent (6%) for arterial and collector streets, and not less than five-tenths of one percent (0.5%) nor more than eight percent (8%) for local streets and cul-de-sacs.

   c. Street grades at intersections shall be considered on a case-by-case basis.

   d. All changes in street grades shall be connected by vertical curves of a minimum length of one hundred feet (100').

3. Street Intersections and Curves.

   a. *Intersections.* Street intersections shall be at right angles or nearly so and no point on a curve shall be in the intersection unless unusual circumstances dictate divergence.

   b. *Radii of Curvature.* The minimum radii of curvature of streets, on centerlines, shall be approved by the City.

4. Cul-de-Sacs and Other Dead-End Streets.

   a. *Cul-de-Sacs.* Cul-de-sacs shall meet all applicable City standards for design and construction.

      (1) Pedestrian Connections. The City may require pedestrian ways and bicycle access routes connecting the cul-de-sac to an appropriate street when necessary to permit easy pedestrian circulation and access to adjacent transit service, community facilities such as parks or schools, or employment centers.

   b. *No-Outlet (Dead-End) Streets.* Except for cul-de-sacs, no-outlet streets are prohibited except in cases where such streets are designed to connect with future streets on adjacent land, in which case a temporary turnaround easement at the end of the street shall be provided according to City specifications.

5. Private Streets. The use of private streets is discouraged. Where used, private streets shall comply with all applicable design standards adopted by the City. The City shall approve all provisions for the maintenance and repair of private streets during the development approval process.

6. Alleys.

   a. *General Standards.* Alleys are encouraged for residential or mixed-use development. Where alleys are used, they shall comply with the following standards:

      (1) Minimum alley widths shall comply with Section 16-8-7.E EMC, "Widths of Public Ways."

      (2) All platted alleys shall be constructed to City standards.

      (3) The alley shall connect through the block to a publicly dedicated street on each end, with or without turns.

7. Reserve Strips. Reserve strips controlling access to streets or for other purposes are prohibited unless such reserve strip is required and controlled by the City.

8. Access Roads. Where a development or subdivision adjoins or contains an existing or proposed Arterial street on which traffic volumes and vehicular speeds warrant special safety considerations, the City may require access roads.

9. Utilities. All street and alley development shall accommodate all utility easements, service, and utility cabinet locations. Service cabinets should be located in the least visible and least intrusive locations possible. Utility plans must be approved prior to issuance of the first building permit.

E. *Blocks.*

1. Length. Blocks shall not exceed one thousand two hundred sixty feet (1,260') in length.

2. Industrial, Commercial or Multi-Unit Residential Uses. Blocks intended wholly or partially for industrial, commercial, or multi-unit residential uses shall be designed specifically for such purposes with adequate space set aside for off-street parking and loading purposes, as required by this Title.

3. Pedestrian Through-Connections. On blocks that exceed six hundred feet (600') in length, the City may require pedestrian and bicyclist access route through the center of the block.

F. *Vehicle Access and Circulation.*

1. *Access to Public Roads.* All new lots shall have direct or indirect access to a dedicated public street, through one (1) or more access points approved by the City. In addition to direct access to a dedicated public street, access may be provided through private streets or through alleys.

   a. No back-out driveways from any type of use shall be permitted onto an arterial street.

   b. No back-out driveways or back-out parking spaces from multi-unit residential on sites with alley access, commercial, or industrial uses shall be permitted onto a public street. This requirement shall not prohibit back-out driveways or parking spaces onto an alley.

2. *Traffic Impact Analysis.* A traffic impact analysis (TIA) shall be required with applications for development review and approval when trip generation during any peak hour is expected to exceed one hundred (100) vehicles, based on traffic generation estimates when trip generation during any peak hour is expected to exceed one hundred (100) vehicles, based on traffic generation estimates of the Institute of Transportation Engineers' Generation Manual (or any successor publication). The City may also require a TIA for:

   a. Any project that proposes access to a street with level of service (LOS) "D" or below;

   b. Any application for a rezoning;

   c. Any case where the previous TIA for the property is more than two (2) years old;

   d. Any case where increased land use intensity will result in a fifteen percent (15%) or greater increase in traffic generation; and

   e. Any case in which the traffic engineer determines that a TIA should be required because of other traffic concerns that may be affected by the proposed development.

   f. When access points are not defined or a Zoning Site Plan is not available at the time the TIA is prepared, additional studies may be required when a Zoning Site Plan becomes available or the access points are defined.

3. *New Intersections and Curb-Cuts.*

   a. *General Rules.* The number of intersections and curb-cuts on streets and highways shall be minimized consistent with the basic needs of ingress and egress. Intersections and curb-cuts shall be designed to provide the greatest safety for both pedestrians and motorists.

   b. *Driveways, Residential.*

      (1) *One-Unit and Multi-Unit Dwellings Containing Up to Three (3) Units.*

         (a) The width of any driveway leading from the public street to a one-unit dwelling, or multi-unit dwelling containing up to three (3) units shall not exceed twenty feet (20') at its intersection with the street.

         (b) See also Section 16-6-1(C)(1) EMC, "Multi-Unit Development Standards in R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B, Districts," for additional driveway standards that apply to multi-unit dwellings on properties with or without alley access.

         (c) See also Section 16-6-10.B EMC, "Residential Design Standards and Guidelines," for additional driveway standards that apply to new residential development, including substantial expansions or alterations of existing dwellings, in the R-1, R-2, and R-3 zone districts.

(2) *Multi-Unit Dwellings Containing Four (4) or More Units.*

(a) The width of any entrance driveway to a multi-unit dwelling containing four (4) or more units shall not exceed twenty-five feet (25') at its intersection with the street, unless the applicant can demonstrate that additional width is required to adequately accommodate anticipated driveway volumes.

(b) In new multi-unit developments not located within MU-R-3-C, M-1, M-2 and M-O-2 districts containing ten (10) or more units, vehicular access shall be spaced no closer than twenty-five feet (25') to any adjacent property line. However, the City may reduce this setback requirement to permit a single vehicular access point that can serve two (2) adjacent properties or where compliance with these requirements would deny vehicular access to a property.

c. *Driveways, Nonresidential.* The location and size of driveways leading from the public street to a nonresidential or mixed-use building is subject to the following conditions:

(1) No portion of any driveway shall be closer than forty feet (40') to the curb line of an intersecting street, or closer than ten feet (10') from a fire hydrant, catch basin, or end of curb radius at corners.

(2) In new non-residential developments not located within MU-R-3-C, M-1, M-2, and M-O-2 districts, vehicular access shall be spaced no closer than twenty-five feet (25') to any adjacent property line. However, the City may reduce this setback requirement to permit a single vehicular access point that can serve two (2) adjacent properties or where compliance with these requirements would deny vehicular access to a property.

(3) Only one (1) access per street frontage shall be permitted, unless a Zoning Site Plan or traffic impact analysis shows, and the City agrees, that additional access points are required to adequately accommodate driveway volumes and that additional access will not be detrimental to traffic flow.

(4) The width of any entrance driveway shall not exceed thirty feet (30') measured along its intersection with the property line.

(Ord. 04-5; Ord. 05-25; Ord. 08-37, § 6; Ord. 08-48, § 20; Ord. 09-28, § 7; Ord. 23-12, § 7; Ord. 29-14, § 4; Ord. 3-15, § 2)

16-6-4: Off-Street Parking and Loading Requirements.

A. *Purpose.* The purpose of this Section is to prevent or alleviate the congestion of public streets, to enhance parking areas with landscape elements, and to promote the safety and welfare of the public. In recognition that different solutions may be appropriate in different areas of the City and for different types of development, the standards set out in this Section allow flexibility in dealing with vehicle parking and loading issues.

B. *Applicability.*

1. *New Development.* The off-street parking and loading standards of this Section shall apply to all new development after the effective date of this Title, except as otherwise expressly allowed in this Title.

2. *Applicability to Existing Uses.*

a. No existing use or structure shall be deemed nonconforming solely because of the lack of off-street parking (including bicycle parking) or loading requirements prescribed in this Section, provided that off-street parking and loading facilities existing on the effective date of this Title shall not be reduced in capacity, design, or function to less than the minimum standards prescribed in this Section and Title.

b. Off-street parking and loading facilities existing on the effective date of this Title shall be maintained as long as the use or structure exists, even if the amount of parking or loading spaces does not comply with this Section, unless an equivalent number of spaces are provided conforming to the requirements of this Section.

c. In connection with an existing use, this Section shall not require the maintenance of more parking or loading spaces than is required for a new building or use under this Section and Title.

3. *Expansions and Increases in Intensity.* Unless otherwise expressly stated in this Section, the off-street parking and loading standards of this Section apply when an existing structure or use is expanded or enlarged, through the addition of dwelling units, floor area, seating capacity, employees, or other units of measurement used for establishing off-street parking and loading requirements. Additional off-street parking and loading spaces shall be required only to serve the enlarged or expanded area, not the entire building or use.

4. *Change of Use.* Unless otherwise expressly stated in this Section, off-street parking (including bicycle parking) and loading facilities shall be provided for any change of use or manner of operation that would, based on the off-street parking schedule or the off-street loading schedule, result in a requirement for more parking or loading spaces than the former use. Additional parking or loading spaces shall be required only in proportion to the extent of the change, not for the entire building or use.

5. *Planned Unit Developments.* In Planned Unit Developments, the amount of off-street parking shall be determined on a case-by-case basis as part of the City's consideration of the PUD application. However, the decision-making body may use the off-street parking and loading requirements of this Section as the starting point for determination of the applicable minimum standards.

C. *No Reduction Below Minimums.* Unless otherwise expressly allowed in this Section, existing parking spaces may not be reduced below the minimum requirements established in this Section. Unless otherwise expressly allowed in this Section, any change in use or manner of operation that increases applicable off-street parking requirements shall be deemed a violation of this Title unless parking spaces are provided according to this Section.

D. *Computation of Off-Street Parking and Loading Requirements.* The following rules apply when computing off-street parking and loading requirements:

1. *Multiple and Mixed Uses.* Unless otherwise approved by the City, off-street parking areas serving either (1) more than one principal use, (2) more than one use type within a structure (i.e., office and warehouse), or (3) a mixed-use development must provide parking and loading in an amount equal to the combined total of the minimum requirements for each use.

2. *Fractions.* When measurement of the number of required spaces results in a fractional number the fraction shall be rounded up to the next higher whole number.

3. *Area-Based Standards.*

a. Unless otherwise specifically noted, all square footage-based parking and loading standards (e.g., one (1) parking space per three hundred (300) square feet of office use) shall be computed on the basis of gross leasable or rentable floor area (i.e., excluding square footage of floor area devoted to common or public areas, hallways, and bathrooms).

b. When the standard states that an off-street parking area shall be provided based on the gross floor area of a specific use (e.g., "an area equal to the gross floor area"), calculations

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shall be based on a requirement of three hundred (300) square feet per parking space. For example, one thousand two hundred (1,200) square feet of gross floor area, divided by three hundred (300) square feet, equals four (4) parking spaces that must be provided.

4. *Occupancy- or Capacity-Based Standards.* For the purpose of computing parking requirements based on employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment, or the maximum building code capacity, whichever is applicable and whichever results in the greater number of spaces.

5. *Unlisted Uses.* In reviewing a development application for a use not specifically listed, the City Manager or designee, shall apply the standard for the use that is most similar to the proposed use.

E. *Off-Street Vehicle Parking Ratios and Design.*

1. *Amount of Off-Street Vehicle Parking (Table 16-6-4.1).* Table 16-6-4.1 below sets forth the minimum required number of off-street vehicle parking spaces.

TABLE 16-6-4.1: MINIMUM OFF-STREET VEHICLE PARKING RATIOS

Use	Off-Street Vehicle Parking Standard	Additional Requirements
RESIDENTIAL USES		
Group Living		
Dormitory, fraternity, sorority	1 parking space per two beds	
Group living facility, large/special or small	1 parking space per 3 resident beds, plus 1 parking space for each 3 employees	
Nursing home	1 parking space per 4 resident beds plus 1 parking space for each 3 employees	
Senior citizen	.75 parking spaces per unit plus one guest space for each 5 units	
Household Living		
One-unit, detached or attached dwelling	2 spaces per each dwelling unit	
Senior citizen residential complex (35 percent or more of total units reserved for persons 60 years and older)	1 space per 2 dwelling units, plus one guest space for each 5 units	
Two-unit and multi-unit dwelling: Efficiency, 1- or 2-bedroom unit	1.5 spaces per each dwelling unit.(1) Such parking shall be designated and identified as parking for the occupants of the building only. (2) Guests or Visitor Parking for buildings with 5 or more dwelling units: 1 space for each 5 units. Such parking shall be designated and identified as temporary parking for the use of guests or visitors or the occupants of the building only.	
Two-unit and multi-unit dwelling: 3 or more bedroom unit	2 spaces per each dwelling unit.	
Boarding or Rooming Houses	1 space for each guest bed, in addition to the one-unit dwelling requirement	
PUBLIC/INSTITUTIONAL USES		
Religious Assembly		
All	1 space for each 3 seats or every 6 feet of bench length in the main assembly area or auditorium	
School		
Education institution - elementary	1 space for each classroom and administrative office	
Education institution - secondary	An area equal to 1/2 the gross floor area in the structure	
Public Buildings		
All	An area equal to 1/2 the gross floor area in the structure	

TABLE 16-6-4.1: MINIMUM OFF-STREET VEHICLE PARKING RATIOS		
Use	**Off-Street Vehicle Parking Standard**	**Additional Requirements**
COMMERCIAL USES		
Assembly		
Assembly hall or auditorium, hall rental for meetings or social occasions	1 space for each 3 seats	
Entertainment/ Amusement: Indoor		
Amusement facilities, convention facilities, dance halls, gymnasiums, theaters, skating rinks	1 space for each 3 seats	
Bowling alley	4 spaces per lane, plus 1 additional space for each 2 employees	
Food and Beverage Service		
Restaurant, bar, tavern, with or without outdoor operations	1 space per each 100 square feet of gross floor area	
Medical/Scientific Service		
Hospital	1 space for each 2 patient beds, plus 1 space for each 2 employees	
Office		
All	1 space per each 300 square feet	
Retail Sales and Service		
All	Under 7,500 square feet: an area equal to 1/2 of the gross floor area; 7,500 square feet gross floor area and above: an area equal to the gross floor area.	As applicable, plus adequate stacking spaces as per Section 16-6-4-J below.
Vehicle and Equipment		
Automotive sales, rental; Automobile pawnbroker	1 space for each 2 employees at maximum employment on a single shift, plus 2 spaces for each 300 square feet of sales/office, repair, or maintenance space.	
Visitor Accommodation		
Hotel; Hotel, Extended Stay	1 space for each guest room, plus 1 additional space for each 2 employees. Parking for convention facilities and dining areas in the hotel shall conform with the requirements set forth within.	
MANUFACTURING/INDUSTRIAL USES		
Industrial Service and/or manufacturing	An area equal to 1/4 the gross floor area occupied by the use in a structure	
Warehouse/Storage		
Mini-storage facility	Customer parking shall be provided at the manager's office calculated on the basis of one space for each six thousand (6,000) square feet of floor area and open storage, or one space for each one hundred (100) storage units or spaces, whichever is greater. Plus, 2 additional parking spaces for employees shall be provided at the manager's office.	
Wholesale business	An area equal to 1/4 of the gross floor area of the structure or structures.	
Warehousing and/or storage	An area equal to 1/4 of the gross floor area of the structure or structures.	

2. *Location of Off-Street Parking Areas.* Except as otherwise allowed in this Title, a parking area shall be provided on the same property as the principal building it serves, except that in business and industrial districts the required off-street parking area may be located within four hundred feet (400') of the property, but within the same district or within a MU-R-3-A district. Such separate parking lots shall be maintained as long as the principal building or uses are maintained. See Section 16-5-4.C.2 EMC, for special regulations applicable to surface parking areas in the TSA district.

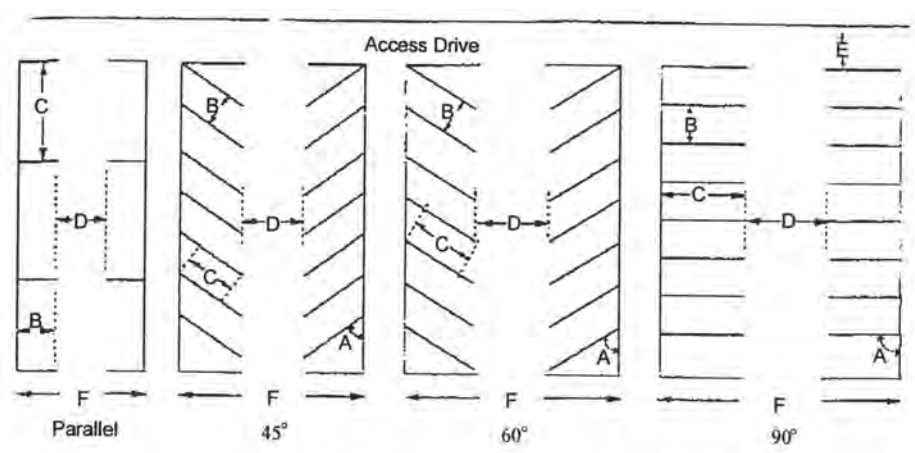
3. *Shared Parking.* No part of an off-street parking space for any building or use shall be included as a part of an off-street parking space of another building or use., except that the City may approve shared parking according to Section 16-6-4.I. EMC, "Alternative Parking Plans."
4. *Minimum Parking Space and Aisle Dimensions.* All off-street parking spaces shall comply with the dimensions shown in the following drawing Figure 16-6(4) and Table 16-6-4.2, below. Please note that the letters in Figure 16-6(4) correspond to the letters heading the columns in Table 16-6-4.2:

TABLE 16-6-4.2: MINIMUM DIMENSIONAL AREAS INDICATED ON THE DRAWING BELOW

A	B	C	D		E	F		
Parking Angle	Stall Width (ft)[1]	Length of Stall (ft)[2]	Aisle Width (ft)		Width of Access Drive (ft)[3]	Bay Width (Center to Center Width of Two Row Bay with Aisle Between) (ft)		Vertical Clearance for Covered Spaces (ft)
			1-way	2-way		1-way	2-way	
0°	9 / 13 ft.	23 ft.	15 ft.	24 ft.	18 ft./ 24 ft.	24 ft.	30 ft.	7 ft.
30° - 53°	9 / 13 ft.	18 ft.	13 ft.	24 ft.	18 ft./ 24 ft	42 ft.	53 ft.	7 ft.
54° - 75°	9 / 13 ft.	19 ft.	20 ft.	24 ft.	18 ft./ 24 ft	52 ft.	58 ft.	7 ft.
76° - 90°	9 / 13 ft.	19 ft.	22 ft.	24 ft.	24 ft.	60 ft.	62 ft.	7 ft.

Notes to Table:
[1] The first width is for standard parking spaces, and the second is for accessible spaces (including access aisle). See Section 16-6-4.G. below.
[2] If continuous curbing is provided pursuant to Section 16-6-4.F.6, "Continuous Curbs," the length of each full-size stall abutting such continuous curbing may be reduced by 2.5 feet.
[3] As applicable, the first width is for one-way access drives, and the second figure is for two-way access drives.

Figure 16-6(4): Parking Dimensions



5. *Continuous Curbs.*
   a. *General.* Continuous curbs shall be provided, located, and designed to protect required screening devices and landscaping and pedestrian ways from damage orencroachment of vehicles and to provide necessary traffic control in the parking area.
   b. *Specifications for Continuous Curbs.* Continuous curbs shall be, a minimum of six inches (6") in height and six inches (6") in width. They shall form a non-interrupted edge around all landscaped areas abutting parking and turn-around areas that are not protected by wheel stops.

F. *Accessible Parking for the Physically Disabled.*

1. *Amount and Dimensions for Accessible Spaces.*

a. The minimum number of required accessible parking spaces shall be as follows:

TABLE 16-6-4.3: MINIMUM NUMBER OF REQUIRED ACCESSIBLE PARKING SPACES

Total Number of Required Parking Spaces from Table 16-6-4.1	Required Accessible Spaces
1 to 25 Spaces	1 Accessible Space
26 to 50 Spaces	2 Accessible Spaces
51 to 75 Spaces	3 Accessible Spaces
76 to 100 Spaces	4 Accessible Spaces
101 to 150 Spaces	5 Accessible Spaces
151 to 200 Spaces	6 Accessible Spaces
201 to 300 Spaces	7 Accessible Spaces
301 to 400 Spaces	8 Accessible Spaces
401 to 500 Spaces	9 Accessible Spaces
501 to 1,000 Spaces	2.0 percent of Total Required Spaces
1,001 Spaces and Over	20 Accessible Spaces plus 1 Accessible Space for Each 100 Spaces Over 1,000 Spaces

b. The size of the accessible space shall be eight feet (8') in width plus an additional five foot (5') wide access aisle, and nineteen feet (19') in depth. See Table 16-6-4.2 for specific dimensions. Two (2) accessible spaces may straddle and share a single five foot (5') access aisle.

c. One in every eight (8) accessible parking spaces required according to Table 16-6-4.3 above, but no less than one space per site, shall be van accessible. Alternately, ADA-approved universal parking spaces may be used, subject to City approval.

2. Each accessible space shall be marked with a freestanding sign and pavement markings using the standard uniform words, symbols and colors that signify that the space is for accessible parking only.

3. Designated accessible spaces shall be located as near to the entrance of the use as possible and shall be designed so that pedestrian access between the parking space and the building shall not involve crossing an area used for vehicular circulation.

a. Access ramps usable by physically disabled persons shall be provided for any change in grade between the parking space and the use.

b. The total number of spaces provided for the physically disabled shall be included in the total number of parking spaces otherwise required by this Title.

G. *Adjustments to Required Parking.* Notwithstanding the provisions of Section 16-6-4.F.1 EMC, "Amount of Off-Street Vehicle Parking," the following adjustments to the amount of off-street parking are allowed:

1. *Parking Adjustments for Uses in the MU-B-1 Business District.*

a. *Exempt Areas.*

(1) *MU-B-1 Business District.* Principal nonresidential uses located on properties with frontage on South Broadway, and located within the MU-B-1 district, are exempt from providing off-street parking spaces as stated in this Section 16-6-4 EMC. However, if off-street parking exists on, or is provided after, the effective date of this Title, such off-street parking shall comply with all applicable standards in this Section, except for the minimum amount required by subsection 16-6-4.F.1 EMC.

b. *Waiver of Other Requirements.* The City may waive the off-street parking requirements in this Section if an applicant submits a supporting marketing or parking study prepared by a qualified professional approved by the City, which applies reasonable professional standards, and the City Manager or designee approves such study.

2. *Structured Parking Preferred.* In order to conserve land for preferred development patterns in the MU-B-1 and TSA zone districts, the City strongly encourages developers to provide required off-street parking in multi-level structures to the maximum extent practicable. If structured parking is not feasible, surface parking areas shall be screened from the view of pedestrian ways by means of decorative walls or fences, landscaped berms, or mature shrubbery. See Section 16-6-7 EMC, for general landscaping and screening requirements.

H. *Alternative Parking Plans.*

1. *Scope.* An alternative parking plan is a proposal to meet vehicle parking needs by means other than providing parking according to the ratios established in Table 16-6-4.1 above, or by providing an alternative to this Section's off-street parking area design standards. Alternative parking plans may not be used to reduce required setbacks, landscaping, or screening of off-street parking areas.

2. *Applicability.* Applicants who are not otherwise eligible for the parking adjustments in subsection 16-6-4.H EMC, and seek to: (1) provide fewer off-street parking spaces than required in Table 16-6-4.1 EMC; (2) provide parking off-site; or (3) modify this Section's otherwise applicable off-street parking design standards shall secure approval of an alternative parking plan according to the standards of this subsection.

3. *Contents.* Alternative parking plans shall be submitted in a form established by the City. At a minimum, such plans shall detail the type of alternative proposed and the rationale behind the proposal.

4. *Review and Approval Procedure.*

a. *Decision-Making Body.* The City Manager or designee, with advice from the City Traffic Engineer or Transportation Planner, may approve, approve with conditions, or deny alternative parking plans.

b. *Review Criteria.* In order to approve an alternative parking plan, the City Manager or designee must determine that the proposed plan shall protect surrounding neighborhoods, maintain traffic circulation patterns, and promote quality urban design equally as well as or better than a plan that strictly complies with otherwise applicable off-street parking standards.

5. *Violations and Lapse.*

a. Any modification or waiver of off-street parking approved under an alternative parking plan shall remain valid only as long as the conditions warranting the modification or waiver exist. If the conditions that warranted the modification or waiver cease to exist (e.g., the use changes in nature or extent, operation of the use is discontinued for twelve (12) months or more, or there is a substantial change in parking demand), the City shall send written notice to the applicant or owner that the plan approval shall automatically lapse and be null and void unless the applicant or owner can show cause why the plan approval should continue. The applicant or owner shall respond to the notice within thirty (30) days from the date of the notification, and shall appear and state their case to the City Manager or designee within ninety (90) days of the notification date.

b. Lapse of an alternative parking plan shall not preclude other remedies and enforcement actions available under this Title. Specifically, violations of an approved alternative parking plan are violations of this Title and subject to the enforcement and penalty provisions of Chapter 16-10 EMC.

6. *Eligible Alternatives / Criteria for Approval.* A number of specific parking and access alternatives are described in the following subsections 6(a) through 6(e) below. The City may, however, consider and approve any alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates that the proposed plan meets the criteria stated in Section 16-6-4.I.4(B) EMC.

a. *Shared Parking.* It is the City's stated intention to encourage efficient use of land and resources by allowing users to share off-street parking facilities whenever feasible. The City Manager or designee may authorize a reduction in the number of required off-street parking spaces for multiple use developments or for uses that are located near one another and that have different peak parking demands or different operating hours. Shared parking shall be subject to the following standards:

(1) *Zoning Classification.* Shared parking areas shall be considered accessory to the principal uses that the parking spaces are intended to serve. Shared parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area, provided that shared parking facilities may be located in any zoning district that allows commercial parking lots or structures.

(2) *Required Study and Analysis.* The applicant shall submit a shared parking analysis to the City that clearly demonstrates the feasibility of shared parking. The study shall address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that shall be sharing off-street parking spaces.

(3) *Shared Parking Agreement.* A shared parking plan shall be enforced through written agreement among the owners of record. All shared parking agreements shall be approved by the City and thereafter recorded. A shared parking agreement may be revoked by the parties to the agreement only if off-street parking is provided under Table 16-6-4.1 of this Section or another alternative parking plan is approved.

b. *Remote Parking.* The City may permit all or a portion of required off-street parking to be located beyond the otherwise applicable distance requirements established in this Section, subject to the following standards:

(1) *Location.* No remote parking space shall be located more than three hundred feet (300') beyond the distance established in Section 16-6-4.F.2 EMC. The City may waive this distance limitation if adequate assurances are offered that van or shuttle service shall be operated between the remote lot and the principal use.

(2) *Zoning Classification.* Remote parking areas shall be considered accessory to the principal use that the parking spaces are intended to serve. Parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the remote parking area, provided thatremote parking facilities may be located in any zoning district that allows commercial parking lots or structures.

(3) *Remote Parking Agreement.* If a remote parking area is not under the same ownership as the principal use served, a written agreement among the owners of record shall be required. All remote parking agreements shall be approved by the City and thereafter

recorded. A remote parking agreement may be revoked by the parties to the agreement only if off-street parking is provided under Table 16-6-4.1, or if another alternative parking plan is approved.

c. *Parking Assessment Districts.* When the City has established off-street parking facilities by special assessment district, all or a portion of the off-street parking spaces required by Table 16-6-4.1 may be waived when the subject building or use is located within the boundaries of the special assessment district, or other district that City may determine. The City Manager or designee, with the assistance of the City Traffic Engineer or Transportation Planner, shall determine to what extent and on which lots the required parking may be waived. In no event shall the total number of such waived parking spaces exceed the total number provided by the publicly owned parking facility.

d. *Valet Parking.* The City Manager or designee may authorize valet parking as a means of satisfying some or all of otherwise applicable off-street parking standards.

e. *Transportation Demand Management Plan.* The City may authorize a reduction in the number of required off-street parking spaces for large developments or uses (those otherwise required to provide more than two hundred fifty (250) parking spaces) that institute and commit to maintain a transportation demand management (TDM) program, according to the following standards:

(1) *Required Study.* The applicant shall submit a study to the City clearly indicating the types of transportation demand management activities and measures proposed. The study shall be provided in a form established by the City.

(2) *Transportation Management Activities.* There shall be no limitation on the types of transportation management activities for which reductions may be granted from otherwise required off-street parking ratios. The following measures shall serve only as a guide to eligible transportation management activities:

(a) *Posting and Distribution of Information.* The distribution and posting of information from transit agencies and other sources of alternative transportation may, in combination with other TDM measures, be cause for a reduction in otherwise applicable off-street parking requirements.

(b) *Transportation Coordinator.* The appointment of a transportation coordinator with responsibility for disseminating information on ride-sharing and other transportation options may, in combination with other TDM measures, be cause for a reduction in otherwise applicable off-street parking requirements. In addition to acting as liaisons, transportation coordinators shall be available to attend meetings and training sessions with the City or transit providers.

(c) *Off-Peak Work Hours.* Employers that institute off-peak work schedules, allowing employees to arrive at times other than the peak morning commute period, may be eligible for a reduction in otherwise applicable off-street parking requirements. The peak morning commute period is defined as seven-thirty o'clock (7:30) A.M. to nine o'clock (9:00) A.M.

(d) *Telecommuting.* Employers that adopt a specific telecommuting policy foremployees may be eligible for a reduction in otherwise applicable off-street parking requirements.

(e) *Van and Car Pools.* Provision of regular, employer-sponsored ride-sharing measures, such as van and car pools, may be cause for a reduction in otherwise applicable off-street parking requirements.

(f) *Transit Head Facilities.* Provision for convenient employee connections to transit head facilities (e.g., bus transfer stations or park and ride lots) may be cause for a reduction in otherwise applicable off-street parking requirements.

(g) *Preferential Parking.* The provision of specially marked spaces for each registered car pool and van pool may be cause for a reduction in otherwise applicable off-street parking requirements.

(h) *Additional Bike Parking/Amenities.* The provision of bicycle parking in an amount substantially greater than otherwise required by this Title and/or the provision of showering and changing facilities for bicycle-commuting employees may because for a reduction in otherwise applicable off-street parking requirements.

(i) *Financial Incentives.* The provision of cash or in-kind financial incentives for employees commuting by car pool, van pool, and transit may be cause for a reduction in otherwise applicable parking requirements.

(3) *Reporting Required.* Any development or use that institutes a TDM program and receives a reduction of off-street parking spaces under this subsection shall submit a written status report to the City at the end of each calendar year. The report shall provide tracking and other information that substantiates implementation of the TDM program and consistent or growing use of the program's measures by employees.

I. *Vehicle Stacking Areas and Design Standards for Auto-Oriented Uses.* The development and design standards of this subsection shall apply to all drive-in and drive-through facilities and other auto-oriented uses unless otherwise expressly approved by the City:

1. *Minimum Number of Vehicle Stacking Spaces.* Off-street stacking spaces shall be provided as follows:

TABLE 16-6-4.4: MINIMUM NUMBER OF VEHICLE STACKING SPACES

Activity Type	Minimum Stacking Spaces	Measured From
Bank teller lane	6 (Maximum = 30)	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	9	Entrance
Car wash stall, self-service	3	Entrance
Automobile service station	2	From end of the line of pumps
Funeral home/mortuary	4	Primary Passenger Loading Area for Processions
Drive-in liquor store	3	Pick-Up Window
Drive-in dry cleaners	3	Pick-Up Window
Other	4	Pick-Up Window

2. *Design and Layout.* Required drive-through lanes and facilities and vehicle stacking spaces are subject to the following design and layout standards:

a. *Vehicle Stacking Spaces.*

(1) *Size.* Vehicle stacking spaces must be a minimum of nine feet (9') by twenty feet (20') in size.

(2) *Location.* Stacking spaces may not impede on- or off-site traffic movements, nor impede movements into or out of off-street parking spaces.

(3) *Design.*

(a) Vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.

b. *Drive-In (Drive-Through) Facilities and Lanes.*

(1) Drive-in facilities (e.g., order stations, pick-up windows, bank teller windows, money machines, etc.) shall be located on the side or rear of principal structures to minimize their visibility from public streets.

(2) To the maximum extent practicable, drive-in lanes shall not be located between the principal structure and adjacent public streets or sidewalks, or other public gathering place (such as a park or bus stop). If this is not possible, drive-in lanes and facilities shall be set back a minimum of twenty feet (20') from any adjacent public street or sidewalk or other public place. The entire twenty foot (20') setback must be landscaped and bermed to screen the drive-in lane and facility from adjacent streets and block the exhaust from idling automobiles.

(3) Car wash facilities and gas station auto service bays shall be located on the side or rear of principal structures to minimize their visibility from public streets.

(4) In addition to any screening required by Section 16-6-7 EMC, drive-in lanes adjacent to residential uses shall be separated from such uses by an opaque wall at least six feet (6') high, located so that required buffer landscaping is between the wall and the adjacent residential use.

J. *Bicycle Parking.* Parking for bicycles shall be provided as follows:

1. *Applicability.* Bicycle facilities shall be provided for all new development subject to this Section, including expansions and changes of use that would result in additional parking facilities being required subject to the provisions of this Section and Title.

2. *General Standards for Bicycle Parking Facilities.*

a. Bicycle parking facilities shall include provisions for storage and locking of bicycles in secure racks, or equivalent installation, in which the user may lock both the bicycle frame and wheels to the rack.

b. Bicycle facilities required by this Section shall be maintained for the duration of the use requiring such facilities, and shall not be used for other purposes.

3. *Location of Bicycle Facilities.*

a. Parking for bicycles shall be provided on site, and bicycle parking areas shall be well-lighted and located as near to the building or facility entrance as possible and shall not interfere with pedestrian traffic.

b. If possible, bicycle parking areas should utilize already existing weather protected areas such as building overhangs.

c. If bicycle and automobile parking areas or accessways abut each other, a physical barrier between the bicycle parking area and the automobile parking or drive areas shall be provided to prevent the possibility of bicycle-motor vehicle collisions.

4. *Amount of Bicycle Parking Required.* Parking for bicycles shall be provided as follows:

a. Multi-Unit Residential Use. As applied to multi-unit dwellings containing three (3) or more units only: One (1) bicycle parking space per each two (2) dwelling units; except that

residences or facilities where at least ninety percent (90%) of the units are designed for or occupied by persons age sixty (60) years or older shall provide one (1) bicycle parking space per each twenty (20) units.

b. Nonresidential Uses. One (1) bicycle parking space per each ten (10) parking spaces required for motor vehicles, but not less than two (2) spaces per premises, unless otherwise specified below:

(1) Mortuary, auto service station, automobile services, drive-up windows providing services to occupants in vehicles—No bicycle spaces required.

(2) School (Grades K through 8)—One (1) bicycle parking space for each twenty (20) students.

(3) School (Grades 9 through 12)—One (1) bicycle parking space for each thirty (30) students.

(4) Commercial Recreation—One (1) bicycle parking space for each twelve (12) persons capacity.

(5) Community Facilities, including swim club, tennis club, community centers, neighborhood centers and similar activities—One (1) bicycle space for each twelve (12) persons capacity.

(6) Public Transit Station—One (1) bicycle parking space per each ten (10) parking spaces required for motor vehicles, but not less than twenty (20) spaces.

K. *Off-Street Loading Standards.*

1. *Applicability.* This Section's off-street loading requirements shall apply to:

a. All multi-unit dwellings containing twenty-five (25) or more units; and

b. All nonresidential principal uses.

2. *Off-Street Loading Standards.*

a. *Minimum Amount Required.* The number of off-street loading spaces, determined by the amount of gross floor area within the structure or structures, shall be as follows:

TABLE 16-6-4.5: MINIMUM NUMBER OF OFF-STREET LOADING SPACES

Square Feet of Gross Floor Area	Number of Loading Spaces
Less than 25,000	1
25,000 up to and including 40,000	2
40,001 up to and including 100,000	3
For each additional 50,000 square feet over 100,000 square feet of gross floor area	1 additional

b. *Minimum Dimensions and Design Standards.*

(1) Minimum dimensions for all off-street loading spaces or loading berths shall be: Ten feet (10') wide, thirty-five feet (35') long, and fourteen feet (14') high.

(2) The loading space or berth shall be designed so that vehicles shall not extend into public rights-of-way from the off-street loading space.

c. *Location.* Except as required in subsection L.3 below for the MU-B-1 district, the following standards shall apply:

(1) Off-street loading spaces may be located within a structure.

(2) The public right-of-way shall not be used as a loading dock or loading berth.

3. *Off-Street Loading in the MU-B-1 District.* Access for loading should be provided off the alley; or, if the property has no access to an alley, from the primary street. All other loading requirements in this subsection shall apply in the MU-B-1 district.

L. *Landscaping and Screening.* Off-street parking and loading areas shall comply with the parking area landscaping requirements in Section 16-6-7.F EMC, and the screening requirements for off-street loading areas stated in Section 16-6-7.G EMC.

M. *Snow Removal and Snow Storage.* Off-street parking areas having fifty (50) or more spaces shall provide a designated area for the storage of snow removed from the lot. Such storage area shall not be in a required parking space or spaces.

N. *Surface Cover.* Off-street parking and loading spaces shall not be a grass surface.
(Ord. 04-5; Ord. 05-25; Ord. 08-13, § 2; Ord. 08-37, § 7; Ord. 08-48, § 21; Ord. 08-55, § 3; Ord. 1-11/12, § 14; Ord. 7-13, § 6)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. Englewood Home Rule Charter Article VI, Section 48)

16-6-5: Pedestrian and Bicycle Access and Connectivity.

A. *Purpose.* These standards provide for a safe and convenient system of well-connected pedestrian ways and bikeways that link developments with shopping, employment centers, recreational facilities, open space, parks, transit stops, and schools. Within individual developments, these standards require safe and convenient pedestrian and bikeway systems that directly link buildings, parking areas, open space, transit stops, services, and other areas of interest. In addition, these standards encourage convenient access to transit services, including linking transit access to on-site pedestrian and bicycle systems.

B. *Applicability.* This Section shall apply to all new nonresidential development and to all new residential development containing four (4) or more dwelling units, except where development standards are modified through approval of a Planned Unit Development, or where a variance is granted under Section 16-2-16 EMC.

C. *Detached (Separate) Sidewalks.*

1. Detached (separate) sidewalks meeting City design and construction standards shall be installed along all local, collector, and arterial streets.

2. Sidewalks shall be detached from the curb at least six feet (6') to allow for a landscaped planting strip between the edge of the right-of-way and sidewalk, except for transitioning at street intersections where sidewalks shall be attached.

D. *On-Site Pedestrian and Bicycle Access.*

1. General Standards. All new development subject to this Section shall provide on-site pedestrian and bicycle systems that comply with the following standards:

   a. On-site bicycle systems shall connect to the City's existing and planned on-street or off-street bike path network. Safe and convenient bicycle and pedestrian access from the site shall be provided to designated bicycle paths or greenways located adjacent to the development.

   b. On-site connections shall be made at points necessary to provide direct pedestrian and bicycle travel from the development to major pedestrian destinations located within the adjacent neighborhood(s). In order to provide direct pedestrian connections to these adjacent destinations, the City may require additional sidewalks, walkways, or bikeways not associated with a street, or the extension of a sidewalk from the end of a cul-de-sac to another street or walkway.

c. The City may require, when necessary to assure public safety, pedestrian and/or bicycle overpasses, underpasses, or traffic signalization in the vicinity of parks, shopping areas, or other uses that may generate considerable pedestrian and/or bicycle traffic.

2. Pedestrian Connections.

a. All primary entrances of principal structures containing nonresidential uses, and each entryway serving multiple dwelling units in a multi-unit dwelling, shall have direct access (i.e., access without having to cross a street) to a sidewalk, pedestrian walkway, or trail that leads to a sidewalk adjacent to a public street. In addition, all such principal structures shall provide direct pedestrian connections:

(1) Between each principal structure in the development;

(2) To sidewalks on adjacent properties; and

(3) To all existing or planned transit stop or park-n-ride locations identified by RTD (see subsection E., "Pedestrian Access to Transit," below).

b. In any development that includes parking areas that extend more than two hundred fifty feet (250') from an entrance to the principal structure used by residents, employees, or the public, the development shall provide a designated walkway from the row of parking furthest from the principal structure either to the structure entrance or to a sidewalk leading to such entrance. Such walkways shall be distinguished from surrounding parking areas by changes in color or texture, raised surfaces, or landscaped edges. (See subsection F, "Pedestrian Street Crossings," below for related standards.)

c. All nonresidential development should provide:

(1) A walkway at least five feet (5') wide extending across the front of each principal structure; and

(2) Weather protection features such as awnings or arcades at each entrance used by residents, employees, or the public.

d. All sidewalks, pedestrian walkways, or trails required by this subsection shall be a minimum of five feet (5') wide, or a minimum of seven feet (7') wide where it is adjacent to areas where parked cars may overhang the walk or trail.

3. Bicycle Connections. In developments containing nonresidential uses or multi-unit dwelling uses containing ten (10) or more units, bicycle access routes shall be provided between public bikeways and on-site bicycle parking areas. Sites should be designed to avoid or minimize all conflicting bicycle/motor vehicle and bicycle/pedestrian movements. All bicycle access routes connecting to the Englewood park, open space, and greenway system shall be constructed of concrete, shall be at least six feet (6') wide, and shall comply with all other applicable City design and construction standards.

E. *Pedestrian Access to Transit.* Nonresidential and multi-unit residential developments shall incorporate bus stop locations within their Site Improvement Plan if requested by the Regional Transportation District (RTD) or other transit provider. Bus stop locations shall accommodate a bus shelter and passenger-loading apron complying with RTD (or other transit provider) design criteria. All existing and proposed bus stops and park-n-ride facilities shall be linked by paved walkways to at least one sidewalk and to at least one internal walkway within each adjacent nonresidential and multi-unit development that contains more than one building. Applicants are responsible for contacting and coordinating with RTD or any other transit provider to assure compliance with this provision.

F. *Pedestrian Street Crossings.* Pedestrian access and safety shall be emphasized when a pedestrian walkway crosses drive aisles or internal roadways. The material and layout of the pedestrian access shall be continuous as it crosses the driveway, with a break in continuity of the driveway paving and not in the pedestrian access way. The pedestrian crossings shall be well marked using pavement treatments, signs, striping, signals, lighting, traffic calming techniques, median refuge areas, and/or landscaping.

G. *Security, Lighting, and Visibility.* On-site pedestrian walkways, bicycle routes, and transit stops shall be illuminated to ensure personal safety. Lighting fixtures shall be compatible with the architectural character of the principal structures. Clear and direct lines of sight shall be provided to the maximum extent practicable in pedestrian settings to increase visibility and security. Any service areas (loading docks or storage areas) adjacent to pedestrian walkways or bicycle routes shall be fully screened from view. See Section 16-6-7.K EMC, for additional standards.
(Ord. 04-5; Ord. 08-37, § 8; Ord. 29-14, § 4)

16-6-6: Fences and Retaining Walls.

A. *Purpose.* The following provisions establish standards to regulate the design and location of fences and retaining walls in a manner that ensures the following:

1. An attractive environment of safe, desirable character;
2. Reduced potential for pedestrian or traffic conflicts; and
3. Protection and security for the owner and adjacent parcels.

B. *Applicability/Permit Required.*

1. *Applicability.*
   a. This Section shall apply to all new fences and retaining walls erected or installed after the effective date of this Title.
   b. This Section shall apply to all fences and retaining walls existing on the effective date of this Title. Nonconforming fences and retaining walls shall be subject to the termination and other provisions applicable to nonconforming structures stated in Chapter 16-9 EMC, "Nonconformities."
   c. For the purpose of this Section, the term "fence" shall also include any visual barrier, as defined by this Title.
2. *Permit and Site Improvement Plan Required.*
   a. A Permit and a Site Improvement Plan review and approval shall be required for:
      (1) Construction of all new fences or retaining walls erected or installed after the Effective Date of this Title.
      (2) Replacement of more than twenty-five feet (25') of existing fence.
      (3) Replacement of all or any portion of an existing retaining wall.
      (4) Alteration or modification to the height, material or location of an existing fence or retaining wall.
      (5) Alteration or modification of an existing fence or retaining wall affecting sight distance.
   b. A Permit and Site Improvement Plan review are not required for simple repairs such as replacement of individual pickets, posts or less than twenty-five feet (25') of fencing material.

c. An applicant may apply for Site Improvement Plan approval according to Section 16-2-9 EMC, "Site Improvement Plan Review," above.

C. *Maintenance.* All fences and retaining walls shall be kept in a state of good repair.

D. *Visibility: Sight Distance Triangle.* The City Traffic Engineer shall determine compliance with sight distance standards in connection with all permit applications and shall be authorized to vary these standards depending on site conditions.

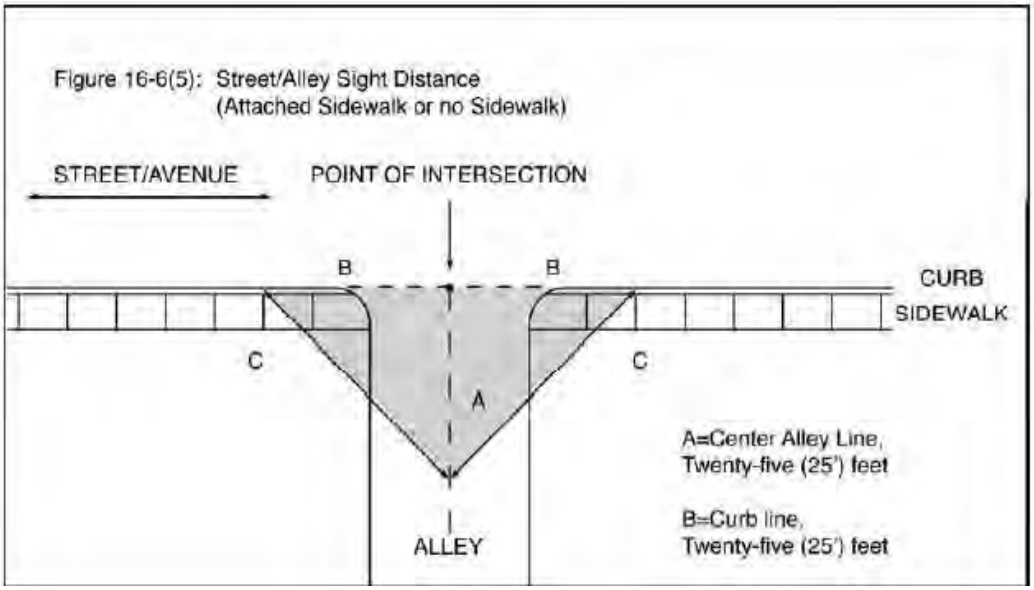
1. *Street/Street Intersection Sight Distance Triangle.* No fence, visual obstruction or retaining wall over three feet (3') in height above the grade of the adjacent street shall be erected, placed, planted, or allowed to grow that obstructs the view of pedestrians on the sidewalk or obstructs the traffic vision at intersections.

2. Street/Alley Sight Distance Triangle.

(a) Street/Alley Intersection With Attached Sidewalk or Street/Alley Intersection Without Sidewalk. No fence, visual obstruction or retaining wall over three feet (3') in height above the grade of the adjacent street or alley shall be permitted within a twenty-five foot (25') sight distance triangle created at the intersection of an alley and street.

(1) Said triangle is measured from a point where the street curb line and the centerline of the alley meet. The distance from this point shall be twenty-five feet (25') along the street curb line ("B") and twenty-five feet (25') along the alley center line ("A"). The third side of the triangle ("C") shall connect these two sides, creating the sight distance triangle.

(2) Figure 16-6(5) shall be used to determine said sight distance triangle.



(b) Street/Alley Intersection With Detached Sidewalk. No fence, visual obstruction or retaining wall over three feet (3') in height above the grade of the adjacent street or alley shall be permitted within a twenty-five foot (25') sight distance triangle created at the intersection of an alley and street.

(1) Said triangle is measured from a point where the line of the front edge of the sidewalk and the centerline of the alley meet. The distance from this point shall be twenty-five feet (25') along the front edge of the sidewalk ("B") and twenty-five feet (25') along the alley center line ("A"). The third side of the triangle ("C") shall connect these two sides, creating the sight distance triangle.

(2) Figure 16-6(6) shall be used to determine said sight distance triangle.

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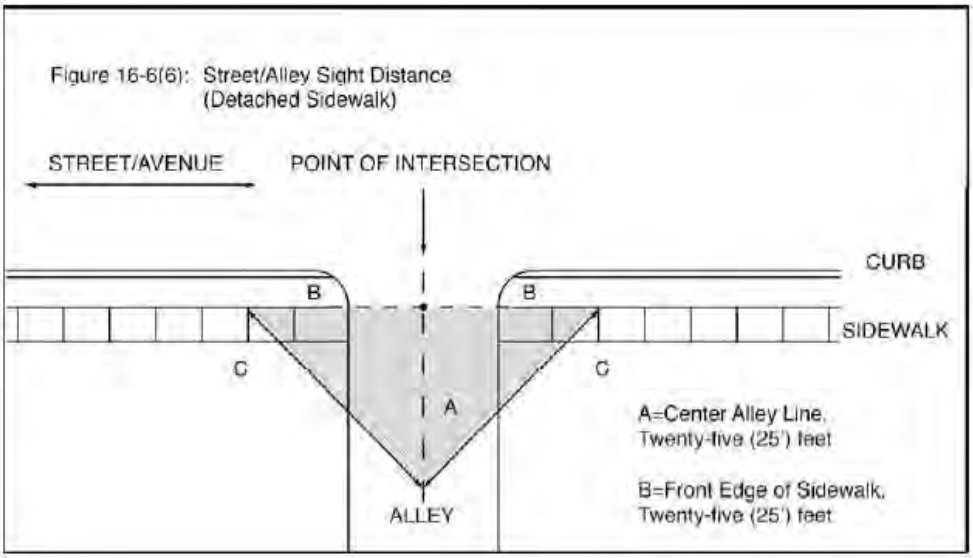
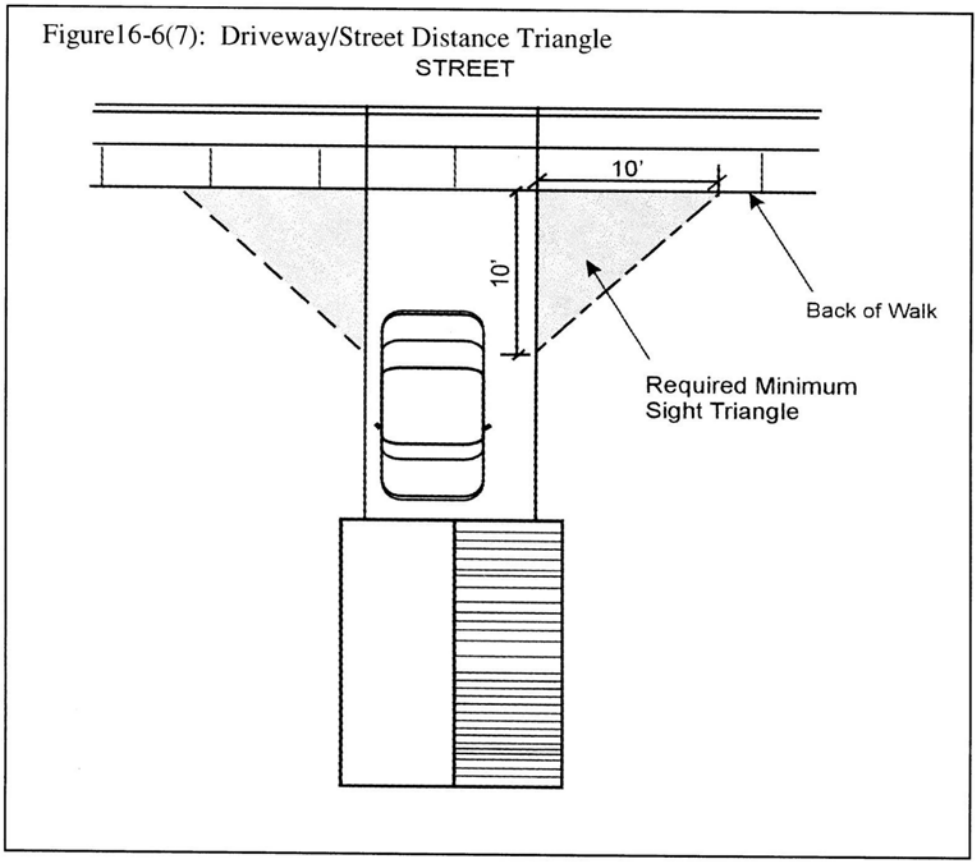


3. Driveway/Street Sight Distance Triangle. No visual obstruction over three feet (3') in height above the grade of the adjacent street shall be permitted within the ten foot (10') sight distance triangle created at the intersection of a driveway and back edge of the sidewalk. Figure 16-6(7) shall be used to determine the visibility at driveways and streets. When no sidewalk exists, the sight triangle shall be determined by the City Traffic Engineer.



E. *Fence Classifications.* A single unified fence style is encouraged. Classification of fences, shall be as follows:

TABLE 16-6-6.1: FENCE CLASSIFICATIONS		
Class	**Style**	**Permitted Materials**
Class 1	Masonry	Brick, stone, integrally colored concrete, textured concrete, smooth or textured concrete masonry unit (CMU), stucco or other similar material.
Class 2	Decorative Metal	Decorative metal, such as cast or wrought iron, galvanized steel, aluminum or other decorative metal fencing materials.
Class 3	Chain Link	Steel or aluminum. Barbed wire or other sharp wire shall only be permitted per Subsection F2, below.
Class 4	Wood	Wood materials designed specifically for fencing purposes. Wood fence material shall meet EPA residential use standards.
Class 5	Alternative	Vinyl, plastic, or composite fence products designed specifically for fencing purposes.

TABLE 16-6-6.1: FENCE CLASSIFICATIONS		
Class	**Style**	**Permitted Materials**
Class 6	Combination	Combination fences shall consist of two or more materials permitted within the zone district.
Class 7	Woven Wire	Steel or aluminum woven wire designed for fencing. Barbed or other sharp wire shall only be permitted per Subsection F2, below.

1. Fences shall be constructed of materials customarily used for permanent fencing in the Denver metro area and approved by the City Manager or designee.

2. Prohibited fence materials:

   a. The following materials shall be prohibited. Creosote or chromated copper arsenate (CCA) treated wood products, utility poles, railroad ties, plywood, fiberboard, salvage wood, corrugated metal, sheet metal, scrap or salvage metal, PVC pipe, chicken wire, snow fences, plastic weaving, or plastic slats for use in chain link.

   b. Electric Fences. Electrically charged fences shall be prohibited in all zone districts.

   c. Plastic construction fencing may be used only for temporary construction fencing.

F. *Fence Standards.*

1. *Permitted Fence Location, Class, and Height by Zone District.* It shall be unlawful for any person to erect a fence or for any property owner to allow a person to erect a fence that does not conform to the standards enumerated in this Section and the standards for all zoned districts, as described in Tables 16-6-6.1 thru 16-6-6.4:

TABLE 16-6-6.2: FENCE STANDARDS FOR RESIDENTIAL DISTRICTS				
Zone District	**Fence Location**	**Permitted Fence Class**	**Permitted Maximum Height (in feet)**	**Additional Requirements**
R-1-A R-1-B R-1-C R-2-A R-2-B	FRONT SETBACK:			• Fences in a front yard shall not interfere with or obstruct visibility within a required sight distance triangle.
	a. Solid Construction	1, 4	3	
	b. Open Construction	2, 3, 4, 5, 6	4	
MU-R-3-A MU-R-3-B MU-R-3-C	FRONT SETBACK:			
	a. Solid Construction	1, 4	3	
	b. Open Construction:			
	i. Residential	2, 3, 4, 5, 6	4	
	ii. Nonresidential	1, 2	6	
		4, 5, 6	4	
R-1-A R-1-B R-1-C R-2-A, R-2-B, MU-R-3-A, MU-R-3-B MU-R-3-C	SIDE SETBACK/FENCES BEHIND THE FRONT SETBACK LINE: Solid and/or Open Construction	1, 2, 3, 4, 5, 6	6, except as noted in Additional Requirements	• Fences in a side yard shall not interfere with or obstruct visibility within a required sight distance triangle.
R-1-A R-1-B R-1-C R-2-A, R-2-B, MU-R-3-A, MU-R-3-B MU-R-3-C	REAR SETBACK: Solid and/or Open Construction	1, 2, 3, 4, 5, 6	6, except as noted in Additional Requirements	• Fences in a rear yard shall not interfere with or obstruct visibility within a required sight distance triangle.

TABLE 16-6-6.3: FENCE STANDARDS FOR BUSINESS DISTRICTS				
Zone District	**Fence Location**	**Permitted Fence Class**	**Permitted Maximum Height (in feet)**	**Additional Requirements**
M-1, M-2, M-O-2, MU-B-1, MU-B-2, TSA	AREA WITHIN 15 FEET OF FRONT PROPERTY LINE:			Fences in a front yard shall not interfere with or obstruct visibility within a required sight distance triangle. • A combination fence may be permitted where a solid masonry base shall have a maximum height of three (3) feet, and decorative metal material built on top of that base shall have a maximum height of three (3) feet and shall be at least 75% open.
	a. Solid Construction	1, 4, 5	3	
	b. Open Construction	1, 2, 4, 5	3	
		2	6	
	AREA BEYOND 15 FEET OF FRONT PROPERTY LINE	1, 2, 3, 4, 5, 6, 7	6	Fences in rear and side yards shall not interfere with or obstruct visibility within a required sight distance triangle.

TABLE 16-6-6.4: FENCE STANDARDS FOR INDUSTRIAL DISTRICTS				
Zone District	**Fence Location**	**Permitted Fence Class**	**Permitted Maximum Height (in feet)**	**Additional Requirements**
I-1, I-2	FRONT YARD: Solid and/or Open Construction	1, 2, 3, 4, 5, 6, 7	12	Fences in a front yard shall not interfere with or obstruct visibility within a required sight distance triangle.
	SIDE YARD: Solid and/or Open construction	1, 2, 3, 4, 5, 6, 7	12	• Fences in a side yard shall not interfere with or obstruct visibility within a required sight distance triangle.
	REAR YARD: Solid and/or Open Construction	1, 2, 3, 4, 5, 6, 7	12	• Fences in a rear yard shall not interfere with or obstruct visibility within a required sight distance triangle.

2. *Additional Fence Standards.*

a. *Barbed Wire.*

(1) Barbed wire or other sharp wire shall not be erected or maintained within:

(a) Any residential, TSA, or business zone district.

(b) Any yard area of a property within an industrial zone district that abuts or adjoins property in a nonindustrial zone district.

(2) Where allowed, barbed wire or other sharp wire may be erected on permitted fences provided the wire or material is installed at least six feet (6') above grade and does not exceed the permitted fence height.

b. *Height.*

(1) Height means the distance of the vertical fence surface measured from finished grade to the top of the vertical surface.

(2) Pillars or posts between vertical fence surfaces may exceed the maximum permitted fence height by ten percent (10%).

(3) Trellis and Gate/Entry Features. Trellis and Gate/Entry features may be permitted provided they do not exceed a height of eight feet (8') above grade.

(4) When a fence is erected on top of a retaining wall, the height of the fence shall be measured from the top of the retaining wall.

(5) When a fence is erected on a wall that is part of, or integral to the fence construction, the entire structure shall be considered a Class 6 fence and shall comply with Class 6 fence height requirement.

c. *Design and Location.*

(1) Separation between post/pillars shall be a minimum of five feet (5').

(2) Decorative Materials. Decorative materials, including, but not limited to, tile or glass block, may be incorporated into the design of permitted classes of fences upon the approval of the City Manager or designee.

(3) Fences in Easements. Fences may be permitted within easements. However, the City shall not be responsible for the repair or replacement of fences that must be removed to access such easements.

(4) Fences Adjacent to Public Sidewalk. All fences shall be located on the owner's property but no closer than one foot (1') behind any public sidewalk.

(5) Gates shall be prohibited from opening into or over any public sidewalk, street, or alley.

d. *Lighting.* Lighting may be installed provided such lighting is controlled by an automatic light level switch and is downcast and shielded so that light is directed into the site and not outward toward adjacent properties.

e. *Fences for Swimming Pools.* Please refer to the Englewood Municipal Code for fence requirements for swimming pools.

f. *Temporary Fences.* Temporary fences for construction sites or similar purpose shall comply with requirements of the Building Code adopted by the City.

G. *Retaining Wall Classifications.*

TABLE 16-6-6.5: RETAINING WALL CLASSIFICATIONS

Class	Style	Permitted Materials
Class 1	Masonry	Brick, stone, integrally colored concrete, textured concrete, smooth or textured CMU, stucco or other similar material.
Class 2	Wood	Landscape timbers. Material shall meet EPA residential use standards.
Class 3	Alternative	Other materials commonly used for retaining walls in the Denver metro area and approved by the City Manager or designee.

1. *Prohibited Retaining Wall Material:* Utility poles, railroad ties, or any creosote or CCA treated materials shall be prohibited.

H. *Retaining Wall Development Standards.*

1. Retaining walls shall meet all applicable Building Code standards adopted by the City.

2. Retaining Walls Adjacent to Public Sidewalks. All retaining walls shall be located on the applicant's property but no closer that one foot (1') behind any public sidewalk.

I. *Ownership Waiver.* An Owner may apply to build in the City right-of-way up to the edge of the sidewalk by signing an encroachment agreement subject to the terms and restrictions of 11-3-4 EMC. An Owner may waive the one-foot (1') restriction of F(2)(c)(4) or H(2) by signing a waiver of damage from sidewalk repair or replacement.

(Ord. 04-5; Ord. 05-36; Ord. 08-48, §§ 21—23; Ord. 09-28, § 8; Ord. 23-12, § 8; Ord. 29-14, § 4)

16-6-7: Landscaping and Screening.

A. *Purpose.* The City recognizes the aesthetic, ecological, and economic value of landscaping. This Section establishes landscape standards for new development and redeveloping properties in order to enhance, improve, protect and preserve the appearance, character, and value of such properties and their surrounding neighborhoods. This Section is further intended to:

1. Enhance the aesthetic appearance of development in the City by providing standards for the quality, quantity, maintenance and function of landscaping;

2. Promote a sustainable ecological environment by enhancing air and water quality, reducing erosion and stormwater runoff, and reducing the effects of noise, heat and glare generated by development;

3. Protect public health, safety, and welfare by screening incompatible land uses, preserving the integrity of neighborhoods, and enhancing pedestrian and vehicular traffic and safety.

4. Preserve and enhance the City's urban landscape.

B. *Applicability.*

1. This Section shall apply when an application is made for any of the following:

   a. A building permit for a new principal structure;

   b. A building permit for existing principal structure(s) that results in an increase of the gross floor area by both fifteen percent (15%) or more and five hundred (500) square feet or more;

   c. A Site Improvement Plan permit for construction of a new off-street parking area or the expansion of an existing off-street parking area by both twenty percent (20%) or more and two (2) or more parking spaces;

   d. A building permit for the renovation, remodeling or expansion of an existing residential structure that results in the use of such structure being changed to a non-residential use.

2. Existing Landscaping. Existing uses or lots shall not be deemed nonconforming solely because of the lack of landscaped area or landscape material in the minimum amount required by this Chapter, provided:

   a. The landscaped area and material existed on the effective date of this Section;

   b. The landscaped area and material are not thereafter reduced in area or size below the minimum amount required by this Section.

C. *Landscape Plan.*

1. Landscape Plan Required. A landscape plan shall be required to ensure that proposed landscape improvements are in compliance with the standards and requirements of this Chapter.

   a. Applicability. A landscape plan shall be required for a building permit or Site Improvement Plan permit submitted for any development identified in Subsection 16-6-7(B) EMC, "Applicability".

   b. Plan Requirements.

      (1) One-Unit and Multi-Unit Residential Uses With Up to Four (4) Units. Landscape plans shall be designed in accordance with this Chapter and prepared to standards outlined in the City of Englewood Landscape Manual.

      (2) All Other Uses. Landscape plans shall be designed in accordance with this Chapter and contain a signed seal (stamp) of a licensed Colorado Landscape Architect, Engineer or Architect. Plans shall be submitted to standards outlined in the City of Englewood Landscape Manual.

2. Landscape Plan Waiver. Where an applicant can show that existing landscaping meets or exceeds the total landscaping required by this Section, the City Manager or designee may waive submittal of a landscape plan.

3. Revisions to Landscape Plans. Landscaping may be revised prior to final landscape inspection provided a revised landscape plan is submitted and the:

   a. Landscape area and material quantities are not reduced below the minimum requirements of this Chapter, and

b. Substituted plant materials are of the same general type (i.e., tree, or shrub, groundcover) and have the same general characteristics (i.e., mature height, spread) as the plants being replaced.

4. Final Landscape Inspection. The City shall conduct a landscape inspection for substantial compliance with requirements of this Chapter as part of the final inspection for a building permit or Site Improvement Plan permit subject to requirements of Subsection 16-6-7(B) EMC, "Applicability".

D. *Landscaping Requirements.*

1. General Standards. Landscape requirements shall include two (2) components; required landscape area, and required landscape materials. Both the quantity of landscape area and quantity of landscape materials shall be met.

a. Minimum Required Landscaped Area. Required Landscaped Area (RLA) shall be determined by zone district requirements as demonstrated in Tables 16-6-7.3 thru 16-6-7.5 EMC below. Driveways, off-street parking areas, and public sidewalks shall not count toward Required Landscaped Area.

b. Minimum Dimensions. Any area included in calculations toward the minimum Required Landscaped Area shall have a minimum dimension of three feet (3') on any side.

c. When calculations for the required number of trees or shrubs result in a fractional number, the requirement shall be rounded up to the next higher whole number.

d. Landscaped areas may include a combination of living and non-living materials as described in Subsections 2 and 3 below.

e. Landscaping materials installed within an abutting public right-of-way shall count toward the abutting property's landscape requirement.

f. Landscaped areas shall be protected from vehicular traffic by concrete curbing or other devices acceptable to the City that prevent vehicular access upon these areas. This requirement shall not apply to single unit and multi-unit residential development up to four (4) units.

g. All areas not included in Required Landscaped Area calculations shall be protected by permanent erosion control and shall not exceed maximum lot coverage requirements of the District.

h. Water Conservation (Xeriscape) Principles. The City encourages xeriscape, or water conservation principles, in meeting the requirements of this Chapter. Xeriscape principles include the use of mulches, native and adapted lower water-demand plants, limited turf areas, and efficient watering methods resulting in significantly lower water-use and decreased maintenance.

i. The City of Englewood encourages landscape designs that facilitate water quality and detention of storm drainage. Landscaped areas utilized for stormwater quality and detention may be counted toward required landscaped area.

j. Multiple-Zoned Properties. When a property is composed of more than one (1) zone district, the City Manager or designee may utilize landscape requirements of the more restrictive zone, or the larger zone, whichever best satisfies the intent of this Section.

2. Living Plant Material Standards. Living plant material includes trees, shrubs, perennials, turf, and/or ground covers. Annual plants may be installed, but shall not be used to fulfill the living plant material requirements of this Section.

   a. Prohibited Species and Materials.

      (1) Plant materials with thorns, spines, seedpods, or fruits are prohibited within ten feet (10') of public sidewalks or streets.

(2) Noxious Weeds. All plants listed on the Colorado Noxious Weed List shall be prohibited from being planted in the City.

(3) The following tree species shall be prohibited from being planted in the City:

(a) Box Elder (Acer Negundo),

(b) Cottonwood (female Populus Deltoides),

(c) Russian Olive (Elaeagnus Angustifolia), and

(d) Siberian Elm (Ulmus Pumila).

b. Minimum Plant Size and Requirements.

TABLE 16-6-7.1 MINIMUM PLANT SIZE AND REQUIREMENTS

Plant Material	Minimum Size	Additional Requirements
Trees	2.5" caliper deciduous 6 foot tall evergreen	• Trees shall be of a species that normally grow to a mature height of at least fifteen feet (15') in the Denver metropolitan area. A list of appropriate trees is available in the City of Englewood Landscape Manual.
		• Clump or multi-stem trees shall be considered as a unit; that is, as one (1) tree.
		• Trees shall be planted a minimum of four feet (4') from any public sidewalk or curb.[1]
		• Evergreens shall not be planted in the public right-of-way
Shrubs	5 gallon	
Turf	Established within sixty (60) days of planting	• Turf areas shall be planted in species normally grown as permanent lawns in the Denver metropolitan area.
		• Grass areas may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion.
Ground Cover, Ornamental Grasses, and Perennials	1 gallon	

[1]The City Manager or designee may consider a smaller minimum distance on a case by case basis when an approved tree species and appropriate root barrier system is approved.

3. Non-Living Material Standards. Non-living, durable materials commonly used in landscaping, may be used to fulfill up to thirty percent (30%) of the total landscape area requirement.

a. Landscape materials such as mulches and rock shall be contained within landscape areas by methods that prevent the migration of such materials into pedestrian or vehicular areas.

b. Permitted Materials and Standards

(1) Mulch. Minimum mulch depth shall be three inches (3"). The following materials are permitted:

(a) Wood.

(b) Synthetic mulch material which is designed, dimensioned, textured, and colored to look like natural wood mulch and approved by the City Manager or designee. Synthetic mulch material shall not be permitted within the public right-of-way.

(2) Rock, including boulders, rocks, and stones.

(a) All rock used in landscaped areas shall be a minimum of three-eighths inches (3/8") in size, and be installed to a minimum depth of three inches (3"), or as necessary to adequately cover the area.

(3) Hard Surface Materials. Decorative colored or patterned paved surfaces and brick pavers may be included in the form of walkways or patios through landscaped areas and may be counted as non-living landscaped areas. However, driveways, off-street parking areas, and all asphalt, non-patterned or non-colored concrete shall not be considered as landscaped areas.

(4) Water features and ponds. Natural and man-made features may be used.

(5) Artificial Turf. Artificial turf may be installed and maintained to effectively simulate the appearance of a well-maintained lawn and shall count toward a site's non-living landscape requirement.

(a) Additional Standards. The use and installation of artificial turf shall:

i. Be in accordance with all applicable requirements for drainage and water quality and not be installed on slopes greater than six and six-tenths percent (6.6%).

ii. Not be permitted within the public right-of-way.

iii. Be of a type known as cut pile infill and shall be manufactured from polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers.

iv. Be installed over a compacted and porous road base material and shall be anchored at all edges and seams. Seams shall be glued and not sewn.

c. Prohibited Materials.

(1) No artificial trees, shrubs, turf, or plants shall be used to fulfill the living material requirements of this Section.

(2) The use of indoor or outdoor plastic or nylon carpeting or other materials as artificial turf or natural turf shall be prohibited.

4. Irrigation. Irrigation for all landscaping required by this Chapter shall be by an automatic irrigation system. This requirement may be waived for one-unit residential uses when a hose attachment is provided within one hundred feet (100') of any landscaped area.

5. Credit for Existing Trees.

a. Credit towards the tree planting requirements by preserving existing trees may be allowed as outlined in the following schedule:

TABLE 16-6-7.2: CREDIT FOR PRESERVATION OF EXISTING TREES

Existing Trees	Allowed Tree Credit
1 tree, 2.5" to 6" caliper	1
1 tree, greater than 6" to 12" caliper	2
1 tree, greater than 12" to 18" caliper	3

b. The following conditions must be met in order for tree credits to apply:

(1) Each existing tree shall be in a healthy and growing condition; dead limbs and branches shall be pruned.

(2) Should any tree for which credit is received under the provisions of this subsection die at any time, the owner shall, within ninety (90) days, replace the tree with an equal number of trees for which credit was given. Each replacement tree shall be of the

equivalent species or a tree which will obtain the same height, spread and growth characteristics. Each replacement tree shall have a minimum caliper of two and one-half inches (2½") when planted.

(3) No credit shall be given for prohibited species as listed in Subsection 16-6-7(D)(2)(a)(3) EMC above.

6. Installation of Landscaping - Time of Completion.

a. The City shall not issue a Certificate of Occupancy for any building or use to which this Chapter applies until landscaping has been installed in accordance with the approved landscape plan.

b. In extenuating circumstances, such as adverse weather, where occupancy is requested prior to completion of landscaping, the owner shall enter into an agreement with the City guaranteeing that the required landscaping shall be completed within one hundred eighty (180) days or a date specified by the City. The City may require adequate financial security to assure completion of installation after occupancy.

7. Maintenance and Replacement.

a. Minimum Requirement. No landscape shall be removed below the minimum requirements of this Section.

b. Maintenance. All landscaping shall be maintained in a neat, clean, and healthy condition. Maintenance shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and irrigation of all live landscaping.

(1) The owner and agent of a property shall be responsible for the ongoing maintenance of landscaped areas and irrigation systems on the property and on that portion of the public right-of-way between the curb line and the adjoining property line. See Section 11-5-5 EMC, "Property Owner's Responsibility for Public Right-of-Way".

(2) The City shall not be responsible for the maintenance of landscaping or irrigation systems installed in public right-of-way, nor shall the City be responsible for the replacement of landscaping or irrigation systems that must be removed during the repair or maintenance of utilities or other public improvements in the public right-of-way.

c. Replacement. Any landscape element, installed to meet requirements of this Section that dies or is otherwise removed shall be replaced with plant material of a similar variety and size within one hundred eighty (180) days. All replacement plants shall conform to the City's current landscaping standards.

8. Landscaping and Utility Facilities.

a. All water meter pits and/or water valve boxes shall be maintained at finished ground level and provision shall be made to insure that they remain at grade, visible, and readily accessible for easy operation, maintenance, and repair.

b. At maturity, a minimum clearance of three feet (3') shall be required between all trees, shrubs and/or landscaping features and the following:

(1) Fire department sprinkler connections,

(2) Fire hydrants and/or alarm notification devices, and

(3) Gas or electric meters.

c. Trees shall be planted so that at maturity they do not interfere with overhead utility lines.

9. Landscaping and Visibility.

   a. Landscaping shall not obstruct the visibility of pedestrians and vehicular traffic at intersections, points of ingress and egress, or within sight distance triangles.

      (1) No landscaping that exceeds three feet (3') in height above the grade of the adjacent street or alley shall be allowed in such areas, except for single trunk trees that are of such size and so spaced that no visible obstruction and/or traffic hazard is created.

E. *Minimum Landscape Requirements.*

1. *Landscaping Standards in Residential (R) Zone Districts.*

   a. *Applicability.* Landscaping requirements of this Section shall apply in all R-1, R-2, and R-3 zone districts.

   b. *Landscaping Requirements.* The minimum Required Landscaped Area and Plant Material quantities in residential zone districts shall be determined by Table 16-6-7.3 EMC.

TABLE 16-6-7.3: MINIMUM LANDSCAPE REQUIREMENTS IN RESIDENTIAL ZONES

				Trees		Shrubs	
Uses	**Required Landscaped Area (RLA) (% of site)**	**Principal Structure to Curb[1, 2]**	**Side Yards and Rear Yard**	**Minimum Tree Quantity (Per sq. ft. of RLA)**	**Minimum % of Trees between Principal Structure and Curb**	**Minimum Shrub Quantity (Per sq. ft. of RLA)**	**Minimum % of Shrubs between Principal Structure and Curb**
One-Unit dwelling	40	The area, (excluding driveway, parking areas, walkways and public sidewalks) bounded by the front façade of the principal structure, side property lines, and the curb shall be landscaped.	The remainder of any Required Landscaped Area (RLA) requirement may be provided within side or rear yards.	1/625[3]	50	1/100	30
Multi-Unit dwelling (2 to 4 units)	40			1/625[3]	50	1/100	30
Multi-Unit dwelling (more than 4 units)	25			1/625[3]	50	1/100	30
Non-Residential Uses	25			1/625[3]	50	1/100	30
Private Off-Street Parking Lots	See Section 16-6-7(F) EMC						

[1] Corner lots. Corner lots shall also landscape the area between the side edge of the principal structure and the curb, exclusive of driveways, parking areas, walkways and public sidewalks. In addition to the minimum tree quantity above, corner lots shall provide one (1) tree per seventy-five linear feet (75') along the side lot line exclusive of driveways.

[2] Exceptions for area between public sidewalk and curb:
- areas greater than three feet (3') wide shall be landscaped with living material.
- areas less than three feet (3') wide may be landscaped with living or non-living material.

[3] When the Required Landscaped Area is less than one thousand two-hundred fifty (1,250) square feet, a minimum of two (2) trees shall be required.

2. *Landscaping Standards for Commercial (MU) and Medical (M) zone districts.*

   a. *Applicability.* Landscaping standards of this Section shall apply in all MU-B-1, MU-B-2, M-1, M-2, and M-O-2 zone districts.

   b. *Landscaping Requirements.* The minimum landscaping requirements in commercial and medical zone districts shall be determined by Table 16-6-7.4 EMC.

TABLE 16-6-7.4: MINIMUM LANDSCAPE REQUIREMENTS IN COMMERCIAL AND MEDICAL ZONES

				Trees		Shrubs	
Uses	**Required Landscaped Area (RLA) (% of site)**	**Principal Structure to Curb[1, 2, 3]**	**Side Yards and Rear Yard**	**Minimum Tree Quantity (Per sq. ft. of RLA)**	**Minimum % of Trees between Principal Structure and Curb**	**Minimum Shrub Quantity (Per sq. ft. of RLA)**	**Minimum % of Shrubs between Principal Structure and Curb**
Residential 1—4 Dwelling Units	25[6]	The area, (excluding driveway, parking areas, walkways and public sidewalks) bounded by the front façade of the principal structure, side property lines, and the curb shall be landscaped.	The remainder of any Required Landscaped Area (RLA) requirement may be provided within side or rear yards.	1/625[4]	50	1/100	40
Residential Multi-Unit Dwelling (>4 units)	20[5,6]			1/625[4]	50	1/100	40
Commercial Single Use	10[5,6]			1/325[4]	50	1/50	40
Commercial Mixed Use (two or more land uses on site)	10[5,6]			1/325[4]	50	1/50	40
Private Off-Street Parking Lots	See Section 16-6-7(F) EMC						

[1] Corner lots. Corner lots shall also landscape the area between the side edge of the principal structure and the curb, exclusive of driveways, parking areas, walkways and public sidewalks. In addition to the minimum tree quantity above, corner lots shall provide one (1) tree per seventy-five linear feet (75') along the side lot line exclusive of driveways.

[2] Exceptions for area between public sidewalk and curb:
- areas greater than three feet (3') wide shall be landscaped with living material.
- areas less than three feet (3') wide may be landscaped with living or non-living material.

[3] If non-paved area between the principal structure and the curb is not large enough to accommodate the minimum percent of trees, then trees in approved tree grates are required, provided a five feet (5') clear space for pedestrians is maintained. See Table 16-6-7.9 EMC for incentives.

[4] When the Required Landscaped Area is less than six-hundred twenty-five (625) square feet, a minimum of two (2) trees shall be required.

[5] Fee-in-Lieu may be used to off-set up to fifty percent (50%) of the Required Landscape Area, but shall not be utilized for area between the principal structure and the curb. See Section 16-6-7(H)(3) EMC.

[6] Alternative Compliance methods as detailed in Section 16-6-7(H) EMC may be utilized.

3. Landscaping Standards for Industrial (I) Zone Districts.

   a. Applicability. Landscaping standards of this Section shall apply in all I-1 and I-2 zone districts.

   b. Minimum Area Requirements. The minimum landscaping requirements in industrial zone districts shall be determined by Table 16-6-7.5 EMC.

   c. Required Landscaping. The percentage of required landscaped area shall be met by first fulfilling the Street Perimeter Buffer requirement of Table 16-6-7.5 EMC. After the Street Perimeter Buffer requirement is met, the remaining Required Landscaped Area may be fulfilled by options identified in Section 16-6-7(E)(3)(c)(2) EMC, below.

TABLE 16-6-7.5: MINIMUM LANDSCAPE REQUIREMENTS IN INDUSTRIAL ZONES

Properties/Uses	Required Landscaped Area (RLA) (% of site)	Street Perimeter Buffer (See 16-6-7E(3)(c)(1) EMC for additional requirements)		Site	
		Minimum Tree Quantity (per linear feet of street frontage)	Minimum Shrub Quantity (per linear feet of street frontage)	Minimum Tree Quantity (Per sq. ft. of RLA)	Minimum Shrub Quantity (Per sq. ft. of RLA)
Properties Less than 43,560 square feet	10	1/30	1/5	1/300	1/50
Properties 43,560 square feet or Greater	8	1/30	1/5	1/300	1/50
Water, Wastewater Treatment and Other Similar Large-Scale Public Facilities	8[1]	1/30	1/5	1/300	1/50

[1] Where compliance to district landscape requirements may not be feasible or practical, an alternative compliance plan may be submitted.

(1) Street Perimeter Buffer.

   (a) All industrially zoned properties shall provide a minimum eight feet (8') landscaped buffer along all street frontages, exclusive of driveways, walkways, public sidewalks, and structures. Street perimeter buffers are not required along public alleys.

   (b) The street perimeter buffer shall be measured from the back of sidewalk (or curb if no sidewalk exists). The buffer may include private property and/or public right-of-way. For properties with detached sidewalks the buffer shall be measured from the back of sidewalk or as determined by the City Manager or designee.

   (c) Fee-in-lieu shall not apply to the Street Perimeter Buffer.

   (d) When the landscaped area of the Street Perimeter Buffer exceeds the Required Landscaped Area, no additional landscaped area shall be required, provided requirements for the minimum quantity of trees and shrubs are met.

      i. The City Manager or designee may, on a case-by-case basis, consider a request to reduce the required eight-foot (8') Street Perimeter Buffer when the area of the Buffer exceeds the Required Landscaped Area.

(2) Required Landscaped Area. After the Street Perimeter Buffer requirement is met, one or more of the following options may be used to fulfill any remaining Required Landscaped Area requirement.

(a) Site. Required Landscaped Area may be provided using the Site standards in Table 16-6-7.5 EMC.

(b) Enhanced Street Perimeter Buffer. The City Manager or designee may consider a landscape plan that provides a diversity and density of plant material greater than the Street Perimeter Buffer standards required in Table 16-6-7.5 EMC.

(c) Fee-in-Lieu. Fee-in-lieu shall comply with requirements of Section 16-6-7(H)(3) EMC.

(3) It is recognized that because of industrial site conditions and the wide variety of development configurations, the City Manager or designee may on a case-by-case basis consider minor deviations to this Subsection whenever such deviations are more likely to satisfy the intent of these regulations.

4. Planned Unit Development (PUD) Districts. Landscaping standards shall meet all requirements of the approved Planned Unit Development.

5. Transit Station Area (TSA) Districts. Landscaping standards shall meet all requirements of the approved TSA.

F. *Landscaping of Off-Street Parking Areas.* Landscaping of off-street parking areas is intended to improve the aesthetic appearance of parking lots and to protect and preserve the appearance, character, and value of surrounding property.

1. Applicability. This Section applies to all principal use off-street parking areas and accessory off-street parking areas, in all zone districts except industrial. This Section shall not apply to one-unit and multi-unit residential developments up to and including four (4) units.

2. Landscaping Requirements. The minimum landscape requirements for off-street parking areas shall be determined by Table 16-6-7.6 EMC.

TABLE 16-6-7.6: LANDSCAPING REQUIREMENTS FOR OFF-STREET PARKING AREAS

Location or Size of Lot	Landscape Required	Minimum Landscape Width or Area	Trees per Linear feet (L.F.) of Landscape or Area	Required Landscape Elements			Additional Regulations or Exceptions
Perimeter of Parking Lot							
Abutting Street	Yes	6 ft.	One 2½" Caliper Street Tree per 30 L.F.	Minimum two of the following Continuous Landscape Elements			16-6-7(F)(2)(a)(6) (Wall/Fence Incentives & Requirements)
				At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.	Min. of two Rows of Perennials/ Groundcover at 18" O.C., or Sodded Turf	30" Min.-36" Max. Ht. Masonry Wall or Decorative Metal Fence[1]	
Abutting Alley, Rear, or Side Lot Lines	Yes[2]	5 ft. for Head-in Parking[3], 3 ft. for Parking Aisle	None Required	Minimum one of the following Continuous Landscape Elements			
				At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.	30" Minimum Height Masonry Wall or Decorative Metal Fence [1, 3]		
Interior of Parking Lot							
Applies to 20+ Parking Spaces or > 6,000 S.F. Lot. Provide Islands or Strip	Yes	6 ft. Wide 90° Island, or 110 S.F. Angled Island	One 2" Caliper Tree per Stall Length	Minimum one of the following Continuous Landscape Elements. Non-living Materials Allowed if Min. Plant Requirements Below are Met.			Does not Apply to Outdoor Display for Automotive Sales.
				One 5 Gal. Shrub per 30 S.F. of strip	One Perennial/Groundcover per 4 S.F. of strip		
	Yes	6 ft. Wide Strip Dividing Opposing Stalls	One 2" Caliper Tree per 30 L.F.	Minimum 1 of the following Continuous Landscape Elements. Non-living Materials Allowed if Min. Plant Requirements Below are Met.			
				One 5 Gal. Shrub per 50 S.F. of strip	One Perennial/Groundcover per 6 S.F. of strip		

[1] Wood fences permitted if a minimum of fifteen feet (15') from property lines adjacent to streets.

[2] Landscape area not required along the portions of side lot lines where the abutting property contains an existing structure located within three feet (3')of the property line.

[3] If a wall or fence is utilized, the minimum depth of the landscape area may be reduced to three feet (3').

a. Perimeter Landscaping. In all zone districts except for industrial, the perimeter of off-street parking areas shall be landscaped regardless of lot size or number of parking spaces.

(1) Perimeter landscaping shall be continuous except for driveways or sidewalks accessing parking area.

(2) The width of perimeter landscaping abutting a street shall be measured from the back of sidewalk (or curb if no sidewalk exists). The landscape area may include private property and/or public right-of-way.

(3) Perimeter landscaping abutting a street shall include trees with a minimum canopy height of seven feet (7') above grade at maturity.

(4) Walls or fences abutting a street shall have at least three feet (3') of living plant material on the street side of the wall or fence, except;

(a) Decorative metal fences may be located within one foot (1') of the sidewalk if the fence is at least fifty percent (50%) open.

(b) Up to twenty-five percent (25%) of the total length of a solid masonry wall may be located within one foot (1') of the sidewalk.

(5) Decorative metal fencing or masonry walls need not be continuous through perimeter landscape areas; however, other continuous landscape elements shall be present where the fence/wall is absent.

(6) Incentive for Masonry Walls/Decorative Metal Fences. Each linear foot of wall and/or fence abutting a street shall be credited as per Table 16-6-7.9 EMC "Incentives for Alternate Landscape Materials". Credit for fences/walls may not be used to reduce size or plant requirements in perimeter or interior parking lot landscape areas. An encroachment agreement shall be required if the fence/wall is within the public right-of-way.

(7) Landscape elements shall be located such that vehicle overhangs do not interfere with plantings, walls, or fences.

b. Interior Landscaping. In all zone districts except for industrial, the interior of off-street parking areas shall be landscaped if the lot contains twenty (20) or more parking spaces or is more than six thousand square feet (6,000 sf) in area.

(1) Interior landscaping of parking areas shall include either landscape islands or landscape strips as described below.

(a) One (1) landscape island for every ten (10) parking spaces (no more than ten (10) continuous spaces without an island). Each island shall extend the length of the parking stall(s). Landscape island width shall be measured from the backs of curbs; or,

(b) A continuous landscape strip dividing opposing parking stalls with the minimum width measured from the backs of curbs. The landscape strip shall extend the width of all opposing parking stalls.

(c) Landscape islands and strips may also include non-living landscape materials if the minimum plant requirements are met. Use of walkable surfaces through landscape strips or at island edges is encouraged.

3. Landscaping in off-street parking areas shall count towards the total required landscaped area (RLA).

4. Fee-in-lieu alternative shall not apply to landscape requirements for parking areas.

5. All landscaping/fencing in off-street parking areas shall comply with sight distance requirements of this Title.

G. *Screening Requirements.* These screening requirements are intended to physically buffer and visually shield adjacent land uses that are not fully compatible. Screening is intended to effectively shield adjacent properties from any adverse impacts of the subject development.

1. Applicability. All new development shall provide sufficient screening according to this Subsection. Screening requirements shall be in addition to this Section's landscaping requirements.
2. Landscaping in screening areas shall count towards the total required landscaped area (RLA).
3. Fee-in-lieu alternative shall not apply to screening requirements.
4. All screening areas shall comply with sight distance requirements per Traffic Engineer.
5. Minimum Screening Requirements.
    a. Screening shall be required between the following adjacent land uses and/or zone districts per Table 16-6-7.7 EMC.

TABLE 16-6-7.7: SCREENING REQUIREMENTS

Screening Between Use or District	Location of Screening	Minimum Screening Width	Trees per L.F. of Landscape Area	Required Landscape Elements (Ht. = Height) (O.C. = On Center)	
Nonresidential Use [1] and Residential Use	Abutting Rear and Side Lot Lines. [2, 3, 4, 5, 6]	5 ft.	One 2" Caliper Deciduous or 6 ft. Ht. Evergreen Tree per 30 L.F.	Minimum 1 of the Following Options	
> 4 Multi-Unit Residential Use[1] Abutting ≤4 Unit Residential Use				At Maturity 6 ft. Ht. Shrubs at 6' O.C.	6' Ht. Solid Fence
Industrial Use[1] and Commercial Use	Abutting Rear and Side Lot Lines. [2, 3, 4, 5]	5 ft.	None	Minimum 1 of the Following Options	
				At Maturity 6' Ht. Shrubs at 6' O.C.	6' Ht. Solid Fence
Industrial Use[1] and Residential Use	Abutting Rear and Side Lot Lines. [2, 3, 5, 6]	5 ft.	One 2½" Caliper Deciduous or 6' Ht. Evergreen Tree per 30 L.F.	At Side Lot Line 6' Ht. Solid Fence	
				Rear Lot Line 6' Ht. Solid Fence. If alley exists, 3' Ht. Solid Fence or at Maturity 3' Ht. Shrubs at 3' O.C.	
Industrial Use[1] and Public/Institutional Uses except for; Animal Shelters, Telecommunication, Transportation, or Utility Facilities	Abutting Rear and Side Lot Lines. [2, 3, 5]	5 ft.	One 2½" Caliper Deciduous or 6' Ht. Evergreen Tree per 30 L.F.	At Side Lot Line 6' Ht. Solid Fence	
				Rear Lot Line 6' Ht. Solid Fence. If alley exists, 3' Ht. Solid Fence or at Maturity 3' Ht. Shrubs at 3' O.C.	

[1] Use responsible for screening at the time of development.

[2] Behind the required front setback.

[3] If adequate screening exists on the abutting property at the time of development; additional screening may not be required by City Manager or Designee.

[4] Screening not required on a side lot line adjacent to a public street or on a rear lot line adjacent to an alley.

[5] Screening not required along side or rear lot line where the structure on either property is within three feet (3') of the side or rear lot line.

[6] Screening not required if the Residential Use is a Nonconforming Use.

b. Screening of Utility Facilities, Loading Areas, Outdoor Storage, Storage Yards, Trash Collection/Compaction Areas, and Rooftop Mechanical Equipment/Flues.

(1) Applicability. The screening standards in the following Table 16-6-7.8 EMC shall apply to: (1) all utility facilities visible from public or private streets, except for small scale public utility equipment commonly found in public right-of-ways or easements; and (2) to all loading areas, outdoor storage, storage yards, trash collection/compaction areas, and rooftop mechanical equipment/flues.

(2) The screening standards in Table 16-6-7.8 EMC shall not apply to areas located on sites with four (4) or fewer residential units, or areas that are only visible from lots with industrial uses, (i.e. side or rear lot lines between two industrial uses).

TABLE 16-6-7.8: SCREENING OF UTILITY FACILITIES, LOADING AREAS, OUTDOOR STORAGE, STORAGE YARDS, TRASH COLLECTION/COMPACTION AREAS, AND ROOF-TOP MECHANICAL EQUIPMENT/FLUES	
Type of Facility	**Screening Requirement**
Utility Facilities	• Utility facilities shall be fully screened from public or private streets; except for, small scale public utility equipment commonly found in public right-of-ways or easements. • Within a minimum 6-foot wide area, a minimum of one (1) continuous row of shrubs (minimum 6 feet tall at maturity) planted at a minimum spacing of 6 feet on center, and 2½" caliper deciduous or 6' height evergreen trees planted at an average of one tree every 30 linear feet. • An opaque fence or wall as tall as the facility, but no taller than the zone district maximum, may be utilized in lieu of the landscape screening above.
Truck Parking and Loading Areas	• Within a minimum 6-foot wide area, a minimum of one (1) continuous row of shrubs (minimum 6 feet tall at maturity) planted at a minimum spacing of 6 feet on center, and 2½" caliper deciduous or 6' height evergreen trees planted at an average of one tree every 30 linear feet. • An opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum, may be utilized in lieu of the landscape screening above.
Outdoor Storage, Storage Yard for Vehicles, Equipment, Material, and/or Supplies	• All such areas shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum. • The fence height may exceed the zone district maximum where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area. • A landscaped earth berm may be used instead of, or in combination with a required fence or wall. • If such areas are covered, then the covering shall include at least one of the predominant exposed roofing colors on the principal structure.

TABLE 16-6-7.8: SCREENING OF UTILITY FACILITIES, LOADING AREAS, OUTDOOR STORAGE, STORAGE YARDS, TRASH COLLECTION/COMPACTION AREAS, AND ROOF-TOP MECHANICAL EQUIPMENT/FLUES	
Type of Facility	**Screening Requirement**
Trash Collection/Compaction Areas for Non-Residential Uses, or Residential Uses of 5 or More Units	• Each such area shall be incorporated into the overall design of the principal structure on the site, and shall be located in the rear of the site at least 20 feet from any abutting residential uses, or if that is not feasible, then on the sides of the lot at least 5 feet from any abutting property. • No such area shall be located within 5 feet of any street, public sidewalk, internal pedestrian way, or residential use. No such area shall be located within 25 feet of the main entrance to the principal structure of any abutting property. • Each such trash collection area shall be screened from view from all property lines by an opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum. The access to this enclosure shall be screened with an opaque gate. Screening fences and walls (not including gates) shall incorporate at least one of the predominant materials and one of the predominant colors used in the principal structure.
Rooftop Mechanical Equipment/ Flues	• Rooftop mechanical equipment (excluding solar photovoltaic or thermal panels) appurtenances shall be screened so that they are not visible from adjacent public streets or adjacent properties less than two hundred feet (200') away when viewed from five feet (5') above grade level. Screening enclosures shall use at least one (1) of the predominant materials used in the facades of the principal structure and one of the predominant colors used in the principal structure. All air conditioning compressors shall be completely screened. All rooftop and wall vents and flues extending above the top of the nearest parapet shall be painted with one of the predominant colors used in the principal structure. Any rooftop equipment generating off-site noise shall also be baffled or otherwise attenuated to direct unavoidable noise upward or away from adjacent residential uses such that noise levels do not exceed those prescribed in 6-2-5(F) EMC.

6. It is recognized that because of the wide variety of types of developments and configurations associated with them, the City may grant minor deviations whenever such deviations are more likely to satisfy the intent of this section.

H. *Alternative Methods of Compliance.*

1. Purpose. It is recognized that because of the wide variety of development configurations, the City Manager or designee may on a case-by-case basis consider minor deviations to this Subsection whenever such deviations are more likely to satisfy the intent of these regulations. Alternative compliance is a process that allows modifications to existing regulations due to unique site conditions. In cases where the percentage of required landscaping or compliance with other standards may not be practical or feasible, the applicant may submit an alternative compliance landscape plan.

2. Alternative Compliance Landscape Plan Criteria. The City Manager or designee may review and approve the proposed plan if the alternative is consistent with the general intent and purpose of

this Section. The proposed alternative compliance plan shall include information that substantiates the reasons for the requested modification. In addition, the City may approve the alternative compliance plan if it determines the proposed plan will more adequately comply with the intent of this section, or if it determines that one of the following conditions exist regarding the subject property:

a. The strict application of these standards is not possible due to unique site conditions such as location of structures, configuration of the lot, topography, existing landscaping; or

b. Safety considerations are involved such as site distance, pedestrian circulation; or

c. The property has space limitations that exist as a result of the location of existing structures, paved areas, and other built features.

3. Fee-In-Lieu.

a. Applicability. Fee-in-lieu shall apply only to development, redevelopment, renovation, remodel, or expansion in the following zone districts and/or to the following uses: MU-B-1, MU-B-2, I-1, I-2, commercial and more than four (4) multi-unit dwellings uses in the M-1, M-2, M-O-2, zone districts and nonresidential uses in the MU-R-3-A and MU-R-3-B zone districts. Within these zone districts, fee-in-lieu shall not be eligible for:

(1) Landscape requirements for Off-street Parking Lots or Screening between Uses or Districts.

(2) Landscape requirements between the principle structure and curb.

(3) The Street Perimeter Buffer in industrial zone districts.

b. Amount of Fee-In-Lieu/Accounting. Only after it has been determined by the City that an alternative compliance plan is not practical or feasible, a fee-in-lieu equivalent may be considered. The fee-in-lieu shall be based on a fee amount set by Council and calculated based on the square footage shortfall of the total required landscaped area. The fee shall be paid to the City and an accounting shall be made for landscaping and beautification of areas as determined by the City.

I. *Incentives for Alternative Landscape Materials.*

TABLE 16-6-7.9: INCENTIVES FOR ALTERNATIVE LANDSCAPE MATERIALS

Alternative Landscape Material	Unit of Measurement for Alternative Material	Equivalent to Unit of Standard Material
Masonry Wall or Decorative Metal Fence	1 Linear Foot	3 Square Feet of RLA
Englewood Standard Fence	1 Linear Foot	6 Square Feet of RLA
3' Minimum Height Green Screen with Vines	1 Linear Foot	3 Square Feet of RLA
Water Feature	1 Square Foot of RLA	1 Square Feet of RLA
Rooftop Gardens	1 Square Foot	0.5 Square Feet of RLA
One Gallon Perennial or Groundcover	4 Plants	1 Five Gallon Shrub
City Approved Tree Grate with Minimum 2½" Cal. Street Tree Between Principal Structure and Curb	1 Tree Grate, Not to Exceed 1 Grate per 25 Linear Feet of Lot Frontage	150 Square Feet of RLA

(Ord. 04-5; Ord. 08-37, § 9; Ord. 08-48, § 25; Ord. 09-28, § 9; Ord. 10-52, § 1; Ord. 23-12, § 9; Ord. 7-13, § 7; Ord. 29-14, § 4)

16-6-8: Storm Water Drainage and Erosion/Siltation Control.

A. *Applicability.*

1. General Applicability to All Development. All subdivision plats, Planned Unit Developments, or any other proposed construction submitted for approval shall include adequate drainage system design. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the City Manager or designee with each development proposal or application for permit.

2. Applicability to Development in a Special Flood Hazard Area. Proposed development or improvements in a special flood hazard area shall meet the requirements of Chapter 16-4 EMC (Floodplain Regulations). The flood hazard study shall be in the form of a final drainage report and shall include all such computations necessary to show that the requirements of Chapter 16-4 EMC (Floodplain Regulations) are met.

B. *Storm Water Discharge for Construction and Other Land Disturbing Activities.*

1. The Federal Clean Water Act requires that storm water discharges be authorized under storm water discharge permits. A general permit issued by the Colorado Department of Health and Environment, Water Quality Control Division, covers storm water discharges from the City of Englewood. Construction site storm water runoff control is one of the minimum measures that Englewood must address in order to be in conformance with the Colorado Discharge Permit System, or CDPS, under Regulation 61.

2. A storm water management plan (SWMP) for the site must be developed and submitted to the City to obtain a construction or site-grading permit. This plan will identify the site-specific control measures necessary to prevent and control soil erosion, sedimentation, and water pollution that may degrade receiving waters downstream.

3. In addition to the minimum requirements stipulated in EPA Storm Water Phase II, the City has instituted the following requirement: Site disturbances that require the removal of existing vegetation from any property that will cause areas of soil to be exposed for more than sixty (60) days are not permitted unless an SWMP is approved by the City. All SWMPs shall comply with applicable standards adopted by the City of Englewood.

C. Restoration of Disturbed Areas. Disturbed areas shall be restored as natural-appearing landforms, with curves that blend in with adjacent undisturbed slopes. Abrupt angular transitions and linear slopes shall be avoided. As necessary, cuts and fills shall be supported by retaining walls made of masonry or stone materials. Areas disturbed by grading shall be contoured so they can be re-vegetated and shall be re-vegetated within one growing season after construction. Topsoil shall be stockpiled and placed on disturbed areas.
(Ord. 04-5; Ord. 8-13, § 8)

16-6-9: Underground Utilities.

A. *Applicability.*

1. General Rule. These standards shall apply to all new development, and to expansions of existing residential buildings as described in the following paragraph, unless inconsistent with more specific standards applicable to a particular type of development.

2. Applicability to Expansions of Residential Buildings. These standards shall apply only to expansions, alterations, or enlargements of principal residential dwellings that increase the existing habitable gross floor area of the dwelling by thirty-three percent (33%) or more.

B. *General Requirements.* All electric and communication utility lines and services, and all street lighting circuits, shall be installed underground in a manner consistent with all applicable utility specifications and adopted safety codes, except for:

1. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities, which may be placed above ground within a utility easement, or within a public right-of-way in a location approved by the City.
2. Facilities reasonably necessary to connect underground facilities to existing or permitted overhead or over-ground facilities.
3. Overhead electric transmission lines and distribution feeder lines over 110KV, and overhead communication long distance, trunk, and feeder lines.
4. Existing utility facilities and structures, which shall not be required to be removed or replaced.
5. Any utility facilities or structures approved for above ground location pursuant to Section 16-2-16 EMC, "Zoning Variances," because unusual circumstances would make undergrounding of utilities an unreasonable hardship.

Property owners are encouraged to install appropriate location indicators or tracers with all utilities placed underground.
(Ord. 04-5)

16-6-10: Design Standards and Guidelines.

A. *General Purpose.* This Section's design standards and guidelines are intended to assure quality new development in the City of Englewood that provides variety and visual interest in exterior building design, is compatible with existing and desirable built patterns and materials, provides human scale detailing at the street level, and contributes to pedestrian-oriented streetscapes.

B. *Residential Design Standards.*

1. General Purpose. These residential design standards and guidelines are intended to ensure that infill, redevelopment, and renovation within Englewood's residential neighborhoods respond to the established character and variations within each neighborhood by utilizing complementary building design, setbacks, and massing.
2. Applicability.
   a. *Applicable Zone Districts.* These residential design standards shall apply in the following zone districts:
      (1) R-1-A;
      (2) R-1-B;
      (3) R-1-C;
      (4) R-2-A;
      (5) R-2-B;
      (6) MU-R-3-A; and
      (7) MU-R-3-B.
   b. *Applicable Development.*
      (1) Within the zone districts listed in subsection 2(a) above, these residential design standards shall apply to development of a new residential dwelling, or to the substantial expansion or alteration of an existing residential dwelling.

(2) For purposes of this subsection only, "substantial expansion or alteration" shall mean construction that is equal to or greater than fifteen percent (15%) of the principal dwelling's existing gross floor area (including attached garages, but not including detached garages), or five hundred (500) square feet, whichever is greater.

3. Review Process. These residential design standards shall be applied during the normal process for residential Site Improvement Plan review, as stated in Section 16-2-9 EMC.

4. Alternative Compliance.

a. *Applicability and Criteria.* At the applicant's request, the City Manager or designee may approve an alternative approach to compliance with all or part of this Section's residential design standards. Alternative compliance is intended to apply in unusual circumstances that might arise where an alternative approach would provide a result that is equal to or superior to that provided by an approach fully complying with the standards in this Section. Economic factors or considerations shall not be a basis for granting alternative compliance. The City Manager or designee may accept alternative compliance with the residential standards in this Section if:

(1) The configuration of the lot or other existing physical condition of the lot makes the application of these standards impractical; and/or

(2) The proposed alternative is consistent with the general purpose of these residential standards and accomplishes the intent of the subject design standard(s) equally well or better than an approach that fully complies with the standard(s).

b. *Applicable Procedure.* The City shall process a request for alternative compliance as an Administrative Adjustment according to the procedures stated in Section 16-2-17 EMC. However, instead of the review criteria for Administrative Adjustments stated in Section 16-2-17.F. EMC, the review criteria in subsection 4(a) above shall apply to all requests for alternative compliance with these residential design standards.

5. Front Lot Coverage.

a. *Maximum Front Lot Coverage.*

(1) *Lots With Rear Alley Access.*

(a) *General Rule.* The maximum front lot coverage shall be twenty-five percent (25%). The remainder of the front lot shall be landscaped according to the standards stated in Section 16-6-7 EMC. See Section 16-6-1.A EMC for rules of measurement regarding front lot coverage.

(b) *Incentive for Front Porches.* The maximum front lot coverage may be increased to thirty-five percent (35%) when the dwelling includes a front porch that meets the following criteria:

(1) The front porch is covered but not enclosed; and

(2) The front porch has a minimum gross area of sixty (60) square feet, and a minimum dimension of five feet (5').

(2) *Lots Without Rear Alley Access.* The maximum front lot coverage shall be forty-five percent (45%). The remainder of the front lot shall be landscaped according to the standards stated in Section 16-6-7 EMC.

6. Residential Garage Placement and Design.

a. *Intent.* Locating the garage to the rear or side of the home, as is typical in many parts of the City's residential districts, allows the architectural details of the home and front yard to define the character of the street. Recent residential development has introduced designs where garages, and often driveways, dominate the public street. To protect the established character in many residential neighborhoods, garage placement and scale should be carefully considered to minimize visual impacts upon the street and surrounding development.

b. *Garage Placement and Design—Garages on Front Building Facade.*

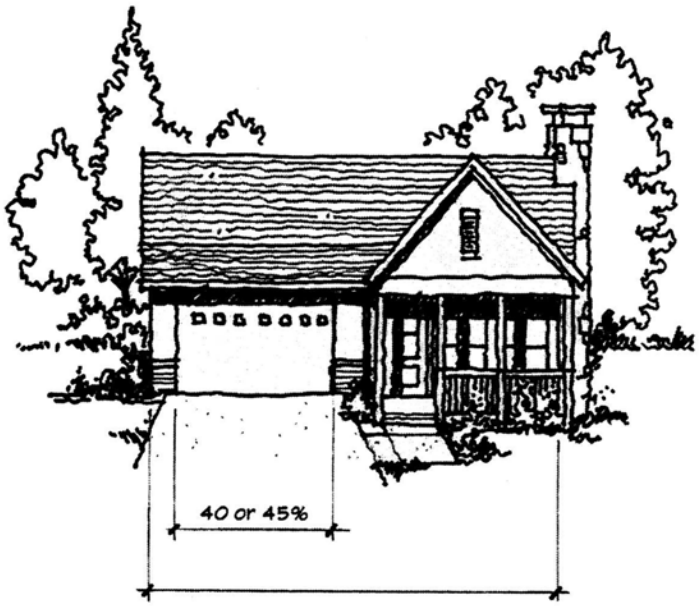
(1) Applicability. This subsection shall apply to garages that are attached to the front facade of the principal dwelling structure.

(2) Maximum Length of Garage Door as Percentage of Total Facade Length. Street-facing garage doors shall not comprise more than the following percentage of the total length of the front facade of the principal dwelling structure:

Lot Width	**Maximum Total Cumulative Width of Street-Facing Garage Doors as % of Front Building Facade Length**
Less than or equal to 50 Feet	40%
More than 50 Feet	45%

For purposes of this provision, the width of the street-facing garage door(s) shall be measured as the linear distance between the outer edges of the door(s), including any support or wall area between two (2) or more garage doors that is less than three feet (3') wide. Where two (2) or more street-facing garage doors are located on the front facade of the building, but are separated by more than three feet (3') of support or wall area, the width of each garage door, not including the separating wall area, shall be added together to determine the numerator for this formula.

Figure 16-6(12)



Commentary to Figure 16-6(12) [above]: This figure illustrates an acceptable attached garage design for the front facade of a one-unit dwelling, wherein the width of the garage door, measured edge to edge, does not exceed forty percent (40%) or forty-five percent (45%) of the entire length of the building's front facade.

(3) Design Standards for Side-Loaded Garages. Side-loaded garages shall have architectural details or windows on the sidewall of the garage facing the street that are consistent with the features of the living portion of the dwelling.

Figure 16-6(13)

Commentary to Figure 16-6(13) [above]: This figure illustrates an acceptable design and level of detail for the street-facing side wall of an attached side-loaded garage.

(4) Guidelines for Garages on Corner Lots. It is strongly encouraged that one-unit dwellings on corner lots be built with garages (either attached or detached) that are accessed from the alley or the longer side lot line.

7. Articulation of Street-Facing Building Facades.

a. *Intent.* This subsection's standards are intended to provide variety and visual interest in the exterior design and massing of residential buildings, and to respect prevalent neighborhood design patterns that generally provide a rich variety of approaches to articulating building planes. Tall, boxy forms should be avoided, as should long expanses of blank wall visible from public ways.

b. *Applicability.* This subsection's articulation standards shall apply to all dwelling types subject to these residential standards, and specifically only to such dwellings' elevations that face a public street, but not including elevations that face only a public alley.

c. *Articulation of Wall Surface Required.* All building elevations that face a public street shall employ varied articulation of wall surfaces, when such surfaces exceed twenty-five feet (25') in length (including any attached garages). For every twenty-five (25) linear feet, wall surfaces shall be articulated through use of three (3) or more of the following techniques:

(1) A change in texture or material, provided all exterior wall textures and material are consistent with the overall architectural style of the dwelling;

(2) Use of offsets, reveals, insets, bays, or other similar architectural features;

(3) Use of balconies, overhangs, or covered patios;

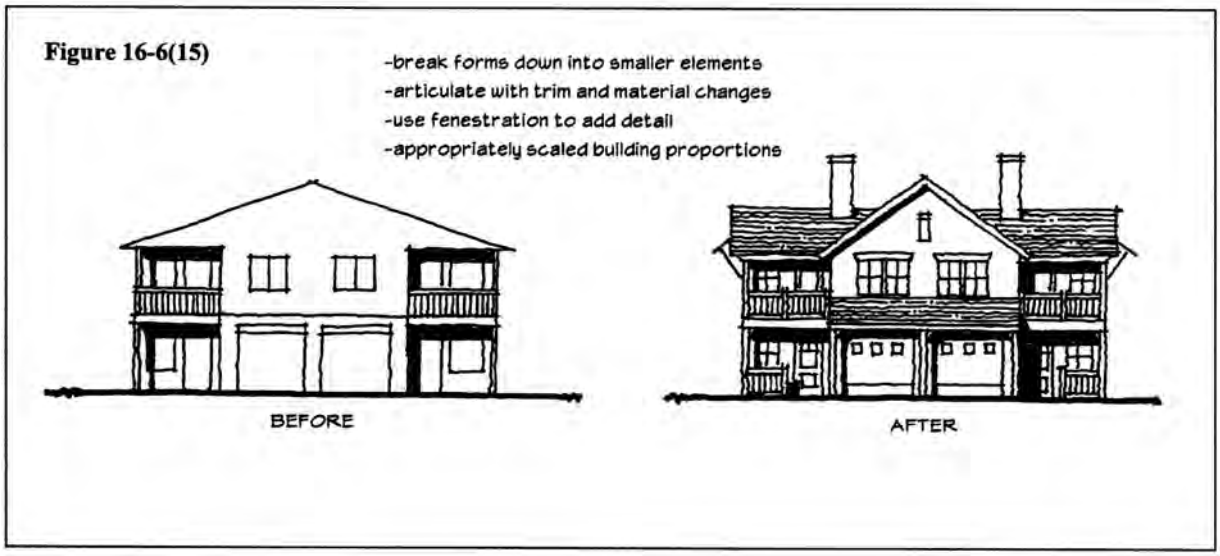
(4) Variations in rooflines, such as a gable or dormer;

(5) Window placement, provided windows are similar in size, shape, and orientation as those found on most of the dwellings on the same block;

(6) Use of exterior trim; or

(7) Incorporation of stoops or front porches related to entrances.

Commentary to Figure 16-6(14) [above]: The house to the left in this figure incorporated a level of street-facing building facade articulation that complies with the standard of Section 16-6-10.B.7(c), while the house on the right presents an unacceptable, unarticulated facade to the street that does not comply with the standard.



Commentary to Figure 16-6(15) [above]: This figure illustrates how a house design that at first does not comply with the street-facing facade articulation standard in Section 16-6-10.B.7(c) above, can be redesigned to comply with the standard without significantly changing the basic layout, size, or massing of the house.

C. *Special Building and Site Design Standards Applicable in the MU-R-3 Zone Districts.*

1. New high-density residential and office projects should be sensitive to the character of adjacent development. The siting of vertical structures should respect the topographic features of the land.

2. High-density residential and office development should be located on land parcels of sufficient size to ensure proper site design and identity and to warrant the installation of desirable amenities.

3. Where possible, the view of the mountains should be preserved and buildings oriented in such a way as to maximize the occupant views of the mountains.

D. *Reserved.*

E. *Design Standards and Guidelines for Large Retail Buildings.*

1. Purpose. This Section is intended to set standards for retail development with community-wide or regional impacts to ensure that the proposed development fits with the expectations and needs of the community, and to encourage retail development that contributes to Englewood as a unique place by reflecting and adding appropriately to its physical character. These standards and guidelines require a basic level of architectural variety, compatible scale, pedestrian, and bicycle access, and mitigation of negative impacts. The standards are by no means intended to limit creativity; it is the City's hope that they will serve as a useful tool for design professionals engaged in site-specific design in context with surrounding environment.

2. Application and Procedure.

   a. These standards and guidelines apply to all new projects that include development of one (1) or more large retail buildings, as defined in Chapter 16-11 EMC, as a use-by-right or within

a Planned Unit Development without equal or more stringent retail design standards and guidelines. "Standards" are mandatory. "Guidelines" are not mandatory, but are provided in order to educate planners, design consultants, developers, and City staff about the design objectives described herein. The standards and guidelines are intended to be used as a design aid by developers proposing large retail buildings in use-by-right zone districts or in Planned Unit Development zone districts that may be proposing retail development without appropriate design standards. This Section is also intended to be used as an evaluation tool by the City in the review processes.

b. The City is empowered to grant exceptions to the mandatory standards under the following circumstances:

(1) The strict application of the standard would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the affected property; or

(2) The alternative site planning and building design approach meets the design objectives as stated in the standard, equally well or better than would compliance with the standard; and

(3) In either of the forgoing circumstances, the exceptions may be granted without substantial detriment to the public good.

3. Aesthetic Character.

a. *Facades and Exterior Walls.*

(1) Guideline. Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large retail buildings and provide visual interest that will be consistent with the community's identity, character, and scale. The intent is to encourage a more human scale that Englewood residents will be able to identify with their community.

(2) Standard.

(a) Facades greater than seventy-five feet (75') in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent (3%) of the length of the facade and extending at least twenty percent (20%) of the length of the facade. No uninterrupted length of any facade shall exceed seventy-five (75) horizontal feet.

(b) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than forty percent (40%) of their horizontal length.

b. *Smaller Retail Stores.*

(1) Guideline. The presence of smaller retail stores gives a large building a "friendlier" appearance by creating variety, breaking up large expanses, and expanding the range of the site's activities. Windows and window displays of such stores should be used to

contribute to the visual interest of exterior facades. The standards presented in this Section are directed toward those situations where additional, smaller stores, with separate, exterior customer entrances are located in large retail buildings.

(2) Standard. Where principal large retail buildings contain additional, separately owned stores that occupy less than twenty thousand (20,000) square feet of gross floor area, with separate, exterior customer entrances:

(a) The street level facade of such stores shall be transparent between the height of three feet (3') and eight feet (8') above the walkway grade for no less than sixty percent (60%) of the horizontal length of the building facade of such additional stores.

(b) Windows shall be recessed or be extended and should include visually prominent sills, bays, or other such forms of framing.

c. *Detail Features.*

(1) Guidelines. Large retail buildings should have architectural features and patterns that provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

(2) Standard. Building facades shall include a repeating pattern that shall include at least three (3) of the elements listed below. At least one (1) of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty feet (30'), either horizontally or vertically.

(a) Color change;

(b) Texture change;

(c) Material module change;

(d) Expression of architectural or structural bay through a change in plane no less than twelve inches (12") in width, such as an offset, reveal, or projecting rib.

d. *Roofs.*

(1) Guideline. Variations in roof lines should be used to add interest to, and reduce the massive scale of, large retail buildings. Roof features should complement the character of adjoining neighborhoods.

(2) Standard. Roofs shall have one (1) of the following features as appropriate to roof type:

(a) Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen percent (15%) of the height of the supporting wall and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall. Such parapets shall feature three-dimensional (3-D) cornice treatment. HVAC equipment shall be concealed from public view through the use of parapets or other similar screening devices. HVAC equipment shall be painted to blend with the roof color.

(b) Overhanging eaves, extending no less than three feet (3') past the supporting walls.

(c) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot (1') of vertical rise for every three feet (3') of horizontal run and less than or equal to one foot (1') of vertical rise for every one foot (1') of horizontal run.

(d) Three (3) or more roof slope planes.

e. *Materials and Colors.*

(1) Guideline. Exterior building materials and colors comprise a significant part of the visual impact of a large retail building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

(2) Standard.

(a) Predominant exterior building materials shall be high-quality materials. These include:

(1) Brick

(2) Sandstone

(3) Stucco

(4) Other native stone

(5) Tinted, textured, concrete masonry units

(b) Facade colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black, or fluorescent colors is prohibited.

(c) Roof materials shall be of high-quality materials. These include, without limitation:

(1) Metal

(2) Concrete

(3) Tile

(d) Building trim and accent areas may feature brighter colors, including primary colors.

(e) Predominant exterior building materials shall not include prefabricated steel panels.

f. *Entryways.*

(1) Guidelines. Entryway design elements and variations should give orientation and aesthetically pleasing character to the large retail building. The standards identify desirable entryway design features.

(2) Standard. Each principal large retail building on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

(a) Canopies or porticos

(b) Overhangs

(c) Recesses/projections

(d) Arcades

(e) Raised corniced parapets over the door

(f) Peaked roof forms

(g) Arches

(h) Outdoor patios

(i) Display windows

(j) Architectural details such as tile work and moldings that are integrated into the building structure and design

(k) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting

Where additional stores will be located in the principal large retail building, each such store shall have at least one (1) exterior customer entrance, which shall conform to the above requirements.

g. *Back and Side Facades.*

1. Guideline. All facades of a large retail building that are visible from adjoining properties and/or public streets should contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to the front facade.

2. Standard. All large retail building facades that are visible from adjoining properties, light rail and/or public streets shall comply with the requirements of facades and exterior walls section of these design standards and guidelines.

4. Site Design and Relationship to the Surrounding Community.

a. *Back and Sides.*

(1) Guideline. The rear or sides of large retail buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts.

(2) Standard. The City may allow the placement of screening walls closer to the street than the minimum required building setback, provided the building facade is in compliance with standards set forth within the "Facades and Exterior Walls" standards in subsection 3(a) above.

b. *Outdoor Storage, Trash Collection, and Loading Areas.*

(1) Guideline. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed, or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one (1) building is located on a site and such buildings are not more than forty feet (40') apart, or on those sides of buildings that do not have customer entrances.

(2) Standard.

(a) Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall be screened from abutting streets.

(b) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the large retail building and the screening or landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

(c) Non-enclosed areas for the storage and sale of any inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and design of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors on the large retail building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building.

c. *Delivery/Loading Operations.*

(1) Guideline. Delivery and loading operations should not disturb adjoining neighborhoods, or other uses.

(2) Standard. No delivery, loading, trash removal or compaction, parking area cleaning, or other such similar operations shall be permitted between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of forty-five (45) decibels, as measured at the lot line of any adjoining property.

d. *Pedestrian Flows.*

(1) Guideline. Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This Section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within a development that includes a large retail building.

(2) Standard.

(a) Sidewalks at least six feet (6') in width shall be provided along all sides of the lot that abut a public street.

(b) Continuous internal pedestrian walkways, no less than six feet (6') in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty percent (50%) of its length.

(c) Sidewalks, no less than six feet (6') in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas.

(d) Internal pedestrian walkways provided in conformance with subsection 2(b) above shall provide weather protection features such as awnings or arcades within thirty feet (30') of all customer entrances.

(e) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

e. *Central Features and Community Spaces.*

(1) Guideline. Buildings should offer attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pick-up points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. Examples of

outdoor spaces are plazas, patios, courtyards, and window shopping areas. The features and spaces should enhance the building and the center as integral parts of the community fabric.

(2) Standard. Each development subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following:

(a) Patio/seating area,

(b) Pedestrian plaza with benches,

(c) Transportation center,

(d) Window shopping walkway,

(e) Outdoor playground area,

(f) Kiosk area,

(g) Clock tower,

(h) Water feature,

(i) Public art, or

(j) Other such deliberately shaped area and/or a focal feature or amenity that adequately enhances such community and public spaces.

Any such areas shall have direct access to the public sidewalk network and such features shall be constructed of materials that are similar in durability to the principal materials of the building and landscaping.

(Ord. 04-5; Ord. 08-37, § 10; Ord. 08-48, § 26; Ord. 1-11/12, §§ 15, 16; Ord. 29-14, § 4)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. Englewood Home Rule Charter Article VI, Section 48)

16-6-11: Historic Preservation.

A. *Purpose.* This Section establishes historic areas and landmarks for the educational, cultural, and economic benefit of Englewood citizens. Due to various pressures that may result in the destruction, impairment, or alteration of historic resources that reflect elements of Englewood's cultural and architectural heritage, it will be the policy and responsibility of this Section to:

1. Preserve and protect buildings, structure, sites and areas that are reminders of past eras, events, and person(s) important in local, state or national history; which provide significant examples of architectural styles of the past; are landmarks in the history of architecture; which are unique or irreplaceable assets to the City and its neighborhoods; which provide for this and future generations examples of the physical surroundings in which past generations lived; or which are archaeologically significant.

2. Develop and maintain the appropriate environment for such buildings, structures, sites, and areas, reflecting varied architectural styles and distinguished phases of Englewood's history.

3. Promote the public health, safety, and welfare by encouraging the protection and preservation of architecturally significant or historic structures or districts.

B. *Application.* Any property owner wishing to have a building, structure, or district designated as architecturally or historically significant shall file an application with the City, on a form supplied by the City.

C. *Procedures for Designating Historic Structures, Sites, and Districts for Preservation.*

1. Nominations. A nomination for designation as an historic structure, site, or district may be made by the Commission or citizen filing an application with the Commission. The fee charged shall be

sufficient to cover the costs of publication, notice, recording costs, administrative costs, and other charges incurred in the course of processing the application. The application fee shall be established and thereafter amended by resolution of the Council.

2. Commission Review.

   a. The Commission shall schedule a public hearing on the application no more than thirty (30) days after the submission of the application.

   b. The Commission shall review the application for conformance with the established criteria for designation and with the purposes of the Section.

   c. Commission shall recommend approval, modification and approval or denial of the application. Commission may recommend conditional approval upon the execution of certain easements, covenants, or licenses.

   d. The final determination will be made by Council.

3. Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the Commission denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one (1) year from the effective date of the final action on the denied application.

D. *Criteria.*

1. All Buildings, Structures, or Districts. The Commission shall use the following criteria to determine whether a building, structure, or district has architectural or historic significance:

   a. Only buildings or structures which have been in existence for at least fifty (50) years, or districts in which the majority of structures have been in existence for at least fifty (50) years may be designated; in addition: such building, structure or district must also meet one of the following criteria:

      (1) A building, structure or a majority of structures within a district which has some connection to events or persons significant to the history of the City of Englewood, Arapahoe County, the State of Colorado, or the United States; or

      (2) A building, structure or a group of structures within a district which embodies distinguishing characteristics of an architectural type inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or

      (3) A building, structure or a group of structures within a district which exemplifies or reflects the broad cultural, political, economic or social history of the City of Englewood, Arapahoe County, the State of Colorado, or the United States; or

      (4) Those buildings, structures or districts within the City that are listed in the National Register of Historic Places shall be construed as having local historic designation, and subject to the same provisions as any local historic building, structure or district.

2. *Districts.* The Commission shall use the following additional criteria to determine whether a district has architectural or historic significance:

   a. Significance is determined by applying the criteria of subsection 1, of this Section to the pattern(s) and unifying element(s).

   b. Nominations will not be approved unless the application contains written approval from the owners of at least two-thirds (2/3) of the properties within the district boundaries.

   c. Properties that do not contribute to the significance of the historic district may be included within the boundaries so long as the noncontributing elements do not noticeably detract from the district's sense of time, place, and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.

   d. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.

   e. When districts are designated, applicable design guidelines and other appropriate restrictions may be included as part of the designation.

   f. The district could be exempt from the age standard if the other significant criteria are found exceptionally important.

(Ord. 04-5)

16-6-12: Operating Standards.

A. *General Rule Against Nuisances.* No use shall be undertaken or operated in a manner that creates a common nuisance.

B. *Residential and Business Districts.* No use shall be permitted in the residential or business districts which, by emitting an obnoxious or dangerous degree of heat, odor, glare, radiation, or fumes, or undue or excessive noise beyond any boundary line of the lot upon which the use is located, would become a nuisance to other uses in the area.

C. *Industrial Districts.* Every use established or placed into operation after the effective date of this Title shall comply with the following limitations. All uses established and in operation on the effective date of this Section shall be made to comply with the following limitations:

1. *Volume of Sound Generated.* Every use shall be so operated that the volume of sound inherently and consistently generated does not exceed seventy (70) decibels at any point of any boundary line of the lot on which the use is located.

2. *Vibration Generated.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the lot on which the use is located.

3. *Emission of Heat, Glare, Radiation, Dust, and Fumes.* Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation, dust, or fumes beyond any boundary line of the lot on which the use is located.

4. *Outdoor Storage and Waste Disposal.*

   a. Installation and storage of flammable or combustible liquids, solids, or gasses shall comply with all requirements of the fire code adopted by the City.

b. All outdoor storage facilities for fuel, raw materials and products and all fuel, raw materials and products stored outdoors shall be enclosed by a solid fence or wall adequate to conceal such facilities, fuel, raw materials and products from adjacent residential districts; provided, however, that such fence or wall need not exceed eight feet (8') in height.

c. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes.

D. *Operational/Physical Compatibility.* The City may impose conditions upon the approval of any development to ensure that it is compatible with adjacent existing uses, including but not limited to, conditions that restrict:

1. Hours of operation and deliveries;
2. Location on a site of activities that generate potential adverse impacts on adjacent uses such as noise and glare;
3. Placement of trash receptacles;
4. Location of loading and delivery areas;
5. Location and placement of outdoor intercom systems and other amplification systems;
6. Light intensity and hours of full illumination; and
7. Placement and illumination of outdoor activity areas and equipment, including vending machines.

(Ord. 04-5; Ord. 05-25)

16-6-13: Signs.

A. *Administration.* This Section of the Englewood UDC shall be known and hereafter referred to as the "Englewood Sign Code" or "Sign Code".

The City of Englewood recognizes that signs are a useful means of visual communication for the convenience of the public, and for the efficient communication of commercial and noncommercial speech. The City is also aware of public concern for adopting and enforcing sound environmental practices, including the control of signs, to protect public safety and welfare, as well as the appearance and economic value of the City's visual environment.

1. *Purpose.* It is the purpose of this Section to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements on the premises where such signs are located. These sign regulations are intended to:

   a. Provide a reasonable balance between the right of individuals and businesses to identify and support themselves and the right of the public to be protected against the visual discord resulting from unrestricted proliferation of signs and similar devices.

   b. Encourage signs that are well-designed, legible, constructed of durable materials appropriate to an urban setting and appropriate to the uses permitted as well as compatible with their surroundings.

   c. Protect the public from hazardous conditions that result from signs that obscure the vision of motorists, and/or compete or conflict with necessary traffic regulatory devices.

   d. Provide procedures for the administration of this Section.

   e. Require that signs which advertise or identify a use or a business no longer in operation be terminated.

f. Ensure that the constitutionally guaranteed right of free speech is protected.

2. *Applicability.*

a. These regulations shall apply to all new signs erected or installed after the effective date of this Section and shall govern and control the display, construction, erection, alteration, remodeling, enlarging, moving or maintenance of all signs permitted within the City.

b. A sign may be erected, altered and maintained only for a permitted use in the district in which the sign is located.

c. Signs shall be located on the same parcel as the permitted use.

d. If there is a conflict between the regulations in this Section and any other ordinance or regulation, the more stringent regulations shall apply.

3. *Sign Permits.*

a. *Sign Permit Required.* A Sign Permit shall be required to display, erect, construct, move or alter any sign in the City except:

(1) Signs exempt from Sign Permits in compliance with Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit).

(2) On-site accessory signs and advertising devices pursuant to Subsection 16-6-13(G)(1) EMC (On-Site Accessory Signs and Advertising Devices).

(3) Changing or replacing the copy on an existing sign, provided the copy change does not change the shape, size, location or nature of the sign or sign support, or render the sign in violation of this Section.

(4) Maintenance on an existing sign provided no structural changes are made to the sign.

b. *Sign Permit Alterations.* When a Sign Permit has been issued by the City, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of said Permit without prior approval of the City.

(1) If a sign is found not to be in accordance with the terms or conditions of an approved Sign Permit, the City shall issue a Correction Notice. The applicant shall have five (5) days to bring the sign into compliance.

c. *Application for Sign Permit.* Application for a Sign Permit shall be made on forms furnished by the City. The application shall be accompanied by a site plan and detailed drawings indicating the dimensions, location, engineering standards and other information as specified in the *Englewood Illustrated Sign Manual*.

d. *Sign Permit Review.* The City shall, within five (5) working days of the date of the Sign Permit application, either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished.

(1) *Appeals.* Appeals relating to Sign Permits shall be made to the Board of Adjustment and Appeals pursuant to 16-2-18 EMC (Appeals), except under those Subsections whereby the Planning and Zoning Commission is authorized to hear an appeal.

e. *Sign Permit Fees.* A permit fee, in accordance with the fee schedule established by Council, shall be paid to the City for each Sign Permit issued under this Section.

4. *Enforcement.* It shall be unlawful to display, construct, erect, alter, remodel, enlarge, move, or maintain a sign in violation of the provisions of this Section. If any sign is found to be in violation of the prohibitions of this Section, such violation shall constitute a nuisance to be abated in the manner provided in Chapter 16-10 EMC (Enforcement and Penalties).

5. *Sign Maintenance.* Sign maintenance is the repair or replacement in-kind of individual sign components including copy panels and bulbs, paint or other finishes. This definition shall not include the replacement of metal or wood cabinets, structural faces, supporting structural members, primary uprights, posts and poles, electrical wiring, or the sign in its entirety.
   a. Every sign, including signs not requiring a Sign Permit and nonconforming signs, shall be maintained in neat and orderly condition, and in a good working order at all times.
   b. *Responsible Party.* The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign.
6. *Inactive Signs.* Any sign identifying or advertising a business, owner, tenant, product, service or activity that has not been located on the premises for period of thirty (30) days or more shall be declared an inactive sign.
   a. Inactive signs shall be removed, covered or have their copy obscured.
   b. Inactive signs shall be subject to enforcement provisions of Chapter 16-10 EMC (Enforcement and Penalties).
   c. *Responsible Party.* The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally responsible for the removal, covering or obscuring of an inactive sign.
7. *Nonconforming Signs.* See Section 16-9-5 EMC (Nonconforming Signs).
8. *Sign Variances.* See Section 16-2-16(F)(2) EMC (Sign Code Variances).
9. *Substitution Clause.* To ensure commercial and non-commercial signage is afforded equal protection under the Englewood Municipal Code, any sign authorized in this Section may contain either commercial or non-commercial copy.
10. *Sign Definitions.* See Section 16-11-2 EMC (Definition of Words, Terms and Phrases).

    Note: Many terms are listed under the word "Sign," i.e. Sign, Awning or Sign, Ground.

B. *Incidental Signs Allowed Without Sign Permit.* The following signs are allowed in all zone districts and are exempt from the Sign Permit requirements of Subsection 16-6-13(A)(3) EMC (Sign Permits). Such signs shall be in addition to all other signs permitted in any zone district in which they are located, provided such signs meet the conditions of this Subsection. Any sign not meeting the conditions of this Subsection shall require a Sign Permit and shall be included in the calculations for total allowable sign area and maximum sign number.

Incidental signs allowed without a Sign Permit shall not conflict with traffic regulatory devices; be located within a sight distance triangle; or extend or project over any property line or into the public Right-of-Way. In addition such signs, except holiday decorations and scoreboards, shall not flash, blink, or fluctuate and shall not be animated.

1. *Address.* Signs identifying the address of a dwelling unit or of an establishment:
   a. *All Residential Districts.* Maximum two (2) square feet in area.
   b. *Medical, Business, and Industrial Districts.* Maximum thirty-two (32) square feet in area.
2. *Bulletin Boards and Kiosks.* Bulletin boards and kiosks for public, charitable, or religious institutions, which are not over twelve (12) square feet in area, and which are located on the premises of said institutions.
3. *Cafe Table Umbrellas.*

4. *Cornerstones and Plaques.* Cornerstones cut into any masonry surface or inlaid so as to be part of the building. Commemorative plaques or tablets memorializing a person, event, structure, or site.

5. *Drive-Thru Menu Boards.* A use with a drive-thru facility may have two (2) menu board signs along the drive-thru lane, provided that each menu board sign is limited to one face and shall not:

   a. Exceed eight feet (8') in height, and

   b. Exceed thirty-five (35) square feet in area.

6. *Election Signs.* Election signs shall not be posted more than forty-five (45) calendar days prior to the election to which the sign relates, and shall be removed within fifteen (15) calendar days following the election to which the sign relates. Such signs are limited to wall, window, and ground signs; and shall not be a banner of paper or cloth. Each election sign shall not exceed twelve (12) square feet of total sign area.

7. *Flags.* Flags of nations or an organization of nations, states, and cities, provided such flags:

   a. Shall not exceed thirty-five (35) square feet in area.

   b. Total number of exempt flags shall not exceed five (5) flags.

8. *Garage Sale Signs.* Signs pursuant to Section 15-16-3 EMC (Signs).

9. *Holiday Decorations.* Signs in the nature of decorations, clearly incidental and commonly associated with any national, local or religious holiday.

10. *Ideological Signs.* Ideological signs not more than twelve (12) square feet in total sign area. Such signs are limited to not more than two (2) per lot.

11. *Illuminated Buildings in Non-Residential Districts.* Providing no signs, symbols, letters, figures, etc., identifying a name, service, or product are included in the illumination.

12. *Job Site Signs.* Signs not more than six (6) square feet in area, per face, in Residential zones and not more than thirty-two (32) square feet in area in Medical, Business and Industrial zones for the duration of work on site. One such sign shall be allowed per street frontage.

13. Miscellaneous non-illuminated signs on windows and doors one (1) square foot or less in area. Examples of such signs include open, credit cards accepted, business hours, business associations, and similar customer courtesy information.

14. *On-Site Informational and Regulatory Signs.* Signs that provide instructions as required by law, by necessity or for the convenience of visitors shall be interpreted to include such signs as "no smoking", "restrooms", "no solicitors", "self-service", "no trespassing", and similar informational signs provided such signs do not exceed six (6) square feet in area.

15. *Private Parking or Traffic Direction Signs.* Signs giving parking or traffic directions or restrictions provided that such signs:

   a. Are limited to: wall and ground signs,

   b. Are not more than six (6) square feet in area per face,

   c. Are not more than six feet (6') in height above grade.

16. *Safety/Warning Signs.* Signs warning of danger or hazardous conditions or to indicate the presence of underground cables, gas lines, and similar devices, provided such sign does not exceed six (6) square feet in area.

17. *Sale, Lease, or Rent Signs.* Signs that advertise the sale, lease, or rental of the premises upon which said signs are located shall comply with the following standards of Table 16-6-13.1 below:

Table 16-6-13.1 Sale, Lease, Rent Sign Standards			
Zone District	*Use*	*Maximum Number*	*Maximum Size (sf)*
R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, MU-R-3-B, MU-R-3-C	Residential	1	6
	Non-residential	1	6
MU-B-1, MU-B-2, M-1, M-2, TSA, I-1, I-2	Residential	1	6
	Business and Industrial	2	Street frontage ≤ 100 ft: 24 Street frontage > 100 ft: 32
PUD	Per individual PUD standards		

18. *Scoreboards.* Scoreboards located on athletic fields.

19. *Signs Within Buildings.* Signs within buildings that do not meet window sign specifications of Table 16-6-13.3A EMC (Permitted Principal Building Signs).

20. *Vehicle Consumer Information.* Signs on cars, trucks, or other vehicles displayed in commercial sales lots which give information as to price, mileage, or similar information, provided such sign does not exceed six (6) square feet in area.

21. Vending machines, including fuel dispensers, and collection boxes.

22. *Works of Art.* Works of art pursuant to Section 16-11-2(B) EMC (Definition of Words, Terms and Phrases), including integral, decorative or architectural features of buildings that do not contain the name or logo of any business shall be allowed, provided:

    a. No language, symbols, or depictions that are known by or could reasonably be suspected by law enforcement to be associated with or representative of documented criminal street gangs, suspected or alleged criminal organizations, or suspected criminal activity is included or contained within the work of art.

    b. Murals shall be located on building walls only and shall not contain an electronic display. Mural images may extend across doorways of buildings.

    c. A work of art may include a sign of no more than two (2) square feet identifying the artist.

23. Pennants, streamers, fringe, balloons and similar devices.

24. *Other Incidental Signs.* Signs other than those listed above may be declared incidental by the City Manager or designee upon review and a determination that the proposed sign has similar characteristics and impacts as those listed herein.

C. *Prohibited Signs and Other Prohibitions.* The following are inconsistent with the purposes and standards of this Chapter; are prohibited in all zone districts and shall not be the subject of a variance application.

1. Billboards.

2. Off-premise signs (also known as third-party signs).

3. Vehicular signs, except signs permanently affixed, painted, or magnetically applied. No sign shall be placed or erected in the bed of a truck or on the deck of a trailer or a truck. No vehicle upon

which a vehicular sign is affixed shall be parked on private property or in the public Right-of-Way for the primary purpose of directing or attracting the attention of the public to any person, institution, organization, business, product, service, event or location.

a. This Subsection shall not apply to:

(1) Vehicles operated in the normal course of business or parked or stored in the normal course of business in an area appropriate to the use of the vehicle for delivery or another commercial purpose.

(2) Mobile advertising vehicles legally in transport on a public roadway.

4. Roof Signs. Existing roof signs permitted and approved under a previous Code or approved under South Broadway Sign Area standards effective from July 10, 2000 to the effective date of this Title shall be grandfathered and considered legal conforming signs.

5. Additionally, the following signs and devices are prohibited:

a. Any sign not in compliance with sight distance standards of Section 16-6-13(E)(1) EMC (Visibility).

b. Signs on fences or walls, unless an integral part of the fence or wall, and meet all requirements of this Chapter.

c. Strobe lights.

d. Flashing, blinking signs.

e. Any principal sign that does not meet material standards of Section 16-6-13(F)(5) EMC (Prohibited Principal Sign Materials).

f. Any sign that imitates or resembles an official traffic control device or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or signal.

g. Any sign that constitutes a hazard to public safety.

h. Snipe Signs. Any sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, utility poles, traffic devices, or similar objects. It shall be prima facie evidence that the business or service identified on the sign has erected or caused the sign to be erected.

i. Any sign that interferes with a fire escape, window, door, or opening used or required as a means of egress or ingress.

D. *Signs in the Public Right-of-Way.*

1. *Signs Not Requiring a Sign Permit.* The following signs are allowed without a sign permit provided they meet all requirements of the Englewood Municipal Code (EMC).

a. Signs required or specifically authorized for a public purpose, including traffic control signs and street signs.

b. Signs for sidewalk sales pursuant to a public sidewalk sale as defined in this Title.

c. Signs for garage sales pursuant to Section 15-16-13 EMC (Signs).

d. Human Signs pursuant to Section 16-6-13(G)(2) EMC (Human Signs).

2. *Signs Requiring a City License or Agreement.*

a. *District Identification Banners.* City owned banners or banners authorized by City License affixed to streetlights in the Right-of-Way for the purpose of identifying a District, and/or its various events. This shall apply only to City authorized Districts.

b. *Street Banners.* Banners across public thoroughfares as allowed by City Agreement.

c. *Business Improvement Districts Advertising Devices.* Advertising devices of City-approved business improvement districts authorized by City License.

d. *Bus Bench and Bus Shelter Signs.* Signs as authorized by City License.

e. Signs extending into or over the public Right-of-Way authorized by an Encroachment Permit and Indemnity Agreement approved by the City.

f. *Portable Signs on the Public Sidewalk.*

(1) Purpose. The purpose of allowing certain portable signs on a public sidewalk in M-1, M-2, M-O-2, MU-B-1, MU-B-2, I-1 and I-2 zones, includes:

(a) Recognizing and accommodating the physical constraints related to signage that exist for businesses occupying buildings that are built immediately abutting or within two and one-half feet (2.5') of the public sidewalk; and

(b) Promoting a pedestrian-friendly environment on public sidewalks.

(2) Allowed Portable Signs. The following types of portable signs may be allowed on the public sidewalks provided they meet all requirements of this Subsection:

(a) A-frame or "sandwich board",

(b) Pedestal or "stanchion", and

(c) Three-dimensional (3-D) objects.

(3) Materials and Maintenance. Portable signs on a public sidewalk shall be constructed and maintained in accordance with Section 16-6-13(A)(5) EMC (Sign Maintenance). Such signs shall be maintained as to avoid faded or discolored backgrounds or copy; broken, loose, or ill-fitting pieces; and jagged edges or other conditions that may pose a hazard to pedestrians.

(4) Display. Portable signs on a public sidewalk shall meet the following display standards:

(a) The sign shall only be displayed during hours when the establishment to which the specific sign pertains is open for business.

(b) The sign shall only be located on the public sidewalk.

(c) The sign shall not move or include moving parts, attached balloons, pinwheels, flags, banners, streamers, pennants, or similar devices.

(d) The sign may contain a commercial or noncommercial message.

(e) Illumination. Only self-contained illumination approved by the City Manager or designee shall be permitted.

(5) Portable Sign Standards. The City Manager or designee may grant permission for the placement of a portable sign on a public sidewalk to an establishment occupying a building that is located immediately abutting or within two and one-half feet (2.5') of the public sidewalk, provided the following standards are met:

(a) Maximum Number. A portable sign on a public sidewalk shall count toward a use's maximum allowed number of accessory signs.

i. Single tenant on site: Limited to one (1) such sign.

ii. Multi-tenant building: Limited to one (1) such sign for each use located on the first floor of the building.

(b) Placement. Portable signs on a public sidewalk shall be placed so that:

i. The sign is between a building front and the curb line in front of the establishment to which the sign pertains,

ii. The sign is on the sidewalk surface and not on any structure, vehicle, or area containing landscaping,

iii. The sign is at least two feet (2') behind the curb line,

iv. The sign is anchored or secured in a manner approved by the City Manager or designee,

v. A minimum of five feet (5') of unobstructed walkway for pedestrian passage is maintained at all times and any applicable provisions of the Americans with Disabilities Act are met. City Manager or designee shall take into account other obstacles including but not limited to street lamps, fire hydrants, street furniture, planters, or similar appurtenances in determining the unobstructed walkway,

vi. The sign does not obstruct traffic visibility or any official traffic control device, or block any public entrance to or required emergency exit from a building, and

vii. The sign is not made to look like, and does not contain any representation of a traffic control device or traffic sign.

(c) Maximum Height. The sign shall not be more than four feet (4') above grade at its tallest point as installed.

(d) Maximum Width. The sign shall not be wider than three feet (3') at its widest point.

(6) Sign Permit Required. The City Manager or designee may issue a Sign Permit for placement of a portable sign on a public sidewalk provided:

(a) An application for such sign is submitted on forms provided by the City accompanied by a site plan showing the exact location of the sign.

(b) Evidence of general liability insurance in a form satisfactory to the City is provided. Such policy shall thereafter be maintained in full force and effect during any period in which the sign is located on the public sidewalk. In addition, anyone placing a portable sign on the public sidewalk shall be deemed to have agreed to indemnify, hold harmless, and defend the City from and against all claims arising from the placement and continued presence of the sign on the public sidewalk.

(c) No portable sign shall be approved if the property is not in compliance with Section 16-6-13 EMC (Signs). If after receiving a Sign Permit, the property fails to remain in compliance with this Section, the Permit shall be revoked and shall not be reissued for one (1) year.

i. The City Manager or designee shall issue portable Sign Permits for one (1) year; however, the Sign Permit may be revoked earlier at the City's discretion.

(d) In addition to a Sign Permit, a revocable "Temporary Occupancy of the Public Right-of-Way Permit and Indemnity Agreement", or other document approved by the City, shall be required.

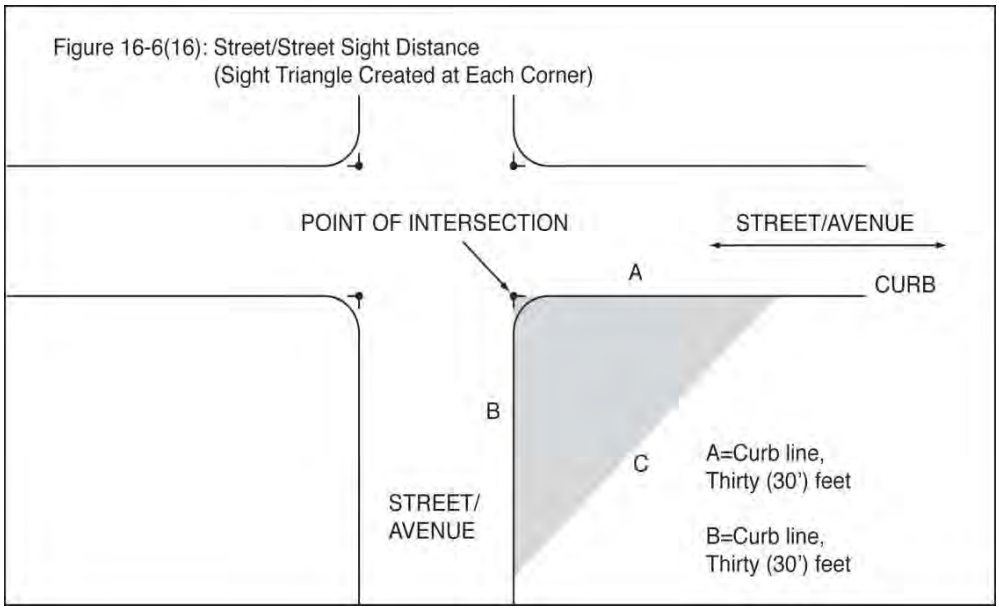
(7) Business Improvement Districts. Business Improvement Districts (BIDs) may notify the City Manager or designee that the BID does not want to have such signs permitted anywhere in their District. Such notice shall be an official notice from the BID, in writing, showing the decision and date it was adopted. If such notification is made, the City shall not permit portable signs on the public sidewalk within that BID.

3. Signs Prohibited in the Public Right-of-Way. Signs requiring a City License or Agreement under Section 16-6-13(D)(2) EMC when there is no existing permit, license and agreement and all signs not allowed by Subsection 16-6-13(D)(1) EMC (Signs Not Requiring a Sign Permit) shall be prohibited in the public Right-of-Way.

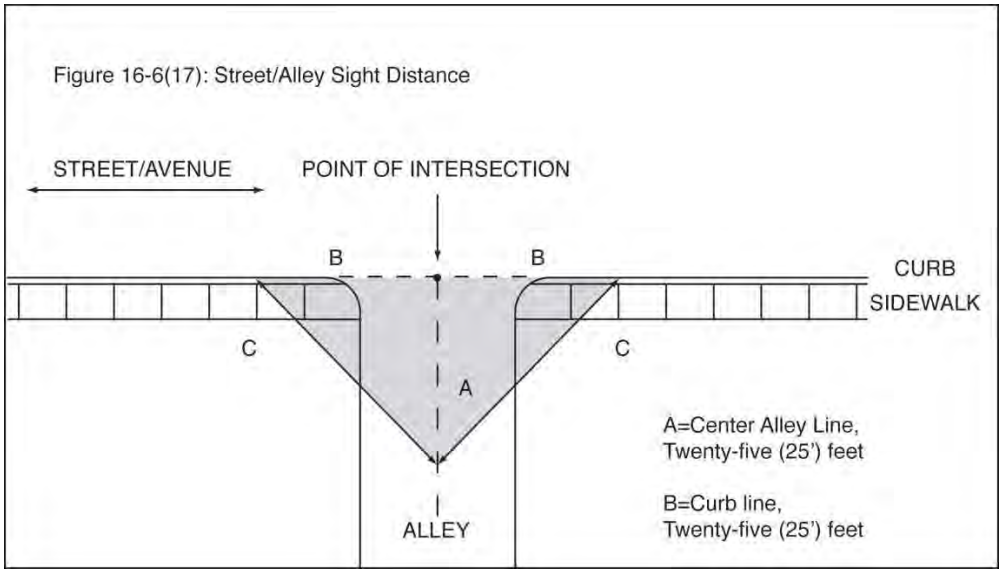
E. *Sign Specifications.*

1. *Visibility.* Signs and advertising devices shall not obstruct the visibility of pedestrians and vehicular traffic within sight triangles established by this Subsection. Monument signs over three feet (3') in height above the grade, and pole signs with a clearance of less than eight feet (8') between grade and the bottom of the sign shall be prohibited within the following sight triangles:

a. *Street / Street Intersection.* Said triangle shall be measured from a point where two street curb lines intersect. The distance from this point shall be thirty feet (30') along each street curb lines ("A" and "B"). The third side of the triangle ("C") shall connect these two sides, creating the triangle. Figure 16-6(16) shall be used to determine said triangle.



b. *Street / Alley Intersection.* Said triangle shall be measured from a point where the street curb line and the centerline of the alley intersect. The distance from this point shall be twenty-five feet (25') along the curbline ("B") and twenty-five feet (25') along the alley center line ("A"). The third side of the triangle ("C") shall connect these two sides, creating the triangle. Figure 16-6(17) shall be used to determine said triangle.



c. The City Traffic Engineer shall review and establish sight distance standards related to Sign Permit applications for all other situations (i.e. driveways and ingress/egress points) not described herein.

d. The City Traffic Engineer shall determine compliance with sight distance standards in connection with all Sign Permit applications and shall be authorized to vary these standards depending on site conditions.

2. *Sign Illumination.*

[Editors Note: Illumination was listed in 16-6-13(H) separately under each zone district.]

a. *Purpose.* The purpose of this Subsection is to provide objective and practical sign lighting levels for principal signs that promote sign legibility and which mitigate potential impacts on traffic safety and the community at large.

b. *Methods of Illumination.* The following methods of illumination may be allowed provided zone district illumination standards are met:

(1) *Internal Illumination.* The light source is contained within the sign, not visible to the eye, and shines through a translucent surface; examples include, but are not limited to, box signs and channel letters.

(2) *External Illumination.* The light source is outside of and directed toward the sign face; examples include, but are not limited to, flood or spotlights and gooseneck lights. External illumination shall comply with the following:

(a) External lighting of signs may be achieved by down lighting or by ground-mounted light fixtures as follows:

i. External lighting of signs ten feet (10') or more in height shall only be illuminated from the top of the sign and directed downward.

ii. External lighting of signs less than ten feet (10') in height may be illuminated from the top of the sign or from the ground.

(b) The fixtures shall be shielded and directed in such a manner as to illuminate only the face of the sign, the light source is concealed from pedestrians' and motorists' "lines of sight", and any illumination beyond the sign face is minimized.

(3) *Integral Illumination.* The light source itself is a fundamental element of the sign; examples include, but are not limited to, neon or bulbs that spell out the sign message. Exposed bulbs may be up to fifteen (15) watts in power.

(4) *Electronic Message Display (EMD) Illumination.* The light source is programmed and supplied by use of incandescent lamps, light emitting diodes (LED), liquid crystal displays (LCD), a flipper matrix, or similar electronic means.

c. *Sign Illumination Standards.*

(1) All lighted signs shall meet applicable electrical codes adopted by the City and a separate Electrical Permit shall be required.

(2) Non-electronic message display (EMD) signs illuminated at night shall not exceed a maximum luminance level of seven hundred fifty (750) candelas per meter squared (cd/m^2), regardless of the method of illumination. Measurement shall be in candelas per meters squared (the luminous intensity of a sign in a specific direction divided by the area of the sign).

(3) Electronic Message Display (EMD) Signs. The difference between the off and solid-message measurements shall not exceed 0.3 footcandles at night. See Subsection 16-6-13(F)(6)(b)(5)(f)(iii) EMC.

(4) Accessory signs shall not be illuminated.

(5) No sign in any R-1, R-2, or R-3 District shall be illuminated between 11:00 PM and 7:00 AM, except signs permitted for 24-hour medical services, and public services such as police and fire.

d. *Prohibitions and Restrictions.*

(1) Sign illumination is prohibited for the following: home occupation signs, on-site accessory signs and advertising devices.

(2) Signs shall be illuminated in a way that does not cause glare onto the adjacent pedestrian ways, streets, or adjacent properties.

(3) Only self-contained illumination approved by the City Manager or designee shall be permitted for portable signs on the public sidewalk.

(4) Signs shall not include animated, flashing, moving or intermittent illumination except that electronic message display signs may change no more frequently than the rate specified in Subsection 16-6-13(F)(6)(b)(5) EMC (Electronic Message Display (EMD) Signs).

e. *Searchlights.* Searchlights are permitted in MU-B-1, MU-B-2, I-1 and I-2 Districts only. Searchlights directing attention to, or advertising a business shall be considered accessory signs.

3. *Rules of Sign Measurement and Computation.* The following regulations shall control the measurement and computation of sign area, sign height, sign clearance, street frontage and building frontage.

a. *Sign Area.* The entire sign face within a continuous perimeter enclosing the extreme limits of the display surface, including any framing, trim, or molding shall be included in the

computation of sign area. The supporting structure or bracing of a sign shall be omitted from measurement, unless such structure or bracing is made part of the message or face of the sign.

(1) *Sign Area Computation.* The area of all signs shall be computed by use of standard mathematical methods. An unlimited number of lines may be used to enclose the extreme limits of the sign, including all frames, backing, face plates, non-structural trim or other component parts not otherwise used for support.

(2) *Sign with Backing/Background.* The area measurement of a sign that is enclosed by a box, framed, outlined, painted or otherwise prepared and intended to provide a background for the sign display shall be determined by the area of the entire sign including the background material.

(3) *Signs without Backing.* The area of signs comprised of individual letters, figures, or elements shall be determined by the sum of the area of each separate element and shall include all the display areas, including the open space between the elements.

(4) *Three-Dimensional (3-D) Signs and Advertising Devices.* The area of three-dimensional, spherical, free form, sculptural and/or other nonplanar signs or advertising devices, shall be determined by multiplying the length times width of the object's largest profile. The measurements shall be taken with the object at full extension.

(5) *Sign Faces.* A sign face is the display surface available for displaying a message. The number of sign faces used to calculate the area of a sign shall be determined by Table 16-6-13.2 EMC (Sign Face Computations to Determine Sign Area).

Table 16-6-13.2: Sign Face Computations To Determine Sign Area

Sign Category	*Sign Type*	*Computation*	*Additional Regulations (See Table Notes)*
Principal Building Signs	Awning	Sum of all sign faces	
	Canopy	Sum of all sign faces	
	Marquee	Sum of all sign faces when face separation is ≥ 45°; otherwise only the largest face	
	Projecting	One (1) face	[1]
	Roof - Mansard	Sum of all sign faces	
	Suspended	One (1) face	
	Wall	Sum of all sign faces	
	Window	Sum of all sign faces to calculate the maximum area coverage	
Principal Ground Signs	Monument	One (1) or two (2) faces: One (1) face; Three (3) or more faces: Sum of the two (2) largest faces	[2]
	Pole		

Notes to Table:

[1] Provided the separation between faces is no greater than eighteen inches (18") and no sign is displayed on the separation surface.

[2] Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed eighteen inches (18") and no sign is displayed on the separation surface.

b. *Sign Height.*

(1) *Ground Signs.* The height of a ground sign shall be computed as the vertical distance from the normal grade at the base of the sign or its support structure, whichever is

lower, and the topmost portion of the sign or the structure supporting the sign, whichever is higher. Normal grade shall be construed to be the lower of: (1) existing grade prior to construction; or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street.

(2) *Projecting and Marquee Signs.* The height of projecting and marquee signs shall be computed as the vertical distance from the lowest grade below the sign or its support structure, whichever is lower, and the topmost portion of the sign or the structure supporting the sign.

c. *Sign Clearance.* Clearance for all signs shall be measured as the vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.

d. *Projections.* Wall and projecting signs shall be measured from the building facade to the farthest aspect of the sign, including any framework or other embellishments.

e. *Measurement of Street Frontage.* For the purpose of this Section street frontage is the length of the public street abutting the parcel on which the sign is located. For the purposes of determining allowable sign area the following shall apply:

(1) An alley shall not be used to calculate street frontage.

(2) A City-approved private street may be used to calculate street frontage.

(3) For corner lots, the frontage of all streets shall be cumulative.

f. *Measurement of Building Frontage.* For the purposes of determining allowable sign area the following shall apply:

(1) The frontage of a building shall include only the elevation(s) facing a public street.

(a) If a building has more than one (1) elevation facing a public street, the cumulative building frontages shall be used to determine the maximum sign area.

(b) An alley shall not be used to calculate building frontage.

(c) A City-approved private street may be used to calculate building frontage.

(2) Building frontage is determined by measuring a straight line, paralleling the street-facing elevation, between the two (2) most distant ends of the building.

(3) In the case of an irregular elevation surface, a single straight line approximating such elevation shall be used to measure the elevation's length.

(4) Building frontage used as the basis of determining allowed sign area for one use may not be used again as the basis for determining the permitted sign area for another use.

(5) *Multi-Tenant Buildings.* The portion of a building that is owned or leased by a single occupant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

g. *Final Determination and Appeals.* Final determination of measurements and computations for signs and advertising devices shall be made by the City Manager or designee. Appeals shall be made to the Planning and Zoning Commission.

[Editor's Note: Requirements for the South Broadway Sign Area have been merged into the overall Sign Code.]

F. *Principal Signs.* A principal sign is defined as a sign attached to a building, structure, or the ground in some manner that requires a Sign Permit from the City and is made of durable materials approved by the City.

1. *Permit Required.* A Sign Permit shall be required for all principal signs identified in Table 16-6-13.3(A) EMC (Permitted Principal Building Signs) and Table 16-6-13.3(B) EMC (Permitted Principal Ground Signs).

2. *Number.* The number of allowed signs per use shall be determined by the zone district in which the sign is located based on Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

3. *Maximum Sign Area.* The maximum allowed sign area for any use shall be determined by Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

   a. Sign area may be distributed among the allowed number of signs in any manner provided that no single sign face exceeds one hundred twenty-five (125) square feet in area.

4. *Location Standards.* All portions of a principal sign shall be located completely on the parcel for which the Sign Permit is issued, unless allowed to encroach into or over the public Right-of-Way by an Encroachment Permit and Indemnity Agreement approved by the City.

   a. A minimum setback from a property line shall not be required unless specified in Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

5. *Prohibited Principal Sign Materials.* The following materials shall be prohibited for principal signs. Corrugated plastic (i.e. Coroplast), fabric, cloth, canvas, foam board, paper, cardboard, poster board, thin-gauge aluminum less than one-eighth-inch (1/8") thick, vinyl banner material (Polyvinyl Chloride [PVC]), engineered wood products including plywood, chipboard, particle board, medium density fibreboard (MDF), oriented strand board (OSB), or similar products, or other materials not reviewed and approved by the City Manager or designee.

   a. *Exception:* Medium density overlay (MDO), Duraply, or similar paintable surface made of plywood with a weather-resistant resin overlay bonded to the wood by heat and pressure may be used for principal signs constructed with sealed edges.

6. *Permitted Principal Signs.* It shall be unlawful for any person to erect a principal sign that does not conform to the standards enumerated in Table 16-6-13.3(A) EMC (Permitted Principal Building Signs), Table 16-6-13.3(B) EMC (Permitted Principal Ground Signs), and Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

   a. *Principal Signs by Type.* The type of signage allowed in each zone district shall be determined by Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

TABLE 16-6-13.3A Permitted Principal Building Signs

Sign Type	Structure/Construction	Signage	Additional Regulations
AWNING	Applied to an awning supported only by the building on which it is located. • Clearance: Min. 8' above grade • Projection: Shall not project within 5' of back of curb • Location: Awning shall not extend beyond the facade on which it is located except at building corners	• Number: Each awning with sign copy counts as 1 sign • Area: All copy faces count in area calculation • Face: May be on any face (front, side, valance) of the awning • Sign Copy: Shall be affixed to awning and shall not project above or below the awning	• Encroachment Agreement required for any projection over public right-of-way • Separate Building Permit required for new awning structure • No accessory signs shall be attached to an awning
CANOPY	Applied to a canopy supported by the building on which it is located and a minimum of 1 stanchion. • Clearance: Min. 8' above grade • Projection: Shall not project within 5' of back of curb	• Number: Each canopy with sign copy counts as 1 sign • Area: All copy faces count in area calculation • Faces: May be on any face (front, side, valance) of the canopy • Sign Copy: Shall be affixed to canopy face and shall not project above or below the face of the canopy	• Encroachment Agreement required for any projection over public right-of-way • Separate Building Permit required for new canopy structure • No accessory signs shall be attached to a canopy
MARQUEE	Applied to a marquee (permanent roof-like structure supported by the building on which it is located). • Clearance: Min. 8' above grade • Projection: Shall not project within 5' of back of curb • Height: Max. 25' above grade, with no more than 10' above roofline	• Number: Marquee structure counts as 1 sign • Area: If face separation is ≥ 45°, all faces count; otherwise only largest counts • Faces: May be on any face of the marquee • Sign Copy: Shall not project above the top of the marquee facade	• Encroachment Agreement required for any projection over public right-of-way • No accessory signs shall be attached to a marquee • Marquee signs may include structural elements that extend above the marquee • Signs above a marquee structure are counted separately from the marquee sign
PROJECTING (Blade, Armature)	Generally affixed with display face at right angles to the building facade. • Clearance: Min. 8' above grade • Projection: Shall not project within 5' of back of curb • Location: Signable area of facade • Height: Max. 25' with no more than 10' above roofline	• Sign Copy: May be on any face • Sign Count: 1 face counts toward sign area	• Encroachment Agreement required for any projection over public right-of-way • May require separate Building Permit • No accessory signs shall be attached to a projecting sign
ROOF: Mansard	Attached to or affixed to the side of a mansard roof. • Projection: Shall not project beyond building facade • Height: Shall not extend above roofline or parapet wall	• Faces: All faces count toward sign area	• May require separate Building Permit • No accessory signs shall be attached to a mansard roof sign

TABLE 16-6-13.3A Permitted Principal Building Signs			
Sign Type	**Structure/Construction**	**Signage**	**Additional Regulations**
SUSPENDED	Suspended from a horizontal plane of a building or structure. • Clearance: Min. 8' above grade	• Maximum sign area: 4 sf/face • Faces: 1 face counts toward sign area	• Shall not encroach into public right-of-way • No accessory signs shall be attached to a suspended sign
WALL	Attached to, painted on, or erected against a wall of a building, with display face generally parallel to the building facade. • Location: Signable area • Projection: A side wall sign may project beyond the front facade but not within 5' of back of curb • Clearance: Any sign projecting more than 4" from the wall shall be at least 8' above grade • Height: A maximum of 25% of a wall sign's total area may extend above the roofline or parapet wall, provided the extension does not exceed 3'	• Number: Limited to use's maximum allowed number of signs • Area: Limited to use's maximum allowed sign area • Faces: All faces count toward sign area	• Encroachment Agreement required for any projection over public right-of-way • No accessory signs shall be attached to a wall sign • Signable area shall mean the building facade up to the roofline that is free of windows and doors or major architectural detail. If, because of the design of the building, a signable area cannot be identified, the City Manager or designee shall determine a suitable area for signage
WINDOW	Posted, applied or affixed to the interior or exterior of a window, and seen through the window from the exterior of the structure. • Location: Ground floor glazed areas only	• Window Coverage: Maximum 25% of total glazed area on a facade, not to exceed 80 square feet on any one facade (See Additional Regulations) • Number: No limit, provided 25% window coverage maximum is not exceeded	• For the purpose of this Section total glazed area on a facade shall include all glazed windows and doors, and their framework • Window merchandise displays and signs allowed pursuant to Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit) are exempt from this Section • Sign coverage of less than 25% of the total glazed area on a facade shall not require a Sign Permit • Sign coverage exceeding 25% of the total glazed area on a facade shall count toward maximum allowed sign area and shall require a Sign Permit • Window signs shall not be permitted in windows above the ground floor

TABLE 16-6-13.3B Permitted Principal Ground Signs			
Sign Type	**Structure/Construction**	**Signage**	**Additional Regulations**
MONUMENT	Supported by and integrated with a solid base, as opposed to mounted on poles, posts or other structure. • Height: Residential Zones: Maximum 15' All Other Zones: Maximum 25' • Minimum Setback: Residential Zones: 10' • Separation: Minimum separation between ground signs on abutting properties shall be not less than the height of the taller sign	• Faces counting toward total sign area: 1 or 2 faces: 1 3 or more faces: 2 largest faces • Number: 1 ground sign per site (See Additional Regulations)	• Subject to sight distance requirements of Section 16-6-13(E)(1) EMC (Visibility) • Encroachment Agreement required for any projection into public right-of-way • Minimum distance between signs may be reduced by the City Manager or designee on a case by case basis when lot width or other site conditions preclude meeting the required separation distance • If there is more than 1 business in a building or more than 1 business on a site no ground signs are permitted except Multi-Tenant signs. See Section 16-6-13(H)(1) EMC (Multi-Tenant Signs)
POLE	Supported on poles, posts, or similar upright structure. • Shall not be attached to any part of a building • Height: Residential Zones: Maximum 15' All Other Zones: Maximum 25' • Minimum Setback: Residential Zones: 10' • Separation: Minimum separation between ground signs on abutting properties shall be not less than the height of the taller sign	• Faces counting toward total sign area: 1 or 2 faces: 1 3 or more faces: 2 largest faces • Number: 1 ground sign per site (See Additional Regulations)	• Subject to sight distance requirements of Section 16-6-13(E)(1) EMC (Visibility) • Pole signs over 8' in height shall require submittal of an engineered, wet-stamp drawing • Encroachment Agreement required for any projection over public right-of-way • Minimum distance between signs may be reduced by the City Manager or designee on a case by case basis when lot width or other site conditions preclude meeting the required distance • If there is more than 1 business in a building or more than 1 business on a site no ground signs are permitted except Multi-Tenant signs. See Section 16-6-13(H)(1) EMC

b. *Dynamic Displays.* Dynamic displays may be incorporated into any of the permitted sign types and shall include signage encompassing moving parts or images, LEDs and LCDs, and similar electronic messages.

Table 16-6-13.4: Dynamic Display Signs by Type and Zone District
P = Permitted NO = Prohibited

Sign Type / District/Use	Animated	Changeable Copy: Reader Board	Changeable Copy: Time/ Temperature	Electronic Message Display	Flashing
All R1, R2, R3 residential uses up to 4 units	No	No	No	No	No
All R1, R2 Non-residential uses	No	P[1]	P[1]	P[1], P[5]	No
All R3 residential uses of 5 or more units	No	P	P	P[2], P[5]	No
R3 Non-residential uses	No	P	P	P[2], P[5]	No
M-1, M-2	No	P	P	P[2], P[5]	No
MU-B-1 MU-B-2 I-1 I-2	P[3]	P[3]	P[3]	P[3], P[4]	No
TSA	Shall conform to R-3 standards, above				
PUD	Per approved PUD sign standards				

Notes to Table:
P[1] Maximum Area: Ten (10) square feet.
P[2] Maximum Area: Twenty (20) square feet.
P[3] Maximum Area: Subject to the use's maximum allowed sign area.
P[4] Minimum separation between an electronic message display and any R Residential District shall be one hundred feet (100'). Separation shall not apply within Mixed-Use Business District allowing residential uses.
P[5] Minimum separation between an electronic message display and boundary line of any residential use: one hundred feet (100').

(1) *General Standards.*

(a) Messages displayed on dynamic display signs shall not direct attention to a business, product, service or entertainment conducted, sold or offered off the premise that is not also conducted, sold or offered on the premise on which the sign is located.

(b) Any sign using electronic or electro-mechanical technology for changeable copy, which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or reprogrammed within twenty-four (24) hours to stop the motion, movement, or flashing so to maintain a static display until properly functioning.

(c) *Illumination.* The intensity of the light source of a dynamic display sign shall not produce glare, the effect of which may constitute a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

(d) *Electronic Billboards.* Conversion of an existing billboard to an electronic message display billboard shall be prohibited.

(e) *Existing Dynamic Displays.* All signs now considered as dynamic display signs existing on the effective date of this Title that contain an electronic changeable copy module which does not comply with the provisions of this Section shall be made to conform to the brightness, frame hold time, transition duration, and transition method provisions by December 28, 2012.

(2) *Animated Signs.* Any sign or part of a sign that changes physical position by any movement or rotation or that gives the visual impression of such movement. Wind-driven, changeable copy, electronic message displays, and flashing signs shall not be considered animated signs.

(3) *Changeable Copy Signs.* A sign designed to accommodate frequent message changes by either mechanical or electronic means. Manual copy change is not included in this sign type. Changeable copy signs include reader boards and time and temperature units.

(a) *Time and Temperature Sign.* Time and temperature signs shall meet the following standards:

i. Minimum Frame Hold Time. The displayed message shall not change more frequently than once per five (5) seconds.

ii. Transition Method. No portion of the message may flash, twirl, change color, fade in or out or in any manner imitate movement.

(b) *Reader Boards.* Reader board signs shall meet the following standards:

i. Maximum Area. Reader boards shall be limited to twenty (20) square feet.

ii. Transition Method: No portion of the message may flash, twirl, change color, fade in or out or in any manner imitate movement, however it may scroll across the frame.

(4) *Flashing Signs.* Any sign having lights or illumination that blinks, flickers, or varies in intensity at any time when in use is prohibited. The following signs are excluded from this prohibition: holiday decorations and scoreboards pursuant to Section 16-6-13(B) EMC (Incidental Signs Allowed Without a Sign Permit) and changeable copy and electronic message display signs pursuant to this Subsection.

(5) *Electronic Message Display (EMD) Signs.* Any sign that utilizes computer-generated messages or some other electronic means of changing copy by remote or automatic means shall be subject to the following standards:

(a) *Maximum Number.* One (1) EMD sign shall be permitted for each street frontage on a zone lot, parcel or group of parcels.

(b) *Frames.* The sign shall contain static frames only. There shall be no effects of movement, flashing, scintillation, or similar effects within the individual frames.

(c) *Minimum Frame Hold Time.* The displayed message shall not change more frequently than once per ten (10) seconds.

(d) *Transition Duration.* The change of frames shall not exceed three-tenths (0.3) of a second of time between each frame displayed on the sign.

(e) *Transition Method.* Frames shall change by dissolve, fade, or by instantaneous change from one static display to another, but shall remain as a static display after completing the change, and, once changed, shall remain static until the next change. The change of frames by the use of scrolling, flashing, rolling, window shading, or other similar effects is prohibited.

(f) *Illumination.*

i. Dimmer Software Required. All permitted EMDs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements of this Subsection.

ii. EMD Illumination Limits. The difference between the off and solid-message measurements using the EMD measurement criteria shall not exceed 0.3

footcandles at night. All measurements shall be taken perpendicular to the face of the EMD at the distance determined by the total square footage of the EMD as set forth in the accompanying Table 16-6-13.5 EMC (EMD Sign Area Versus Measurement Distance). See *Englewood Illustrated Sign Manual* for details on how to perform EMD illumination measurements.

Table 16-6-13.5: EMD Sign Area Versus Measurement Distance

Sign Area (sq. ft.)	Measurement Distance (ft.)*
2	14
3	17
4	20
5	22
6	24
7	26
8	28
9	30
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71

*For signs with an area other than those specified above, the measurement distance shall be determined as the square root of (100 x the sign area).

iii. Nighttime Maximum. Lighting from the message module shall not exceed 0.3 footcandles between dusk to dawn as measured from the sign's face.

iv. Specifications Required. Applications for Sign Permits containing an electronic display shall include the manufacturer's specifications and cd/m^2 rating.

v. Inspections. The City shall have the right to enter the property and view the programmed specifications of the sign to determine compliance with these provisions in accordance with the Sign Permit issued for the sign.

c. Principal Signs Allowed by Zone District. The type of signage allowed in each zone district shall be determined by Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards).

Table 16-6-13.6: R-1 and R-2 Zone District Principal Sign Standards

Zone District	Use	Permitted Principal Sign[1]	Allowed Number	Allowed Area[2] (in square feet)	Additional Regulations
R-1-A **R-1-B** **R-1-C** **R-2-A** **R-2-B**	One-unit residential Multi-unit residential				• Only those signs allowed under Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit) • Non-illuminated, no animation
	Home Occupations	Wall	1	1	• Non-illuminated, no animation
	Public/Institutional	Awning Canopy Marquee Projecting Suspended Wall Window Pole Monument	3	80 square feet **or** amount calculated on **street** frontage ≤ 100': 1.5 sf/foot > 100': 1.0 sf/foot	• See Tables 16-6-13.3A and 3B EMC (Permitted Principal Signs) • See Sections 16-6-13(E)(2)(c) EMC (Sign Illumination Standards) and 16-6-13(F)(6) EMC (EMD Signs) • Monument and Pole: School, religious, and gov't buildings only: Maximum height: 15' Minimum setback: 10' • Illumination prohibited between 11:00 PM and 7:00 AM[4] • No single sign face shall exceed 125 square feet.
	All other uses [3]	Awning Canopy Marquee Projecting Suspended Wall Window Monument	2	20	

Notes to Table:

[1] Electronic message display signs are prohibited except for time and temperature signs.

[2] See *Englewood Illustrated Sign Manual* for how to determine street or building frontage.

[3] Signs for nonconforming uses shall be subject to the standards of the district in which the use is located.

[4] Signs provided on a 24-hour basis for medical services and public services such as police and fire are exempt from this requirement.

TABLE 16-6-13.7: MU-R-3 ZONE DISTRICT PRINCIPAL SIGN STANDARDS

Zone District	Use	Permitted Principal Signs	Allowed Number[1]	Allowed Area (in square feet)	Additional Regulations
MU-R-3-A **MU-R-3-B** **MU-R-3-C**	Single-unit residential, Multi-unit residential (2-4 units)				• Only those signs allowed under Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit) • Non-illuminated, no animation
	Multi-unit residential (5 or more units)	Awning Canopy Marquee Projecting Suspended Wall Window Pole Monument	≤ 150' **street** frontage: 2 > 150' to ≤ 300' **street** frontage: 3 > 300' **street** frontage: 4 • Uses with more than 2 street frontages: 1 additional sign for each frontage	100 square feet **or** total of **street** frontage factors below: ≤ 100' x (1.5 sf) *plus* > 100' to ≤ 250' x (1.0 sf) *plus* > 250' x (0.4 sf)	• See Section 16-6-13(E)(2)(c) EMC (Sign Illumination Standards) and Section 16-6-13(F)(6) EMC (EMD Signs) • No single sign face shall exceed 125 square feet.
	Home Occupations	Wall	1	1	• No illumination, no animation
	Public/Institutional Hospitals Clinics Offices	Awning Canopy Marquee Projecting Suspended Wall Window Pole Monument	3	Minimum 80 square feet **or** total of **street** frontage factors below: ≤ 100': 1.5 sf/foot *plus* > 100': 1.0 sf/foot	• See Tables 16-6-13.3A and 3B EMC (Permitted Principal Signs) • No single sign face shall exceed 125 square feet • Illumination prohibited between 11:00 PM and 7:00 AM [3] • See Sections 16-6-13(E)(2)(c) EMC (Sign Illumination Standards) and 16-6-13 (F)(6) EMC (EMD Signs) • Monument and Pole: Only for religious, schools, gov't buildings, hospitals, clinics, and offices: Maximum height: 15' Minimum setback: 10'
	All other uses [2]	Awning Canopy Marquee Projecting Suspended Wall Window Pole Monument	2	20	

Notes to Table:
[1] See *Englewood Illustrated Sign Manual* for how to determine street or building frontage.
[2] Signs for nonconforming uses shall be subject to the standards of the district in which the use is located.
[3] Signs provided on a 24-hour basis for medical services and public services such as police and fire are exempt from this requirement.

Table 16-6-13.8: M and TSA Zone District Principal Sign Standards

Zone District	Use	Permitted Principal Sign	Allowed Number[1]	Allowed Area (in square feet)[1]	Additional Regulations
M-1 **M-2** **MO-2**	Single-unit residential, Multi-unit residential (2-4 units)				Only those signs allowed under Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit)
	Multi-unit residential (5 or more units)	Awning Canopy Marquee Projecting Suspended Wall Window Monument	≤ 150' **street** frontage: 2 > 150' to ≤ 300' **street** frontage: 3 > 300' **street** frontage: 4 • Uses with more than 2 street frontages: 1 additional sign for each frontage	100 square feet **or** total of **street** frontage factors below: ≤ 100': 1.5 sf/ft. *plus* > 100' to < 250': 1.0 sf/ft. *plus* > 250': 0.4 sf/ft.	• See Tables 16-6-13.3(A) and 3(B) EMC (Permitted Principal Signs) • Prohibited illumination: Flashing, intermittent lights • Direct glare onto a residential use adjacent to the location of the sign • See Sections 16-6-13 (E)(2)(c) EMC (Sign Illumination Standards) and 16-6-13(F)(6) EMC (EMD Signs) • No single sign face shall exceed 125 square feet
	Home Occupations	Wall	1	1	No illumination, no animation
	Public/Institutional All other allowed [2]	Awning Canopy Marquee Suspended Wall Window Pole Monument	≤ 150' **street** frontage: 3 > 150' to ≤ 300' **street** frontage: 4 > 300' **street** frontage: 5	100 square feet **or** total of **street** frontage factors below: ≤ 100': 1.5 sf *plus* > 100' to ≤ 250': 1.0 sf/ft. *plus* > 250': 0.4 sf/ft.	• See Tables 16-6-13.3(A) and 3(B) EMC-(Permitted Principal Signs) • Prohibited illumination: Flashing, intermittent lights • Direct glare onto a residential use adjacent to the location of the sign • See Sections 16-6-13 (E)(2)(c) EMC (Sign Illumination Standards) and 16-6-13(F)(6) EMC (EMD Signs) • No single sign face shall exceed 125 square feet
TSA	Residential	Shall comply with standards applicable to MU-R-3-A district			
	Non-residential	Shall comply with standards applicable to MU-B-1 district			

Notes to Table:
[1] See *Englewood Illustrated Sign Manual* for how to determine street or building frontage.
[2] Signs for nonconforming uses shall be subject to the standards of the District in which the use is located.

TABLE 16-6-13.9: MU-B, I, AND PUD ZONE DISTRICT PRINCIPAL SIGN STANDARDS

Zone District	Use	Permitted Principal Sign Types	Allowed Number[1]	Allowed Area (in square feet)	Additional Regulations
MU-B-1 **MU-B-2** **I-1** **I-2**	Single use on site	Awning Canopy Marquee Projecting Roof Mansard Suspended Wall Window Pole Monument	≤ 150' **street** frontage: 3 > 150' to ≤ 300' **street** frontage: 4 > 300' **street** frontage: 5 • Uses with more than 2 street frontages: 1 additional sign for each frontage	100 square feet **or** total of **street** frontage factors below: 1' to 100': 2.0 sf/ft. *plus* > 100' to ≤ 250': 1.25 sf/ft. *plus* > 250': 0.6 sf/ft.	• See Tables 16-6-13.3(A) and (B) EMC (Permitted Principal Signs) • Prohibited illumination: Flashing, intermittent lights, Direct glare onto a residential use adjacent to the location of the sign • For electronic signs See Section 16-6-13(E)(7) EMC (Electronic Message Display Signs) • No single sign face shall exceed 125 square feet
	Multiple uses on site (Each allowed use)	Awning Canopy Marquee Projecting Roof Mansard Suspended Wall Window Pole Monument	≤ 150' **building** frontage: 3 > 150' to ≤ 300' **building** frontage: 4 > 300' **building** frontage: 5	100 square feet **or** total of **building** frontage factors below using the individual use's **building** frontage: ≤ 100': 2.0 sf/ft. plus > 100': 1.0 sf/ft.	See Section 16-6-13(H) EMC (Sign Bonuses) for: • Multi-tenant properties • Multi-storied buildings • Buildings set back more than 100 feet from front property line
PUD	Per individual PUD regulations				

Notes to Table:
[1] See *Englewood Illustrated Sign Manual* for how to determine street or building frontage.

G. *Accessory Signs.*

1. *On-Site Accessory Signs and Advertising Devices.*

a. *Purpose.* The purpose of allowing certain on-site accessory signs and advertising devices includes:

(1) Recognizing and accommodating the business community's desire for economical short-term signage that can be easily installed, changed, or moved to meet limited advertising needs; and

(2) Maintaining an aesthetically pleasing environment by minimizing sign clutter.

b. *Maintenance.* On-site accessory signs and advertising devices shall be constructed and maintained in accordance with Section 16-6-13(A)(5) EMC (Sign Maintenance). Any on-site accessory sign or advertising device that is in disrepair or unsafe shall be repaired, removed, or replaced upon written notice of the City Manager or designee.

c. *Materials and Anchoring.* All accessory signs or advertising devices shall be durable and weather-resistant and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.

d. *Standards.* No on-site accessory signs or advertising devices shall:

(1) Be located on or over the public Right-of-Way,

(2) Be located on the roof of any building or structure,

(3) Be located on a principal sign or sign structure, fence, utility pole or other structure not intended as a sign support,

(4) Be located so that it can come in contact with power lines,

(5) Encroach or extend over any property line,

(6) Be illuminated, contain flashing or blinking lights, or electronic changeable copy,

(7) Obstruct traffic visibility or any official traffic control device,

(8) Be made to look like, or contain any representation of a traffic control device or traffic sign, or

(9) Block any public entrance to or required emergency exit from a building.

e. *Permit.* No Sign Permit shall be required for the placement of an allowed on-site accessory sign or advertising device. However, any on-site accessory sign or advertising device found to be in violation of this Title shall be declared a nuisance by the City and shall be subject to enforcement pursuant to Chapter 16-10 EMC (Enforcement and Penalties).

f. *Variances.* Due to the intended short-term nature of on-site accessory signs and advertising devices, such signs and devices shall not be subject to variances.

g. *On-Site Accessory Signs and Advertising Devices Measurement and Calculations.* The maximum size of an on-site accessory sign or advertising device shall be based on its area, linear length, or profile depending on the type of sign or device. Calculations shall be based on Table 16-6-13.10 below:

Table 16-6-13.10: Accessory Sign Measurement

Sign Type	Calculation Method	Measurement Method
Banners, Wind-Driven, Portable	Area	4 - line enclosure
Inflatables, 3-D objects	Profile	L x W measured at the object's largest extended profile

h. Signs associated with special events or temporary uses allowed by this Title shall be considered accessory signs and subject to the provisions of this Subsection. Such signs shall be allowed for the duration of the special event or allowed temporary use.

i. *Sign Specific Standards for Allowed On-Site Accessory Signs or Advertising Devices.* On-site accessory signs or advertising devices shall be allowed pursuant to Table 16-6-13.11 EMC (Table of Allowed On-Site Accessory Signs and Advertising Devices) below:

Table 16-6-13.11: Table of Allowed On-Site Accessory Signs and Advertising Devices

On-Site Accessory Signs and Advertising Devices	Types[1]	Zone Districts in which Allowed	Allowed Uses	Maximum Number	Maximum Total Area[2] (in sf)	Maximum Height (in feet)	Additional Regulations
Banners (with or without message)	Wall	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	15	• Accessory wall banners prohibited for single and multi-unit residential uses up to 5 units • Wall banner shall be affixed to building facade only and shall not extend beyond facade • Multi-tenant properties: See Notes to Table[4]
		All other zones	All single uses	2	30	30	
Wind-Driven (with or without message)	Pole (ground mounted including non-exempt flags, sail, tear drop or feather banners, wigglers, and similar devices)	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	15	• Does not apply to flags of nations or an organization of nations, states, or cities. See Section 16-6-13(B) EMC (Incidental Signs Allowed Without Sign Permit) • Residential zone minimum setback: 10' • Multi-tenant properties: See Notes to Table[4]
		All other zones	All single uses	2	30	25	
	Staff (mounted on building)	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	15	
		All other zones	All single uses	2	30	—	
Portable	A-frame, sandwich board, pedestal	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	6	• Residential zone minimum setback: 10' • Multi-tenant properties: See Notes to Table[4] • Regulation of signs in the public Right-of-Way: See Notes to Table[5]
		All other zones	All single uses	2[3]	30	25	
Inflatables	Cold air or gas-filled objects, tubes, tube dancers, tornado tubes, or similar devices	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	15	• Residential zone minimum setback: 10' • Multi-tenant properties: See Notes to Table[4]
		All other zones	All single uses	2	30	25	
3-D Objects	All objects not classed as inflatables	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	Non-residential uses only	1	15	6	• Residential zone minimum setback: 10' • Multi-tenant properties: See Notes to Table[4]
		All other zones	All single uses	2[3]	30	25	
Human	Hand-held, mounted, costume	R-1-A, R-1-B, R-1-C, R-2-A, R-2-B	All uses	—-	—	—	• See Section 16-6-13(G)(2) EMC (Human Signs) • Multi-tenant properties: See Notes to Table[4]
		All other zones	All uses	1	10	—	

Notes to Table:

[1] Classification of on-site accessory signs or advertising devices not listed in this table shall be determined by the City Manager or designee. Interpretations shall be made to the Planning and Zoning Commission.

[2] Combined total area of all allowed on-site accessory signs and advertising devices.

[3] Only 1 on-site sign/device is permitted if an on public sidewalk accessory sign is utilized.

[4] Multi-Tenant Properties. Each allowed use on the ground floor of a multi-tenant property shall be allowed one (1) on-site accessory sign or advertising device.

[5] For regulation of signs in the public right-of-way: See Section 16-6-13(D)(2)(f)(5)(c).

2. *Human Signs.* A human sign is defined as an accessory sign which is worn (including costumes), held or attached to a human for promotional purposes or to advertise any business, commodity, service, activity, or product. Human signs do not include T-shirts, hats, or other similar clothing.

   a. *Maximum Number.* Each allowed use is permitted to use one (1) human sign. A Sign Permit shall not be required for a human sign.

   b. *Maximum Area.* The maximum area of a sign held or attached to a human shall be ten (10) square feet.

   c. *Standards.* Human signs may be located on private property or on the public sidewalk provided the following standards are met:

      (1) No human sign shall be held, displayed, or otherwise located on a public street, roadway, alley, or median of a public street,

      (2) No human sign shall utilize electronic components,

      (3) Human signs shall yield to the passage of pedestrians, and

      (4) Human signs shall not:

         (a) Impair lines of sight that are necessary for the safe movement of vehicular or pedestrian traffic,

         (b) Block the visibility of any traffic control device or traffic signal for motorists or pedestrians, or

         (c) Place any item on any public Right-of-Way.

H. *Sign Bonuses.*

1. *Multi-Tenant Signs.* Multi-tenant signs are allowed when two (2) or more permitted uses occupy the same parcel or parcels, or building or group of buildings under the same ownership. Multi-tenant signs shall be in addition to all other signs in terms of maximum sign area and number, provided:

   a. No other ground signs are used on the parcel or parcels.

   b. Permitted Sign Type. Multi-tenant signs shall be limited to ground or wall signs and shall not exceed the maximum sign height allowed in the zone district in which the sign is located.

   c. Permitted Sign Face Area. One (1) square foot of sign area for each two (2) linear feet of street frontage; provided, however, no single sign shall exceed one hundred twenty-five (125) square feet per face.

   d. Permitted Maximum Number. One (1) sign for the primary street frontage. An additional sign is permitted for each additional street frontage greater than one hundred fifty feet (150').

   e. Signs may be located anywhere on site provided sight distance and minimum separation requirements are met.

   f. Where, on the effective date of this Section, two (2) or more multi-tenant signs exist on a property with multiple frontages, such signs shall not be considered nonconforming solely due to not meeting the minimum lot frontage requirement of this Subsection.

2. *Buildings Set Back One Hundred Feet or More from the Public Right-of-Way.* The area of one (1) principal sign face may be increased at the rate of one-third of one percent (.0033) for each foot of distance beyond the first one hundred feet (100') of building setback. The increase shall be based on the use's allowed sign area, as determined by Tables 16-6-13.6 through 16-6-13.9 EMC (Zone District Principal Sign Standards), provided the increase in sign face area:

   a. Shall not exceed one hundred twenty-five (125) square feet.

b. Shall not exceed the maximum sign height allowed in the zone district in which the sign is located.

c. Shall be granted only for a sign placed at the setback distance used in the calculation.

d. Shall not apply in residential (R) zone districts.

e. Shall not apply to accessory signs.

f. Shall not be used in combination with Section 16-6-13(H)(3) EMC (Multi-Story Building Identification Wall Signs).

g. The additional sign area calculated herein shall not count against the maximum sign area. See *Englewood Illustrated Sign Manual* for a detailed description of how to calculate increased sign area.

3. *Multi-Story Building Identification Wall Signs.* For multi-story buildings in excess of seventy-five feet (75'), additional wall sign area shall be permitted for building identification purposes in conformance with the schedule set forth below.

a. Sign area shall be based upon a square footage factor multiplied by the horizontal linear footage of the building's facade at the elevation where the sign is placed as shown in Table 16-6-13.12 below:

Table 16-6-13.12: Multi-Story Building Sign Bonus Factor

Sign Elevation (Bottom of sign to grade)	Square Footage Factor
75 feet—100 feet	5 square feet
> 100 feet—150 feet	6 square feet
> 150 feet	7 square feet

b. Multi-story buildings may be permitted identification wall signs for each building facade.

c. Wall sign areas permitted by this Subsection for one (1) facade may not be used for any facade other than the one (1) for which the allowance is granted.

d. Such signs shall not count against maximum sign area or number.

e. Electronic message display signs shall not be permitted under this Subsection.

f. The multi-story bonus shall not be used in combination with Section 16-6-13(H)(2) EMC - (Buildings Set Back One Hundred Feet or More from the Public Right-of-Way).

g. The additional sign area calculated herein shall not count against the maximum sign area. See *Englewood Illustrated Sign Manual* for a detailed description of how to calculate increased sign area.

(Ord. 04-5; Ord. 05-25; Ord. 07-37, § 1; Ord. 08-37, § 11; Ord. 08-72, § 1; Ord. 08-48, § 27; Ord. 47-12, §§ 1—8)

16-6-14: Development Standards for the TSA District.

A. *Applicability and Conflicting Provisions.*

1. *Applicability.* The standards in this Section shall apply to all applications for a rezoning to a TSA district, and to all proposed development within a TSA district.

2. *Conflicting Provisions.*

a. If the provisions of this Section are inconsistent with one another, the more restrictive provision shall control.

b. If the provisions of this Section conflict with provisions found in other parts of this Title or in other codes, ordinances, or regulations adopted by the City of Englewood, the provisions in this Section shall control unless otherwise expressly provided.

c. If provisions found in other parts of this Title or in other codes, ordinances, or regulations adopted by the City of Englewood do not conflict with this Section's standards, those other provisions shall apply in the TSA district.

B. *Related Plans, Standards, and Guidelines.*

1. *Consistency with the Comprehensive Plan.* Development in the TSA district shall be consistent with the Comprehensive Plan and any applicable small area plan.

2. *Compliance with Station Area Standards and Guidelines.* The regulations in this Section complement detailed design and development standards and guidelines adopted by the City for each light rail station area (the "Station Area Standards and Guidelines"). Applicants for development in the TSA district shall reference these documents and all development in the TSA district shall comply and be consistent with all applicable standards and guidelines therein, which may address, among other things:

a. Density and dimensional standards;

b. Streets, blocks, and sidewalks;

c. Building height, orientation, size, and design;

d. Parking area design; and

e. Landscaping; buffers, and screening.

C. *District Location and Minimum Size.* Specifications for TSA district location and minimum district size thresholds for rezoning are found in Section 16-2-7.B.3 EMC, "Thresholds for TSA Rezonings".

D. *Prohibited Uses in the TSA District.* Drive-in or drive-through uses, either as a principal use or as an accessory use, are prohibited in the TSA district.

E. *Mix of Principal Uses Required.*

1. *Use Categories.* For purposes of this subsection, each principal use allowed in the TSA district by Section 16-5-1 EMC, "Table of Allowed Uses," is grouped into one of the following five (5) general use categories:

a. Residential uses;

b. Commercial uses (other than limited offices);

c. Commercial limited office uses;

d. Light industrial uses; and

e. Public/institutional/transportation uses.

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2. Applicability/Plan Requirement. A mix of land uses shall be required on any development site in the TSA district that is three (3) acres in gross land area or larger, and shall be depicted in the application for a Site Improvement Plan Review.

3. Required Mix and Proportion of Land Uses.

   a. The Site Improvement Plan for the site shall include at least two (2) of the five (5) use categories listed in subsection E.1 above.

   b. No one use category listed in subsection E.1 shall comprise more than ninety percent (90%) of the Site Improvement Plan's net land area. "Net land area" for purposes of this provision means gross land area less dedicated public rights-of-way.

   c. All residential development provided as part of the required mix shall be provided at the minimum density required in subsection F. below.

   d. Subsequent Site Improvement Plans may include only one principal use, provided the applicant shall give assurances to the City's satisfaction, including but not limited to restrictive covenants, that subsequent phases of the development will include a mix of uses according to the approved Site Improvement Plan.

F. *Minimum Residential Density.*

1. Applicability. The minimum density requirement stated in this subsection shall apply to all new residential development in the TSA district, except for expansions of a nonconforming residential structure allowed by Chapter 16-9 EMC (Nonconformities).

2. Minimum Residential Density. Thirty (30) dwelling units per acre, unless otherwise specified in the applicable Station Area Standards and Guidelines.

3. Calculation of Residential Density. Residential density in the TSA district shall be measured as the total number of dwelling units divided by the gross land area of the total development parcel shown in a Site Improvement Plan.

G. *Requirement for First Floor Active Uses Adjacent to Light Rail Station.*

1. Applicability. This subsection shall apply to the block frontages immediately adjacent to a RTD light rail passenger loading station (including adjacent public open space such as plazas), which is at least partially intended for development of retail or other commercial uses to serve light rail commuters.

2. First Floor Active Uses Required. The first floor of all buildings, except transit station buildings and parking structures, developed within the applicable area described above shall comply with the following standard:

   a. The first (ground-level) floor shall be constructed to permit future occupancy by any of following principal uses:

      (1) Live/work dwellings, provided the commercial activity in the dwelling is located primarily on the ground floor and the primary entrance to the commercial activity is oriented toward the light rail station or adjacent public plaza/open area.

      (2) Commercial uses, except for parking and/or commercial storage of operable vehicles.

      (3) Public/institutional uses, except for religious assemblies and educational institutions of any type other than trade or business schools for adults that operate on a year-round basis and offer day, evening, and weekend classes.

   b. While the City encourages immediate occupancy by the active uses listed in subsection (a) above, immediate occupancy of the first floor upon completion of construction may be for any of the principal uses allowed in the TSA district, except parking and/or commercial storage

of operable vehicles. The City may condition zoning approval upon the applicant's good faith and best efforts to provide active ground-floor uses consistent with this subsection within a reasonable time period.

3. Building Code Compliance Required. Typically, in order to meet the standard for active first floor uses in this subsection, first-floor construction will need to satisfy current building and fire code requirements for future occupancy by commercial uses, including eating and drinking establishments. An applicant shall meet with the City prior to submitting an application for Site Improvement Plan or other development planning approval, and again prior to submitting an application for the first building permit, to discuss and assure compliance with this subsection.

H. *Building Setbacks and Build-To Lines.*

1. Building Setbacks and Build-To Lines.

a. Front Setback—Principal Buildings and Uses.

(1) Minimum Front Setback: Zero feet (0'), except for surface parking facilities. Surface parking facilities shall have a minimum front yard setback of ten feet (10').

(2) Maximum Front Setback—Applicability:

(a) The maximum front setback requirements of this subsection apply only to the lower thirty feet (30') or first two (2) stories, whichever is less, of a principal building, and higher portions of the building may be stepped back further from the lot line.

(b) The maximum setback standard shall not apply to a surface parking facility that is the principal use of a site.

(3) Maximum Front Setback: Fifteen feet (15'), measured from the front property line. To encourage pedestrian-friendly streets, the City encourages principal nonresidential buildings to be set back zero feet (0') from the back edge of the public sidewalk, except as necessary to allow room for outdoor seating and service areas, outdoor sales and displays, landscaping, and similar pedestrian and customer amenities.

(4) Side Setback—Principal Buildings and Uses:

(a) Minimum Side Setback: Zero feet (0'), except that where a side yard is provided from an interior lot line, the minimum shall be five feet (5').

(b) Maximum Side Setback Adjacent to a Street on Corner Lots: Ten feet (10').

(5) Minimum Rear Setback—Principal Buildings and Uses: Zero feet (0').

I. *Minimum Lot Frontage Requirements.*

1. Applicability and Measurement. These minimum frontage requirements apply to all buildings or structures developed on a single lot in the TSA district. The types of streets listed in this subsection relate to "primary" versus "secondary" streets within the district designated by the City at the time of rezoning.

2. Minimum Lot Frontage Requirement.

a. Lots Fronting on a "Primary Street".

(1) Except for lots occupied by an interim surface parking principal use, building wall shall occupy a minimum of seventy-five percent (75%) of the lot frontage. Such building wall shall be located no further from the front property line than the maximum front setback allowed. The building wall may be part of a principal building or an accessory building.

(2) The remaining twenty-five percent (25%) of each lot frontage may be occupied by any combination of building wall, decorative/screening wall or fence no higher than three feet (3'), a solid hedge, landscaped entryway signage or features, pedestrian amenities such as a public plaza or park, or breaks for necessary pedestrian and vehicle access ways.

b. Lots Fronting on All Other (Secondary) Streets.

(1) Except for lots occupied by an interim surface parking principal use, building walls shall occupy a minimum of fifty-five percent (55%) of the lot frontage. Such building wall shall be located no further from the front property line than the maximum front setback allowed. The building wall may be part of a principal building or an accessory building.

(2) The remaining forty-five percent (45%) of each lot frontage may be occupied by any combination of building wall, decorative/screening wall or fence no higher than three feet (3'), a solid hedge, landscaped entryway signage or features, pedestrian amenities such as a public plaza or park, or breaks for necessary pedestrian and vehicle access ways.

c. Lots Containing Surface Parking Facilities as a Principal Use. One hundred percent (100%) of the lot frontage shall be occupied by any combination of building wall, decorative/screening wall, or fence no higher than two and one-half (2½) feet, a solid hedge, landscaped entryway signage or features, pedestrian amenities such as a public plaza or park, or breaks for necessary pedestrian or vehicle access ways.

(Ord. 04-5; Ord. 08-48, § 28; Ord. 29-14, § 4)

Chapter 7

TELECOMMUNICATIONS

16-7-1: Statement of Purpose and Intent.
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16-7-1: Statement of Purpose and Intent.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary to:

A. Establish a local policy concerning telecommunications providers and services;

B. Promote competition in the provision of telecommunications services;

C. Minimize unnecessary local regulation of telecommunications providers and services;

D. Establish guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications providers and services;

E. Facilitate the provision of wireless telecommunications services to the residents and businesses of the City;

F. Minimize adverse visual effects of towers through careful design and siting standards;

G. Avoid potential personal injury and damage to adjacent properties from tower failure through structural standards and setback requirements;

H. Encourage and maximize the use of existing and approved towers, buildings and other structures to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community;

I. Assure that all telecommunications carriers providing facilities or services within the City comply with the Englewood Municipal Code.

J. Secure fair and reasonable compensation to the City and its residents for the use of any appropriate public property for use as a site for wireless telecommunications facilities; and

K. Enable the City to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition, and technological development.

(Ord. 04-5)

16-7-2: Applicability.

A. General Applicability. Except as specifically provided below, these provisions shall apply throughout the city limits of the City of Englewood, and no tower, antenna or telecommunications facility shall be permitted except in compliance with these provisions. In case of any conflict between the requirements of this Section and any zoning district regulations, the provisions of this Section shall control.

B. Amateur Radio and Receive-Only Antennas. This Section shall not govern any tower, or the installation of any antenna, owned and operated by a Federally licensed amateur radio station operator in accordance with FCC rules, or is used exclusively for receive-only antennas, so long as all other requirements of the zoning districts are met.

C. Pre-Existing Towers, Antennas, and Telecommunications Facilities. Any tower, antenna or telecommunications facility for which a permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section, other than the requirements of Section 16-7-6.C through 16-7-6.H and Section 16-7-13 EMC. Any such towers, antennas or telecommunications facilities shall be referred to in this Section as pre-existing towers, pre-existing antennas, or pre-existing telecommunications facilities.
(Ord. 04-5)

16-7-3: Application.

A building permit shall be required for all towers, antennas, and telecommunications facilities. All applicants for a building permit shall apply with the City on forms to be provided by the City, which shall include information and supporting site plans, technical reports, and materials as specified by the City.
(Ord. 04-5)

16-7-4: Amendment.

Each applicant shall inform the City, within sixty (60) days, of any change of the information provided in the application.
(Ord. 04-5)

16-7-5: Colocation Encouraged.

All applicants shall submit a narrative and map description of the applicant's existing or then current land use application for proposed telecommunications facilities within the City, and outside of the City within one thousand feet (1,000') of its boundaries. In addition, the applicant shall inform the City generally of the areas of the City in which it believes telecommunications facilities may need to be located within the next three (3) years. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments to the location of facilities in various parts of the City. Rather, it is an attempt to provide a mechanism for the City and all applicants for telecommunications facilities to share general information, assist in the City's Comprehensive Planning process, and promote colocation by identifying areas in which telecommunications facilities might be appropriately constructed for multiple users. The City shall maintain a list of telecommunications facilities and update the same from information furnished by all service providers. By submitting an application, all applicants acknowledge that the City may direct future applicants to discuss colocation with an applicant that has disclosed to the City the possibility of locating telecommunications facilities in a given area; provided however that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
(Ord. 04-5)

16-7-6: General Guidelines and Requirements.

A. *Principal or Accessory Use.* Antennas and other ancillary telecommunications facilities may be considered either principal or accessory uses. Towers, unless specifically accessory to the use of a property, shall be considered a principal use of property. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna on such lot. Where a new lot or leasehold parcel has been created from a larger parcel, for purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the larger lot from which the new lot was created shall control. Towers that are constructed and antennas that are installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. *Aesthetics; Lighting.* The guidelines set forth in this subsection B shall govern the location of all towers, and the installation of all antennas, governed by this Section. Where options for aesthetic treatment are provided, the City shall direct which option is to be utilized.

1. Towers either shall maintain a galvanized steel finish, or subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
2. At a tower site, the design of the buildings and related telecommunication facilities shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facilities to the natural setting and built environment.
3. The City may require all antenna(s) be appropriately screened to safeguard surrounding property provided that such screening will not interfere with the transmission and/or reception capabilities of any antenna located on the tower as required in subsection F.
4. If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunications facilities must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.
5. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the City may review any available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light that falls onto public rights-of-way or nearby properties, particularly residences.
6. No portion of any antenna array may extend beyond the property line.
7. Ancillary telecommunications facilities shall be no taller than the maximum height in the zoning district where the facilities are located and shall be compatible with the surrounding area.
8. Ancillary telecommunications facilities in areas of high visibility shall, where possible, be sited either below the ridgeline, amidst groups of trees, or designed (e.g., placed underground, depressed, or located behind earth berms or otherwise effectively screened) to minimize their profile.
9. As part of the conditional use application process, the City may require a special design of any telecommunications facility where findings of particular sensitivity are made.

C. *Federal Requirements.* All telecommunication facilities must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate telecommunication facilities. If such standards and regulations are changed, then the owners of the telecommunication facilities governed by this Section shall bring such telecommunication facilities into compliance with such revised standards and regulations within the time frame mandated by the

controlling Federal agency. Failure to bring telecommunication facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the telecommunication facilities at the owner's expense.

D. *Building Codes; Safety Standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes; the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time; and all applicable codes adopted by the City.

1. In addition to any other applicable standards and requirements, the following shall apply to all towers and telecommunications facilities:

   a. Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury. By way of example, and not of limitation, security fencing pursuant to Section 16-7-10.F EMC, together with a lack of pegs on the bottom portion of the tower, shall be considered sufficient anti-climbing measures.

   b. No guy wires employed may be anchored within the area in front of any primary structure on a parcel.

   c. At least ten feet (10') of horizontal clearance must exist between any antenna and any power line, unless more clearance is required to meet Colorado Public Utilities Commission Standards.

   d. All telecommunications facilities must be designed and/or sited so that they do not pose a potential hazard to nearby residences or surrounding properties or improvements. Any tower shall be designed and maintained to withstand, without failure, the maximum forces expected from wind, tornadoes, hurricanes, and other natural occurrences, when the tower is fully loaded with antennas, transmitters, and other telecommunications facilities, and camouflaging; or, in the case of pre-existing towers, when the tower is loaded with the antennas, transmitters, and/or other telecommunications facilities at the time of passage of this Section. Initial demonstration of compliance with this requirement shall be provided via submission of a report to the City prepared by a structural engineer, licensed in the State of Colorado, describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided pursuant to any applicable codes.

2. If, upon inspection, the City concludes that a telecommunications facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of a telecommunications facility, the owner shall have thirty (30) days to bring such telecommunications facility into compliance with such standards. If the owner fails to bring such telecommunications facility into compliance within said thirty (30) days, the City may remove such telecommunications facility at the owner's expense.

E. *Radio Frequency Standards.* All applicants shall comply with Federal standards for radio frequency emissions. At the time of permit application, the applicant shall submit a project implementation report that provides cumulative field predictions of radio frequency emissions of all antennas to be initially installed at the subject site, and which compares the results with established Federal standards. In response to any written complaint regarding radio frequency emissions, the operator of a telecommunications facility shall, within a reasonable period of time after receiving notice of the written complaint, submit a report to the City indicating whether all radio frequency emissions generated by that entity's telecommunications facilities are within Federal standards. If, in response to such written complaint, it is determined that the emissions from the facility are within allowable Federal standards, the entity providing the report shall not be required to make a similar response to further written

complaint for a period of at least one (1) year from the date of the prior complaint. If the report indicates that emissions exceed Federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunications facilities pursuant to Section 16-7-9 EMC. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

F. *Signal Interference.* All towers, antennas and telecommunications facilities must be designed and/or sited so as not to cause interference with the normal operation of radio, television, telephone and other telecommunications services utilized by adjacent residential and nonresidential properties; nor shall any such facilities interfere with any public safety telecommunications.

G. *Modification.* Existing antennas on an approved telecommunications facility may be modified, and the power output of existing antennas on an approved facility may be increased, provided the standards and procedures outlined in ANSI Standard and C-95.1 or any amendments or revisions thereto, OST Bulletin No. 65 and Electronics Industries Associations EIA-RS 222(E) or the latest revision or amendment thereof; or such current standards as may be approved by the FCC are complied with.

1. The City shall be notified within fourteen (14) days of any change in or addition of antennas whose power output exceeds one hundred (100) watts E.R.P. of radio frequency power output. The City may request copies of plans depicting such modification and other evidence necessary to demonstrate that such modifications are in compliance with the provisions of this Section, and a permitted use approval. A subsequent field report, prepared by a qualified radio frequency engineer, quantifying a projects radio frequency emissions and exposures, and comparing them to adopted Federal standards, may be requested by the City upon project installation.

2. The City must be notified at least thirty (30) days prior to any modification which increases the wind or weight loading capacity, height or footprint of a tower, and may request copies of plans which depict such modifications and indicate compliance with the provisions of this Section, and with the permitted use approval. Depending upon the nature of the modifications, such modifications may require conditional use approval pursuant to Section 16-2-12 EMC.

H. *Prohibited Use.* Advertising or communication of any visual messages from a tower or antenna is prohibited, with the exception of safety related messages.
(Ord. 04-5)

16-7-7: Building Permits.

Towers, antennas, and telecommunications facilities are considered structures, requiring issuance of a building permit. In connection with the issuance of a permit for a tower, antenna or telecommunications facility, and in order to provide the City with accurate and current information concerning entities that own or operate telecommunications facilities within the City; to assist the City in enforcement of this Section; to assist the City in the collection and enforcement of any licensed fees or charges that may be due the City; and to assist the City in monitoring compliance with local, State and Federal laws, the applicant shall, prior to a permit being issued, submit the application information described in Section 16-7-3 EMC, to the City Manager or designee.
(Ord. 04-5)

16-7-8: Permitted Uses—General.

The uses listed in Section 16-7-9 EMC, are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such uses shall comply with this Section and all other applicable ordinances. See Table 16-5-1.1 and permitted uses in specific zone districts for additional regulations.
(Ord. 04-5)

16-7-9: Specific Permitted Uses.

A. Locating a tower or antenna, including the placement of ancillary telecommunications facilities used in connection with said tower or antenna is permitted on City owned property in any zoning district so long as all other requirements of the zoning district are met.

B. Installing an antenna on an existing tower including the placement of ancillary telecommunications facilities, so long as said additional antenna adds no additional height to said existing tower, does not project outward a distance of more than fourteen feet (14'), and is consistent with any applicable conditions of approval for that site, which previously have been imposed by the City.

C. Installing an antenna on an existing alternative tower structure, including the placement of ancillary telecommunications facilities, so long as said additional antenna adds no more than fifteen feet (15') of additional height to said existing structure, does not project outward a distance of more than fourteen feet (14'), and is consistent with any applicable conditions of approval for that site, which previously have been imposed by the City; provided, however, that if the installation of an antenna or any other ancillary telecommunications facilities on top of an existing structure causes an increase in the maximum height limitation within the zoning district in which the structure is located, such use shall still be considered a specific permitted use so long as the ancillary facilities add no more than fifteen additional feet (15') to the height of the structure and are adequately screened to the satisfaction of the City Manager or designee.

D. Locating a tower in all zoning districts other than residential and business, so long as all other requirements of the zoning district are met.

E. Locating an alternative tower structure in all zoning districts, so long as all other requirements of the zoning district, Table 16-5-1.1, and this Section 16-7-9 EMC, are met.
(Ord. 04-5)

16-7-10: Conditional Uses.

A. *Applicability.* This Section's provisions shall govern the issuance of conditional use permits for telecommunication facilities allowed only as conditional uses in Chapter 16-5 EMC, (Table 16-5-1.1). These provisions and criteria are in addition to the general provisions and criteria governing conditional uses stated in Section 16-2-12 EMC.

B. *General Provisions.*

1. In granting a conditional use permit, the City may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed telecommunication facility on adjoining properties.
2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural, or electrical, shall be certified by a Colorado Registered Professional Engineer. Any information submitted relating to radio frequency emissions shall be certified by a qualified radio frequency engineer.

C. *Factors Considered in Granting Conditional Use Permits for Towers and Antennas.* In addition to the criteria set forth in Section 16-2-12 EMC, the City shall consider the following factors in determining whether to issue a conditional use permit for a tower or antenna:

1. Height of the proposed tower or height of proposed antenna on a tower or alternative tower structure;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;

4. Surrounding topography;

5. Surrounding tree coverage and foliage;

6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

7. Proposed ingress and egress;

8. An evaluation of the applicant's plans for development of its telecommunications facilities on the site which is the subject of the application, as well as those plans on file from other telecommunications providers;

9. An evaluation of the technical reports and materials submitted by the application;

10. Compliance with Section 16-7-6 EMC, "General Guidelines and Requirements";

11. Availability of suitable existing towers and other structures as discussed in Section 16-7-5 EMC, "Colocation Encouraged," and subsection D. (Availability of Suitable Existing Towers or Other Structures);

12. Any other information that the City deems reasonably necessary in connection with the review of the application.

D. *Availability of Suitable Existing Towers or Other Structures.* No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or structure can accommodate the applicant's needs. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of the following:

1. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

5. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

E. *Setbacks and Separation.* The following minimum setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required.

1. Towers shall be setback a distance equal to the height of the tower from any residential zoned property, or from any residential structure in any zoning district.

2. The towers, guys, and telecommunications facilities must satisfy the minimum zoning district setback requirements, or be setback a distance of at least fifty percent (50%) of the height of the tower, whichever is greater.

3. Towers over sixty feet (60') in height shall not be located within one-quarter (1/4) mile from any existing tower that is over seventy-five feet (75') in height, unless the applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

F. *Security Fencing*. Towers other than alternative tower structures may be enclosed by security fencing, of a type approved by the City, not less than six feet (6') in height, and shall be equipped with an appropriate anti-climbing device.

G. *Landscaping*. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required.

1. Tower and ancillary telecommunications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the compound from adjacent property, and in accordance with the landscaping and screening standards in Section 16-6-7 EMC, as applicable.

2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the perimeter may be sufficient to buffer.

(Ord. 04-5)

16-7-11: Financial Guaranty Requirement.

The City may require the applicant to post a performance bond, letter of credit, or other financial guaranty satisfactory to the City Manager or designee, at the time a building permit is issued, in an amount to be set by the City, reasonably related to the costs that may be incurred by the City should the applicant fail to comply with any of its obligations pursuant to this Chapter concerning maintenance or removal of abandoned facilities. The bond shall remain in effect for a period of ten (10) years from the date of building permit issuance.

(Ord. 04-5)

16-7-12: City Authorization to Enter and Maintain Facilities.

The City may enter onto the property and undertake any maintenance activities so long as:

A. The City Manager or designee has provided the applicant written notice requesting the work needed to comply with this Chapter and providing the applicant at least forty-five (45) days to complete it; and a follow up notice of default specifying failure to comply within the time period permitted, and indicating the City's intent to commence the required work within ten (10) days of the notice.

B. The applicant has not filed an administrative appeal pursuant to Section 16-2-18 EMC, within thirty (30) days of the notice of the City's intent to commence the required work. If an appeal is filed, the City shall be authorized to enter the property and perform the necessary work if the appeal is dismissed or final action on it is taken in favor of the City.

C. Notwithstanding anything contained in this Chapter to the contrary, the City shall not be required to provide the notice described herein if there is a significant risk to the public health and safety requiring immediate remedial measures.

(Ord. 04-5)

16-7-13: Removal of Abandoned Antennas, Towers, and Other Telecommunications Facilities.

Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned. The City, in its sole discretion, may require an abandoned tower, antenna or any other ancillary telecommunications facilities to be removed. The owner of such antenna, tower or any other ancillary telecommunications facilities shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Upon removal, the site shall be restored and/or revegetated to blend with the surrounding environment. If such antenna, tower, or ancillary telecom-

munications facilities are not removed within said ninety (90) days, the City may remove and dispose of the same at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
(Ord. 04-5)

Chapter 8

SUBDIVISION DESIGN, IMPROVEMENTS, AND DEDICATION STANDARDS

16-8-1:	Applicability.
16-8-2:	Recordation Required.
16-8-3:	Subdivision Review Procedures.
16-8-4:	Subdivision Design and Improvements.
16-8-5:	Dedications for Parks, Trails, and Open Space.
16-8-6:	General Requirements for Common Open Space.
16-8-7:	Streets.
16-8-8:	Environmental Assessment of Land Dedications.

16-8-1: Applicability.

A. *General.* This Chapter shall be applicable to all subdivisions or re-subdivisions of land within the corporate limits of the City of Englewood, and any additional lands over which the City has control authority under C.R.S. 31-23-212 et. seq., as amended. In addition, this Chapter shall apply to all land in the process of annexation to the City of Englewood. No plat of a subdivision of land shall be used for purposes of sale or building development until approved and recorded under the provisions of these subdivision regulations.

B. *Exemptions.* This Chapter shall not apply to the following:

1. Any division of land to heirs through an estate proceeding.
2. Any division of land by virtue of the foreclosure of a deed of trust.
3. Any division or combination of land through an Administrative Land Review Permit.

C. *Major Subdivisions.*

1. Applicability. A Major Subdivision is required whenever a subdivision of land requires the dedication of land for public rights of way or public areas.
2. Procedure for Approval of a Major Subdivision. A Major Subdivision may be approved by the Commission and Council, subject to the procedures set forth in Section 16-2-10 EMC, "Major Subdivisions".

D. *Minor Subdivisions.*

1. Applicability. A Minor Subdivision includes all of the following actions, provided no such actions require the dedication of land for streets, easements, or public areas:
   a. Unplatted land is to be platted, divided, or combined with any other land whether platted or unplatted.
   b. A single platted lot is to be divided into two (2) or more lots.
   c. A parcel previously platted into lots is to be divided into two (2) or more new lots inconsistent with the historical platted lines.
   d. Adjustment of boundary line(s) between previously platted parcels inconsistent with historical platted lines.
   e. The creation of condominiums, town home communities, and other forms of airspace ownership or air-right subdivisions, as described and defined in C.R.S. 38-33-101, et seq., as amended.

2. Procedure for Approval of a Minor Subdivision. A Minor Subdivision may be approved by the City Manager or designee, subject to the procedures set forth in Section 16-2-11 EMC, "Minor Subdivisions and Administrative Land Review Permits". If land dedications are required, or if a proposed action does not meet one (1) or more of the conditions listed in Section 16-8-1.D.1 EMC, above, then the Major Subdivision procedure in Section 16-2-10 EMC, shall apply.

(Ord. 05-25)

16-8-2: Recordation Required.

A. Every subdivision final plat shall be recorded in the office of the Arapahoe County Clerk and Recorder. All expenses of recording shall be borne by the applicant and shall be paid prior to recording.

B. No approval of any subdivision final plat shall be effective until it is recorded.

C. A subdivision final plat that has not been recorded within sixty (60) days after approval shall lapse and shall be of no further force or effect.

(Ord. 04-5)

16-8-3: Subdivision Review Procedures.

A. Major subdivisions subject to this Chapter shall submit plats and other required documents for review and approval pursuant to the procedures and review criteria set forth in Section 16-2-10 EMC.

B. Minor subdivisions subject to this Chapter shall submit plats and/or other required documents for review and approval pursuant to the procedures and review criteria set forth in Section 16-2-11 EMC.

(Ord. 04-5)

16-8-4: Subdivision Design and Improvements.

A. *Applicability.* Unless otherwise expressly stated in a valid approved Development Agreement or annexation agreement, the provisions of this Section shall apply to all subdivisions.

B. *Layout and Design Generally.* No subdivision shall be approved unless it complies with all of the following standards and criteria:

1. Compliance with the City of Englewood Plans. The design of subdivisions shall be consistent with the City of Englewood Comprehensive Plan and all other adopted plans and policies, unless otherwise approved by the City.
2. Compliance with Other Provisions of this Title. All subdivisions shall comply with all other applicable zoning, design, and development regulations set forth in this Title, including but not limited to:
   a. The requirements of the zone district in which the property is located (See Chapter 16-3 EMC, "Zone Districts");
   b. The requirements relevant to specific uses (See Chapter 16-5 EMC, "Use Regulations"); and
   c. Generally applicable development standards (See Chapter 16-6 EMC, "Development Standards"), including Section 16-6-3 EMC, "Streets and Vehicle Access and Circulation".
3. Plans for Remainder Parcels. Where an entire parcel under the applicant's control or ownership is not subdivided, the applicant shall submit plans for the remainder of the parcel, including major road connections and intended land uses.

C. *Railroad Rights-of-Way.* Where a subdivision is adjacent to or adjoins a railroad right-of-way, provision of space for grade separations, buffer strips and other protective treatment shall be made to the extent and type as shall be determined by the City Manager or designee in coordination with the railroad.

D. *Lot Design and Specifications.*

1. The minimum dimensions of lots shall be in accordance with Chapter 16-6 EMC, "Development Standards".

2. Each lot shall abut on a public street or access a public street by a private street approved by the City Manager or designee.

3. Side lines of lots shall be approximately at right angles or radial to the street line.

4. The shape of lots and their orientation shall be appropriate to the location of the proposed subdivision and to the type of development contemplated.

5. Double frontage lots in one-unit residential districts, other than corner lots, will be permitted only under unusual conditions.

6. Lots in general shall receive access from a local or collector street. Where a new subdivision, or any lot, block or parcel therein, fronts on an existing or proposed arterial, direct access may be limited.

7. Land that the City finds unsuitable for subdivision or development due to flooding, improper drainage, utility easements, environmental hazards, or other similar factors, which would be harmful to the health, welfare, and safety of present or future inhabitants shall not be developed. The plat shall identify such parcels of land that are not suitable for development.

E. *Supplemental Design Standards for Nonresidential Subdivisions.*

1. To the maximum extent feasible, adjacent residential areas shall be protected from potential nuisances arising from a proposed nonresidential subdivision, including but not limited to providing extra depth in parcels that back onto existing or potential residential development and providing for a wider than otherwise required landscaped buffer strip.

2. Streets that carry nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

F. *Protection of Existing Vegetation and Natural Features.*

1. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within all proposed subdivisions shall be designed in a manner that minimizes the land disturbance and preserves existing trees, vegetation, watercourses, and other natural features that would add value to the proposed development.

2. No trees shall be removed from any subdivision or any change of grade of the land effected until approval of the plat has been granted. All trees on the platted area required to be retained shall be preserved, and all trees where required shall be welled and protected against change of grade. See Section 16-6-7 EMC, "Landscaping and Screening".

G. *Easements.*

1. To afford the proper installation, maintenance, extension, and enlargement of public and private overhead or underground utility lines, rights-of-way or easements not smaller than sixteen feet (16') wide (eight feet (8') on each side of rear or side property lines), together with the right of ingress thereto and egress therefrom, shall be provided. Easements through a parcel and along the edge of one parcel only shall, likewise, be a minimum of sixteen feet (16'). For lots facing upon curvilinear streets, the rear easement line shall consist of a series of tangents with a minimum number of points of deflection. Where possible and to provide for guy structures or other attachments, with a minimum interference with land use, points of deflection shall coincide with side lot lines on the side of the exterior angle. In certain instances, easements of limited width

and length to provide for guy structures should be provided. Where necessary to coordinate service needs and to provide feed-through facilities between adjoining developments, such needs should be indicated on the plan.

2. Whenever any stream, irrigation ditch, or other watercourse is located in a subdivision, the applicant, at his expense, shall provide and reserve easements along such streams, ditches and watercourses in such widths as approved by the City Manager or designee for the purpose of widening, improving, protecting and maintaining same and for drainage and recreational purposes. The applicant shall submit any data, including plats of profiles and contours, designs, calculations, etc., which may assist the City Manager or designee in the preparation of any statement required of him regarding drainage conditions in the proposed subdivision and any drainage facilities proposed by the applicant to serve the subdivision.

H. *Utilities.*

1. All subdivisions shall comply with the requirements set forth in Section 16-6-9 EMC, "Underground Utilities".

2. The applicant shall provide the following utilities:

   a. Water and Sewer Lines. The subdivider shall design and install at the subdivider's cost all water and sanitary sewer lines and accessories to serve a development. City standards will be used wherever applicable to the specific development. All such water and sanitary sewer lines will be not less than eight inches (8") nominal diameter, unless smaller diameters are permitted by the design criteria of the City. The City will reimburse the subdivider for excess costs resulting when oversized water or sanitary sewer lines are required to be built by a subdivider, as provided by this Title and other City-adopted plans, regulations, and policies.

   b. Storm drainage conveyance facilities with water quality features, where required, shall meet City, State, and Federal standards.

   c. Fire hydrants shall be spaced to meet the requirements of the Fire Department or fire protection district within which the subdivision is located. Water main sizes shall also meet the requirements of the City of Englewood Fire Department.

   d. Telephone and Electric Lines and Other like Utility Services shall be installed underground pursuant to the standards set forth in Section 16-6-9 EMC, "Underground Utilities." The applicant shall make the necessary arrangements, including payment for any construction or installation charges, with each of the serving utilities for the installation of such facilities.

3. Approval of a preliminary subdivision plat does not constitute final approval of the utilities to be located within the subdivision.

I. *Subdivision Plats in a Special Flood Hazard Area.*

1. All subdivision proposals shall be designed to minimize flood damage and comply with the flood control standards, as applicable, in Chapter 16-4 EMC (Floodplain Regulations).

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed developments that contain at least fifty (50) lots or five (5) acres, whichever is less.

(Ord. 04-5; Ord. 08-48, § 29; Ord. 8-13, § 9)

16-8-5: Dedications for Parks, Trails, and Open Space.

A. *Purposes.* This Section's park, trails, and open space dedication requirements are intended to achieve the following purposes:

1. Provide adequate parks, trails, open spaces, and associated facilities, which represent a significant part of the community character for residents;
2. Recognize that new residences generate additional demands and burdens on the City's existing parks and trails system and the need for additional such amenities;
3. Recognize that the necessity for, and cost of, new or expanded parks and trails facilities be properly attributed to and paid for by new residential development, in accordance with the needs and burdens generated by such development;
4. Institute dedication requirements sufficient to meet the need for, and cost to develop and improve, new or expanded parks and trails generated by new residential development; and
5. Provide for dedications that closely approximates the additional park and trail needs and burdens generated by new residential development, links the requirements to be imposed to the additional needs and demands upon the parks and trails system generated by new residential development; and imposes exactions of land for park and trail purposes (or payment in lieu thereof) that are roughly proportional to the demands and burdens created by a new residential development.

B. *Applicability and Exemptions.* This Section's dedication requirements shall apply to the following types of residential development and subdivision:

1. Land being annexed into the City and zoned for residential use;
2. Rezoning which allows for residential uses;
3. Subdivision of land into new residential lots;
4. Development of existing undeveloped residential lots;
5. Development of Planned Unit Development, condominium, or other similar residential projects involving multi-unit residential dwelling units; and
6. Amendments to approved subdivision plats, development plans, or similar changes affecting the status of a property to the extent that such changes result in an increase in the number of dwelling units.
7. Exemptions. Nursing homes and similar residential accommodations primarily providing care and supervision to persons who are disabled or generally confined to the care facility for medical, physical, or mental reasons, shall be exempt from the land dedication requirements of this Section. If such a facility is converted to a non-care residential use, land dedication or cash-in-lieu payment shall be required at the time of conversion.

C. *Requirements for Dedication of Public Parks and Open Space.*

1. General Requirement. Within an area subject to these regulations, open spaces suitably located and of adequate size, as determined by the City Manager or designee, for public parks, playgrounds, and passive and active open spaces may be required to reduce the impact on

neighboring facilities or if similar facilities do not exist in the area. Said spaces shall be dedicated for the common use of the public or be established by covenants or other conditions in deed or deeds for the use of the public.

2. Inclusion of Significant Features in Land Dedications. To the maximum extent feasible, outstanding natural and cultural features including but not limited to waterways and other bodies of water, significant stands of existing trees or vegetation, or historic or archeological resources, shall be included in land areas dedicated for public parks, trails, and open space and reserved for public use.

3. Land Dedication Amount Required. The owner or developer of land to which these provisions apply shall, at the option of the City, either:

   a. Convey to the City in fee simple not less than ten and seven-tenths (10.7) acres per thousand (1,000) population projected for the development of such land, as determined in accordance with the provisions of this subsection;

   b. Pay to the City the cash equivalent of the fair market value of the land otherwise required to be dedicated pursuant to this subsection; or

   c. Satisfy such combination of dedication and payment in lieu of dedication that, consistent with the provisions of this subsection, the City determines appropriate.

4. Applicable Population Density Standards. For purposes of determining park/open space land dedication requirements pursuant to this subsection, the projected population of the residential development subject to this Section shall be established by utilization of the following density factors:

   a. 2.15 persons per one-unit dwelling;

   b. 1.8 persons per multi-unit dwelling;

   c. 1.5 persons per unit within a development intended for, and qualifying as, "housing for older persons" pursuant to the Federal Fair Housing Act (42 U.S.C. Section 3607(b)(2), as amended). In the event that a development intended for "housing for older persons" fails to qualify for such status under the applicable provisions of the Fair Housing Act or pertinent regulations, or having achieved such status thereafter relinquishes or otherwise fails to maintain such status, additional land dedication or cash-in-lieu payment shall be required, based upon the appropriate density factor set forth in this subsection.

D. *Public Trail Land Dedication.*

1. The owner/developer of land to which this Section applies shall, at the option of the City, dedicate in fee simple or grant easements over and across such land lying within the boundaries of the development as may be required, in the City's determination, to provide for the construction and maintenance of public trails which will traverse the development. The location of such trails shall be consistent with trail locations designated in any applicable, adopted City land use, parks, or open space plan.

2. The owner/developer of land to which these provisions apply may further be required to construct all such public trails as are referenced above.

3. Any trail dedication or construction required by the provisions of this subsection shall comply with all applicable City design and construction standards and any other rules or regulations adopted pursuant to this subsection.

4. Credit for Trail Land Dedications. Trail dedications or grants of easements accepted by the City under these provisions shall be credited against the public park/open space land dedication

requirements of Section 16-8-5.C EMC, above. Such credits shall not apply to proposed sidewalks or trails within street rights-of-way or on land within the development required to be dedicated for purposes other than park, trail, or open space use.

E. *Form of Land Dedication/Payment of In-Lieu Fees.*

1. All lands or interests required to be conveyed under this Section shall be conveyed to the City by proper dedication upon a plat or by general warranty deed, without restriction, and free and clear of any and all liens, restrictions, covenants, and encumbrances.

2. Cash-in-lieu payments shall be paid to the City by certified check and deposited in a City account to be used solely for the acquisition and development of parks, trails, open space, and related facilities reasonably proximate to the subject residential development.

F. *Timing of Dedication or Payment-In-Lieu.* Any dedication of land, payment-in-lieu of dedication, or granting of an easement required pursuant to the provisions of this Section shall be satisfied in accordance with the following:

1. As to residential development in general, all requirements with respect to land dedication, payments-in-lieu, or trail easements shall be satisfied in full prior to, or as part of, the approval of the final plat, or at such other time as may be required by the City. As to a non-PUD, but phased, development, the provisions of subsection F.2 below shall apply.

2. As to the phased development of a PUD project:

   a. All park land dedication requirements shall be satisfied at the time of the approval of the final plat for each phase of the development based upon the projected population for that phase, or at such other time as may be required by the City;

   b. Payments-in-lieu of park/open space land dedication shall be satisfied at the time of the approval of the final plat for each phase, based upon the nature and number of dwelling units contained within such plat and application of the land dedication and payment-in-lieu provisions of this Section, or at such other time as may be required by the City; and

   c. Dedications or grants of easements for trail purposes pursuant to this Section shall be satisfied prior to, or as part of, the approval of the final plat for each phase involving land which a trail or trails referenced in Section 16-8-5.D EMC, above will traverse, or at such other time as may be required by the City.

(Ord. 04-5; Ord. 08-37, § 12; Ord. 08-48, § 30)

16-8-6: General Requirements for Common Open Space.

Land set aside and reserved for the exclusive use of the residents of the subdivision shall be designated on the final plat. The subdivider shall provide information concerning the method of ownership, management, development, and maintenance to control such land and shall, at time of filing of final plat, submit such additional documents or records, as may be required by this Title or by the Planning and Zoning Commission, specifying the intended methods of control.
(Ord. 04-5)

16-8-7: Streets.

A. *Street Systems and Design.* Street systems within proposed subdivisions shall be planned for the most advantageous developments of the entire neighborhood area and should conform in general alignment to the Master Street Plan. Street design shall comply with Section 16-6-3 EMC, "Streets and Vehicle Access and Circulation," including provisions regarding street hierarchy and connectivity, street grade, dead-end streets, and alleys.

B. *Dedication Required.* Whenever a tract to be subdivided embraces any part of an arterial, collector, or local street designated on the Master Street Plan, such part of such public way shall be dedicated by the applicant in the location and at the width indicated on the plan.

C. *Completion of Improvements.* Prior to City approval of final subdivision plats, the applicant shall be required to complete proposed street or other public improvements, or execute a Development Agreement in accordance with Section 16-2-15 EMC, "Development Agreements".

D. *Sidewalks.* Unless otherwise required by this Title, the City Manager or designee shall determine the location of all sidewalks, including setbacks, based upon the public safety and convenience.

E. *Widths of Public Ways.* Except in cases where this Title or the Master Street Plan specifies a greater or lesser width as a minimum, the following minimum width standards shall apply to public rights-of-way, roadways, alleys, and sidewalks.

1. Rights-of-Way. The following dimensions shall be the minimum requirement. Additional requirements may be required by the City Manager or designee when site condition, roadway classification, or other circumstances warrant additional right-of-way.
   a. Arterial streets: Ninety-six feet (96').
   b. Collector streets: Sixty-four feet (64').
   c. Commercial and industrial streets: Sixty feet (60').
   d. Local streets: Fifty feet (50').
   e. Alleys in multi-unit, commercial, and industrial districts: Twenty feet (20').
   f. Alleys in all other residential districts: Sixteen feet (16').
   g. Cul-de-sacs: One hundred twenty feet (120') in diameter.
   h. Easements, except as provided in Section 16-8-4.G EMC, above: Sixteen feet (16').
2. Roadways. The minimum roadway shall be:
   a. Arterial streets: Sixty-four feet (64').
   b. Commercial and industrial streets: Forty-four feet (44').
   c. Major and minor collector streets: Forty-two feet (42').
   d. Local streets: Thirty-six feet (36').
   e. Cul-de-sacs: Thirty-six feet (36') roadway width.
3. Alleys. The minimum alley width shall be:
   a. Alleys in commercial and industrial districts: Twenty feet (20').
   b. Alleys in residential districts: Sixteen feet (16').
4. Sidewalk. Subject to any applicable provisions in Section 16-6-5 EMC, "Pedestrian and Bicycle Access and Circulation," the minimum sidewalk width shall be:
   a. Sidewalks, residential attached and detached: Four feet (4').
   b. Sidewalks, commercial and industrial: Five feet (5').

F. *Curbs.* Curb radii shall be not less than fifteen feet (15') unless unusual circumstances dictate such divergence, but property lines shall not follow these curb radii unless necessary.
(Ord. 04-5; Ord. 08-48, § 31)

16-8-8: Environmental Assessment of Land Dedications.

A. *General Requirement and Applicability.* In order to protect the health, safety, and general welfare of Englewood residents, the City may require the applicant or owner to prepare an environmental assessment of any real property offered to the City, through dedication or other conveyance, for park, open space, trails, rights-of-way, or other public purposes.

B. *Requirements for Assessment.* All such environmental assessments shall be prepared by a qualified professional approved by the City, and shall address all issues and potential impacts identified by the City as relevant to the subject lands and/or the proposed future public use. The applicant shall pay all costs of preparation.

C. *Remediation of Identified Risks or Hazards.*

1. The City shall not approve a subdivision application unless the applicant provides remediation of all known hazardous substances or significant risks shown by an environmental assessment. The City may require remediation of environmentally contaminated or hazardous property as a condition of subdivision approval under this Title.

2. The applicant shall file with the City Manager or designee proof of remediation of hazardous substances or significant risks to a satisfactory level and in compliance with standards established by the Environmental Protection Agency, Colorado Department of Health, any authorized local agency, and the City.

D. *Indemnification or Warranty.* In addition to an environmental assessment, or in lieu thereof, the City may require the applicant to provide indemnification and/or warranties for the environmental condition of any real property dedicated or otherwise conveyed to the City. The City Attorney shall approve all proposed indemnifications and/or warranties to ensure adequate and appropriate protection for the City from future liabilities arising from the environmental condition of dedicated lands.

E. *Acceptance of Assessment Not a Warranty.* Notwithstanding the City's participation in performing or reviewing environmental assessments, the City shall not warrant or guarantee the environmental condition of any property to any property owners or third party. When an environmental assessment has been performed by the City or at its direction, such assessment shall be for the exclusive use of the City in evaluating the property for the City's purposes. Information obtained by the City from an environmental assessment shall be public information to the extent required under applicable State and Federal law.
(Ord. 04-5)

Chapter 9

NONCONFORMITIES

16-9-1: General Provisions.
16-9-2: Nonconforming Uses.
16-9-3: Nonconforming Structures.
16-9-4: Nonconforming Lots.
16-9-5: Nonconforming Signs.

16-9-1: General Provisions.

A. A nonconforming use, structure, or lot may continue to be used in the same manner, and for the same uses, existing on the effective date of this Title, except as otherwise set forth in this Chapter 16-9 EMC.

B. A change in ownership or tenancy of a nonconforming use, structure, or lot shall not affect the ability of the new owners or tenants of the use, structure, or lot to continue to use such land or buildings in the same manner, and for the same uses, existing on the effective date of this Title, except as otherwise set forth in this Chapter 16-9 EMC.

C. The owner or occupant of a use that was existing on the effective date of this Title and was designated as a use by right prior to the adoption of this Title, but is designated as a conditional use or limited use under this Title, shall be deemed to have a valid conditional use or Limited Use Permit for such use, and the City shall issue written confirmation of such status upon request.

D. No use that is accessory to a principal nonconforming use shall continue after the principal nonconforming use ceases to exist.

E. Repairs and normal maintenance required to keep nonconforming uses, structures, and signs in a safe condition shall be permitted. All repair and normal maintenance shall be subject to the limitations set forth below regarding expansion and enlargement of the structure, use, or sign.

F. If a nonconforming structure, or a portion of a structure devoted to a nonconforming use, becomes physically unsafe or unlawful due to a lack of repairs and maintenance and it is declared by an authorized official, as designated by the City Manager or designee, to be unsafe or unlawful by reason of physical condition, it shall thereafter be restored, rebuilt, or repaired only in conformity with the regulations of the zoning district in which it is located.
(Ord. 04-5)

16-9-2: Nonconforming Uses.

A. Nonconforming Use of Building or Structure.

1. The nonconforming use of a building or structure may be continued, except as otherwise provided herein.
2. A nonconforming use in a Special Flood Hazard Area may be modified, altered, or repaired to incorporate floodproofing measures, but shall not be extended or expanded.
3. The nonconforming use shall not be changed to a different nonconforming use.
4. The nonconforming use, if changed to a conforming use, may not thereafter be changed to any nonconforming use.

5. The nonconforming use shall not be extended or expanded. An "extension or expansion" shall include any increase in the floor area of the building or structure in which the nonconforming use is conducted or any expansion or relocation of the nonconforming use, in whole or in part, to a different part of the building or structure.

6. The permitted accessory uses to a nonconforming use shall be those existing on the effective date of this Title, and the initiation of additional accessory uses shall not be permitted after that date, except as follows:

   a. A nonconforming residential use in any zone district shall be permitted to initiate a single home occupation, subject to all applicable standards stated in Section 16-5-4.C.1 EMC, "Home Occupations".

   b. A nonconforming residential use shall be permitted to construct a residential garage or carport that otherwise complies with this Title.

7. A nonconforming multi-unit dwelling containing two (2) units shall be permitted to add a separate water and sewer line for each unit, and such addition shall not be deemed to constitute a change to a different nonconforming use or an extension or expansion of the existing nonconforming use.

8. If the nonconforming use is discontinued for a period of one hundred eighty (180) days or more, regardless of any intent to resume operations, any future use of the buildings or structure must be a conforming use.

9. If a conforming building or structure containing a nonconforming use is destroyed or damaged to the extent of more than sixty percent (60%) of its value, as determined pursuant to the method of valuation of buildings for the issuance of a building permit, any future use of the rebuilt or restored building or structure shall be a conforming use. However, a legal nonconforming one-unit dwelling, on the effective date of this Title, located in a business or industrial zone district, may be rebuilt or reconstructed and used as a one-unit dwelling if a building permit for the dwelling unit is applied for within one (1) year after the destruction or damage occurred. Further, a legal nonconforming dwelling containing two (2) units, on the effective date of this Title, located in an R-1-A, R-1-B, or R-1-C residential zone district may be rebuilt or reconstructed and used as a two-unit dwelling if a building permit for a multi-unit dwelling containing two (2) units is applied for within one (1) year after the destruction or damage occurred.

B. Nonconforming Use of Land

1. Except as otherwise provided herein, a nonconforming use of land may be continued if no building is involved and if the nonconforming use is the principal use.

2. Such nonconforming use of land shall not be extended or expanded either on the same or adjoining properties. An "extension or expansion" shall include any increase in the area of land used for the nonconforming use, and any relocation of the nonconforming use, in whole or in part, to an area of land different from the area used on the date the use became nonconforming.

3. If the nonconforming use of land is discontinued for a period of one hundred eighty (180) days or more, regardless of any intent to resume operations, any future use of the land must conform to the requirements of this Title. Seasonal uses must be used each consecutive season, and missing a season will indicate abandonment of the use.

4. The nonconforming use of land shall not be changed to a different nonconforming use.

5. The nonconforming use of land, if changed to a conforming use, may not thereafter be changed to any nonconforming use.

C. *Registration.*

1. Registration Required. The owner or owners of the land on which the nonconforming use is located shall register such nonconforming use by filing with the City a registration statement for such nonconforming use on forms provided by the City. Such registration may be made on behalf of such owner by any person, firm, corporation or other entity that has a legal or equitable interest in the designated land or any structure or structures housing said nonconforming use. A copy of each registration statement shall be returned to the person or entity that filed it, a copy retained by the City and a copy of each original registration statement shall be recorded by the City in the Office of the Arapahoe County Clerk and Recorder. The City shall accept, lodge, and record all tendered registration statements, but the acceptance, lodging, and recording of the statements shall not constitute an authorization to operate an unlawful use. The filing of a false registration statement shall constitute a violation of this Title.

2. Annual Check by City. The City may send annually to the person or entity that has registered a nonconforming use, a questionnaire by mail, inquiring as to the operation, status and other details concerning the nonconforming use. If such notice is not returned, completed, within ninety (90) days, the City shall record in the Office of the Arapahoe County Clerk and Recorder a notice that the applicable nonconforming use is presumed to have been abandoned. A copy of this notice shall be sent to every person, firm, corporation or other entity shown by departmental records as then having a legal or equitable interest in the property; provided, however, if it is established to the satisfaction of the City that the applicable nonconforming use has not been terminated, the City shall record forthwith a certificate withdrawing the notice that the nonconforming use was presumed abandoned.

3. Time Extension. Nothing herein shall be deemed to grant an extension of the time required for registration or termination of nonconforming uses under a previously existing ordinance.

(Ord. 04-5; Ord. 08-37, § 14; Ord. 8-13, § 10)

16-9-3: Nonconforming Structures.

A. *Applicability and Exemptions.* This Section shall apply to all nonconforming structures, as defined in Chapter 16-11 EMC, except that the following structures shall not be considered nonconforming structures and shall be considered exempt from the terms and limitations of this Section and Chapter:

1. Principal one-unit residential dwellings existing on the effective date of this Title, and which as of that date are not in compliance with the minimum setback standards established in Chapter 16-6 EMC, shall not be considered nonconforming structures due solely to the dwelling's noncompliance with the minimum setback standards. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. All future expansions and alterations of such grandfathered dwellings shall comply with all applicable standards of this Title, including minimum setback standards, unless the City grants a variance.

2. Multi-unit dwellings existing on the effective date of this Title, which are not in compliance with the required minimum lot area per dwelling unit standards, shall not be considered nonconforming due solely to noncompliance with the minimum lot area per dwelling unit standards. Such dwellings are "grandfathered," and shall be considered legal, conforming buildings or structures for the purpose of sale and development under this Title and other City building and safety regulations. However, all future expansions and alterations of such grandfathered dwellings shall comply with all applicable standards of this Title, including minimum setbacks standards, unless the City grants a variance.

B. *Nonconforming Building or Structure.*

1. A nonconforming building or structure may continue to be used, except as otherwise provided herein.

2. A nonconforming building or structure may be repaired, structurally altered, or expanded only if the alteration, repair, or expansion complies with this Title. If the nonconforming building or structure or any portion thereof, is declared unsafe by the Chief Building Official, the building may be strengthened or restored to a safe condition.

3. Notwithstanding the provisions of subsection B.2, above, a nonconforming building or structure in a Floodplain District may be modified, altered, or repaired to incorporate floodproofing measures, but shall not be extended or expanded.

4. If a nonconforming building or structure becomes conforming, it shall not be changed back to a nonconforming building or structure.

5. No person shall move a nonconforming building or structure to another parcel unless the building or structure and its location on the new parcel comply with the use regulations of the zone district applicable to the new parcel.

C. *Redevelopment of Nonconforming Buildings or Structures.*

1. The City of Englewood encourages redevelopment of outdated, nonfunctional or obsolete buildings and structures. In an effort to encourage redevelopment of such buildings or structures and to promote economic development, nonconforming buildings and structures may be removed and reconstructed, whether damaged or not, only in compliance with the following requirements:

   a. The reconstructed building or structure shall not be more nonconforming than the structure as it existed immediately prior to the reconstruction. Redeveloped or reconstructed buildings or structures shall be allowed up to, but not to exceed, the density of the nonconforming building or structure as it existed immediately prior to the redevelopment, whichever is greater.

   b. The reconstructed building or structure shall be brought into compliance as much as practicable with existing zoning standards of this Code (Examples: setbacks, parking, landscaping, bulk plane, etc.). The determination of "practicable" will be made by the City Manager or designee based upon the proposed use and design of the structure, site conditions, and current industry methods and standards. The City Manager or designee shall consider not only what is possible, but also what is reasonable based on the unique circumstances of the building or structure, proposed use, and site conditions.

   c. If the damage to the nonconforming building or structure was caused by the intentional act or criminal conduct of the owner of the nonconforming building or structure, or the owner's agent or representative, the building or structure shall only be rebuilt in compliance with this Title and shall not be considered grandfathered under this Section, and furthermore shall not be eligible for redevelopment under Section 16-9-3(C) EMC.

   d. Regardless of any waivers or lessening of standards otherwise required in this Title, all new development (including reconstruction of nonconforming buildings or structures) shall meet the applicable building, fire and safety codes in effect at the time of application for a building permit.

D. *Application Process.*

1. Reconstruction of a nonconforming building or structure shall follow the Site Improvement Plan Review process identified in Section 16-2-9 EMC, unless variances are requested for other dimensional or development standards. In such cases, variances shall follow the Zoning Variance process in Section 16-2-16 EMC.

2. A building permit application for reconstruction of a damaged or destroyed nonconforming building or structure shall be submitted within one (1) year from the date of the event that caused the damage or destruction. If no building permit application is submitted within one (1) year, damaged or destroyed nonconforming buildings or structures on the site shall no longer be eligible for redevelopment under Section 16-9-3(C) EMC, above and the redevelopment shall conform to the dimensional and development standards of the applicable zone district.

E. *Appeals.* Any appeal from the City Manager or designee's decision shall be to the Board of Adjustment and Appeals pursuant to Section 16-2-18(B) EMC.
(Ord. 04-5; Ord. 8-13, § 11; Ord. 21-14, § 2)

16-9-4: Nonconforming Lots.

A. *Nonconforming Lot.*

1. A nonconforming lot may be used only for a use permitted in the zone district in which the lot is located. The Planning and Zoning Commission may waive or modify lot coverage, lot area, bulk plane, height, setback, lot width, or other requirements for any nonconforming lot if it finds that the proposed development meets the criteria listed below:

   a. The lot cannot otherwise be used for any purpose permitted within the zone district applicable to the property; and

   b. The waiver, or modification, if granted, is necessary to afford relief with the least modification possible of the development or dimensional standards otherwise applicable to the property; and

   c. The proposed development is consistent with the spirit and intent of the Comprehensive Plan; and

   d. The lot coverage, bulk plane, height, setbacks, and massing of the proposed development will not vary substantially from the surrounding properties or alter the essential character of the neighborhood; and

   e. The proposed development is compatible with the established development patterns and intent of the zone district.

2. The Planning and Zoning Commission's decision on any development of a nonconforming lot shall be made at a public hearing that has been published and posted as required in Section 16-2-3(G) of this Title.

3. Any appeal from the Planning and Zoning Commission's decision shall be to City Council as a *de novo* review. Such appeal shall be filed no more than thirty (30) days from the date of the Planning and Zoning Commission's final decision.

4. No nonconforming lot shall be further subdivided or shall have its boundaries altered in any manner that would compound, expand, or extend the nonconforming characteristic(s) of the lot.

(Ord. 04-5; Ord. 45-14, § 4)

16-9-5: Nonconforming Signs.

The intent of this Section is to protect the aesthetic landscape of the City by reducing negative impacts of nonconforming signs. At the same time, the regulations assure that the signs may continue and that the sign regulations will not cause unnecessary burdens. The intent of these regulations is not to force all signs to be immediately brought into conformance with current regulations; instead, the intent is to gradually bring existing signs into conformance.

A. *Nonconforming Signs.* Any sign lawfully erected and maintained in accordance with the provisions of any prior applicable Sign Code, but which does not conform to regulations established by this Title, shall be considered a nonconforming sign. Nonconforming signs shall not be altered in any way that would increase the degree of nonconformity or extend the productive life of the sign and shall be subject to the following conditions:

1. *Registration.* All nonconforming signs shall be required to be registered with the City.
2. *Maintenance and Copy Change.* Maintenance and copy change are allowed provided no structural alterations are made.
3. *Ownership.* The status of a nonconforming sign is not affected by changes in sign, business, or property ownership.
4. *Alteration.* A nonconforming sign or sign structure shall not be moved, replaced, or structurally altered unless brought into conformance with the sign regulations of this Title.
5. *Expansion.* A nonconforming sign or sign structure shall not be expanded in area or height.
6. *Re-establishment.* A nonconforming sign or sign structure that is brought into conformance with the regulations of this Title shall not be re-established as a nonconforming sign.
7. *Termination.* The right to continue a nonconforming sign shall end whenever:
   a. The total replacement cost of the sign exceeds fifty percent (50%) of the sign's value at the time of damage. Replacement cost and value shall be determined by the average of appraisals and estimates by three (3) sign contractors licensed by the City and approved by the City Manager or designee,
   b. A request is made for a Permit to change the sign, or
   c. A request is made for a Permit to make improvements to the facade of the building to which the nonconforming sign is attached.
8. *Nonconforming Signs in Newly Annexed Areas.* Any owner or operator of a nonconforming sign in a newly annexed area shall terminate such nonconforming sign in accordance with the requirements of this Section.

B. *Landmark Nonconforming Signs.* The City recognizes that some nonconforming signs may hold cultural, historic or architectural significance to the citizens of the City. Nonconforming signs that have been damaged more than fifty percent (50%), as determined above, may be permitted to be reconstructed in a like manner.

1. *Conditions for Application for Landmark Nonconforming Sign Reconstruction.*
   a. The nonconforming sign being reconstructed shall have been:
      (1) Damaged more than fifty percent (50%) as determined in Subsection (A)(7), above,
      (2) In continuous use since prior to the enactment of Ordinance No. 29, Series of 1982, on July 6, 1982, and
      (3) Damaged not more than one hundred eighty (180) days prior to submittal for an Application for Landmark Nonconforming Sign Reconstruction.

b. The reconstructed sign shall:

(1) Not increase the nature or degree of nonconformity,

(2) Be placed on the same property, and

(3) Meet all other applicable standards and regulations of the City.

2. *Procedure.*

a. *Application.* Application for the reconstruction of a landmark nonconforming sign shall be made by the sign owner on forms provided by the City.

b. *Notice.* The City shall require that published notice of required public hearings be given in accordance with Subsection 16-2-3(G) EMC (Notice Requirements).

c. *Planning and Zoning Commission Review.*

(1) The Commission shall schedule a public hearing on the application no more than thirty (30) days after the submission of the application.

(2) The Commission shall review the application for conformance with the criteria established in this Subsection.

(3) The Commission shall recommend approval, modification and approval, or denial of the application.

d. *Appeal.* Appeals from the Commission decision shall be made to City Council.

3. *Criteria for Review.* In approving the replacement of a damaged nonconforming sign the Commission shall find that the sign meets the conditions of application stated above, and:

a. Embodies distinguishing characteristics of an architectural type inherently valuable for a study of a period, style, method of construction, or craftsmanship; or

b. Exemplifies or reflects the broad cultural, economic or social history of the City.

(Ord. 04-5; Ord. 47-12, § 12)

Chapter 10

ENFORCEMENT AND PENALTIES

16-10-1: Enforcement.
16-10-2: Penalties.

16-10-1: Enforcement.

A. *Enforcing Official.* The provisions of this Title shall be administered and enforced by the City Manager or designee of the City of Englewood. Zoning enforcement personnel will have all legal powers necessary to enforce this Title.

B. *Stop Orders.* Whenever the use of property or the construction of any building or structure is contrary to the provisions of this Title, the City Manager or designee may order the use of the property or the construction to be stopped by serving notice in writing on any person, firm or corporation engaged in using said property or in doing or causing such work to be done, or by posting such notice in a conspicuous place on said property when no such person, firm or corporation can be served in the aforesaid manner. No oversight or dereliction or error on the part of the City or any employee of City shall legalize, authorize, or excuse the violation of any of the provisions of this Title.

C. *Enforcement.* Unless specifically called out in Title 16, enforcement of zoning violations shall follow the abatement procedure specified in Section 15-3-2 EMC.
(Ord. 04-5; Ord. 08-48, § 32)

16-10-2: Penalties.

A. *Violation and Penalty.* Any violation of this Title is subject to those penalties provided for in the general penalty section of the Englewood Municipal Code.

B. *Prohibited Acts.*

1. Erect or construct, reconstruct, remodel, alter, maintain, expand, move, or use any land, building, structure, or sign; or engage in development or subdivision of any land contrary to the regulations and procedures of this Title.

2. Except as provided herein, it shall be unlawful for any person to divide any realty unless there has first been a subdivision plat prepared, approved and recorded, in accordance with the provisions of this Title.

3. It shall be unlawful for any person to execute, deliver or record any deed, lease or other instrument of whatsoever nature, which would have the effect of causing a division in any realty unless and until a plat therefore has been prepared, approved and filed in accordance with the provisions of this Title. In the absence of compliance with said provisions, any such instrument shall be null, void and of no legal effect whatsoever.

4. No building permit, certificate of occupancy or other permit or certificate shall be issued approving or authorizing the construction, remodeling, repairing or occupancy of any improvement, building or other structure upon any realty, which would have the effect of causing a division of realty unless there has been compliance with all of the requirements of this Title.

5. Engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, agreement, or other form of authorization required to engage in such activity.

C. *Building Permit Required.* It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to store building material, construct entrances to parking lots or commence the moving, structural alterations, conversions, extensions, enlargements, alteration or repair of any structure, including accessory structures until a building permit has been issued therefor.
(Ord. 04-5)

Chapter 11

USE CLASSIFICATIONS AND DEFINITION OF TERMS

16-11-1: Use Classifications.
16-11-2: Definition of Words, Terms, and Phrases.

16-11-1: Use Classifications.

A. *Purpose.* Use classifications organize land uses and activities into general "use categories" and specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate zoning districts. Use classifications describe one (1) or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification.

B. *Structure of this Section.*

1. Each subsection below first describes common characteristics of the use category. Principal uses are assigned to the category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses, which generally are allowed in conjunction with a principal use unless otherwise stated in Chapter 16-5 EMC, "Use Regulations". Unless otherwise stated, accessory uses are subject to the same regulations as the principal use.

2. Each subsection also lists specific use types that are included in the respective use category. If there are no specific use types or if the list of specific use types is not all-inclusive, this subsection also lists common examples of other uses included in the respective category.

C. *Unlisted Uses.* Procedures and criteria for approving unlisted uses are outlined in Section 16-5-1.B EMC.

D. *Residential Uses.*

1. Group Living.

a. *Characteristics.* Residential occupancy of a structure by a group of people that does not meet the definition of "Household Living," "Hotel," or "Detention Facility". Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a household. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff.

b. *Specific Use Types.* This category includes the following use types:

(1) Group Living Facility, Large/Special. Any residence for more than eight (8) unrelated individuals, and any residence for up to eight (8) unrelated individuals that does not meet the definition of "small treatment facility" or "small group living facility". If any individual resident of a group living facility does not meet the definition of "small treatment facility" or "small group living facility," the entire facility shall be classified as a large/special group living facility (rather than a small group living facility or small treatment facility). Examples of large/special group living facil-

ities include, but are not limited to, any of the following facilities that meet this definition:

(a) A secure residential treatment center, as defined in C.R.S. Section 26-6-102(9) et seq., as amended; or

(b) A shelter for homeless persons; or

(c) A dormitory; or

(d) A fraternity or sorority house.

(2) Group Living Facility, Small. A residence for up to eight (8) unrelated individuals, none of which are receiving on-site medical or psychological treatment, but some or all of whom may be receiving on-site physical assistance with day-to-day living activities. Examples of small group living facilities include any of the following that meet this definition:

(a) A nonprofit group home for the aged or an owner occupied group home for the aged, as defined in C.R.S. 31-23-303 (2)(B) et seq., as amended; or

(b) A state-licensed personal care boarding home, as defined in C.R.S. 25-27-101 et seq., as amended; or

(c) A state-licensed community residential home for persons with developmental disabilities, as defined in C.R.S. 27-10.5-101 et seq., as amended; or

(d) A home providing independent residential support services for the developmentally disabled, as defined in C.R.S. 27-10.5-102(19) et seq., as amended; or

(e) A state-licensed residential child care facility, as defined in C.R.S. 26-6-102(8) et seq., as amended; or

(f) A family care home, as defined in C.R.S. 26-6-102(4) et seq., as amended; or

(g) A foster care home, as defined in C.R.S. 26-6-102(4.5) et seq., as amended.

(3) Small Treatment Center. A residence for up to eight (8) unrelated individuals, some or all of whom are receiving on-site medical or psychological treatment. If any individual resident of a group living facility with up to eight (8) unrelated individuals receives on-site medical or psychological treatment, the entire facility shall be classified as a small treatment center (rather than a small group living facility). Examples of small treatment centers shall include any of the following that meet this definition:

(a) A nursing home; or

(b) A nursing facility, as defined in C.R.S. 26-4-103 (11) et seq., as amended; or

(c) Institutions providing life care, as defined in C.R.S. 12-13-101(5) et seq., as amended; or

(d) A physical/mental rehabilitation home; or

(e) A state-licensed group home for the developmentally disabled, as defined in C.R.S. 31-23-303(2)(a) et seq., as amended that is not categorized as a state licensed community resi-

dential home as defined in C.R.S. 27-10.5-102 (4) et seq., as amended; or

(f) A state-licensed group home for persons with mental illness, as defined in C.R.S. 25-27-102(8) et seq., as amended.

(4) Detention Facility. Detention Facilities include:

(a) Facilities for the judicially required detention or incarceration of people, where inmates and detainees are under twenty-four-hour supervision by sworn officers, except when on an approved leave; or

(b) Group homes, halfway houses, or alternatives to incarceration for individuals previously convicted of sexual assaults, sexual abuse, or other sex-related criminal offenses; or

(c) Group homes, halfway houses, or alternatives to incarceration containing any individual who will be subject to the issuance of an arrest or escape warrant if they leave the facility.

Provided that the use otherwise complies with this definition, a detention facility may include, by way of illustration, a prison, jail, probation center, juvenile detention home, or halfway house for sex offenders. Detention facilities do not qualify as either small group living facilities, small treatment centers, or large/special group living facilities.

c. *Exceptions.*

(1) Lodging where tenancy may be arranged for periods of less than thirty (30) days is classified in the visitor accommodation category.

(2) Lodging where the residents meet the definition of "household" and where tenancy is arranged on a month-to-month basis or for a longer period is classified as household living.

2. Home Care.

a. *Characteristics.* Home care is an accessory use, categorized by facilities for child or adult care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than twenty-four (24) hours per day. Home care uses are distinct from and are not classified as "home occupations" under this Title.

b. *Specific Use Types.* This category includes the following use types:

(1) Adult Dependent Care. An adult care facility that provides less than twenty-four (24) hours care, in the permanent residence of the provider, for individuals older than eighteen (18) years old up to a maximum of four (4) adults.

(2) Family Child Care Home. Family child care home shall mean a facility for child care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than twenty-four (24) hours per day. Children being cared for in a family child care home are under the age of twelve (12) years and are not related to the care provider. A day care home shall provide care, protection, and supervision to no more than six (6) children at one time, includ-

ing the children of the provider, and for no more than three (3) children under two (2) years of age including the children of the provider. Operation of a "family child care home" is considered, for purposes of this Title, to be an accessory use to a principal residential use.

(3) Infant/Toddler Home. A child care facility that provides less than twenty-four (24) hours care only for children who are between birth and three (3) years old, located in the permanent residence of the provider. The caregiver may have no more than one (1) child or foster child between three (3) and six (6) years of age. If there is one (1) caregiver, there may be a maximum of four (4) children, with no more than two (2) children under twelve (12) months, including the caregiver's own children. If there are two (2) caregivers caring for the children at all times when children are present, there may be a maximum of six (6) children between birth and three (3) years old, and no more than three (3) of those children can be between birth and one (1) year old, including the caregiver's own children.

(4) Large Child Care Home. A child care facility, located in the permanent residence of the provider, that provides care for seven (7) to twelve (12) children who are not related to the caregiver. Child care may be provided to children from twenty-four (24) months to sixteen (16) years of age. Care may be provided to no more than two (2) children under two (2) if older siblings are in care. Residents of the home under twelve (12) years of age who are on the premises and all children on the premises for supervision are counted against the approved capacity.

3. Household Living.

a. *Characteristics.* This use category is characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupant's vehicles. Home occupations are subject to additional regulations. See Section 16-5-4.C.1 EMC.

b. *Specific Use Types.* This category includes the following use types:

(1) Live/Work Dwelling. A combination of residential occupancy and commercial activity located within a dwelling unit. A "live/work dwelling" use is a principal use and the commercial activity is not a home occupation. Typical work activities in a live/work dwelling may include, by way of example only, professional services, craftwork, art studios, jewelry making, fabrication of cloth goods, and other similar activities.

(2) Manufactured Home Park. A tract of land, either in single ownership or divided into blocks and/or lots which may be in separate ownership, which has been developed with all necessary facilities and services in accordance with a site development plan, meeting all of the requirements of this Title and which is intended for the express purpose of providing a satisfying living environment for

manufactured home residents on a long-term occupancy basis.

(3) Multi-Unit Dwelling. A dwelling containing two (2) or more dwelling units.

(4) One-Unit Detached Dwelling. A one-unit dwelling that is not attached to any other dwelling by any means, and is located on a separate lot from any other dwelling unit. A one-unit detached dwelling may include a manufactured home in compliance with the standards set forth in Section 16-5-2.A.3 EMC.

(5) One-Unit Detached Dwelling on a Small Lot. A one-unit detached dwelling sited on a "small lot," as that term is defined in Section 16-11-2 EMC (Definition of Words, Terms, and Phrases), below.

(6) Boarding or Rooming House. An owner-occupied, a one-unit dwelling with two (2) but not more than four (4) guest rooms in addition to the resident household, where lodging is for stays greater than thirty (30) days per boarder.

c. *Exceptions.* Lodging in a dwelling unit or where units are rented on less than a monthly basis is classified in the visitor accommodation use category.

E. *Public/Institutional Uses.*

1. Animal Shelter.

a. *Characteristics.* A not-for-profit facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, or other organization devoted to the welfare, protection, and humane treatment of animals. Examples include shelters operated by organizations such as the Society for the Prevention of Cruelty to Animals and the Humane Society.

b. *Exceptions.* Kennels are included under animal sales and service.

2. Emergency Temporary Shelter.

a. *Characteristics.* An emergency temporary shelter is a structure or portion of a structure providing temporary housing for persons in need of shelter due to limited financial resources (including people who are homeless), weather-related emergencies, or other emergencies. Occupancy is permitted on a twenty-four (24) hour basis. Accessory services that also may be provided at the facility include food, counseling, transportation services, and services to support the personal care of the residents of the facility including medical care, dental care, and hygiene.

3. Government and City.

a. *Characteristics.* This category includes facilities for the operation of local, State, or Federal government. Accessory uses include maintenance, storage, and fueling facilities; satellite offices; and parking areas. Examples include post offices; emergency response facilities (police, fire, and medical); maintenance facilities; and post offices.

b. *Exceptions.*

(1) Passenger terminals for surface transportation are included under Transportation Facility.

(2) Water, wastewater, gas, electric, and other infrastructure services, whether public or private, are included under Utility Facility.

(3) Waste and recycling services are classified as Waste/Salvage.

4. Library.

   a. *Characteristics.* A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

5. Museum/Cultural.

   a. *Characteristics.*

      (1) A building having public significance by reason of its architecture or former use or occupancy; or

      (2) A building serving as a repository for a collection of nature, scientific, or literary curiosities, or objects of interest, or works of art, not including the regular sale or distribution of the objects collected.

      All museums/cultural facilities shall be operated as nonprofit, noncommercial establishments. Museums/cultural facilities are designed to be used by members of the public for viewing, with or without an admissions charge. Permitted accessory uses include retail sale of goods and products related to the facility's collection or subject matter (i.e., museum gift shop), and small scale sit-down restaurants or cafes.

6. Parks and Open Space.

   a. *Characteristics.* Uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

   b. *Specific Use Types.* Examples include parks, river accesses, public squares, plazas, recreational trails, botanical gardens, and nature preserves.

      (1) Athletic Field. Land, often requiring equipment, owned by a unit of government and designed for outdoor games and sports such as baseball, football, and soccer.

      (2) Community Garden. A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or household.

      (3) Park. A noncommercial, nonprofit facility or land owned by the City, the State of Colorado, or another unit of government that is used or intended to be used for recreation, education, or cultural use, including both active or passive recreation. This use type includes public golf courses.

c. *Exceptions.* Private golf courses are classified as entertainment/amusement, outdoor.

7. Religious Assembly.

a. *Characteristics.* A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Accessory uses include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

8. School.

a. *Characteristics.* This category includes public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks. Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Accessory uses at colleges include offices, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial.

b. *Specific Use Types.* This category includes the following use type:

(1) Education Institution. Facilities include elementary or secondary public or private schools, parochial schools irrespective of denomination and having a course of study substantially equivalent to that of a public school, private schools having a course of study substantially equivalent to that of a public school, colleges and universities, professional schools, business or trade schools, and special schools for the blind and/or physically disabled.

c. *Exceptions.* Business or trade schools are classified under Commercial Uses as a distinct type of school use.

9. Telecommunication Facility.

a. *Characteristics.* Telecommunications facilities transmit analog or digital voice or communications information between or among points using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development.

b. *Specific Use Types.* This category includes the following use types:

(1) Alternative Tower Structure. Any man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

(2) Antenna. Any transmitting and/or receiving device used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals, or other communications signals. "Antenna" includes whip antenna, microwave antenna, and sectorized panel antenna.

(3) Tower Structure. Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

10. Transportation Facility.

a. *Characteristics.* This category includes facilities for the landing and takeoff of airplanes and helicopters, including loading and unloading areas, and passenger terminals for bus and light rail service. Accessory uses include freight handling areas, concessions, offices, parking and maintenance and fueling facilities.

b. *Specific Use Types.* Examples include helicopter landing facilities, and bus/light rail passenger terminals.

(1) RTD Maintenance Facility. A facility used for maintenance of RTD vehicles and equipment.

(2) Transit Center. A building, structure, or area designed and used for persons changing transportation modes. Facilities and improvements may include shelters, benches, signs, and structures.

c. *Exceptions.* Private helicopter landing facilities that are accessory to another use may be considered accessory uses.

11. Utility Facility (not including telecommunication facility).

a. *Characteristics.* All lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services on a local level; and other in-line facilities needed for the operation of such facilities, such as gas regulating stations, pumping stations, power or communication substations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Services may be publicly or privately provided. Accessory uses may include control, monitoring, data, or transmission equipment.

b. *Specific Use Types.*

(1) Major Utility Facility. Large-scale utility facilities typically serving the region, the entire city, or a significant sub-area of the city, which normally entails the construction of new buildings or structures, and that often have employees at the site. Major utility facilities have potential major impacts on an area or city by virtue of their appearance, noise, size, traffic generation, externalities, or other operational characteristics. Examples include water works, reservoirs, power or heating plants, energy/power transmission lines, power generating plants, and sewage or wastewater treatment plant.

(2) Minor Utility Facility. Small-scale utility facilities that provides utilities necessary to support development either within a specific sub-area of the city or the immediate vicinity of the facility. This use typically involves the construction or installation of only minor struc-

tures. Employees typically are not located at the site. Examples include electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and sewer pumping stations, power lines; storm drainage facilities; pump stations and hydrants; switching boxes; and other structures normally found in a street right-of-way to serve adjacent properties. A minor utility facility may be either a principal or accessory use of land.

F. *Commercial Uses.*

1. Adult Use.

a. *Characteristics.* Adult use shall mean a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises.

b. *Specific Use Types.* Examples include adult arcades, adult bookstores, adult cabaret, adult dancing establishment, and other similar facilities, including those defined below.

(1) Adult Arcade. An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas".

(2) Adult Bookstore. A place where books, magazines, motion pictures, videos, prints, photographs, periodicals, recordings, novelties and devices, or any of these things, which have as their primary or dominant theme, matter depicting, illustrating, describing or relating to specified sexual activities, are sold, rented or offered for sale to adults.

(3) Adult Cabaret. A nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas".

(4) Adult Dancing Establishment. A business that features dancers displaying or exposing "specified anatomical areas".

(5) Adult Entertainment or Service Facility. An adult bookstore, adult motion picture booth, adult motion picture theater, adult dancing establishment, adult cabaret, or adult arcade.

(6) Adult Motion Picture Booth. An enclosed area within an adult motion picture theater designed or used for the viewing by one (1) or two (2) persons of motion pictures which have as their primary or dominant theme,

matters depicting, illustrating or relating to "specified sexual activities".

(7) Adult Motion Picture Theater. An enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles, used for presenting on a regular basis, film material which has as its primary or dominant theme, matters depicting, illustrating or relating to "specified sexual activities" for observation by adult patrons thereof, and includes any hotel or motel, boarding house, rooming house, or other lodging for transient customers.

2. Agricultural Use.

a. *Characteristics.* Activities that primarily involve raising, producing, or keeping plants or animals, or cultivation and management of other natural resources. Accessory uses may include dwellings for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site.

b. *Specific Use Types.* This category includes the following use type:

(1) Greenhouse/Nursery, Raising of Plants, Flowers, and Nursery Stock. An establishment where flowers, shrubs, vegetables, trees, and other horticultural and floricultural products are grown both in open and enclosed buildings.

3. Animal Sales and Service.

a. *Characteristics.* Uses that involve the selling, boarding, or care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas.

b. *Specific Use Types.* This category includes the following use types:

(1) Animal Shelter. A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a for-profit enterprise.

(2) Kennel/Animal Day Care. Kennel shall mean a facility licensed to house dogs, cats, or other household pets for less than or greater than twenty-four (24) hours, and/or where grooming, breeding, boarding, or training or selling of animals is conducted as business.

(3) Pet Store (Live Animal Sale). A establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals, such as horses, goats, and poultry.

(4) Small Animal Veterinary Hospital or Clinic. A place where small animals such as dogs, cats, birds and other similar household domestic pets are given medical or surgical treatment, and where use as a kennel is limited to short-term boarding and only for medically related purposes, and where all uses are enclosed within a soundproof building and no objectionable odor is emitted.

4. Assembly.

a. *Characteristics.* This use category includes spaces used for the periodic gathering of large numbers of people for meetings, specific events, or shows. Activities may be of a spectator nature. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities.

b. *Specific Use Types.* This category includes the following use types:

(1) Assembly Hall or Auditorium, Hall Rental for Meetings or Social Occasions. A building or a portion of a building in which facilities are provided for civic, educational, political, or social purposes or a facility available for lease by private parties.

(2) Membership Organization (Excluding Adult Use). An organization and its premises catering exclusively to members and guests for social, intellectual, recreational, or athletic purposes that are conducted for profit.

5. Dependent Care Center.

a. *Characteristics.* This use category includes facilities that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day. Accessory uses include offices, recreation areas, and parking.

b. *Exceptions.* This category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

6. Entertainment/Amusement: Indoor.

a. *Characteristics.* Any commercial recreation/entertainment facility operated in an indoor setting, including, but not limited to, a bowling alley or pool hall.

b. *Specific Use Types.* This category includes the following use types:

(1) Amusement Establishment. An establishment offering sports, theatrical productions, game playing, or similar amusements to the public within a fully enclosed building. This includes theaters, bowling alleys, billiard parlors, and skating rinks. This use does not include neighborhood recreation centers or such amusements that are accessory to churches, schools, or colleges.

(2) Physical Fitness Center/Spa. A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary recreational activities, open to bona fide members and guests of the organization or open to the public for a fee.

(3) Theater and Performance/Concert Venue, Not Including Adult Entertainment. A building or part of a building devoted to showing motion pictures or for dramatic, musical, operatic, or live performances for admission to which, money is received, and no audience participation or meal service is allowed.

c. *Exceptions.* Adult activities are included in the Adult Use category.

7. Entertainment/Amusement: Outdoor.

a. *Characteristics.* This category includes large, commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

b. *Specific Use Types.* Examples include intensely developed, for-profit recreational uses such as amusement parks, miniature golf courses,

batting cages, skateboard or skate courses, bicycle motocross courses, go-cart tracks, water slides, drive-in theaters, and courses for paramilitary games.

(1) General Outdoor Recreation. Privately owned land, often requiring equipment, designed for outdoor games and sports such as baseball, football, and soccer. Also includes mini-golf courses, driving ranges, water parks, and athletic fields.

8. Financial Institution.

a. *Characteristics.* Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking. Financial institutions may or may not have drive-through service depending on the zoning district in which they are located.

b. *Specific Use Types.* This category includes the following use types:

(1) Check Cashing Facility. An establishment that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification does not include a state or Federally chartered bank, savings association, credit union, or industrial loan company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business.

(2) Financial Institution With Drive-Through Service. A financial institution with a drive-though window that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities.

(3) Financial Institution Without Drive-Through Service. A financial institution without a drive-though window that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities.

9. Food and Beverage Service.

a. *Characteristics.* This category includes establishments, for example, restaurants, cafes, coffee shops, bars, taverns, and any food/beverage sales establishments, which sell food for on- or off-premise consumption. Accessory uses may include decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

b. *Specific Use Types.* This category includes the following use types:

(1) Caterer. A service consisting of preparation and delivery of food and beverages for off-site consumption, without provision for on-site pickup or consumption.

(2) Restaurant, Bar, Tavern (with or without outdoor operations). A retail establishment where the principal business is the sale of food and beverages in a ready-to-consume state. This use type includes lunch counters and refreshment stands selling pre-

pared food and drinks for immediate consumption. Operations may include outdoor seating areas or outdoor food service, subject to all applicable use and development standards set forth in this Title.

(3) Restaurant, with Drive-Through Service. An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

(4) Take Out and Delivery Only. An eating/drinking establishment, generally without patron seating, that provides food and/or beverages to be delivered or to be picked typically for consumption off the premises of such establishment.

(5) Brew Pub. A retail establishment that manufactures not more than seventy-four thousand (74,000) gallons (2,400 barrels) of malt liquor or fermented malt beverages on its licensed premises, each calendar year.

10. Medical/Scientific Service.

a. *Characteristics.* Medical/scientific service includes uses that provide medical or surgical care to patients. Hospitals offer overnight care, while other medical facilities provide outpatient care only. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing for staff or trainees.

b. *Specific Use Types.* This category includes the following use types:

(1) Clinic. A building in which a group of physicians, dentists, or members of allied professions are associated for the purpose of carrying on their profession. The clinic may include a dental and/or medical laboratory and, as an accessory use, may provide for the dispensing of pharmaceutical or medical supplies, including optical supplies. It shall not include inpatient care.

(2) Hospital. An institution, whether public or private, principally engaged in providing health diagnosis, services, and treatment of human disease, pain, injury, deformity, or physical condition. A "hospital" includes as an integral part of the institution such related facilities as in-patient and outpatient care, laboratories, training facilities, central service facilities, and staff offices.

(3) Laboratory (Dental, Medical, Or Optical). A laboratory that provides bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures and optical lenses.

11. Office.

a. *Characteristics.* A building or portion of a building wherein services are performed involving administrative, professional, or clerical operations.

b. *Specific Use Types.* This category includes the following use types:

(1) Office, Type 1 (General). Establishments providing executive,

management, administrative, or professional services, but not involving the sale of merchandise, except as incidental to a permitted use. This use type does not include facilities for the provision of medical or dental services nor outpatient medical laboratories (see "Medical/scientific service" above). Typical uses include real estate, insurance, property management, investment, travel, advertising, law, doctor, dentist, architecture, design, engineering, accounting, and similar offices.

(2) Office, Type 2 (Limited). General office types described in subsection (1) above that the City finds are compatible within a zone district where the predominant use may be medium to high density residential, or when the office type is proposed to be part of a mixed-use development. Type 2 offices may be mixed with residential uses in the same building (vertical mixed use) or on the same development parcel (horizontal mixed use). Compatibility shall be evaluated in terms of the proposed office's scale (floor area), hours of operations, parking and loading demand, and typical levels and peaks of customer/client traffic. Limited office types will typically include most professional offices that are open and operating primarily during daytime hours. Type 2 (limited) office does not include offices or clinics that provide medical or dental services, which are classified separately under "Medical/scientific services," above.

c. *Exceptions.* Contractors and others who perform services off-site are included in the Type 1 (general) office use category only if major equipment and materials are not stored at the site and fabrication or similar work is not carried out on the site. If major equipment and materials are stored at the site, or fabrication or similar work is carried out on the site, then these uses are categorized under industrial warehouse/storage as a "storage yard".

12. Retail Sales and Service (Personal Service).

a. *Characteristics.* Retail establishments engaged in the provision of informational, instructional, personal improvement, personal care, and similar services, such as portrait shops, photography studios, art and music schools, licensed massage therapists, driving schools, riding academies, health and fitness studios, handicraft or hobby instruction, laundry and dry-cleaning retail outlets, portrait/photographic studios, beauty and barber shops, shoe repair, and tailor/alterations shops. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.

b. *Specific Use Types.* This category includes the following use types:

(1) Crematorium. A service establishment containing properly in-

stalled, certified apparatus intended for, or used for, the act of cremation.

(2) Dry Cleaner, Drop-Off Site Only. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

(3) Instructional Service. A specialized instructional establishment that provides on-site training of business, artistic, or commercial skills. Examples include driving schools, dance, music, and computer instructional services.

(4) *Massage Therapy Facility.* An establishment operated for the purpose of massage therapy performed solely by massage therapists who are licensed in accordance with Colorado statutes.

(5) Mortuary. A building used for the preparation of the deceased for burial and the display of the deceased, and ceremonies connected therewith before burial or cremation.

(6) Personal Care. Personal service establishment engaged primarily in the provision of personal improvement, personal care, and similar services, such as beauty/barber shops and nail salons.

(7) Service: Photography Studio and Photo Lab, Upholstery, Printer, Locksmith, Tailor. Establishments engaged in the provision of informational, instructional, personal improvement, and similar services, such as portrait shops, photography studios, shoe repair, and tailor/alterations shops.

(8) Tattoo and Body-Piercing Establishment. Any corporation, company, partnership, or individual that offers or performs tattooing or body piercing for any fee, charge, or remuneration of any kind. For the purposes of this Title, this does not include establishments performing ear piercing as an incidental service to the permitted principal use.

(9) Temporary Employment Business. Any person, firm, partnership, association or corporation that maintains a central location where day laborers assemble and are dispatched to work for a third-party user.

13. Retail Sales and Service (Repair and Rental).

a. *Characteristics.* Retail sales and service (repair and rental) firms are involved in the repair, lease, or rent of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.

b. *Specific Use Types.* This category includes the following use types:

(1) Equipment Rental. The rental of supplies and equipment primarily intended for homeowner use and minor residential gardening and construction projects, but not including car or truck rentals. All maintenance of equipment shall be conducted within an enclosed building. This use classification does not include the rental, storage, or maintenance of large construction or other commercial heavy equipment.

(2) Repair Shop (Not Including Auto). Establishments primarily engaged in the provision of

repair services to individuals and households, rather than to businesses. Examples of such use include household appliance repair or office machine repair. This use type excludes maintenance and repair of automobiles and other vehicles, and excludes maintenance and repair of industrial equipment and machinery.

14. Retail Sales and Service (Sales).

a. *Characteristics.* Retail sales and service (sales) establishments are involved in the sale of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.

b. *Specific Use Types.* This category includes the following use types:

(1) Antique Store. Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over fifty (50) years old or have collectible value. An "antique store" does not include the collection, recycling, sale, or storage of "junk" as that term is defined in this Chapter.

(2) Art Gallery. An establishment engaged in the sale, loan, or display of art, books, paintings, sculpture, or other works of art. Art galleries do not include libraries, museums, or non-commercial art galleries.

(3) Auction House. Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

(4) (a) Buy-Back, Second-Hand, Thrift, Consignment Store, Large: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of twelve thousand (12,000) square feet or more. This use type does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.

(b) Buy-Back, Second-Hand, Thrift, Consignment Store, Small: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of less than twelve thousand (12,000) square feet. This use type does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste.

(5) Convenience Store. A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than five thousand (5,000) square feet. This definition excludes delicatessens or other specialty food stores, as defined below. Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than convenience stores.

(6) Grocery/Specialty Food Store. A retail establishment offering

for sale primarily food and beverage for off-site consumption, specializing in the sale of one type of food item, and/or maintaining a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood. A grocery/specialty food store may also include sales of personal convenience and small household goods. Grocery/specialty food stores include, but are not limited to, bakeries, delicatessens, seafood sales, and meat or poultry stores (e.g., butcher shops). Establishments at which twenty percent (20%) or more

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of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than grocery/specialty food stores.

(7) Liquor Store. A state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Liquor stores do not include restaurants, taverns, or bars.

(8) Pawnbroker. An establishment regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.

(9) Retail Sales, General Merchandise. Establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this chapter (e.g., food/beverage sales, convenience stores, restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos.

c. *Exceptions.* No outdoor display is permitted as part of, or accessory to, a retail sales and service (sales) use unless specifically authorized by this Title.

15. School.

a. *Characteristics.* A private establishment offering educational instruction to the general public for tuition or fees.

b. *Specific Use Types.* This category includes the following use type:

(1) Trade or Business School. Any school or institution, either profit or nonprofit, that is not included in the definition of an "education institution," which school is consistent with other uses in the neighborhood or district in which the crafts or trades themselves are permitted.

16. Studio.

a. *Characteristics.* Studio uses are characterized by activities generally focusing on media production.

b. *Specific Use Type.* This category includes the following use type:

(1) Radio/Television Broadcasting Studio, Recording/Film Studio. A facility for broadcasting live or pre-recorded programs by radio and/or television; and/or recording on records, tapes, videotapes, or other suitable recording media. Such facility may perform activities necessary for recording programming and receiving of radio and/or television signals. Such facility shall not engage in production of consumer products.

17. Vehicle and Equipment.

a. *Characteristics.* Vehicle and Equipment facilities include a broad range of uses for the sale, rental, and/or maintenance of motor vehicles and related equipment. Large parking areas and outdoor storage areas may be included with these uses. Accessory uses may include incidental repair and storage, offices, and sales of parts and/or tires.

b. *Specific Use Types.* This category includes the following use types:

(1) Automobile Pawnbroker. A person regularly engaged in the business of making contracts

for automobile purchase or automobile purchase transactions in the course of business.

(2) Automotive Sales, Rental. An establishment arranged, designed, or used for the display, sale, leasing, or rental of any new or used motor vehicle in operable condition, and where no repair work is done except minor incidental repair of automobiles and necessary reconditioning of the cars to be displayed and sold on the premises.

(3) Automotive Service and Repair, Including Body or Fender Work. An establishment engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles. Services include body, fender, muffler, or upholstery work, oil change and lubrication, tires, and painting.

(4) Automotive Service and Repair, Not Including Body or Fender Work. An establishment engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, not including body or fender work.

(5) Automotive Service Station (Gasoline Facility). Any building, place or location designed to supply motor vehicles with gasoline, oils, greases, automobile sundries, or for the inspection, testing and examination of said motor vehicles, or for the minor repair or replacement of parts thereof, and shall include gasoline pumps and oil pumps.

(6) Car Wash, Auto Detailing. A commercial establishment that washes, cleans, and/or waxes automobiles or other motor vehicles, whether or not in conjunction with other goods or services provided to customers.

(7) Commercial Storage of Operable Vehicles. Any building, structure, or area of land used primarily for the temporary storage of commercial vehicles in working order.

(8) Fuel Dispensing. Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories.

(9) Parking Facility, Structure (Operable Vehicles). A structure designed or used primarily for the temporary parking of vehicles.

(10) Parking Area, Surface (Operable Vehicles). An area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

(11) Recreational Vehicles and Boats, Sales or Rental. The use of any building, land area or other premises for the display and sale or lease of new or used recreational vehicles, boats, and watercraft, including the outside storage of inventory, any warranty repair work, and other repair service conducted as an accessory use.

18. Visitor Accommodation.

a. *Characteristics.* Visitor-serving facilities that provide temporary lodging in guest rooms or guest units, for compensation, and with an average length of stay of less than thirty (30) days. Accessory uses may include pools and other recreational facilities for the exclusive use of guests, limited storage, restaurants, bars, meeting facilities, and offices.

b. *Specific Use Types.* This category includes the following use types:

(1) Bed and Breakfast. A commercial establishment operated in

an owner-occupied, one-unit dwelling, or portion thereof (including accessory building), that provides short-term visitor lodging (generally stays of thirty (30) days or less), with or without the service of a morning meal only, and where the operator lives on the premises. No more than six (6) guests may be accommodated at any one time.

(2) Hotel. A building containing guest rooms in which lodging is provided with or without meals for compensation, which is open primarily to transient guests, but may include a limited number of permanent guests, and where no provision is made for cooking in any guest room.

(3) Hotel, Extended Stay. A specific type of visitor accommodation use. A building containing guest rooms in which lodging is provided, in which access to guest rooms is primarily through lobbies, courts or halls, with or without meals for compensation, which is open primarily to transient guests, but may include a limited number of permanent guests, and where provisions may be made for cooking in guest rooms. See definition of "Visitor Accommodation".

19. Wholesale.

a. *Characteristics.* An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers.

b. *Specific Use Type.* This category includes the following use type:

(1) Sales and Distribution. A sale by a wholesaler to retail merchants, jobbers, dealers, or other wholesalers for resale. The term does not include a sale by a wholesaler to users or consumers not for resale.

c. *Exceptions.* This category shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

G. *Manufacturing/Industrial Uses.*

1. Industrial Service.

a. *Characteristics.* Establishments engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

b. *Specific Use Types.* This category includes the following use types:

(1) Industrial Service, Light. Industrial service uses that typically generate few or less adverse impacts (such as noise, glare, odor, or vibrations) on the surrounding environment than heavy industrial service uses. Examples include, but are not limited to: research and development, bottling or cold storage, printing, publishing, freight terminal, contractor shop, and towing.

(2) Industrial Service, Heavy. Industrial service uses that typically generate relatively more or higher adverse impacts (e.g., noise, glare, odor, or vibrations) on the surrounding environment than light industrial service uses. Examples include, but are not limited to: metal or weld-

ing shop, commercial laundry, sheet metal shop; welding shop; well driller or sanitary service; fuel storage facilities, including manufacturing and processing plants; laundry, dry-cleaning and carpet cleaning plants; heavy machinery and equipment repair facilities, including blacksmith shops and engine and motor repair shops.

2. Manufacturing, Including Processing, Fabrication, or Assembly.

a. *Characteristics.* Industrial establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used in the manufacturing process. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Such uses may also include industries furnishing labor in the case of the refinishing of manufactured articles. Custom industry is included (e.g., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, they are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory activities may include limited retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

b. *Specific Use Types.* This category includes the following use types:

(1) Brewery: Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors or fermented malt beverages are manufactured, except brew pubs as defined. Or, as this definition may be modified in C.R.S. 12-47-103.

(2) Distillery: Any establishment, licensed by the appropriate State and Federal authorities where spirituous liquors are manufactured. Or, as this definition may be modified in C.R.S. 12-47-103.

(3) Sales Room: An establishment, or portion of a manufacturing establishment, that allows customers to taste samples of wine, beer or spirituous liquors manufactured or produced by a single distillery, brewery or winery and licensed as a sales room pursuant to a State Manufacturer's License (C.R.S. 12-47-402) or a State Limited Winery License (C.R.S. 12-47-403). A sales room may include the sale of such products in addition to related items, marketing events, special events entertainment and/or food. Or, as this definition may be modified in C.R.S. 12-47-103 et. seq.

(4) Vintner's Restaurant: A retail establishment, licensed by the appropriate State and Federal authorities, that sells food for consumption on the premises and that manufactures not more than two hundred fifty thousand (250,000) gallons of wine on its premises each year.

(5) Winery: Any establishment licensed by the appropriate State and Federal authorities, where vinous liquors are manufactured, except that the term does not include a Vintner's Restaurant license pursuant to 12-47-420 C.R.S. Or, as this definition may be modified in C.R.S. 12-47-103.

(6) Manufacturing, Light: Manufacturing uses that do not involve the generation outside the property of noise, odor, vibration, dust, or hazard. Examples include, but are not limited to: assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly or artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

(7) Manufacturing, Heavy: Manufacturing uses that may involve the generation outside the property of noise, odor, vibration, dust or hazard. Examples include, but are not limited to: refining or initial processing of raw materials, rolling, drawing, or extruding of metals; and log decking, storage, and ponding.

c. *Exceptions.* The manufacturing, processing, fabrication, or assembly of the following items is prohibited:

(1) Abrasives, basic manufacture;

(2) Animal by-products, basic manufacture and processing;

(3) Asphalt, manufacture and processing;

(4) Automobile shredding, crushing, baling, compacting and similar operations;

(5) Biological waste, processing;

(6) Bone black, basic manufacture;

(7) Carbon black or lamp black, basic manufacture;

(8) Charcoal, basic manufacture;

(9) Chemicals, heavy or industrial, basic manufacture or processing;

(10) Cinder and cinder blocks, basic manufacture or processing;

(11) Coal or coke, manufacture or processing;

(12) Concrete and concrete products, manufacture or fabrication;

(13) Detergents, soaps and by-products, using animal fat, basic manufacture;

(14) Fertilizers, manufacture or processing;

(15) Fungicides, manufacture;

(16) Gasses, other than nitrogen and oxygen, manufacture;

(17) Glass manufacture;

(18) Glue and size, manufacture;

(19) Grain milling;

(20) Graphite, manufacture;

(21) Gypsum and other forms of plaster base, manufacture;

(22) Insecticides, manufacture;

(23) Insulations, flammable types, manufacture or fabrication;

(24) Matches, manufacture;

(25) Meat slaughtering;

(26) Metal shredding and similar operations;

(27) Metals, extraction or smelting;

(28) Metals, ingots, pigs, sheets, or bars, manufacture;

(29) Oils and fats, animal and vegetable, manufacture;

(30) Paints, pigments, enamels, japans, lacquers, putty, varnishes, whiting, and wood fillers, manufacture or fabrication;

(31) Paper pulp and cellulose, basic manufacture;

(32) Paraffin, manufacture;

(33) Petroleum and petroleum products, manufacture or processing;

(34) Portland and similar cements, manufacture;

(35) Rubber, manufacture, or reclaiming;

(36) Sawmill or planing mills;

(37) Serums, toxins, viruses, manufacture;

(38) Sugars and starches, manufacture;

(39) Tannery;

(40) Turpentine, manufacture;

(41) Wax and wax products, manufacture; and

(42) Wood preserving by creosoting or other pressure impregnation of wood by preservatives.

3. Warehouse/Storage.

a. *Characteristics.* Firms involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas.

b. *Specific Use Types.* This category includes the following use types:

(1) Fuel Storage. The storage of fuels in above ground or below ground storage containers designed for wholesale distribution or mass consumption.

(2) Mini-Storage Facility. Provision of storage space for household or commercial goods within an enclosed building with direct public access to individual storage spaces. This use may include quarters for one (1) or more persons employed by and residing at the mini-storage facility for the purpose of on-site management and security.

(3) Moving and Storage. A use engaged in the directed movement of goods and materials from one location to another location, as well as the short-term storage of such goods, in transit, for either commercial purposes or the general public.

(4) Outdoor Storage. The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. This shall not include the display of vehicles for sale in a new or used car sales lot.

(5) Storage Yard for Vehicles, Equipment, Materials, and/or Supplies. An area, other than a street or alley, designed or used primarily for the temporary parking of vehicles.

(6) Warehousing and/or Storage. A use engaged in (1) the storage of goods, materials, vehicles, trailers, or boats, and/or (2) the distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. At least fifty percent (50%) of the gross floor area of the use shall be used for warehouse and distribution purposes. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

4. Waste/Salvage.

a. *Characteristics.* This category includes uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another

location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste/salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products.

b. *Specific Use Types.* This category includes the following use types:

(1) Automobile Wrecking/Salvage Yard. An area where the business of auto wrecking and dismantling and the storage, sale or dumping of dismantled, obsolete, or wrecked vehicles or their parts prevail. This term shall not include the term "junk yard" or include auto shredding and crushing services.

(2) Commercial Incinerator. An engineered apparatus used to burn waste substances and in which all the combustion factors, temperature, retention time, turbulence and combustion air, can be controlled.

(3) Hazardous Waste Handling. Any facility that collects, stores, or processes hazardous waste material as its principal use.

(4) Recycling Operation. A facility that is not a wrecking, junk, or salvage yard, and in which recyclable material are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production or consumption. Recycling operations include, but are not limited to, the processing of batteries, construction waste, food waste, glass, metals and/or alloys, papers, plastics and tires. This use does not include auto shredding. Buyback centers that do not process recycled materials and only store them within an enclosed structure, transportable container or trailer, or similar self-contained apparatus, are also included in this use type.

(5) Sanitary Service. Any property used for permanent disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose, of garbage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof.

(6) Waste Transfer Station (Not Including Hazardous Waste). Any facility or structure, with the exception of a motor vehicle, where trash is collected. Generally located on a plot of ground, with appropriate structures and mechanical equipment for the collection, compaction, and/or loading of trash.

(Ord. 04-5; Ord. 05-25; Ord. 08-13, § 3; Ord. 08-37, § 15; Ord. 08-55, § 4; Ord. 08-48, § 33; Ord. 09-04, § 2; Ord. 10-20, § 2; Ord. 45-13, §§ 3, 4)

16-11-2: Definition of Words, Terms, and Phrases.

A. Undefined Terms. For words, terms, and phrases used in this Title that are not defined below, or elsewhere in this Title, the City Manager or designee shall interpret or define such words, terms, and phrases. In making such interpretations or definitions, the City Manager or designee may consult secondary sources related to the planning profession for technical words, terms and phrases, including but not limited to: A Glossary of Zoning, Development, and Planning Terms - Planning Advisory Service Report 491/492, edited by Michael Davidson and Fay Dolnick (American Planning Association, Chicago, Ill. 1999); A Survey of Zoning Definitions - Planning Advisory Service Report Number 421, edited by Tracy

Burrows (American Planning Association, Chicago, Ill. 1989); Zoning and Development Definitions for the Next Century, edited by Michael Davidson, in Zoning News (American Planning Association, August 1999); and The Illustrated Book of Development Definitions, by Harvey S. Moskowitz and Carl G. Lindbloom (Center for Urban Policy Research, Rutgers University. N.J. Third Edition. 1987). The City Manager or designee may consult Webster's Unabridged Dictionary (Random House Reference and Information Publishing, New York, 1997), as supplemented, or other available reference source for other words, terms, and phrases.

B. Definition of Words, Terms, and Phrases.

Abandonment: The relinquishment of property or a cessation of the use of the property with the intention neither of transferring rights to the property to another person(s) nor of resuming the use of the property or the use.

Abut and/or *Adjoin:* To physically touch or border upon or to share a common property line.

Acceleration Lane: An added roadway lane that permits integration and merging of slower moving vehicles into the main vehicular stream.

Access: A way or means of approach to provide physical entrance to a property.

Access Road, Manufactured Home Park: That area privately owned and maintained and set aside within a manufactured home park for an interior road system, providing principal means of ingress to individual manufactured home spaces and egress to a street.

Accessory Structure: A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use.

Accessory Use: A subordinate use, clearly incidental and related to the principal structure, building or use of land, and, unless otherwise allowed by this Title, located on the same lot as that of the principal structure, building, or use.

Adjacent: Nearby, but not necessarily touching.

Adult Arcade: A specific type of adult use. An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas". See definition of "Adult Use".

Adult Bookstore: A specific type of adult use. A place where books, magazines, motion pictures, videos, prints, photographs, periodicals, recordings, novelties and devices, or any of these things, which have as their primary or dominant theme, matter depicting, illustrating, describing or relating to "specified sexual activities," are sold, rented or offered for sale to adults. See definition of "Adult Use".

Adult Cabaret: A specific type of adult use. A nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas". See definition of "Adult Use".

Adult Dancing Establishment: A specific type of adult use. A business that features dancers displaying or exposing "specified anatomical areas". See definition of "Adult Use".

Adult Dependent Care: A specific type of home care use. An adult care facility that provides less than twenty-four (24) hours care, in the permanent residence of the provider, for individuals older than eighteen (18) years old up to a maximum of four (4) adults. See definition of "Home Care".

Adult Entertainment or *Service Facility:* A specific type of adult use. An adult bookstore, adult motion picture booth, adult motion picture theater, adult dancing establishment, adult cabaret, or adult arcade. See definition of "Adult Use".

Adult Motion Picture Booth: A specific type of adult use. An enclosed area within an adult motion picture theater designed or used for the viewing by one (1) or two (2) persons of motion pictures which have as their primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities. See definition of "Adult Use".

Adult Motion Picture Theater: A specific type of adult use. An enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles, used for presenting on a regular basis, film material which has as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by adult patrons thereof, and includes any hotel or motel, boarding house, rooming house, or other lodging for transient customers. See definition of "Adult Use".

Adult Use: A use category where the principal use of property, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises.

Adverse Impact or Effect: Any of the following:

(A) A condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

(B) A condition that creates, imposes, or leads to a nuisance on a site proposed for development or on off-site property or facilities.

(C) A condition that creates, imposes, aggravates, or leads to a negative aesthetic condition on a site proposed for development or on off-site property or facilities. For example, a proposed building that blocks a scenic view corridor or a commercial building whose height and mass is out of scale and proportion with adjacent residential buildings.

Agricultural Use: A category of uses that primarily involve raising, producing, or keeping plants or animals, or cultivation and management of other natural resources. Accessory uses may include dwellings for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site.

Alley: A public way less in size than a street, not designed for general travel, which is used primarily as a means of access to the rear of residences and business establishments, abutting upon it, and which affords a secondary means of access.

Alteration, Structural: An alteration of a building or structure which alteration affects some

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portion of the building or structure in a vital and substantial manner and changes its characteristic appearance; the term denotes change or substitution in a substantial particular.

Amendment: Any addition, deletion, or revision of the text of this Title or any addition, deletion, or revision of the Official Zoning Map adopted after public hearings.

Amusement Establishment: A specific type of indoor entertainment/amusement use. An establishment offering sports, theatrical productions, game playing, or similar amusements to the public within a fully enclosed building. This includes theaters, bowling alleys, billiard parlors, and skating rinks. This use does not include neighborhood recreation centers or such amusements that are accessory to churches, schools, or colleges. See definition of "Entertainment/Amusement: Indoor".

Ancillary Telecommunications Facilities: All telecommunications facilities as defined herein: except for towers, antennas, or alternative tower structures.

Animal Sales and Service: Category of uses that involve the selling, boarding, or care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas.

Animal Shelter (Not For Profit): A use category that includes not-for-profit facilities used to house or contain stray, homeless, abandoned, or unwanted animals. The facilities are owned, operated, or maintained by a public body, an established humane society, animal welfare society, or other organization devoted to the welfare, protection, and humane treatment of animals. Examples include shelters operated by organizations such as the Society for the Prevention of Cruelty to Animals and the Humane Society.

Animal Shelter (For Profit): A specific type of animal sales and service use. A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a for-profit enterprise. See definition of "Animal Sales and Service".

Annexation: The incorporation of a land area into the City of Englewood with a resulting change in the city boundaries.

Annual: A plant that completes its lifecycle in one (1) growing season.

Antenna: A specific type of telecommunication facility use. Any transmitting and/or receiving device used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals, or other communications signals. "Antenna" includes whip antenna, microwave antenna, and sectorized panel antenna. See definition of "Telecommunication Facility".

Antique Store: A specific type of retail sales and service (sales) use. Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over fifty (50) years old or have collectible value. An "antique store" does not include the collection, recycling, sale, or storage of "junk" as that term is defined in this Chapter. See definition of "Retail sales and Service (Sales)".

Appeal: A request for review by a higher authority of the final decision made by the decision-making body on an application for development.

Appeal, Administrative: An appeal where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative official or agency based on, or made in the application of, the standards or enforcement of this Title in a specific situation, with limited necessity for reference to general goals and policies of this Title or the Comprehensive Plan.

Applicant: Unless otherwise specified, an owner or other person with a legal property interest, including heirs, successors, and assigns, or an owner's authorized agent, who has filed an application for subdivision or development.

Application, Complete: See definition of "Complete Application".

Arcade: A continuous area open to a street or plaza, and which is accessible to the public. Any portion of an arcade occupied by building columns, landscaping, statuary, or pools, shall be

considered to be a part of an arcade for the purpose of computing required landscaping. The term "arcade" shall not include off-street loading areas, driveways, off-street parking areas, or pedestrian ways accessory thereto.

Area: The term "area" is synonymous with the word "tract," which is a piece of land capable of being described with such precision that its location may be established and boundaries definitely ascertained.

Art Gallery: A specific type of retail sales and service (sales) use. An establishment engaged in the sale, loan, or display of art, books, paintings, sculpture, or other works of art. This definition of art gallery does not include libraries, museums, or non-commercial art galleries. See definition of "Retail Sales and Service (Sales)".

Assembly Hall or Auditorium, Hall Rental for Meetings or Social Occasions: A specific type of assembly use. A building or a portion of a building in which facilities are provided for civic, educational, political, or social purposes or a facility available for lease by private parties. See definition of "Assembly".

Assembly: This use category includes spaces used for the periodic gathering of large numbers of people for meetings, specific events, or shows. Activities may be of a spectator nature. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities.

Assessed Valuation: The value at which property is appraised for tax purposes.

Athletic Field: A specific type of parks and open space use. Land, often requiring equipment, owned by a unit of government and designed for outdoor games and sports such as baseball, football, and soccer. See definition of "Parks and Open Space".

Auction House: A specific type of retail sales and service (sales) use. Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder. See definition of "Retail Sales and Service (Sales)".

Authorized Service Vehicle: Such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency, the function of which requires the use of service vehicle warning lights as prescribed by State law, and such other vehicles having a public service function, including, but not limited to, public utility vehicles and tow trucks, as determined by the state department of highways. Some vehicles may be designated as both an authorized emergency vehicle and an authorized service vehicle.

Automobile: Any motor vehicle.

Automobile Pawnbroker: A specific type of vehicle and equipment use. An establishment regularly engaged in the business of making contracts for automobile purchase or automobile purchase transactions in the course of business. See definition of "Vehicle and Equipment".

Automobile Shredding: Includes but is not limited to the shredding, crushing, baling, compacting or similar process that reduces motor vehicles, trailers, or parts thereof to their constituent parts or to a form suitable for further processing.

Automobile Wrecking/Salvage Yard: A specific type of waste/salvage use. An area where the business of auto wrecking and dismantling and the storage, sale or dumping of dismantled, obsolete, or wrecked vehicles or their parts prevail. This term shall not include the term "junk yard" or include auto shredding and crushing services. See definition of "Waste/Salvage".

Automobile Wrecking and Dismantling: The dismantling or wrecking of motor vehicles, trailers, or parts thereof. Automobile wrecking and dismantling shall include auto parting, salvage, recycling, and similar operations. Automobile wrecking and dismantling shall not include automobile shredding, crushing, baling, or compacting.

Automotive Sales, Rental: A specific type of vehicle and equipment use. An establishment arranged, designed, or used for the display, sale, leasing, or rental of any new or used motor vehicle in operable condition, and where no repair work is done except minor incidental repair of automo-

biles and necessary reconditioning of the cars to be displayed and sold on the premises. See definition of "Vehicle and Equipment".

Automotive Service and Repair, Including Body or Fender Work: A specific type of vehicle and equipment use. An establishment engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles. Services include body, fender, muffler, or upholstery work, oil change and lubrication, tires, and painting. See definition of "Vehicle and Equipment".

Automotive Service and Repair, Not Including Body or Fender Work: A specific type of vehicle and equipment use. An establishment engaged in the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, not including body or fender work. See definition of "Vehicle and Equipment".

Automotive Service Station (Gasoline Facility): A specific type of vehicle and equipment use. Any building, place or location designed to supply motor vehicles with gasoline, oils, greases, automobile sundries, or for the inspection, testing and examination of said motor vehicles, or for the minor repair or replacement of parts thereof, and shall include gasoline pumps and oil pumps. See definition of "Vehicle and Equipment".

Awning: A shelter supported entirely from the exterior wall of a building and of a type that can be retracted, folded, or collapsed against the face of the supporting building.

Banner: An accessory sign made of cloth, canvas, plastic, fabric, or flexible material of any kind with only such material for backing. National flags, state or municipal flags, shall not be considered banners.

Basement: An area below the first floor, having part, but no more than one-half (½) of its height above grade, and with a floor to ceiling height of not less than seven feet (7'). This term shall not include "garden level".

Basement (for floodplain purposes): See 16-4-11 EMC: Floodplain Definitions.

Bed and Breakfast: A specific type of visitor accommodation use. A commercial establishment operated in an owner-occupied, one-unit dwelling unit, or portion thereof (including an accessory building), that provides short-term visitor lodging (generally stays of thirty (30) days or less), with or without the service of a morning meal only, and where the operator lives on the premises. No more than six (6) guests may be accommodated at any one time. See definition of "Visitor Accommodation".

Beer: An alcoholic beverage made by brewing and fermentation from cereals, usually malted barley, and flavored with hops and the like for a slightly bitter taste. Beer shall not contain greater than six percent (6%) alcohol by volume, otherwise it shall be classified as a "spirituous liquor". Or, as this definition may be modified in C.R.S. 12-47-103.

Berm: A mound of earth, or the act of pushing earth into a mound, usually for the purpose of shielding or buffering uses, or to control the direction of water flow.

Bicycle Lane: A portion of a street right-of-way designated for the use of bicycle traffic.

Bicycle Path: A paved or otherwise surfaced off-street lane designated for bicycle traffic.

Bikeway: A pathway, which may be paved and separated from streets and sidewalks, designed to be used by bikers.

Block: A tract of land bounded by platted streets, public parks, cemeteries, railroad rights-of-way, shore lines, or corporate boundaries of the city.

Block Face: A lot or lots fronting on one (1) side of a block. The "same" block face includes only those lots fronting on the same side of the block as the subject property. The "facing block face" includes those lots located on a different block from the subject property/lot, but located directly across the street from and fronting the same street as the subject property/lot and bounded by the same intersecting streets as the subject property's block.

Board: The Board of Adjustment and Appeals of the City of Englewood.

Boarder: An individual, other than a member of the household occupying the dwelling unit or a part thereof, who, for a consideration, is furnished

sleeping accommodations and may be furnished meals or other services as part of the consideration.

Boarding or Rooming House: An owner occupied, one-unit dwelling containing two (2) but not more than four (4) guest rooms where lodging is provided to boarders, with or without meals, for compensation. The lodging shall be long-term residential lodging with stays greater than thirty (30) days per boarder. This use is not a visitor accommodation nor a home occupation as defined herein. "Compensation" may include money, services, or other things of value.

Body Piercing: Any method of creating an opening in the human body, including but not limited to the ear, eyebrow, genitals, lip, navel, nose, or tongue, for the purpose of inserting any decorative jewelry or other decoration.

Boundary Line: Every separation, natural or artificial, which marks the confines or line of division of two (2) contiguous parcels of land.

Brewery: Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors or fermented malt beverages are manufactured, except brew pubs as defined. Or, as this definition may be modified in C.R.S. 12-47-103.

Brewpub: A restaurant that includes the brewing of beer as an accessory use. The volume of beer production of such facility shall not exceed two thousand four hundred (2,400) barrels per year.

Brightness: For the purpose of sign illumination, brightness is the visual sensation related to the intensity of light emanating from the face of a sign.

Buffering: Methods such as extra deep lots, increased setbacks, landscaping, fencing, or berming to separate properties or uses that may have potential adverse impacts upon one another.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

Building, Detached: A building having no party wall in common with another building.

Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by maximum height regulations, yard setbacks, and sky exposure (bulk) plane regulations.

Building Frontage: The horizontal linear dimension of a building facade, or portion occupied by a use, that faces a public street. A corner use shall be permitted to use the secondary facade to determine total "building frontage".

Building, Principal: A building in which is conducted the principal use of the lot on which it is situated.

Building Site: See definition of "Lot".

Bulk: The size of buildings or other structures and their relationships to each other and to open areas and lot lines, and therefore includes: (a) the size of buildings or other structures, and (b) the area of the lot upon which a residential building is located, and the number of dwelling units or rooms within such building in relation to the area of the lot, and (c) the shape of buildings or other structures, and (d) the location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other buildings or other structures, and (e) all open areas relating to buildings or other structures and their relationship thereto.

Business/Business Use: The employment of one (1) or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally related to commercial and industrial engagements.

Buy-Back, Second-Hand, Thrift, Consignment Store; Large: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of twelve thousand (12,000) square feet or more.

Buy-Back, Second-Hand, Thrift, Consignment Store; Small: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of less than twelve thousand (12,000) square feet.

Caliper: The inch diameter of the trunk of a tree measured four feet (4') above grade.

Canopy: A roof-like structure supported by the building and a minimum of one (1) stanchion.

Caretaker's Quarters: A dwelling unit located on the same premises as a principal commercial or industrial establishment, which unit is occupied or intended for occupancy by a caretaker employee or owner of said commercial or industrial establishment.

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Carnival / Circus: A temporary amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food services, sales, or small-scale games.

Carport: A one-story structure entirely open on one (1) or more sides used for vehicle parking or storage.

Car Wash, Auto Detailing: A specific type of vehicle and equipment use. A commercial establishment that washes, cleans, and/or waxes automobiles or other motor vehicles, whether or not in conjunction with other goods or services provided to customers. See definition of "Vehicle and Equipment".

Caterer: A specific type of food and beverage service use. A service consisting of preparation and delivery of food and beverages for off-site consumption, without provision for on-site pickup or consumption. See definition of "Food and Beverage Service".

Cellar: That portion of building below the first floor joists, at least half of whose clear ceiling height is below the main level of the adjacent ground; which portion of a building shall not be used for habitation.

Centerline: The centerline of a street or alley that has been fully dedicated to its required width. Where all of the required width of public right-of-way exists in an offset or angular manner or has not been dedicated, the City Engineer shall determine the alignment of the centerline.

Change of use: Any use that substantially differs from the previous use of a building or land.

Channel: A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

Check Cashing Facility: A specific type of financial institution use. An establishment that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification does not include a state or Federally chartered bank, savings association, credit union, or industrial loan company. Further, this classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business. See definition of "Financial Institution".

City: The City of Englewood, Colorado.

Clinic: A specific type of medical/scientific service use. A building in which a group of physicians, dentists, or members of allied professions are associated for the purpose of carrying on their profession. The clinic may include a dental and/or medical laboratory and, as an accessory use, may provide for the dispensing of pharmaceutical or medical supplies, including optical supplies. It shall not include in-patient care. See definition of "Medical/Scientific Service".

Collector Street System: A system of one (1) or more collector street(s) that allows traffic to be distributed to at least two (2) arterial streets.

Colocation: The placement of antennas or other telecommunications facilities by two (2) or more telecommunications providers in the same location or on the same tower or alternative tower structure.

Commercial Establishment, Use, or Development: An activity involving the sale of goods or services carried out for profit. Includes office, retail, services, wholesale trade, and other similar development.

Commercial Incinerator: A specific type of waste/salvage use. An engineered apparatus used to burn waste substances and in which all the combustion factors, temperature, retention time, turbulence and combustion air, can be controlled. See definition of "Waste/Salvage".

Commercial Storage of Operable Vehicles: A specific type of vehicle and equipment use. Any building, structure, or area of land used primarily for the temporary storage of commercial vehicles in working order. See definition of "Vehicle and Equipment".

Commercial Vehicle: Any vehicle designed, maintained or used primarily for the transportation of property.

Commission: The Planning and Zoning Commission of the City of Englewood, Colorado.

Common (Party) Wall: See definition of "Party Wall".

Community Garden: A specific type of parks and open space use. A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one (1) person or household. See definition of "Parks and Open Space".

Compatibility: The characteristics of different uses or activities or designs that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access, and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor, building materials, and building architecture. Compatibility does not mean "the same as". Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

Complete Application: An application form required by this Title, and all accompanying fees, submittal documents, and exhibits, including all items or exhibits specified by the City Manager or designee during a pre-application conference. An application shall be considered "complete" only upon certification by the City Manager or designee, pursuant to Section 16-2-3.E. EMC.

Comprehensive Plan: The City Comprehensive Plan developed by the Commission and adopted by the Council for the physical development of the City, which includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional use: A use permitted in a particular zone district only upon showing that such use in a specified location, will comply with all conditions and standards for the location or operation of such use as specified in this Title and authorized by the Commission.

Contiguous: See definition of "Adjacent".

Contract for purchase: A contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer to the pawnbroker on the condition that that customer, for a fixed price and within a fixed period of time, not to exceed ninety (90) days, has the option to cancel the contract and recover from the pawnbroker the tangible personal property.

Convenience store: A specific type of retail sales and service (sales) use. A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than five thousand (5,000) square feet. This definition excludes delicatessens or other specialty food stores, as defined below. Exception: establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than convenience stores. See definition of "Retail Sales and Service (Sales)".

Council: The City Council of the City of Englewood, Colorado.

Crematorium: A specific type of retail sales and service (personal service) use. A service establishment containing properly installed, certified apparatus intended for, or used for, the act of cremation. See definition of "Retail Sales and Service (Personal Service)".

Cul-de-sac: A short street having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

Decibel: A unit of sound pressure level.

Deciduous: Plants that drop their leaves before becoming dormant in winter.

Decision-Making Body: The entity or body (typically the Council, Commission, Board, City Manager or designee, or other Administrative Staff) authorized to approve or deny a land development application or permit required under this Title.

Density: The number of families, persons, or dwelling units per acre of land.

(A) *Gross Density:* The number of families, persons, or dwelling units per gross acre of land. Gross acreage is the total land area, including public rights-of-way.

(B) *Net Density:* The average number of families, persons, or dwelling units per net acre of land. Net acreage is the total land area less land area devoted to public rights-of-way.

Denver Metropolitan Area: The area defined within the Denver Regional Council of Governments (DRCOG), Metropolitan Planning Organization (MPO) Boundary.

Dependent Care Center: This use category includes facilities that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day. Accessory uses include offices, recreation areas, and parking. Exceptions: this category does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

Detached Structure: A structure having no party wall in common with another structure.

Detention Facility: A specific type of group living use. Detention facilities include:

(A) Facilities for the judicially required detention or incarceration of people, where inmates and detainees are under twenty-four (24) hour supervision by sworn officers, except when on an approved leave; or

(B) Group homes, halfway houses, or alternatives to incarceration for individuals previously convicted of sexual assaults, sexual abuse, or other sex-related criminal offenses; or

(C) Group homes, halfway houses, or alternatives to incarceration containing any individual who will be subject to the issuance of an arrest or escape warrant if they leave the facility.

Provided that the use otherwise complies with this definition, a detention facility may include, by way of illustration, a prison, jail, probation center, juvenile detention home, or halfway house for sex offenders. Detention facilities do not qualify as either small group living facilities, small treatment centers, or large/special group living facilities. See definition of "Group Living".

Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development: Any man-made change to improved or unimproved real estate, including the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

Development Agreement: Contracts between a developer and the City of Englewood in connection with any discretionary development approval, including without limitation rezoning, subdivision, or PUD approval. Development Agreements may include provisions clarifying the phasing of construction, the timing, location and financing of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods beyond the three (3) year statutory term, assurances that adequate public facilities (including roads, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public.

Development (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Director: Director of the Department of Community Development.

Distance of Sign Projection: The distance from the exterior wall surface of the building, or from the furthest point on a mansard roof, to the display face of a wall sign.

Distillery: An establishment, licensed by the appropriate State and Federal authorities, where spirituous liquors are manufactured. Or, as this definition may be modified in C.R.S. 12-47-103.

Divide or *Division:* Any act which would have the effect, either legally or practicably, of causing a separation of a single tract or parcel of realty into two (2) or more tracts, parcels, lots, or sites.

Dormitory: A facility used as living quarters for more than four (4) students enrolled in classes or activities at a college, university, or boarding school, including without limitation a fraternity or sorority house owned or operated by an entity other than the college, university, or boarding school.

Drainage:

(A) Surface water runoff.

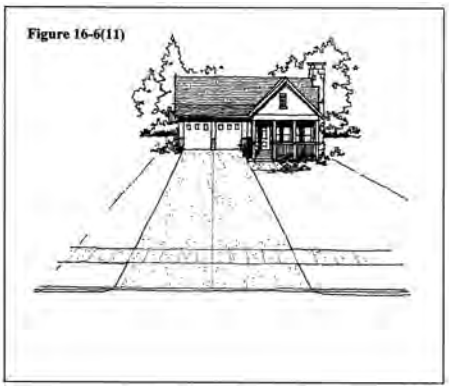
(B) The removal of surface water or ground water from land by drains, grading, or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; the means for preventing or alleviating flooding.

Drip line: A vertical line extending from the outermost branches of a tree to the ground.

Drive-Through or *Drive-In Facility:* An establishment that by design, physical facilities, service, or by packaging procedures, permits customers or users to receive services or to obtain goods while remaining in their motor vehicles.

Driveway: An improved and maintained way providing vehicular access from the public street to a parking area, garage or carport, or to other uses.

Driveway, Hollywood: A driveway that includes within its width portions or strips of unpaved ground that are typically landscaped. (See Figure 16-11(1)).



Dry cleaner, drop-off site only: A specific type of retail sales and service (personal service) use. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises. See definition of "Retail Sales and Service (Personal Service)".

Dwelling: Any building or portion of building that is used as the residence of one (1) or more households, but not including visitor accommodations, clubs, hospitals, tents, or similar uses providing transient or temporary accommodation.

Dwelling, Live/Work: A specific type of household living use. A combination of residential occupancy and commercial activity located within a dwelling unit. A "live/work dwelling" use is a principal use and the commercial activity is not a home occupation. Typical work activities in a live/work dwelling may include, by way of example only, professional services, craftwork, art studios, jewelry making, fabrication of cloth goods, and other similar activities. See definition of "Household Living".

Dwelling, Multi-Unit: A specific type of household living use. A dwelling containing two (2) or more dwelling units.

Dwelling, One-Unit: A dwelling containing no more than one (1) dwelling unit. A specific type of household living use. A one-unit dwelling that is not attached to any other dwelling by any means, and is located on a separate lot from any other dwelling unit. A one-unit dwelling may include a

manufactured home in compliance with the standards set forth in Section 16-5-2.A.3 EMC. See definition of "Household Living".

Dwelling, One-Unit, On a Small Lot: A specific type of household living use. A one-unit dwelling sited on a "small lot," as that term is defined in Section 16-11-2 EMC (Definition of Words, Terms, and Phrases), below. See definition of "Household Living".

Dwelling Unit: One (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied, or intended for occupancy as separate quarters for the exclusive use of a single household, for household living purposes (i.e., living, cooking, and sanitary purposes), located in a dwelling.

Dynamic Displays: A generic term for non-traditional signage encompassing signs with moving parts, LED displays, moving images, and electronic messages.

Earth Removal: The removal or extraction of any stone, sand, gravel, loam, topsoil, or other earth or earth product from a lot or parcel of land, except where such removal is for the purpose of grading a lot upon which a building is to be erected, a roadway to be built, or a platting thereof to be made.

Easement: A grant of one (1) or more of the property rights by the property owner to and/or for the use of the public, a corporation or another person or entity.

Eaves: The projecting lower edges of a roof overhanging the wall of a building.

Education Institution: A specific type of school use. Facilities include elementary or secondary public or private schools, parochial schools irrespective of denomination and having a course of study substantially equivalent to that of a public school, private schools having a course of study substantially equivalent to that of a public school, colleges and universities, professional schools, business or trade schools, and special schools for the blind and/or physically disabled. Exception: business or trade schools are classified under commercial uses as a distinct type of school use. See definition of "School".

Egress: An exit.

Embankment: An elevated man-made or natural deposit of soil, rock, or other materials.

Emergency Temporary Shelter: A structure or portion of a structure providing temporary housing for persons in need of shelter due to limited financial resources (including people who are homeless), weather-related emergencies, or other emergencies. Occupancy is permitted on a twenty-four (24) hour basis. Accessory services that also may be provided at the facility include food, counseling, transportation services, and services to support the personal care of the residents of the facility including medical care, dental care, and hygiene.

Encroachment: Any obstruction in a delineated floodway, right-of-way, or adjacent land.

Enlargement, or *to Enlarge:* An "enlargement" is an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

Entertainment/Amusement, Indoor: A use category that includes any commercial recreation/entertainment facility operated in an indoor setting, including, but not limited to, a bowling alley or pool hall. Exception: adult activities are included in the adult use category.

Entertainment/Amusement, Outdoor: A use category that includes large, commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Examples include intensely developed, for-profit recreational uses such as amusement parks, miniature golf courses, batting cages, skateboard or skate courses, bicycle motocross courses, go-cart tracks, water slides, drive-in theaters, and courses for paramilitary games. Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

Environmental Assessment: An evaluation of the environmental condition of property consisting of the following three (3) phases:

(A) "Phase I Assessment" shall, at a minimum, consist of physical examinations and review of historical ownership of the property and adjacent property, as stated in the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, designation E 1527-00 (as amended), and culminate in a written report of findings, including a recommendation on whether a Phase II assessment is necessary.

(B) "Phase II Assessment" shall, at a minimum, consist of a physical examination of the property, and adjacent property if feasible, including an examination of any facilities, processes, and practices thereon; such physical examination shall include any tests and samplings of soil, water, air, vegetation, facilities or any improvements as required by the City as a result of information provided in the Phase I assessment to determine the presence or absence of hazardous substances on the property. A Phase II assessment shall comply with the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, designation E 1903-97 (as amended). This phase shall culminate in a written report of findings on any testing and sampling results as well as a recommendation on whether any remediation is necessary, and, if so, a description thereof. The reporting shall be subject to compliance with Federal, State, and local regulations or requirements.

(C) "Phase III Assessment" shall, at a minimum, consist of remediation of hazardous substances on the property as recommended by a Phase II assessment, subject to compliance with Federal, State, and local regulations or requirements.

Equipment Rental: A specific type of retail sales and service (repair and rental) use. The rental of supplies and equipment primarily intended for homeowner use and minor residential gardening and construction projects, but not including car or truck rentals. All maintenance of equipment shall be conducted within an enclosed building. This use classification does not include the rental, storage, or maintenance of large construction or other commercial heavy equipment. See definition of "Retail Sales and Service (Repair And Rental)".

Erosion: The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, and gravity.

Evaluation: A process to measure the success of an activity and how closely the results meet the anticipated outcome defined as part of the initial phase of the activity.

Evergreen: A plant with foliage that persists and remains green year round.

Excavation: Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Existing Grade or *Elevation:* The vertical location of the ground surface prior to excavating or filling.

Existing Manufactured Home Park: A mobile or manufactured home park existing within the City of Englewood before August 8, 1994, or existing on the date of annexation within territory annexed to the City of Englewood subsequent to the effective date of this Title.

Existing Use: The use of a lot or structure at the time of the enactment of this Title.

Extension: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

Exterior Wall: The most exterior part of a wall; any wall that defines the exterior boundaries of a building or structure.

FAA: The Federal Aviation Administration.

Fabrication: Stamping, cutting, or otherwise shaping processed materials into useful objects.

Facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Factory-Built Home: A dwelling unit that is constructed and assembled at a factory and transported to the building's site and placed on a pre-built foundation.

Family Child Care Home: A specific type of home care use. Family child care home shall mean a facility for child care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than twenty-four (24) hours per day. Children being cared for in a family child care home are under the age of twelve (12) years and are not related to the care provider. A day care home shall provide care, protection, and supervision to no more than six (6) children at one time, including the children of the provider, and for no more than three (3) children under two (2) years of age including the children of the provider. See definition of "Home Care".

Farmers Market: The seasonal offering for sale of fresh agricultural produce, fruits, flowers, food and beverages, and arts and craft items (but not including second-hand goods) directly to the consumer at an open-air market.

FCC: The Federal Communications Commission.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Fill: Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by artificial means.

Final Approval or *Decision:* The last official action of the decision-making body, taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval conditioned upon the posting of such guarantees.

Financial Institution: A use category that includes establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This use category includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Accessory uses may include automatic teller machines, offices, and parking. Financial institutions may or may not have drive-through service depending on the zoning district in which they are located.

Finish Elevation: The proposed elevation of the land surface of a site after completion of all site preparation work. See definition of "Grade, Finished".

Fire Lane: That portion of a street right-of-way or a paved or otherwise surfaced off-street lane designated to assure access by emergency vehicles.

Fixed Price: As relates to pawnbrokers and secondhand dealer uses, the amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed:

(A) One-tenth (1/10) of the original price for each month, plus the original purchase price, on amounts of fifty dollars ($50.00) or over; or

(B) One-fifth (1/5) of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars ($50.00).

Fixed Time: As relates to pawnbrokers and secondhand dealer uses, that period of time, not to exceed ninety (90) days, as set forth in a

contract for purchase, within which the customer may exercise an option to cancel the contract for purchase.

Flag: Any fabric, or similar material containing distinctive colors, patterns, or designs, attachable at one (1) edge to a staff or cord, and used as a symbol of a government or political subdivision thereof. All other such devices shall be considered banners.

Floor Area: The sum of the areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding:

(A) Garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade;

(B) Basement and cellar areas devoted exclusively to uses accessory to the operation of the structure; and

(C) Areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities, and storage facilities.

Floor Area Ratio: The total floor area on a lot divided by the land area of that lot.

Food and Beverage Service: A use category that includes establishments (e.g., restaurants, cafes, coffee shops, bars, taverns, and any food/beverage sales establishments) that sell food for on- or off-premise consumption. Accessory uses may include decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

Food Vendor Cart: A specific type of temporary outdoor sales use. A cart, table, or apparatus, which is not a structure, designed and intended so as to not be a permanent fixture, and which is used for the retail sale, display, and accessory advertising only of food and/or drink. See the related definition of "Retail Vendor Cart".

Frame: A complete, static display message on an electronic message display.

Frame Hold Time: The time interval a static frame must remain on the display before transitioning to another frame.

Frontage: All of the property fronting on one side of an intersecting or intercepting street, or between a street and right-of-way, end of dead-end street, waterway, or City boundary measured along the street line. (An intercepting street shall determine only the boundary of the frontage on the side of the street that it intercepts.)

Front Lot Coverage: See definition of "Lot Coverage, Front".

Fuel Dispensing: A specific type of vehicle and equipment use. Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories. See definition of "Vehicle and Equipment".

Fuel Storage: A specific type of warehouse/storage use. The storage of fuels in above ground or below ground storage containers designed for wholesale distribution or mass consumption. See definition of "Warehouse/Storage".

Garage: An accessory building or portion of a principal building that is intended or used primarily for the storage of motor vehicles, and which is enclosed in such a manner that the stored or parked motor vehicle is contained entirely within the building.

Garage, Attached: A structure intended for the storage of motor vehicles with a party wall in common with a habitable space/room, as defined herein, within the principal structure. Said common party wall shall be a minimum of four (4) linear feet in length. When a detached garage is later permitted to be attached to a principal structure, the party wall and principal structure dimensional, setback and bulk plane requirements shall apply.

Garage, Detached: Any garage which does not meet the definition of attached garage in this Title.

Garage, Front-Loaded: A private residential garage that is accessed from a street other than an alley and that has garage doors parallel to the access street.

Garage, Private: A garage that is not operated for gain and in which no business is conducted.

Garage, Public:

(A) Any garage, other than a private garage, available to the public and typically operated for gain.

(B) A public parking garage may include accessory off-street parking spaces limited to such spaces that are accessory to other uses on the same development parcel.

Garage, Side-Loaded: A private residential garage that is accessed from a street other than an alley and that has garage doors perpendicular to the access street.

Garden Level: An area below the first floor, having at least one-half (½) of its height above grade.

General Outdoor Recreation: A specific type of outdoor entertainment/amusement use. Privately owned land, often requiring equipment, designed for outdoor games and sports such as baseball, football, and soccer. Also includes mini-golf courses, driving ranges, water parks, and athletic fields. See definition of "Entertainment/Amusement, Outdoor".

Glare: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government and City Facilities: This use category includes facilities for the operation of local, State, or Federal government. Accessory uses include maintenance, storage, and fueling facilities; satellite offices; and parking areas. Examples include post offices; emergency response facilities (police, fire, and medical); maintenance facilities; and post offices. This definition does not include:

(A) Passenger terminals for surface transportation (included under transportation facility).

(B) Water, wastewater, gas, electric, and other infrastructure services, whether public or private (included under utility facility).

(C) Waste and recycling services (classified as waste/salvage).

Grade: The degree of rise or descent of a sloping surface.

Grade, Building: In cases where all walls of the principal building are more than five feet (5') from the nearest street line, the mean elevation of the ground adjoining the building on all sides; and in all other cases, the mean elevation of the nearest sidewalk.

Grade, Finished: The final elevation of the ground surface after development.

Greenhouse/Nursery, Raising of Plants, Flowers, and Nursery Stock: A specific type of agricultural use. An establishment where flowers, shrubs, vegetables, trees, and other horticultural and floricultural products are grown both in open and enclosed buildings. See definition of "Agricultural Use".

Grocery/Specialty Food Store: A specific type of retail sales and service (sales) use. A retail establishment offering for sale primarily food and beverage for off-site consumption, specializing in the sale of one type of food item, and/or maintaining a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood. A grocery/specialty food store may also include sales of personal convenience and small household goods. Grocery/specialty food stores include, but are not limited to, bakeries, delicatessens, seafood sales, and meat or poultry stores (e.g., butcher shops). Exception: establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than grocery/specialty food stores. See definition of "Retail Sales And Service (Sales)".

Ground Cover: Grasses or other plants grown to keep soil from being blown or washed away.

Ground Floor Area: The floor area of the ground floor of a building.

Ground-Mounts: The typical ground-mounted satellite has the antenna mounted on a pole that is at least three feet (3') deep in the ground, encased in concrete at least eight inches (8") in diameter. The cable to the receiver is buried in the ground between the antenna and the structure.

Group Living: A use category characterized by residential occupancy of a structure by a group of people that does not meet the definition of "Household living," "hotel," or "detention facility". Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a household. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not reside at the site.

Group Living Facility, Large/Special: A specific type of group living use. Any residence for more than eight (8) unrelated individuals, and any residence for up to eight (8) unrelated individuals that does not meet the definition of "small treatment facility" or "small group living facility". If any individual resident of a group living facility does not meet the definition of "small treatment facility" or "small group living facility," the entire facility shall be classified as a large/special group living facility (rather than a small group living facility or small treatment facility). Examples of large/special group living facilities include, but are not limited to, any of the following facilities that meet this definition:

(A) A secure residential treatment center, as defined in C.R.S. 26-6-102(9) et seq., as amended; or

(B) A shelter for homeless persons; or

(C) A dormitory; or

(D) A fraternity or sorority house. See definition of "Group Living".

Group Living Facility, Small: A specific type of group living use. A residence for up to eight (8) unrelated individuals, none of which are receiving on-site medical or psychological treatment, but some or all of whom may be receiving on-site physical assistance with day-to-day living activities. Examples of small group living facilities include any of the following that meet this definition:

(A) A non-profit group home for the aged or an owner occupied group home for the aged, as defined in C.R.S. 31-23-303(2)(B) et seq., as amended; or

(B) A state-licensed personal care boarding home, as defined in C.R.S. 25-27-101 et seq., as amended; or

(C) A state-licensed community residential home for persons with developmental disabilities, as defined in C.R.S. 27-10.5-101 et seq., as amended; or

(D) A home providing independent residential support services for the developmentally disabled, as defined in C.R.S. 27-10.5-102(19) et seq., as amended; or

(E) A state-licensed residential child care facility, as defined in C.R.S. 26-6-102(8) et seq., as amended; or

(F) A family care home, as defined in C.R.S. 26-6-102(4) et seq., as amended; or

(G) A foster care home, as defined in C.R.S. 26-6-102(4.5) et seq., as amended.

See definition of "Group Living".

Guest or Visitor Off-Street Parking: An off-street parking space provided for temporary use of guests of, or visitors to, occupants or tenants of the building, whether for social, business, or professional reasons.

Guideline: An advisory regulation, where compliance is not mandatory but is strongly encouraged. The City may require justification for an applicant's variance from a guideline, but noncompliance will not subject an applicant or a development to the enforcement and penalty provisions of this Title. Guidelines are indicated by use of the terms "may" or "should".

Habitable Space/Room: Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.

Hazardous Waste: Any solid, liquid, or containerized gaseous material that is no longer used or that no longer serves the purpose for which it was produced, and has one (1) or more of the following properties: ignitable (combustible or flammable), corrosive, reactive (explosive), or toxic and requires special handling to avoid illness or injury to persons or damage to property or environment.

Hazardous Waste Handling: A specific type of waste/salvage use. Any facility that collects, stores, or processes hazardous waste material as its principal use. See definition of "Waste/Salvage".

Height: Building or structure height is the vertical distance of a building or structure, as measured from the average elevation of the finished grade at the corners of the building or structure base, to the highest point of the building or structure. When referring to a tower or other similar structure, height is measured from the average ground level to the highest point on the tower or other structure, even if said highest point is an antenna. When referring to a fence or wall, height is the distance of the vertical surface measured from finished grade to the top of the vertical surface.

Highway: See definition of "Street".

Historic Building: A building or structure designated by Council, that is worthy of rehabilitation, restoration, and preservation because of its cultural, architectural and/or historical significance to the City.

Historic District: A geographically definable area that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.

Historic Preservation. The protection, rehabilitation, and restoration of districts, sites, buildings, structures, and artifacts significant in Englewood or Colorado history, architecture, or culture.

Historic Structure (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Home Care: An accessory use characterized by facilities for child or adult care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than twenty-four (24) hours per day. Home care uses are distinct from and are not classified as "home occupations" under this Title.

Home Occupation: Any use conducted entirely within a dwelling and carried on by the occupants thereof, which is clearly incidental and secondary to the primary use of the dwelling for dwelling purposes and does not change the character thereof. Such uses must meet all conditions and requirements for the particular zone in which such use is located.

Hookah Lounge, Bar or Cafe: A commercial establishment that meets provisions of the Colorado Clean Indoor Air Act, as amended, where patrons gather to smoke using a hookah (a single or multi-stemmed pipe with long flexible tube(s) connected to a container where the smoke is cooled by passing through water).

Hospital: A specific type of medical/scientific service use. An institution, whether public or private, principally engaged in providing health diagnosis, services, and treatment of human disease, pain, injury, deformity, or physical condition. A "hospital" includes as an integral part of the institution such related facilities as in-patient and outpatient care, laboratories, training facilities, central service facilities, and staff offices. See definition of "Medical/Scientific Service".

Hotel: A specific type of visitor accommodation use. A building containing guest rooms in which lodging is provided with or without meals for compensation, which is open primarily to transient guests, but may include a limited number of permanent guests, and where no provision is made for cooking in any guest room. See definition of "Visitor Accommodation".

Hotel, Extended Stay: A specific type of visitor accommodation use. A building containing guest rooms in which lodging is provided, in which access to guest rooms is primarily through lobbies, courts or halls, with or without meals for compensation, which is open primarily to transient guests, but may include a limited number of permanent guests, and where provisions may be made for cooking in guest rooms. See definition of "Visitor Accommodation".

Household: A household includes one (1) or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, together in a dwelling unit; or two (2) unrelated persons and their children living together in a dwelling unit.

Household Living: A use category characterized by residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupant's vehicles.

Illegal Use: Any use, whether of a building or other structure, or of a tract of land, in which a violation of any provision of this Title has been committed or shall exist.

Impermeable: Not permitting the passage of water.

Impervious Material: A surface that has been compacted or covered with a layer of materials so that it is highly resistant to infiltration by water. Impervious materials include, but are not limited to, surfaces such as compacted sand, limerock, or clay; asphalt, concrete, driveways, retaining walls, stairwells, stairways, walkways, decks and patios at grade level, and other similar structures.

Industrial Park: A large tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to coordinated circulation, parking, utility needs, aesthetics, and compatibility.

Industrial Property: Any lot of land containing an industrial use or building of such uses as may be defined in this Title.

Industrial Service: A use category that includes establishments engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

Industrial Service, Light: A specific type of industrial service use that typically generates few or less adverse impacts (such as noise, glare, odor, or vibrations) on the surrounding environment than heavy industrial service uses. Examples include, but are not limited to: research and development, bottling or cold storage, printing, publishing, freight terminal, contractor shop, and towing.

Industrial Service, Heavy: A specific type of industrial service use that typically generates relatively more or higher adverse impacts (e.g., noise, glare, odor, or vibrations) on the surrounding environment than light industrial service uses. Examples include, but are not limited to: metal or welding shop, commercial laundry, sheet metal shop; welding shop; well driller or sanitary service; fuel storage facilities, including manufacturing and processing plants; laundry, dry-cleaning and carpet cleaning plants; heavy machinery and equipment repair facilities, including blacksmith shops and engine and motor repair shops.

Infant/Toddler Home: A specific type of home care use. A child care facility that provides less than twenty-four (24) hours care only for children who are between birth and three (3) years old, located in the permanent residence of the provider. The caregiver may have no more than one (1) child or foster child between three (3) and six (6) years of age. If there is one (1) caregiver, there may be a maximum of four (4) children, with no more than two (2) children under twelve (12) months, including the caregiver's own children. If there are two (2) caregivers caring for the children at all times when children are present, there may be a maximum of six (6) children between birth and three (3) years old, and no more than three (3) of those children can be between birth and one (1) year old, including the caregiver's own children. See definition of "Home Care".

Ingress: Access or entry.

Instructional Service: A specific type of retail sales and service (personal service) use. A specialized instructional establishment that provides on-site training of business, artistic, or commercial skills. Examples include driving schools, dance, music, and computer instructional services. See definition of "Retail Sales And Service (Personal Service)".

Internet Sales Location: A specific type of retail sales and service use. A retail establishment acting as a sales broker that accepts new or used

goods for sale on an internet auction site. The establishment may be open to the general public for viewing and sale of items. Storage is limited to those items accepted for sale.

Junk: Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used automobile or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

Junk Yard: A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking, and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations.

Kennel/Animal Day Care: A specific type of animal sales and service use. A facility licensed to house dogs, cats, or other household pets for less than or greater than twenty-four (24) hours, and/or where grooming, breeding, boarding, or training or selling of animals is conducted as business. See definition of "Animal Sales And Service".

Kiosk: A freestanding structure upon which temporary information and/or posters, notices and announcements are posted.

Laboratory (Dental, Medical, or Optical): A specific type of medical/scientific service use. A laboratory that provides bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures and optical lenses. See definition of "Medical/Scientific Service".

Land Use: A description of how land is occupied or utilized.

Landscaping: To improve the appearance of an area of land, a lot, or parcel of land by the decorative arrangement of grass, shrubs, and trees (and/or altering land contours). Landscaping may include, but shall not be limited to: turf, grasses, flower beds, shrubs, trees, rock, bark, wood chips, ornamental objects such as fountains, statuary and ornamental objects and pedestrian walkways designed to produce an aesthetically pleasing effect.

Large Child Care Home: A specific type of home care use. A child care facility, located in the permanent residence of the provider, that provides care for seven (7) to twelve (12) children who are not related to the caregiver. Child care may be provided to children from twenty-four (24) months to sixteen (16) years of age. Care may be provided to no more than two (2) children under two (2) years of age if older siblings are in care. Residents of the home under twelve (12) years of age who are on the premises and all children on the premises for supervision are counted against the approved capacity. See definition of "Home Care".

Large Retail Building: A single building housing one (1) or more retail sales or service or food and beverage uses, which contains twenty thousand (20,000) square feet or more of gross floor area. Such "large retail building" may be part of a unified commercial center that includes smaller uses in close proximity to the large retail building, or may comprise the entire development activity on a site.

Levee: A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System: A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Library: A specific type of public/institutional use. A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Liquor Store: A specific type of retail sales and service (sales) use. A state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Exception: this definition of liquor store does not include restaurants, taverns, or bars. See definition of "Retail Sales and Service (Sales)".

Living Plant Materials or Plant:

(A) A young tree, shrub, or herb;

(B) A slip, cutting, or sapling; or

(C) Any of a group of living organisms that typically do not exhibit voluntary motion or possess sensory or nervous organs.

Loading Space: An off-street space or berth on the same site with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

Local Law Enforcement Agency: Any marshal's office, police agency, or sheriff's office within jurisdiction in the locality in which the customer enters into a contract for purchase or a purchase transaction related to a pawnbroker or second-hand dealer land use.

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lot lines.

Lot, Building: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Title, having not less than the minimum area and width required by this Title for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for a building on such land.

Lot, Corner: A lot at the junction of and abutting upon two (2) or more intersecting streets, having an interior angle of intersection of not more than one hundred thirty-five degrees (135°).

Lot Coverage: The percentage of total lot area which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves. It is calculated by dividing the square footage of structure cover by the square footage of the lot. Unless specifically exempted by Section 16-6-1 EMC, above, the term "structure" includes private walkways, driveways, and other paved surface areas used or intended for parking vehicles (e.g., parking pads).

Lot Coverage, Front: The portion of the front setback or front yard area, whichever is larger, of a residential lot covered by (a) an impervious material, and/or (b) any structure or portion thereof permitted to encroach into the front setback area. Front lot coverage is expressed as a percentage.

Lot Depth: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, Interior: A lot other than a corner lot.

Lot Line, Front: The line separating the lot from the street.

Lot Line, Rear: The line which most nearly qualifies as the line most distant and opposite from the front lot line; where the line is irregularly shaped, a line perpendicular to the mean direction of the side lot lines, and at least ten feet (10') in length within the lot.

Lot Line, Side: Any lot line other than a front lot line or a rear lot line.

Lot Lines: The lines bounding a lot.

Lot, Minimum Area of: The smallest lot area established by this Title on which a use or structure may be located in a particular zone district.

Lot of Record: A lot that is part of an approved plat, the map of which has been recorded in the office of the Arapahoe County Clerk and Recorder.

Lot, Reverse Frontage: A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

Lot, Reverse Corner: A corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

Lot, Small: A legal lot of record existing on the effective date of this Title where the lot width or lot area is less than the minimum standard for a one-unit dwelling in the zone district in which the lot is located.

Lot, Through: A lot, other than a corner lot, having frontage on more than one (1) street.

Lot, Urban: A legal lot of record existing on the effective date of this Title (February 23, 2004) where the lot width or lot area is less than the minimum standard for a one-unit dwelling on a small lot in the zone district in which the lot is located.

Lot Width: The distance between the side lot lines, measured along the setback line as established by this Title, or if no setback line is established, the distance between the side lot lines measured along the street line.

Major Architectural Detail: Distinguishable design features of the facade of the building such as windows, doors, balconies, columns, or patterns or designs formed at the time of construction by the building material.

Major Street: The street controlled by a stop or yield sign.

Manager or *City Manager:* The Englewood City Manager or designee.

Mansard Roof: An architectural feature that is a steep roof structure that is a portion of a roof structure or is attached to the face of the wall of a building.

Manufactured Home: Any one-unit dwelling that: (1) Is a factory-built home; and (2) is at least twenty-four feet (24') in width and thirty-six feet (36') in length; and (3) is installed on an engineered permanent foundation; and (4) has a pitched roof; and (5) is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended (commonly referred to as the "HUD Code"); and (6) meets or exceeds, on an equivalent performance engineering basis, as defined by C.R.S. 31-23-301(5)(a)II et seq., as amended standards established by the Uniform Building Code, as amended and adopted by the City.

Manufactured Home (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Manufactured Home, Double-Wide or Triple-Wide: A manufactured home consisting respectively of two (2) or three (3) sections combined horizontally at the site to form a single dwelling, while still retaining the individual chassis for possible future movement.

Manufactured Home, Expandable: A manufactured home with one (1) or more room sections that fold, collapse, or telescope into the principal unit when being transported and which can be expanded at the site to provide additional living area.

Manufactured Home Park: A specific type of household living use. A tract of land, either in single ownership or divided into blocks and/or lots which may be in separate ownership, which has been developed with all necessary facilities and services in accordance with a site development plan, meeting all of the requirements of this Title and which is intended for the express purpose of providing a satisfying living environment for manufactured home residents on a long-term occupancy basis. See definition of "Household Living".

Manufactured Home Park or Subdivision, Existing: (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Manufactured Home Space: A plot of ground within a manufactured home park, designed for the accommodation of one (1) manufactured home.

Manufactured Home Stand: That part of an individual manufactured home space that has been planned and improved for the placement of the manufactured home and additions or attachments thereto.

Manufacturing (Including Processing, Fabrication, or Assembly): A use category that includes industrial establishments involved in the manufacturing, processing, fabrication, packaging, or

assembly of goods, except as specifically prohibited by this Title. Natural, man-made, raw, secondary, or partially completed materials may be used in the manufacturing process. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Such uses may also include industries furnishing labor in the case of the refinishing of manufactured articles. Custom industry is included (e.g., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, they are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory activities may include limited retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

Manufacturing, Heavy: A specific type of manufacturing use that may involve the generation outside the property of noise, odor, vibration, dust, or hazard. Examples include, but are not limited to: refining or initial processing of raw materials, rolling, drawing, or extruding of metals; and log decking, storage, and ponding. See definition of "Manufacturing".

Manufacturing, Light: A specific type of manufacturing use that does not involve the generation outside the property of noise, odor, vibration, dust, or hazard. Examples include, but are not limited to: assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item. See definition of "Manufacturing".

Marquee: A permanent roof-like structure attached to and supported by the building on which it is located.

Massage: Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or other parts of the human body or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations used in this practice.

Massage Therapy Facility: A specific type of retail sales and service (personal service) use. An establishment operated for the purpose of massage therapy performed solely by massage therapists who are licensed in accordance with Colorado statutes. A "massage therapy facility" shall not include:

(A) Physicians, surgeons, doctors, medical clinics or persons licensed by the laws of the State to practice medicine, surgery, osteopathy, chiropractic, and chiropody, their offices and clinics, and all persons working in their offices and clinics under their supervision and direction;

(B) Hospitals and all persons employed by institutions and establishments licensed by the State as hospitals while performing their usual duties within the hospital or institution so licensed;

(C) Registered or licensed nurses performing services in their usual nursing duties;

(D) Beauticians and barbers duly licensed under the laws of the State, insofar as their usual and ordinary vocation and profession, as defined by the laws of the State, are concerned;

(E) Massage practiced or instructed in the athletic department of any State accredited school, college, university or seminary;

(F) Trainers of any amateur, semi-professional or professional athlete or athletic team, when treating athletes;

(G) Any bona fide athletic club that is not engaged in the practice of rendering massages to members of the general public for remuneration. For the purposes of this

Title, if an athletic club does not receive more than ten percent (10%) of its gross income from the practice of rendering massages to its members, such shall be prima facie evidence that the club is a bona fide athletic club.

Master Street Plan: Part of the City Comprehensive Plan showing location and classification of principal traffic ways.

Maximum Extent Feasible: No feasible and prudent alternative exists, and that all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible".

Maximum Extent Practicable: Under the circumstances, reasonable efforts have been undertaken to comply with the regulation or requirement, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from the noncompliance.

Mean: The average of a number of figures computed by adding all of the figures and dividing by the number of figures.

Medical Marijuana: All parts of the plant (genus) cannabis used in the treatment of debilitating medical conditions as defined in the Colorado Constitution Article XVIII, Section 14.

Medical Marijuana Center: Means a person licensed pursuant to Article 43.3-104 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S. that sells Medical Marijuana to registered patients or Primary Care-Givers as defined in Section 14 of Article XVIII of the State Constitution, but is not a Primary Care-Giver.

Medical Marijuana-Infused Products Manufacturer: Means a person licensed pursuant to Article 43.3 of title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S.

Medical Marijuana Optional Premises Cultivation Operation: Means a person licensed pursuant to Article 43.3 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S.

Medical/Scientific Service: A use category that includes uses that provide medical or surgical care to patients. Hospitals offer overnight care, while other medical facilities provide outpatient care only. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing for staff or trainees.

Medical or Psychological Treatment: Includes any individualized services rendered by a medical or psychological professional or para-professional directly to a resident or group of residents on a regular or repeated basis to address a specific medical or psychological condition diagnosed by a medical or psychological professional, but excluding (1) physical therapy, (2) occasional medical or nursing care to address non-chronic and non-recurring conditions such as colds, flu, or household injuries, and (3) assistance with routine living activities not aimed at recovery from a specific diagnosed condition.

Membership Organization (Excluding Adult Use): A specific type of assembly use. An organization and its premises catering exclusively to members and guests for social, intellectual, recreational, or athletic purposes that are conducted for profit, but not including an adult use. See definition of "Assembly".

Metal Shredding: The process involving the destruction, disintegration, or transformation into raw materials of previously manufactured metal products or metal items that have become worn out, unwanted, inoperable, and useless scrap goods.

Micro-cell: Means a low power telecommunications facility used to provide increased capacity in high telecommunication demand areas, often to improve coverage in areas of weak coverage. Microcells communicate with the primary facility in a coverage area via fiber optic cable, microwave, or land line.

Microwave Antenna: A dish-like antenna used to link communication sites together by wireless transmission of voice or data.

Mini-Storage Facility: A specific type of warehouse/storage use. Provision of storage space for household or commercial goods within an enclosed building with direct public access to individual storage spaces. This use may include quarters for one (1) or more persons employed by and residing at the mini-storage facility for the purpose of on-site management and security. See definition of "Warehouse/Storage".

Minor Street: The street not controlled by a stop or yield sign.

Minor Subdivision: Subject to the provisions of Chapter 16-8 EMC, "Subdivision Design, Improvements, and Dedication Standards", a "Minor Subdivision" includes all of the following actions, provided no such actions require the dedication of land for streets or public areas:

(A) Unplatted land is to be platted, divided, or combined with any other land whether platted or unplatted.

(B) A single platted lot is to be divided into two (2) or more lots.

(C) A parcel previously platted into lots is to be divided into two (2) or more new lots inconsistent with the historical platted lines.

(D) Adjustment of boundary line(s) between previously platted parcels inconsistent with historical platted lines

(E) The creation of condominiums, town home communities, and other forms of airspace ownership or air-right subdivisions, as described and defined in C.R.S. 38-33-101, et seq., as amended.

See definition of "Subdivision".

Mixed-Use Development: The development of a tract of land or building or structure with two (2) or more different principal uses, such as, but not limited to, residential, office, manufacturing, retail, public or entertainment, in a compact urban form. In a mixed-use development, the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of vehicular and pedestrian access and parking areas.

Mobile Home: A factory-built home produced prior to June 15, 1976.

Model Home: A dwelling or dwelling unit representative of other dwellings or units offered for sale or lease or to be built in an area of residential development within the City. A model home may be used as a residential real estate sales office for the development in which it is located before occupancy by a household.

Monopole: A structure composed of a single spire used to support telecommunications equipment.

Mortuary: A specific type of retail sales and service (personal service) use. A building used for the preparation of the deceased for burial and the display of the deceased, and ceremonies connected therewith before burial or cremation. See definition of "Retail Sales and Service (Personal Service)".

Motor Vehicle: Any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways, but the term does not include motorized bicycles as defined in The Model Traffic Code for Colorado Municipalities as adopted. For purposes of the offenses described in C.R.S. as adopted for farm tractors operated on streets and highways, "motor vehicle" includes a farm tractor that is not otherwise classified as a motor vehicle.

Moving and Storage: A specific type of warehouse/storage use. A use engaged in the directed movement of goods and materials from one location to another location, as well as the short-term storage of such goods, in transit, for either commercial purposes or the general public. See definition of "Warehouse/Storage".

Mulch: Nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Multi-Phase or Phased Development: A development project that is constructed in stages, each stage being capable of existing independently of the others.

Museum/Cultural Facility: A specific type of public/institutional use comprised of either:

(A) A building having public significance by reason of its architecture or former use or occupancy; or

(B) A building serving as a repository for a collection of nature, scientific, or literary curiosities, or objects of interest, or works of art, not including the regular sale or distribution of the objects collected.

All museums/cultural facilities shall be operated as nonprofit, noncommercial establishments. Museums/cultural facilities are designed to be used by members of the public for viewing, with or without an admissions charge. Permitted accessory uses include retail sale of goods and products related to the facility's collection or subject matter (i.e., museum gift shop), and small scale sit-down restaurants or cafes.

Natural Production Uses: The excavation of sand, clay, gravel or other natural mineral deposits, or the quarrying of any kind of rock formation, except topsoil.

New Construction: Structures for which the "start of construction" commenced on or after the effective date of this Title.

New Construction (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Noise: Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Nonconforming Building or Structure: Unless otherwise exempt by Chapter 16-9 EMC, a structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to this Title, but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements of the zone district in which such structure or building is located.

Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Title, but which fails by reason of such adoption, revision, or amendment to conform to the present requirements.

Nonconforming Use: A use or activity which was lawful prior to the adoption, revision, or amendment to this Title, but which fails, by reason of such adoption, revision, or amendment, to conform to the present requirements of the zone district in which such use is located.

Nonconformity: Generally, a nonconforming use, sign, lot, structure, or building.

Noxious Matter: Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

Obstruction: Any dam, wall, embankment, levee, dike, pile, abutment, soil material, bridge, conduit, culvert, building, wire, fence, refuse, fill, structure or other matter in, along, across or projecting into any channel, watercourse, or flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching debris carried by such water, or that is placed where the flow of water might carry the same downstream.

Occupancy: The purpose for which a building is used or intended to be used. "Change of occupancy" is not intended to include change of tenants or proprietors unless the new use of the building would classify it in a different occupancy group.

Occupancy Permit: A required permit allowing occupancy of a building or structure after it has been determined that all of the requirements of applicable ordinances have been met.

Odorous Matter: Any material that produces an offensive or objectionable olfactory response in a human being.

Office: A use category characterized by buildings or portions of a building wherein services are performed involving administrative, professional, or clerical operations. Exception: contractors and

others who perform services off-site are included in the Type 1 (general) office use category only if major equipment and materials are not stored at the site and fabrication or similar work is not carried out on the site. If major equipment and materials are stored at the site, or fabrication or similar work is carried out on the site, then these uses are categorized under industrial warehouse/storage as a "storage yard".

Office, Type 1: A specific type of office use. Establishments providing executive, management, administrative, or professional services, but not involving the sale of merchandise, except as incidental to a permitted use. This use type does not include facilities for the provision of medical or dental services nor outpatient medical laboratories (see "Medical/scientific service"). Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, doctor, dentist, architecture, design, engineering, accounting, and similar offices. See definition of "Office".

Office, Type 2 (Limited): A specific type of office use. General office types described in definition of "Office, Type 1," that the City finds are compatible within a zone district where the predominant use may be medium to high density residential, or when the office type is proposed to be part of a mixed-use development. Type 2 offices may be mixed with residential uses in the same building (vertical mixed use) or on the same development parcel (horizontal mixed use). Compatibility shall be evaluated in terms of the proposed office's scale (floor area), hours of operations, parking and loading demand, and typical levels and peaks of customer/client traffic. Limited office types will typically include most professional offices that are open and operating primarily during daytime hours. Type 2 (limited) office does not include clinics that provide medical or dental services, which are classified separately under "medical/scientific services". See definition of "Office".

Official Map: A legally adopted map that shows the location and width of proposed streets, public facilities, and public areas, and drainage rights-of-way.

Official Zoning Map: A map of the City that depicts the various zone districts in the City, adopted by the Council, and incorporated by reference as a part of this Title.

Off-Street Parking Space: A storage area for a motor vehicle that is directly accessible to an access aisle, street, or alley, and which is not located on a dedicated street right-of-way.

On-Street Parking Space: A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

100-Year Flood: A flood of such magnitude as may reasonably be expected to be equaled or exceeded on an average of once every one hundred (100) years; the term also means that level of flooding having a one percent (1%) probability of occurrence in any year.

Open: As relates to fences, walls, and visual barriers, a vertical surface with fifty percent (50%) or more open space.

Open Space, Common: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate. Common open space shall not include driveways, sidewalks, and parking areas.

Open Space Depth: As applicable to manufactured home parks, the minimum open space distance on the lot (except as otherwise specifically provided) perpendicular to the wall of the dwelling unit at any point, or to any addition to the dwelling unit which is enclosed for more than fifty percent (50%) of its perimeter or for more than ten percent (10%) of the portion of its perimeter opposite any Class A, B, or C exposure of the dwelling unit.

Open Space, Unobstructed: Land not covered by buildings or structures.

Open Space, Usable: On-site land area, contained within lot lines or within common open space, which is absent of any building or structure. Usable open space could contain, but is not limited to the following: private yards, walkways,

trellises, swings, arbors, swimming pools, tennis courts, and landscaping. Surface parking areas or driveways are not usable open space.

Option: The fixed time and the fixed price agreed upon by the customer and a pawnbroker in which a contract for purchase may be, but does not have to be, rescinded by the customer.

Organic: Referring to or derived from living organisms.

Outdoor Commercial Advertising Device: A visible contrivance or structure in any shape or form, the purpose of which is to advertise any product or service, campaign, event, etc.

Outdoor Display Area: An outdoor, unroofed area where merchandise or vehicles are displayed for more than twenty-four (24) hours.

Outdoor Storage: A specific type of warehouse/storage use. The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. This shall not include the display of vehicles for sale in a new or used car sales lot. See definition of "Warehouse/Storage".

Overhang:

(A) The part of a roof or wall that extends beyond the facade of a lower wall.

(B) The portion of a vehicle extending beyond the wheel stops or curb.

Overlay Zones: A set of zoning requirements that is described in this Title, is mapped, and is imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

Parapet wall: That part of any wall that extends entirely above the roof line.

Park: A specific type of parks and open space use. A noncommercial, nonprofit facility or land owned by the City, the State of Colorado, or another unit of government that is used or intended to be used for recreation, education, or cultural use, including both active or passive recreation. This use type includes public golf courses. See definition of "Parks and Open Space".

Parking Area: A portion of a lot, tract, or parcel that is used, or is intended to be used, for the off-street parking of motor vehicles. A driveway may or may not serve as a parking area, subject to compliance with this Title's standards. A parking area (e.g., a surface parking lot) may be a principal use of land, or may be accessory to a principal use of land.

Parking Area, Surface (Operable Vehicles): A specific type of vehicle and equipment use. An area, other than a street or alley, designed or used primarily for the temporary parking of vehicles. See definition of "Vehicle and Equipment".

Parking Facility, Structure (Operable Vehicles): A specific type of vehicle and equipment use. A structure designed or used primarily for the temporary parking of vehicles. See definition of "Vehicle and Equipment".

Parking Garage: See definition of "Garage".

Parking (To Park): The standing of a vehicle, whether occupied or not, otherwise than very briefly for the purpose of and while actually engaged in loading or unloading property or passengers.

Parking Pad: Areas surfaced with impervious material that are located between the front building wall of a dwelling and the adjoining street, and which are typically used to park operable vehicles off the street. A "parking pad" does not include a driveway.

Parking Space: A surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

Parking Strip: City-owned property that lies between the front lot line and the traveled surface of the street, usually designated by the curb.

Park Permit: A written instrument issued by the City Manager or designee authorizing the

construction or extension of a manufactured home park under this Title and the regulations that may be promulgated hereunder.

Parks and Open Space: A category of uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Examples include parks, river accesses, public squares, plazas, recreational trails, botanical gardens, and nature preserves. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking. This definition does not include private golf courses, which are classified as entertainment/amusement, outdoor.

Particulates: Finely divided solid or liquid particles in the air or in an emission, including dust, smoke, fumes, mist, spray and fog.

Party (Common) Wall: A common or shared structural separation between abutting dwelling, business, or industrial units or buildings, which may be centered on one (1) building lot or between abutting dwelling, business or industrial units or buildings on either side of a lot line, the main purpose of which is to act as a support for the building and as a positive fire separation between the contiguous dwelling units or buildings.

Path: A cleared way for pedestrians and/or bicycles that may or may not be paved.

Patio, Manufactured Home: A paved area adjacent to the manufactured home parking space, and accessible from the main entrance to the parked manufactured home.

Pawnbroker: A specific type of retail sales and service (sales) use. An establishment regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business. See definition of "Retail Sales and Service (Sales)".

Perennial: A plant that regrows from the same root stock year after year.

Performance Standard: A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire, and explosive hazards and glare or heat generated by or inherent in uses of land or buildings.

Permanent Addition, manufactured home: Any structural extension from any portion of a manufactured home, not including temporary canvas awnings.

Permitted Use: Any use allowed in a zone district and subject to the restrictions applicable to that zone district.

Person: An individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit.

Personal Care: A specific type of retail sales and service (personal service) use. Personal service establishment engaged primarily in the provision of personal improvement, personal care, and similar services, such as beauty/barber shops and nail salons. See definition of "Retail Sales and Service (Personal Service)".

Pervious Surface: Any material that permits full or partial absorption of storm water into previously unimproved land.

Pet Store (Live Animal Sale): A specific type of animal sales and service use. An establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals, such as horses, goats, and poultry. See definition of "Animal Sales and Service".

Physical Fitness Center/Spa: A specific type of indoor entertainment/amusement use. A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary recreational activities, open to bona fide members and guests of the organization or open to the public for a fee. See definition of "Entertainment/Amusement: Indoor".

Planned Unit Development: An area of a minimum contiguous size, as specified by ordinance, developed according to a plan as a single entity and containing one (1) or more structures with appurtenant common areas.

Plaza: An open space that may be improved and landscaped; usually surrounded by streets or buildings.

Police Department: The Police Department for the City of Englewood.

Pollutant: Any introduced gas, liquid, and/or solid that makes a resource unfit for a specific purpose.

Pollution: The presence of matter or energy whose nature, location, or quantity produces undesired environmental effects.

Porch: A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

Pre-Existing Towers and Antennas: Any tower, antenna, or telecommunications facility for which a permit has been properly issued by the City prior to the effective date of Chapter 16-7 EMC, (Telecommunications).

Premises: A lot, parcel, or plot of land, together with the buildings and structures thereon.

Principal Use: The main or primary purpose for which land and the structures thereon is used or for which land and the structures thereon may be maintained or occupied under the provisions of this Title.

Principal Structure or Building: The main or primary structure or building in which the principal use of a property is conducted or operated.

Processing: A course or method of operation, effecting a change in form, contour, chemical composition, physical appearance or otherwise by artificial or natural means.

Prohibited Use: A use that is not permitted in a zone district.

Public Building: Any building held, used, or controlled exclusively for public purposes by any department or branch of government, State, County, or Municipality, without reference to the ownership of the building or of the realty upon which it is situated.

Public Hearing: A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

Public Notice: The advertisement of a public hearing in a newspaper designated by City Council as the City's official newspaper, or on the City's official website or the posting of the property, or the mailing of written notice, indicating the time, place and nature of a public hearing.

Public Sidewalk Sale: Community event or celebration allowing the use of public sidewalks by Englewood merchants in front of their business as authorized by the City Manager or designee.

Purchase Transaction: The purchase by a pawnbroker in the course of business or tangible personal property for resale, other than newly manufactured tangible personal property that has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

Quarry: A place where rock, ore, stone and similar materials are excavated for sale or for off-tract use.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

Rear Yard: An open space, including driveways and parking areas, unoccupied other than by permitted accessory buildings or uses, extending from the rear building line of a principal building to the rear lot line, between the side building lines, projected to the rear lot line.

Recreational Vehicle: A vehicular-type, portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Recreational Vehicle (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Recyclable Material: Reusable materials including, but not limited to, metals, glass, plastic, wood, and paper that are intended for remanufacturing or reconstitution. Recyclable materials do not include junk, rubbish, refuse, or hazardous waste.

Recycling Operation: A specific type of waste/salvage operation. A facility that is not a wrecking, junk, or salvage yard, and in which recyclable material are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production or consumption. Recycling operations include, but are not limited to, the processing of batteries, construction waste, food waste, glass, metals and/or alloys, papers, plastics and tires. This use does not include auto shredding. Buyback centers that do not process recycled materials and only store them within an enclosed structure, transportable container or trailer, or similar self-contained apparatus, are also included in this use type. See definition of "Waste/Salvage".

Redevelopment: Development of a site where fifty percent (50%) or more of the existing structure(s) is retained and incorporated into the new structure.

Religious Assembly: A use category comprised of structures or places in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Accessory uses include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

Remediate or *Remediation:* Action or measures taken, or to be taken, by the City or the property owner, whether directly by the owner or by the City, or through a contractor or agent of the owner or of the City, which purpose is to lessen, clean-up, remove, ameliorate, dispose of, vitiate, or mitigate any hazardous substances existing on the property to such standards, specifications, or requirements as may be established or required by the Environmental Protection Agency, the Colorado Department of Health, any authorized local agency, or the City.

Repair Shop (Not Including Auto): A specific type of retail sales and service (repair and rental) use. Establishments primarily engaged in the provision of repair services to individuals and households, rather than to businesses. Examples of such use include household appliance repair or office machine repair. This use type excludes maintenance and repair of automobiles and other vehicles, and excludes maintenance and repair of industrial equipment and machinery. See definition of "Retail Sales and Service (Repair and Rental)".

Residence: A home, abode, or place where an individual is actually living at a specific point in time.

Residential Development: New residential development, redevelopment of an existing dwelling, or substantial expansions or alterations to an existing dwelling.

Restaurant, Bar, Tavern (With or Without Outdoor Operations): A specific type of food and beverage service use. A retail establishment where the principal business is the sale of food and beverages in a ready-to-consume state. This use type includes lunch counters and refreshment stands selling prepared food and drinks for immediate consumption. Operations may include outdoor seating areas or outdoor food service, subject to all applicable use and development standards set forth in this Title. See definition of "Food and Beverage Service".

Restaurant, With Drive-Through Service: A specific type of food and beverage service use. An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle. See definition of "Food and Beverage Service".

Restoration: The replication or reconstruction of a building's original architectural features.

Retail: Any sale other than a sale at wholesale.

Retail Sales And Service (Personal Service): A use category including retail establishments engaged in the provision of informational, instructional, personal improvement, personal care, and similar services, such as portrait shops, photography studios, art and music schools, licensed massage therapists, driving schools, riding academies, health and fitness studios, handicraft or hobby instruction, laundry and dry-cleaning retail outlets, portrait/photographic studios, beauty and barber shops, shoe repair, and tailor/alterations shops. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.

Retail Sales and Service (Repair and Rental): A use category including establishments involved in the repair, lease, or rent of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.

Retail Sales and Service (Sales): A use category including establishments involved in the sale of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.

Retail Sales, General Merchandise: A specific type of retail sales and service (sales) use. Establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this Chapter (e.g., food/beverage sales, convenience stores, restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos. See definition of "Retail Sales and Service (Sales)".

Retail Vendor Cart: A specific type of outdoor sales temporary use. A cart, table, or apparatus, which is not a structure, designed and intended so as to not be a permanent fixture, and which is used for the retail sale, display, and accessory advertising of merchandise, but not including the sale of food or drink. See the related definition of "Food Vendor Cart".

Retaining Wall: A structure constructed to hold back or support an earthen bank.

Reuse: A use for an existing building or parcel of land other than for which it was originally intended.

Reverberation: The persistence of sound in an enclosed or confined space after the sound source has stopped.

Reverse Frontage: See definition of "Lot, reverse frontage".

Right-of-Way: The right of one person, or several persons, or of the community at large to pass over the land of another.

Riprap: A facing of masonry or the like for protecting an embankment. Riprap shall consist of field stone or rough unhewn quarry stone as nearly rectangular as is practicable. Broken concrete masonry or concrete pavement may be used if approved by the Director of Engineering Services. The stone shall have a specific gravity of at least 2.25 and shall be resistant to the action of air and water. Flaking or fragmental rock will not be permitted. Stones shall have a minimum thickness of three inches (3") and a minimum volume of one (1) cubic foot and at least fifty percent (50%) by weight shall have a volume of two (2) cubic feet or more. The riprap shall be placed to conform to the specifications of the Director of Engineering Services.

Road Tractor: Any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Roadway: That portion of a street right-of-way designated for vehicular traffic; where curbs are in place, the portion between curbs.

Roof: The outside top covering of a building.

Roof and/or Building-Mounted Telecommunications Facilities: Telecommunications facilities

supported entirely by a building other than a building accessory to a telecommunications facility.

Roofline: A horizontal line intersecting the highest point of a roof. In the case of a flat roof, the uppermost line of the roof of the building; in the case of an extended facade or parapet, the uppermost height of said facade or parapet.

Roof, Shed: A roof with one (1) slope.

Root Barrier System: A physical or chemical barrier that prohibits or discourages lateral root growth under sidewalks and other hardscape areas.

RTD Maintenance Facility: A specific type of transportation facility use. A facility used for maintenance of Regional Transportation District (RTD) vehicles and equipment. See definition of "Transportation Facility".

Rubbish: A general term for solid waste, excluding food waste and ashes, taken from residences, commercial, or industrial establishments and institutions.

Run With the Land: A covenant or restriction to the use of land that is binding on the present and all future owners of the property.

Sales and Distribution: A specific type of warehouse use. A sale by a wholesaler to retail merchants, jobbers, dealers, or other wholesalers for resale. The term does not include a sale by a wholesaler to users or consumers not for resale. See definition of "Warehouse".

Sales Room: An establishment, or portion of a manufacturing establishment, that allows customers to taste samples of wine, beer or spirituous liquors manufactured or produced by a single distillery, brewery or winery and licensed as a sales room pursuant to a State Manufacturer's License (C.R.S. 12-47-402) or a State Limited Winery License (C.R.S. 12-47-403). A sales room may include the sale of such products in addition to related items, marketing events, special events entertainment and/or food. Or, as this definition may be modified in C.R.S. 12-47-103 et. seq.

Sanitary Service: A specific type of waste/salvage use. Any property used for permanent disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose, of garbage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof. See definition of "Waste/Salvage".

Satellite Dish Antenna: The satellite receive-only earth station antenna consists of: (1) dish antenna which receives communication from satellites in orbit; (2) a low-noise amplifier (1na) at the focal point of the receiving component; and (3) a coaxial cable to carry the signal to the satellite receiver, which transforms the low-frequency signal to a television signal.

Satellite Receiver: The satellite receiver resembles a stereo receiver or amplifier with an array of knobs and controls. It is usually located near the TV set and allows tuning of any of the channels coming from the satellite. Another control rotates the dish to select which satellite at which to aim the antenna.

School: This use category includes public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks. Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

Accessory uses at colleges include offices, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial.

School (Commercial): A use category that includes private establishments offering educational instruction to the general public for tuition or fees.

School, Trade or Business: See definition of "Trade or Business School".

Screening: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Seasonal Sales/Service (e.g., Christmas Tree Lot, Plant/Garden, Hail/Windshield Repair, or Similar Uses): A temporary retail sales or service use that is temporary because of the product's or service's seasonal nature (e.g., related to a holiday, or dependent on good weather). Seasonal sales include, for example, the sale of Christmas trees during the winter holiday season and the spring and summertime sale of plant and garden supplies/materials.

Secondhand Goods: Includes any tangible personal property not sold as new and normally having been sold used by one (1) or more intermediaries. Secondhand property does not include items that were sold as new and returned by the customer for exchange or refund. Also, secondhand property does not include reconditioned property purchased from a wholesaler.

Sectorized Panel Antenna: An array of antennas generally rectangular in shape that are used to transmit and receive telecommunications signals.

Semi-Trailer: Any wheeled vehicle, without motive power, which is designed to be used in conjunction with a truck tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such truck tractor, and which is generally and commonly used to carry and transport property over the public highways.

Service: Photography Studio And Photo Lab, Upholstery, Printer, Locksmith, Tailor: A specific type of retail sales and service (personal service) use. Establishments engaged in the provision of informational, instructional, personal improvement, and similar services, such as portrait shops, photography studios, shoe repair, and tailor/alterations shops. See definition of "Retail Sales And Service (Personal Service)".

Service Unit or *Facility:* An accessory commercial eating/drinking establishment, retail sales establishment, personal service establishment, or private recreational facility that is located in the same building, or on the same development parcel, as the principal use of the property, and which is intended to primarily serve and benefit the residents, guests, visitors, or employees of the principal use.

Setback: The distance required by this Title to be established between a lot line and closest projection of a building or structure (including driveways and parking areas as required by this Title), measured along a line at right angles to the lot line. Setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in Chapter 16-6 EMC.

Setback, Front: A setback that extends across the full width of a lot or site, the depth of which is the distance between the front lot or property line and the furthermost projection of a building or structure along a line at right angles to the front lot line, excluding allowable projections set forth in Chapter 16-6 EMC.

Setback, Rear: A setback that extends across the full width of a lot or site, the depth of which is the distance between the rear lot line and the furthermost projection of a building or structure along a line at right angles to the rear lot line, excluding allowable projections set forth in Chapter 16-6 EMC.

Setback, Side: A setback on that portion of a lot that is not adjacent to a private or public street. It extends from the rear line of the required front setback, or the front property line of the site where no front setback is required, to the front line of the required rear setback, or the rear property line of the site where no rear setback is required, the width of which is the distance between the side lot or property line and a line parallel thereto on the site.

Setback Line: That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

Shrub: A self-supporting woody perennial plant of low or medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet (10') in height at maturity.

Sidewalk: That portion of a street right-of-way, paved or otherwise surfaced, intended for pedestrian use only.

Sight Triangle: A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign: Any object or graphic representation used to advertise, identify, inform, provide direction or attract attention to any person, institution, organization, business, product, service, event or location, by any means including words, letters, graphics, motion, illumination or projected image.

Sign, 3-D Object: For the purpose of Section 16-6-13: Signs, 3-D (three-dimensional) objects and advertising devices shall include any sign with length, width, and height dimensions other than principal building and ground signs as defined by this Title.

Sign, Accessory and Advertising Devices: Any sign permitted without need for a Sign Permit constructed of cloth, canvas, fabric, vinyl banner material, plywood, or other light-weight material and generally intended for display for a short period of time. Accessory signs include but are not limited to banners, 3-D objects, inflatables, wind-driven, sandwich board, human, and similar signs. Wind-driven pennants, streamers, fringes, and balloons allowed as incidental signs under Section 16-6-13(B)(23) shall not be considered accessory signs.

Sign, Animated: Any sign or part of a sign that changes physical position by any movement or rotation or that gives the visual impression of such movement. Wind-driven, changeable copy, electronic message displays, and flashing signs shall not be considered animated signs.

Sign Area: The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.

Sign, Awning: A sign attached or applied to an outdoor awning.

Sign, Billboard: An off-premise, outdoor advertising display, usually a rigidly assembled board or panel, permanently affixed or attached to the ground or a building.

Sign, Bulletin Board: A sign identifying an on-premise institution or organization providing announcements of events or activities occurring on the premises.

Sign, Bus Bench or Shelter: A sign located on benches or shelters placed in the public right-of-way or on private property adjacent to the public right-of-way at a bus stop pursuant to a written agreement with the City which sets forth the regulations for size, content, placement, design, and materials used in the construction of said signs, benches, and shelters.

Sign, Canopy: A sign attached or applied to a canopy.

Sign, Construction: A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

Sign, Election: An incidental sign providing information regarding elections, candidates, or issues concerning such elections.

Sign, Electronic Message Display (EMD): A sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

Sign, Face: The area or display surface made available by the sign structure for the purpose of displaying a message.

Sign, Flashing: Any sign having lights or illumination that blinks, flickers, or varies in intensity at any time when in use.

Sign, Ground: Any sign supported by poles, uprights, braces, footers, or foundation extending from the ground but not attached to any part of a building.

Sign, Holiday Decoration: Signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local, or religious holiday.

Sign, Home Occupation: A sign identifying a permitted home occupation.

Sign, Human: An accessory sign which is worn (including costumes), held or attached to a human for promotional purposes or to advertise any business, commodity, service, activity, or product. Human signs do not include T-shirts, hats, or other similar clothing.

Sign, Ideological: A sign which has as its dominant theme or purpose the expression of a religious, political, social, philosophical or other ideological message, ideal or belief.

Sign, Illuminated: A sign lighted by or exposed to artificial lighting either by lights on or, within the sign, or directed toward the sign.

Sign, Inactive: Any sign identifying or advertising a business, owner, tenant, product, service or activity that has not been located on the premises for a period of thirty (30) days or more.

Sign, Job Site: An accessory sign providing information about future development or current construction on a site or the parties involved in the project.

Sign, Mansard Roof: A sign attached to the side of a mansard roof.

Sign, Marquee: Any sign attached to or made a part of a permanent roof-like structure supported by a building and projecting over public property.

Sign, Menu Board: A principal wall or ground sign listing products or services available at drive-thru facilities.

Sign, Monument: A ground sign supported by and integrated with a solid base of footers, or foundation, as opposed to being mounted to poles, posts or other supports.

Sign, Multi-Tenant: A sign that serves as a common or collective identification for two (2) or more uses on the same premises.

Sign, Nonconforming: Any sign lawful when erected but which, on the effective date of this Title or amendment to, does not conform to the limitations established by this Title.

Sign, Off-Premises: A sign that directs attention to a person, institution, organization, business, product, service, event or location not related to the same premises on which the sign is located.

Sign, Pedestal: A portable accessory sign supported by a stand or base.

Sign, Pole: A ground sign affixed, attached, or erected on a freestanding pole, posts, or other support that is not itself an integral part of or attached to a building or structure.

Sign, Portable: Any accessory sign designed to be easily moved that is not permanently affixed to a building, structure, or embedded in the ground.

Sign, Principal: A sign attached to a building, structure, or the ground in some manner that requires a Sign Permit from the City and is made of durable materials approved by the City.

Sign, Projecting: Any sign, other than a wall sign or marquee sign, generally affixed at right angles to a building or wall in such a manner that its leading edge extends more than eighteen inches (18") beyond the surface of such building or wall.

Sign, Roof: A sign erected upon and extending above the roofline or parapet of the building or structure.

Sign, Sandwich Board: A movable accessory sign constructed in such a manner as to form an

"A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member.

Sign, Snipe: An off-premise sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences or other objects.

Sign, Special Event: A sign advertising events such as picnics, carnivals, bazaars, game nights, art fairs, and craft shows, or similar activities.

Sign, Suspended: A sign suspended from the underside of a horizontal plane of a structure.

Sign, Wall: A sign attached to, painted on, or erected against a wall of a building, the face (display surface) of which is parallel to the facade of the building and which extends no more than eighteen inches (18") from the wall.

Sign, Wind: Any sign set in motion by wind or breeze, such as banners, flags, pennants or other objects or material. Flags of nations, states, or municipalities shall not be classified as wind signs.

Sign, Window: A sign posted, applied or affixed in or on a window which sign can be seen through the window from the exterior of the structure but excludes merchandise in a display window.

Sign Area: The entire face of a sign within a continuous perimeter enclosing the extreme limits of the display surface including any framing, trim or molding, but not including the supporting structure.

Sign Face: The display surface made available by the sign structure for the purpose of displaying a message.

Sign With Backing: Any sign that is displayed upon, against, or through any material or color surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

Sign Without Backing: Any word, letter, emblem, insignia, figure or similar character or group thereof, that is neither backed by, incorporated in or otherwise made part of any other display.

Signable Area: That area of a building facade up to the roofline or top of the wall that is free of windows and doors or major architectural detail.

Single Ownership: Ownership by one (1) or more persons in any form of ownership of a lot or lots partially or entirely in the same ownership.

Site Improvement Plan: The development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage, flood plains, open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, and signs, lighting, and screening devices, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

Site-Specific Development Plan: Any of the following applications as defined in this Title, if designated by the applicant as a site-specific development plan for the establishment of vested property rights according to C.R.S. 24-68:

(A) Final subdivision plat;

(B) Conditional use permits; and

(C) Site Improvement Plans (including site plans for PUDs).

The site-specific development plan shall describe with reasonable certainty the type and intensity of use proposed for a specific parcel or parcels of property.

Small Animal: Dogs, cats, rodents, birds, reptiles, fish, and any other species of domestic animal that is sold or retained as a household pet, but does not include skunks, nonhuman primates, and other species of wild (typically not domesticated), exotic, or carnivorous animals that may be further restricted in the Englewood Municipal Code.

Small Animal Veterinary Hospital or *Clinic:* A specific type of animal sales and service use. A place where small animals such as dogs, cats, birds and other similar household domestic pets are given medical or surgical treatment, and where use as a kennel is limited to short-term boarding and only for medically related purposes, and where all uses are enclosed within a sound-

proof building and no objectionable odor is emitted. See definition of "Animal Sales and Service".

Small Area Plan: Refers to the applicable station area Comprehensive Plan amendment adopted by the City of Englewood, as amended from time to time.

Small Treatment Center: A specific type of group living use. A residence for up to eight (8) unrelated individuals, some or all of whom are receiving on-site medical or psychological treat-

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ment. If any individual resident of a group living facility with up to eight (8) unrelated individuals receives on-site medical or psychological treatment, the entire facility shall be classified as a small treatment center (rather than a small group living facility). Examples of small treatment centers shall include any of the following that meet this definition:

(A) A nursing home; or

(B) A nursing facility, as defined in C.R.S. 26-4-103 (11) et seq., as amended; or

(C) Institutions providing life care, as defined in C.R.S. 12-13-101(5) et seq., as amended; or

(D) A physical/mental rehabilitation home; or

(E) A state-licensed group home for the developmentally disabled, as defined in C.R.S. 31-23-303(2)(a) et seq., as amended that is not categorized as a state licensed community residential home as defined in C.R.S. 27-10.5-102(4) et seq., as amended; or

(F) A state-licensed group home for persons with mental illness, as defined in C.R.S. 25-27-102(8) et seq., as amended.

See definition of "Group Living".

Solid: As relates to the development of fences, walls, and visual barriers, "solid" means a vertical surface with less than fifty percent (50%) open space.

Special Event (Carnival/Circus, Fair, Bazaar): A temporary commercial or festive activity or promotion at a specific location, which takes place typically no more than once per year including, but not limited to, carnivals, bazaars, circuses, and festivals.

Special Mobile Equipment: Means and consists of vehicles, self-propelled or otherwise, designed primarily for operation or use on or off the streets and highways and only incidentally used or moved upon such streets or highways. This definition shall include by way of example, but not by way of limitation, snowplows, road construction or maintenance equipment, ditch-digging or excavating apparatus, well-drilling or boring equipment, firefighting equipment and vehicles designed to transport equipment and vehicles used in connection with or for the repair and maintenance of construction or maintenance equipment temporarily or permanently mounted on such vehicles, provided that such equipment is transported from yard to job, job to job, or job to yard and equipment primarily designed for hoisting, lifting, moving, loading or digging operations. The foregoing definition is partial and shall not include other vehicles of unusual design, size or shape that are designed primarily for purposes other than transporting merchandise or passengers.

Specialized Sign Area: An area of the City where special types or amounts of signage are permitted, encouraged, or required through an action of Council. Specialized sign areas include the South Broadway sign area.

Specified Anatomical Areas: As used herein, shall mean and include any of the following:

(A) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

(B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As used herein, shall mean and include any of the following:

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human adamitism, analingus, bestiality, cunnilingus, coprophilia, fellation, flagellation, frottage, masochism, masturbation, sadism, sadomasochism, sexual intercourse, sodomy or urolagnia; and

(C) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Stand or *Standing:* The halting of a vehicle, whether occupied or not, other than momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

Standard: A mandatory regulation. Noncompliance with a standard may be grounds for denial of a proposal for development, and may subject an applicant or a development to the enforcement and penalty provisions of this Title. Mandatory standards are indicated by use of the terms "shall" and "must".

Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Station Area Standards and Guidelines: Refers to the specific document containing detailed development and design standards and guidelines applicable to development in the subject station area and adopted by the City of Englewood, as amended from time to time.

Storage: Safekeeping of goods in a warehouse or other place of depository.

Store: A use devoted exclusively to the retail sale of a commodity or commodities.

Storm Water Detention: Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

Storage Yard for Vehicles, Equipment, Materials, and / or Supplies: A specific type of warehouse/storage use. An area, other than a street or alley, designed or used primarily for the temporary parking of vehicles. See definition of "Warehouse/Storage".

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Street: Any public right-of-way for the free passage of persons, trade and commerce, and which affords a principal means of access to property abutting along its length. This term does not include private roads. Streets are classified as follows:

(A) *Freeway:* Provides for expeditious movement of large volumes of through traffic and generally not intended to provide land-access service except by use of grade separation that may be combined with parallel frontage roads.

(B) *Arterial:* Provides for "through" traffic movement connecting major land use elements within the City, and connecting the City and adjacent communities with one another. Direct access is ordinarily provided to abutting property; however, consideration must be given to the control of entrances, exits, and curb use in order that the traffic movement can be relatively unimpeded throughout the City.

(C) *Minor and major collector street:* Provides for traffic movement between arterials and local streets with direct access to abutting property.

(D) *Residential collector street:* A minor collector street that provides access to the interior of a residential subdivision or development from the perimeter streets.

(E) *Local Street:* Provides for direct access to abutting land, and for local traffic movement primarily in residential areas.

Street Frontage: The linear distance along a property line adjacent to a public or private street.

Street Furniture: Any man-made, aboveground items that are usually found in street rights-of-way, including benches, kiosks, plants, canopies, shelters, lights and phone booths.

Structurally Altered: The making of a substantial change in the construction, identity, and use of the present building.

Structure: Anything constructed or erected that requires location upon or under the ground or attached to something having location upon or under the ground.

Structure (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Structure, Permanent: A structure that is built of such materials and in such a way that it would commonly be expected to last and remain useful for a period of time.

Structure, Temporary: A structure that is built of such materials and in such a way that it would commonly be expected to have a relatively short life, or is built for a purpose that would commonly be expected to be relatively short, or any structure intended for nonpermanent use or occupancy.

Studio: A use category that includes activities generally focusing on media production.

Studio, Radio/Television Broadcasting or Recording/Film: A specific type of studio use. A facility for broadcasting live or pre-recorded programs by radio and/or television; and/or recording on records, tapes, videotapes, or other suitable recording media. Such facility may perform activities necessary for recording programming and receiving of radio and/or television signals. Such facility shall not engage in production of consumer products. See definition of "Studio".

Subdivider: Any person or other entity, or any agent thereof, dividing or proposing to divide realty.

Subdivision: Any division of land, lot, tract, or parcel into two (2) or more lots, parcels, plats, sites, or other division of land for the purpose of sale, lease, offer or development, whether immediate or future. The term "Subdivision" also includes the creation of condominiums, town home communities, and other forms of airspace ownership or air-right subdivisions, as described and defined in C.R.S. 38-33-101, et seq., as amended.

Substantial Damage (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Substantial Expansion or Alteration (of a Residential Dwelling): For purposes of the residential design standards in Chapter 16-6 EMC, any construction, reconstruction, or improvement of a principal residential structure that is equal to or greater than twenty-five percent (25%) of the principal structure's total gross floor area existing prior to the expansion or alteration.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

(A) Before the improvement or repair is started; or

(B) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(A) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(B) Any alteration of a structure listed on the National Register of Historic Places or a State inventory of historic places.

Substantial Improvement (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Surface Water: Water on the earth's surface exposed to the atmosphere as rivers, lakes, or streams.

Swimming Pool: Any structure, portable or permanent, containing a body of water twelve inches (12") or more in depth, intended for recreational purposes, including a wading pool; but not including an ornamental reflecting pool or fish pond or similar type of pool not to be used for swimming or wading.

Take Out and Delivery Only (Food and Beverage Service): A specific type of food and beverage service use. An eating/drinking establishment, generally without patron seating, that provides food and/or beverages to be delivered or to be picked up, typically for consumption off the premises of such establishment. See definition of "Food and Beverage Service".

Tangible Personal Property: All personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of business in connection with a contract for purchase or purchase transaction.

Tattoo and Body-Piercing Establishment: A specific type of retail sales and service (personal service) use. Any corporation, company, partnership, or individual that offers or performs tattooing or body piercing for any fee, charge, or remuneration of any kind. For the purposes of this Title, this does not include establishments performing ear piercing as an incidental service to the permitted principal use. See definition of "Retail Sales and Service (Personal Service)".

Telecommunication Facility: A use category composed of facilities that transmit analog or digital voice or communications information between or among points using electromagnetic signals via antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development.

Telecommunications Provider: Includes every person or entity that provides telecommunications service utilizing telecommunications facilities.

Telecommunications Service: The providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics laser, microwave, radio, satellite or similar facilities, with or without the benefit of any closed transmission medium.

Temporary Employment Business: A specific type of retail sales and service (personal service) use. Any person, firm, partnership, association or corporation that maintains a central location where day laborers assemble and are dispatched to work for a third-party user. See definition of "Retail Sales and Service (Personal Service)".

Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Tent/Canopy: A temporary structure or enclosure, the roof of which and/or one-half (½) or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar pliable material.

Tent or Parking Lot Sales: A temporary retail use conducted on the premises of a permanent, principal retail commercial establishment. Typically, the temporary retail sales occur on a portion of the parking lot that serves the permanent retail use, and are often conducted in whole or in part from within a tent.

Theater and Performance/Concert Venue, Not Including Adult Entertainment: A specific type of indoor entertainment/amusement use. A building or part of a building devoted to showing motion pictures or for dramatic, musical, operatic, or live performances for admission to which, money is received, and no audience participation or meal service is allowed, but not including an adult entertainment use. See definition of "Entertainment/Amusement: Indoor".

Topography: The configuration of a surface area showing relative elevations.

Tower Structure: A specific type of telecommunication facility use. Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self supporting lattice towers, guy towers, or

monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. See definition of "Telecommunication Facility".

Tower Structure, Alternative: A specific type of telecommunication facility use. Any man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers. See definition of "Telecommunication Facility".

Trade or *Business School:* A specific type of school (commercial) use. Any school or institution, either profit or nonprofit, that is not included in the definition of an "Education Institution," which school is consistent with other uses in the neighborhood or district in which the crafts or trades themselves are permitted.

Trail: A tract of land designated and used by the public for walking, hiking, biking, and/or horseback riding, including a facility for the parking of motor vehicles that provides safe access to the trail (trail head).

Trailer: Any wheeled vehicle, without motive power having an empty weight of more than two thousand (2,000) pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

Transit Center: A specific type of transportation facility use. A building, structure, or area designed and used for persons changing transportation modes. Facilities and improvements may include shelters, benches, signs, and structures. See definition of "Transportation Facility".

Transition Duration: The time interval it takes a display to change from one static frame to another.

Transition Method: A visual effect used to transition from one frame to another. Transition methods include, but are not limited to dissolve, fade, scroll and travel.

Transportation Facility: A use category that includes facilities for the landing and takeoff of airplanes and helicopters, including loading and unloading areas, and passenger terminals for bus and light rail service. Accessory uses include freight handling areas, concessions, offices, parking and maintenance and fueling facilities. Exception: Private helicopter landing facilities that are accessory to another use may be considered accessory uses.

Tree: Large, self-supporting woody perennial plant that normally grows to a mature height of at least fifteen feet (15'), usually with one (1) main stem or trunk and many branches. May be deciduous or evergreen.

Truck: Any motor vehicle equipped with a body designed to carry property and which is generally and commonly used to carry and transport property over the public highways.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or, any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Utility Facility: A use category including all lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services on a local level; and other in-line facilities needed for the operation of such facilities, such as gas regulating stations, pumping stations, power or communication substations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Services may be publicly or privately provided. Accessory uses may include control, monitoring, data, or transmission equipment.

Utility Facility, Major: A specific type of large-scale utility facility use, typically serving the region, the entire city, or a significant subarea of the city, which normally entails the construction of new buildings or structures, and that often

have employees at the site. Major utility facilities have potential major impacts on an area or city by virtue of their appearance, noise, size, traffic generation, externalities, or other operational characteristics. Examples include water works, reservoirs, power or heating plants, energy/power transmission lines, power generating plants, and sewage or wastewater treatment plant. See definition of "Utility Facility".

Utility Facility, Minor: A specific type of small-scale utility facility use that provides utilities necessary to support development either within a specific subarea of the city or the immediate vicinity of the facility. This use typically involves the construction or installation of only minor structures. Employees typically are not located at the site. Examples include electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and sewer pumping stations, power lines; storm drainage facilities; pump stations and hydrants; switching boxes; and other structures normally found in a street right-of-way to serve adjacent properties. A minor utility facility may be either a principal or accessory use of land. See definition of "Utility Facility".

Variance: A grant of relief from the requirements of this Title that permits construction in a manner that would otherwise be prohibited by this Title.

Vegetative Protection: Stabilization of erosive or sediment producing areas by covering the soil with permanent or short-term seeding, mulching or sodding.

Vehicle: Any device which is capable of moving itself, or being moved, from place to place upon wheels or endless tracks; but such term shall not mean or include any farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations, or any device moved by muscular power, or moved exclusively over stationary rails or tracks, or designed to move primarily through the air.

Vehicle, Motor: A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

Vehicle and Equipment: A use category including a broad range of facilities for the sale, rental, and/or maintenance of motor vehicles and related equipment. Large parking areas and outdoor storage areas may be included with these uses. Accessory uses may include incidental repair and storage, offices, and sales of parts and/or tires.

Vested Property Right: The right to undertake and complete the type and intensity of development and use of property under the terms and conditions of an approved site-specific development plan for a period of three (3) years from the date of approval. Vested property rights may include the number and type of units or the type and amount of square footage of development described on an approved site-specific development plan, but shall not include any aspect of the site-specific development plan that does not directly affect the type or intensity of use, such as but not limited to signage, landscaping, streets, utilities, parking, or drainage.

Vintner's Restaurant: A retail establishment, licensed by the appropriate State and Federal authorities, that sells food for consumption on the premises and that manufactures not more than two hundred fifty thousand (250,000) gallons of wine on its premises each year.

Violation: Generally, the failure of a land use, building, structure, or other development to be fully compliant with this Title's requirements.

Violation (for floodplain purposes): See 16-4-16 EMC: Floodplain Definitions.

Visible Sight Triangle: See definition of "Sight Triangle".

Visual Barrier: A solid (opaque) vertical surface other than a fence or wall, such as an evergreen hedge or other landscaping, that for at least three (3) months of a year has foliage that creates a solid surface.

Visitor Accommodation: A use category characterized by visitor-serving facilities that provide temporary lodging in guest rooms or guest units, for compensation, and with an average length of stay of less than thirty (30) days. Accessory uses

may include pools and other recreational facilities for the exclusive use of guests, limited storage, restaurants, bars, meeting facilities, and offices.

Wall:

(A) The vertical exterior surface of a building.

(B) Vertical interior surfaces that divide a building's space into rooms.

Wall Mural: A picture painted on any exterior wall of a principal building, which (1) does not contain the name or logo of any business, or (2) restores a previously existing wall painting at least forty (40) years old (regardless of whether such wall painting advertised or called attention to a product). A wall mural may include a sign of no more than two (2) square feet identifying the artist.

Warehouse: A use category characterized by establishments primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers.

Exception: This definition does not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

Warehouse/Storage: A use category that includes establishments involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas.

Warehousing and/or Storage: A specific type of warehouse/storage use engaged in (1) the storage of goods, materials, vehicles, trailers, or boats, and/or (2) the distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. At least fifty percent (50%) of the gross floor area of the use shall be used for warehouse and distribution purposes. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations. See definition of "Warehouse/Storage".

Waste/Salvage: A use category that includes establishments that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste/salvage uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products.

Waste Transfer Station (Not Including Hazardous Waste): A specific type of waste/salvage use. Any facility or structure, with the exception of a motor vehicle, where trash is collected. Generally located on a plot of ground, with appropriate structures and mechanical equipment for the collection, compaction, and/or loading of trash. See definition of "Waste/Salvage".

Whip Antenna: An antenna that is cylindrical in shape. Whip antennas can be directional or omnidirectional and vary in size depending upon the frequency and gain for which they are designed.

Winery: Any establishment, licensed by the appropriate State and Federal authorities, where vinous liquors are manufactured, except that the term does not include a Vintner's Restaurant license pursuant to 12-47-420 C.R.S. Or, as this definition may be modified in C.R.S. 12-47-103.

Window Area: The area of all windows on the first floor of a building that face or are visible from one public right-of-way.

Work of Art: All forms of original creations of visual art, including but not limited to: (1) sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic; or (2) painting, whether portable or permanently fixed, as in the case of murals; or (3) mosaics; or (4) photographs; or (5) crafts made from clay, fiber and textiles, wood, glass, metal, plastics, or any other material, or any combination thereof; or (6) calligraphy; or (7) mixed media composed of any combination of forms or media; or (8) unique architectural stylings or embellishments, includ-

ing architectural crafts; or (9) environmental landscaping; or (10) restoration or renovation of existing works of art of historical significance.

Xeriscape: Landscape methods that conserve water through the use of drought-tolerant plants and planting techniques.

Yard: An existing open space, other than a court, on the same lot with a principal building or structure, that is open, and unoccupied by buildings. A "yard," in contrast to a "setback," is the open space on a lot that is established by the actual placement of a principal building and accessory structures; in some cases, the resulting yard may be greater in area than a required minimum setback.

Yard, Front: A yard extending across the full width of the lot between the front lot line and the nearest line or point of the principal building.

Yard, Rear: A yard extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

Yard, Required: See definition of "Setback".

Yard, Side: A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as may be.

Zone District: An area within which certain uses of land and buildings are permitted and certain others are prohibited, yards and other open spaces are required, lot areas, building height limits and other requirements are established, all of the foregoing being identical to all of the properties within the zone district.

(Ord. 04-5; Ord. 05-25; Ord. 08-5, § 3; Ord. 08-13, § 3; Ord. 08-24, § 11; Ord. 08-37, § 16; Ord. 08-55, § 5; Ord. 08-48, § 34; Ord. 09-4, § 3; Ord. 10-20, § 3; Ord. 10-44, § 2; Ord. 10-52, § 2; Ord. 11-27, § 3; Ord. 1-11/12, § 17; Ord. 47-12, § 13; Ord. 7-13, § 8; Ord. 8-13, § 12; Ord. 45-13, § 5; Ord. 13-13/14, § 4; Ord. 29-14, § 4; Ord. 45-14, § 5)

Editor's note—This change was passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)