

ARTICLE IV. ZONE DISTRICTS AND PERMITTED USES***Sec. 26-91. General.**

(a) *Purpose.* This article divides the city into "zone districts" of such number, shape, and area, and common unity of purpose or use as are deemed most suitable to effectively accomplish the intent of the Steamboat Springs Area Community Plan. Each zone district has a stated purpose and intent, uses by right, uses with criteria, and conditional uses specific to that zone district. All development within each zone district shall be consistent with the purpose and intent stated for such zone district and with all applicable provisions of this CDC.

(b) *Applicability of zone district regulations.* Except as may be otherwise provided in this chapter:

- (1) No structure shall be erected, reconstructed, altered, enlarged, or moved, nor shall any building or land be used for any purpose other than for a use permitted, permitted with criteria, conditionally permitted, or as an accessory or temporary use in the zone district in which it is located.
- (2) No structure shall be erected, reconstructed, altered, enlarged, or moved unless it conforms to the area regulations of the zone district in which it is located and/or other requirements of this CDC.
- (3) No setback or other open space required in this CDC for any structure shall be considered as providing a setback or open space for any other structure, and no setback or open space on an adjoining lot or parcel shall be considered as providing a setback or open space on a lot on which a building is to be erected, unless such use of setback area measurements is approved through the use of a final plat or final development plan for an "offset side yard/zero lot line" development.
- (4) No structure shall be erected, reconstructed, altered, enlarged, or moved, nor shall any building or land be used for any purpose unless a final development plan, or development permit for the structure, building, or land, has been properly issued in accordance with the provisions of this CDC. This provision shall not apply to single-family attached and detached homes located within approved final subdivision plats that comply with all requirements of this CDC, section 26-68, final plat, and any previous approved final plat.

(c) *Zone districts established.* In conformity with the purpose and intent of this CDC and the Steamboat Springs Area Community Plan, the following zone districts are hereby created:

- (1) *Standard zone districts.*
 - a. *OR - Open space and recreation zone district.*
 1. *Purpose and intent.* The open space and recreation zone district is intended primarily to provide areas for public or private recreational uses, open space

***Editor's note**—Ord. No. 2187, § 1, adopted June 3, 2008, amended Art. IV in its entirety to read as herein set out. Former Art. IV, §§ 26-91—26-130, pertained to similar subject matter. See the Code Comparative Table for full derivation.

preservation, or other similar uses. This zone district may include protection of environmentally sensitive areas such as wetlands, floodplains, rivers and streams, development buffers, or public recreation facilities such as parks, athletic fields, ski areas, and community gathering spaces.

- b. *RE - Residential estate zone district.*
 1. *Purpose and intent.* The residential estate zone district is intended primarily to provide areas for single-family detached living in a low-density environment. This district may be appropriate for environmentally sensitive areas, and is best located away from high-density development
 2. *Designations.* Each property zoned RE must have a designation of "1" or "2" that further specifies the intensity and density of such use as provided by this article. Secondary units are allowed as a use with criteria in both the RE-1 and RE-2 zones. The designations are as follows:
 - i. RE-1 residential estate, low density; and
 - ii. RE-2 residential estate, higher density;
- c. *RN - Residential neighborhood zone district.*
 1. *Purpose and intent.* The residential neighborhood zone district is intended primarily to provide areas for single-family, duplex and accessory dwelling units in a range of residential densities, as well as to provide uses complimentary to and in harmony with residential uses. The RN zone district has four (4) designations that allow for different levels of intensity and density. New development should be compatible with existing surrounding neighborhoods in terms of lot size and density.
 2. *Designations.* Each property zoned RN must have a designation of "1," "2," "3" or "4" that further specifies the intensity and density of such use as provided by this article. The designations are as follows:
 - i. RN-1 residential neighborhood, low density;
 - ii. RN-2 residential neighborhood, moderate density;
 - iii. RN-3 residential neighborhood, high density; and
 - iv. RN-4 residential neighborhood, high density - small lot.
- d. *RO - Residential Old Town zone district.*
 1. *Purpose and intent.* The residential Old Town zone district is intended primarily to provide development compatible with the traditional residential character of the city's original neighborhoods in terms of mass, height, setback, density, and street layout. This includes a range of residential uses generally found on smaller lots, including a limited number of multi-family, accommodation units, educational and institutional uses.

- e. *RR - Residential resort zone district.*
 - 1. *Purpose and intent.* The purpose of the residential resort district is to provide areas for the highest intensity of residential use consistent with a mountain resort community. The primary use of dwelling units within this district may be for short-term rental units. New development shall be physically connected to the resort by an integrated system of streets, sidewalks and recreational paths. The RR zone district functions as a gateway to the resort, and new development should have a resort-like character with lower development intensity and scale for development located further away from the base area, with intensities and densities increasing with the increased proximity to the base area. The RR zone district has two (2) designations that allow for different levels of intensity and density. The designation that allows higher levels of intensity is principally located immediately adjacent to the ski slopes.
 - 2. *Designations.* Each property zoned RR must have a designation of "1," or "2" that further specifies the intensity and density of such use as provided by this article. The designations are as follows:
 - i. RR-1 residential resort, low density; and
 - ii. RR-2 residential resort, high density.
- f. *MH - Mobile home zone district.*
 - 1. *Purpose and intent.* The mobile home zone district is intended to secure and broaden future affordable housing opportunities for permanent residents of the city. This zone district applies to mobile home parks and mobile home subdivisions.
- g. *MF - Multi-family residential zone district.*
 - 1. *Purpose and intent.* The multi-family residential zone district is intended primarily to provide areas for development of multi-family housing in a range of densities. Such housing may include townhouses, condominiums, and apartments. These developments shall take measures to ensure compatibility with adjacent properties of lower densities, as well as to provide adequate open space.
 - 2. *Designations.* Where any property is zoned MF, such property shall also include a designation identifying the intensity and density of such use as provided by this article. Such designations include the following:
 - i. MF-1 multi-family low density;
 - ii. MF-2 multi-family medium density;
 - iii. MF-3 multi-family high density;
- h. *G-1 - Gondola one zone district.*
 - 1. *Purpose and intent.* The purpose of the Gondola one zone district is intended to provide residential accommodation for guests, second homeowners, and

new residents looking for a high-level of amenities as provided by a resort environment. New development shall be physically connected to the resort by an integral system of streets, sidewalks, and recreational paths. New development should have a resort-like character with higher development intensity and scale than development within the RR districts, but lower intensity than the G-2 district. All development in the G-1 zone district shall require approval of a PUD and shall be subject to the provisions of section 26-86.

- i. *G-2 - Gondola two zone district.*
 1. *Purpose and intent.* The purpose of the Gondola two zone district is for properties nearest to the Gondola base facility to have the densest development in the city. Because of the special characteristics and importance of this area to the general welfare of the city, this zone district is intended to allow for flexibility and creativity in the development of land in order to provide a quality pedestrian-oriented environment that furthers the goals of the master plans for the area. Special emphasis shall be placed on the location of uses within structures, the massing and design of structures, the provision of public spaces and gathering areas, pedestrian corridors and how those elements relate with the pedestrian environment. Multi-use buildings, with pedestrian-oriented ground-level retail and other active uses, are strongly encouraged in the G-2 zone district. All development in the G-2 zone district shall require approval of a PUD and shall be subject to the provisions in section 26-86.
- j. *CO - Commercial Old Town zone district.*
 1. *Purpose and intent.* The commercial Old Town zone district is intended primarily to provide areas for commercial development compatible with the scale, character and streetscape of the traditional downtown area of the city. Appropriate land uses include public facilities, commercial retail, primarily on the street and pedestrian level, with office and/or residential uses above or below the street level. Portions of the area may be appropriate for inclusion in a local or other cultural resource designation. The uses, structures, and project design should focus on providing an interesting pedestrian experience that has variety and vitality and that is not dependent upon direct vehicular access or immediately adjacent parking.
- k. *CY - Yampa Street commercial zone district.*
 1. *Purpose and intent.* The Yampa Street commercial zone district is designed and intended primarily for properties with frontage along Yampa Street and has been identified as an area with significant redevelopment and new development potential with the ability to impact the overall image and future vitality of Old Town. The CY zone district is intended to allow development and redevelopment as a commercially active neighborhood

that is distinctly different than Lincoln Avenue with high-quality, unique mixed-use developments, moderate intensity commercial uses, restaurants, retail, lodging and residential dwelling units. Uses and structures in this area shall generally be of a smaller scale and pedestrian oriented. The district is intended to serve locals and visitors alike who want to enjoy the mix of urban and natural environments that is possible in this unique area of the city. Visual connections to the Yampa River are of high priority and all development and redevelopment is encouraged to actively engage the riverfront in building and site design through methods such as outdoor seating, decks, porches or other interactive design techniques. Public access and physical connections to the riverfront should be encouraged whenever possible. The district also serves to provide a smooth transition from the commercial downtown to the recreation and open space resources of Howelsen Park.



















1. *CN - Commercial neighborhood zone district.*
 1. *Purpose and intent.* The commercial neighborhood zone district is designed and intended to provide mixed-use areas for low intensity commercial, limited retail, and residential dwelling units. Uses and structures in this area shall generally be of a smaller scale, pedestrian and neighborhood oriented, and provide services for the local population. Along Oak Street, adaptive re-use of older residential buildings is encouraged in order to preserve the residential scale. The preservation and enhancement of the street tree canopy is encouraged through the addition of new street trees and preservation of existing mature trees. While locating uses along Oak Street, consideration should be given to placing higher scale and intensity uses on the south side of the street and lower scale and intensity uses along the north side of the street. Through considerations such as intensity and scale, an emphasis shall be placed on providing appropriate transition areas and pedestrian connections into and from neighboring uses.
- m. *CC - Community commercial zone district.*
 1. *Purpose and intent.* The community commercial zone district is designed and intended primarily to provide nodes for commercial services and sale of goods for residents and visitors, as well as nodes for office, lodging and residential development. An emphasis shall be placed on minimizing the impact of vehicular traffic through the provision of low intensity commercial development, encouraging a mix of complementary uses that might reduce single-purpose automobile trips, mitigation of the aesthetic impact of parking lots, utilization of joint access between properties, and the provision of safe, efficient and well-connected pedestrian, bicycle and transit facilities. Along U.S. Highway 40, development and redevelopment is encouraged to allow visual and physical connections to the Yampa River and Yampa River Core Trail and to present a high-quality street frontage with landscaped

buffers and open space areas. Consideration shall be given to providing a quality entryway into the city, reducing visual clutter with respect to signage and lighting and discouraging strip commercial type of development. Commercial development is intended to be focused around signalized intersections with concentrations of low intensity office, residential and lodging development between those signalized intersections.

- n. *CS - Commercial services zone district.*
 - 1. *Purpose and intent.* The commercial services zone district is designed and intended to provide areas for commercial services and goods primarily for residents. While uses may be of a higher intensity and automobile oriented, efforts shall be taken to minimize vehicular conflicts and improve visual appearances from passing motorists and pedestrians. Adequate pedestrian, transit facilities and alternative modes of transportation shall be included to encourage nonvehicular access.
- o. *I - Industrial zone district.*
 - 1. *Purpose and intent.* The industrial zone district is designed and intended to accommodate industrial uses with varying degrees of impacts. Uses allowed by right are generally those that are conducted entirely within an enclosed structure and have no negative impacts beyond the property where the use is located. Uses with criteria are generally those that may have outdoor operations and visual or environmental impacts that can be mitigated through application of additional requirements. Conditional uses are generally those uses that may have offsite impacts and therefore require specific mitigation to minimize those impacts.
- p. *TND - Traditional neighborhood development zone district.*
 - 1. *Purpose and intent.* The traditional neighborhood development (TND) zoning designation is intended to provide options and standards for development that emphasize the features of traditional neighborhoods. As such, the traditional neighborhood is intended to accommodate, encourage, and promote innovatively designed developments involving residential and nonresidential land uses, which together form an attractive and harmonious mixed-use development with an internally consistent hierarchy of building and street types using traditional neighborhood development (TND) principles. Such a development may be designed as a large scale separate entity able to function as an individual neighborhood or as a smaller scale infill project.
 - 2. *Applicability.* The TND zone applies to all lands within the City of Steamboat Springs with the TND zoning designation according to the official city zoning map. All land within the West of Steamboat Springs Area Plan (WSSAP) boundaries are to be zoned as TND at time of annexation.

Other parcels within the City of Steamboat Springs municipal boundaries may be rezoned to TND zoning through section 26-62, official zoning map amendments.

3. *Transect.* The form-based code standards utilize the rural-to-urban transect as a basis for the organization of development character and intensity within the TND zone district (see graphic below). The transect is a concept providing a framework that identifies a continuous range of habitats from most natural to most urban. In this case, the transect has been carefully calibrated to reflect the physical form and character of the City of Steamboat Springs. The transect permeates each form-based code standard, providing a clear hierarchy that facilitates and directs future planning and design decisions. The location of individual transects is depicted on a regulating plan. The transects are generally illustrated as follows:

T-Zone	T2	T3 ¹	T3 ²	T4	T5	Special District
						
						
						
Lot / Building Types	Large Lot Single Family (1+ Acre)	Large Lot Single Family Medium Lot Single Family	Medium Lot Single Family Small lot Single Family Duplexes Bungalow/Green Courts	Small Lot Single Family Bungalow/Green Courts Duplexes Townhouses Multi-Family Live/Work Mixed-Use/Commercial Block	Live/Work Townhouses Multi-Family Mixed-Use/Commercial Block Large Tenant Commercial	Live/Work Retail, Service, Assembly Industrial (limited) Mixed-Use/Commercial Block
Uses	Single Family Accessory Dwelling Units Parks, Playgrounds Agriculture & Resources	Single Family General Service (very limited) Assembly (limited) Accessory Dwelling Units Parks, Playgrounds	Single Family Multi-Family (limited) General Service (limited) Assembly (limited) Accessory Dwelling Units Community Housing Units Parks, Playgrounds	Small Single Family Multi-Family Live/Work Retail, Service, Assembly (limited) Industrial (limited) Community Housing Units Parks, Playgrounds	Multi-Family Live/Work Retail, Service, Assembly Industrial (limited) Large Footprint Retail (limited) Community Housing Units Parks, Plazas, Playgrounds	Live/Work Industrial (limited) Recreation, Education Assembly

4. *Applicable standards.* The TND zone district has distinct standards that emphasize physical form over land use. These include building form standards (see article V, section 26-152), building type standards (see article V, section 26-153), and subdivision standards (see article VII, section 26-187). Unlike many conventional development codes, form-based code standards place a primary emphasis on the physical form and character of new development, with a strong but secondary emphasis on the uses within

buildings. The City of Steamboat Springs form-based code standards have been carefully calibrated to ensure that different land use intensities and degrees of mixed-use can be implemented in a manner that minimizes potential conflicts between incompatible land uses, and results in a consistent, high-quality public realm that supports the development over time of a series of neighborhoods that are relatively dense, mixed-use, and pedestrian-oriented.

The form-based code standards are prescriptive in order to provide a certain degree of predictability and consistency with the SSACP's vision. At the same time, the Code provides a certain degree of flexibility that can support a great variety of future physical outcomes, as well as the opportunity for mixed-use neighborhoods to evolve over time.

5. *Transect designations.* A series of form-based transect designations distribute densities and land use intensities across the TND zone district. The transects allocate allowable land uses, buildable areas, required frontage conditions, and allowed building types as follows:

T2-NE



Neighborhood Edge

T2-NE: Neighborhood Edge supplies an appropriate transition at the edge of the community to the surrounding lower intensity uses. This designation provides a choice of large-lot single-family residences to members of the community and grants the option of larger homes within the context of a neighborhood structure.

T3-NG1**Neighborhood General - Low**

T3-NG1: Neighborhood General - Low supplies the core residential fabric within neighborhoods. This designation provides a variety of single-family, duplex and limited multi-family housing types to enable a wide diversity of residences on small to large lots.

T3-NG2



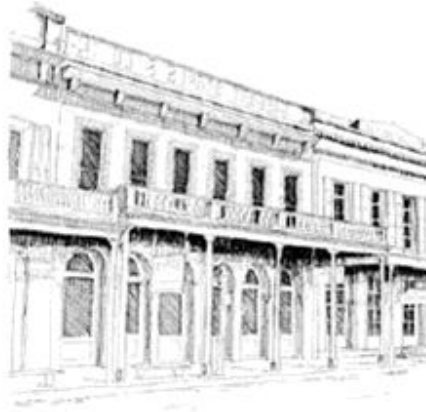
3) **Neighborhood General - Medium**

T3-NG2: Neighborhood General - Medium supplies residential fabric at greater densities within neighborhoods. This designation provides a variety of single-family, duplex and multi-family housing types to enable a wide diversity of residences on small and medium lots.

T4-NC**Neighborhood Center**

T4-NC: Neighborhood Center is a mixed-use area intended to provide a choice of higher density housing units, locally serving retail within walking distance of where residents live. Neighborhood Centers are intended to primarily support the needs of the neighborhood residents. They are accessible by transit and will often include one or more well-designed transit stops.

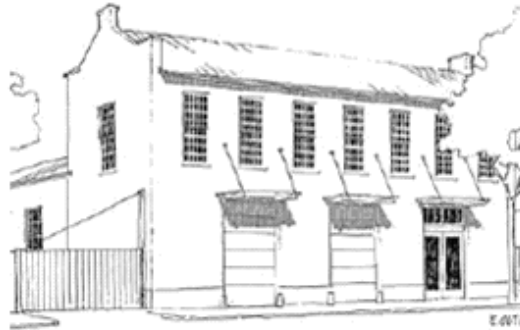
T5-TC



Town Core

T5-TC: Town Core is a mixed-use area intended to provide a choice of higher density housing units, regional serving retail, and supporting commercial uses. This designation is accessible by transit and will often include one or more well-designed transit stops. They are located at or near primary intersections to attract both pedestrians and drive-by traffic.

SD



Special District

SD: Special District provides a space for uses and/or building types that may not be appropriate in other transects. These uses include public and institutional uses and limited industrial uses within the context of a pedestrian oriented area adjacent to a neighborhood centers.

6. *Regulating plan.* The allocation of transect zones is determined and indicated on a regulating plan. See subsection 26-90(c) for applicable criteria.
- (2) *Overlay zone districts.* All properties, or portions of properties, located within the boundaries of the city and designated within the above-referenced overlay zone on its respective map, are determined to be part of such overlay zone and subject to the applicable rules and regulations as stated in this article IV.
- a. *AO - Airport overlay zone district (reserved).*
 - b. *SO - Skyline overlay zone district.*
 1. *Purpose and intent.* The intent of the skyline overlay zone is to establish appropriate standards for the development of property containing a visually significant skyline as viewed from designated public vantage points and as identified on the official zoning map.
 - c. *DCR - Downtown cultural resource overlay zone district (reserved).*
 - d. *LFR - Large format retail overlay district.*
 1. *Purpose and intent.* The large format use overlay is intended to designate an area within the TND zone district that may be appropriate to accommodate a large format retail project.

(d) *Official zoning map adoption.* The boundaries of the zoning districts are delineated upon the official zoning map of the city. The map is hereby adopted as a part of this article as if the map were set forth in this article in detail. The official zoning map shall supersede all zoning maps previously adopted by the city to the extent and only to the extent that the maps are in conflict with the map adopted in this article. The official zoning map shall be filed in the offices of the department of planning and community development and bear the signature of the director and the seal of the city, and be attested by the city clerk.

- (1) *Administrative determination.* Any owner may, upon request, obtain a written administrative determination from the director concerning the owner's property classification within a zoning district or overlay zone.

(e) *Interpretation.*

- (1) *District boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
 - a. Boundaries indicated as approximately following the centerline of streets or roads shall be construed to follow the centerline;
 - b. Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;
 - c. Boundaries indicated as approximately following the city limits shall be construed as following the city limits;
 - d. Boundaries indicated as parallel to or extensions of centerlines, lot lines, city limits, or similar geographical lines shall be so construed;
 - e. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
 - f. Whenever any street, alley, or other public way is vacated by official action of the city council, or whenever street or alley area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way, and all area so involved shall then be subject to all regulations of the zone districts as extended; and
 - g. Where physical or cultural features exist on the ground and are at variance with those shown on the official zoning map, or in circumstances not covered by the subsections of this section, the city council shall interpret the zone district boundaries.
- (2) *Hierarchy of zone district regulations.* This article provides the uses allowable in each zone district and the terms and standards of the overlay zone district. When a specific standard is in conflict with a standard contained in this article or article V, regarding the same subject matter, the more restrictive or higher standard shall govern unless otherwise stated.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2254, § 4, 7-7-09; Ord. No. 2279, § 2, 10-13-09; Ord. No. 2348, § 1, 11-16-10; Ord. No. 2393, § 1, 7-5-11)

Sec. 26-92. Use classifications.

(a) *Purpose and intent.* The purpose of these use classifications is to implement the policies of the Steamboat Springs Area Community Plan, and other adopted master plans for the Steamboat Springs area. The intent is to classify uses of land into a number of specially defined land use categories on the basis of common functional characteristics and similar compatibility with other uses.

(b) *Use categories.*

- (1) *Uses by right.* Uses by right are those uses that are consistent with the purpose and intent of the zone district and are deemed to further the preferred direction and policies of the community plan. When development plans or final development plans are reviewed involving a use by right, the use of the property shall not be in question.
- (2) *Uses with criteria.* Uses with criteria are those uses that may be consistent with the purpose and intent of that zone district and are deemed to further the goals of the community plan if certain criteria are considered and imposed. The criteria are described and listed with the definition of the use in article XX, definitions and use criteria. If the criteria for that use are met, it is presumed that the use will not have any greater impact than a use allowed by right and the director shall approve the use without further review. If the criteria are not met, such use shall be treated as a conditional use. This category includes temporary events subject to the conditions and as defined in article XX. Uses with criteria are reviewed by the director either prior to development or building permit, as applicable, or concurrent with building permit review, as specified within the particular use in article XX.
- (3) *Conditional uses.* Conditional uses are those that are generally consistent with the purpose and intent of that zone district, yet may have more impacts to surrounding properties and the community than uses by right or uses with criteria. Such uses require approval pursuant to section 26-65, and conditions may be placed upon these uses as deemed appropriate by the approval body, in order to avoid or mitigate potential impacts. The listing of a conditional use in a particular zone district does not ensure approval of that use or any associated development plan.
- (4) *Accessory uses.* Those uses defined in article IV, commercial uses that are listed in subsection 26-92(d), summary use table, as prohibited uses, may be permitted in all zone districts as accessory uses.

(c) *Uses not specifically listed.* Uses not specifically listed in any zone district may be permitted based on the following:

- (1) The director may make a determination that the proposed use is similar to another use allowed within the zone district. In determining that a use is similar, the director shall determine that the use is consistent with the purpose and intent section of the zone district, and the Steamboat Springs Area Community Plan preferred direction and policies. If a use is determined to be similar, the proposed use shall be an authorized use with the same regulations and limitations as the use to which it was determined

to be similar. For example: A use that is determined to be similar to a use with criteria shall be subject to the same use criteria. Uses not specifically listed that are determined to be similar to other uses, shall be added to appropriate zone districts on an annual basis in accordance with section 26-61.

(d) *Summary use table.* The uses by right, uses with criteria, and conditional uses available in each zone are summarized in the following table:

**Table 26-92
Table of Permitted Principal Uses**

Use Classification and Specific Principal Uses*	Traditional Zoning Districts										TND Zoning (Transects)										
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD
	CR = Use with Criteria										C = Conditional Use					Blank Cell = Prohibited					
RESIDENTIAL USES																					
Dormitory							C	C					C			CR			C		
Duplex			CR	CR	C		C	C								CR		CR	C		
Employee unit	C				CR		CR	CR	CR			CR	CR		CR				CR		
Group home		CR	CR	CR			CR				CR	CR				CR	CR	CR	CR	CR	
Live/Work unit									R	R	R	R							R	R	
Long-term rental		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Mobile home																					
Multi-family dwelling			C	C	CR		R	CR	CR	CR	CR	CR	CR	C	CR						
Tri-Plex/Fourplex																		R	R	R	
Bungalow court																		R	R	R	
Rowhouse																		R	R	R	
5-8 Units																		R	R	R	
9+ Units																		R	R	R	
Dwelling, residential component of a mixed-use project																			R	R	
Secondary unit		CR	CR	CR	C		CR	CR			CR	CR							CR	CR	
Short-term rental		CR	CR	CR	CR	CR	CR	CR	CR		CR	CR	CR	CR		CR	CR	CR	CR	CR	CR
Single-family dwelling unit		R	R	R	C	CR	C				C	R				R	R	R			

Use Classification and Specific Principal Uses*	Traditional Zoning Districts													TND Zoning (Transects)							
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD
COMMERCIAL USES																					
Amenity space/structure	C	C			R	R	R	R	R	C	C	C	C				R	R	R	R	R
Animal clinic										C	CR	CR	CR	R				CR	R	R	R
Animal hospital													C	C	R			C	C	C	R
Animal kennel													CR	CR	CR				CR	CR	CR
Automatic Teller Machine (ATM)							R	R	R	R	R	R	R	R	R			R	R	R	
Automobile car wash													C	C	C			C	C	C	C
Automobile filling station									C				C	R	C			C	C	C	
Automobile major repair													C	CR	CR						CR
Automobile minor repair													C	CR	CR			CR	CR	CR	CR
Automobile service station									C				C	R	C				C	C	
Automobile rental									C	C			C	C	C				C	C	
Automobile sales														C	C				C	C	
Bank									C	CR			CR	CR				CR	R		
Bed and breakfast		C	C	C					C		CR	CR						CR	CR		
Building supplies/lumber yard														CR	CR				CR	CR	CR
Business support services									R	R	R	R	R	R							R
Campground	C																				

COMMUNITY DEVELOPMENT CODE

§ 26-92

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Commercial large								C					C	C	C				C	R		
Commercial, medium							C	R	R		C	C	R	R					CR	CR		
Commercial, outdoor														C	C							
Grocery store							C	R	R	R	C	C	R	R						R	R	
Commercial, over 12,000 square feet and under 40,000 square feet													PUD	PUD					R	R		
Commercial, over 40,000 square feet							C	R	R	R	R	R	R	R						R		
Commercial, small													R	R								
Construction trailer	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Cottage industry									CR	CR	CR	CR	CR	CR	R				CR	CR	CR	CR
Farmers market									R	R	R	R								R		
Funeral home													C	C					C	C		
Garage sale	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Health club							C	C	C	C	C	C	C	C					CR	CR	CR	CR
Home occupation		CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Hostel				C	C		C	C	C	C	C	C							C	R		
Hotel				C	C		C	R	C	C		C	C						C	R		
Inn				C	C		C		R	R	R	R							R	R		
Lodge				C	C		C	C	R	R	R	C	C	C					R	R		

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Medical marijuana dispensary										CR	CR	C	CR	CR	CR							
Movie theater								CR		CR									R	R		
Neighborhood store			CR	CR							CR								CR	CR		
Nightclub										CR	CR	CR	CR	C						CR	CR	
Nursery										CR	CR	CR	CR	CR						CR	CR	
Office										CR	R	R	R	R						R	R	
Office - medical and dental										CR	C	C	R	R						R	R	
Office - Temporary on-site real estate sales	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Outdoor equipment sales and rental														C								
Outdoor recreational equipment rental	C									CR	CR	CR	CR	CR							C	
Outdoor display										CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	
Outdoor seating										CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	
Outdoor sales	C									CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	
Outdoor storage										CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Parking lot/structure										CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Real estate sales trailer		CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Performing arts facility	C									R	R	R	R	R						R	R	
Recreation center	C	C	C					C												R	R	R

COMMUNITY DEVELOPMENT CODE

§ 26-92

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Recreation, in-door	C			C			C	CR	CR	CR	CR	CR	CR	C					CR	CR	R	
Recreation, out-door	C						C	C			C	C	C	C	C						R	
Recreation out-door - low impact	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Restaurant												CR	CR	CR	C						R	
Restaurant, drive-in													C	C							C	
Self-service storage facility														C	C							C
Studio							R	R	R	R	R	R	R	R	R						R	
Tavern							C	CR	R	R	C	CR	C	C	C						CR	CR
Taxidermy														CR	CR							
Telecommunication facility	C						C	C	C	C	C	C	C	C	C						C	
Vacation home rental		CR	CR	CR	R		R	R	CR	CR	CR	CR	CR			CR	CR	CR				
Timeshare					R		R	R	C	C		C	C	C		R	R	R	R	R		
INDUSTRIAL USES																						
Airport																						
Automobile yard																						
Batching plant - asphalt or concrete																						C
Crematorium																						
Industrial service																						CR
Industrial, heavy																						C
Industrial, light																						CR

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Meat processing facility															C							C
Media production												C	C	C	R				C			C
Mining															C							
Personal storage facility, indoor															CR							CR
Printing and Publishing															CR				CR	CR		CR
Recycling facility															C					C		C
School, industrial-related, technical school, training facility															R							R
Sexually oriented bookstore and/or business															C							
Transit service facility															R							R
Warehouse															R							R
Warehouse with outdoor storage															CR							CR
Waste collection facility															C							C
PUBLIC, INSTITUTIONAL AND CIVIC USES																						
Cemetery	C	C																				
Child care center, small	C	C	CR	CR	CR	CR	C			C	CR	CR	CR	C								R
Child care center, large	C	C	C	C	C	C	C	C	C	C	C	C	C	C								CR
Community center	C			C	C					C	C	C	C	C								R

COMMUNITY DEVELOPMENT CODE

§ 26-92

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Community service facility	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			C	C	C	C	C
Day care home		R	R	R	C	R	C				R	R				R	R	R	R	R		
Hospital													C	C					C	C	C	
Institutional	C	C			C				C				C	C	C				C	C	C	
Library	C							C	C	C	C	C	C	C					R	R		
Museum	C				C			C	C	C	C	C	C						R	R		
Nursing home							C			C	C	C	C			C	C	C	C	C	C	
Religious institution		C	C	C	C	C	C		C	C	C	R	C	C			C	CR	CR	R		
Residential care, small																C	C	R	R	R		
School-private/public	R	C	C	C			C		C	C	C	C	C					C	C	C	C	
Shelter house			C	CR			CR									C	C	C	C	C		
Stadium	C							C					C	C								
Transit station	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Transit stop	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Triage center					C			C	C										C	C		
Utilities, underground	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Utilities, above ground	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
AGRICULTURAL USES																						
Agriculture	CR	R														R						
Animal, domestic	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Animal, farm	CR	CR																				
OTHER USES																						
Accessory structure	R	R	R	R	R	R	R	R	R	R	R	R	C	R	R	R	R	R	R	R	R	

Use Classification and Specific Principal Uses*	Traditional Zoning Districts												TND Zoning (Transects)									
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3-NG1	T3-NG2	T4-NC	T5-TC	SD	
Accessory use	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Temporary event	CR				CR			CR	CR	CR	CR	CR	CR	CR	CR				CR	CR	CR	CR
Temporary structure/use	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Uses with criteria that do not meet criteria	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
PARK AND OPEN SPACE USES																						
Change of use for any park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Community garden	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Community park	R	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Special use park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Natural resource/preserve/open land	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Neighborhood park	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Neighborhood pocket park	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Playground	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Plaza, pocket plaza						R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Sports complex	C												C									

Note: Single tenant over 20,000 square feet prohibited south and east of Thirteenth Street.

*Prohibited uses may be specifically permitted per an approved Annexation Agreement (i.e. those properties in the WSSAP boundary).

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2249, § 1, 6-16-09; Ord. No. 2251, § 1, 6-16-09; Ord. No. 2279, § 3, 10-13-09; Ord. No. 2294, § 1, 12-1-09; Ord. No. 2296, § 1, 1-5-10; Ord. No. 2378, § 2, 4-5-11; Ord. No. 2393, § 1, 7-5-11)

Sec. 26-93. Legal nonconforming uses.

(a) *Purpose and intent.* The purpose and intent of this section is to limit the number and extent of nonconforming uses by prohibiting their enlargement, and their reestablishment after abandonment. Nonconforming uses, as long as they exist, prevent the full realization of the community plan; therefore, the spirit of these provisions is to restrict rather than increase such nonconformance, and to eliminate such nonconformance as speedily as possible.

(b) *Determination of legal nonconforming use.* The director may determine that a nonconforming use is a legal nonconforming use, and may allow the use to continue provided that the use meets one of the following criteria:

- (1) The nonconforming use was lawfully established prior to the effective date of this CDC; or
- (2) The nonconforming use was registered according to the requirements of the ordinances in effect prior to the effective date of this article; or
- (3) The nonconforming use was lawfully established prior to the effective date of any amendment to this CDC that renders the use nonconforming; or
- (4) The use was lawfully authorized by a permit or regulation existing prior to the effective date of this CDC or the effective date of an amendment to this article, subject to the limitations as prescribed by the permit(s) or regulation(s).

(c) *Administrative decision.* The director shall determine whether or not a nonconforming use is legal under the provisions of this article, based upon evidence submitted by the property owner.

(d) *Burden of proof, evidence.* The burden of proof for demonstrating that a nonconforming use is a legal nonconforming use shall be upon the property owner. All evidence and documentation that the property owner wishes to be considered shall be submitted to the director within one

year of the effective date of the ordinance that made the use nonconforming, or within sixty (60) days of written notification by the director concerning the status of the use as illegal or nonconforming, whichever date is later. Acceptable evidence and or documentation may include:

- (1) Public records such as sales tax receipts, property tax receipts, records from the county assessors office and records from the department of planning and community development, aerial photography and surveys;
- (2) Signed and notarized letters from surrounding property owners containing information about the use; and
- (3) Any other evidence that documents the existence and the scope of the use at a given point in time, in a form acceptable to the city attorney.

(e) *Criteria for administrative decision.* In any determination regarding the status of a nonconforming use, the director shall determine that both of the following are met:

- (1) The use is legal nonconforming as defined within this section; and
- (2) Since the effective date of the ordinance that made the use nonconforming, the use did not terminate under the provisions of subsection (h), termination of legal nonconforming use.

(f) *Documentation.* If the director determines that the use is legal nonconforming, the director shall document the scope of the use at the time the ordinance was adopted making the use nonconforming. The director may require that a detailed site plan be submitted to document and define the scope of the use.

(g) *Continuance of legal nonconforming use.* A legal nonconforming use shall be allowed to continue according to the following provisions:

- (1) *No enlargement.* The nonconforming use shall not be enlarged to occupy a greater site area or building floor area than it occupied on the effective date of the ordinance making the use nonconforming, except as provided in subsection (j).
- (2) *No relocation.* The nonconforming use shall not be relocated in whole or in part to any other lot or portion of the lot where the use is located.
- (3) *No additional signs.* The nonconforming use shall not be extended or enlarged by the addition of signs visible from any location off the premises.

(h) *Termination of legal nonconforming use.* The nonconforming status of a use shall be terminated immediately upon any of the following:

- (1) *Replacement.* When a nonconforming use is replaced by a conforming use such as a use by right, use with criteria, or conditional use in the applicable zone district;
- (2) *Abandonment.* When a nonconforming use has been abandoned or discontinued for a period of six (6) consecutive months regardless of any intent to resume operation of use;

- (3) *Abandonment, seasonal.* When a seasonal (meaning six (6) months or less) nonconforming use has been abandoned or discontinued for one season regardless of any intent to resume operation of use;
 - (4) *Destruction of structure.* When the structure(s) housing a nonconforming use is destroyed or damaged to an extent in excess of fifty (50) percent of current reconstruction cost or when such structures are damaged or destroyed and not restored within twelve (12) months. The director may grant an extension to the twelve-month time limitation if a structure is of a large scale and requires changes to become compliant with the Uniform Building Code. In such cases the applicant must apply for a building permit within twelve (12) months, and the only changes permitted to the structure shall be those necessary to bring the structure into compliance with the Uniform Building Code;
 - (5) *Condemnation of structure.* When a structure housing a nonconforming use has been officially condemned; or
 - (6) *Relocation of structure.* When a nonconforming structure or structure housing a nonconforming use is removed from its previous site or relocated on the same or any other site.
- (i) *Change to different nonconforming use.* A nonconforming use shall not be changed to another nonconforming use except where:
- (1) The new nonconforming use is granted approval according to procedures used to approve a development plan in section 26-65, and the city council finds that:
 - a. The new nonconforming use is determined by the director to more closely meet the intent of this CDC; and
 - b. The impacts of the new nonconforming use to the surrounding properties is less than that of the existing nonconforming use as evidenced by the response from surrounding property owners.
- (j) *Expansion of legal nonconforming use.*
- (1) *Legal nonconforming residential uses.* Any structure used for single-family residential purposes and maintained as a legal nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities. Such expansions are subject to the limitations stated in subsection 26-93(h), termination of legal nonconforming use.
 - (2) *Legal nonconforming nonresidential uses.* Any structure used for nonresidential purposes and maintained as a legal nonconforming use may be granted approval to expand, enlarge, or increase in intensity according to procedures used to approve a development plan in section 26-65, provided that the city council finds that:
 - a. The use may not expand beyond the site, lot, or parcel as defined by the legal description on the certificate of occupancy for a nonconforming use, or as owned or leased by the nonconforming use as of the date it became nonconforming in the event there is no certificate of occupancy; and

- b. The proposed modification will not result in further infringement of the provisions of this chapter; modifications shall comply with all regulations (other than use restrictions), including but not limited to, lot coverage, FAR, setbacks, height, open space, or parking requirements, unless waived by city council; and
- c. The legal nonconforming use shall not be an industrial use in a residential district. For the purpose of this section, "industrial use" shall mean those uses identified as "industrial uses" in the table of permitted principal uses in this CDC.

(k) *Illegal nonconforming use.* Nothing contained in this chapter shall be construed to allow for the continuation of illegal uses. Illegal uses shall be removed subject to the provisions of this CDC.

(Ord. No. 2187, § 1, 6-3-08)

Sec. 26-94. Legal nonconforming structures.

(a) *Purpose and intent.* The purpose and intent of this section is to limit the number and extent of nonconforming structures by prohibiting their enlargement, or their reestablishment after removal, demolition or destruction. Nonconforming structures, as long as they exist, prevent the full realization of the community plan; therefore, the spirit of these provisions is to restrict rather than increase such nonconformance and to eliminate such nonconformance as speedily as possible.

(b) *Determination of legal nonconforming structure.* A nonconforming structure shall be allowed to continue provided that the director determines that the structure meets one or more of the following criteria:

- (1) The nonconforming structure was lawfully established prior to the effective date of this CDC; or
- (2) The nonconforming structure was registered according to the requirements of the ordinance in effect prior to the effective date of this chapter; or
- (3) The nonconforming structure was lawfully established prior to the effective date of any amendment to this CDC that renders the structure nonconforming; or
- (4) The structure was lawfully authorized by a permit or regulation existing prior to the effective date of this CDC or the effective date of an amendment to this article, subject to the limitations as prescribed by the permit(s) or regulation(s).

(c) *Administrative decision.* The director shall determine whether or not a nonconforming structure is legal under the provisions of this article based upon evidence submitted by the property owner.

(d) *Burden of proof, evidence.* The burden of proof for demonstrating that a nonconforming structure is a legal nonconforming structure shall be upon the property owner. All evidence and documentation that the property owner wishes to be considered shall be submitted to the director within one year of the effective date of the ordinance that made the structure

nonconforming, or within sixty (60) days of written notification by the director concerning the status of the use as illegal or nonconforming, whichever date is later. Acceptable evidence and or documentation may include:

- (1) Public records such as sales tax receipts, property tax receipts, records from the county assessor's office and records from the department of planning and community development, aerial photography and surveys;
- (2) Signed letters from surrounding property owners containing information about the structure;
- (3) Any other evidence that documents the existence and nonconforming characteristics of the structure at a given point in time, in a form acceptable to the city attorney.

(e) *Criteria for administrative decision.* In any determination regarding the status of a nonconforming structure, the director shall determine that both of the following are met:

- (1) The structure is legal nonconforming as defined within this section; and
- (2) Since the effective date of the ordinance that made the structure nonconforming, the structure has not been moved or nonconforming status did not terminate under the provisions of subsection (j), termination of nonconforming structure.

(f) *Documentation.* If the director determines that the structure is legal nonconforming, the director shall document the nature and description of the structure as it was at the time the ordinance was adopted making the structure nonconforming. The director may require that a detailed site plan and building elevations be submitted to document and define the structure.

(g) *Continuance of legal nonconforming structure.* A legal nonconforming structure shall be allowed to continue subject to the following provisions:

- (1) *No enlargement.* The nonconforming structure shall not be enlarged to occupy a greater footprint, site area or volume than was occupied on the effective date of the ordinance making the structure nonconforming, except as provided in subsection (k).
- (2) *No relocation.* The nonconforming structure shall not be relocated in whole or in part to any portion of the lot where the structure is located.

(h) *Maintenance and repairs of nonconforming structures.* Nonconforming structures and site improvements may be maintained and repaired as necessary for convenient, safe or efficient operation or use, provided that no such maintenance or repairs shall increase the discrepancy between the structure or site improvements and the standards of this CDC. The maintenance of such building or structure shall include only necessary repairs and incidental alterations, which alterations, however, shall not extend the nonconformity of such building or structure; provided, that necessary alterations may be made as required by other law or ordinance. If a nonconforming structure has been condemned it may not be repaired.

(i) *Restoration.* The following provisions apply to restoration of nonconforming structures:

- (1) If a nonconforming structure or any portion thereof is damaged or destroyed, through no fault or intent of the owner, to the extent that the cost of restoration to its condition

before the occurrence exceeds fifty (50) percent of the total cost of reconstructing the structure the structure may not be restored except in conformance with the current standards, except as provided in subsection 26-94(i)(4) or (5).

- (2) The cost of land or any factors other than the cost of the structure are excluded in the determination of the cost of restoration for any structure. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoration to the same condition as prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereof. Estimates of cost for this purpose shall be made or reviewed by the building official, shall be approved by the council and shall be based upon the minimum cost of construction in compliance with the building code.
- (3) Any nonconforming structure that is demolished or destroyed by an act of God or nature excluding natural decay or neglect, or through any legal manner not willfully accomplished by the owner, may be restored as of right, regardless of the extent of demolition or destruction, if a building permit for reconstruction is issued within twelve (12) months of the date of demolition or destruction.
- (4) Restoration of residential structures. Any residential structures, including multi-family structures, in a residential zoning district destroyed by a catastrophe, including fire, may be reconstructed as of right up to the original size, placement and density, regardless of the extent of demolition or destruction, if a building permit for reconstruction is issued within twelve (12) months of the date of demolition or destruction.
- (5) Reconstruction plan. If a nonconforming commercial structure or any portion thereof is damaged or destroyed, through no fault or intent of the owner, to the extent that the cost of restoration to its condition before the occurrence exceeds fifty (50) percent of the total cost of reconstructing the structure, the commercial structure may be reconstructed provided it meets all of the regulations of the zone district in which it is located or the structure is rebuilt according to a reconstruction plan approved by the board of adjustment.
 - a. A reconstruction plan must be submitted to the board of adjustment within twelve (12) months of the date that the damage occurred to the nonconforming commercial structure. The director may grant an extension to the twelve-month time limitation if the structure is of a large scale and requires changes to become compliant with the Uniform Building Code.
 - b. The only alterations permitted to the commercial structure shall be those necessary to bring the structure into compliance with the Uniform Building Code.
 - c. A reconstruction plan may be approved by the board of adjustment if it finds that the proposed reconstruction minimizes infringement of this CDC consistent with the specific reconstruction needs of the structure. The board of adjustment may condition such approval to mitigate the detrimental effects of infringement of this CDC by any portion of the nonconforming building or structure.

(j) *Termination of legal nonconforming structure.* The nonconforming status of a structure shall be terminated immediately upon any of the following:

- (1) *Replacement.* When a nonconforming structure is replaced by a conforming structure.
- (2) *Destruction of structure.* When the structure is destroyed or damaged to an extent in excess of fifty (50) percent of current reconstruction cost or when such structures are damaged or destroyed and not restored within six (6) months.
- (3) *Condemnation of structure.* When a nonconforming structure has been officially condemned.
- (4) *Relocation of structure.* When a nonconforming structure is removed from its previous site or relocated on the same or another site.

(k) *Expansion of legal nonconforming structures.* Any building or structure nonconforming as to lot coverage, setbacks, height, open space, density provisions or parking requirements may be enlarged, remodeled or renovated provided such alterations conform to the regulations of the district in which it is located. In such case, such addition or enlargement shall not result in new nonconformities or an increase of existing nonconformities with all of the requirements of this CDC.

(l) *Illegal nonconforming structures.* Nothing contained in this chapter shall be construed to allow for the continuation of illegal structures. Illegal structures shall be removed subject to the provisions of this CDC.

(Ord. No. 2187, § 1, 6-3-08)

Sec. 26-95. Nonconforming lots.

(a) *Purpose and intent.* The intent and purpose of this section is to prohibit any change to nonconforming lots that would increase the degree of nonconformity of that lot. Any expansion, or increase in the nonconformity of a lot will prevent the full realization of the community plan as it is expressed in this CDC.

(b) *Determination of legal nonconforming lot.* A nonconforming lot shall be allowed to continue provided that the lot meets one of the following criteria:

- (1) The nonconforming lot was lawfully established prior to the effective of this CDC; or
- (2) The nonconforming lot was registered according to the requirements of the ordinance in effect prior to the effective date of this chapter; or
- (3) The nonconforming lot was lawfully established prior to the effective date of any amendment to this CDC that renders the structure nonconforming; or
- (4) The lot was lawfully authorized by a permit or regulation existing prior to the effective date of this Code or the effective date of an amendment to this article, subject to the limitation as prescribed by the permit(s) or regulations(s); or

(5) The lot is contained within a legal subdivision plat recorded at the county clerk and recorder's office, where the recording date of the plat precedes the date of the ordinance that rendered the lot nonconforming; or

(6) The lot was created as a result of a foreclosure of a deed of trust, or other court decision.

(c) *Development of a legal nonconforming lot.* Any nonconforming lot of record may be developed if the following conditions exist:

(1) The lot of record is not contiguous to lots held in the same ownership; or

(2) The nonconforming lot is combined with any contiguous lot(s) under common ownership to eliminate the nonconformity or reduce the degree of nonconformity to the greatest degree possible. Common ownership shall include any combination of husband, wife, son, daughter, father, mother, cousin, and any corporation where any combination of such individuals maintain a controlling interest; and

(3) The lot does not meet the minimum lot size in the zone district, but the proposed structure can be accommodated with side and rear setbacks that have been adjusted as shown below to reflect the small size of the lot.

a. Minimum adjusted side setback = Standard side setback in the zone district multiplied by (size of lot/minimum lot size permitted in the zone district);

b. Minimum adjusted rear setback = Standard rear setback in the zone district multiplied by (size of lot/minimum lot size permitted in the zone district);

c. No such change shall permit any side or rear setback to be reduced by more than twenty (20) percent.

(4) The proposed single-family dwelling unit can be located on the lot so that the yard, height, open space, and floor area ratio dimensional requirements of the zone district can be met, or a variance is obtained from the dimensional requirements pursuant to the provisions of section 26-70, variances.

(d) *Lot reduction.*

(1) No lot or interest therein shall be transferred, conveyed, sold or subdivided so as to create a new nonconforming lot, to avoid, circumvent, or subvert any provision of this article, or to leave remaining any lot in violation of the dimensional requirements of this article.

(2) No lot or portion of a lot required as a building site under these provisions shall be used as a portion of a lot required as a building site for another structure.

(3) No building permit shall be issued for any lot or parcel of land that has been conveyed, sold, or subdivided in violation of this section.

(Ord. No. 2187, § 1, 6-3-08)

Secs. 26-96—26-130. Reserved.