

August 11, 1997  
7:00 PM

**Notice to Readers:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the City Council's part as issues have been discussed by Council previously. Council may defer final action on an item to a future meeting. Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**
  - A. Proclamation to Zachary Mueller
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
  - A. City Manager's Report
7. **City Council Comments**

**The "Consent Agenda"** is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. **Consent Agenda**
  - A. Bid re 88th Ave/Sheridan Blvd Water Line Replacement Project
  - B. CB No. 48 re Little Dry Creek GOCO Grant (Merkel-Scott)
  - C. CB No. 49 re City Property Easements (Allen-Merkel)
  - D. CB No. 50 re Property Maintenance Code (Dixion-Merkel)
9. **Appointments and Resignations**

None
10. **Public Hearings and Other New Business**
  - A. Councillor's Bill No. 52 re Unified Land Use and Development Code
  - B. Resolution No. 40 re Annexation Compliance re Stroberg
  - C. Councillor's Bill No. 54 re McKay Lake Land Acquisition
  - E. Councillor's Bill No. 53 re Comprehensive Land Use Plan Amendment
  - F. Bond Counsel Fees for Effluent Pipeline Bond Issue
  - G. Resolution No. 42 re Westminster City Center Service Commitments
11. **Old Business and Passage of Ordinances on Second Reading**
  - A. CB No. 47 re Employee Political Activity (Scott-Smith)
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
  - A. City Council
  - B. Request for Executive Session
13. **Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, AUGUST 11, 1997 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

Mayor Heil led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Dixon and Councillors Allen, Harris, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Vicky Bunsen, Assistant City Attorney; and Michele Kelley, City Clerk. Absent none.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Scott to accept the minutes of the meeting of July 28, 1997 with no additions or corrections. The motion carried unanimously.

A motion was made by Allen and seconded by Scott to accept the minutes of the special meeting of August 4, 1997 with no additions or corrections. Councillor Harris requested to abstain as he was not present at the meeting. The motion carried with 6 aye votes and Councillor Harris abstaining.

PRESENTATIONS:

Mayor Heil presented a proclamation to Zachary Mueller declaring August 11, 1997 as Zachary Mueller Day in recognition of his award of a college scholarship from D.A.R.E. America.

REPORT OF CITY OFFICIALS:

City Manager Bill Christopher reported the budget process is on schedule and the 5 year Capital Improvement Projects will be discussed at next Monday's Study Session. The budget is balanced with no new taxes or fees and the proposed budget will be distributed on September 5. The final public hearing on the budget will be held September 8, and the budget retreat will take place on September 29.

CITY COUNCIL COMMENTS:

Mayor Pro Tem Dixon attended 2 meetings with the Secretary of Energy Pena last week concerning Rocky Flats and commented on the Westminster Faire. Councillor Allen commented on the Ice Arena groundbreaking at the Westminster Promenade held earlier today.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Bids for 88th Avenue/Sheridan Boulevard Project - Award a contract to the low bidder VSR Corporation in the amount of \$37,451 for the 88th Avenue/Sheridan Boulevard Water Line Rehabilitation Project; authorize the City Manager to execute a contract between the City and VSR Corporation for water line rehabilitation; authorize a budget of \$37,451 with a contingency budget of \$4,000; and charge the appropriate accounts in the 1997 Water Operating Budget; Councillor's Bill No. 48 re Little Dry Creek GOCO Grant; Councillor's Bill No. 49 re City Property Easements; and Councillor's Bill No. 50 re Property Maintenance Code.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

A motion was made by Harris and seconded by Smith to adopt the Consent Agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 52 - UNIFIED LAND USE AND DEVELOPMENT CODE:

A motion was made by Merkel and seconded by Allen to pass Councillor's Bill No. 52 on first reading adopting a new Unified Land Use Code and Development Code into a single Title 11 of the Westminster Municipal Code. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 40 - STROBERG ANNEXATION PETITION:

A motion was made by Harris and seconded by Scott to adopt Resolution No. 40 accepting the annexation petition submitted by George Stroberg, and make the findings required by State Statute on the sufficiency of the petition; and sets the date of September 22, 1997, for the annexation hearing. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 54 - MCKAY LAKE AREA LAND ACQUISITIONS:

A motion was made by Scott and seconded by Dixon to pass Councillor's Bill No. 54 on first reading appropriating \$600,000 from the Reserve Fund into the General Capital Improvement Fund for the McKay Lake storm drainage protection project. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 53 - COMPREHENSIVE LAND USE PLAN AMENDMENT:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 53 on first reading amending the ordinance adopting the Westminster Comprehensive Land Use Plan, to use the identification date of July 15, 1997. Upon roll call vote, the motion carried unanimously.

BOND COUNSEL FEES FOR EFFLUENT PIPELINE BOND ISSUE:

A motion was made by Dixon and seconded by Merkel to authorize the City Manager to approve an additional \$5,000 payment to Ballard, Spahr, Andrews & Ingersoll in connection with the City's \$13.2 million Water and Wastewater Utility Enterprise Bond Issue. The motion carried unanimously.

RESOLUTION NO. 42 - WESTMINSTER CITY CENTER SERVICE COMMITMENTS:

A motion was made by Scott and seconded by Dixon to adopt Resolution No. 42 awarding 10.6 Category "C" service commitments for the Westminster City Center Filing 3, office building at Block 2, Lot 1A (Pad 6). Upon roll call vote, the motion carried unanimously.

ORDINANCE NO. 2533 - EMPLOYEE POLITICAL ACTIVITY:

A motion was made by Scott and seconded by Smith to adopt Councillor's Bill No. 47 on second reading which amends subsection 1-24-5 (A) of the Westminster Municipal Code pertaining to political activity by City Employees. Upon roll call vote the motion carried with 6 aye votes and a dissenting vote from Dixon.

MISCELLANEOUS BUSINESS:

Councillor Smith reported that the Summer Concert Series held at City Park have been well attended. Mayor Heil stated that on August 14, the Jefferson Symphony Orchestra will close out the summer concert series at the pavilion at City Park.

Mayor Heil stated there would be an Executive Session to discuss a personnel matter.

ADJOURNMENT:

The meeting was adjourned at 7:30 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** August 11, 1997  
**Subject:** Proclamation for Zachary Mueller  
**Prepared by:** Andy Doerr, Interim Public Information Specialist

### **Introduction**

City Council is requested to proclaim August 11, 1997 as Zachary Mueller Day in the City of Westminster.

### **Summary**

On May 20, 1997, Westminster resident and Standley Lake High School student, Zachary Mueller was awarded a \$20,000 college scholarship from D.A.R.E. America. Zachary was chosen from nominations sent in from all over the country. Due to the significance of his efforts, it is appropriate to recognize this accomplishment by one of our Westminster residents.

### **Staff Recommendation**

Mayor and City Council present a proclamation to Zachary Mueller declaring August 11, 1997 as Zachary Mueller Day.

### **Background Information**

The D.A.R.E. program has been a part of the Westminster Police Department since 1990. D.A.R.E. (**D**rug **A**buse **R**esistance **E**ducation) is a program where police officers are assigned duties at schools of all levels, elementary, middle, and senior. The officers teach classes on such things as considering consequences, learning resistance skills, reducing violence in gangs, building self-esteem, choosing/being role models, making decisions, and more.

To qualify for the D.A.R.E. America scholarship, a student must attend D.A.R.E. classes at all three school levels, maintain high grades and excel in other activities. After being nominated for the award by a D.A.R.E. officer, the student must write an essay on how D.A.R.E. has affected their life.

Zachary Mueller maintained a 4.0 grade point average while serving as Sophomore and Junior Class President, Captain of the Tennis team, and lettering in a number of activities. The scholarship allows Zachary to attend the college of his choice. He has chosen to stay close to home and study pre-medicine at the University of Colorado in Boulder.

Respectfully submitted,

William M. Christopher  
City Manager

Whereas, Standley Lake High School Senior, Zachary Mueller was awarded a \$20,000 College Scholarship from D.A.R.E. America, and

Whereas, Zachary Mueller has attended D.A.R.E. classes at Betty Adams Elementary School, Mandalay Middle School, and Standley Lake Senior High School, and

Whereas, Zachary Mueller has maintained a 4.0 Grade Point Average while engaging in many extra curricular activities, and

Whereas, the Westminster Police Department implemented the Drug Abuse Resistance Education program (D.A.R.E) in the Fall of 1990, and reaches 4,000 students annually, and

Whereas, Zachary Mueller was chosen for the one scholarship available over nominations from all over the Country, and

Whereas, Zachary Mueller will use this scholarship to attend the University of Colorado in Boulder to study Pre-medicine.

Now, therefore, I, Nancy Heil, Mayor of the City of Westminster, on behalf of the entire Westminster City Council and Staff, do hereby proclaim Monday, August 11, 1997 as

**Zachary Mueller Day**

in the City of Westminster, in recognition of Zachary's hard work and dedication in school and with the D.A.R.E. program and in recognition of his Scholarship award from D.A.R.E. America. We are proud to have Zachary Mueller as a Westminster resident.

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Nancy M. Heil, Mayor

**Date:** August 11, 1997  
**Subject:** Bids re 88th Ave/Sheridan Blvd Water Line Project  
**Prepared by:** Jack Rudey, Utilities Field Operations Supervisor  
Abel Moreno, Utilities Management Intern

**Introduction**

City Council action is requested to award the bid for the 88th Avenue/Sheridan Boulevard Water Line Rehabilitation Project to VSR Corporation. City Council action is also requested to authorize the City Manager to execute a contract between the City and VSR Corporation. The contract includes the 88th Avenue/Sheridan Boulevard Water Line Rehabilitation Project, authorizes a budget of \$37,451 for water line improvements and \$4,000 for a contingency budget. Funds are available for these expenditures in the 1997 Water Operating Budget.

**Summary**

Currently there are four water breaks in the 16-inch transmission water main that lies beneath U.S. 36. Utilities Division Staff have isolated the valves to prevent any further damage from occurring. Several alternatives have been reviewed for rehabilitation or replacement of the line. The most cost effective and least damaging is sliplining the water main using High Density Polyethylene pipe. The damaged water main lies between 88th Avenue and Sheridan Boulevard to the east of U.S. 36 into the RTD Park-n-Ride parking lot. Due to the water main being out of service, it is imperative that repairs be made to get the line back into service as soon as possible. Sliplining this portion of the project will enable the City to avoid excavating in the intersection of 88th Avenue and Sheridan Boulevard.

The City solicited the only companies who install American Water Works Association (AWWA) approved polyethylene pipe. There are only two bidders in the Denver Metropolitan area that qualify and perform this type of work. Therefore, Staff is requesting that the City's requirement for obtaining three bidders be waived in this case, as there are only two bidders available to the City.

<u>BIDDER</u>	<u>LUMP SUM BID</u>
VSR Corporation	\$37,451
Guildner Pipeline Maintenance, Inc.	\$47,250

VSR Corporation has been determined to be the successful contractor on the basis of their bid as the lowest responsible responsive lump sum bid within the established funds available for the contract. The City's available budget for the 88th Avenue/Sheridan Boulevard Water Line Rehabilitation Project is \$100,000.

### **Staff Recommendation**

Award a contract to the low bidder VSR Corporation in the amount of \$37,451 for the 88th Avenue/Sheridan Boulevard Water Line Rehabilitation Project; authorize the City Manager to execute a contract between the City and VSR Corporation for water line rehabilitation; authorize a budget of \$37,451 with a contingency budget of \$4,000; and charge the appropriate accounts in the 1997 Water Operating Budget.

### **Background Information**

During the week of July 14, the City experienced four water breaks on the 16-inch transmission water main that is located beneath U.S. 36. Utilities Division Staff isolated the water line to avoid further damage. In the meantime, discussions have taken place to determine the proper plan for restoring water service to the Northridge Water Tanks and the City's Police Building. It was determined that rehabilitating the water line using a High Density Polyethylene pipe would be more cost effective and quicker than installing a new water line.

Over the past several weeks, City Staff has been meeting with contractors and representatives from RTD to discuss the water line restoration process. During the process of repair on the water main line breaks, it was discovered that the Public Service Company of Colorado's (PSCo) transformer box sits on top of the City's water line; therefore, it was difficult to obtain proper shoring without relocating the box. However before being able to relocate the box, it fell into the excavated hole and caused the power to go out. This potential risk to the safety of RTD passengers is a concern to the RTD. The City has been working to get temporary power hooked up until the transformer boxes can be relocated.

An alternative to rehabilitating the 16-inch water main is to replace the approximately 510 foot line using PVC pipe and boring beneath the highway. However, the City could have to excavate the intersection of 88th Avenue and Sheridan Boulevard and shutting down traffic for an extended period of time. This alternative would also be much more costly than rehabilitating the water line. An estimate to install a new water line is \$138,000. Staff believes that it is in the best interest of the City to rehabilitate the line and get it back into service as soon as possible.

Work would begin in mid-August, with completion slated for the end of August.

Respectfully submitted,

William M. Christopher  
City Manager



**Date:** August 11, 1997

**Subject:** Councillor's Bill No. Unified Land Use and Development Code

**Prepared by:** Marty McCullough, City Attorney  
David Falconieri, Planner III

## **Introduction**

City Council action is requested to pass the attached Councillor's Bill on first reading revising the comprehensive revision of the City's Land Use and Development Code. The Code was previously distributed to City Council to provide additional time to review. The proposed revision unifies all of the various sections that pertain to land development, and clarifies many provisions which have caused confusion over the past several years. The proposed reorganization also deletes obsolete provisions, and reorganizes development requirements based on the normal development chronology to improve comprehension by the development community and the general public.

## **Summary**

>For many years there has been significant concern expressed by developers, citizens and City Staff regarding the inadequacy of the current City land development regulations. Over time many sections have become very difficult to understand. Many otherwise related requirements for land development proposals are scattered throughout many different chapters. Also, the current code lacks clear standards of judicial review and does not reflect the role of the City's newly adopted Comprehensive Plan in the development process.

>City Staff began the process of reviewing and revising the Code in 1988, but due to periods of heavy workload and changes in personnel, the process has taken years to complete. The Code has been reviewed basically sentence by sentence. It reflects the input of all the divisions within the Community Development Department. The project has been a coordinated effort between both the Community Development Department and the City Attorney's office.

>The revised Code reflects the recent input from the survey of the development community for clearer "ground rules" for development reviews and approvals. The new proposed "Unified Development Code" will place all of the development related provisions of the code which are now scattered among disparate sections into a single Title which is clearly organized and written in a way that everyone who is interested in land development can easily understand and follow.

>There are several significant benefits which will be derived from the proposed new Code:

- \* All logically associated provisions are now organized together and can be easily located. Previously, such provisions were separated based on whether they were considered "procedural" or "substantive" in nature.

- \* Procedures for pursuing land development within the City are clearly arranged in chronological order, and required submittal materials are concisely identified for each step.
- \* Specific standards are delineated for the City's review of all proposals for zoning and land development, which makes the code more legally defensible.
- \* Confusing and conflicting language has been rewritten for many sections which have made enforcement and administration of the code difficult in the past.
- \* The Code has been reorganized into a single Title consisting of 12 chapters. The former Code consisted of 22 Chapters divided between two Titles.
- \* The Code clearly articulates the requirement for all future development to comply with the City's newly adopted Comprehensive Plan.

>The new proposed Title 11 includes separate chapters covering definitions, growth management, zoning and land development procedures, site development standards, sign regulations, floodplain regulations, and building and fire codes. All regulations have also been updated to delete obsolete language and include all land use and development related ordinances which have been adopted to date by City Council.

### **Staff Recommendation**

Pass Councillor's Bill No.    on first reading adopting a new Unified Land Use and Development Code into a single Title 11.

### **Background Information**

In most cases, the changes which are proposed are organizational and wording changes only. Some changes, however, do alter some procedures or policies which have been followed in the past. Below is a chapter-by-chapter discussion of the proposed new unified code. All substantive changes to procedure and policy are discussed, but the organizational and wording changes are not.

**Chapter One:** All administrative and enforcement provisions are condensed into this chapter. This is a legal simplification that will make the code more enforceable.

**Chapter Two:** In the current code, various definitions are scattered throughout the code where they are often difficult to locate. The unified code will have all relevant definitions in a single location, where they can be easily accessed.

**Chapter Three:** This chapter contains the current Growth Management Program as adopted by the City Council. No changes have been made to the program.

**Chapter Four:** All regulations pertaining to the operations of the various zone districts are consolidated into this chapter. It includes the description of the districts, the development requirements, and regulations on special uses such as home occupations, adult businesses, antennas and non-conforming uses. While this chapter consolidates many different portions of the current code and rewrites many sections which in staff's opinion were poorly phrased, there are no substantive changes in this chapter.

**Chapter Five:** Chapter five is an almost entirely new proposed section of the Code, and is important to the overall project of rewriting the existing Code. In this chapter, the application procedures for all land development proposals are clearly and concisely delineated in chronological order. First zoning procedures are discussed, then Preliminary Development Plans (PDP), Official Development Plans (ODP) and ODP waivers, followed by amendment procedures for PDPs and ODPs, and finally platting procedures. These procedural sections are followed by new detailed standards by which all development proposals should be judged. This is an important new addition to the code which will make it defensible against court challenges and will provide guidance to City officials and developers alike as to the standards by which all proposals will be measured.

Also in this chapter is a new section entitled "Duration of Plan Approvals". If adopted by City Council this would constitute a significant new policy by the City requiring new reviews of certain Planned Unit Developments (PUDs) after a certain time period. It will require that all PDPs older than five (5) years be reviewed for conformance with any new standards and/or regulations. The same would apply for any ODP that was not constructed and was more than three years old. This will permit City Council to continuously monitor past approvals of projects that were never built, and will provide a mechanism that will keep developments current with City policies.

**Chapter Six:** This chapter combines several disparate sections of the current code which pertain to public improvements into a single chapter. Requirements for public improvement agreements and surety are delineated. Undergrounding of overhead utility lines, improvement districts, recovery and participation costs, and requirements for dedication of public property are all grouped in a single chapter.

A change is being proposed for the undergrounding of overhead utility section where future developers of lots who are not simply expanding or remodeling an existing use will now be required to underground the utility lines or pay a cash equivalent if the immediate undergrounding is not practical. Previously, the City permitted the developer to provide an unsecured agreement to do it at some time in the future. Such agreements have been impossible to enforce when undergrounding became desirable years after the agreement was signed.

Also in this chapter, the Park Development fee has been adjusted upwards 4.3% in accordance with the 1996 Consumer Price Index for the Denver/Boulder area. This is done on an annual basis as per City Council direction in 1994. The new fees are \$1,306 per a single family detached unit, \$1,061 per single family attached unit, and \$870 per multi-family unit.

**Chapter Seven:** In this chapter all of the various requirements for site development have been assembled. This includes lot standards, parking requirements, landscaping, common area standards, soil erosion requirements, and mobile home standards. The landscaping provisions in the code are general in nature, but incorporate by reference the City's Landscaping Regulations document. City Staff held numerous meetings with the Home Builders Association, local business people, and developers, in order to develop the Landscape Regulations. The Landscape Regulations were finalized by a private landscape architectural firm in conjunction with City Staff, and have been used by Staff as "landscape guidelines" in the development review process for over a year. Those regulations cover the specifics of landscaping design and installation which are too detailed for inclusion in the City Code.

The Landscape Regulations will be ready for adoption by Resolution at the August 25th meeting, which will coincide with the second reading of this Ordinance. Both the Metro North and Northwest Metro Chamber of Commerce have provided comments which will be addressed at the August 25th Council meeting.

**Chapters Eight, Nine, and Ten:** These chapters include the flood control, Building and Fire Codes respectively, all of which have been revised and adopted by the City Council within the last year and have not been modified as part of this reorganization.

**Chapter Eleven:** This chapter will include the sign regulations which have been recodified and reorganized only. No other changes have been made.

**Chapter Twelve:** This Chapter is being "reserved" for the Rental Maintenance Code which was considered by City Council on first reading on July 28, 1997.

**Conforming Amendment:** The ordinance adopting the Unified Land Use Code also contains a provision which has the effect of moving section 11-6-8 of the Code concerning Industrial Development and Private Activity Bonds ("IDRB's) to Title 1. Staff believes Title 1 is a more appropriate location for this provision which establishes fees for the review and approval of such financings, and establishes the City's requirement that such bonds be rated "AA" or higher by one of the nationally recognized rating agencies (e.g., Moody's or Standard & Poor).

To conclude, Staff and members of the general community have found it increasingly difficult to interpret the various provisions of the current City Code. The act of amending the code numerous times over the years has led to conflicting provisions and difficult to understand regulations. This Code has not been comprehensively reviewed since its original adoption in 1972. The fractured nature of the Code makes it difficult to find all pertinent sections when land development is involved, and the standards by which development is judged are non-existent.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1997 INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE ADOPTING A UNIFIED LAND USE CODE BY REPEALING AND REENACTING TITLE XI AND REPEALING IN ITS ENTIRETY TITLE XII OF THE WESTMINSTER MUNICIPAL CODE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title XI, W.M.C., is hereby REPEALED AND REENACTED as follows:

**CHAPTER 1 - GENERAL PROVISIONS, ADMINISTRATION AND ENFORCEMENT**

**11-1-1: PURPOSE.** This Title is enacted to preserve and promote the public health, safety, and welfare of the inhabitants of the City of Westminster and of the public generally and to encourage and facilitate the orderly growth and expansion of the City. This Title combines the provisions more commonly found in separate zoning, subdivision, growth management, building, floodplain, and numerous other ordinances into a single land use and development code that will cover all phases of development from annexation through certificate of occupancy. The intent of the unified approach is to:

- (A) Address the changes in the way land development occurs. Current land development practices blur the traditional distinctions between zoning and subdivision and, typically, contain a variety of residential and non-residential uses in a single development.
- (B) Include all types and stages of development under one ordinance and provide only one set of regulations and standards with which those using the development process need to become familiar.
- (C) Avoid overlapping, conflicting, or inconsistent code provisions that frequently occur as a result of numerous individual ordinances.

**11-1-2: GENERAL AUTHORITY.** This Title is enacted pursuant to the home rule provisions of Article XX of the Colorado Constitution and the authority and powers contained in the City Charter of the City of Westminster including, but not limited to, Chapters 2, 4 and 11.5 thereof.

**11-1-3: VIOLATIONS.**

(A) It shall be unlawful for any person or entity to:

1. Use, occupy, or sell any land, or authorize or permit the use, occupancy, or sale of land under the person's control except in accordance with all applicable provisions of this Title.
2. Use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings except in conformance with all applicable provisions of this Title, as well as all applicable development plans and restrictions including, but not limited to, zoning district restrictions; PUD (Planned Unit Development) restrictions; the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or Final Plat; engineering construction drawings; building construction drawings; all public and private improvement drawings and agreements; drainage, traffic and utility studies; and the terms and conditions of any applicable duly granted variances or exceptions.
3. Construct, reconstruct or alter any building or authorize the construction, reconstruction or alteration of any building under the person's control except in accordance with all applicable provisions of this Title, as well as all applicable development plans and restrictions including, but not limited to, zoning district restrictions; PUD (Planned Unit Development) restrictions; the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or

Final Plat; engineering construction drawings; building construction drawings; all public and private improvement drawings and agreements; drainage, traffic and utility studies; and the terms and conditions of any applicable duly granted variances or exceptions.

4. Utilize any yard or other open space provided about any building for the purpose of complying with provisions of this Title to provide a yard or other open space for any other building. No yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

5. Construct, reconstruct, alter, or change the use of any building or other structure, including signage, within the City without obtaining a building permit from the Building Official or his authorized representative. No permit shall be issued unless the plans of and for the proposed construction, reconstruction, alteration, demolition, or use fully conform to the zoning regulations then in effect. No business license shall be issued by the City Clerk without being furnished a written notice from the Planning Manager and Building Official that the use of the premises proposed is in conformance with the requirements of the provisions of this Title.

(B) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

**11-1-4: INTERPRETATION.** The provisions of this Title shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Title are at variance with any other provision of this Code, or any duly promulgated rule or regulation of the City, the more restrictive, or that imposing the higher standards, shall govern. Any action or approval authorized in this Title to be taken or granted by the City Manager, may be taken or granted by the City Manager's designated representative.

**11-1-5: PENALTIES AND REMEDIES.**

(A) Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this Title, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Title, shall be deemed guilty of a criminal misdemeanor and upon conviction shall be punished in accordance with the provisions of section 1-8-1 of this Code.

(B) Any building or structure which is, or is proposed to be, constructed, reconstructed, altered, maintained, or used and any land which is proposed to be used, in violation of any provision of this Title or any amendment thereof, is hereby declared to be a public nuisance and the City, or any owner of real estate within the City, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful construction, reconstruction, alteration, maintenance, or use.

**CHAPTER 2 - DEFINITIONS**

**11-2-1: DEFINITIONS.**

(A) Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this Chapter shall have the meanings indicated below when used in this Title.

(B) Words, phrases, and terms neither defined herein nor elsewhere in the Westminster Municipal Code shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

(C) The words and terms used, defined, interpreted or further described in this Chapter shall be construed as follows:

1. The particular controls the general;
2. The present tense includes the future tense;
3. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;
4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"

5. The word "shall" is mandatory; the word "may" is permissive;

6. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

#### **11-2-2: "A"**

**(A) ACCESSORY BUILDING.** The term "accessory building" shall mean any non-habitable building, structure, or portion thereof located on the same principal lot as a habitable structure that is clearly incidental to the principal structure, such as a garage or a storage shed.

**(B) ANTIQUE SHOP.** An establishment offering for sale, within a building, articles such as glass, china, furniture, clothing or similar furnishings and decorations which have greater value than when they were originally created and sold and have significance as a result of age, design or sentiment.

**(C) APPEAL.** A request for a review of the interpretation of any provisions of this ordinance, or a request for review of the identification of any floodplain or floodway as indicated in any Official Flood Study.

**(D) APPLICANT.** A person, partnership, company, corporation, public agency, or the assigns of the above requesting permission to engage in land development activity.

**(E) ARCHITECTURAL PROJECTION.** Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including roof overhangs, mansards, unenclosed exterior balconies, marquees, bay windows, immovable awnings, canopies, pilasters, fascias, and the like, but not including signs.

**(F) ATTACHED SENIOR HOUSING UNIT.** An attached residential dwelling unit within a housing project restricted to persons 60 years of age or over, or as may otherwise be determined by Council.

**(G) AWNING.** A movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded, or collapsed against the face of the supporting building.

#### **11-2-3: "B"**

**(A) BASE FLOOD (100-YEAR FLOOD).** The flood having a 1 percent probability of being equaled or exceeded in any given year.

**(B) BASE FLOOD ELEVATION (BFE).** The water surface elevation of the base flood (100-year flood) as indicated in the official flood studies.

**(C) BILLBOARD.** Off-premise advertising or directional sign.

**(D) BUILDING OFFICIAL.** The officer or other person charged with the administration and enforcement of the Building Codes and Sign Code or the Building Official's duly authorized representative.

**(E) BUILDING SERVICE EQUIPMENT.** The plumbing, mechanical, and electrical equipment, including piping, wiring, fixtures, and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire protection, and facilities essential for the habitable occupancy of a mobile home, building, or structure.

#### **11-2-4: "C"**

**(A) CANOPY.** A permanently roofed shelter covering a sidewalk, driveway, or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

**(B) CANOPY SIGN.** Any sign which is hung, suspended, or attached to the underside of a canopy. Such sign would be designed and so oriented as to be used only by pedestrian traffic under the canopy and not used for additional signage for frontage advertising.

**(C) CHANGEABLE COPY SIGN.** A sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign.

**(D) CITY ENGINEER.** All references to the "City Engineer" in this Code shall include any engineer, or firm of engineers, or corporation engaged in the practice of engineering, which may be under contract with the City with respect to local public improvements contracted for or installed pursuant to this Chapter.

**(E) CONSTRUCT.** The term "construct," "constructed," "construction," or words of similar import shall be deemed to include "acquire," "acquired," "acquisition," or similar import in districts created to acquire improvements already constructed.

**(F) CUT.** An act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated.

#### **11-2-5: "D"**

**(A) DETENTION POND.** A pond constructed for the temporary storage of runoff waters where the opening for release is of a relatively fixed capacity and not manually operated.

**(B) DEVELOPED FLOW.** The amount of rainfall runoff generated by a parcel of land which has been developed to its ultimate use with no retention or detention facilities by which the runoff volume or flow rate is altered.

**(C) DEVELOPER.** Any person, persons, company, partnership, or corporation who subdivides, constructs, or provides any type of improvements or in any way engages in the development of land.

**(D) DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

**(E) DIRECTIONAL SIGN.** A permanent sign limited in subject matter to parking instructions and similar traffic directional information with no merchandise or service advertising.

**(F) DIVERSION CHANNEL.** A channel with a supporting ridge on the lower side constructed across the slope.

**(G) DWELLING UNIT.** The term "dwelling unit" shall mean a single residential unit providing complete independent living facilities for one or more persons including permanent provisions for sleeping, eating, cooking, and sanitation.

**(H) DWELLING UNIT, MULTI-FAMILY.** A dwelling unit contained in a structure also containing other dwelling units in which each unit is attached to another at one or more party walls and at either the floor or the ceiling. For purposes of Chapter 3 of this Code title, no dwelling units shall be classified as multi-family if they contain more than two bedrooms. A dwelling unit otherwise meeting this definition but containing more than two bedrooms shall be considered a single-family attached dwelling unit for purposes of said chapter only. A structure could contain both multi-family dwelling units and single-family attached dwelling units as defined herein.

**(I) DWELLING UNIT, RESIDENTIAL.** A building or part of a building including cooking, bath, toilet and general living facilities and spaces and designed and intended for occupancy as a primary residence by one family or by a group living essentially as a family. The term "dwelling unit" is synonymous with "residential" and also includes such uses as dormitories and nursing homes but not hospitals, hotels, and motels.

**(J) DWELLING UNIT, SINGLE-FAMILY ATTACHED.** A dwelling unit contained in its own structure from ground to roof, which structure shares one or more party walls with one or more similar units. Includes two-family or duplex dwellings.



**(K) DWELLING UNIT, SINGLE-FAMILY DETACHED.** A single dwelling unit contained in a free-standing structure which has no party walls with other structures.

**11-2-6: "E"**

**(A) ENCROACHMENT LINES.** Lines that establish the floodway by the "equal conveyance reduction method" that differentiate those areas of the floodplain that must be preserved for the conveyance of flood flows and those areas of the floodplain that can be used for purposes other than flood flow conveyance.

**(B) EQUAL CONVEYANCE REDUCTION METHOD.** The procedure for determining the "encroachment lines." This method establishes encroachment lines by reducing equal proportions of flood conveyance from both sides of a floodplain until the water surface elevation of the 100-year floodplain is increased by 1 foot.

**(C) EROSION.** The wearing away of land surface by detachment and transportation of soil or rock material through the action of moving water, wind, ice, or gravity.

**(D) EROSION CONTROL PLAN.** The plan required as an application for a land disturbance permit. Such document illustrates grading plans and includes necessary land treatment measures, including construction schedules of treatment installations which will minimize soil erosion and sedimentation.

**(E) EXISTING CONSTRUCTION.** For the purposes of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of this Ordinance. "Existing construction" may also be referred to as "existing structures."

**(F) EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park 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) were completed before September 30, 1988.

**(G) EXISTING RESIDENTIAL SUBDIVISIONS.** A platted and duly recorded residential subdivision or a residential subdivision for which an application for final plat was submitted by July 1, 1994, in accordance with Ordinance No. 2223. Any other subdivision shall be deemed to be a new residential subdivision within the meaning of this Chapter.

**(H) EXPANSION TO 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).

**11-2-7: "F"**

**(A) FAST FOOD RESTAURANT.** Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes one or both of the following characteristics:

1. Foods, frozen desserts, or beverages are usually served in paper, plastic, edible, or other disposable containers.
2. Facilities for on-premises consumption of the food are insufficient for the volume of food sold in the establishment.

**(B) FINAL PLAT.** The map or plan of record of a subdivision and any accompanying material, as described in these regulations.

**(C) FLOOD OR FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

**(D) FLOOD HAZARD AREA.** The area which will be inundated during the occurrence of the 100-year flood (base flood).

**(E) FLOOD INSURANCE RATE MAP (FIRM).** The map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community for the purpose of insurance rating only.

**(F) FLOOD INSURANCE STUDY (FIS).** The report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary, floodway map, and the water surface elevation of the base flood for the purpose of insurance rating only.

**(G) FLOODPLAIN.** The area which will be inundated during the occurrence of a storm of a given magnitude or frequency.

**(H) FLOODPLAIN DEVELOPMENT PERMIT.** The permit required under section 11-9-13 of this Code.

**(I) FLOODPLAIN MANAGEMENT.** A program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**(J) FLOODPLAIN VARIANCE.** A grant of relief by the City from the terms of the floodplain ordinance.

**(K) FLOODPROOFING.** Any combination of structural and non-structural additions, changes, or adjustments to proposed or existing structures which reduce or substantially eliminate the potential for flood damage to real estate or improved real property, public or private facilities, structures and their contents.

**(L) FLOOD PROFILE.** A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to the ground surface along a stream or river.

**(M) FLOOD PROTECTION ELEVATION.** An elevation 1 foot above the water surface elevation or flood profile of the 100-year flood under existing channel and floodplain conditions. This elevation is applicable to development within the "flood storage area."

**(N) FLOOD STORAGE AREA.** Those portions of the floodplain that may serve as a temporary storage area for floodwaters from the 100-year flood that are outside the floodway area.

**(O) FLOOD STUDY.** An engineering study utilizing hydrologic and hydraulic analyses to identify storm runoff characteristics including flow rates and the extent of inundation for a specified storm recurrence interval.

**(P) FLOODWAY.** The channel of a river, stream, or other water course and the adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood more than 1 foot assuming an equal degree of conveyance reduction from both sides of a floodplain for a significant reach of channel. The floodway is located within the floodplain.

**(Q) FOOD SERVICE.** Food service includes both full service and fast food restaurants with or without liquor service, as well as specialty stores such as doughnut shops and ice cream parlors.

**(R) FREE STANDING GROUND SIGN.** A sign which is supported by the ground or from an object on the ground, or sign which is erected on the ground, providing that no part of the sign is attached to any part of any building, structure or other sign. The term "freestanding sign" shall include "pole sign," "pedestal sign," and "ground sign."

**(S) FRONTAGE, BUILDING.** The horizontal, linear dimension of that side of a building which abuts a street, a parking area, a mall, or other circulation area that is open to the general public; and having either a main window display of the enterprise or a public entrance to the building. In industrial districts a building side with an entrance open to employees shall also qualify as a building frontage. Where more than one use occupies a building, each use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

**(T) FRONTAGE, LOT.** That side of a lot abutting on a street or way ordinarily regarded as the front of the lot.

**(U) FRONTAGE, STREET.** The linear frontage(s) of a lot or parcel abutting on a private or public street which provides principal access to, or visibility of, the premises.

**11-2-8: "G"**

**(A) GRADING.** The practice of changing the ground level or slope.

**(B) GROSS FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, excluding the following areas: attic areas with head room of less than 7 feet; unenclosed building exterior walks, stairs, or fire escapes; elevator structures on the roof; areas devoted exclusively to air conditioning, ventilating, and other building machinery and equipment; and parking structures and enclosed pedestrian walks of over 30 feet in width and 100 feet in length.

**11-2-9: "H"**

**(A) HOME OCCUPATION.** Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit.

**11-2-10: "I"**

**(A) ILLUMINATION, DIRECT.** Lighting by means of an unshielded light source, including neon tubing, which is effectively visible as a part of the sign where light travels directly from the source to the viewer's eye.

**(B) ILLUMINATION, INDIRECT.** Lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate the sign from the front, or a light source which is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination such as parking lot lights or lights inside a building which may silhouette a window sign but which are primarily installed to serve as inside illumination.

**(C) ILLUMINATION, INTERNAL.** Lighting by means of a light source which is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs which are themselves made of a translucent material.

**(D) INTEREST RATE.** That interest rate on recoverable costs which is officially established by the City Council from time to time.

**11-2-11: "J"**

**11-2-12: "K"**

**11-2-13: "L"**

**(A) LAND DISTURBANCE.** An activity involving the clearing, grading, transporting, filling, or other activity which causes land to be exposed to erosion.

**(B) LIGHT SOURCE.** Includes neon, fluorescent or similar tube lighting, the incandescent bulb, including the light producing elements therein, and any reflecting surface which, by reason of its construction and/or placement, becomes, in effect, the light source.

**(C) LOT.** A tract, plot, or portion of a subdivision or other parcel of land in single ownership and not divided by a public street.

**(D) LOT LINE, FRONT.** The lot line on the frontage side of the lot.

**(E) LOT, REVERSE CORNER.** A corner lot having as its side lot line a continuation of the front lot line of the adjacent lots.

**(F) LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure which is 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 any portion of this Ordinance.

**11-2-14: "M"**

**(A) MAINTENANCE.** The replacing, repairing or repainting of a portion of a sign structure, periodic changing of bulletin board panels or the renewing of copy which has become no longer usable through ordinary wear and tear, weather or accident. The replacing or repairing of a sign or sign structure which has been damaged to an extent exceeding fifty percent (50%) of the appraised replacement cost, as determined by the building official, shall be considered as "maintenance" only when said sign conforms to all of the applicable provisions of this code and when the damage has been caused by an act of God or violent accident.

**(B) MANAGEMENT.** The term "management" shall mean the owner or person responsible for operating and managing the mobile home park or an agent, employee, or representative authorized to act on said management's behalf in connection with matters relating to tenancy and the overall operation and maintenance of the mobile home park.

**(C) 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. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**(D) MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** A parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

**(E) MARQUEE.** A permanently-roofed structure attached to and supported by a building and projecting from the building.

**(F) MOBILE HOME.** The term "mobile home" shall mean any dwelling unit built on a permanent, wheeled chassis exceeding either 8 feet in width or 32 feet in length and designed for long-term residential occupancy in a temporary or permanent location which is capable of being towed over public streets or highways as a unit or in sections and duly licensable as such.

**(G) MOBILE HOME PARK.** The term "mobile home park" shall mean a parcel of land under single ownership which has been planned and approved for the placement of a mobile home, occupied for dwelling purposes, and for transient and non-transient uses.

**(H) MOBILE HOME SPACE.** The term "mobile home space" shall mean a plot of land within a mobile home park designed and intended to accommodate one mobile home.

**11-2-15: "N"**

**(A) NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** A federal regulatory program created by Congress through the National Flood Insurance Act of 1968 (P.L. 90-449). This program was established within the Federal Insurance Administration (FIA) for the purpose of providing federally subsidized flood insurance for those property owners located within communities participating in the NFIP.

**(B) NEW CONSTRUCTION.** For the purpose of determining flood insurance rates, structures for which the "start of construction" commenced on or after September 30, 1988, and includes any subsequent improvements to such structures.

**(C) 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 pouring of concrete pads) is completed on or before September 30, 1988.

**11-2-16: "O"**

**(A) OFFICIAL FLOOD STUDIES.** Flood studies adopted by official action of the City Council.

**(B) OFF-PREMISE ADVERTISING OR DIRECTIONAL SIGN.** Any off-premise sign, including a billboard or general outdoor advertising device, which advertises or directs attention to a business, community, service or activity conducted, sold, offered elsewhere than on the same lot or within the same building upon which such sign is located.

**(C) ONE-HUNDRED YEAR FLOOD (BASE FLOOD).** The flood having a 1 percent probability of being equaled or exceeded in any given year.

**(D) ONE-HUNDRED YEAR FLOODPLAIN.** The area of land which will be inundated during the occurrence of 100-year flood (base flood).

**(E) ONE-HUNDRED YEAR FLOOD ELEVATION.** The water surface elevation of the 100-year flood (base flood) as indicated in the official flood studies.

**(F) OWNER.** A person, firm, corporation or other legal entity recorded as such on the records of the Adams or Jefferson County Clerk and Recorder, including a duly authorized agent or attorney, a purchaser, devisee, fiduciary or living person having a vested or contingent interest in the property in question.

**11-2-17: "P"**

**(A) PARTICIPATION COSTS.** That portion of the construction cost of public improvements for which the City is responsible.

**(B) PROFESSIONAL ENGINEER.** An engineer that is registered to practice engineering in the State of Colorado.

**(C) PUBLIC ENTRANCE.** An entrance to a building or premises which is customarily used or intended for use by the general public. Fire exits, special employee entrances and loading dock entrances not generally used by the public and the like are not considered public entrances.

**(D) PUBLIC IMPROVEMENT.** Any street, curb, gutter, sidewalk, drainage ditch, drainageway, utility line, pedestrianway, or other facility for public use or owned by the City.

**11-2-18: "Q"**

**11-2-19: "R"**

**(A) RECOVERABLE COSTS.** That portion of the construction cost for which the City determines the owners or developers of other properties served by the improvements are responsible. Recoverable costs may include that portion of the costs of construction financed by developers through special assessment obligations or any other form of financial support which exceeds the amount of benefits the financing developers will realize from the improvements so financed.

**(B) RECREATIONAL VEHICLE.** A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**(C) ROOF.** The cover of any building, including the eaves and similar projections.

**(D) ROOFLINE.** The highest point on any building where an exterior wall encloses usable floor space. The term "roofline" includes the top of any parapet wall, providing said parapet wall extends around the entire perimeter of the building at the same elevation. However, the top of a parapet wall extending along one or more building elevations or a portion of one or more building elevations may, as determined by the City Manager, be considered to be the roofline in those instances where the parapet wall improves the architectural appearance of a building or shields rooftop mechanical equipment.

**11-2-20: "S"**

**(A) SATELLITE EARTH STATION OR SATELLITE DISH.** A dish-shaped antenna and associated electronics designed to receive television broadcasts relayed by microwave signals from earth orbiting communication satellites.

**(B) SEDIMENT.** Rock, sand, gravel, silt, soil, or other material that is transported by, suspended in, or deposited by water or air or is accumulated in beds by other natural agencies.

**(C) SEDIMENT BASIN.** A barrier or dam built at a suitable location to retain rock, sand, gravel, soil, or other material deposited by action of water, wind, ice, gravity, or other agents of erosion.

**(D) SEDIMENTATION.** The process of subsidence and deposition of suspended matter carried by water or other liquids.

**(E) SERIOUS HAZARD.** A man-made or natural phenomenon which is so adverse to past, current, or foreseeable development of land as to constitute a significant hazard to public health and safety or to property. The term may include, but is not limited to, natural hazards such as ground subsidence, radioactivity, landslides, floodplains and unstable slopes, and man-made hazards such as radioactivity and airport operations.

**(F) SERVICE BUILDING.** The term "service building" shall mean any building or structure within a mobile home park that is used in common by the tenants of the mobile home park for such purposes as assembly, storage, recreation, laundry, car washing, office needs, or similar uses.

**(G) SERVICE COMMITMENT.** The measure of City service required is determined by the average service provided to one single-family detached dwelling unit. Adequacy of a Service Commitment for a structure shall be determined in accordance with the following schedule:

<u>Use</u>	<u>Service Commitment</u>
Single-Family Detached Dwelling Unit or Mobile Home Unit	1.00
Single-Family Attached Dwelling Unit	0.80
Apartment Dwelling Unit	0.50
Attached Senior Housing Unit	0.35
Non-Residential plan presented.	To be determined on a case-by-case basis, based upon the specific

**(H) SHALLOW FLOODING AREAS.** Areas within the 100-year floodplain where the base flood depths range from 1 foot to 3 feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. On the flood insurance rate maps (FIRM) this area is designated as A0 or AH zones.

**(I) SHOPPING CENTER; BUSINESS CENTER; AND OFFICE, INDUSTRIAL, OR TECHNICAL PARKS/CENTERS.** A group of two or more professional, office, commercial, industrial, or combination thereof establishments that are planned, developed, owned, or managed as a unit and related in location, size, and type, and provide on-site parking in definite relationship to the types and sizes of establishments. Free-standing or attached buildings which function as a part of a shopping center, though they may be under separate ownership shall be deemed to be a part of the shopping center.

**(J) SIGN.** Any writing, pictorial representation, or decoration (including material used to differentiate sign copy from its background, form, emblem, or trademark) flag, banner, or any other figure of similar character which:

1. Is a structure or any part thereof (including the roof or wall of a building); and
2. Is written, printed, projected, painted, constructed, or otherwise placed or displayed upon, or designed into a building, board, plate, canopy, awning, vehicle, or upon any material object or device whatsoever; and
3. Which by reason of its form, color, wording, symbol, design, illumination, motion, or otherwise attracts or is designed to attract attention to the subject thereof, is used as a means of identification, advertisement or announcement.

**(K) SIGN, CANOPY.** Any sign which is hung, suspended, or attached to the underside of a canopy. Such sign would be designed and so oriented as to be used only by pedestrian traffic under the canopy and not used for additional signage for frontage advertising.

**(L) SIGN, CHANGEABLE COPY.** A sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or the surface of the sign.

**(M) SIGN, DIRECTIONAL.** A permanent sign limited in subject matter to parking instructions and similar traffic directional information with no merchandise or service advertising.

**(N) SIGN, ELECTRIC.** Any sign containing electrical wiring, but not including signs illuminated by exterior light sources, such as floodlights, to provide lighting.

**(O) SIGN FACE.** The surface of a sign upon, against, or through which the message is displayed or illustrated. Advertising display area shall mean the advertising display surface area (copy area) encompassed within any rectangular figure, parallel to the lettering or logo, which would enclose all parts of the sign. The structural supports for a sign, whether they be columns, pylons or a building, or a part thereof, shall not be included in the advertising area.

**(P) SIGN, FREE-STANDING GROUND.** A sign which is supported by the ground or from an object on the ground, or sign which is erected on the ground, providing that no part of the sign is attached to any part of any building, structure or other sign. The term "free-standing sign" shall include "pole sign," "pedestal sign" and "ground sign."

**(Q) SIGN, ILLEGAL NON-CONFORMING.** A sign which was in violation of any of the laws of the City governing the erection or construction of such sign at the time of its erection, which sign has never been erected or displayed in conformance with all such laws, including this Code, and which shall include signs which are pasted, nailed, painted on or otherwise unlawfully displayed upon structures.

**(R) SIGN, LEGAL NON-CONFORMING.** Any sign which does not conform to one or more applicable provisions of this Code, but which was erected and maintained, or approved in an Official Development Plan, prior to the effective date of the applicable provision or provisions.

**(S) SIGN, MARQUEE.** A sign depicted upon, attached to or supported by a marquee as herein defined.

**(T) SIGN STRUCTURE.** Any supports, uprights, braces or framework of a sign.

**(U) SIGN, WALL.** A sign displayed upon or against the wall of an enclosed building where the exposed face of the sign is in a plane parallel to the plane of said wall and extends not more than 15 inches horizontally from the face of said wall. A sign erected upon or against the side of a roof having an angle of 45 degrees or less from the vertical shall be considered to be a wall sign and shall be regulated as such.

**(V) SIGNS, NUMBER OF.** For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements clearly organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship or elements, each element shall be considered to be a single sign.

**(W) SILT TRAP.** A constructed permanent facility for the collection of water-carried soils.

**(X) SPECIAL FLOOD HAZARD AREAS.** The areas of land which will be inundated during the occurrence of the 100-year flood (base flood).

**(Y) START OF CONSTRUCTION.** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 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 slabs 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.

**(Z) STREET.** Roads, avenues, boulevards, expressways, highways, parkways, and bridges.

**(AA) STREET IMPROVEMENTS.** Any one or more of the following: surfacing, extending, widening, lengthening, altering, reconstruction, or other improvements to roadways; construction of curbs, gutters, or sidewalks; construction of bridges, overpasses, or underpasses; the necessary grading therefor; street lighting; landscaping of adjoining parkways by the planting of trees and shrubs; and storm drainage facilities incidental thereto.

**(BB) STRUCTURE.** A walled and roofed building, storage tank, manufactured home or anything constructed or erected with a fixed location on the ground above grade but not including poles, lines, cables, or other transmission or distribution facilities of public utilities that is principally above ground.

**(CC) SUBDIVISION.** The division, whether by deed, metes and bounds description, lease, map, plat, deed, or other instrument, of any tract of land, lot, or parcel into two or more lots, parcels, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, transfer of ownership, or to offer for sale or development, including subdivision. Lots, plots, block and other subdivisions may be designated in accordance with any recorded plat thereof, and unplatted lands by any definite description.

**(DD) 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.

**(EE) SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or

2. 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:

1. 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

2. Any alteration of structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

## **11-2-21: "T"**

**(A) THRIFT STORE.** A retail establishment which has as its primary activity the selling of used clothing and/or other used merchandise.



**11-2-22: "U"**

**(A) UNIFORM BUILDING CODE.** The latest edition of the Uniform Building Code published by the International Conference of Building Officials, as amended and adopted by the City Council of the City of Westminster.

**(B) UNIFORM BUILDING CODE STANDARDS.** The latest edition of the Uniform Building Code Standards published by the International Conference of Building Officials, as amended and adopted by the City Council of the City of Westminster.

**(C) UNRESTRAINED SLOPE.** Unstable earthen slope with high potential for movement or erosion.

**11-2-23: "V"**

**(A) VARIANCE.** A grant of relief by the City from the terms of this floodplain ordinance.

**11-2-24: "W"**

**(A) WATER SURFACE ELEVATION.** The height in relation to mean sea level, reached by floods of various magnitudes and frequencies in floodplains.

**(B) WETLANDS.** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands shall also include any lands that are defined as wetlands under any federal or state law.

**11-2-25: "X," "Y," AND "Z"**

**CHAPTER 3 - GROWTH MANAGEMENT PROGRAM FOR THE PERIOD JULY 1, 1990, THROUGH DECEMBER 31, 2000**

**11-3-1: FINDINGS:** The City Council of the City finds that there is substantial evidence that the municipal services, which relate to the quality of the environment, fiscal soundness, carrying capacities of the utility and transportation systems and other related elements which affect residents of the City, will be negatively impacted by an excessive rate of growth within the City if prudent growth management practices are not administered by the City which take into account the following elements:

(A) The amount of new raw water which can realistically be acquired and be treated;

(B) The amount of existing raw water supply presently available from all sources which can safely be used for new growth without imperiling the City's ability to serve water to the existing Westminster water system consumers;

(C) The ability of the City to continue the balance between growth rate and consumer demands through orderly and cost effective expansion of the utility systems;

(D) The ability of the City to continue the balance between growth rate and the expansion of transportation systems, fire protection services, police services, park and recreation services and other related City services; and

(E) The service capacities which the City can develop while conforming with requirements imposed by other governmental entities with jurisdiction over programs affecting the City including, but not limited to, environmental regulatory agencies; and

(F) The demand of a given proposed land use on the City's utility system compared to other land uses.

The City Council further finds that, although the City has implemented water conservation techniques and programs within the City, has entered into a water reuse program and has taken other steps to maximize the efficient use of the resources

available to the City, because of the elements set forth in subparagraphs (A) through (F) above, it is essential to the preservation of the health, safety and welfare of the citizens of Westminster that the City maintain and modify, from time to time, a growth management program which balances growth and the ability of the City to effectively and safely absorb and serve such growth. The City Council further finds that in order for the City and for developers, landowners and individual residents of the City to plan effectively, the City can and should adopt a growth management program commencing July 1, 1990, and continuing through December 31, 2000.

**11-3-2: DEFINITIONS:** For the purpose of this article, certain terms and words are hereby defined as follows:

**(A) ACTIVE RESIDENTIAL DEVELOPMENTS:**

1. Active Residential Development means:

(a) A residential project with an approved Official Development Plan and Plat which was issued building permits on or after January 1, 1994; or

(b) Any newly approved residential project which received Official Development Plan approval in the 24-month period following January 1, 1994, if at least one building permit for the project was or is issued on or before December 31, 1996; or

(c) any residential project formally submitted for technical review which meets all of the following criteria:

1. The project has an approved Official Development Plan.

2. The plat and construction drawings were formally submitted to the City for development review within the 12 month period prior to February 12, 1996.

3. No public hearings are required for the project.

4. The project meets all residential design guidelines.

2. Notwithstanding the foregoing, a residential development will not be deemed to be an Active Residential Development if a building permit for at least one new dwelling unit is not issued during any two successive calendar years.

**(B) ATTACHED SENIOR HOUSING UNIT:** An attached residential dwelling unit within a housing project restricted to persons 60 years of age or over, or as may otherwise be determined by Council.

**(C) CUSTOM RESIDENCE:** A single family detached residence which has interior plans and exterior elevations which are unique as compared to the other single-family residences within the same subdivision as determined by the Chief Building Official.

**(D) CUSTOM RESIDENTIAL DEVELOPMENT:** A single-family detached residential development consisting exclusively of custom residences.

**(E) INFILL RESIDENCE:** A custom residence which is not part of an active residential development and which is constructed on a vacant site in an area where less than 10% of the residential land is vacant.

**(F) SERVICE COMMITMENT:** The measure of City service required is determined by the average service provided to one single family detached dwelling unit. Adequacy of a Service Commitment for a structure shall be determined in accordance with the following schedule:

Single Family Detached Dwelling Unit or Mobile Home Unit	1.0 Service Commitment
Single Family Attached Dwelling Unit	0.8 Service Commitment
Apartment Dwelling Unit	0.5 Service Commitment
Attached Senior Housing Unit	0.35 Service Commitment

Non-Residential  
specific plan presented.

To be determined on a case by case basis, based upon the

### **11-3-3: CONDITIONS FOR BUILDING PERMIT ISSUANCE:**

(A) From January 1, 1990, through December 31, 2000, no building permits requiring new utility services shall be issued except in conjunction with a Service Commitment, adequate to serve the structure to be permitted, duly issued pursuant to the provisions of this Chapter.

(B) Any building permits issued in violation of this Chapter shall be void. Nothing in this Chapter shall alter or affect other requirements of this Code or any other applicable zoning, subdivision and building regulations.

**11-3-4: CATEGORIES OF AWARD:** Service Commitments shall be allocated by the City Council by resolution for the following categories:

(A) Category A: Active residential developments:

1. Category A-1: Active single family detached residential developments
2. Category A-2: Active single family attached residential developments having a density of ten (10) or less dwelling units per acre.
3. Category A-3: Active single family attached residential developments having a density of greater than ten (10) units per acre

(B) Category B: New residential developments:

1. Category B-1: New single family detached residential developments
2. Category B-2: New single family attached residential developments having a density of ten (10) or less dwelling units per acre
3. Category B-3: New single family attached residential developments having a density of greater than ten (10) dwelling units per acre.

(C) Category C: Non Residential Developments: City service requirements for non residential users shall be reviewed individually, and Service Commitments shall be awarded on an individual basis at the time of approval of an Official Development Plan. In order to receive category C service commitments, the project shall be required to meet the City's Baseline Design Criteria for Non-Residential Development as determined by resolution of the City Council. The conservation standards in section 11-3-8(B) shall be mandatory for non residential uses. An award may be made by the City Manager for any plan or development which he has the authority and approved through the administrative approval process of section 11-5-8 of the City Code insofar as Service Commitments are available in this category.

(D) Category D: Outside City Contracts: Service commitments shall be allocated to this Category in an amount sufficient to service those in areas outside the City which receive water services from the City under contract.

(E) Category E: Senior Housing:

1. Government Sponsored Senior Housing and Non-Profit Senior Housing: Government sponsored senior housing projects provided by non-profit "501-C-3" organizations as defined by the Federal Government. Said programs must be approved by the City Council. Such projects shall be subject to the provisions contained in section 11-3-8(B). Service requirements for said projects shall be reviewed individually, and Service Commitments shall be awarded on an individual basis by City Council action at the time of approval of an Official Development Plan.

2. Non-government Sponsored For-Profit Senior Housing:

a. Long term care facility: An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for patients for twenty-four or more consecutive hours.

b. Assisted living and residential health care facilities: Residences for the elderly that provide rooms, meals, personal care, housekeeping and supervision of self-administered medication or health monitoring services under the supervision of a professional nurse. Recreational, social and cultural activities; financial services and transportation may also be provided.

c. Independent senior living units may be included as part of a proposed senior housing development provided that both of the following conditions apply:

1. The independent living units do not constitute more than 25% of the total number of senior housing units shown on the Official Development Plan; and
2. Transportation and recreational, social and cultural activities are provided for the residents of these units.

(F) Category F: Contingency and Public Usage: Usage by the City or other public agencies as approved by the City Council.

(G) Category L: Legacy Ridge: For use by builders of existing and new residential developments within the Westminster Golf Course Community, east and west, Planned Unit Developments.

### **11-3-5: ALLOCATION AND ISSUANCE OF SERVICE COMMITMENTS:**

(A) City Council shall periodically allocate by resolution a number of service commitments to be available for Category A and B development.

(B) Service Commitments for infill and active custom residential development shall be included as part of the Category A allocation.

(C) All building permits and service commitments issued for any Category A or B dwelling unit shall be deemed as expired in the event an approved foundation inspection has not occurred within sixty (60) days following the date of issuance of the permit. In such event, both the building permit and the associated service commitment shall be deemed null and void. No refund or credit shall be given for any building permit which expires pursuant to this section. A service commitment for any Category A or B project shall be deemed as issued when a corresponding building permit has been issued by the Building Division.

(D) At the time any building permit is issued for any Category A residential dwelling unit, the following statement must be signed by the recipient: "Service Commitments in Category A-1 and B-1 are available on a first come, first served basis. Once the allocation for any given year is exhausted, no other service commitments or building permits will be available. In any given year there may be fewer service commitments in Category A than necessary to meet the market demands for single family detached residences." This standard statement shall also be included on any new or amended preliminary development plan or official development plan or any subdivision plat for single family detached residential development.

(E) Any projects eligible to compete for service commitments in Categories B-1, B-2 and B-3 must at a minimum comply with the City's adopted Baseline Standards and Design regulations. Nothing herein shall be construed as limiting the City's right to require a development to exceed such baseline standards as a condition to development plan approval.

(F) Categories B-1, B-2 and B-3 service commitments shall be awarded on a competitive basis in accordance with criteria adopted periodically through resolution of City Council. City Council shall by resolution determine the weight to give to various standards and criteria based on their impact on the City's utility system and the health, safety and welfare of the community. City Council may establish a minimum number of points to be obtained in the award criteria to be eligible for a Category B service commitment.

(G) No preliminary development plan, official development plan, plat or construction drawings for a new Category B project shall be processed by City Staff until Category B service commitments have been awarded to the project.

(H) Service Commitments shall be allocated periodically by resolution of City Council based on the criteria set forth in section 11-3-1. Said resolution shall establish the number and distribution among the categories contained in section 11-3-4. The distribution among the categories shall take into account any limitations on the City's ability to provide municipal services including, but not limited to, the City's wastewater capacity in the Little Dry Creek basin and the Big Dry Creek basin. If for any reason City Council fails to make an allocation for any specific category on or before December 31 of the year in which the previous allocation is to expire, the previous year's allocation for such category shall automatically become the new allocation for the following year for that category until such time as City Council determines to make a different allocation.

(I) All service commitments shall be used only in the development for which the commitments were originally granted and are not transferable.

(J) For any non-residential project or development approved administratively by the City Manager in accordance with Chapter 5 of this Title, the City Manager may in conjunction therewith authorize the issuance of service commitments for the project or development insofar as service commitments are available in the applicable category.

(K) In the event any service commitment is allowed to expire under the provisions of this section, no refund shall be made of any building permit fees or tap fees paid to the City as a condition to the issuance of said service commitment.

**11-3-6: TRANSFER OF REMAINING SERVICE COMMITMENTS:** If at any time there are applications within a particular category for fewer Service Commitments than have been allocated to such category, City Council may by resolution transfer these Service Commitments to any other category.

**11-3-7: PERIOD OF AWARD FOR NON-RESIDENTIAL SERVICE COMMITMENTS:** All service commitments awarded by City Council for Categories C, D and E shall be valid for a period of two (2) years from the date of award, unless otherwise specified by City Council resolution.

**11-3-8: MANDATORY IN HOUSE WATER CONSERVATION:** In house water conservation shall be mandatory for all structures constructed in the City.

(A) **RESIDENTIAL STANDARDS.** In house water conservation shall be mandatory for all residential dwelling units hereafter constructed in the City and shall include all of the following:

1. Water closets constructed with maximum flush of 3.5 gallons;
2. Water-saving shower heads with maximum flow of three gallons per minute (3gpm).
3. Aerators on all sinks and lavatory faucets with maximum flow of three gallons per minute (3gpm).
4. Shower cut-off valve incorporated in either a single-control mixing valve or the shower head.

(B) **NON-RESIDENTIAL USER STANDARDS.** The following conservation standards shall be mandatory for non residential uses:

1. Restrooms, kitchens, and industrial processes shall incorporate water conservation design and fixtures;
2. Car Wash Recycle. Full water recycling systems shall be mandatory for all full service commercial car wash facilities hereafter constructed in the City. Water recycling systems shall not be mandatory for self service commercial car wash facilities.

**11-3-9: COMPETITIVE RANKINGS:** All commitments made by an applicant and as a condition to the award of Category B-1, B-2, or B-3 service commitments shall be reflected on all further Preliminary Development Plans and Official Development Plans.

**11-3-10: NO VESTED RIGHTS:** Nothing herein shall create any vested rights to any service commitments allocated pursuant to this Code until such time as the service commitment is issued and the foundation inspection requirements of subsection 11-3-5(C) have been satisfied. Prior allocations remain subject to subsequent rescission, reduction, or reallocation by Council as they may deem necessary in the public interest.

## **CHAPTER 4 - ZONING**

**11-4-1: ESTABLISHMENT OF DISTRICTS.** The City hereby establishes the following defined zoning districts:

**RE ONE-FAMILY RESIDENTIAL DISTRICT.** A residential district for large-lot single-family homes.



<u>Buildings</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
All Uses Owned & Operated by the <u>City</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
Radio and Television Towers and <u>Microwave Transmission</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
<u>Public Schools</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>

**ZONING DISTRICTS**

<b>OFFICE AND SIMILAR USES:</b>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
<u>Accounting, Bookkeeping</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Addressing/Mailing Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Administrative Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Adoption Agency</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Advertising Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
Aerobics, Ballet, Dance, Exercise Instruction, and <u>Classes</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Appraisal Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
Architecture, Landscape Architecture, Planning, <u>Design Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Bank &amp; Financial Institution</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Counseling/Consulting Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Credit/Collection Agency</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Data Processing Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Detective Agency</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Employment Agency</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Engineering &amp; Technical Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Entertainment Services Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Fraternal &amp; Service Club</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Insurance Office, Sales, &amp; Adjustors</u>							<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>		
<u>Legal Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Medical/Dental/Veterinary Office and Clinic</u>			<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>						
<u>Military Recruiting</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>News Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Real Estate Office</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Radio/TV/Recording Studio</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Research &amp; Testing Laboratory</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Training Service</u>								<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	

**ZONING DISTRICTS**

<b>BUSINESS AND COMMERCIAL USES:</b>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
<u>Antique Shop</u>										<u>C1</u>	<u>C2</u>		
<u>Apparel &amp; Accessory Store</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>		
<u>Artist's Studios/Art Galleries</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>		
<u>Arts &amp; Crafts/Drafting Supply</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>		
Assembly Halls & Event Centers for Private Functions such as Weddings, Receptions, <u>Conferences &amp; Meetings</u> )										<u>C1</u>	<u>C2</u>		
<u>Automobile Accessory Store</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>		
Automobile, Boat, Camper & Recreational Vehicle Showrooms for the purposes of lease only, without parts, service, <u>outdoor storage, or operational demonstrations</u>					<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>					
<u>Automotive &amp; Heavy Equipment Rental</u>									<u>C2</u>	<u>M1</u>			
<u>Automotive Wash Facility</u>										<u>C1</u>	<u>C2</u>	<u>M1</u>	
<u>Bakeries</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>		





<u>Pet Store/Pet Grooming</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Photography/Processing Studio</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Print Shop</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Restaurants</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Saddle &amp; Tack Store</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Shoe Sales/Repair</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Sporting Goods</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Stationery &amp; Card Shop</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Tanning Salon</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Toy/Hobby Store</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>Travel Agency</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
<u>TV &amp; Electronic Appliance Repair</u>			<u>B1</u>	<u>C1</u>	<u>C2</u>									
Used Merchandise/Thrift Store														
--All Types Except Used Motor Vehicle Parts						<u>C2</u>								
<u>Used Motor Vehicle Parts</u>														<u>M1</u>
<u>Variety Store</u>									<u>B1</u>	<u>C1</u>	<u>C2</u>			
Wholesale & Commercial Heating, Plumbing, Electrical, Lumber, & Building Equipment & Material						<u>C2</u>	<u>M1</u>							

**ZONING DISTRICTS**

<b>INDUSTRIAL USES:</b>	<b><u>RE</u></b>	<b><u>R1</u></b>	<b><u>RA</u></b>	<b><u>R2</u></b>	<b><u>R3</u></b>	<b><u>R4</u></b>	<b><u>R5</u></b>	<b><u>T1</u></b>	<b><u>B1</u></b>	<b><u>C1</u></b>	<b><u>C2</u></b>	<b><u>M1</u></b>	<b><u>O1</u></b>
<u>Auto Body Repair and Paint Shops, Auto Auction</u>							<u>M1</u>						
<u>Builders Supply Yards, Sale of Lumber &amp; Construction Products</u>						<u>M1</u>							
<u>Commercial Printing Establishment</u>											<u>M1</u>		
<u>Frozen Food Lockers, Ice, &amp; Cold Storage Plants</u>						<u>M1</u>							
<u>Furniture Refinishing</u>												<u>M1</u>	
<u>General Contractor Storage</u>												<u>M1</u>	
<u>Machine &amp; Woodworking Shop</u>												<u>M1</u>	
<u>Printing and Publishing</u>												<u>M1</u>	
<u>Professional, Scientific, &amp; Control Instrument Manufacturing</u>						<u>M1</u>							
<u>Recycling Operations</u>												<u>M1</u>	
Retail Sales in Conjunction with Warehousing, Wholesale Business												<u>M1</u>	
<u>Sales of Agricultural, Equipment, Heavy Machinery</u>						<u>M1</u>							
Secondary Product Manufacturing, Processing, Fabrication, and Assembly												<u>M1</u>	
<u>Warehousing, Mini Warehousing, Storage, &amp; Freight</u>						<u>M1</u>							
<u>Wholesale Business With Stock</u>												<u>M1</u>	

**ZONING DISTRICTS**

<b>OPEN AND AGRICULTURAL USES:</b>	<b><u>RE</u></b>	<b><u>R1</u></b>	<b><u>RA</u></b>	<b><u>R2</u></b>	<b><u>R3</u></b>	<b><u>R4</u></b>	<b><u>R5</u></b>	<b><u>T1</u></b>	<b><u>B1</u></b>	<b><u>C1</u></b>	<b><u>C2</u></b>	<b><u>M1</u></b>	<b><u>O1</u></b>
Crop Production, Dairy Farming, Pasture & Raising of Livestock but Excluding Feedlots												<u>O1</u>	
Gravel, Mineral, Sand Extraction Upon Permit Granted Pursuant to this Code													<u>O1</u>
<u>Nurseries</u>								<u>T1</u>				<u>M1</u>	<u>O1</u>
<u>Private Country Clubs</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
<u>Public or Private Golf Courses</u>	<u>RE</u>	<u>R1</u>	<u>RA</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>T1</u>	<u>B1</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>O1</u>
<u>Riding Stables &amp; Academies</u>													<u>O1</u>
<u>Water Reservoirs</u>													<u>O1</u>

**11-4-5: DENSITY SCHEDULE.** Subject to the provisions of section 11-4-6, the following regulations shall apply to lot area, lot width, lot frontage, lot depth, height, building setbacks, floor area, and coverage of lots and structures in all zoning

districts except Planned Unit Development. In the event of any conflict or inconsistency between this section and the City's Comprehensive Plan, the Comprehensive Plan shall control.

**DENSITY SCHEDULE**

	<b><u>RE</u></b>	<b><u>R1</u></b>	<b><u>RA</u></b>	<b><u>R2</u></b>	<b><u>R3</u></b>	<b><u>R4</u></b>	<b><u>R5</u></b>	<b><u>T1</u></b>	<b><u>B1</u></b>	<b><u>C1&amp;C2M1</u></b>	<b><u>O1</u></b>	
Minimum Lot Area/Sq. Feet:	<u>9000</u>	<u>7700</u>	<u>7000</u>	<u>9000</u>	<u>9000</u>	<u>9000</u>	(d)	<u>9000</u>	(a)	(a)	(a)	(a)
Maximum Density/Dwelling Units Per Acre:	(a)	(a)	(a)	(a)	<u>14.5</u>	<u>22.0</u>	(d)	<u>14.5</u>	(a)	(a)	(a)	<u>0.1</u>
Minimum Lot Width:												
Interior	70'	70'	70'	75'	75'	75'	(d)	75'	(a)	(a)	(a)	(a)
Corner	<u>85'</u>	<u>85'</u>	<u>85'</u>	<u>85'</u>	<u>85'</u>	<u>85'</u>	(d)	<u>85'</u>	(a)	(a)	(a)	<u>200'</u>
Add. Lot Frontages For Each Unit in Excess of Two on Grade Level:	(a)	(a)	(a)	(a)	<u>10'</u>	<u>10'</u>	(d)	<u>10'</u>	(a)	(a)	(a)	(a)
Minimum Lot Depth:	<u>100'</u>	<u>100'</u>	<u>100'</u>	<u>100'</u>	<u>100'</u>	<u>100'</u>	(d)	<u>100'</u>	(a)	(a)	(a)	<u>200'</u>
Minimum Front Setback --												
Principal Building:	30'	30'	30'	30'	25'	25'	(d)	25'	30'	30'	30'	30'
Accessory Building:	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>60'</u>	<u>60'</u>	(d)	<u>60'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>100'</u>
Minimum Side Setback; Interior Lot --												
Principal Building:	7'	5'	5'	5'	5'	5'	(d)	5'	(b)	(b)	40'	30'
Accessory Building:	<u>5'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	(d)	<u>1'</u>	(b)	(b)	<u>40'</u>	<u>30'</u>
Minimum Total -- Both Side Setbacks:	<u>20'</u>	<u>15'</u>	<u>15'</u>	<u>12'</u>	<u>12'</u>	<u>12'</u>	(d)	<u>12'</u>	(a)	(a)	(a)	(a)
Minimum Side Setback; Corner Lot/Side Street --												
Principal Building:	15'	15'	15'	15'	15'	15'	(d)	15'	30'	30'	30'	30'
Accessory Building:	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	(d)	<u>15'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>
Minimum Side Setback; Reverse Corner Lot --												
Principal Building:	30'	30'	30'	30'	25'	25'	(d)	25'	15'	15'	30'	30'
Accessory Building:	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	<u>30'</u>	(d)	<u>30'</u>	<u>15'</u>	<u>15'</u>	<u>30'</u>	<u>30'</u>
Minimum Rear Setback --												
Principal Building:	20'	20'	20'	20'	20'	20'	(d)	20'	(c)	(c)	(c)	30'
Accessory Building:	<u>1'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	<u>1'</u>	(d)	<u>20'</u>	(c)	(c)	(c)	<u>30'</u>
Maximum Lot Coverage; Percent of Total Area --												
Principal Building:	30%	30%	30%	30%	30%	30%	(d)	30%	(a)	(a)	(a)	5%
Accessory Building (e):	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>15%</u>	<u>10%</u>	<u>10%</u>	(d)	<u>10%</u>	(a)	(a)	(a)	<u>10%</u>
Maximum Building Height --												
Principal Building:	25'	25'	25'	25'	35'	35'	(d)	35'	65'	65'	65'	25'
Accessory Building:	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	(d)	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>	<u>65'</u>
Minimum Floor Area/SF Per Dwelling Unit --	<u>1200</u>	<u>1000</u>	<u>850</u>	<u>600</u>	<u>450</u>	<u>600</u>	(d)	<u>450</u>	(a)	(a)	(a)	<u>1200</u>

- (a) None, none required, or not applicable.
- (b) None required unless adjacent to residential district. In such cases, minimum side setbacks shall be the same as those of the adjacent residential area.
- (c) Twenty feet from the center of an alley or rear lot line, whichever is less.
- (d) Licensed and permitted in accordance with this Code.
- (e) No accessory building shall exceed 600 square feet.

**11-4-6: SPECIAL REGULATIONS.** The following regulations apply to all zoning districts except Planned Unit Developments.

(A) **ONE-FAMILY DWELLINGS** are permitted in the R2, R3, R4, and T1 Districts in accordance with the RA "Density Schedule" provisions. **TWO-FAMILY DWELLINGS** are permitted in the R3, R4, and T1 Districts in accordance with the R2 "Density Schedule" provisions. **MULTIPLE-FAMILY DWELLINGS** are permitted in the T1 District in accordance with the R3 "Density Schedule" provisions. In the B1 District, a caretaker's quarters is allowed on or above the main floor if said use is clearly ancillary to the primary business or commercial use.

(B) **CITY EXEMPTION FROM COMPLIANCE.** All uses, structures, and facilities owned or operated by the City for the purpose of providing municipal services are exempt from complying with all zoning regulations and are exempt from all Preliminary Development Plan, Official Development Plan, and platting procedures contained in this Code.

(C) **EXCEPTIONS FROM MINIMUM LOT AREA OR WIDTH.** The minimum lot area and minimum lot width of any lot in the RE, R1, RA, R2, R3, R4, R5, T1, B1, C1, C2, M1, or O1 Districts in this Code may be reduced up to 30 percent of such minimum when applied to structures for a permitted use to be constructed on parcels of ground which were under separate ownership (whether consisting of one or more platted lots) on November 20, 1960, provided:

1. Such separate ownership is other than the ownership of the property on either side of the subject parcel.
2. This exception shall not apply to parcels having less than a 50-foot frontage or which are less than 5,000 square feet in area.
3. This exception shall not apply to parcels having a total frontage in excess of 120 feet unless at least 75 percent of the frontage of the property on both sides of the street in the block in which the subject parcel is located is already developed on 60 feet or less frontages, in which case the maximum frontage of the parcel to which this exception shall apply shall be increased to 209 feet.
4. Notwithstanding this exception, all other requirements provided in zoning law shall be maintained, including but not limited to, the side setback requirements and structures on corner lots shall be located thereon to conform with existing setbacks along the same street frontage in the area and in a manner which will provide an unobstructed view of intersection traffic.

In addition to the foregoing exception, any lot separately designated in any plat heretofore, filed with and approved by the Planning Commission subsequent to November 14, 1950, may be developed for a permitted use notwithstanding the requirements in the previously designated Districts relative to minimum lot width or area.

(D) **MINIMUM SETBACKS.**

1. **Developed Area.** In all residential areas where lots comprising 50 percent or more of the frontage on one side of a street between intersecting streets have been improved with buildings, the City may require that the average front setback of such buildings shall be the minimum front setback required for all new construction in such block.

2. **Reduction.** No part of a setback required for any building for the purpose of complying with the provisions of this Chapter shall be included as a setback for another building; all setback areas shall be open and unobstructed except as otherwise provided herein.

3. **Architectural Features.** Cornices, canopies, eaves, awnings, or similar architectural roofline features may extend into a required setback not more than 4 feet.

4. **Decks.** Open, unenclosed and uncovered decks or patios may extend into a required setback provided they are constructed at ground level and do not conflict with any utility or other easements.

5. **Fire Escapes.** Fire escapes may extend into a required setback not more than 6 feet.

6. **Accessory Buildings.** Accessory buildings are permitted unless restricted or not indicated on an approved Official Development Plan and may be located in the required rear or side setback for a principal building (See Density Schedule for RE, R1, RA, R2, R3, and R4 Districts). An accessory building which is a garage or carport may be attached to the principal building in the use districts listed above and shall meet the front setback and rear setback requirements for a principal structure. The side setback for an attached or unattached accessory building which is a garage or carport may be the same as the setback required for an accessory structure if the application for a building permit is accompanied by an agreement with the adjacent property owners indicating approval of the setback.

(E) **MINIMUM FLOOR AREA.** All measurements shall be along outside walls of the living area, not including unfinished basement, garage, or carport areas.

(F) **SIDE SETBACK EXCEPTION.** There shall be excepted from the 15-foot aggregate side setback requirements for RA and R1 Districts all zone lots having a width of 63 feet or less at the building setback lines. Such exception shall apply only to zone lots which, on November 20, 1960, were platted to such 63 feet or less width, or which were under separate ownership as a single building site on such date, but such exception shall not apply to lots platted to a 25-foot width, not under separate ownership on November 20, 1960. The minimum side setback requirements for such lots shall be an aggregate of 12 feet for each zone lot with a 5-foot minimum on each side.

(G) **ADJACENT LAND USE RESTRICTIONS.**

1. In the R3 and R4 Districts no single structure containing more than two units shall be located immediately adjacent to an existing one-family dwelling.

2. No manufacturing is permitted in conjunction with sales in B1, C1, and C2 Districts.

3. No wall of any drive-in business, liquor store, automobile wash facility, or automobile service station is permitted within 100 feet of any residential district boundary.

(H) **OUTDOOR STORAGE.**

1. In the B1 District there shall be no overnight or permanent outdoor display or storage of merchandise, goods, or materials.

2. Permanent outdoor display and storage of merchandise, goods, or materials is permitted in C1, C2, and M1 Districts. Said storage shall not occupy more than 50 percent of the total lot unless otherwise approved on an Official Development Plan. City Council may approve more or less restrictive conditions with the approval of an Official Development Plan.

3. Temporary outdoor display of merchandise, goods, or materials during normal working hours is permitted in B1, C1 and C2 Districts.

4. Seasonal outdoor storage such as garden supplies and Christmas tree sales are permitted in B1, C1, C2, M1 and O1 Districts.

5. Permanent, accessory, and seasonal outdoor storage in a district shall be as indicated on an approved Official Development Plan. If provisions permitting outdoor storage are not contained on an approved Official Development Plan, outdoor storage is prohibited.

**(I) SCREENING OF OUTDOOR STORAGE.** In the C1, C2, and M1 Districts outdoor storage, equipment, merchandise, and refuse shall be screened from view from abutting rights-of-way and adjacent properties.

**(J) ENVIRONMENTAL REQUIREMENTS.** Dust, fumes, odors, smoke, vapor, noise, lights, and vibration shall create no adverse off-site impacts in all districts. Any use that emits odor, dust, smoke, gas, noise, radiation, vibration, danger of explosion, or similar effects must do so in conformance with State of Colorado Health Department Standards and Environmental Protection Agency Standards.

For any type of repair shop, all activities must be conducted within an enclosed building and shall not create undue noise, odor, dust, smoke, vibration, or other similar effects outside of the enclosed buildings in a C2 and M1 District.

**(K) LOADING.** In B1, C1, C2, and M1 Districts, all loading areas and loading docks must be located on the site so as not to be viewed from major roads, accessways, or residentially zoned property.

**(L) MAXIMUM HEIGHT OF BUILDINGS.** Shall be as defined in Section 409 of the Uniform Building Code as adopted by this Title.

**(M) SCREENING OF TRASH STORAGE AREAS IN ALL ZONE DISTRICTS.**

1. Trash storage for multi-unit dwellings, institutional buildings, and all business and industrial buildings or uses shall be accommodated within the structure, or if located outside, shall be screened so as not to be visible from adjacent public streets or from adjacent residential development within one hundred feet (100') of the trash storage area. Screening shall be an opaque decorative wall or fence not to exceed six feet (6') in height and shall be constructed of materials compatible with building materials of the structure such that the enclosure or screen wall or fence will be protected from damage by normal removal and replacement of the dumpster by a trash truck by incorporation of protective pipe bollards and concrete curbs outside and inside of the enclosure.

2. One and two-family dwellings and accessory uses, except for temporary construction purposes, shall not be permitted to maintain large trash dumpsters one (1) cubic yard or larger, as such dumpsters are of a size and type normally associated with commercial uses.

3. In no instance shall trash enclosures be permitted to encroach into sight distance triangles for driveways or street corners. No such enclosure shall displace required parking spaces.

4. This requirement shall apply to all new development prior to a certificate of occupancy. In addition, all such trash storage areas in existence as of the date of adoption of this ordinance shall come into conformance within one (1) year of the adoption hereof. For the purpose of enforcement, the land owner shall be held legally responsible for compliance with this law.

**(N) ACCESSORY BUILDINGS.**

1. Number permitted: One (1) accessory building will be permitted per building lot in the RE, R1, RA, R2, R3, R4 and T1 zone districts.

2. Architectural character: Accessory buildings in the RE, R1, RA, R2, R3, R4 and T1 zoned districts must maintain the residential character of the surrounding neighborhood and architecturally resemble and be constructed of like or similar materials of that used on the exterior of the existing principal building on the property. Pre-fabricated or corrugated metal, plastic, vinyl, canvas or similar material buildings are prohibited in the RE, R1, RA, R2, R3, R4 and T1 zone districts.

3. Accessory buildings in PUD's. If criteria for accessory buildings is not specified on the preliminary or official development plan for a subdivision, accessory buildings (regardless of the square footage) will not be permitted.

**11-4-7: PUD -- PLANNED UNIT DEVELOPMENT DISTRICT.**

**(A) AUTHORIZATION.** The provisions of this Title concerning Planned Unit Developments (PUD's) are enacted pursuant to the home rule provisions of Article XX of the Colorado Constitution and the authority and powers contained in Chapters 2 and 4 of the City Charter.

(B) **GENERAL PROVISIONS.** The PUD District is intended to provide the means and the guidelines through which tracts of land are developed through an overall development plan which integrates the land uses and site considerations for the land as a unit, rather than the traditional standard treatment of land uses in other so-called Euclidian districts in this Code. It is intended to reflect maximum design freedom to make the best use of topography and land features and to permit the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes and the absence of setback and bulk restrictions; to provide for diversification and flexibility in housing types, housing prices, and overall design; to encourage innovative development of smaller parcels of land that have been passed over; to encourage mixed-use developments, including uses such as residential, office, and commercial; and to encourage higher quality development than possible under traditional standard zoning regulations. Through the Planned Unit Development process, it is the intent that property will be developed with a unified design providing continuity between the various elements. However, the PUD process is not intended as a device to circumvent general development regulations, standards, and good planning practice.

(C) **PERMITTED USES.**

1. Those uses permitted in the O1 District.
2. Any use allowed in any other district within the City may be permitted if said use is listed as permitted in a Preliminary Development Plan and Official Development Plan approved in accordance with this Code.
3. Public utilities.
4. Temporary, on-site construction and real estate sales.
5. All uses, structures, and facilities owned or operated by the City.
6. All proposed uses must conform with the City's Comprehensive Plan.
7. Land uses listed as permitted on a Preliminary Development Plan shall be subject to further review, adjustment and/or modification, including elimination, as part of the City's review and approval of an Official Development Plan for the property, in light of all the site specific information provided as part of the Official Development Plan, including but not limited to architectural and aesthetic considerations, traffic, drainage, utility demands, heights, bulk, setbacks, common space and landscaping. Final land uses within a Planned Unit Development shall be as shown on the Official Development Plan for the property.

(D) **PERMITTED DENSITY.** Permitted density and dimensional requirements shall be as included in a Preliminary Development Plan and Official Development Plan approved in accordance with this Code.

**11-4-8: USES BY SPECIAL PERMIT.**

(A) A permit for a Special Use may be granted within any zoning district in which the Special Use is allowed by this section. A special use permit shall be obtained prior to establishing any of the uses listed in this section. The applicant shall have the burden of establishing that the proposed use shall be for the public good and in the public interest. A permit for a special use may be granted by City Council after a hearing before the Special Permit and License Board pursuant to the procedure outlined in section 11-4-9 of this Code. The exception to this procedure will be the administrative review and approval by the City Manager or designee thereof for a domestic violence shelter home.

(B) The following special uses may be granted in any zoning district; except that if such use is an allowed use in a PUD zone district, no special use permit shall be required, and except that if such use is a domestic violence shelter home, it shall be limited to zoning districts R3, R4, T1, and multi-family residential areas within a PUD zone, and except that if the use is a correction home for seven (7) or more persons, including staff, including staff, it shall be limited to zoning districts R3, R4, T1, and multi-family residential areas within a PUD zone.

1. "**Child Care Center**," which is defined as follows:

(a) A facility not located in a residence maintained for the care of five or more children not related to the owner, operator or manager thereof, providing care, supervision, or education for less than 24 hours, with or without compensation. The term includes facilities commonly known as a "Day Care Center," "Day Nursery," "Nursery School," "Preschool," "Play Group," "Kindergarten," "Day Camp," and "Summer Camp," except that "Kindergarten" does not include a kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grade. The facility must be licensed by the State.

(b) A facility located in the residence of a family or person providing care, supervision, or education for a fee, for children who are not related to the family or person in whose residence the facility is located. Care is provided for less than 24 hours and for more than 2 full (7 or more hours) consecutive days on a regular, weekly basis. The facility cares for more than six children, or employs a non-resident of the home on a regular basis. The facility must be licensed by the State.

2. "**Residential Care Facility**," which is defined as any facility providing 24 hour residential accommodations, personal services, or special care for more than three (four in the case of foster children) individuals of any age who are not related to the owner, operator or manager thereof, and who seek or require protective living accommodations, but who do not have an illness, injury, or disability for which 24 hour medical or nursing services are required.

A "Residential Care Facility" does not include a group home for the developmentally disabled as defined in CRS 31-33-301, and licensed by the State of Colorado. A "Residential Care Facility" does not include a group residence consisting of six or fewer handicapped persons as "handicapped" is defined by the Federal Fair Housing Amendments Act. "Residential Care Facility" includes, but is not limited to, the following:

(a) "**Specialized Group Home**", which is defined as a facility established to accommodate children whose special needs can best be met through care in a small group. A specialized group home must be licensed by the State and sponsored and supervised by the appropriate County Department of Social Services or a licensed child placement agency.

(b) "**Personal Care Home**", which is defined as a facility which provides room and board to individuals who, because of impaired capacity for independent living, elect protective oversight, personal service, or social care.

(c) "**Correction Home**", which is defined as a facility housing residents for purposes of rehabilitation, special care, supervision, or treatment for social, behavioral, or disciplinary problems. A "Correction Home" includes adult or juvenile "halfway houses," community corrections facilities, and law-offender diversion facilities. A correction home must be licensed by the State or certified by the appropriate agency thereof.

(d) "**Substance Abuse Rehabilitation Home**", which is defined as a residential facility for rehabilitation, special care, supervision, or treatment for alcohol, narcotic, or substance abuse. The home must be licensed by the State or the appropriate agency thereof.

(e) "**Domestic Violence Shelter Home**", which is defined as a residential facility for special care for victims of domestic violence.

3. **Semi-Private Uses:** Hospitals, ambulance services, cemeteries, churches, private schools and public schools and other places used for assembly by private organizations.

(C) The following special use may be granted by the City Council only in the C-1 District after application and review by the Special Permit and License Board as herein provided.

**Used Merchandise/Thrift Stores:** In addition to meeting the general criteria for the issuance of a special use permit set forth in section 11-4-9 of this Code, a Special Use Permit shall be deemed conditioned upon the applicant's compliance with all provisions of the City Code concerning signage, building maintenance and landscaping, as well as all requirements contained on applicable Preliminary Development Plans or Official Development Plans. Furthermore, the following specific regulations shall apply to applications for Special Use Permits for used merchandise and thrift stores:

(a) No special permit for used merchandise sales or thrift stores shall be granted except upon a finding that under the circumstances, the proposed use will be compatible with the uses within the immediate vicinity of the specially permitted use.

(b) A thrift store or used merchandise store shall not be permitted to locate within five hundred feet (500') of another thrift store or used merchandise store as measured by a five hundred foot (500') envelope surrounding the outermost walls of the proposed and the existing establishments.

(c) Any legally existing thrift store or used merchandise store with a current, valid business license as of the enactment of Ordinance No. 1964, Series 1990, on December 10, 1990, shall be permitted to continue operations provided that such store remains in compliance with section 11-4-15 of this Code concerning nonconforming uses and structures.

(d) For those stores proposing to sell a mixture of new and used merchandise, those stores proposing to use twenty-five percent (25%) or more of the building's sales and display floor area for the sale and display of used merchandise shall be considered to be a "Used Merchandise Store" and shall be required to apply for a special use permit as described in this section of the Code.

Stores proposing to use more than seventy-five percent (75%) of the building's sales and display area for the sale and display of new merchandise shall be allowed as a "use by right," provided that the proposed business use is permitted in the applicable zoning district.

(e) Notwithstanding any provision of this Code to the contrary, petitioning of the neighborhood for the purpose of determining the desires of the neighborhood inhabitants shall not be a prerequisite to the issuance of a Special Use Permit for a thrift store or used merchandise store pursuant to this subsection.

However, at the time the Special Permit and License Board sets a date for a hearing on an application for a special permit pursuant to this subsection, the Board, if it finds that the number of residents within 300 feet of the applicant's property appears to be inadequate for the Board to determine, based on testimony alone, the desires of the neighborhood for this Special Use Permit, may direct City Staff to conduct the petitioning contemplated by section 11-4-9(H) of this Code. Nothing herein shall be construed as in any way requiring such petitions in order for the Board to make a finding concerning the desires of the inhabitants of the neighborhood pursuant to section 11-4-9 of this Code, nor shall anything herein be construed as in any way limiting the weight the Board may give, in its absolute discretion, to any form of evidence that may be presented to the Board at the public hearing concerning the desires of the inhabitants of the neighborhood.

(D) A special use permit shall terminate whenever the permitted use is inactive for a period of one year or more.

#### **11-4-9: APPLICATIONS FOR SPECIAL USE PERMITS.**

(A) In the event a proposed use requires a Special Use Permit, no approval for a business license, a license pursuant to State Statute, or a building permit shall be issued until the Special Permit and License Board has reviewed the application and submitted a recommendation with the findings of fact to City Council and City Council has approved the application and granted the Special Use Permit as herein provided. The exception to this procedure will be the administrative review and approval by the City Manager or designee thereof for a domestic violence shelter home.

(B) Application Procedures: All applications for special use permits must include the following information:

1. Written description of the proposed use in sufficient detail to allow review and analysis of the operation and its potential impact on the existing neighborhood.
2. Legal description of the site.
3. Detailed site plan showing location of existing and proposed buildings and other structures, parking areas, ingress and egress, and landscaping.
4. Vicinity map showing immediately adjacent property, structures, existing land use, existing zoning classification(s), streets, and curb cuts.
5. Existing floor plan and elevation of buildings or proposed construction or modifications as may be applicable.



6. List of property owners within three hundred (300) feet of the subject property based upon records of the County Assessor as of a date within fifteen (15) days of filing the application.

7. Locations of any other Child Care Centers, Residential Care Facilities, or Group Homes for the developmentally disabled within 1,000 feet of the subject property, measured at the property line. The location of any other Child Care Centers, Residential Care Facilities, or Group Homes for the Developmentally disabled within 1,000 feet of the subject property shall preclude the approval of a Child Care Center or Residential Care Facility, if the subject property is located in a residential area.

8. In the case of a correction home, as defined in section 11-4-8, the applicant shall also submit written plans for: security measures to prevent unplanned and unsafe activities on the part of residents; screening measures to prevent the placement of residents with a history of or high risk for violence or abuse of children; the ratio of supervisors to residents; programs for counseling or rehabilitation; the hours per day or week when counseling or rehabilitation programs will be administered; the education, training and other qualifications of all staff members; provisions for recreation including the areas of the building and site to be used for recreation.

9. Reasonable additional information as may be required by the City Manager in order to act on the application.

(C) The applications for Special Use Permits, together with the required fee, shall be submitted to the City Clerk's Office.

(D) The application fee for a Special Use Permit shall be \$450. The application fee is not refundable. No fee is required for a Special Use Permit for a Domestic Violence Shelter Home.

(E) The application shall be reviewed by the City Manager, who, within ten (10) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board, to be held concurrently with the hearing for a license, if applicable.

(F) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.

(G) Notice of such hearing shall be mailed to the applicant by the City Clerk not less than ten (10) days before the hearing date. Notice of such public hearing shall also be given by publication once in a newspaper of general circulation in the community, not less than ten days prior to the hearing date and by posting a notice of hearing upon the premises for at least ten days prior to the hearing. Publication and posting shall be done by the City Clerk. Notice of public hearing shall also be mailed to owners of property within three hundred feet (300') of the proposed special use location.

(H) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the needs of the community for such a use and the desires of its citizens regarding such a use within the neighborhood surrounding the proposed use. The petition form shall be approved by the City.

(I) When considering any special use permit, the Board shall consider the impact of each of the criteria listed below, insofar as each is relevant to the proposed use:

1. Pedestrian safety.
2. Traffic volume and adequacy of parking and access.
3. Essential character of the neighborhood.
4. Desires of the inhabitants of the neighborhood.
5. Peace of the neighborhood.
6. Police activity in comparable businesses.
7. Architectural compatibility with the character of the neighborhood.
8. Compliance of the structure with all applicable building regulations
9. Compatibility with surrounding uses.
10. The benefits from the use to the public good and the public interest.

(J) When making a recommendation for a Special Use Permit, the Special Permit and License Board may also recommend imposition of conditions on the granting of a permit, including but not limited to:

1. Buffers or screens between the new activity and adjacent uses;
2. Limitations on operation of the use; and
3. Changes in design or layout.

(K) The findings of fact and recommendation shall be presented to the City Council at the next regularly scheduled meeting of City Council. The Council may:

1. Adopt the findings of fact of the Board and grant or deny the application accordingly.

2. Reject the findings of fact of the Board and hold a public hearing for the purpose of determining further information regarding the application. The Council shall consider the same criteria as set forth in this section in making its determination whether to grant or deny the application. The City Council may grant the permit with or without conditions recommended by the Board or with such additional conditions as the Council deems necessary.

(L) When considering an application for a Domestic Violence Shelter Home, the review and approval will be by the City Manager or designee thereof. A certified list of adjacent property owners, public notice, public hearing, and petition will not be required.

#### **11-4-10: HOME OCCUPATIONS.**

(A) **OCCUPATIONS PERMITTED.** Home occupations which meet the criteria of this Chapter may be operated in connection with the occupation of a dwelling unit within any zoning district including the residential areas of a PUD zone.

(B) **LIMITATIONS TO HOME OCCUPATIONS.** The home occupations herein permitted shall only be operated subject to all of the following additional limitations:

1. The use shall operate in its entirety within the dwelling unit and only by persons residing in the dwelling.

- (a) With the exception of the use of outdoor swimming facilities for limited water safety instruction purposes. Outdoor activity will be limited to the following:

1. No more than two students instructed at any one time (preparing for the lesson or being instructed).

2. This activity can only be conducted during the months of April, May, June, July, August, September and October.

3. The participants must be no older than 7 years of age.

4. Instruction may occur only between the hours of 8:00 AM and 7:00 PM

5. Any such home occupation shall be certified by the requirements of the American Red Cross or Certified by programs such as the Infant Swimming Research Program.

2. The use shall not have a separate entrance from outside the building, unless otherwise required by State law or regulation except for the minitiation outdoor pool instruction noted in 1 (a) above, which may be accessed through an outside gate.

3. The operator of the home occupation shall not display or create outside the building any external evidence of the operation of the home occupation except one unanimated, non-illuminated flat wall or window sign having an area of not more than one square foot.

4. The use shall not exclusively utilize more than twenty percent (20%) of the gross floor area of the dwelling as defined by the Uniform Building Code, or three hundred (300) square feet, whichever is less. A garage shall not be utilized for, or in conjunction with, a home occupation.

5. The home occupation shall not employ, for a fee or otherwise, any person in the conduct of the home occupation who does not reside in the dwelling unit.

6. No motors shall be used in the conduct of the home occupation except electric motors having 2 horsepower or less.

7. The home occupation shall clearly be incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character of the dwelling or of the neighborhood by excessive noise, lights, traffic, or other disturbances.

8. An occupation, activity, or use which requires a special use permit pursuant to section 11-4-8 is not a home occupation under this Chapter.

(C) **LICENSE REQUIRED.** It shall be unlawful to operate a home occupation otherwise permitted under this code without first obtaining a license for such occupation. Licensing procedures are established in Chapter 3 of Title V of this Code.

(D) **NUISANCE.** A home occupation being conducted without a home occupation license or in violation of any provision of this section shall be deemed a public nuisance and may be abated pursuant to Title VIII, Chapter 4, of this Code.

#### **11-4-11: ANTENNAS AND TOWERS.**

(A) Cellular telephone exchanges, communications poles, antennas and towers, windmills, wind generators and similar structures shall be permitted only as a special use in all districts, except Planned Unit Development (PUD) districts, unless otherwise prohibited by this Code or by contract. No such structure shall be permitted in a PUD district unless such use is specifically stated in the Official Development Plan (ODP) or unless an amendment to the ODP to allow such structure has been approved as specified in this section. All such structures shall be subject to the following conditions:

1. A building permit shall be required and shall not be issued until the applicant has obtained a special use permit or unless the structure is authorized in the applicable ODP. Any design that lacks manufacturer's specifications shall not be permitted unless an engineering study indicates that the design will meet or exceed all applicable building code standards.

2. All parts of the structure, including supports, fences and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment shall be obtained specifying the setbacks for the structure.

3. At the request of the applicant, an application for a special use permit or ODP amendment may be reviewed administratively and a decision thereon rendered by the City Manager pursuant to the criteria set forth below if the structure does not exceed the height limitations for a principal structure of the applicable district or ODP. If the applicable ODP does not include a height limitation for principal structures, an ODP amendment to specify the permitted height for the structure shall be required. Any decision by the City Manager, and any refusal by the City Manager to administratively approve a structure pursuant to this section, may be appealed to the Planning Commission who shall hear the case pursuant to the procedures set forth in section 11-5-13 of this Code. An appeal of any Planning Commission decision on a special use permit or ODP amendment to allow a structure pursuant to this section may be filed pursuant to section 11-5-13(B) of this Code.

4. In determining whether to grant or deny a special use permit or ODP amendment pursuant to this section, the decisionmaker shall consider, if applicable:

- (a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors,
- (b) Quality and effectiveness of any landscaping and screening of the base of the structure,
- (c) Real estate value impacts,
- (d) Whether co-use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures;

- (e) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards; and
- (f) Other specific public health and welfare concerns.

5. The applicant shall demonstrate that all guy wires, cables and other accessory structures or equipment are located on property owned or leased by the applicant or that the owner of the property otherwise consents to the location of such structures and equipment.

6. All structures and equipment shall be protected by a fence or wall not less than six feet in height from ground level, unless the decisionmaker waives this requirement as unnecessary to protect public safety concerns. Such fence or wall shall be constructed of wood or masonry and shall obscure the base of the structure.

7. Ground-mounted structures shall be screened by a landscaped planting strip of no less than 20 feet in width along all perimeter lines defining the boundaries of the proposed structure or, if landscaping is impractical, screening may be provided by a fence or wall which is architecturally compatible with the neighborhood, upon approval of the City Manager. Landscaping may include drought-resistant vegetation, earth berms, planter boxes, and hedges and, for every twenty-five linear feet of perimeter or part thereof, at least one shade, ornamental or canopy tree shall be planted. Existing trees directly adjacent to the perimeter may be counted. Additional landscaping may be required if deemed necessary by the decisionmaker to screen the base area of the structure. All vegetation shall be maintained in a healthy and growing condition. Automatic irrigation shall be provided, unless contractual arrangements are made with the City to ensure the proper maintenance of the landscaping.

8. A cellular telephone exchange may be co-located with other uses, subject to all requirements of this section.

(B) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC-licensed amateur radio operators shall be permitted in any district, subject to the requirements of this section, except subsections (A)(3) and (A)(7). The Board of Adjustment and Appeals shall establish permissible structure heights if an ODP fails to specify height limitations and shall hear applications for variances from height and setback requirements. The Board shall follow the same criteria as the decisionmaker considering a non-amateur radio structure and shall also balance amateur radio communications interests with other local interests.

(C) Television or radio antennas less than five feet above the highest point of the structure used for receiving regularly scheduled programming shall not be subject to subsection (A) above.

(D) The limitations of this section may be waived by the City Council in the case of a structure owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this section.

**(E) DEFINITIONS.**

1. "Cellular Telephone Exchange" shall mean an unmanned facility which consists of equipment for the reception, switching, and transmission of cellular telephone communications. Such facility may have elevated (either building mounted or ground mounted) transmitting and receiving antennas, cellular base station equipment, and interconnection equipment.

2. "Decisionmaker" shall mean the City Manager, the Planning Commission, the City Council, or the Board of Adjustment and Appeals as the context may require.

**11-4-12: SATELLITE EARTH STATIONS.**

(A) **PURPOSE AND INTENT.** The City hereby recognizes that satellite earth stations are an important means of audio and visual communication for the convenience of the public. It is the intent of this Chapter to address the rights to use satellite earth stations; to promote the free flow of information; to encourage the development of new communication technologies and services; to insure that satellite earth stations do not negatively impact the public health, safety, visual environment and welfare of the community; to protect the public from the hazard of satellite earth stations that are structurally unsafe or that obscure the vision of motorists; and to promote the use of satellite earth stations that are well designed and compatible with the surroundings.

**(B) DEFINITIONS.** For purposes of this Chapter, unless the context requires otherwise:

1. Neutral color means a color of a blending character which is unobtrusive and natural.

2. Satellite earth station means an antenna, often dish-shaped, designed to receive television broadcasts. A satellite earth station has the following elements: a lownoise amplifier (LNA), which is situated at the focal point of the receiving component, and which magnifies and transfers signals; and a coaxial cable which carries signals to the interior of a building. Satellite earth station includes, but is not limited to, an antenna or satellite dish capable of receiving signals from direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), and television broadcast stations (TVBS).

**(C) INSTALLATION PERMIT REQUIRED.**

1. A satellite earth station shall be considered a structure. No person shall install a satellite earth station exceeding one meter (39 inches) or mounted on a mast higher than twelve feet in the City, or cause the same to be done, without first obtaining a building permit.

2. A temporary use permit for use of a satellite earth station exceeding one meter (39 inches) or mounted on a mast higher than twelve feet may be obtained in nonresidential districts for a period not to exceed thirty (30) days in any year. The Department of Community Development shall establish criteria for such permits for purposes which shall include, but not be limited to, teleconferencing.

3. Procedures for obtaining a building permit or temporary use permit shall be established by the Department of Community Development.

4. The fee for a building permit to install a satellite earth station exceeding one meter (39 inches) or mounted on a mast higher than twelve feet shall be \$25.00 plus use tax pursuant to Chapter 12, Title 5, of the Official Code of the City of Westminster. The fee for a building permit to install a temporary satellite earth station shall be \$10.

5. A current business license and contractors license shall be required for any person installing a satellite earth station within the City limits of the City of Westminster.

6. The lawful use and location of any satellite earth station existing at the time of enactment of this section may be continued even though such use or location does not conform to the requirements of this section. Ordinary repairs and maintenance of a nonconforming satellite earth station shall be permitted. Whenever a nonconforming satellite earth station has not been used for a period of one (1) year, such use thereafter shall not be reestablished and any future use shall be in conformance with the provisions of this section.

**(D) RESTRICTIONS ON SATELLITE EARTH STATIONS INSTALLED IN RESIDENTIAL DISTRICTS.**

1. Dimension:

(a) A satellite earth station antenna shall not exceed ten (10) feet in diameter or width or length.

(b) A satellite earth station shall not rise more than thirteen (13) feet from the ground in height. Height shall be measured vertically from the ground immediately adjacent to the base which supports the antenna to the highest point of the antenna or dish when positioned for operation.

2. Location:

(a) Satellite earth stations shall be installed behind the front setback of the principal building. Not more than one satellite earth station may be installed on an individual lot. A satellite earth station may be located in the side setback of a corner lot when the rear setback location does not provide acceptable reception. Approval for a side setback installation shall be noted on the building permit.

(b) The minimum setback from the property line for a satellite earth station shall be ten (10) feet, or as necessary for the maintenance of a clear vision zone for adjacent street traffic.

3. Foundation: A satellite earth station shall be permanently ground mounted on a foundation which is adequate for design wind loads, pursuant to provision of the uniform building code and local basic wind speed criteria. No satellite earth station may be installed or operated from a portable or movable structure such as a trailer, except for temporary demonstration purposes not to exceed 72 hours.

4. Electrical Connection: The electrical connection to the satellite earth station shall be low voltage direct or pulsed current; except that where the device connected is Underwriter Laboratory approved, alternating current will be acceptable pursuant to National Electric Code requirements.

5. Maintenance: Satellite earth stations shall be kept painted, clean and otherwise maintained in good condition.

6. Chains or gears shall not be exposed.

7. Color: A satellite earth station shall be a neutral color, black or earth tones.

8. Satellite earth stations shall not be allowed to display any advertising in a residential district.

(E) Restrictions on Satellite Earth Stations Non Residential Districts:

1. Dimension:

(a) A satellite earth station foundation shall not exceed thirteen (13) feet in diameter or in width or in length.

(b) A ground mounted satellite earth station shall not rise more than fifteen (15) feet in height. Height shall be measured vertically from the bottom ground immediately adjacent to the base which supports the antenna to the highest point of the antenna or dish when positioned for operation.

2. Location:

(a) A satellite earth station shall be installed either to the rear or side of the building, and the support system shall be recessed or it shall be mounted on the roof pursuant to subsection (E)(3) of this section. Approval for an installation which varies from this requirement shall be noted on the building permit.

(b) A ground mounted satellite earth station shall be no further from the building than is required for proper operation and in no case shall the setback be less than the mounted height of the satellite earth station.

3. Foundation or mount:

(a) A satellite earth station foundation shall be stationary, unless approved for temporary use not to exceed 72 hours. The permanent foundation shall be adequate for design wind loads pursuant to the provision of the Uniform Building Code and local basic wind speed criteria.

(b) A satellite earth station may be installed on the roof of a building no less than twenty five (25) feet from all sides of roof parapets, and shall be designed and constructed to resist all gravity loads and wind effects pursuant to the Uniform Building Code. When deemed necessary by the Building Division, the City shall have the option to require that structural calculations be provided and stamped by a State licensed engineer.

4. Electrical connection: The electrical connection to the satellite earth station shall be low voltage direct or pulsed current; except that where the device connected is Underwriter Laboratory approved, alternating current will be acceptable pursuant to National Electric Code requirements.

5. Maintenance: Satellite earth stations shall be kept painted, clean and otherwise maintained in good condition.

6. Chains or gears shall not be exposed.

7. Color: A satellite earth station shall be a neutral color, black or earth tones.

8. Satellite earth stations shall not be allowed to display any advertising in a nonresidential district.

(F) **INSPECTION.** Every installation of a satellite earth station exceeding one meter (39 inches) or mounted on a mast higher than twelve feet shall be inspected by the Building Division.

(G) No exterior display or storage of satellite earth stations shall be allowed in conjunction with the wholesale and retail sale of satellite earth stations.

(H) Penalty: It shall be unlawful to violate a provision of this section. Any person convicted of a violation of this section may be fined an amount not to exceed three hundred dollars (\$300).

(I) Variances:

1. Any person may seek a variance from the provision of subsection (D)(2) of this section by applying to the Chief Building Official or his designee. The decision of the Chief Building Official may be appealed to the Board of Adjustment and Appeals.

2. All variance requests shall be made in writing on a form provided by the City of Westminster.

3. Special circumstances or conditions, such as the following, may justify the granting of a variance:

(a) Existence of buildings, topography, vegetation, satellite structures, or other matters on adjacent lots or within the adjacent public rightofway which would substantially restrict the effectiveness of the satellite earth station. Such special circumstances or conditions must be peculiar to the particular residence, business, or enterprise of the applicant and not applicable generally to all residences, businesses, or enterprises.

(b) The variance, if authorized, will weaken neither the general purpose of the satellite earth station ordinance nor the regulations prescribed for the zoning district on which the satellite earth station is located.

(c) The variance, if authorized will not alter the essential character of the zoning district in which the satellite earth station is located.

(d) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

#### **11-4-13: ADULT BUSINESSES.**

(A) **FINDINGS OF FACT.** The City Council hereby finds:

1. There are a substantial number of adult businesses in the Denver metropolitan area that require special supervision from the public safety agencies in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the area.

2. Adult businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature.

3. The concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens.

4. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas, causing increased crime and the downgrading of property values.

5. It is recognized that adult businesses, due to their nature, have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

6. The City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

7. The City Council has previously acted to regulate the location and operation of other types of businesses that cause secondary effects, such as pawn shops and social gaming outlets. This ordinance is part of an overall plan to improve and protect the quality of life from the secondary effects of a variety of activities through reasonable regulation and land use controls.

8. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult businesses.

9. It is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the Council recognizes that state law prohibits the distribution of obscene materials and expects and encourages law enforcement officials to enforce anti-obscenity laws against any such illegal activities that are now occurring or may occur in the future within the City.

**(B) PURPOSE AND INTENT.** It is the purpose of this ordinance to regulate adult businesses to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of adult businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

**(C) DEFINITIONS.**

1. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

2. (a) "Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas;" or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(b) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

(c) The definition of "principal business purpose" shall include any establishment having as a substantial or significant portion of it stock in trade the items listed in subparagraphs (a) and (b) above or any premises in which at least 100 square feet of floor space is occupied by the display of such items.

3. "Adult business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort service, nude model studio, or sexual encounter center.



4. "Adult cabaret" means a nightclub, bar, restaurant, or other commercial establishment which regularly features:

(a) Persons who appear in a state of nudity; or

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

5. "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than six (6) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty four (24) hours.

6. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

7. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

8. "Escort" means a person required to be licensed as such pursuant to Title V of this Code.

9. "Escort service" means a person or business required to be licensed as such pursuant to Title V of this Code.

10. "Establishment" means and includes any of the following:

(a) The opening or commencement of any adult business as a new business;

(b) The conversion of an existing business, whether or not a adult business, to any adult business;

(c) The addition of any adult business to any other existing adult business; or

(d) The relocation of any adult business.

11. "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

12. "Nudity" or a "state of nudity" means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

13. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

14. "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

15. "Specified anatomical areas" means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

16. "Specified sexual activities" means and includes any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(c) Masturbation, actual or simulated; or

(d) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

17. "Substantial enlargement" of an adult business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas existed on September 25, 1990.

18. "Transfer of ownership or control" of a sexually-oriented business means and includes any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

#### **(D) LOCATION OF ADULT BUSINESSES.**

1. It shall be unlawful to operate or cause to be operated an adult business outside of a designated PUD district. All adult businesses shall be located within a PUD district and are subject to the same regulation as all other PUD uses.

2. It shall be unlawful to operate or cause to be operated an adult business within one thousand feet (1,000') of:

(a) A church;

(b) A public or private preschool, day care center, elementary or secondary school;

(c) A public park;

(d) A boundary of any residential district;

(e) The property line of a lot devoted to residential use.

3. It shall be unlawful to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of an adult business within one thousand feet (1,000') of another adult business.

4. It shall be unlawful to cause or permit the operation, establishment, or maintenance of more than one adult business in the same building, structure, or portion thereof, or the increase of floor areas of any adult business in any building, structure, or portion thereof containing another adult business.

5. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult

business is conducted, to the nearest property line of the premises of a church or public or private preschool, day care center, or elementary or secondary school, a public park, or to the nearest boundary of an residential district, or residential lot.

6. For purposes of subsection 3 of this section, the distance between any two adult businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

7. Any adult business lawfully operating on September 25, 1990, that is in violation of subsection 1 through 6 of this section shall be deemed a nonconforming use. The nonconforming use shall be permitted to continue to operate unless abandoned as provided in section 11-4-15 of this Code. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

8. An adult business lawfully operating as a conforming use is not rendered a nonconforming use by the location of a church, public or private preschool, day care center, or elementary or secondary school, public park, residential district, or a residential lot within one thousand feet (1,000') of the adult business.

#### **(E) ADULT MOTELS.**

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated more than five (5) times in a twenty four (24) hour period creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Chapter.

2. It shall be unlawful for a person in control of a sleeping room in a hotel, motel, or similar commercial establishment to rent a sleeping room more than five (5) times in a twenty four (24) hour period.

3. For purposes of this section, the term "rent" means the act of permitting a room to be occupied for any form of consideration. If a customer immediately rejects a particular room and requests a different room, only the latter room shall be considered rented for purposes of this section.

**(F) EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.** A person who operates or causes to be operated an adult business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

2. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

3. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (B) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

4. No viewing room may be occupied by more than one person at any time.

5. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

6. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.

(G) **EXEMPTIONS.** It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Colorado; a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
  - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - (c) Where no more than one nude model is on the premises at any one time.

(H) **PENALTIES.** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

(I) **SEVERABILITY.** If any provision of this Chapter is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Chapter are valid, unless it appears to the court that the valid provisions of this Chapter are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the City Council would have enacted the valid provisions without the void provision or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

#### **11-4-14: LAND USE REGULATION OF OIL & GAS OPERATIONS.**

(A) **PURPOSE.** This ordinance is enacted to protect and promote the health, safety, morals, convenience, order, prosperity or general welfare of the present and future residents of the City of Westminster, Colorado (hereinafter "the City"). It is City Council's intent by enacting this ordinance to mitigate potential land use conflicts arising as a result of the development of oil and gas resources within the City. It is recognized that under Colorado law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this ordinance and any other applicable statutory and regulatory requirements. The State has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources and in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Owners of surface estates have certain legal rights and privileges, including the right to have the mineral estates developed in a reasonable manner. Local governments have the recognized, traditional authority and responsibility to protect the health, safety and welfare of persons and property and to regulate land use within their jurisdictions. This ordinance is intended as an exercise of the City's police power and regulatory authority to ensure the compatible coexistence of oil and gas drilling and extraction activities with residential, commercial and other types of development within the City.

(B) **DEFINITIONS.** All terms used in this chapter that are defined in the Act or in Commission regulations and are not otherwise defined in this section shall be defined as provided in the Act or in Commission regulations in effect as of the date of this Ordinance. All other terms used in this chapter shall be given their usual, customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry.

**ACCESSORY EQUIPMENT** means any equipment which is integral to the production and operation of an oil or gas well, including but not limited to, tanks, treaters, separators and production pits.

**ACT** shall mean the Oil and Gas Conservation Act of the State of Colorado, as from time to time amended.

**BERM** means an earthen barrier of compacted soils preventing the passage of liquid materials, or providing screening from adjacent uses, as may be specified in an applicable design standard.

**CODE** means the City of Westminster Municipal Code.

**COMMISSION** or **OGCC** means the Oil and Gas Conservation Commission of the State of Colorado.

**DEVELOPING AREA** means an area of at least one-square mile of land which is determined by the Planning Commission to contain an average residential density of less than one dwelling unit per 2.5 acres or to contain less than an average of 50,000 square feet of gross floor area devoted to non-residential structures which require a certificate of occupancy.

**INJECTION WELL** means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the OGCC.

**INSPECTOR** means any person designated by the City Manager, or designee thereof, who shall have the authority to inspect a well site or production site to determine compliance with this chapter and other applicable ordinances of the City.

**OIL AND GAS WELL** means a hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.

**OPERATING PLAN** means a general description of an oil or gas well facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services, infrastructure, and any other information related to regular functioning of such facility.

**OPERATOR** means the person designated as operator in OGCC Form 2 or a subsequently filed OGCC form 10.

**OWNER** means any person with a working interest ownership in the oil and gas well or a leasehold interest therein.

**PRODUCTION PITS** means those pits used for initial settling, temporary storage, or disposal of produced water by permeation or evaporation after drilling and initial completion of a the well.

**PRODUCTION SITE** means the surface area immediately surrounding proposed or existing production pits, or other accessory equipment necessary for oil and gas production activities, exclusive of transmission and gathering pipelines.

**REENTERING** means accessing an existing well bore for either the original or amended purpose when such well has not been abandoned.

**SIDETRACKING** means entering the same well from the surface, but not necessarily following the same well bore throughout its subsurface extent, when deviation from such well bore is necessary to reach the objective depth.

**TREATMENT FACILITIES** means any plant, equipment or other works used for the purpose of treating, separating or stabilizing any substance produced from a well.

**TWINNING** means the drilling of a well adjacent to or near an existing well when the existing well cannot be drilled to the objective depth and/or produced due to an engineering problem such as collapsed casing or formation damage.

**URBANIZED AREA** means an area of a minimum of one-square mile of land which is determined by the Planning Commission to contain an average residential density equal to or greater than one dwelling unit per 2.5 acres or to contain an average of 50,000 square feet or greater of gross floor area devoted to non-residential structures.

**WELL** means an oil and gas well or an injection well.

**WELL HEAD** means the equipment attaching the surface equipment to wellbore equipment at the well.

WELL SITE means that area surrounding a proposed or existing well or wells and accessory structures, containment berm and equipment necessary for drilling completion, recompletion, workover, development, and production activities.

**(C) GENERAL PROVISIONS.**

1. Violations. Within all zoning districts, it shall be unlawful for any person to drill a well, or reactivate a plugged or abandoned well, or extract resources from a well, or install accessory equipment or pumping systems unless an Official Development Plan (hereinafter "ODP") authorizing such activity or use has first been granted by the City in accordance with the procedures defined in this Chapter. This prohibition shall not apply to a well which has been approved by the City in an ODP prior to the effective date of this chapter. When a well has been approved pursuant to this Chapter, the twinning, sidetracking, or reentering of such well for the purposes of deepening, recompleting, or reworking shall not require a subsequent approval under this Chapter. The approval of such ODP shall not relieve the owner or operator from otherwise complying with all applicable regulatory requirements of the City, State of Colorado and United States.

2. Inspections. In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures shall be subject to inspection by the inspectors of the City at reasonable times to determine compliance with applicable provisions of this Chapter, the Uniform Fire Code, the Uniform Building Code, and other applicable City health/safety standards. For the purpose of implementing and enforcing the provisions of this chapter, the city personnel have the right to enter upon private property after reasonable notification to the operator, which provides the operator an opportunity to be present.

3. Sales and Use Tax License. An operator of a well subject to the provisions of this chapter shall at all times have a valid City Sales and Use Tax License. Such license may be obtained by filing an application with the City Clerk. All operators must comply with applicable provisions of Title IV of this Code relating to taxation.

4. Building Permit. Building permits shall be obtained prior to the construction of any above-ground structure to the extent required by the City Building Code then in effect.

**(D) APPLICATION ELEMENTS.** An application for an ODP pursuant to this Chapter shall be filed with the City Department of Community Development and shall include the following information:

1. Site Plan. The site plan shall be submitted in accordance with the format prescribed for an ODP application in Title XI of the Code, showing:

(a) a legal description of the property upon which the well site and production site are to be situated,

(b) a true north arrow,

(c) the location of the proposed well site and production site, including well, twinning locations, motors, tank battery, separators and treaters, storage facilities, production pits, containment berm, transmission and gathering pipelines and other accessory equipment to be used during the drilling, maintenance and operation of the proposed well,

(d) the location of all other proposed structures, including fencing and signs.

(e) all proposed access ways associated with the well site and production site,

(f) intended color of paint for storage tanks and other permanent structures, fencing and berming for the site,

(g) a description and location of proposed landscaping,

(h) all existing physical features, including drainageways, floodplains, roads and rights-of-way, designated wild-life areas, trees and City open-space, parks and recreation property within 1000 feet of a well site or production site,

(i) existing subdivision boundaries, buildings, structures, property lines, public and private utility easements of record and utility facilities and improvements within 400 feet of the well site or production site,

(j) the signature and seal of a professional land surveyor

(k) Any other information required by the provisions of this Title relating to the content of an application for an ODP.

2. Vicinity Maps. Vicinity maps shall be submitted with the application for an ODP on one or more maps or plats showing the following:

(a) Location of all existing bodies of water and watercourses, including direction of water flow. This information shall be submitted on United States Geological Service (USGS) 7.5 minute series, assessor base maps which indicate topographic detail and show all existing bodies of water and watercourses with a physically defined channel within a 1000 foot radius of the proposed well.

(b) Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells (including abandoned wells) within a 1000 foot radius of the proposed location for the well.

(c) Location of proposed well site and proposed production site. This information shall be that contained on OGCC Form 2 and shall be graphically depicted on a map of the section in which the sites are to be located and shall include the parcel tax identification number of the property on which the sites are to be located.

3. Narrative Elements. In addition to the site plans and the vicinity maps required in subsections 1. and 2. of this section, the application shall also include:

(a) The names and addresses of the operator and surface owner, and copies of any lease agreements with the surface owner and applicable OGCC Forms 1 and 2.

(b) An operating plan.

(c) A listing of all permits or approvals obtained or yet to be obtained from local, State or Federal agencies other than OGCC.

(d) An emergency response plan which includes, but is not limited to, a listing of local telephone numbers of the public and private entities and individuals to be notified in the event of an emergency, a description of the best emergency access to the well, drilling equipment and related facilities and structures, and a description of arrangements which will be made to allow access by emergency response personnel to secured facilities.

(e) A plan for weed control at the well site.

(f) A schedule of drilling and anticipated completion events related to the proposed well.

(g) The drainage and erosion control plan for on-site and off-site drainage.

(h) A site reclamation and restoration plan including the reclamation schedule.

(i) A waste disposal plan.

(E) **APPLICATION FEE**. An application for review of an ODP pursuant to this chapter shall be accompanied by a fee of One Thousand Dollars (\$1,000). The fee shall not be refunded if the application is withdrawn or denied.

(F) **DETERMINATION OF APPLICATION.**

1. The City shall approve an application for an ODP filed pursuant to this chapter if the application meets the following requirements:

(a) The application submission requirements set forth in subsections 11-4-14(D) and 11-4-14(E).

(b) The applicable development standards contained in subsections 11-4-14(I) and 11-4-14(J) and

(c) The Uniform Building Code and Uniform Fire Code requirements.

2. The City shall deny an application for an ODP filed pursuant to this Chapter that does not meet the requirements listed above.

3. The City's determination of the application shall be made pursuant to the procedures set forth in this Title for approval of an ODP, except that a hearing before the City Planning Commission shall be required on any application filed under this Chapter.

**(G) VARIANCES FROM DEVELOPMENT STANDARD.**

1. The City Council shall grant a variance from a development standard in either of the following cases:

(a) The applicant establishes that a particular application of a development standard to the applicant's property results in a direct conflict with the statutory responsibilities of the Commission; or

(b) The applicant establishes that a particular application of a development standard to the applicant's property constitutes a taking or damage in violation of the United States Constitution or Article 2, section 3 of the Colorado Constitution.

2. The City Council may grant a variance from a development standard if it finds that the requirements set forth in section 2-6-2 (B) 2. of this Code have been met.

**(H) NOTICE TO PROCEED.** Prior to commencement of operations for which an ODP has been granted, a "Notice to Proceed" shall be obtained from the City Manager or the City Manager's designee. The following documentation must be submitted and approved prior to the issuance of the notice to proceed:

1. A copy of the City Council ordinance approving an ODP for the well,

2. A copy of the City sales and use tax license,

3. A copy of all necessary state or federal permits issued for the oil or gas operation, if not previously submitted.

**(I) DEVELOPMENT STANDARDS.**

1. Well site and production site setbacks. In all areas of the City, the following shall apply:

(a) A well site shall be setback a minimum of three hundred fifty (350) feet from any occupied building or building permitted for construction and shall be setback a minimum of seventy five (75) feet from any public right-of-way.

(b) A production site shall be setback a minimum of three hundred fifty (350) feet from any occupied building or building permitted for construction and shall be setback a minimum of seventy five (75) feet from any public right-of-way.

2. Production Site Containment

(a) To the maximum extent possible, all accessory equipment shall be located within a central battery area which conforms to the production site setback requirements.

(b) All permanent production tanks shall be located within a containment berm. Such containment berm shall be designed to permit reasonable and adequate access and service. The containment berm shall be so designed to be capable of impounding an amount of fluid equal to one hundred percent (100%) of the capacity of the largest tank within said berm.

3. Noise Regulation.



(a) State law and regulations concerning noise abatement (Title 25, Article 12, C.R.S.) shall apply to all operations together with applicable local government ordinances, rules or regulations.

(b) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.

(c) All power sources used in pumping and production operations shall have electric motors or muffled internal combustion engines.

#### 4. Special Mitigation Measures - Noise

(a) Where a well site or production site is located in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes without limitation an area which includes the following: a hospital, a school, dwelling units, a nursing home, a hotel, a church, and designated wildlife preserves, open space, parks, and recreation areas.

(b) In determining the need for special noise mitigation, specific site characteristics shall be considered, including, but not limited to, the nature and proximity of adjacent development, prevailing weather patterns, vegetative cover and topography.

(c) One or more of the following additional noise abatement measures may be required:

(1) Acoustically insulated housing or cover enclosing a motor or engine;

(2) Noise management plan identifying hours of maximum noise emissions, type, frequency, level of noise to be emitted, and proposed mitigation measures, or

(3) Any abatement measures required by OGCC for high density areas, if applicable.

#### 5. Visual Impacts and Aesthetics. In all areas of the City the following shall apply:

(a) To the maximum extent practicable, a well site and production site shall be located away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, city-owned and designated open space, parks and recreation areas, and other designated landmarks.

(b) To the maximum extent possible, a well site and production site shall be located to avoid the tops of hills and ridges in order to prevent the appearance of pumpjack and accessory equipment profiles on the horizon.

(c) Electric pumping systems shall be required in areas where feasible.

(d) In urbanized areas, no tanks located in a production site shall exceed six feet in height. In developing areas, no tanks located in a production site shall exceed nine feet in height.

(e) In urbanized areas, no treatment facilities located in a production site shall exceed six feet in height, with the exception of venting pipes which shall not exceed 16 feet in height. In developing areas, no treatment facilities located in a production site shall exceed nine feet in height, with the exception of venting pipes which shall not exceed 16 feet in height.

(f) To the maximum extent possible, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.

(g) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.

(h) Facilities shall be painted as follows:

(1) Uniform, non-contrasting, non-reflective color tones, similar to Munsell Soil Color coding system.

(2) Color matched to land, not sky, slightly darker than adjacent landscape.

(3) Exposed concrete colored to match soil color.

(i) Electrical lines servicing pumping and accessory equipment shall be installed below ground only.

(j) Oil and gas shall be transported from a well to treatment facilities by buried pipeline, unless an above-ground line is approved by the City.

(k) After commencement of production operations, all excavation slopes, both cut and fill, shall be planted and maintained with grasses, plants, or shrubs for the purposes of adequate erosion control.

6. Special Mitigation Measures - Visual. In urbanized areas, the applicant shall be required to submit a Visual Mitigation Plan including one or more of the following standards, as appropriate:

(a) All pumping systems and accessory equipment used in the operation of a completed well shall be screened on all sides by a fence of a height equal to the highest accessory equipment, with the exception of venting pipes associated with said equipment. The owner shall be responsible for landscaping the perimeter of the fence immediately surrounding the well site and production site. The design and specific material used for the fence and landscaping shall be determined by the Planning Commission during the review process based on compatibility with adjacent development.

(b) To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.

(c) The applicant shall be required to provide one or more of the following landscaping practices, on a site specific basis:

(1) Establishment and proper maintenance of ground covers, shrubs, trees

(2) Shaping cuts and fills to appear as natural forms

(3) Cutting rock areas to create irregular forms

(4) Designing the facility to utilize natural screens, or

(5) Construction of fences for use with or instead of landscaping

(d) To the maximum extent possible under O.G.C.C. rules and regulations, the location of the well site and production site shall be compatible with the uses designated for the surface estate.

**(J) OPEN SPACE, PARKS AND RECREATION AREAS.** City-owned open space, parks, or recreation areas shall be subject to the following special requirements:

1. Whenever possible, drilling and production operations shall be located and conducted so as to prevent or minimize effects on trails, recreational activities, trees, grasses, water bodies, wetlands, flora and fauna, stream boundaries, and the natural condition of the land.

2. Development standards in this chapter which apply to an "urbanized area" shall also apply to city-owned open space, parks and recreation areas.

3. Whenever possible, in order to minimize surface impact, the applicant shall develop multiple reservoirs or locations by drilling from common pads or by multiple completions or commingling in existing wellbores provided such operations are authorized by the OGCC.

4. Concrete pads or barriers underlying tanks shall be required where necessary to prevent seepage or infiltration.

5. Access roads on the property shall be located and constructed pursuant to City requirements. Security fences and gates shall be installed as required by the City in order to control public access to the property.

6. A detailed reclamation and restoration plan shall be submitted with the application. The plan shall meet or exceed City reseeding standards and shall provide for the complete reclamation of the site in a reasonable period of time to the same or a better condition than existed prior to the commencement of operations in a manner approved by the City.

7. The applicant shall also submit an Irrevocable Letter of Credit, Performance and Reclamation Bond or other security, in form and content acceptable to the City Attorney, in the amount of \$5,000.00 per well, to cover the costs of reclamation, and a copy of an insurance policy in an amount sufficient to insure the applicant against all claims or causes of action for damages to persons or property, including environmental damage, arising out of its drilling, operation or production activities. The City shall be named as an additional insured on this insurance policy.

**(K) COMPLIANCE WITH STATE ENVIRONMENTAL REQUIREMENTS.** The approval of an ODP pursuant to this Chapter shall not relieve the operator from complying with all applicable City, state and federal statutes, regulations and standards concerning air quality, water quality, ground contamination and waste disposal.

**(L) ABANDONMENT AND PLUGGING OF WELLS.** The approval of an ODP shall not relieve the operator from complying with all OGCC rules with respect to abandonment and plugging of wells. The operator shall provide the City with Commission Form 4 at the time that it is filed with the Commission.

**(M) SEISMIC OPERATIONS.** The approval of an oil and gas permit shall not relieve the operator from complying with all OGCC rules with respect to seismic operations. All notices which an operator is required to file with the Commission with respect to seismic operations shall be filed with the City on a timely basis. The City shall comply with the same confidentiality requirements which bind the Commission.

**(N) SIGNAGE.** The approval of an oil and gas permit shall not relieve the operator from complying with all OGCC rules with respect to signs. In addition, the owner or operator shall maintain in good, readable condition all signs required by such Commission regulations.

**(O) RECLAMATION.** The approval of an ODP shall not relieve the operator from complying with all Commission rules with respect to site reclamation.

**(P) FLOOD PLAIN REGULATIONS.** The well site and production site shall comply with the floodplain regulations of this Code.

**(Q) ACCESS ROADS.**

1. All private roads used to access a well site or a production site shall be improved prior to the drilling of the well and maintained according to the following standards:

(a) Access roads to the production site shall be subject to review by the city engineer in accordance with city standards and specifications and the following minimum standards:

(1) A graded roadway having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the Department of Community Development. The aggregate material, at a minimum shall meet the requirements for Class 3, Aggregate Base Course as specified in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition.

(2) Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (i.e., roadside swales, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the Department of Community Development.

(3) Constructed so as to provide surface widths and clearances sufficient to accommodate City fire equipment.

(4) Maintained so as to provide a passable roadway generally free of ruts and of snow.

(b) Access roads to well sites shall be subject to review by the City Engineer in accordance with the following minimum standards:

(1) A graded, dirt roadway compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures.

(2) Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the Department of Community Development.

(3) Constructed so as to provide surface widths and clearances sufficient to accommodate City fire equipment.

(4) Maintained so as to provide a passable roadway generally free of ruts and of snow.

**(R) WILDLIFE IMPACT MITIGATION.**

1. When a well site or production site is located in a significant wildlife habitat, as defined by the Colorado Division of Wildlife, the applicant shall consult with the Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The operator or owner shall implement such procedures as recommended by the Division of Wildlife after consultation with the City.

2. The applicant shall not engage in activities which the Colorado Division of Wildlife determines threaten endangered species.

**(S) EMERGENCY RESPONSE COSTS.** The operator shall reimburse the City for any emergency response costs incurred by the City in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by the mistake of the City or a third party.

**(T) ENFORCEMENT.**

1. Penalty. Any person that violates any provision of this Chapter or a condition or requirement of an ODP approved pursuant to this Chapter shall be subject to the penalties set forth in section 1-8-1 of this Code.

2. Civil Action. In addition to other remedies provided by law, the City Attorney may institute an action for injunction or abatement, or other appropriate action or proceeding, to remedy a violation of this Chapter or a violation of a condition or requirement of an ODP approved pursuant to this Chapter.

3. False or Inaccurate Information. The City may revoke approval of an ODP if it is determined at a public meeting, held after at least ten (10) days notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants or employees, knew, or reasonably should have known, was false, misleading, deceptive, or inaccurate.

**(U) SEVERABILITY.** If any provision of this Chapter is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Chapter will remain valid, it being the intent of the City that the provisions of this Chapter are severable.

**11-4-15: NONCONFORMING USES AND STRUCTURES.**

**(A) CONTINUING USES.** Except as provided in this section, the lawful use and location of any structures existing at the time of enactment of this Chapter, or any amendments thereto, may be continued even though such use of location does not conform to the requirements of this Chapter.

**(B) REPAIRS AND MAINTENANCE.** Ordinary repairs and maintenance of a nonconforming building shall be permitted.

(C) **RESTORATION.** A nonconforming structure which has been damaged by fire or other causes may be restored to its original condition, provided such work is commenced within one year of such calamity and cost of repairing such structure does not exceed fifty per cent (50%) of the total replacement cost of the structure.

(D) **ABANDONMENT.** Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter, except as provided in subsection (C) above.

(E) **CHANGE IN USE.** A nonconforming use shall not be changed to a use of less restrictive classification, such nonconforming use may, however, be changed to another use of the same or more restrictive classification.

(F) **EXTENSIONS.** A nonconforming use shall not be extended.

(G) **CONFORMING USES MADE NONCONFORMING BY PUBLIC PROJECTS.** If a conforming use is made nonconforming due to a purchase or condemnation of land by a public entity for the purpose of constructing a public improvement, the following exemptions from this section shall apply:

1. If a use is made non-conforming due to loss of required parking spaces, the structure may be restored pursuant to subsection (C) up to and including one hundred percent (100%) of the total replacements cost. Such use shall be subject to subsections (E) and (F) unless the change in use or extension is otherwise permitted by this code and would not require additional parking spaces. The use shall not be subject to subsection (D).

2. If a use is made nonconforming due to encroachment into a required setback, the structure may be restored pursuant to subsection (C) up to and including one hundred percent (100%) of the total replacement cost. Such use shall be exempt from subsections (D), (E) and (F) except that no extension of the use shall encroach further into the setback than was previously encroached upon as a result of the public improvement project.

3. The exemptions contained in this subsection (G) shall apply only in the Westminster Urban Renewal area, as defined by the Westminster Urban Renewal Plan, adopted pursuant to Resolution No. 43, Series of 1992, as enacted by the Westminster City Council.

#### **11-4-16: ADOPTION, IMPLEMENTATION AND COMPLIANCE WITH CITY'S COMPREHENSIVE LAND USE PLAN.**

(A) The City Council finds that the City and its present and future residents will benefit from the adoption of a comprehensive land use planning document to guide future development of the City for the wise use of limited water supplies and other municipal services and the provision of a suitable mixture of land uses in the City's remaining undeveloped property. The City Council further finds the City Charter, Section 4.16, authorizes planning for the use, division and development of land for the general purpose of protecting the public health, safety and welfare and further that the City is authorized by Part Two of Title 31, Chapter 23, C.R.S., to make, adopt, amend, extend, add to, or carry out a master plan for the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality.

#### **(B) ADOPTION OF COMPREHENSIVE LAND USE PLAN.**

1. A Comprehensive Land Use Plan for the City, and any amendments thereto, shall be referred to the Planning Commission for consideration, and a public hearing shall be scheduled. Notice of the hearing shall be given at least ten (10) days prior to the hearing, such notice to state the date, place, and time of such hearing, and where copies of the proposed Plan may be reviewed prior to the hearing. Notice shall be published once in the official newspaper of the City.

2. The Planning Commission may consider separate sections of the Plan at different hearings over a period of time, and such hearings may be continued from time to time to allow a thorough review by the Commission and the public.

3. After review, the Planning Commission shall submit its written report and recommendation on the proposed Plan, or its individual sections, to the City Council.

4. Upon receipt of the report, the City Manager shall schedule a public hearing upon the Plan or its sections before the City Council. Notice shall be given at least four (4) days prior to the hearing, in the same manner as required in subsections (B)1. and (B)2. above. The Council may consider separate sections of the Plan at different hearings over a period of time, and such hearings may be continued from time to time to allow a thorough review by the Council and the public.

5. After public hearing and consideration of the recommendations of the Planning Commission, the City Council may, by ordinance, adopt the proposed Plan or any of its sections, or the City Council may adopt sections of the Plan and reject others, or may send the Plan or any sections of it to the Planning Commission for further review and public comment.

**(C) COMPLIANCE WITH THE PLAN.**

1. On and after the effective date of the ordinance adopting the Comprehensive Land Use Plan, or any section of it, it shall be unlawful for any person to use any parcel of land in any manner not in compliance with the adopted Plan or any of its sections.

a. This subsection shall not apply to a use established prior to the effective date of the ordinance adopting the Plan or any of its sections. "Established" prior to the effective date shall mean that structures or improvements necessary or customary for the use were complete and occupied or ready for occupancy prior to the effective date, or that the structures or improvements were substantially in construction under a valid and unexpired building permit prior to the effective date.

b. Any property owner who wishes to change the established use of a parcel shall comply with the Plan at the time such use is changed or the property is substantially redeveloped.

2. The Planning Manager of the Department of Community Development is authorized to determine whether the use of any parcel is, or is not, in compliance with the Plan. The owner of an affected parcel may appeal the decision of the Planning Manager to the City Manager. The City Manager or his designee shall conduct an informal meeting in which the Planning Manager and the owner may express their views. The City Manager or his designee shall consult with the City Attorney's office prior to the informal meeting. The City Manager shall decide the issue within a reasonable time and notify the owner in writing.

**(D) AMENDMENTS.**

1. The City may, from time to time, initiate the amendment of the Comprehensive Land Use Plan in whole or in part. Any proposed amendment shall be reviewed and adopted, after notice and public hearing, as required in section 11-4-16(B).

2. The owner of a parcel may request the amendment of the Comprehensive Land Use Plan only as to the parcel owned by him/her.

Application for such an amendment shall be made to the Planning Manager who shall arrange for notice and public hearings before the Planning Commission and the City Council, such notice and hearings to be in compliance with section 11-4-16(B).

3. The owner shall also determine the owners of record title of all property within three hundred (300) feet of the property for which an amendment is sought, and shall prepare notice of the proposed amendment to be mailed by first class mail to such owners at the address appearing in the records of the County Treasurer. Such notices, together with addressed, stamped envelopes, a certified list of property owners to be notified, and a map identifying the location and address of the property within three hundred (300) feet shall be delivered to the the City Clerk at least ten (10) days prior to the date of hearing. On or prior to the date set for hearing, the City Clerk shall certify to the Department of Community Development that the required notices were sent. The owner shall bear the cost of the notices to be mailed and of published notice.

4. The owner shall have the burden of proving that the requested amendment will be in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, and the Council shall so find before approving an amendment. An opportunity for a more profitable use shall not, by itself, be grounds for an amendment.

**(E) ENFORCEMENT.**

1. Any violation of this Chapter is hereby declared to be a criminal violation of this Code. Any person in violation of this Chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be punished as set forth in Section 1 of Chapter 8 of Title I of this Code.

2. After the effective date of the Plan or any of its sections, any use, or construction for such use, other than an established use as defined in section 11-4-16(C), not in compliance with the adopted Plan or any of its sections, is hereby declared to be a public nuisance which may be abated pursuant to the procedures for public nuisances established elsewhere in this Code.

## **CHAPTER 5 - PROCEDURES AND REQUIREMENTS FOR THE APPROVAL OF ANNEXATIONS, REZONINGS, DEVELOPMENT PLANS, AND PLATS**

**11-5-1: ANNEXATIONS.** The annexation of property to the City of Westminster shall occur pursuant to and be governed by the provisions of C.R.S. sections 31-12-101, et seq., also known as the Municipal Annexation Act of 1965, as the same may from time to time be amended.

### **11-5-2: REZONING REQUIREMENT.**

(A) No zoning or rezoning for any property within the City shall be granted unless the zoning or rezoning is to Planned Unit Development or O1, provided, however:

(1) For property without current Planned Unit Development zoning, such property may be rezoned to a non-PUD zoning classification, if such property is:

- (a) less than two (2) acres; and
- (b) previously developed or partially developed, or, if undeveloped, such property abuts an existing zone of the same zone being requested.

(2) For property with current Planned Unit Development zoning, such property may be rezoned to a non-PUD zoning classification, in the discretion of City Council, based on Council's finding of all of the following conditions:

- (a) the surrounding land uses are zoned for residential use or are zoned O1;
- (b) the size of the property is not more than two (2) acres in size;
- (c) the change in zoning to a zoning other than Planned Unit Development will not adversely impact the surrounding neighborhood; and
- (d) the proposed zoning will result in a project of lower residential density than the PUD existing at the time.

(B) Any application for zoning or rezoning shall be subject to review and approval by the Planning Commission and City Council in accordance with the procedures set forth in section 11-5-13 of this Code. Individual land uses within a Planned Unit Development district may be added or changed pursuant to approval, by motion of City Council, of a Preliminary Development Plan or an Amended Preliminary Development Plan setting forth the permitted land uses within the Planned Unit Development. No rezoning from one zoning district to another shall be effective except pursuant to a duly adopted ordinance of the City Council. Preliminary and Official Development Plans, and amendments thereto, may be approved by motion of the City Council.

(C) A non-refundable application fee of \$500 shall be paid at the time of application for any rezoning from one classification to another.

### **11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS.**

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.

2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.

2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.

3. The surrounding development is or may be adversely impacted by the current zoning.

4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

(C) Any City-initiated rezoning shall satisfy the standards set forth in subparagraph (A) above.

(D) Any application for zoning or rezoning to Planned Unit Development shall satisfy the standards set forth in section 11-5-14.

#### **11-5-4: PRELIMINARY DEVELOPMENT PLAN (PDP) REQUIREMENT.**

(A) Unless otherwise approved by City Council, any request for rezoning to Planned Unit Development shall be accompanied by a request for approval of a PDP.

(B) A Preliminary Development Plan for any property zoned Planned Unit Development or any property that would be required to rezone to Planned Unit Development shall be required prior to the use, improvement or development of such property. The Preliminary Development Plan shall reflect a plan for development, redevelopment, or non-development of all contiguous land under the same or substantially the same ownership as determined by the City.

This requirement shall apply even if the owner has no immediate plans for the development or redevelopment of a portion of the land. The Preliminary Development Plan may include portions of the property for which a land use is not designated. Where a land use is not designated, no application for approval of an Official Development Plan shall be made until land uses are established by an amendment to the Preliminary Development Plan in accordance with this Chapter.

(C) It shall be unlawful for the owner, or the agent of the owner, of any unplatted or unsubdivided land located within the City to transfer, sell, agree to sell, or negotiate to sell any portion less than the whole of all contiguous land under or substantially under the same ownership prior to the approval by the City and the recording in the Office of the County Clerk and Recorder of a Preliminary Development Plan or a final plat for all contiguous land under the same or substantially the same ownership.

A Preliminary Development Plan may be used as the basis for a subdivision and subsequent sale or transfer of land under this paragraph, provided that said Preliminary Development Plan contains legally defined and described boundaries of the parcels being created by the subdivision.

(D) The requirement set forth above for a separate Preliminary Development Plan for a Planned Unit Development may be waived by the City Manager or his or her designee if it is determined that the information required in this Code for the Preliminary Development Plan can be reasonably combined with the information required for the Official Development Plan. In such cases, an application for approval of a Combined PDP/ODP for the property shall be submitted and processed in accordance with the procedures for the approval of a PDP as set forth in section 11-5-7. The application for approval of the Combined PDP/ODP shall contain all the information required for PDP's and ODP's as set forth in sections 11-5-7 and 11-5-8 below.

#### **11-5-5: OFFICIAL DEVELOPMENT PLAN (ODP) REQUIREMENT.**



(A) No property in the City shall be used, improved or developed, and no building permit shall be issued, nor shall any utility improvements be permitted unless an ODP for the property has been approved or an ODP waiver has been granted in accordance with this Chapter.

(B) Neither an ODP nor an ODP waiver shall be required for:

1. Tenant finish permits.

2. Grading permits for which the City Engineer has determined an ODP is unnecessary.

3. A change of use or occupancy if there are no changes or improvements to any structure on the site and all other provisions of this Code are met.

(C) For any property zoned Planned Unit Development, the City shall have the option to require that an ODP filed with the City cover the entire ownership or substantially the same ownership as determined by the City.

(D) For any property not zoned Planned Unit Development, any ODP filed with the City shall reflect a plan for the development or redevelopment of all contiguous land under or substantially under the same ownership. This requirement shall apply to all ODP's, even if the landowner has no immediate plans for the development or redevelopment of such land. The intent is to insure that a unified plan is approved for all land under or substantially under the same ownership.

(E) No development shall commence, no building shall be occupied, and no lots shall be sold until the requirements of this Chapter and all additional requirements in the ODP or ODP waiver for the property have been met. Failure to comply with the ODP or ODP waiver at any point in the construction process shall be cause for the issuance of a stop work order or correction notice.

(F) No certificate of occupancy shall be granted unless and until all provisions of the approved ODP or ODP waiver have been met, except the City Manager, in his or her discretion, may authorize a certificate of occupancy to be issued prior to completion of landscaping improvements upon receipt of an agreement guaranteeing the completion of such improvements incorporating one of the forms of guarantees specified in Chapter 7 of this Code.

(G) It shall be unlawful for any person, firm, or corporation to complete the sale of, hold a real estate closing upon, transfer, convey, or permit to be occupied any building or structure until the City has issued a certificate of occupancy therefor.

#### **11-5-6: OFFICIAL DEVELOPMENT PLAN (ODP) WAIVER.**

(A) The requirement for an ODP may be waived by the City Manager if the City Manager determines (1) that the proposed improvements are minor site improvements including but not limited to additions, remodeling and accessory buildings; the construction of a single-family dwelling on a platted lot in a standard residential district; or advertising signs, fences, and landscaping which are to be made in accordance with City Code and (2) the improvements will have no adverse impacts on surrounding lots and parcels nor the public health, safety, or general welfare. The City Manager may condition the approval of any such waiver upon the development satisfying any or all of the criteria set forth in section 11-5-15, Standards for Approval of Official Development Plans and Amendments to Official Development Plans. No waiver shall be granted for any property zoned Planned Unit Development and subject to a previously approved Preliminary Development Plan.

(B) A waiver of the ODP requirement may also be granted by the City Manager for the purpose of combining non-conforming lots or portions of non-conforming lots with continuous frontage in single ownership in a manner that creates conforming lots. Such non-conforming lots or portions of lots shall be considered for the purpose of this Code to be an unsubdivided parcel. Prior to the issuance of a building permit for any structure on such lots, a final plat in accordance with this Code shall be required to be submitted and approved. The plat shall bring the lots into conformance with the density requirements of the district in which they are located. Upon the denial by the City Manager of an ODP waiver, an ODP approval shall be required prior to development or redevelopment.

(C) An application for an ODP waiver shall be in a form and contain such information as may be required by the City Manager.

(D) An application fee of \$75 shall be paid at the time of application for an ODP waiver.

**11-5-7: FORMAT AND APPROVAL PROCESS FOR PRELIMINARY DEVELOPMENT PLANS (PDP's).**

**(A) Application Procedures for PDP'S.**

1. Applicants shall consult with the City prior to submitting an application for approval of a PDP to discuss the project concept and to gather information regarding City policies, codes, standards and procedures.

2. Following the initial discussion, an applicant may submit a concept plan for review prior to formal application in a format specified in the City's Plan Submittal Document.

3. Following the concept plan review, the applicant shall submit a formal application for approval and prepare a detailed submittal for technical review of the proposed plans in the format specified in the City's Plan Submittal Document. Comments shall be prepared and returned to the applicant. Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.

4. Prior to any technical review of a proposed PDP, the applicant shall provide:

(a) Written consent of all owners of the property to the proposed PDP; and

(b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;

5. A non-refundable application fee of \$250 shall be paid at the time of application for approval of any proposed PDP. In addition, a recording fee of \$20 per sheet shall also be paid for all plans and plats that have been approved by the City prior to their recording.

**(B) Approval Process for PDP's.** All original PDP's shall be subject to review and approval by the Planning Commission and City Council in accordance with the procedures set forth in section 11-5-13 of this Code.

**11-5-8: FORMAT AND APPROVAL PROCESS FOR OFFICIAL DEVELOPMENT PLANS (ODP'S):**

**(A) Application Procedures for ODP's.**

1. Applicants shall consult with the City prior to submitting an application for approval of an ODP to discuss the project concept and to gather information regarding City policies, codes, standards and procedures.

2. Following the initial discussion, an applicant may submit a concept plan for review prior to formal application in a format specified in the City's Plan Submittal Document.

3. Following the concept plan review, the applicant shall submit a formal application for approval and prepare a detailed submittal for technical review of the proposed plans in the format specified in the City's Plan Submittal Document. Comments shall be prepared and returned to the applicant. Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.

4. Prior to any technical review of a proposed ODP, the applicant shall provide:

(a) Either the written consent of all owners of the property to the proposed ODP or evidence otherwise satisfactory to the Planning Manager of the applicant's authority to represent the owners of the property;

(b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;

(c) A non-refundable application fee of \$250 shall be paid at the time of application for approval of any proposed ODP. In addition, a recording fee of \$20 per sheet shall also be paid for all plans and plats that have been approved by the City prior to their recording.

**(B) Approval Process for ODP's:**

1. Administrative Approvals. The City Manager may, but shall not be required to, approve any ODP or ODP waiver without hearing or notice which:

(a) Does not introduce a new land use.

(b) Meets all requirements of the zoning district in which it is located, and the requirements of any PDP for the property.

(c) Does not involve a parcel or lot more than 10 acres in size, or involves a proposed non-residential development of 20 acres or less in size that is determined by the City Manager to further the City's economic development goals and if such development meets guidelines established by City Council to qualify for economic development assistance.

2. ODP's Requiring Public Hearings.

(a) The City Manager may, in his sole discretion, elect to refer any ODP to Planning Commission and City Council for their consideration at a public hearing.

(b) Any ODP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon the request of the applicant, be referred to the Planning Commission and City Council for consideration pursuant to the procedures set forth in section 11-5-13 of this Code.

3. Final Approval by Planning Commission. The decision of the Planning Commission regarding an original or amended ODP shall be final unless a timely appeal of such decision is filed in accordance with section 11-5-13(B).

**11-5-9: FORMAT AND APPROVAL PROCESS FOR AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS (PDP'S).**

**(A) Application Procedures for PDP Amendments.**

1. The application procedures, format and fee for a PDP amendment shall be the same as for an original PDP approval as set forth in section 11-5-7(A).

2. An amendment to a PDP may be initiated by:

(a) The owner of the property covered by the plan; or

(b) By the City when the City Council determines that:

1. Approved land uses for the Planned Unit Development are no longer appropriate due to changed conditions in the vicinity, revisions to the City's Comprehensive Plan, any incompatibilities between an existing land use and surrounding zoning or development, or Council finds that the PDP no longer meets the requirements of section 11-5-14.

2. Public facilities are inadequate or do not meet current standards; or

3. Natural hazards or other environmental problems exist which threaten the public health, safety or welfare.

**(B) Approval Procedures for PDP Amendments:**

1. Administrative Approvals. The City Manager may approve any amendment to a Preliminary Plan which does not:

- (a) Add a new land use to the Preliminary Plan; or
- (b) Change the land area devoted to any use by more than 10 percent; or
- (c) Change the density or intensity of use by more than 10 percent; or
- (d) Constitute a significant change in the PDP, in the opinion of the City Manager.

A report of any administratively approved PDP amendment shall be submitted to the Planning Commission and City Council detailing action taken by the City Manager under this procedure.

**(C) Amendments to PDP's Requiring Public Hearings.** Any amendment to a PDP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon the request of the applicant, be referred to the Planning Commission and City Council for their consideration at a public hearing in accordance with the procedures set forth in section 11-5-13 of this Code, provided, however, the City Manager shall also have the option to refer any proposed PDP amendment otherwise eligible for administrative approval to the Planning Commission and City Council for their review and to require or waive public notice and hearing requirements for such amendments.

#### **11-5-10: FORMAT AND APPROVAL PROCESS FOR AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS (ODP'S).**

**(A) Application Procedures for ODP Amendments.** 1. The application procedures, format and fee for an ODP amendment shall be the same as for an original ODP approval as set forth in section 11-5-8(A).

2. An amendment to an ODP may be initiated by:

- (a) The owner of the property covered by the plan; or
- (b) The City when the City Council determines:

1. That approved land uses for the Planned Unit Development are no longer appropriate due to changed conditions in the vicinity, revisions to the City's Comprehensive Plan, any incompatibilities between an existing land use and surrounding zoning or development, or Council finds that the ODP no longer meets the requirements of section 11-5-15;

2. That public facilities are inadequate or do not meet current standards; or

3. That natural hazards or other environmental problems exist which threaten the public health, safety or welfare.

3. The City Manager may, in his or her sole discretion, on a case-by-case basis, waive any of the normal submittal requirements for amendments to ODP's within his or her administrative approval authority that the City Manager deems to be minor in substance and scope and reduce the fee for such minor amendments to \$75.

#### **(B) Approval Process for ODP Amendments:**

1. Administrative Approvals. The City Manager may approve any amendment to an ODP which does not:

- a. Change the land area devoted to any approved use by more than 10 percent, or
- b. Change the density or intensity of any approved use by more than 10 percent,
- c. Constitute a significant change in the ODP in the opinion of the City Manager.

A report of any administratively approved ODP shall be submitted to the Planning Commission and City Council .

2. Amendments to ODP's Requiring Public Hearings.

a. Any amendment to an ODP not administratively approved by the City Manager or not eligible for such administrative approval shall, upon request of the applicant, be referred to the Planning Commission for their consideration at a public hearing in accordance with the provisions of section 11-5-13 of this Code, provided, however, the City Manager shall also have the option to refer any proposed ODP amendment otherwise eligible for administrative approval to the Planning Commission for its review and to require or waive public notice and hearing requirements for such amendments.

b. The decision of the Planning Commission regarding an ODP amendment shall be final unless a timely appeal of such decision is filed in accordance with section 11-5-13(B) of this Code. The decision of the Planning Commission shall be deemed final as of the date its decision is announced.

**11-5-11: FORMAT AND APPROVAL PROCESS FOR FINAL PLATS.**

**(A) Application Procedure for Final Plats.**

1. An application for review and approval of a final plat shall be submitted in the format specified in the City's Plan Submittal Document.

2. A non-refundable application fee of \$500 shall be paid at the time of application for a Final Plat. In addition, a recording fee of \$20 per sheet shall also be paid for any plats that have been approved by the City prior to their recording.

3. The City Manager may, in his or her sole discretion, on a case-by-case basis, waive any of the normal submittal requirements for Final Plats within his or her administrative approval authority that the City Manager deems to be minor in substance and scope and reduce the fee for such minor amendments to \$75.

**(B) Approval Process for Final Plats.**

1. All Final Plats shall be subject to review and approval by the City Manager in accordance with the standards set forth in section 11-5-16 whose decision shall be final.

2. No Final Plat shall be approved by the City Manager prior to the approval of an Official Development Plan or Official Development Plan Waiver for the subject property.

3. Upon its approval, the Final Plat shall be signed by the City Manager and the City Clerk and such plat shall then be filed of record in the office of the appropriate County Clerk and Recorder's Office.

4. No Final Plat shall be approved unless it is possible, without undue delay, to provide the necessary public improvements required pursuant to City Code.

**11-5-12: APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT.**

(A) As required in section 11-5-8, a landscape plan shall be reviewed and approved in conjunction with the Official Development Plan. The landscape plan shall be prepared by a qualified landscape architect or other person experienced in landscape design.

(B) As determined by the City, redevelopment or change-in-use projects may be required to submit a landscape plan and irrigation construction drawings.

(C) Final landscape construction drawings in accordance with the approved Official Development Plan shall be submitted prior to beginning construction of any landscape areas.

(D) The design of the irrigation plan shall be prepared by a qualified landscape architect or other person experienced in irrigation system design, and will be reviewed by the City for general layout only. The professionally developed irrigation drawings shall be submitted at the time of landscape construction drawing submittal and private improvements agreement. The technical details of the irrigation system design and operation shall be the responsibility of the private irrigation consultant, however the irrigation watering time shall not exceed eight (8) hours per day. Tap size(s) required shall be determined within these constraints and shall be subject to approval by the City.

(E) As-built irrigation drawings shall be presented to the owner/owner's association and the City prior to final acceptance of the project.

(F) Prior to construction, a Private Improvements Agreement for landscaping, fencing and other private improvements shall be submitted to the City by the owner, and shall include the projected costs of improvements. One of the forms of security outlined in section 11-6-4 shall also accompany the public improvements agreement.

### **11-5-13: PUBLIC HEARINGS FOR LAND DEVELOPMENT APPROVALS.**

(A) The following public hearing procedure shall apply to any PDP, amended PDP, ODP, or amended ODP required in this Chapter to be reviewed and approved by the Planning Commission or City Council.

1. A public hearing before the Planning Commission shall be scheduled by the City.
2. Notice of public hearings scheduled before Planning Commission shall be published and posted at least ten days prior to such hearing.
3. Notice of public hearings scheduled before City Council shall be published and posted at least four days prior to such hearing.
4. Notice of the public hearing shall be published by the City by one publication in the official newspaper of the City.
5. The Notice of the public hearing shall also be posted on the property by the City using at least one sign with a minimum area of 30 square inches with lettering not less than 1-1/4 inches in height at an appropriate location which is reasonably visible to vehicular and pedestrian traffic passing adjacent to the site.
6. Mailed notice of the public hearing shall be given by the City by sending such notice by first-class mail to all owners within the area covered by the PDP, ODP, or PDP or ODP amendment, and any owners and any homeowner's associations registered with the City within 300' of the subject property, provided, however, the City may extend this distance beyond 300' based on the location and configuration of adjacent properties, neighborhoods and business areas.
7. It shall be the responsibility of the applicant to:
  - a. Prepare the list of property owners who are required to receive notice. Such list shall be provided in the form of an ownership report issued by a title company acceptable to the City.
  - b. Prepare a map identifying the location and addresses of the property owners.

c. The items listed above shall be delivered by the applicant to the Planning Manager at least fifteen days prior to the date of hearing.

d. At least ten (10) days prior to the date of the hearing, the applicant shall mail, by certified, first-class mail, the individual notices to the listed property owners. The applicant shall also provide the Planning Manager prior to the hearing, a certification that the required notices were mailed and the date of such mailing(s).

8. The City shall prepare the form of the notice to be issued. At the public hearing, the Planning Manager shall verify that the required notices were issued. Any person with actual notice of the public hearing shall have no standing to object to the commencement or conduct of the public hearing, even if such person failed to receive one or more of the forms of notice prescribed above.

(B) A party-in-interest may appeal to the City Council any final decision of the Planning Commission regarding any Official or Amended Official Development Plan in accordance with the provisions of this section of the Code. A decision of the Planning Commission shall be deemed final as of the date of the meeting at which the Planning Commission's vote is taken.

1. "Party-in-interest" as used in this section means any of the following:

- a. The applicant.
- b. Any person or entity to which notice of the hearing of the Planning Commission was mailed.
- c. Any person or entity which sent written comments to the Planning Commission prior to the action which is to be appealed.
- d. Any person or entity which testified before the Planning Commission on the action which is to be appealed.
- e. The City Manager.

2. An appeal shall be taken by filing a written notice of appeal of the decision of the Planning Commission with the City Manager within ten (10) days after the date of such decision. Such notice of appeal shall include the following:

- a. The action of the Planning Commission which is the subject of the appeal.
- b. The date of such action.
- c. The name, address, telephone number and relationship of the appellant to the subject of the action of the Planning Commission.
- d. A statement setting forth the basis of the appellant's standing to appeal such decision as a party-in-interest within the meaning of this section.

3. Upon the receipt of a timely notice of appeal, the City Manager shall schedule a date for a public hearing before the City Council as expeditiously as possible. The City Manager shall provide the appellant and the applicant at least ten (10) days written notice of the date, time and place of the hearing as well as the grounds for the appeal as contained in the written notice of appeal. The City Manager shall also issue the published and posted notices provided for by sections 11-5-13 of this Code in advance of the City Council hearing.

4. At its public hearing, if City Council determines all the requirements have been met for perfecting an appeal of the Planning Commission decision pursuant to this section, the City Council shall conduct a de novo hearing on the merits.

(C) Upon the vote of at least four members of Council, any decision of the Planning Commission may be reviewed de novo by Council, if such vote occurs within fourteen (14) days of the Planning Commission decision. Notice and scheduling of such hearing shall proceed in the same manner as for an appeal by a party in interest, except that in lieu of a statement of the appellant's standing, the notice shall state that the hearing is being held upon the request of Council pursuant to this section.

(D) A City-initiated amendment to a Preliminary Development Plan or Official Development Plan shall be authorized only after notice and hearing before City Council. In addition to the notice and hearing requirements set forth above, a City-initiated amendment shall be preceded by registered, mailed notice to the owner setting forth the grounds for the proposed amendment and a statement that a copy of the

proposed amended Preliminary Development Plan is on file and available for inspection in the offices of the Director of Community Development. A City-initiated amendment to a Preliminary Development Plan shall be effective immediately upon its approval by City Council after notice and hearing pursuant to this section. Constructive notice of the amendment shall be given immediately following its approval by City Council by recording the findings and order of Council, together with a copy of the plan as amended, in the real estate records of the county in which the property is located. No application or fee shall be required for a City-initiated Preliminary or Official Development Plan amendment.

**11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS.**

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (P.U.D.) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The P.U.D. exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The P.U.D. is compatible and harmonious with existing public and private development in the surrounding area.
5. The P.U.D. provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The P.U.D. has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

**11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS.**

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.



2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

#### **11-5-16: STANDARDS FOR APPROVAL OF FINAL PLATS.**

(A) The City Manager shall approve a Final Plat if he finds all of the following:

1. The Final Plat shows the same subdivision and is in conformance with the approved Official Development Plan or a waiver of the Official Development Plan.

2. The Final Plat has been submitted for approval within 12 months of the date of approval of the Preliminary Plat, Official Development Plan or a waiver of the Official Development Plan, or the Final Plat has been submitted for approval in accordance with a phasing schedule on an approved Official Development Plan.

3. The Final Plat contains all information required by this Code, along with any other information required by Colorado law.

4. A final landscape and irrigation plan has been reviewed and approved in accordance with section 11-5-12.

5. The Final Plat satisfies the public improvement requirements set forth in Chapter 6 of this Title.

#### **11-5-17: DURATION OF PLAN APPROVALS.**

(A) City Council finds that changes to the City's Comprehensive Land Use Plan, the City's standards governing land use and site development, and other land use and development policies and regulations may be warranted over time. City Council further finds that it is in the best interest of the City and its citizens to assure that future land development reflects the best in modern planning, site development, architecture, and other land use considerations. City Council further finds that over time, previously approved Preliminary and Official Development Plans may no longer reflect these interests. City Council therefore finds that it is appropriate to establish a time period for implementing previously approved Preliminary and Official Development Plans, after which such Plans shall be subject to further review and approval by Council based on then-current standards, policies and development criteria. Nothing in the preceding, however, shall be deemed or construed as exempting any land development from complying with the City's Comprehensive Plan as required pursuant to section 11-4-16(C) of this Code.

(B) No building permits shall be issued, nor shall any further plan approvals be considered, for any land development that falls into one or more of the following categories, until such time as the proposed development receives the further review and approval required by subsection (C) below.

1. The date of approval of the PDP or the latest PDP amendment for the development is more than five (5) years old, and there is no ODP for the development.

2. The date of approval of the ODP or latest ODP amendment for the development is more than three (3) years old and no building permits within the ODP have been issued.

(C) 1. PDP's. In the event the date of approval of a property's PDP amendment is more than five (5) years old, the PDP or amended PDP shall be required to be submitted for review and reconsideration in accordance with the procedures set forth in section 11-5-13 of this Code, and all applicable standards pursuant to Chapter 5 of this Title.

2. ODP's. In the event the date of approval of a property's ODP or latest ODP amendment is more than three (3) years old, the ODP or amended ODP shall be required to be submitted for review and reconsideration in accordance with the procedures set forth in section 11-5-13 of this Code, and all applicable standards pursuant to Chapter 5 of this Title.

3. Combined PDP/ODP's. In the event the date of approval of a property's combined PDP/ODP is more than three (3) years old, the combined PDP/ODP shall be required to be submitted for review and reconsideration in accordance with the procedures set forth in section 11-5-13 of this Code, and all applicable standards pursuant to Chapter 5 of this Title.

(D) **Vested Rights**. The provisions of this section shall not be deemed, construed, or applied so as to effect any vested development rights that may exist for any given development.

#### **11-5-18: VESTED PROPERTY RIGHTS.**

(A) **Purpose**. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24 of the Colorado Revised Statutes, which article establishes a vested property right to undertake and complete development use of real property under the terms and conditions of a site specific development plan. The City expressly reserves all rights, powers and prerogatives granted and reserved by the Colorado Constitution, state law and the Westminster

Municipal Code to the City and its citizens, particularly with respect to the rights of initiative and referendum and to the zoning and regulation of real property within the jurisdiction of the City.

**(B) Site Specific Development Plan.** In the case of an application for approval of a development plan for property zoned Planned Unit Development, the Preliminary Development Plan shall constitute a Site Specific Development Plan. In any case that a Preliminary Development Plan is not required by this Code or if a public hearing is not required to be held before the City Council, no vested property rights shall be granted and no document shall be construed to be a Site Specific Development Plan unless:

1. The applicant requests in writing that the City Council hold a public hearing and approve a document which will constitute a Site Specific Development Plan, and
2. State law requires that a vested property right be granted, in which case the City Council shall determine, in its discretion, which document shall constitute a Site Specific Development Plan. No Preliminary Development Plan which is combined with any other plan for development shall be considered a Site Specific Development Plan.

**(C) Vested Property Right.** A vested property right is the right to undertake and complete the development and use of property under the terms and conditions of a Site Specific Development Plan. No action of the City shall be construed or deemed as creating any vested property right other than the approval of a Site Specific Development Plan pursuant to the provisions of this Chapter.

The duration of any vested property right shall be no longer than required by state law, unless a different duration is provided by written agreement between the applicant and the City. The failure to comply with any condition of approval of a Site Specific Development Plan shall result in the forfeiture of any vested property right.

**(D) Notice and Hearing.** No Site Specific Development Plan shall be approved until after a public hearing, preceded by notice of such hearing. Such notice shall be published at the time and in the manner required by section 11-5-13 of this Code regarding the review of Preliminary Development Plans. At such hearing, owners of the property described in the Site Specific Development Plan, their representatives and citizens shall have an opportunity to be heard.

**(E) Effective Date.** A Site Specific Development Plan shall be deemed approved upon the effective date of the City Council action relating thereto. No amendment of a Site Specific Development Plan shall extend or change the effective date of vesting of a property right unless specifically provided in the amending ordinance or agreement authorized by the City Council.

**(F) Conditions Applicable Generally.** In addition to any other conditions that may be imposed in connection with the approval of a Site Specific Development Plan, the following conditions shall be deemed to apply to all such site specific development plan approvals, the violation of which will result in the forfeiture of the landowners' vested rights under the plan:

1. The owner shall, within 14 days after approval of the site-specific development plan, satisfy the notice requirements contained under C.R.S. section 24-68-103 (1) by publishing at his expense a notice in a newspaper of general circulation within the City advising the general public of the site specific development plan approval and creation of a vested property right pursuant to state law, together with a legal description of the property covered by the site specific development plan.

2. That the owner shall, within 14 days after the approval of the site-specific development plan, acknowledge by written instrument, duly executed by an authorized official or representative of the owner, that the owner acknowledges its obligation to satisfy all other requirements under City Code for the development and use of property within the City including, but not limited to, obtaining City approval of all additional plans which may be required under City Code subsequent to the approval of the site specific development plan prior to commencing actual development of the property, which plan approvals may include, but are not limited to, the approval of an Official Development Plan for the property and all studies that may be required under City Code, including, but not limited to, studies concerning traffic, drainage, utilities, and erosion control.

(G) **Notice of Approval.** Each Site Specific Development Plan shall contain the following language: "This plan constitutes a site-specific development plan within the meaning of section 24-68-102, C.R.S. Approval of this plan creates a vested property right pursuant to C.R.S. section 24-68-103. This plan is subject to all conditions of approval, including, but not limited to, those imposed as a condition to the approval of a site-specific development plan by virtue of the provisions of section 11-5-18(F)."

(H) **Other Provisions Unaffected.** Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the annexation, development and use of property.

(I) **Limitations.**

1. Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said article, this Chapter shall be deemed to be repealed, and the provisions hereof no longer effective.

2. No document approved prior to January 1, 1988 shall constitute a site-specific development plan.

3. Any provision of this Chapter may be modified by written agreement between the applicant and the City, subject to the approval of the City Council. Any partial or full waiver of a vested property right shall be recorded in the county where the property is location.

4. Any landowner requesting annexation shall waive in writing any preexisting vested property rights in the petition for annexation.

**11-5-19: DISCLOSURE REQUIREMENTS.**

Developers of property within the corporate limits of the City and within a Planned Unit Development District shall post in a prominent location in the sales or rental office for said property the following materials:

(A) A sign in prominent bold lettering the following statement: "All questions concerning the future use or development of property located outside the boundaries of this project should be addressed to the City of Westminster."

(B) Any additional information or signage that may be required by City Council at the time of platting and processing of the Official Development Plan.

(C) A contract concerning the sale of residential units of lots prior to the seller's obtaining approval of a submitted Preliminary Development Plan, an Official Development Plan, and a Subdivision Plat pursuant to this Code shall contain, in prominent, boldfaced lettering, the following clause and the developer shall post in the sales office the following prominent, boldfaced lettered statement: "Final subdivision plans pending approval by the City of Westminster. Sales contracts contingent upon approval by the City of Westminster of such plans."

(D) A sign containing in prominent bold lettering the following statement: "A copy of the Preliminary Development Plan and the current Official Development Plan and Plat for this subdivision is maintained in this office and is available for inspection upon request."

**CHAPTER 6 - PUBLIC IMPROVEMENTS**

(A) **DUTY TO PROVIDE.** As a condition to any approval required under this Title, the City may require the dedication of rights-of-way, easements and land for public use and the construction or installation of such public improvements as the City may deem are reasonably necessary to address such impacts as may be caused by a proposed development on public facilities or services. Subject to the cost recovery provisions of this Title, the City may also require, as a condition to any approval required under this Title, the dedication of such additional right-of-way and easements and the construction or installation of such other or additional public improvements as the City may deem are reasonably necessary for the orderly and logical extension of City facilities and services within the City as a whole. Further, the City may require the payment of an equivalent amount of cash in lieu of any required dedication.

**(B) VACATION OF PUBLIC RIGHTS-OF-WAY.**

1. Previously dedicated public right-of-way easements shall be vacated in accordance with the procedures and requirements of applicable state statutes.

2. Any requests for vacation of a public right-of-way or easement shall include a legal description of the property to be vacated, prepared by a land surveyor certified by the State of Colorado, and shall include all relevant documents pertaining to the original dedication.

3. Prior to the scheduling of the proposed vacation ordinance before City Council, the Planning Manager shall receive such input from adjoining or nearby property owners as may be deemed necessary to formulate a recommendation to Council.

**11-6-2: GENERAL REQUIREMENTS.** Except as provided in section 11-6-3(B), no final plat shall be approved nor shall a building permit be issued unless the developer agrees, pursuant to section 11-6-4, to provide the following public improvements required to serve the development:

(A) Water mains, fire hydrants, valves, and other appurtenant devices in such number, quantity, and dimension as will provide adequate service to the site being developed.

(B) Sanitary sewer mains, manholes, and sewer system appurtenances in such number, quantity, and dimension as will provide adequate service to the site being developed.

(C) Paved, improved streets with sidewalks, curb, and attendant structures in such dimension and location as will meet the pedestrian and traffic needs of the site being developed

(D) Storm sewers, detention facilities, channels, culverts, and attendant structures in such size and location as will provide adequate service to the site being developed, and as may reasonably be required by the City to provide a safe, functional, comprehensive storm drainage system for removal or attenuation of urban storm runoff to meet the overall needs of the City.

(E) Natural gas mains, telephone and electric lines, conduits, and attendant facilities as will provide adequate service to the site, as designed by the appropriate public utility agency.

(F) Street lighting and appurtenant conduits and structures necessary to serve the fully developed project as designed by the appropriate electric utility or the City using their standard design criteria.

(G) Dedication of land for and improvements to public parks and open space and other public lands as may be identified on the Official Development Plan for the site.

(H) Survey monuments at such subdivision boundary points as may be required by the City and Colorado Revised Statutes to verify and retrace the lines and points defined by the final plat.

(I) Rights-of-way and easements as may be required by the City to adequately accommodate placement and maintenance of the above-listed public facilities.

**11-6-3: UNDERGROUNDING OF ELECTRIC AND COMMUNICATION LINES.**

(A) Except as otherwise provided below, no plat shall be approved nor shall a building permit be issued unless the developer agrees to underground existing overhead electric and communication utility lines as required by section (B) below.

(B) All electric and communication utility lines and services and all street lighting circuits, except as hereinafter provided, shall be installed or relocated underground, both within and adjacent to the subdivision or development, except as follows:

1. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, and other facilities necessarily appurtenant to such underground and street lighting facilities when placed above ground within the utility easement provided therefor, or within the street or other public right-of-way as appropriate.

2. All facilities reasonably necessary to connect underground facilities or permitted overhead or above-ground facilities.

3. As approved by the City, overhead electric transmission and distribution feeder lines and overhead communication long distance trunk and feeder lines, existing or new.

4. Owners of improved residential lots or parcels shall not be required to participate in the cost of undergrounding utilities adjacent to the improved residential property.

(C) All work related to the undergrounding of utilities required by this section shall be guaranteed in writing and surety shall be provided, in accordance with section 11-6-4 below.

(D) The City Engineer shall have the discretion of authorizing a cash payment in lieu of the undergrounding of utilities otherwise required by this section if the City Engineer determines that the amount of the proposed payment is reasonably equivalent to the cost of such work and that the undergrounding may be more effectively and efficiently accomplished as part of a larger project at a future date.

(E) The City Council may waive or reduce the undergrounding requirements of this section for any redevelopment or new subdivision or development where compliance with the regulations set forth in this section would result in an unusual or unnecessary hardship or would be impractical as determined by the City Council. The City Council may also grant such waivers within the Westminster Urban Renewal Area based on a finding that the waiver will promote or is necessary to further the goals and objectives of the Urban Renewal Plan for the Area.

(F) Nothing in this section shall be deemed or construed as in any way limiting or otherwise restricting the authority of the City to use any other means provided by state law to accomplish the undergrounding of utilities.

#### **11-6-4: PUBLIC AND PRIVATE IMPROVEMENT AGREEMENTS AND SURETY REQUIREMENTS.**

(A) Before the City Manager shall approve a final plat or, in the event that a final plat is not required, prior to issuing a building permit, the developer shall have submitted the following agreements and surety for the construction of public and private improvements for the development:

1. A written agreement between the owner and the City for the installation of all public improvements, and a separate agreement for all private improvements, within one year from the date of plat approval, or such other period as may be approved by the City. Such agreements shall be in accordance with the City's standard forms of these agreements as set forth in the City's Plan Submittal Document.

2. Separate surety for the public and private improvements shall be required in form and amount sufficient to guarantee the performance of the obligations identified in the improvements agreements.

(a) Except as otherwise provided below, acceptable forms of surety are as follows:

(i) **Surety Bond.** A good and sufficient (i) surety bond executed by a corporate surety duly licensed to do business in the State of Colorado, or by another appropriate institution having adequate assets to perform the terms of the surety as determined by the City, in an amount at least equal to 115 percent of the current cost of public facilities, such cost to be identified by the developer and approved by the City.

(ii) **Cash Bond.** A deposit with the Finance Director of cash or certified funds in an amount at least equal to 115 percent of the current cost of public facilities, such cost to be identified by the developer and approved by the City. Any interest earned on the cash bond shall be the property of the City.

(iii) **Irrevocable Letter of Credit.** An irrevocable letter of credit on a form established by the City, executed by a commercial bank insured by FDIC or other appropriate institution having adequate assets to perform the terms of the letter of credit as determined by the City.

The form and conditions of such irrevocable letter of credit shall be approved by the City Attorney. The letter of credit shall be in an amount at least equal to 115 percent of the current cost of public facilities, such cost to be identified by the developer and approved by the City.

(iv) **Plat Restriction.** The owner's agreement which shall appear on the final plat that no lot, lots, tract, or tracts of land within the platted property shall be conveyed, sold or transferred until the required public facilities are constructed and are accepted by the City. The plat restriction may be utilized only for single-family detached residential subdivisions and in only those phases in which a building permit has not been issued. A plat restriction may be used as surety for public improvements only. The release of any plat restriction prior to the completion of all public improvement obligations pursuant to the public improvements agreement shall be given in the sole discretion of the City. No release shall be given unless the City has received an acceptable substitute form of surety in an amount equal to 100 percent of the current cost of completing any improvement at the time the release is requested plus 15 percent warranty surety for all improvements, or, if all the required improvements have been constructed and accepted into warranty, equal to 15 percent of the current cost of constructing the improvements at the time the public improvements agreement was executed.

(v) **Other Guarantees.** An owner may guarantee the construction of public improvements by such other methods as may be specifically approved by City Council.

(b) Any surety scheduled to expire prior to the completion of the obligations identified in the improvements agreement shall be renewed for a period of at least 6 months, at least 30 days prior to the scheduled date of expiration. Failure to provide for the renewal of any surety in accordance with this subsection (b) shall be deemed a default by owner of owner's obligations under the improvements agreement and shall be grounds for demanding performance and/or cashing the surety.

(c) Surety amounts shall not be reduced without the prior written consent of the City. In its sole discretion the City may agree to a reduction in the amount of any surety provided pursuant to this section to not less than 15 percent of the current cost of the improvements at the time the improvements agreement was executed if the owner has satisfied all of owner's obligations under said agreement except for owner's warranty obligations.

3. For the purpose of this section 11-6-4, "private improvements" shall include all on-site and off-site landscaping required to be installed pursuant to the Official Development Plan for the project, whether on private or public property, as well as all on-site amenities to be privately owned and maintained in areas of private or common ownership, including, but not limited to, parking lots, fencing, screening, trash enclosures, walkways, trails, swimming pools, tennis courts, and community recreation facilities.

(B) If no public or private improvements are required to be constructed and if the sole purpose of the proposed final plat is to facilitate the transfer of ownership, then the City may waive the surety requirements of this section.

#### **11-6-5: DESIGN AND CONSTRUCTION OF IMPROVEMENTS.**

(A) **STANDARDS.** The City Manager or his designee is hereby authorized and directed to develop, promulgate, and determine the applicability of, enforce, and from time to time to amend the following design and construction standards: Standards and Specifications for the Design and Construction of Public Improvements (Standards and Specifications), the City of Westminster Drainage Criteria Manual (Drainage Criteria), and the City of Westminster Sitework Specifications (Sitework Specifications) for public and private landscaping.

#### **(B) PREPARATION AND APPROVAL OF PLANS FOR PUBLIC IMPROVEMENTS.**

1. All construction plans, specifications, and associated engineering reports required pursuant to this Code shall be prepared by, or under the direct supervision of, a professional engineer duly registered and licensed to practice engineering in the State of Colorado and shall bear the seal of said engineer.

2. All construction plans, specifications, and associated engineering reports required pursuant to this Code shall be prepared in compliance with the City of Westminster Standards and Specifications for the Design and Construction of Public Improvements, the City of Westminster Drainage Criteria Manual, and the City of Westminster Sitework Specifications.

3. The approval by the City of any construction plan, specification, or report shall indicate only that the plan, specification, or report appears to be in conformance with the City's submittal requirements and that standard engineering principles and practices appear to have been followed. Any such approval shall not be deemed as an indication that any assumption, calculation, or conclusion contained therein has been verified by the City. The professional engineer submitting the plans, specifications, and reports shall, at all times, be solely responsible for their accuracy and validity. If during the construction process, or at any time within one year following the acceptance by the City of the completed improvements, any deficiencies or errors are discovered in the plans, specifications, reports, or in the actual improvements as built, the City shall have the right to require any and all corrections which may be deemed necessary by the City. The costs associated with any such corrections shall be the sole responsibility of the developer.

4. If the review and approval of any construction plan, specification, or report by the City has occurred more than 12 months prior to execution of the public improvements agreement or commencement of construction activities, or if construction activities have been abandoned for a period of 12 months and the improvements are not substantially complete, the City shall have the right to require the submittal of such new or supplemental plans, specifications, and reports to insure compliance with the City's current standards and design criteria.

5. If, after approval of the construction drawings by the City but prior to substantial completion of the public improvements, a court order, change in Colorado of federal law, or similar legal requirement occurs requiring the previously approved design to be changed, the City shall have the right to re-evaluate the plans and require that any such change be completed. The cost for such change shall be the sole responsibility of the developer.

**(C) STREETS, SIDEWALKS AND BIKEWAYS.** The arrangement, character, extent, and location of all streets shall conform to applicable City street and transportation plans and access control plans. In the planning, design, and construction of any new streets within the City, consideration shall be given to their relation to existing and other planned streets, to topographical conditions, to drainage, to public convenience and safety, and to the uses of land served by such streets. The arrangement of streets and sidewalks shall be planned with due regard to existing roads, future road plans, topography, soil conditions, drainage and erosion, convenience, and aesthetics and in accordance with this Code and all ordinances and policies of the City. Unless otherwise approved by the City:

1. The street layout shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient traffic flow, fire protection, or provision of utilities.

2. If the adjacent property is undeveloped and a street must dead-end temporarily, a temporary cul de sac may be required.

3. Streets shall be named in accordance with the Denver Metro grid system unless otherwise approved on an Official Development Plan.

4. All streets shall intersect at right angles with each other.

5. Street widths, lengths, grades, off-sets, and pavement sections shall be designed according to the anticipated needs of the area and the Standards and Specifications for the Design and Construction of Public Improvements.

6. Wherever an existing or approved railroad and railroad crossing will be affected by a proposed road or street, provision shall be made for any grade separations, buffer strips, and safety protection devices as the City may determine is required for the public's safety, welfare, and convenience. Prior to the approval of an Official Development Plan, or in the event an Official Development Plan is not required prior to the issuance of a building permit, it shall be the applicant's responsibility to obtain any necessary approval from the affected railroad company or the Colorado Public Utilities Commission.

7. Sidewalks shall be constructed as may be required by the City to accommodate pedestrian traffic.

8. Streets shall be designed with grades, storm sewers, and surfacing to provide storm drainage protection for the 100-year storm without flooding or property damage and to prevent erosion and fugitive dust.



9. The design shall provide for the safe and convenient arrangement of roadways and parking spaces, facilities for waste disposal, as well as open and recreational areas.

10. When a property proposed for development is adjacent to, or contains a planned bikeway or trail as indicated on the City's bikeway plan, provisions for the bikeway shall be included in the Preliminary and Official Development Plans and construction of the bike path or bikeway or trail shall occur concurrently with project development at the owner's expense.

11. Street rights-of-way, curb cuts, street grades, intersections and crossings shall be designed to facilitate the convenient and safe movement of motorists, pedestrians, bicyclists, and storm water as deemed necessary by the City.

12. New development shall provide both bicycle and pedestrian facilities which facilitate movement between residential areas and activity areas, such as public buildings, schools, shopping areas, playgrounds, open space and recreation areas. The developer shall prepare a bicycle/pedestrian movement plan in accordance with the City plan to accomplish this subject to the City's approval.

**(D) UTILITIES.** The arrangement of utilities shall be planned with due regard to existing and future utilities, topography, soil conditions, convenience, aesthetics, applicable master plans, and in accordance with this Code and all ordinances and policies of the City.

1. Easements shall be of sufficient width and length for utility installation, maintenance, and access. The City may require easements at least 20 feet in width for City-owned utilities including, but not limited to, waterlines, sanitary sewers, and storm sewers. Easements at least 5 feet in width shall be dedicated or reserved on each side of all rear lot lines and along sufficient side lot lines where necessary for utility installation and maintenance including gas, telephone, electric, and other services. Where the rear lot line abuts property outside of the subdivision on which there are no easements at least 5 feet in width, then the easements on the rear lot lines in the subdivision shall be at least 10 feet in width.

2. Easements dedicated to the City for City-owned utilities shall provide for the exclusion of buildings, trees, shrubs and like improvements from within the easement area. The City shall have the right of access at any time to maintain and inspect such utilities.

**(E) CONSTRUCTION OF IMPROVEMENTS.**

1. No construction of any public improvement shall commence until the City has issued a written notice to proceed.

2. The construction of all public and private improvements in areas of common ownership shall be completed in accordance with the approved construction drawings and specifications, the City of Westminster Standards and Specifications for the Design and Construction of Public Improvements, the City of Westminster Drainage Criteria Manual, and the City of Westminster Sitework Specifications.

**(F) INSPECTION OF IMPROVEMENTS.**

1. The City shall have the authority to inspect the work and all materials furnished as part of the work. Inspections may extend to all or any part of the work and to the preparation, fabrication, or manufacture of all materials for the work.

2. Inspections made by the City are for the sole benefit of the City and do not relieve the developer or contractor of any obligations or liabilities.

**(G) STOP WORK ORDERS.**

1. The Engineering Division of the Department of Community Development shall have the authority to stop any or all construction activities as deemed necessary by issuing a written stop work order. Stop work orders may be issued for:

(a) A violation of any condition of the improvements agreement or of the approved construction drawings or specifications; or

(b) Any violation of any provision of this Chapter; or

(c) Any violation of any other ordinance of the City, state law, or federal law pertaining to the work; or

(d) The existence of any condition or the occurrence of any act which may constitute a condition endangering health, life, safety, or damage to property.

2. Stop work orders shall take effect immediately upon notice to the person performing the work in the field and shall remain in effect until such time as the City cancels the order in writing.

3. Upon receipt of a stop work order, the contractor shall be responsible for taking such precautions as may be necessary to prevent damage to the project, prevent inconvenience or hazardous conditions for the general public, provide for normal drainage, and to erect any necessary barricades, signs, or other facilities which may be necessary.

4. It shall be unlawful for any person to knowingly violate any stop work order issued pursuant to this section. Upon conviction, any such violation shall be punished by a fine of not to exceed \$900 or imprisonment not to exceed 180 days, or both fine and imprisonment. Each day that a stop work order is violated shall constitute a separate offense under this section.

**(H) ACCEPTANCE INTO WARRANTY.**

1. Before the City shall assume ownership and maintenance responsibility for any public improvement, the public improvement must be completed in conformance with the approved construction drawings and all applicable City standards and specifications, and must be formally accepted in writing by the City.

2. Acceptance of the public improvements by the City shall not relieve the developer or contractor from any obligations or liabilities with respect to the proper construction of the improvements.

3. All public improvements to be constructed in connection with any development shall be completed in their entirety before any part thereof will be accepted except as the City Engineer may otherwise agree by separate agreement with the developer.

**(I) WARRANTY.**

1. The developer shall warrant the construction of and materials used in all public improvements for a warranty period of at least one year from the date the improvements are accepted by the City. It is the intent of the City that at the end of the warranty period the developer shall deliver the improvements to the City free of any defects, damage, or debris.

2. The City shall have the authority to require a warranty period in excess of one year if, in the opinion of the City, the scope of the construction or other conditions dictate such a need.

3. During the term of the warranty period the developer shall be responsible for making any repairs or replacements required due to:

(a) Defective materials, workmanship, or design; or

(b) Such damage that may be done to the improvements during the warranty period regardless of cause, except such damage that is directly attributable to City equipment or personnel, and which, in the opinion of the City, are necessary to maintain or conform the improvements to the same standards in effect at the time of the City's acceptance.

4. The warranty period shall not expire until such time as the City acknowledges, in writing, that all necessary warranty corrections are complete and the warranty period is over.

5. During the warranty period, the developer shall maintain a surety in one of the forms authorized pursuant to section 11-6-4 in the amount of 15 percent of the cost of the improvements.

**(J) FAILURE TO PERFORM.**

1. A developer shall be deemed in default under this section upon any of the following events:

(a) A failure to satisfy any condition or obligation of the developer's improvements agreement or the approved construction drawings or specifications;

(b) A failure to satisfy any requirement identified on the Official Development Plan;

(c) A violation of any provision of this Chapter;

(d) A violation of any other ordinance of the City, state law or regulation, or federal law or regulation pertaining to the work.

2. In the event the City determines a developer is in default under this section, the City may take any or all of the following actions:

(a) Exercise the City's rights under the developer's surety;

(b) Deny or revoke building permits for structures;

(c) Withhold certificates of occupancy for structures located in the project;

(d) Institute any legal actions the City Attorney may deem to be warranted.

#### **11-6-6: LOCAL IMPROVEMENT DISTRICTS.**

(A) **CITY TO CONTRACT.** The City shall have the power to contract for, construct, acquire, or install special or local public improvements; to assess the cost thereof wholly or in part against the property specially benefitted; to jointly make and jointly contract for a local public improvement and a general public improvement and to pay from any lawful fund that portion of the cost which is general public benefit; and to accept contributions or grants-in-aid to supply the whole or any part of the cost apportioned to the City, or to accept and apply such contribution or grants-in-aid wholly or in part to the credit of the appropriate public improvement district.

(B) **CONTRACT.** In all cases where the cost of local public improvements is to be assessed wholly or in part upon the property benefitted, the improvements shall be constructed by independent contract or contracts. All such contracts shall be authorized by the City Manager with the approval of the City Council. All such contracts shall be let to the lowest reliable and responsible bidder after publication of notice to bidders once a week for two consecutive weeks by two insertions in a newspaper of general circulation within the City, and such other newspaper or newspapers as may be designated by the City Council. The right to reject any and all bids is reserved. No such contract shall be made without bond for its faithful performance with sufficient surety or sureties thereon.

The aggregate payments under any contract shall not exceed either the aggregate estimate of the City Engineer or the amounts appropriated. Upon notice and for substantial cause the work under such contracts may be suspended or terminated forthwith by the City Council or the City Manager.

Every contract shall be subject to the provisions of this Chapter and the provisions of any ordinance authorizing the improvements or contracts.

In the letting of contracts the City Manager may impose such conditions upon bidders with regard to bonds and securities and such guarantees of good faith and responsibility on the part of the bidders for the faithful completion of the work and providing for any other material matter or thing in connection therewith as may be considered advantageous to the City.

Upon default in the performance of any contract the City Manager may advertise and let a contract for the incompleting work in a like manner and, without further ordinance, charge the cost thereof to the original contractor upon his contract and when a deficiency shall in such case occur, the City Manager with the approval of the City Council may advance the amount thereof out of any available funds in the City and recover the same by suit on the original contract and bond.

(C) **ASSESSMENT OF PROPERTY.** In all cases where the cost of a local public improvement is to be assessed wholly or in part upon the property benefitted, the cost shall be assessed in proportion to benefits received. Such assessments may be in proportion as the frontage of each lot or tract of land is to the frontage of all the lots and lands so improved, or may be in proportion as the area of each piece of real estate in the district is to the area of all the real estate in the district, or may be by any other method that will result in assessment being most equitably in proportion to benefits received. If, at the time of the passage of the ordinance authorizing any improvement, any piece of real estate has the whole or any part of the proposed improvement conforming to the general plan and acceptable to the City Engineer, the existing improvement may be adopted in whole or in part, or necessary changes thereof may be made to make the same conform to the general plan, and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting such existing improvement.

(D) **EXCEPTIONS OF ASSESSMENT.** In all cases where the cost of a local public improvement is to be assessed wholly or in part upon property benefitted, the improvement shall be initiated by the City Manager without receiving a petition therefor, except that when the owners of the real estate which would bear 35 percent or more of the estimated cost of the proposed improvements have filed a regularly executed petition therefor the City Manager shall advertise such improvement for remonstrances unless, in his judgment, the proposed improvement is not good and sufficient for the particular locality provided, however, that no improvement proposed by petition shall be advertised for remonstrances if the preliminary informal estimate of the City Engineer exceeds by more than 10 percent the maximum unit cost stated in the petition. The estimate of the City Engineer shall be conclusive for this determination.

(E) **RULES OF PETITION.** Every petition for a proposed improvement shall describe the real property owned by each signer as being benefitted by the proposed improvement, shall state the nature and location of the proposed improvement and the proposed maximum unit cost thereof, which unit cost shall be exclusive of the cost of collection of the assessments, other incidentals and all interest on any bonds issued in payment of construction and other costs from the time of issuance of said bonds to the time that interest commences on assessments; shall authorize advertising of the proposed improvement for remonstrances, if a preliminary, informal estimate of the City Engineer indicates that the cost of the proposed improvement will not exceed by more than ten percent (10%) the maximum unit cost set forth in the petition; and shall authorize an increase of the proposed maximum unit cost by not more than 10 percent thereof, and the assessment of such increase, if the estimate of the City Engineer determines that such increase is necessary.

All signatures or petitions shall be subscribed and acknowledged in the manner provided by law for the acknowledgment of deeds of conveyance of real estate provided, however, that the signature of any owner or owners of real property may be attached to a petition by their agents duly authorized by power of attorney accompanying the petition. No petitioner, his heirs, or assigns shall be permitted to withdraw from a petition after such petition has been filed with the City Manager unless the proposed improvement is not advertised for remonstrances within nine months from the filing of the petition with the City Manager, and any petitioner who fails to withdraw prior to advertising shall be deemed to have waived his right to withdraw.

(F) **PUBLIC NOTICE OF PROPOSED IMPROVEMENT.** Public notice of the proposed improvements shall be given in all cases where the cost of local public improvements is assessed wholly or in part upon property benefitted. When it is proposed to assess real estate which is not abutting, adjoining, contiguous, or adjacent to any proposed improvement, the notice shall state the exterior boundaries of the real estate proposed to be so assessed or of the proposed district. The City Manager shall, by advertisement once a week for three consecutive weeks by three insertions, in a newspaper of general circulation within the City, give notice to the owners of the real estate benefitted and to all persons interested generally and, without naming such owners or persons, of a description of each proposed improvement and of the real property which would be benefitted thereby, a proposed method of assessment and the manner of payment therefor, and the date, place and time for hearing written remonstrances to the proposed improvement, which date shall be not less than 20 days after the first publication of the notice of the hearing. In addition, the City Manager shall mail by first class mail, not less than 10 days prior to the hearing, a printed copy of such notice to the owners of record of all real estate in the proposed district as such owners of record are determined by reference to the current records in the Office of the County Assessor, as such records are kept by that official for the purpose of performing the function of County Assessor.

(G) **HEARING OF ADVERTISED PROPOSED IMPROVEMENTS.** On the day and at the time and place specified in the notice hereinabove set forth, the City Manager shall conduct a hearing for the purpose of considering the desirability of and the need for such advertised proposed improvements. If for any reason the hearing is postponed and not held until a later hour or date, and the City Manager is hereby authorized to postpone any hearing to a fixed later hour and date, written

remonstrances to a proposed improvement shall be accepted up to the opening of the postponed session of the hearing; otherwise, such written remonstrances must be filed prior to the date and hour of the original hearing.

All written objections or protests to a proposed improvement shall be subscribed and acknowledged in the same manner required for petitions for proposed improvements. No person who has signed his name for an improvement shall be permitted to sign a remonstrance to the same improvement unless such person has regularly withdrawn from such petition as herein provided.

If a duly executed written remonstrance is timely filed by persons constituting a majority of the owners of the property to be assessed, except that in those cases where the City is to pay one-half or more of the total cost of the improvements made, the proposed improvements shall not be ordered.

After the hearing and subject to the foregoing limitations, the City Manager shall enter an order approving those proposed improvements which he considers proper and disapproving those proposed improvements which he considers improper. All proceedings by the City Manager may be modified or rescinded wholly or in part at any time prior to the passage of the ordinance authorizing the improvements; provided that no substantial change in the district, details, preliminary plans or specifications or estimates shall be made after the first publication of notice to property owners except the deletion of improvements and property from the proposed program and district; and provided, further, that the City Manager shall have the right to make minor changes in the time, plans, and materials entering into the work at any time before its completion. Any objection to the regularity, validity, and correctness of the proceedings and instruments taken, adopted, or made prior to the date of said hearing shall be deemed waived unless presented by remonstrance at the time and in the manner herein specified.

(H) **FORMATION.** After the hearing hereinabove set forth, the City Engineer shall combine into suitable construction units those proposed local public improvements which have been approved by the City Manager. Each such construction unit, whether composed of non-contiguous parts or sections or not, shall constitute a local public improvement district and shall be so referred to hereinafter. More than one kind of improvement may be combined in one local public improvement district. The City Council may provide for a local public improvement district to consist of more than one assessment unit if the Council determines that due to differences in cost, character, nature, or location of the improvements the costs can be more equitably assessed by means of separate assessment units within the local public improvement district. In the formation of such local public improvement district or districts, the City Engineer shall make such condition as, in his judgment, will make for efficiency in construction and will result in the lowest possible construction cost. For each such local public improvement district, the City Engineer shall submit to the City Manager a detailed estimate of the total cost of the improvements, and a detailed estimate for each improvement included within the district, exclusive of the cost of collection and other incidentals, and of all interest on bonds issued in payment of construction and other costs from the time of issuance of said bonds to the time that interest commences on assessments; full details and specifications for the proposed construction, which said details and specifications shall permit and encourage competition among bidders; a map showing the real property to be assessed for the cost of construction; and that portion, if any, of the cost of such construction which is not to be assessed for local public improvement.

(I) **APPROVAL.** Whenever the City Manager approves a local public improvement district as submitted by the City Engineer, he shall cause to be prepared and submitted to the City Council an ordinance authorizing creation of the district and the construction of the improvements proposed, which ordinance shall be in the form recommended by the City Manager by his endorsement thereon.

The finding of the City Council by ordinance that any local public improvements were duly ordered after notice duly given, or that a petition or remonstrance was or was not filed, or was or was not duly subscribed and acknowledged as herein required shall be conclusive in every court or other tribunal.

(J) **OWNERS OF ABUTTING REAL ESTATE.** Before beginning any authorized construction, the City Manager may order the owners of the abutting real estate to connect their several premises with the gas, water, and sewer mains or with any other conduits in the street or alley adjacent to their several premises. In case of a failure or refusal by the owners of the abutting real estate to make the ordered connections, such connections shall be made incidental to the authorized construction and the cost thereof assessed upon the appropriate abutting real estate.

**(K) NOTICE OF COST.** Upon completion of any local improvement and upon acceptance thereof by the City Manager, or whenever the whole cost of an improvement or a complete unit thereof can be definitely ascertained, the City Manager shall publish notice once a week for three consecutive weeks, by three insertions in a newspaper of general circulation in the City, a notice to the owners of the real estate to be assessed and all persons interested generally, and without naming such owners or persons, that said improvements have been or are about to be completed and accepted, specifying the whole cost of the improvements, the portion, if any to be paid by the City, and the proposed apportionment on the real property benefitted, and a statement that any written complaints, objections and remonstrances to the proposed apportionment which are filed with the City Manager at any time within 20 days after the first publication of the notice will be heard and determined by the Council, sitting as a board of equalization, at its first regular meeting thereafter, giving the time and place of such meeting, or at an adjournment thereof, before the passage of any ordinance assessing the cost of such improvement. Any objection to the regularity, validity, or correctness of the proceedings, or of said proposed apportionment, or of any assessment based thereon, and of the amount thereof levied on each tract and parcel of land, shall be deemed waived unless presented in writing at the time and in the manner herein specified. In determining the whole cost of the local public improvement there shall be included therein, without limiting the generality of the foregoing, the cost of constructing or otherwise acquiring such improvement or improvements, the cost of acquiring necessary rights-of-way and easements, engineering and clerical services and supplies, cost of inspection, cost of collecting assessments, advertising, printing, interest on bonds until interest on assessments commences to defray such, fiscal services, legal services for preparing proceedings, and advising in regard thereto and other incidental costs.

**(L) COMPLAINTS.** After the period specified in such notice, the City Council, sitting as a board of equalization, at its next regular meeting, or an adjournment thereof, shall hear and determine all written complaints, objections, and remonstrances filed with the City Manager and may confirm the apportionment proposed or make any modifications which may seem equitable and just.

After the consideration of all objections to the apportionment, if any change in the apportionment shall be made by Council it shall certify such change to the City Manager, who shall prepare a new apportionment and an assessing ordinance in accordance therewith and transmit the same to Council. The assessing ordinance shall assess the cost of the improvement against the real estate to be assessed in the district in the proportion finally determined. The passage of the assessing ordinance shall be prima facie evidence of the fact that the property assessed is benefitted in the amount of the assessment, and that such assessments have been lawfully made.

**(M) ASSESSMENT ROLL.** The City Clerk shall from said assessing ordinance prepare a local assessment roll in book form showing in suitable columns each piece of real estate assessed, the amount of the assessment, the amounts of each installment of principal and interests if, in pursuance of this Ordinance, the same is payable in installments and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount, or of any installment or penalty, and deliver the same duly certified, under the corporate seal, to the Finance Director for collection.

**(N) LIEN AGAINST PROPERTY.** From the date of the final publication of the assessing ordinance all assessments made pursuant thereto shall be a lien in the several amounts assessed against each lot or tract of land, and such assessments shall have priority over all other liens except general taxes. As to any subdivisions of any real estate assessed pursuant thereto, the assessments in each case shall be a lien upon all the subdivisions in proportion to their respective areas or frontages. No delays, mistakes, errors, defects, or irregularities in any act or proceeding authorized herein shall prejudice or invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings as the case may require, and when so remedied the same shall take effect as of the date of the original act or proceeding.

If in any court of competent jurisdiction any final assessment is set aside for irregularity in the proceedings or for any other reason, then the Council, upon notice as required in the making of an original assessment, may make a new assessment in accordance with the provisions herein.

**(O) ASSESSMENTS DUE AND PAYABLE.** Without demand, all assessments shall be due and payable within 30 days after the publication of the assessing ordinance after its passage provided that the City Council may provide that the owners of the property to be assessed may elect to pay such assessments in annual installments not exceeding 20 installments, which installments shall include interest on the unpaid assessment annually at such rate as may be set forth in the assessing ordinance. The number of installments, periods of payment and rate of interest shall be determined and fixed by the City Council in the assessing ordinance. Payments may be made to the Finance Director at any time within 30 days after the

publication of the assessing ordinance after its passage, and an allowance of the per centum added for costs of collection shall be made on all payments during said period of 30 days.

Failure to pay the whole assessment within said period of 30 days shall be conclusively considered and held as an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments, shall be conclusively considered to have consented to said improvements. Such election shall be conclusively considered and held a waiver of any and all right to question the power or jurisdiction of the City to construct or acquire the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or correctness of the assessment, or the validity of the lien thereof.

The owner of any piece of real estate not in default as to any installment or payment may at any time pay the whole unpaid principal of his assessment with the interest to the time the next installment of interest or principal becomes due and payable.

The owner of any divided or undivided interest may pay his share of any assessment.

**(P) DEFAULT OF PAYMENT.** At the expiration of said 30-day period provided in the preceding section, the Finance Director shall return the local assessment roll to the Clerk thereon showing all payments made thereon with the date of each payment. Said roll shall be certified by the City Clerk under the corporate seal of the City and by him delivered to the County Treasurer of Adams County or Jefferson County, as the case may be, with his warrant for collection of the same, and the City Clerk shall obtain a receipt from the County Treasurer for the same. The County Treasurer shall receive payment of all assessments appearing upon the assessment roll with interest. In case of default in the payment of any installment of principal or interest when due, the County Treasurer shall advertise and sell any and all property, concerning which such default is suffered for the payment of the whole of the unpaid assessments with interest and penalties thereon. Said advertisements and sales shall be made at the same time and in the same manner, under all the same conditions and penalties, and with the same effect as are provided by general law for sales of real estate in default of payment of general taxes.

**(Q) FAILURE TO PAY.** Failure to pay any installment, whether of principal or interest when due or a determination by the City Council that a pending tax sale affecting any property subject to an assessment threatens to extinguish or materially impair the lien of such an assessment, shall cause the whole of the unpaid principal and accrued interest to become due and payable immediately and the whole amount of the unpaid principal and accrued interest shall thereafter draw penalty interest at a rate per month equal to the monthly rate applicable to installments plus an additional 1.25 percent per month or fraction of a month until the day of sale; but at any time prior to the date of sale the owner may pay the amount of all delinquent installments, with all penalty interest accrued, and thereupon shall be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. No statute of limitations shall apply until the last installment of assessments becomes due and payable.

**(R) SALE OF UNPAID ASSESSMENTS.** At any sale by the County Treasurer of any real estate in the City for the purpose of paying any special assessments for local improvements, the Finance Director, having the written authority from the City Council, may purchase such real estate without paying for the same in cash and receive a certificate of purchase from the County Treasurer in the name of the City. Such certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the Finance Director for the best price obtainable at public sale, at auction, or by sealed bids in the same manner and under the same conditions as is hereinafter provided in respect to the sale of property owned by the City, and the proceeds, in the event that all bonded indebtedness incurred in payment for said local improvements has not been discharged in full, credited to the fund created by the ordinance for the payment of such assessments; or, in the event that all bonded indebtedness incurred in payment for said local improvements has been discharged in full, the proceeds shall be credited to the special surplus and deficiency fund provided for by Paragraph (U) of this section.

Such assignments shall be without recourse, and the sale and assignment shall operate as a lien in favor of the purchaser and assignee as provided by law in the case of sale of real estate in default of payment of the general taxes.

Cumulatively, with all other remedies, the City, being the owner of the property by virtue of a tax deed or being the owner of property otherwise acquired in satisfaction or discharge of the liens represented by such certificates of sale, may sell such property for the best price obtainable at public sale, at auction, or by sealed bids. Such sale shall be after public notice by the Finance Director to all persons having or claiming any interest in the property to be sold or the proceeds of such sale, such public notice to be by publication, once a week for three consecutive weeks by three insertions in a newspaper of general

circulation within the City. Such notice shall describe the property; state the time, place, and manner of receiving bids; and the time fixed for sale, which shall be not less than 20 days after the first publication. The City may reject any and all bids. Any interested party at any time within 10 days after receipt of bids for the sale of property may file with the City Manager a written protest as to the sufficiency or the amount of any bid made or the validity of the proceedings for the sale. If such protest is denied, such person, within 10 days thereafter, shall commence an action in a court of competent jurisdiction to enjoin or restrain the City from completing the sale. If no such action shall be commenced, all protests or objections to the sale shall be deemed to have been waived and the City shall then convey the property to the successful bidder by quit claim deed.

In addition to all other remedies, the City, when it is the holder of a certificate of purchase, may bring a civil action for the foreclosure thereof joining as defendants all persons having or claiming any interest in the property or the proceeds of foreclosure sale, and all governmental units having taxes or other claims against said property, and all unknown persons having or claiming interest in said property. Any number of certificates may be foreclosed in the same proceeding. In such proceedings, the City, as plaintiff, shall be entitled to all relief provided by law in actions for adjudication of rights with respect to real property.

The proceeds of any such sale of property shall be credited to the appropriate special assessment fund or the surplus and deficiency fund, as hereinabove provided. The City shall deduct therefrom the necessary expenses in securing deeds and taking procedures for the sale or foreclosure.

**(S) BONDS.** For the purpose of paying all or such portion of the cost of any improvement constructed under the provisions of this Chapter, special assessment bonds of the City may be issued of such date and in such denominations as may be prescribed by the City Council in fully registered form (i.e., registered as to payment of both principal and interest), bearing the name of the district improved and payable in a sufficient period of years after date to cover the period of payment provided, but subject to call as provided in Paragraph (T) of this section. All such bonds shall be issued on estimates approved by the City Council or sold as hereinafter provided, and the Finance Director shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the Mayor, countersigned by the Finance Director with the corporate seal of the City thereto affixed, and attested by the City Clerk.

Such bonds shall be payable out of the monies collected on account of the assessments made for such improvements, out of the surplus and deficiency fund referred to in Paragraph (N) of this section, or out of any monies provided by credit enhancements obtained for the bonds. All monies collected from such assessments for any improvement shall be applied for the payment of the bonds issued until payment in full is made of all the bonds, both principal and interest.

The bonds may be used in payment of the cost of the improvement as specified or the City Council may sell sufficient of said bonds to pay the cost in cash. Said bonds may be sold by public sale or private sale, to the best advantage of the City. All bids may be rejected at the discretion of the City Council. All such bonds shall be negotiable in form, shall bear interest as may be fixed by the City Council, and shall be payable either semi-annually or annually as may be provided by the City Council in the ordinance authorizing the issuance of such bonds.

**(T) PAYMENT OF BONDS.** Whenever the Finance Director has funds derived from assessment payment in the treasury to the credit of the improvement district exceeding the interest on the unpaid principal of the bonds issued therefor and outstanding for such period as may be specified in the ordinance authorizing the bonds, the Finance Director shall call in or direct the bond registrar to call in a suitable number of such bonds for payment. Notice of redemption of bonds shall be given in the manner provided in the ordinance authorizing the issuance thereof. On the redemption date specified in such notice, interest on the bonds so called shall cease. The notice shall specify by number the bonds so called, and all such bonds shall be paid in their regular numerical order.

**(U) SURPLUS AND DEFICIENCY.** Where all outstanding bonds have been paid in a public improvement district and any money remains to the credit of said district, it shall be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any improvement district to meet payment of outstanding bonds it shall be paid out of said fund. Whenever a public improvement district has paid and cancelled three-fourths of its bonds outstanding and for any reason the remaining assessments are not paid in time to pay the remaining bonds of the district and there is not sufficient money in said special surplus and deficiency fund, then the City shall pay said bonds when due and reimburse itself by collecting the unpaid assessments due said district.



**(V) GENERAL FUND ADVANCES, CITY PARTICIPATION.** In consideration of general benefits conferred on the City at large from the construction or installation of improvements in special or local improvement districts, the City Council may levy annual taxes on all taxable property within the City at a rate not exceeding 2 mills in any one year, to be disbursed as determined by the City Council for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any special or local improvement district thereafter created.

The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein provided, however, that in lieu of such tax levies, the City Council may annually transfer to such special fund any available money of the City, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited.

In addition to the above, the City Council may finance the City's share of the cost of any special improvement project, whether or not such cost is assessed against City-owned property, by the issuance of special improvement district bonds, and shall appropriate annually an amount sufficient for the payment of that portion of the share of the costs then due. The City's share of the cost of any special improvement project shall be determined by the City Council. Such bonds shall not be subject to any election requirements or debt limitation which might otherwise exist pursuant to the City Charter or other applicable law.

**(W) PROCEEDINGS.** In all proceedings authorized or required by this Chapter, figures may be used instead of words and it shall not be necessary in improvement districts to designate each piece of real estate in the district separately. General description and quantities may be used except in the assessment rolls, and the cost may be stated as being a probable amount per front foot, per square foot, per acre, or per lot of a given size and proportionate amounts for other lots or, when a different rule of assessment is provided, then as being subject to such rule.

**(X) IMPROVEMENTS.** The improvements authorized by this Chapter may consist of street improvements such as grading, paving, curbing, guttering, providing parking for, widening, lengthening, altering, signaling, or otherwise improving the whole or any part of any street or alley, or streets or alleys including bridges, overpasses, and underpasses in the City, or any one or more of said improvements, including the reconstruction, replacement, renewal, or extension of the same. In case of grading only, or grading and curbing only, the improvements may include the necessary crosswalks.

Such improvement may also consist of the construction of district sewers, or storm sewers in districts to be known as storm sewer districts, the same to be provided by ordinance in accordance with the provisions herein contained. Said sewers may consist of the necessary pipes, ditches, drainageways, culverts, bridges, manholes, inlets, and appurtenances and shall be so constructed as to connect with some existing public sewer or natural drainage. Said districts may be divided into subdistricts to be specially named or numbered in said ordinance. Such storm drains may be made, contracted for, or constructed larger than required by a local public improvement district, and the City may pay from any lawful fund that portion of the cost that may be in excess of the cost required by the district, and upon the extension at a later time of the mains or submains to an area not included within the district for which mains or submains were made and contracted for, the City may assess the amount paid by the City as a lien upon real property benefited by the oversized construction and extension of the mains and submains.

**(Y) LEGAL PROCEEDINGS.** No action or proceeding, at law or in equity, to review any acts, proceedings, question the validity or enjoin the performance of any act, or the issuance or collection of any bonds, or the levy or collection of any assessments, authorized herein, or for any other relief against any acts or proceedings done or had pursuant hereto or under the provisions of the Charter of the City of Westminster, with reference hereto, whether based upon illegalities, irregularities, or jurisdictional defects shall be maintained unless commenced within 30 days after the performance of the act or the passage of the resolution or ordinance complained of or else be thereafter perpetually barred.

Local public improvement districts created prior to the effective date of this Chapter shall be governed by the laws relating to such improvement districts on the date of their creation.

**(Z) WAIVER OF PROCEDURES.** Any of the provisions of this Chapter may be waived in writing by the owner of all property in the district which is to be assessed, and by the Mayor if the City is to bear any of the costs of the improvements. Such a waiver must state the requirements of this Chapter which are being waived. No person shall be permitted to withdraw a written waiver once it has been submitted to the City Council for consideration. The authorization for such a waiver shall be contained within the ordinance establishing the district.

(AA) **ACQUISITION OF IMPROVEMENTS.** Notwithstanding anything in this Chapter to the contrary, a local improvement district may be created for the acquisition of improvements already constructed, or for both acquisition and construction of improvements. With respect to improvements to be acquired, the provisions of this Chapter concerning public bidding of construction contracts shall not apply.

#### **11-6-7: PROCEDURES FOR THE ESTABLISHMENT OF RECOVERY COSTS.**

##### **(A) FINDINGS.**

1. The City Council hereby finds and determines that expansion of land use and development within the City results in impacts upon public facilities and improvements and necessitates the construction and expansion of new public facilities, improvements, and services including arterial and collector streets and bridges; water and sewer facilities; schools; pedestrian areas and community and neighborhood parks; police and fire services; drainageways; parking facilities; and other City facilities, improvements, and services.

2. The City Council further finds and determines that it is appropriate and fair to require new development, not current citizens, to bear such proportionate share of the cost of improvements, facilities, and services as the City determines are reasonably necessitated by and of reasonable benefit to new development.

3. The City Council further finds and determines it is fair, reasonable, and equitable for the City to plan for and provide facilities, improvements, and services necessary for the efficient and logical development of land within the City and to recover at or prior to development the cost of such facilities, improvements, and services from the properties benefitted by such facility, improvement, or service.

4. The City Council additionally finds that new public facilities, improvements, and services increase the value of and enhance the development potential of adjacent properties.

##### **(B) RECOVERY OF COSTS OF PUBLIC IMPROVEMENTS.**

1. The City shall have the authority to allocate and recover the costs of construction of public improvements or facilities to property owners based on the benefit of such improvement, facility, or service to said owners. Said recovery costs shall be paid to the City by the benefitted property owner and forwarded to the party constructing the improvement or facilities. Subject to the provisions of subsection E.5. below, where the construction of the improvement or facility has been financed in whole or in part by a property owner or owners and the financed amounts exceed the amount of benefits the owner or owners will realize from the improvement or facility so financed, the City shall assume or recover the amount of such excess costs and reimburse the financing owner or owners to the extent the amount financed exceeds the benefits received.

2. As part of the Preliminary Development Plan or Official Development Plan for any land within the City, the City may determine the public facilities, improvements, and services which are reasonably necessitated by and which are of reasonable benefit to the land being developed. The City shall have the authority to establish and administer a program to recover from benefitted property owners the costs incurred by the City or other party in providing those public facilities, improvements, and services which may include:

(a) The cost of right-of-way acquisition and construction of streets, including traffic signals, street lights, and traffic signs.

(b) The cost of sanitary sewer and water treatment and transmission facilities and service.

(c) Costs incurred for the acquisition, construction and servicing of drainageways.

(d) The cost of locating or relocating aboveground or underground utilities.

(e) Costs incurred for the acquisition, development, and furnishing of neighborhood and community parks, public open spaces, pedestrian walkways, bikeways, and other recreational facilities in excess of normal development requirements.

(f) Costs incurred for the acquisition, development, construction, and furnishing of such other City facilities or services which the City determines are reasonably necessary to serve and of reasonable benefit to new development.

3. The City Council shall provide by ordinance for the recovery of appropriate costs for public improvements, facilities, or services constructed or to be constructed by the City. Said ordinance shall establish the nature and extent of the recoveries due to the City. Such ordinances may include provisions for simple interest payable to the City.

4. In the case of improvements financed by the City with the proceeds of special assessment bonds, the City may forward any costs recovered under this section to the owners or developers previously assessed for the costs of the improvements. In the case of a property owner or developer who has elected to pay an assessment in installments and who is also owed costs recovered, this may be accomplished by an adjustment to the periodic payment owing, or in any other manner that the City Council deems just.

5. The City may require a developer to provide and install public improvements, facilities, or services sufficient to serve surrounding lands which the City determines are necessary for sound service planning and future property development. The City shall collect from the owners of properties benefitted by such facilities served such amounts which the City determines to be reasonable and to the to such properties. From such collection the City shall reimburse the party who installed the public facility.

6. In connection with the construction of any improvement or facility by a property owner or developer pursuant to this section, the City and such owner or developer may enter into a written agreement concerning the construction and the owner or developer's rights of cost recovery, if any. Agreements may include provision for simple interest. The City Manager shall be empowered to execute such agreements on behalf of the City, as follows:

(a) Agreements may include provision for simple interest.

(b) The City Manager shall be empowered to execute such agreements on behalf of the City.

(c) In each such agreement the City shall require that the developer or his successors notify the City in the event that there is a change in the payee of recovery fees collected for disbursement by the City. This notice shall be provided no later than 30 days after the effective date of the change in payee. This notification shall include the new payee, the payee's address, a description of the event resulting in the change of the payee, and the effective date of the change in payee. The notice shall be signed by someone legally authorized to bind the transferor. The City shall send collected recovery fees to the payee of record, as set forth in this subparagraph (c). If, due to lack of notice by the payee, the City is unable to ascertain the identity or location of the payee within 60 days after receipt of the recovery fees, such fees shall revert to the City and the City may declare the agreement terminated and deposit the undisbursed recovery fees in the City's general fund for City use.

**(C) ALLOWABLE RECOVERY COSTS.** Costs that are otherwise recoverable pursuant to this section shall be limited to the actual costs of materials, labor, equipment, acquisition of rights-of-way and easements, including condemnation costs, engineering services, and other costs directly related to the construction of the improvements. Costs for the administration of contracts, license fees, attorney fees, overhead, and other administrative, indirect costs shall be considered as the cost of doing daily business and shall not be included in recovery costs.

**(D) METHOD FOR RECOVERY OF COSTS.**

1. The City shall establish cost recovery for public improvements based upon the benefit to the development. Such methods may include comparative area or distance of a development benefitted by a public improvement, comparative population or housing density of the development benefitted by the public improvement, the trip generation rate, or other methodology for calculating approximate use of the public facilities, and such other methods as the City may establish from time to time which are based upon the reasonable benefit conferred on a development by a public facility. For public facilities, cost recovery obligations shall be based on the following:

(a) **Water Mains.** The owner or developer of property abutting a treated water main, constructed and paid for by another party, shall pay a proportionate share of the cost determined by dividing one-half the total cost of the main by the total length of the main and multiplying the resulting quotient by the number of lineal feet of property abutting the main. The City of Westminster will be responsible for the fractional cost of that portion of any water main that exceeds 16 inches in diameter.

(b) **Sanitary Sewers.** The owner or developer of property within a sanitary sewer recovery basin who utilizes a sanitary sewer main, constructed and paid for by another party, shall pay a proportionate share determined by dividing the total cost of the main by the total acreage in the established service area and multiplying the resulting quotient by the number of acres in the property that is to develop. Sanitary sewer mains which do not exceed minimum size for a public main as established by the City shall not be eligible for recoveries or City participation.

(c) **Pump Stations.** The owner or developer of property served by a pump station within an established pump station recovery area shall pay a proportionate share of the cost of the station based upon the acreage of his property divided by the total acreage in the pump station service area.

(d) **Street Improvements.** Except as otherwise provided by section 11-6-7(D)1(e) below, the owner or developer of property abutting a street constructed and paid for by another party shall pay a proportionate share of the cost of said street determined as follows:

(1) For streets up to 48 feet in width as measured from flowline to flowline, exclusive of acceleration and deceleration lanes, the owner or developer shall be required to pay 50 percent of the cost of the improvements, including street pavement, subbase, storm sewer and other appurtenances, right-of-way costs, curbs, gutters, sidewalks, and acceleration and deceleration lanes adjacent to the development.

(2) For streets which exceed 48 feet in width, as measured from flowline to flowline, exclusive of acceleration and deceleration lanes, the owner shall pay for the cost of constructing 24 feet of street improvements plus the cost of curb, gutter, sidewalk, and any hiker/biker trails plus the cost of any required acceleration and deceleration lanes adjacent to the development. On designated arterial streets, the City shall fund cost of construction of the remaining portion of the street.

(3) All drainage and other conduit structures constructed as an integral part of the street shall be considered to be street improvements, and the cost of those facilities may be allocated using the same method as allocating the cost of street improvements. The calculation of recovery costs for other drainage facilities, including storm drainage facilities, which are not an integral part of the street construction, shall be established on a case-by-case basis using a method based upon reasonable benefit to the property. However, the following minimum standards on storm drainage facilities must be met in order for a project to receive consideration for recovery. All facilities must be in closed conduit; all facilities must be designed to be able to be used by other properties within the basin, and all facilities must be designed to handle developed flows.

(e) **Bridges, Overpasses and Interchanges.** The cost of any bridge, overpass, interchange, or similar street improvement involving grade-separated facilities may be assessed on an area or acreage basis if Council finds that the benefits of a particular improvement are enjoyed by a larger group of property owners than the abutting property owners.

2. In the event the City determines that a development is reasonably benefitted more than under the minimum recovery methods above, the City may calculate an alternate method to determine reasonable benefit and recovery costs for a development, provided that there shall be recovered no more than 100 percent of the costs of public facilities plus applicable interest.

3. All agreements or ordinances created in connection with the construction of a public improvement for which costs have been allocated pursuant to this section shall be recorded with the appropriate County Clerk's Office as a matter of public record. It is the responsibility of every developer to identify those recovery agreements which pertain to their developments.

#### (E) **DOCUMENTATION AND RECORDING OF RECOVERY OBLIGATIONS.**

## **1. Developer-Constructed Improvements.**

(a) Any agreement between the City and a developer for cost recoveries shall be set forth in the developer's subdivision improvements agreement in accordance with the provisions of section 11-6-4 above.

(b) All such cost recovery agreements for developer-constructed improvements shall include a listing of those properties to be charged with cost recovery for the improvement(s), which list shall be provided by the developer-beneficiary within the time period prescribed by section 11-6-4(A). The developer shall also provide within the same time period a cost estimate of the improvements. The City shall review and approve for recording all such agreements which include provisions for cost recovery for the benefit of private developers, provided, however, it shall be the responsibility of the developer to record such agreements, and any effect on the developer's ability to recover costs pursuant to the developer's failure to appropriately record such agreement or include a sufficient legal description for the properties to be charged with cost recovery, shall be the sole responsibility of the developer.

(c) Prior to the City's acceptance of any public improvements constructed by a developer, the developer shall furnish the City with one set of reproducible, as-built drawings and a final statement of construction costs for those improvements subject to recovery in a format acceptable to the City. The City shall review the developer's final statement of construction costs and, upon the City's approval, said final statement of construction costs shall be recorded by the developer, which thereafter shall be the schedule of recovery costs that the City will follow in administering the cost recovery agreement pursuant to subsection (I) below.

(d) The developer-beneficiary of any cost recovery agreement approved by the City pursuant to this section shall pay a fee of \$500 to the City for the preparation, recordation, and administration of the agreement.

(e) The City's duty and liability in connection with the administration of a cost recovery agreement pursuant to this section shall be limited as follows. In administering such agreements:

(1) The City shall exercise reasonable care to collect such amounts due the developer-beneficiary but the City shall not be responsible or liable for any amounts not actually paid to the City by the responsible party. The developer-beneficiary shall have no cause of action against the City other than to recover any amounts actually collected and on deposit with the City.

(2) The City shall not be deemed to be acting as an agent or fiduciary of the developer-beneficiary or the responsible party. It shall be the exclusive responsibility of the developer-beneficiary to monitor and enforce the payment provisions of the agreement.

(3) In the event of non-payment by a responsible party, the developer-beneficiary, in its capacity as principal third-party beneficiary of the agreement, shall have as its exclusive remedy the right to bring a cause of action against the defaulting responsible party. Such action shall be brought within one year from the date the developer-beneficiary knew, or should have known in the exercise of due diligence, of the default.

(4) The limitations set forth above shall be deemed as incorporated into every cost recovery agreement to be administered by the City.

## **2. Cost Recovery for City-Constructed Public Improvements.**

(a) All cost recovery obligations for City-constructed improvements shall be established by ordinance. The ordinance shall include a list of properties to be charged with cost recovery for the City-constructed improvement. The ordinance establishing such cost recovery related to a City-constructed improvement shall be recorded in the real estate records of the Counties in which the properties to be charged with cost recovery are located. If available, the ordinance shall include a final statement of construction costs for the improvements subject to recovery. Otherwise, the ordinance may include an estimate of construction costs for the improvements to be constructed and a final statement of construction costs for the improvements shall be recorded as soon as practical following the completion of the improvements. After the final statement of construction costs for City-constructed public improvements has been recorded, the City shall thereafter recover such costs pursuant to the provisions of subsection (I) below.

**(F) INTEREST.**

1. From time to time, the City Council shall, by resolution, establish the interest rate to be applied to recovery costs. The interest shall be simple interest applied to the principal only, based on one year increments, or fractions thereof.

2. For any recovery agreements executed after August 13, 1984, the maximum amount of allowable accrued interest is 50 percent of the original cost of the public facility.

**(G) INCLUSION OF RECOVERY COSTS IN OFFICIAL DEVELOPMENT PLANS.** All Official Development Plans shall contain a section entitled "Recovery Costs" which shall contain a list of the public facilities previously constructed on which the proposed development will be required to pay recovery costs and the areas of benefit, if applicable, and the City recording information for the ordinance and agreement that established the recovery costs. Notwithstanding any of the foregoing to the contrary, the development shall also be responsible for any recovery costs established subsequent to the approval of the Official Development Plan. However, no recovery cost obligation shall be invalid against a development if it is undiscovered and/or inadvertently omitted from the Official Development Plan.

**(H) RECORDATION AND LIEN.**

1. The agreement or ordinance which sets forth the public facilities, the costs thereof, the areas of benefit, and the method of recovery of costs shall be filed and recorded with the County Clerk and Recorder of the county in which the facilities are located and the County Clerk and Recorder of any county in which property may be located which may be reasonably expected to be responsible for such costs once they have been finally determined. From the date of recording of any cost recovery agreement, for developer-constructed public improvements, or a cost recovery ordinance, for City-constructed public improvements, each of the records shall create a first and prior lien upon the properties benefited in the amount of the costs of the public facilities determined by the City attributable to the property, as provided by Title I, Chapter 31, of this Code. At its discretion, the City may allow the lien to become junior to the lien of deed(s) of trust executed by the landowners to secure loans to finance the construction of public facilities on the property.

**(I) PAYMENT OF RECOVERY COSTS.**

All recovery costs shall be due and payable at the time of the recording of a final plat for the applicable property, or at such time as application is made for a building permit for the applicable property, whichever occurs first. The City may withhold building permits on property within the area of benefit until recovery costs are paid. In the event an owner desires to proceed with development of a portion of his property, based on a phased development plan, the owner may proceed after paying that portion of the recovery costs and making provision for payment of the remainder satisfactory to the City.

**(J) TERMINATION OF RECOVERIES.** Upon receipt of an application by an owner previously entitled to receipt of cost recoveries or, on its own motion, the City may terminate a recovery for a public facility if the costs of the public facilities have been substantially recovered, if 10 years have passed, if the project may be more effectively financed by another method, or for such other good cause as the City may determine.

**(K) ALTERNATIVE METHOD.** This article is intended to establish an alternative method for the financing of public improvements for lands which will be reasonably benefited thereby and the provisions hereof shall not be construed to limit the power of the City to utilize any other lawful method for accomplishing this purpose.

**11-6-8: DEDICATION OF PROPERTY FOR PUBLIC PURPOSES.**

**(A) PUBLIC LAND DEDICATION.**

1. No land development containing proposed or potential residential uses shall be approved by the City unless the applicant for such development provides for the dedication of public lands to the City for park, open space, school, and other public purposes as determined by the City in accordance with this section.

2. The applicant shall dedicate to the City an amount of developable land corresponding to the density of the development as follows:

DENSITY IN DWELLING  
UNITS PER ACRE

% OF LAND AREA  
DEDICATED TO THE CITY

UP TO 3	10
> 3 - 4	11
> 4 - 5	12
> 5 - 6	13
> 6 - 7	14
> 7 - 8	15
> 8 - 9	16
> 9 - 10	17
> 10 - 11	18
> 11 - 12	19
> 12 - 13	20
> 13 - 14	21
> 14 - 15	22
> 15 - 16	23
> 16 - 17	24
> 17	25

Institutional residential uses such as group homes, nursing homes and similar uses shall provide a 10 percent public land dedication pursuant to this section.

3. All land dedicated in accordance with this section shall possess suitable access and shall be of a location, size, shape, and topography suitable for development into active recreational areas without significant earthmoving, unless otherwise approved by the City. The City shall have the option to accept as part of the dedication requirement major floodplains, narrow strips to provide trail connection from one major recreational or park area to another, or other undevelopable areas suitable for open space. Undevelopable land so designated shall be credited at 1/6 the value of developable land.

4. If the City determines a land dedication in accordance with this section would not serve the public interest, the City may require payment of a fee in lieu of the dedication or may require dedication of a smaller amount of land than would otherwise be required and payment of a fee in lieu of the portion not dedicated. The amount of the fee shall be the fair market value of the land which would otherwise be required to be dedicated under this section. "Fair market Value" shall be determined, as of the date that dedication would otherwise be required.

5. Land required to be dedicated under this section shall be shown on Preliminary Development Plans and all other planning documents as "Public Land Dedication" and shall be dedicated to the City after the approval of the Preliminary Development Plan at such time as the City shall determine but in no event later than the approval of the Final Plat encompassing the land to be dedicated. Following the City's approval of a Preliminary Development Plan containing a public land dedication, the City may withhold approval of the property's Official Development Plan, Final Plat, or any other approvals, including building permits, until such public land dedication is perfected.

6. In considering whether to approve a phasing schedule incurred in a Preliminary Development Plan or Official Development Plan, the City shall consider whether the City will have adequate public land in the development for the land area actually developed.

The City may require, as a condition of approval of such Preliminary Development Plan or Official Development Plan and any plats approved under such Preliminary Development Plan or Official Development Plan, that proposed public land be included as a part of an earlier phase than that proposed by the developer or subdivider.

7. All lands required to be dedicated under this section shall be dedicated to the City without restriction and free and clear of any and all liens, restrictions, and covenants, regardless of whether the City or another entity will be the ultimate user under the proposed public use. Fees required under this paragraph shall be paid to the City by certified check at the time of final plat approval.

8. Land to be dedicated to the City under this paragraph shall be preserved and protected during the development process. The developer shall not disturb the topsoil or vegetation on the land during the development process. If the topsoil or

vegetation is damaged or disturbed, the City may require the developer to pay the City the cost of restoring such vegetation and topsoil. All construction debris and other foreign matter shall be removed from the site prior to dedication.

9. The land dedication requirements under this paragraph are in addition to and separate from the requirements for dedication of street rights of way and easements or rights of way for utilities, drainage facilities and other public improvements.

10. If, at the time of annexation of the land on which a development is proposed, the developer or a predecessor in interest dedicated lands to the City for public purposes, the land dedication requirements of this paragraph shall be reduced by the number of acres actually dedicated at that time.

**(B) PARK DEVELOPMENT FEES.**

1. **City Policy.** It is the policy of the City that all developers of any new residential development projects shall be required to provide, at the developer's expense, sufficient park improvements and recreational facilities to serve the projected population of the development. To accomplish this purpose there is hereby enacted a park development fee, in addition to any land contribution requirement imposed by this Code or any other City ordinance or resolution.

**2. Park Development Fee.**

(a) Every person, firm or corporation applying for and obtaining any building permit for the original construction of any dwelling unit shall be required to pay, prior to the occupancy of the first unit in any building or structure and as a condition precedent to the issuance of any occupancy certificate, a park development fee based upon the number of dwelling units to be constructed, as follows:

Single family detached	\$1,306 per unit
Single family attached or mobile home	\$1,061 per unit
Multiple family	\$870 per unit

The above fees shall be automatically increased annually as of January 1 in accordance with the Consumer Price Index (CPI) as established for the Denver metropolitan area. No occupancy certificate shall be issued nor shall any occupancy of the premises be permitted until such fee shall have been paid in full.

Such fee shall be used only for the development of park and recreation facilities and services.

(b) Any person, firm, or corporation required to pay a park development fee hereunder may receive credit against such fee for park improvement work done by said developer at the developer's expense simultaneously with the construction of the dwelling units in accordance with City standards and policies. Such credit may be allowed for land leveling or earth work incorporated into the park improvements; installation of automatic irrigation systems; finished grading, soil preparation and seeding; plant materials; and park equipment. To qualify for such credit all park development plans shall be subject to the approval of the City Council and shall be included in an Official Development Plan approved by City Council.

**3. Credits.**

(a) In computing the credits to which a developer may be entitled, the total park development fee required of the development shall first be computed. The developer shall then be allowed a credit in each category listed in which the developer performs the work or provides the improvements at his sole expense. Said credits shall not exceed, in each category, the following percentages of total development fee due:

- (1) Earth Work -- 5 Percent
- (2) Automatic Irrigation Systems -- 38 Percent
- (3) Finished Grading, Soil Preparation & Seeding -- 26 Percent



- (4) Plant Materials -- 14 Percent
- (5) Park Equipment -- 11 Percent

(b) The foregoing are intended as maximum allowable percentages, and the percentage of total fee which shall be allowed as a credit in each instance shall be determined by City Council in its sole discretion. In any event not less than 6 percent of the total park development fee shall be paid by the developer in cash.

(c) A developer shall be allowed a credit against the park development fee for installation of a private park and open space facility in direct proportion to the percentage of total neighborhood needs, as determined by the City Council in its sole discretion, which is served by said private facility. Said credit shall be given only for private park and open space uses and not private recreational facilities such as tennis courts, swimming pools and club houses.

(d) The City Council may authorize park development fee credits for any improvements not listed above, which Council finds will benefit an existing or proposed park or recreation site or facility, including off-site improvements. Such credit shall not exceed 94 percent of the total park development fees owed by the developer; not less than 6 percent of the total development fee shall be paid by the developer in cash. Any proposed credit for park development fees which is authorized under this subsection shall be subject to specific City Council approval, formalized in a written agreement which shall be approved by Council.

**(C) CONVEYANCE OF NON-TRIBUTARY GROUNDWATER.** All subdividers shall present with any application for approval of a final plat a conveyance to the City of non-tributary groundwater (as defined in C.R.S. 37-90-137(4)) underlying the proposed subdivision, by deed in a form approved by the City. Such deed and plat shall provide for easements for pipelines and well sites and access thereto, together with consent and rights of entry for the exploration, construction and operation of required wells. Such conveyance shall be noted on any final plat approved by the City.

**(D) ENVIRONMENTAL AUDITS.** Unless waived by the City, a Phase I environmental audit shall be submitted in conjunction with any land dedication to the City, including but not limited to easements and rights-of-way.

## **CHAPTER 7 - SITE DEVELOPMENT STANDARDS**

**11-7-1: APPLICABILITY.** Any Official Development Plan or Final Plat for the development of any property within any zoning district other than Planned Unit Development shall be in substantial compliance with the standards set forth in this Chapter. For Planned Unit Developments, these standards shall be used as guidelines and may, at the option of the City, be required. These standards are in addition to all other standards, guidelines, policies and City Code requirements otherwise applicable to land use and development within the City. In the case of a conflict between these standards and another standard, guideline, policy or requirement, the more restrictive standard, guideline, policy or requirement shall apply.

### **11-7-2: LOT AND BLOCK STANDARDS.**

(A) The lengths, widths, and shapes of blocks shall be determined with due regard to:

1. Topography.
2. Convenient and safe access and circulation including access and circulation, for emergency and service vehicles.
3. Applicable regulations regarding lot sizes and dimensions.
4. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
5. Availability, location, and capacity of utility service and utility system design and capacity.

(B) The width, depth, shape, and orientation of lots shall be designed for the type of use contemplated. As a minimum, all lots shall conform to the following standards:

1. No lots shall be platted in areas subject to flooding except in conformance with this Code.
2. All lots shall front on a public street or highway or private street with easements guaranteeing public access.
3. Depth and width of lots shall be adequate to provide the necessary private service and parking facilities required by the type of use and development contemplated.
4. Lots shall be designed to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
5. Corner lots shall generally be adequate in size to compensate for two street frontages and to satisfy vehicular sight triangle standards.
6. Wherever possible, side lot lines shall be at right angles to the street line or at right angles to the tangent to the curve of the street line.
7. Subdivision lots and streets shall be oriented in a manner to insure location of structures and landscaping in the most energy efficient manner.
8. Residential lots shall not front on or obtain direct access from an arterial street. When driveway access from an arterial street is necessary for several adjoining lots, such lots shall be served by a combined access drive which shall be platted as a permanent access easement.
9. When a subdivision abuts or contains an existing or proposed freeway, expressway, or arterial street, a frontage road or a visual screen planting easement may be required as necessary to restrict access.
10. No structure shall be constructed nor shall any building permit be issued for a structure on any platted land except where such structure is to be constructed upon a separately designated lot. Lot lines established by plat shall not be altered by conveyance of a part of such lots, nor shall only a part of any lot be joined with a part of another lot for conveyance or construction unless and until written application and a revised plat has been submitted and approved upon a finding that the general purpose and purport of this Section shall not be weakened by such change.

**11-7-3: FENCE AND VEHICULAR SIGHT TRIANGLE STANDARDS.** Fences and vehicular sight triangles shall be in accordance with Section 11-9-5(D) of this Code.

**11-7-4: OFF-STREET PARKING STANDARDS.**

**(A) DUTY TO PROVIDE AND MAINTAIN OFF-STREET PARKING.**

1. The Council hereby finds, determines and declares that among the purposes of this Title is the lessening of congestion upon the public streets of the City. The regulations hereinafter stated are in pursuance thereof by requiring the owners and operators of land, structures and uses to provide parking on their own premises and off the public streets for their employees, customers, tenants, clients, patients and other visitors. Nothing in these regulations shall, however, be deemed to deprive such owners or operators of the right to maintain control over all such land devoted to off street parking space or to make whatever charges to persons making use thereof as they may deem appropriate.

2. For land, structures or uses actually used, occupied or operated on or before the effective date of this Title, there shall be provided such off street parking space as was required for such land, structures or uses by any previous ordinance, or development plan approval, except that if any previous ordinance or approval required more off street parking for land, structures or uses than is required under this Title, then there need be provided only such off street parking as is required in this Title. If such land, structures or uses are enlarged, extended, or changed, there shall be provided for the increment only, at least the amount of off street parking space that would be required hereunder if the increment were a separate land, structure or use established or placed into operation after the effective date of this Title.

3. For all uses established or placed into operation after the effective date of this Title there shall be provided at least the amount of off street parking hereinafter set forth.

4. Bicycle parking facilities shall be provided for any new building constructed, any new use established, any addition or enlargement of an existing building or use, for any change in the occupancy of any building, or change of use conducted. The number of bicycle parking spaces shall comply with the provisions in subsection (E)2. of this section. The design and maintenance of bicycle storage facilities shall conform to the standards in subsection (E)1. of this section.

5. Handicapped parking facilities shall be provided for any new building constructed, any new use established, any addition or enlargement of an existing building or use, for any change in the occupancy of any building, or for change of the use conducted. The number of handicapped parking spaces shall comply with the provisions in subsection (D)2. of this section. The design and maintenance of handicapped parking spaces shall conform to the standards set forth in subsection (D)1. of this section.

6. The off-street parking regulations in this Chapter shall apply to the area included in the Westminster Urban Renewal Plan except as otherwise specified in the Plan.

7. The zoning for the property on which the required parking facilities are to be provided must be the same as for the building served.

8. Separate off street parking space shall be provided for each use; or the parking space required of two (2) or more uses located on the same zone lot may be combined and used jointly; provided, however,

(a) Where off street parking space is combined and used jointly by two (2) or more uses having different standards for determining the amount of off street parking space required, the parking space shall be adequate in area to provide the sum total of off street parking space requirement of all such uses.

(b) Where off street parking space is combined and used jointly by two (2) or more uses having the same standard for determining the amount of off street parking space required, all of such uses, for the purpose of this section, shall be considered a single unit and the gross floor area of all such uses in all structures on the same zone lot or the number of employees of all such uses in all structures on the same zone lot as fixed by the applicable standard, shall be taken as a single total for the purposes of determining the amount of off street parking space required.

## **(B) OFF STREET VEHICLE PARKING.**

1. OFFSTREET PARKING REQUIRED: There shall be required in connection with the development or construction of specified buildings or uses, the minimum offstreet parking spaces listed in subsection 2. below. The concept of shared parking for a number of different uses may be included in the parking requirements of any Preliminary Development Plan or Official Development Plan. If uncertainties arise as to the classification of a building or use, the City Manager or his designee shall assign a reasonable classification.

### **2. MINIMUM OFF STREET VEHICLE PARKING SPACES:**

(a) Single Unit or Duplex: Two (2) spaces per dwelling unit. A paved driveway at least twenty feet (20') in length may be counted as one space.

(b) Multiple Family Dwellings: One and one half (1 1/2) spaces per each one bedroom unit; two (2) spaces per each two (2) or more bedroom unit.

(c) Hotels, Motels, Tourist Homes, and Tourist Centers: One and two tenths (1.2) spaces per each living unit.

(d) Fraternity and Sorority Houses, Dormitories, Rooming or Boarding Houses: One space per each sleeping room.

(e) Mobile Home Courts/Parks: Two (2) spaces per each trailer space.

(f) Hospitals: One space per each patient bed for employees plus one space per each four (4) patient beds for doctors plus one space per each four (4) patient beds for visitors.

(g) Sanitariums, Rest or Convalescent Homes: One space per four (4) patients beds for visitors plus one space per each four (4) patient beds for doctors plus one space per three (3) patient beds for employees.

(h) Elementary and Junior High Schools: One and one half (1 1/2) spaces per each classroom.

(i) Senior High Schools and Colleges: One and one half (1 1/2) spaces per each classroom plus one space per every four (4) students of the design capacity of the school.

(j) Churches, Religious Facilities, Funeral Homes: One space per every three (3) persons seating capacity. In addition, two (2) spaces per each classroom in churches or educational buildings.

(k) General Offices and Professional Offices of a NonMedical/NonDental Use and Public Banks: One space per two hundred (200) square feet of gross floor area.

(l) Places of Public Assembly, including Private Clubs, Dance Halls, Pool Rooms, Restaurants, Night Clubs, Taverns, Lodges, etc.: One space per every three (3) persons of rated capacity.

(m) Bowling Alleys: Five (5) spaces per one thousand (1,000) square feet of gross floor area.

(n) Motor Vehicles Sales and Repair: One space per each seven hundred fifty (750) square feet of display area plus two (2) spaces per each repair bay.

(o) Shopping Centers:

(i) Shopping Center or any Individual Retail Establishment Located Separate from a Shopping Center and Engaged in Retail Sales or Services:

a. Having less than twenty five thousand (25,000) square feet of gross floor area: Five (5) spaces for one thousand (1,000) square feet of gross floor area.

b. Twenty five thousand (25,000) to four hundred thousand (400,000) square feet of gross floor area: Four (4) spaces per one thousand (1,000) square feet of gross floor area.

c. Four hundred thousand (400,000) to six hundred thousand (600,000) square feet of gross floor area: Four and one half (4 1/2) spaces per one thousand (1,000) square feet of gross floor area.

d. Six hundred thousand (600,000) square feet or more of gross floor area: Five (5) spaces per one thousand (1,000) square feet of gross floor area.

(ii) Parking Adjustments in Shopping Centers:

a. One (1) space shall be added for every three hundred (300) square feet of gross floor area of office use that is more than ten percent (10%) of the center gross floor area.

b. A center having less than one hundred thousand (100,000) square feet of gross floor area and including a cinema occupying less than ten percent (10%) of the total gross floor area shall add three (3) additional parking spaces for each one hundred (100) cinema seats; a center having one hundred thousand (100,000) to two hundred thousand (200,000) square feet of gross floor area and including a cinema shall add an additional three (3) parking spaces for every one hundred (100) cinema seats over four hundred fifty (450) cinema seats; a center having over two hundred thousand (200,000) square feet of gross floor area and including a cinema shall add an additional three (3) parking spaces for every one hundred (100) cinema seats over seven hundred fifty (750) cinema seats.

c. A center containing twenty five thousand (25,000) to one hundred thousand (100,000) square feet of total gross floor area shall add an additional ten (10) spaces per one thousand (1,000) square feet of food service gross floor area; a center containing one hundred thousand (100,000) to two hundred thousand (200,000) square feet of total gross floor area shall add an additional six (6) spaces per one thousand (1,000) square feet of food service gross floor area; a center containing more than six hundred thousand (600,000) square feet of total gross floor area may reduce by four (4) parking spaces per one thousand (1,000) square feet of food service gross floor area of the required parking for the overall center.

(p) Ambulance Service: Two (2) spaces per ambulance.

(q) Wholesaling and Industrial Uses: One space per one thousand (1,000) square feet of gross floor area.

(r) Recreational Facilities: One space per every three (3) persons of rated capacity.

(s) Medical/Dental Offices or Clinics: One space for every two hundred (200) square feet of gross floor area.

(t) Day Care Centers and Child Care Education Centers: One (1) space per employee plus one (1) space per five (5) children of licensed capacity.

(u) Car Washes: A minimum of one (1) parking space per wash bay.

(v) Appliance and Furniture Retail and Wholesale Sales: One (1) space for every one thousand (1,000) square feet of gross floor area.

#### **(C) CONSTRUCTION AND MAINTENANCE STANDARDS.**

1. Each off street parking space shall not be less than eight feet (8') wide, twenty feet (20') long, and that any cover be at least seven feet (7') high. Each space shall be surfaced with an asphalt mat or other permanent material; shall be properly graded and drained; shall be provided with surfaced vehicular access to an improved public right of way.

2. Each off street parking space shall conform with the City Standard Specifications for Design and Construction.

3. All required off street parking spaces and access drives shall be improved with asphalt pavement or an equivalent surface installed in conformance with the "Westminster Standard Specifications for the Construction of Public Works Projects."

4. All off street parking areas shall be maintained in good condition, free of weeds, dust, trash and debris and major surfacing defects.

5. No parking area shall be used for the storage, sale, repair, dismantling or servicing of any vehicles, equipment, materials, or supplies.

6. All off street parking spaces (excluding single and/or duplex units) shall be outlined by white or yellow stripes not less than four inches (4") wide, painted on the surface area or an alternative judged equally effective by the City Manager or his designee. All non parking spaces such as loading zones, emergency lanes or spaces in front of doorways/entrances, shall be clearly delineated.

7. All parking areas shall be provided with ingress and egress to an improved public right of way so located as to promote safety and minimize traffic congestion; shall be provided with necessary internal circulation drives and aisles, layout of parking spaces consistent with the "Westminster Standard Specifications for the Construction of Public Works Projects." Prior to the issuance of a building permit, the layout of the required parking area (excluding single and duplex units) shall be approved by the City Manager or his designee.

8. All required parking spaces (excluding single and duplex units) facing and abutting a building, wall, fence, property line or walkway shall be provided with curb, bumper or wheel stops. Such devices shall be constructed and installed in conformance with the "Westminster Standard Specifications for the Construction of Public Works Projects."

9. Parking areas (excluding single and duplex units) shall be screened so as to prevent disturbance to adjacent residential development due to the maneuvering of vehicles entering and leaving the parking area. Screening design and materials shall be in conformance with the "Westminster Standard Specifications for the Construction of Public Works Projects" prior to issuance of a building permit.

10. Parking areas (excluding single and duplex units) shall be provided with night lighting for security and safety and adequate visibility for maneuvering to emphasize entrances and exits and hazards. Lighting structures and their location shall conform to the "Westminster Standard Specifications for the Construction of Public Works Projects" and shall be designed so as not to unreasonably disturb occupants of adjacent residential structures.

**(D) HANDICAPPED PARKING SPACES.**

1. Each off-street handicapped parking space shall be not less than eight feet (8') wide and twenty feet (20') long and shall have an adjacent access aisle which shall be not less than five feet (5') wide and twenty feet (20') long. Each handicapped parking space shall be designed, constructed, and identified in conformance with City standards.

2. The number of off-street handicapped accessible parking spaces required shall be a portion of the total number of spaces required by section 11-7-4(B) above as follows:

TOTAL PARKING SPACES IN LOT OR GARAGE	NUMBER OF ACCESSIBLE PARKING SPACES
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1 to 100	1 for each 25 or fraction thereof
101 to 200	1 for each additional 50 or fraction thereof
201 to 300	1 for each additional 100 or fraction thereof

**(E) BICYCLE PARKING.**

**1. Bicycle Parking Standards.**

(a) Bicycle parking facilities shall include provisions for storage and locking of bicycles, either in lockers or secure racks or equivalent installation in which the bicycle frame or wheels may be locked by the user.

(b) The ground surface surrounding and underneath the bicycle storage facility shall be surfaced in a manner which prevents mud or dust.

(c) Bicycle spaces shall consist of racks or lockers anchored so that they cannot be easily removed. Racks shall be designed that a wheel or the frame of a bicycle can be locked securely to it with a heavy chain, cable, or padlock. Lockers shall be so designed to minimize the possibility of an unauthorized person removing a bicycle.

(d) Fixed objects which are intended to serve as bicycle racks but not obviously intended for such purposes shall be labeled as available for bicycles.

(e) Bicycle lockers should be harmonious with their environment both in color and design as approved by the City. Parking device designs should be incorporated wherever possible into building design or street furniture. There should be sufficient space between devices so that the use of one does not interfere with the other bicycles or devices. The parking device selected should allow maximum flexibility in grouping and placement.

(f) The City shall have the authority to review and approve bicycle parking devices for design with respect to safety and convenience.

(g) Parking and bicycles shall be provided on the same lot, tract or parcel as the use served.

(h) Bicycle parking areas shall be lighted and located as near to the building or facility entrance as possible, without interfering with pedestrian traffic.

2. **Amount of Offstreet Bicycle Parking Spaces Required.** The minimum number of bicycle parking spaces shall be required as follows for all zones except P.U.D.; however, during the development review process, City staff may determine that a greater number of spaces than those listed below are necessary. For P.U.D. zones, the following list shall be used as a guideline:

(a) Multiple Family Dwellings: One bicycle parking space for each dwelling unit.

(b) Non Residential Uses: One bicycle parking space per each twenty (20) required automobile parking spaces, with no less than two (2) spaces per premise, with the following exceptions:

(1) Private or Commercial Indoor Recreation Facility: One bicycle parking space for each twelve (12) persons capacity.

(2) Community Facilities Including Public Parks, Libraries, Recreation or Activity Centers: One bicycle parking space per twelve (12) persons capacity.

(3) Drive In Theatres, Auto Service Stations, Automobile Repair and Service: None.

(4) Mortuaries: None.

(5) Motels, Hotels, Lodging: None.

#### **11-7-5: PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING.**

(A) Landscaping shall be defined and shall primarily refer to planted, green areas but may also include decorative paving (other than sidewalks and drives), water features, streams and grass channels as approved by the City.

(B) The City shall have the authority to require landscaping in new development and redevelopment projects according to the City's Landscape Regulations as may be approved from time to time by City Council. When a change in use occurs which involves an Official Development Plan, Amendment to the Official Development Plan, or Official Development Plan Waiver, the site should be brought up to current development standards whenever possible and within reason, as determined by the City.

(C) Enforcement of the landscape required by these regulations and/or as shown on the Official Development Plan shall be as provided by section 1-8-1 of the Westminster Municipal Code.

(D) The property owner is responsible for the installation of landscaping in the right-of-way of all arterial and collector streets abutting their development, and occasionally of local streets. The property owner is also responsible for installation of the landscaping in common areas including detention pond areas.

(E) The property owner or owners association is responsible for the maintenance of landscaping in the right-of-way of all arterial and collector streets within or abutting their development, and occasionally of local streets. The owner or owners association is responsible for the maintenance of landscaping in common areas including detention pond areas.

(F) The property owner or owners association shall be responsible for the continual adequate maintenance of landscaping required by and shown on the Official Development Plan(s) and site plan(s) accompanying Official Development Plan waivers.

(G) All landscaping and required buffering shall be continually maintained including irrigation, weeding, pruning and materials replacement, in a substantially similar manner as originally approved. The following survival standards shall apply to all landscaping and required buffering:

1. A minimum of 75 percent of the required landscape area must be covered by living plant material such as ground covers, low-growing shrubs or grass within two years after installation and thereafter. Non-living groundcovers such as redwood bark, wood chip mulch, boulders, cobble or river rock shall be limited to a small area, not to exceed 25 percent of the landscape area. All non-living groundcovers shall be placed over a suitable weed barrier or filter fabric.

2. Non-living ground covers, such as rock or mulch, must be 100 percent in tact after one year and 100 percent in tact thereafter.

3. Trees, shrubs, groundcovers and grass must have a 100 percent ongoing survival rate.

4. Any dead or severely damaged (as determined by the City) plant material shall be replaced within 6 months of notification by the City.

(H) All areas to be seeded, sodded, or otherwise planted in all nonresidential developments and areas of common ownership in residential developments (including right-of-way areas) shall have soil preparation per City specifications and an automatic sprinkler system.

(I) The owner is required to check with the City to determine the proximity of the development to the City's reclaimed water system. Projects within 300' of the system may be required to tie into the system.

(J) Trees and shrubs shall not be placed where they will obstruct the visual line of sight on a public right-of-way. No plants or other landscape items shall block free access to a fire hydrant. All plantings and landscaping shall also be in accordance with all applicable provisions of the City's Uniform Fire and Building Codes.

(K) At the intersection of a private drive with a public street, and at the intersection of two public streets, vehicular sight triangles shall be designated in order to insure that there are no visibility obstructions for motorists. (See section 8-4-6(B).) Sight triangles shall be shown on all Official Development Plans and shall conform with the City engineering document entitled, "Intersection Sight Distance Criteria." All shrubs, boulders, etc. within the sight triangle must be maintained below a height of thirty inches (30"), and all tree branches in these areas must be pruned to a minimum height of eight feet (8') above the curb. Evergreen trees shall not be placed within the sight triangle.

#### **11-7-6: COMMON AREA STANDARDS.**

(A) In residential building groups, the City Council may require that open space and recreational areas for common use be dedicated to the City or to a recreational district approved by the City Council, or that to be retained in private ownership.

(B) For private streets and parking areas, as well as open space and recreational land to be retained in private ownership, the applicant shall show a definite, financially-feasible means of maintaining these facilities and lands for the future.

(C) It shall be unlawful for any person to fail to maintain any private street or parking in common area under his ownership and control in compliance with all of the following standards:

1. Said areas shall not be used for sale, repair, dismantling or servicing of vehicles.

2. Said areas shall be maintained in good condition, free of weeds, dust, trash, and debris.

3. Said areas shall be provided with entrances and exits to public rights of way so as to minimize congestion.

4. The traveled portions of such area shall be kept free of snow and ice and other dangerous material.

5. All trees, hedges, shrubbery, plants, flowers, and other growing things adjacent to public or private sidewalks shall be maintained so that no part of them shall extend over any part of a street in a manner or height that is hazardous or blocks use of sidewalks.

6. Paved portions of such areas shall be maintained in good condition free of all holes or other defects.

7. Such privately owned areas shall not be used in any manner which will constitute a violation of any section of the Municipal Code of the City. In the event that the provisions of the preceding sections hereof are violated, the City Manager



may serve either personally or by mail, written notice upon the owner, occupant, or any person having the care and control of said privately held area, to comply with the provisions of this Chapter. Said notice shall be substantially the form set out in Section 9-3-4 of the Municipal Code of the City. If the person upon whom said notice is served fails, neglects, or refuses to correct the violation within five (5) days of receipt of said notice, the City Manager may cause the necessary work to be performed and the actual cost of such work, plus five percent (5%) for inspection and other additional costs in connection with, shall be certified by the Finance Director to the County Treasurer of the county of jurisdiction and such sum shall become a first and prior lien upon the property on which such work was performed, as provided by Title I, Chapter 31 of this Code.

(D) In residential building groups abutting business or industrial districts, fences, walls, or screen plantings shall be provided to shield the residences from illumination, noise, dust, or other harmful external effects of the business or industrial district.

(E) All open spaces and buildings must be reasonably accessible for emergency vehicles.

(F) In residential buildings, walls containing window exposures or entrances shall be oriented to insure adequate light and air exposure, shall be located to minimize exposure to through trafficways, and to preserve privacy between adjacent buildings.

#### **11-7-7: SOIL EROSION AND SEDIMENT CONTROL REGULATIONS.**

(A) **Purpose.** The purpose of this section is:

1. To regulate nonagricultural soil grading and other soil disturbance activities within the City in a manner that promotes and protects the safety, health, convenience and general welfare of the community; and
2. To make unlawful the unreasonable transportation of fugitive soil by water or air and to require such dust or soil runoff to be remedied.

(B) **Regulations and Requirements.**

1. No land area within the City shall be graded, stripped, excavated, filled, or otherwise disturbed without first obtaining a land disturbance permit pursuant to the provisions of this section 11-7-7, provided, however, a permit shall not be required for normal soil disturbance activities associated with farming and other agricultural activities.

2. Prior to receiving a land disturbance permit, the City may require the submittal of a soil erosion/dust control plan for the purpose of controlling the effects of soil erosion, dust and stormwater runoff. In addition, the City may require any development project or other proposed construction submitted for approval to include a soil erosion/dust control plan. All soil erosion/dust control plans required pursuant to this section 11-7-7 shall incorporate measures to prevent or reasonably control soil from being exported by air or water from the site to streets, storm sewers and other public utility systems, water courses, and downhill, down-wind or any other nearby properties.

(C) **Process and Requirements for Obtaining a Land Disturbance Permit.**

1. An applicant for a land disturbance permit may not proceed with grading, vegetation removal, filling, or other land disturbance until the City Engineer has reviewed and approved the applicant's soil erosion/dust control plan and the application for such permit.

2. A land disturbance permit will be required for sites which:

(a) Involve the regrading, import, or export of more than 200 cubic yards of soil; or

(b) Exceed 2 acres in area; or

(c) Possess physical characteristics or features which increase the potential for erosion, such as:

(i) Highly erodible soils with a soil erodibility value ("K" in the Universal Soil-Loss Equation) of 0.37 or greater or a Wind Erodibility Group (WEG) of 1 or 2.

- (ii) Natural drainage channels or swales.
- (iii) Unsheltered distances of 500 feet or more.
- (iv) Slopes in excess of 8 percent.

3. The application for a land disturbance permit shall include the following:

(a) **Property Identification.** Location, legal description, and size.

(b) **Ownership.** Name and address of owner, and/or his agents.

(c) **Application Fee.** \$25 per acre with a \$25.00 minimum fee and a maximum fee of \$500.00. This fee is non-refundable.

(d) **Erosion Control Plan.** Graphic and text description of erosion and sediment control measures for the site on a 24-inch by 36-inch sheet(s) at a scale no greater than 1 inch equals 100 feet, to include:

(i) Site boundary based on a survey.

(ii) Existing topography of the site and topography of the surrounding properties for a distance of 100 feet off-site, using a maximum contour interval of 2 feet.

(iii) Proposed topography using a maximum contour interval of 2 feet.

(iv) Location and description of any proposed steep slopes (2:1, 3:1, etc.), temporary and permanent.

(v) Estimated quantities of excavation and fill material.

(vi) Existing and proposed swales and drainageways.

(vii) Phasing and timing of temporary and permanent erosion control measures.

(viii) Location and description of erosion control measures, along with details for their construction.

(ix) Existing and proposed structure locations.

(x) Time limit for the stockpiling of soil

(xi) Other information or data as may reasonably be required by the City Engineer, such as the results of soils investigations and drainage reports, general notes, etc.

4. The application for a land disturbance permit shall be submitted in its entirety to the City Engineer, allowing at least 10 days for review. Incomplete or otherwise inadequate plans will be returned to the applicant with comments. It is the applicant's responsibility to bring the erosion control plan into compliance and to resubmit the plan. Once the application and plan have been approved for content and general compliance with this section 11-7-7, the land disturbance permit may be issued.

5. **Modification of the Erosion Control Plan.** The City Engineer may approve, disapprove, or approve with conditions an application to allow a new or modified erosion control technique or plan amendment. In examining such application, the City Engineer may require reports and data sufficient to render a decision.

6. **Indemnification.** The applicant shall be insured or bonded in accordance with the City's permit criteria to protect and indemnify the City against liability for contractor non-performance or non-compliance with the approved plans and criteria for a minimum of one year after the disturbed area has been adequately stabilized.

7. **Liability.** The City shall assume no duty or incur any liability in connection with its review or approval of erosion control plans or association reports or studies.

(D) **MINIMUM STANDARDS FOR SOIL EROSION AND SEDIMENT CONTROL.** All erosion control plans shall include adequate measures for the temporary and permanent control of erosion. Guidelines for erosion control practices exist in two recommended publications: (1) Best Management Practices Manual for the Control of Erosion and Sedimentation in the Denver Region, Denver Regional Council of Governments; (2) Guide for Erosion and Sediment Control in Urbanizing Areas of Colorado, Soil Conservation Service; and (3) Urban Storm Drainage Criteria Manual, Vol. 3, (Best Management Practices), Urban Drainage and Flood Control District.

The practices recommended therein shall be followed, along with the following minimum standards:

1. **Initial Soil Exposure.**

(a) Natural vegetation shall be retained and protected wherever possible.

(b) Exposure of soil to erosion by removing or disturbing vegetation shall be limited to the area required for immediate construction operations and for the shortest practical period of time.

(c) Sediment control measures such as sediment basin, traps, or terracing shall be installed before clearing and grading operations begin to retain sediment on site to the extent practical, as determined by the City.

2. **Grading and Slope Construction.**

(a) No work shall be performed outside the permit area without specific prior written approval.

(b) In no event shall the vegetation or ground cover be destroyed, removed, or disturbed prior to the date established and approved in the erosion control plan.

(c) During grading operations, the property shall be maintained and/or watered to prevent dust erosion. Earthwork operations will not be permitted to continue when fugitive dust significantly impacts adjacent publicways or private property as determined by the City.

(d) Temporary cut and fill slopes shall not be steeper than 2 horizontal to 1 vertical (2:1).

(e) Permanent slopes shall not exceed a steepness of 4 horizontal to 1 vertical (4:1), unless specifically approved in the erosion control plan.

(f) Diversions or other appropriate measures shall be installed at the top of cut or fill slopes to prevent uncontrolled drainage flows on the disturbed slopes.

(g) Temporary vegetation shall be installed in conformance with this Title if the disturbed site is to be left unimproved for 12 months or more.

(h) Topsoil shall be stockpiled to the extent practicable on the site for use on areas to be revegetated. Stockpiled soil shall be located and protected so that it is not transmitted through erosion to downstream properties or drainageways.

(i) Grading will be done in such a manner so as not to divert increased or uncontrolled flows onto adjacent properties or into sanitary or storm sewer systems.

(j) Fills shall not encroach on defined drainageways or existing channels without an approved drainage report which has evaluated said encroachment.

(k) Grading equipment shall not cross or disturb stream channels or improved channels, except by means of approved crossings.

(l) Excavated materials shall not be deposited or stored in designated floodplains or along side rivers or watercourses where the materials can be washed away by high water or storm runoff.

### 3. **Runoff Control.**

(a) Sediment transported by runoff water shall be retained on-site through the use of sediment basins, silt traps, or other appropriate measures.

(b) Increased runoff caused by changed soil and surface conditions during and after site earthwork construction shall be accommodated on-site and structurally retarded to reduce sedimentation.

(c) An acceptable temporary means of controlling runoff may be provided with the approval of the City for a period not to exceed 12 months. After a period of 12 months, permanent improvements or an acceptable alternative, approved by the City, shall be in place.

(d) On-site surface runoff shall be disposed of at non-erosive velocities at established drainage locations.

(e) Drainage swales used to divert surface waters shall be vegetated and/or stabilized to control erosion in concentrated flow areas. This treatment shall be based on anticipated velocities.

(E) **DENIAL OF PERMIT.** An application for a land disturbance permit pursuant to the provisions of section 11-7-7(C) may be denied upon a finding by the City Engineer of any of the following circumstances:

1. The application or the associated soil/erosion/dust control plan does not meet the requirements of this Chapter; or

2. The proposed land disturbance activities would cause unreasonable hazards to the public safety or welfare; or

3. The work as proposed by the applicant:

(a) poses an unacceptable risk of damage to public or private property;

(b) threatens to interfere with any existing drainage course or irrigation ditch; or

(c) is likely to result in the deposition of debris or sediment on a public street, storm drainage or other public utility or into any public or private waterway; or

4. The land area for which grading is proposed is subject to one or more geological or topographical hazards or conditions to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope, instability, or any other such hazard to persons or property; or

5. The land area for which the grading is proposed lies within the designated floodplain of any public or private stream or waterway unless both a floodplain development permit and a land disturbance permit are obtained; or

6. The land area for which grading is proposed is:

(a) part of a pending application before the City for approval of a rezoning, Official Development Plan, or Preliminary Development Plan; or

(b) located within a subdivision that is under current development, or which is reasonably expected to be developed in the course of the build-out of the subdivision and the City Manager determines that the City's approval of a land disturbance permit for the property should be deferred until the final plans for the property are submitted for City

review and approval in order to protect the public's interest in providing input concerning the future development of the property in advance of the normal review and approval process.

**(F) INSPECTION.**

1. The City Engineer, through periodic inspections, shall be responsible for determining whether the erosion and sediment control work accomplished by the applicant is in conformance with the applicant's approved erosion and sediment control plan.

2. The City Engineer may prohibit further work to be done on the applicant's site if he determines that the work does not comply with the approved erosion control plan. Such work may be stopped until measures in the approved erosion control plan are completed. The City Engineer may require remedial work to be done to protect completed work, prevent damage, or repair damage.

3. Upon receipt of written request by the applicant, the City Engineer shall give the applicant a certificate of completion indicating the date the measures in the approved plan were completed.

**(G) NUISANCE DECLARED AND ENFORCEMENT.**

1. The City hereby declares that it shall be a nuisance for any property owner to permit an unreasonable amount of dust or soil runoff to be transported from the land of the property owner to any downhill, downwind or any other nearby property, any public or private waterway, or any street, storm drainage or other public utility system. Such nuisance may be abated pursuant to the provisions of Chapter 4 of Title 8 of this Code.

2. In addition to any nuisance abatement action the City may pursue pursuant to Chapter 4 of Title 8 of this Code, the City, through its City Engineer, may order any owner of property from which fugitive soil is being exported in contravention of the provisions of this section 11-7-7 to submit a soil erosion/dust control plan meeting the requirements of this section and satisfactory to the City Engineer within a specified time period. The failure of any property owner to submit such a soil erosion/dust control plan as ordered shall be deemed to constitute a separate violation of the City Code punishable pursuant to the civil penalty provision set forth in section 1-8-1 of this Code.

3. Upon the approval of a soil erosion/dust control plan submitted pursuant to this section 11-7-7(G), any failure by the property owner to implement, install, perform or maintain such soil erosion and sediment control measures in accordance with the approved soil erosion/dust control plan shall also constitute a violation of this Code punishable pursuant to the civil penalty provisions of section 1-8-1 of this Code.

4. Where probable cause exists to believe that a violation of the provisions of this Chapter exists, and the property is unoccupied, appropriate City employees and their consultants may enter such property for the purpose of inspecting and investigating conditions and practices which may be in violation of this ordinance.

**11-7-8: MOBILE HOME PARKS.**

**(A) DEFINITIONS.** For the purposes of this Chapter the following words and phrases shall have the meanings ascribed to them in this Section:

**Mobile Home.** The term "Mobile Home" shall mean any vehicle used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons within the same family.

**Mobile Home Space.** The term "Mobile Home Space" shall mean a plot of ground within a mobile home park designated for the accommodation of one mobile home.

**Mobile Home Park.** The term "Mobile Home Park" shall mean a parcel of land not less than fifteen (15) acres under single ownership which has been planned and approved for the placement of Mobile Homes, occupied for dwelling or sleeping purposes, for transient and nontransient use, sometimes termed a trailer camp.

**Independent Mobile Home.** The term "Independent Mobile Home" shall mean a mobile home that has a toilet and a bathtub or shower.

**Patio.** The term "Patio" shall mean a paved area adjacent to the mobile home parking space, and accessible from the main entrance to the parked mobile home.

**Permit:** The term "Permit" shall mean a written permit issued by the City of Westminster Building Inspector to construct or alter the mobile home park under these rules and regulations.

**Permanent Addition.** The term "Permanent Addition" shall mean any structural extension from any portion of a mobile home, not including temporary canvas awning and skirting.

**Inspector.** The term "Inspector" shall mean the Building Inspector of the City of Westminster or his authorized representative.

**Street or Highway.** The term "Street" or "Highway" shall mean a public thoroughfare which affords principal means of access to abutting property.

**Access Road.** The term "Access Road" shall mean that area privately owned and maintained and set aside within a mobile home park for an interior road system, providing principal means of ingress to individual mobile home spaces and egress to street.

**(B) PERMITS.** No person shall alter, install or remove any structural improvement in any mobile home park without first securing a building permit from the Inspector, authorizing such alterations, installation or removal.

**(C) APPLICATION.** An application for a permit authorizing any structural alteration, installation or removal in a mobile home park, shall set forth the following information, including a plat thereof.

1. The location, area and dimensions of the tract of land to be occupied by the park.
2. The number, location and size of all mobile home spaces.
3. The location and width of roadways and walkways.
4. The location of service buildings, recreation facilities and any other proposed structures.
5. Topography of the proposed park at two foot (2') contour intervals.
6. Fencing, landscaping and screen planting.
7. Lighting of roadways, driveways and pedestrian walks.
8. The location, size and type of water and sewer and gas lines; and traps, vents and risers for water and sewer and gas.
9. The location, plans and specifications for any permanent structure to be used as an owner's or caretaker's residence.
10. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park.

**(D) INSPECTION OF MOBILE PARKS.** The Inspector shall make periodic inspections of all mobile home parks located within the city and shall enforce compliance with the provisions of this Chapter.

1. **Authority.** The Inspector shall have the authority to make inspections of mobile home parks, at reasonable times, for the purpose of determining whether this Chapter is being complied with and shall have authority to inspect the register of occupants, required herein.

2. Access. It shall be unlawful for any person to refuse access to a mobile home park to the Inspector for the purpose of inspection.

**(E) LOCATION, SPACE AND GENERAL LAYOUT.** The mobile home park shall be located on a well drained site and shall be so located that its drainage will not endanger any water supply. All such mobile home parks shall be in areas free from swamps or other potential breeding places for insects or rodents.

1. Area. The area of the mobile home park shall be at less than fifteen (15) acres and large enough to accommodate:

- (a) The designated number of mobile home spaces.
- (b) Necessary streets and roadways.
- (c) Parking areas for motor vehicles; and
- (d) Service areas.

2. Mobile Home Space. Each mobile home shall be at least thirty five feet (35;) wide, and shall abut on a driveway or other clear area with unobstructed access to a public street. Such spaces shall be clearly defined, and mobile homes shall be parked in such spaces so that no mobile home will be less than five feet (5') from the side and rear boundaries of the mobile home space, and no mobile home shall be less than ten feet (10') from the exterior boundary of the mobile home park.

No mobile home shall be parked less than twenty five feet (25') from any front property line abutting a street or highway or walkway. Areas between mobile home spaces and public right-of-way not used for roadway purposes shall be grassed and/or landscaped and kept free from weeds, rubbish or trash.

No mobile home shall be allowed to remain in a mobile home park except on a mobile home space as set forth herein is available.

3. Access Roads. Access roads must be graded for drainage, surfaced with concrete or asphaltic concrete, and maintained in good condition, free of weeds, dust, trash, debris and snow, all to be done in accordance with City requirements.

Each access road shall be continuous and shall connect with other circulation roads. Minimum width for access roads shall be thirty six feet (36'). Curves on all access roads shall have a minimum inside radius of not less than twenty feet (20'). All such roads shall be kept clear of all obstructions to allow movement of vehicles at any time.

4. Off street Parking. Areas not less than ten feet by twenty five feet (10' x 25') shall be provided for the parking of motor vehicles in addition to each required mobile home space to accommodate at least the number of vehicles equal to the number of mobile home spaces provided. Such parking spaces may be located within the mobile home space to be served but in no case shall be more than two hundred feet (200') from the mobile home space to be served. Such parking areas shall be surfaced as required for access roads.

5. Service Facilities. Every mobile home space shall be provided with a covered vault or building constructed according to City Building Code with a minimum of one hundred ninety two cubic feet (192 cu. ft.) of volume for the storage of personal belongings.

This requirement may be met by a building providing a like amount of space for each mobile home space.

6. Not more than ten (10) mobile home spaces shall be provided for each gross acre within the mobile home park.

7. Recreation Facilities. Space shall be provided for recreational facilities in an amount not less than seven hundred square feet (700 sq. ft.) for each mobile home space.

**(F) LOCATIONS AND CONSTRUCTION OF SERVICE BUILDINGS.** Service buildings shall:

- 1. Be located fifteen feet (15') or more from any mobile home space.
- 2. Be of fire resistant construction in conformity with all Codes and ordinances of the City of Westminster.

**(G) WATER SUPPLY.** The water supply for the mobile home park shall be a system which is owned and operated by a local government authority or a public utility company franchised in the City. The water system shall be connected by pipes to all service buildings and all mobile home spaces. Individual water service connections which are provided for direct use by mobile homes shall be so constructed that they will not be damaged by the parking of such mobile homes. Such connections for mobile home spaces shall be provided with individual valves below frost depth, not less than eighteen inches (18") and with valve boxes to grade.

**(H) SEWAGE DISPOSAL.**

1. All plumbing in the mobile home park shall comply with the plumbing Laws and health regulations of the City of Westminster, of the County of Adams, and of the State of Colorado.

Sewage disposal shall be provided by a local government authority or a franchised public utility company.

2. All Facilities Connected. A system for sanitary sewage shall be provided in all mobile home parks and all wastes and sewer lines discharging from buildings and mobile homes shall be connected thereto.

3. Connection. Each mobile home space shall be provided with at least a three inch (3") sewer connection, trapped below frost line, with the inlet of the line to be not less than one inch (1") above the surface of the ground. The sewer connection shall be provided with suitable fittings so that a watertight connection and proper vent can be made between the mobile home drain and the sewer connection. Such mobile home connections shall be so constructed that they can be closed airtight when not linked to a mobile home, and shall be trapped in such a manner as to maintain them in an odor free condition.

**(I) REFUSE DISPOSAL.**

1. System Required. The storage, collection and disposal of refuse in the park shall be so managed as to avoid health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution.

2. Containers. Refuse shall be stored in fly tight, rodent proof containers, which shall be located within the mobile home park. Such containers shall be provided in sufficient number and capacity to prevent any refuse from overflowing. Garbage shall be deposited in separate watertight containers with tight fitting lids.

All receptacles shall be designated as to type of use.

Containers shall be provided for all refuse and garbage containers. Such container holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. No dish or waste water of any kind shall be thrown or discharged upon the ground of any mobile home park.

3. Incinerators. Incinerators for use by individual mobile homes and located on the individual mobile home sites are prohibited. At least one incinerator for the purpose of burning combustible trash shall be provided by the mobile home park operator unless such refuse is collected regularly and no burning is allowed.

Such incinerators must be constructed of a size to provide a minimum of one half cubic foot (1/2 cu. ft.) per mobile home up to and including ten (10) mobile homes and one cubic foot (1 cu. ft.) per mobile home space in excess of ten (10) spaces. The incinerators shall be constructed of a fire resistant material, grated not less than twelve inches (12") above the ground, provided with a clean-out space beneath the grate, equipped with an access door and with a vent stack extending at least twelve feet (12') above the ground, capped with a spark arrester of three-fourths inch (3/4") mesh, or less. Incinerators shall be fired only when attended by some person specifically authorized by the owner or operator of the mobile home park.

**(J) ELECTRICITY.**

1. Installation To Each Space. An electrical outlet supplying 240 volts 100 amperes of service shall be provided for each mobile home space. The installation shall comply with all State and Local Electrical Codes and ordinances. Such electrical outlets shall be weatherproof. No power line shall be permitted to lie on the ground or to be suspended less than eighteen feet (18') above the ground.



2. Area Lights. Street and yard lights shall be provided in such number and intensity as to insure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during the hours of darkness.

(K) **FUEL.** Natural gas or electricity shall be made available for cooking and heating purposes in all mobile homes within the court. All gas and electrical installations shall be made in accordance with applicable City and State Codes.

**(L) FIRE PROTECTION.**

1. Littering Prohibited. Mobile home areas shall be kept free of litter, rubbish and other flammable materials.

2. Fire Extinguishers. Hand fire extinguishers of a type approved by the Chief of the Westminster Fire Department shall be maintained in effective working order and located in convenient places in the ratio of one to each eight (8) units or mobile home spaces.

**(M) ALTERATIONS & ADDITIONS; RESTRICTIONS OF ANIMAL AND PETS; SIGNS.**

1. Conformity. No alterations or additions shall be made to or within any mobile home park unless in conformity to this Chapter. No permanent additions of any kind not including temporary canvas awning and skirting shall be built onto, or become a part of, any mobile home.

2. Wheels Not To Be Removed. The wheels of the mobile home shall not be removed, except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the mobile home to prevent movement on the springs while the mobile home is parked and occupied.

3. Owner To Control Pets. No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large, or to commit any nuisance within the limits of any mobile home park.

4. Signs. Each mobile home park shall provide a sign at each entrance thereto, to include the name of the park and the street address in letters of a minimum of six inches (6") in height. Each mobile home space shall be numbered uniformly with reflectorized numbers of a minimum height of four inches (4").

**(N) MANAGEMENT:**

1. The owner or operator of any mobile home park shall arrange for the management and supervision of such mobile home park so as to enforce or cause compliance with the provisions of these rules and regulations.

2. The owner, operator, or attendant of every mobile home park shall assume full responsibility for maintaining in good repair and condition all facilities of the mobile home park as required herein.

3. In every mobile home park there shall be a designated office building in which shall be located the office of the person in charge of said park. A copy of all required City and State licenses and permits and of this Chapter shall be posted therein and the park register shall at all times be kept in said office.

4. It shall be the duty of the attendant or person in charge, together with the owner or operator to:

(a) Keep at all times a register of all guests (which shall be open at all times to inspection by State, County and Federal officers and officers of the City of Westminster) showing for all tenants:

- (1) Dates of entrance and departure.
- (2) License numbers of all mobile homes and towing vehicles or automobiles.
- (3) States issuing such licenses.

(b) Maintain the park in a clean, orderly and sanitary condition at all times.

(c) See that the provisions of this Chapter are complied with and enforced and report promptly to the proper authorities any violations of Law which may come to his attention.

(d) Report to local health authorities all cases known to the owner to be infected with any communicable disease.

(e) Pay promptly to the City of Westminster the inspection fee as specified in 5-11-4 herein and all license fees required by the City ordinances or any other laws.

(f) Prohibit the use of any mobile home by a greater number of occupants than that which it is designed to accommodate.

**(O) GENERAL.**

1. No mobile home shall be parked or permitted to stand upon any public street or alley in the City of Westminster for longer than a twenty four (24) hour period. If so parked, it shall be parallel with the curb and shall not extend outward into the street a distance in excess of ten feet six inches (10'6") measured at right angles with the curb.

2. No mobile home shall be maintained upon any private or public property in the City of Westminster when the same is used for living purposes unless the property is registered as a mobile home park and is located within an eligible zone district, nor shall any mobile home be stored in any required front or side yard as defined by the Zoning ordinance of the City of Westminster.

**CHAPTER 8 - FLOODPLAIN REGULATIONS**

**11-8-1: AUTHORIZATION.** Pursuant to Article XX of the Constitution of the State of Colorado and section 31-23-301, Colorado Revised Statutes, the City of Westminster has the authority to adopt flood control regulations designed to promote the public health, safety and general welfare of its citizenry.

**11-8-2: FINDINGS OF FACT.**

(A) The flood hazard areas of the City of Westminster are subject to periodic inundation which may 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 would adversely affect the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**11-8-3: STATEMENT OF PURPOSE.** It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;

(F) To help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize future flood blight areas;

(G) To ensure that potential buyers are notified that property is in a flood hazard area;

(H) To ensure that those who occupy the flood hazards areas assume responsibility for their actions; and,

(I) Encourage and facilitate urban water resources management techniques for the reduction of pollution and the enhancement of the urban environment.

**11-8-4: METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (D) Controlling filling, grading, dredging and other development which may increase flood damage; and,
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**11-8-5: APPLICABILITY.** This ordinance shall apply to all lands within the City, that are located within the 100-year floodplain, as indicated in the Official Flood Studies.

**11-8-6: BASIS FOR ESTABLISHING FLOODPLAINS AND FLOODWAYS.** Westminster 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 Official Flood Studies.

**11-8-7: BASIS FOR DETERMINING THE EXACT LOCATIONS OF THE 100-YEAR FLOODPLAIN AND FLOODWAY.**

(A) The boundaries of the 100-year floodplain and the floodway shall be determined from information presented in the Official Flood Studies. In the absence of other information (i.e., site specific studies as provided by the property owner), boundaries shall be determined by scaling distances on the maps provided in the Official Flood Studies. Where interpretation is needed as to the exact location of the boundaries, the Director of Community Development shall make the necessary interpretation. In all cases, the 100-year flood elevation as provided in the Official Flood Studies shall be the governing factor in locating the boundary on any property.

(B) If the Official Flood Studies do not provide 100-year flood elevations, then the Director of Community Development shall obtain, review and reasonably utilize any 100-year flood elevation and floodway data available from any federal, state, local or other source as criteria for requiring that new construction, substantial improvements or other developments in floodplain areas are administered in accordance with section 11-8-14, Floodplain Regulations, of this ordinance.

**11-8-8: OFFICIAL FLOOD STUDIES.** Site specific drainage and floodplain studies are not Official Flood Studies unless specifically adopted as such by Council. All Official Flood Studies shall, at a minimum, meet all of the Federal Emergency Management Agency's rules and regulations for the National Flood Insurance Program. All flood studies previously adopted by City Council by resolution prior to the effective date of this ordinance shall be deemed Official Flood Studies of the City until such time as City Council may determine to repeal any such resolution.

**11-8-9: COMPLIANCE.** No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

**11-8-10: ABROGATION AND GREATER RESTRICTIONS.** This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**11-8-11: INTERPRETATION.** In the interpretation and application of this ordinance, all provisions shall be:

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

**11-8-12: WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions.

Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of the 100-year floodplains or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Westminster, any officer or employee thereof or Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**11-8-13: FLOODPLAIN REGULATIONS.** The following regulations shall apply to all lands located within the 100-year floodplain:

**(A) General Standards.**

1. All proposed developments within the 100-year floodplain shall be designed and constructed in accordance with this ordinance and shall not adversely affect any upstream, downstream or adjacent properties.

2. No development, use, fill, construction or alteration on or over any portion of a designated floodplain shall be permitted which would cause or result in any of the following:

(a) The storage or processing of materials that in times of flooding are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life.

(b) The disposal of garbage or other solid waste materials.

(c) Substantial solid debris being carried downstream by flood waters.

(d) Any obstruction which would impair the flow capacity of a designated floodplain so as to cause foreseeable damage to others, wherever located.

3. All new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall be:

(a) Designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure,

(b) Constructed with materials and utility equipment resistant to flood damage, and

(c) Constructed by methods and practices that minimize flood damage,

(d) Constructed in conformance with all sections of this ordinance.

**(B) Residential Structures.**

1. In floodplain areas in which the 100-year flood elevations are not known, all new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated two feet (2') above the gutter flowline of the nearest street.

2. In floodplain areas in which the 100-year Flood Elevations are known or in areas where depth numbers for areas of shallow flooding are available, all new construction and substantial improvements of residential construction shall have the lowest floor, including basement, elevated one foot (1') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study.

**(C) Non-Residential Structures.**

1. In floodplain areas in which the 100-year flood elevations are not known, all new construction and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated two feet (2') above the gutter flow line of the nearest street.

2. In floodplain areas in which the 100-year Flood Elevations are known or in areas where depth numbers for areas of shallow flooding are available, all new construction and substantial improvements of non-residential construction shall have the lowest floor, including basement, elevated one foot (1') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study.

3. Require within any AO Zone that all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated two feet above the highest adjacent grade, if no depth number is specified, or at least one foot higher than the depth number specified (in feet) on the Official Flood Study or, together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standards specified below.

4. As an alternative for non-residential structures only, the structure, including utility and sanitary facilities, can be completely floodproofed to the levels mentioned above. The walls and basement floor shall be completely waterproofed and they shall be built to withstand lateral and uplift water pressure, and

(a) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certification shall be provided to the official as set forth in section 11-8-19.

4. When floodproofing is used for non-residential structures, a registered professional engineer or licensed architect shall certify that the floodproofing methods are adequate to withstand the flood pressures, velocities, impact and uplift forces, and other factors caused by the 100-year flood. A record of this certification shall be maintained on file with the building permit by the Building Official. The elevation to which the structure is floodproofed (based on mean sea level) shall be attached to certification.

**(D) Manufactured Homes.**

1. All new individual manufactured homes or other new manufactured structures, new manufactured home parks, expansions of manufactured home parks and manufactured home parks where the repair, reconstruction or improvements of the streets, utilities and pads equal or exceed 50 percent of their value before the repair, reconstruction or improvements was started, shall have stands or lots that are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be two feet (2') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study and adequate surface drainage and access for a hauler are provided. When manufactured homes are put on pilings, the pilings shall be designed and certified by a Registered Professional Engineer and shall be installed in conformance with that design.

2. All new manufactured homes and substantially improved manufactured homes located in the 100-year floodplain shall be anchored to resist flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads. The anchoring shall be designed and certified by a registered professional engineer. 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. Specific requirements may be:

(a) Over-the-top ties provided at each of the four corners with one mid-point tie on each side of the manufactured home shorter than fifty feet (50'). Manufactured homes longer than fifty feet (50') shall have two ties at intermediate points on each side.

(b) Frame ties provided at each corner with four (4) additional ties on each side of manufactured homes shorter than fifty feet (50'). Longer manufactured homes shall have five (5) ties on each side.

(c) All components of the anchoring system shall have a minimum strength of 4,800 pounds.

(d) Any additions to manufactured homes shall be anchored in the same way.

(E) **Recreational Vehicles.** It is a requirement that all recreational vehicles either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use;
3. Meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

(F) **New Development Proposals.** All new development proposals, including subdivision proposals, shall be designed to minimize flooding potential. If all, or part of a proposed development is located within a 100-year floodplain, then the corresponding proposal shall conform to the following guidelines:

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
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 facilities provided to reduce exposure to flood damage.
4. Base Flood Elevation data shall be provided for all subdivision proposals and any other proposed developments.

(G) **Construction Materials and Methods.**

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.

(H) **Utilities.**

1. All new replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(I) **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be obtained before construction or development begins within any 100-year floodplain area as established in the appropriate Official Flood Study. Application for a Floodplain Development Permit shall be made on forms furnished by the City of Westminster and may include, but are not limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or certified architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in section 11-8-13(C);
4. Description and analysis prepared by a registered professional engineer of the extent to which any watercourse, floodplain or floodway will be altered or relocated as a result of proposed development.

(J) **Review of Floodplain Development Permits.** The City of Westminster will:

1. Review all Floodplain Development Permit applications to determine that the permit requirements of this ordinance have been satisfied.
2. Review all Floodplain Development Permit applications to determine that all necessary permits (e.g., 404 permit, storm sewer outfall permit, FEMA permits, etc.) have been obtained by the applicant from Federal, State or local governmental agencies from which approval is required prior to the City of Westminster's approval of the Floodplain Development Permit.
3. Review all Floodplain Development Permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the provisions as set forth in section 11-8-14 have been met.
4. Review all building permit applications to determine whether proposed building sites will be reasonably safe from flooding.
5. Require every applicant to submit certification from a registered land surveyor identifying the elevation of the lowest floor including basement.

**11-8-14: FLOODWAY REGULATIONS.** There shall be no encroachment of fill, new construction, substantial improvements or any other development within or above a floodway unless certification by a professional engineer is provided demonstrating that encroachments shall not result in any increase in the 100-year Flood Elevations or any negative impacts on upstream, downstream or adjacent properties.

If the above requirement is satisfied, then all new construction and substantial improvements shall comply with the following permitted uses in the floodway:

- (A) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm and other similar agricultural, wildlife and related uses.
- (B) Lawns, gardens, play areas, bikeways, pedestrian pathways and other similar uses.
- (C) Portions of golf courses, driving ranges, archery ranges, pier grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses not involving structures.

**11-8-15: PROCEDURES FOR MODIFYING THE OFFICIAL FLOOD STUDIES.**

(A) 100-year floodplain elevations may increase or decrease resulting from physical changes, hydrologic changes, or criteria changes that directly affect flooding conditions. Within six months of the date that such information becomes available to the City, the City shall notify the Federal Emergency Management Agency of changes by submitting technical or scientific data that the Official Flood Studies do not accurately reflect flood risks as they currently exist. When these changes are the result of new developments, the developer shall be responsible for submitting all required technical and scientific data necessary to identify and delineate the new floodplain elevation and floodway boundaries.

(B) The City shall notify adjacent communities, when affected, and the Federal Emergency Management Agency prior to any alteration or relocation of a watercourse on which the 100-year flood elevations have been provided by the Federal Emergency Management Agency. This notice will verify that the flood carrying capacity within the altered or relocated portion of the watercourse has been maintained.

(C) Any submissions that result in changes or corrections to the existing 100-year Flood Elevations as shown in the Official Flood Studies will not be officially approved by the City until after the Federal Emergency Management Agency has approved such changes or corrections.

**11-8-16: NON-CONFORMING STRUCTURES.** A structure which was lawful before becoming subject to this article but which is not in conformity with the provisions of this article may be continued subject to the following conditions:

(A) Such structure shall not be expanded, changed, enlarged or altered in a way which increases its non-conformity.

(B) If any non-conforming structure is destroyed by any means, including floods, to the extent that the cost of restoration would equal or exceed 50 percent of the market value of the structure before the structure was damaged; the following regulations shall apply:

1. If the non-conforming structure is in the Floodway, the structure may be rebuilt; however, it shall not be expanded, changed, enlarged or altered in any way which would create an obstruction to water flow greater than that which existed before damage to the structure occurred. Upon reconstruction, nonresidential and residential structures shall be elevated two feet (2') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study. As an alternative nonresidential facilities can be completely floodproofed two feet (2') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study. The walls and basement floor shall be completely floodproofed and they shall be built to withstand lateral and uplift water pressure.

2. If the structure is located in the flood storage area, it may be reconstructed provided nonresidential and residential structures are elevated two feet (2') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study.

3. As an alternative for nonresidential structures only, the structure, including utility and sanitary facilities, can be completely floodproofed two feet (2') above the 100-year Flood Elevation as indicated in the appropriate Official Flood Study. The walls and basement floor shall completely floodproofed and they shall be built to withstand lateral and uplift water pressure.

4. If any manufactured home or home park is destroyed by any means such that the cost of restoration would exceed 50 percent of the market value of the structure prior to damage; then such manufactured home or manufactured home park shall not be rebuilt if it is located in the Floodway, and if it is located in the Flood Storage Area, it shall be rebuilt in conformance with this ordinance.

**11-8-17: FLOODPLAIN MANAGEMENT ORDINANCE ADMINISTRATOR.** This ordinance shall be administered and enforced by the Director of Community Development or his designee.

**11-8-18: VARIANCES.**

(A) **Appeal Board.**

1. The Director of Community Development, shall hear and decide requests for variances from the requirements of this ordinance.

2. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Director of Community Development in the enforcement or administration of this ordinance.

3. Those aggrieved by the decision of the City Council or any taxpayer, may appeal such decisions to a court of competent jurisdiction.

4. In passing upon such applications, the Director of Community Development and the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(a) the danger that materials may be swept onto other lands to the injury of others;



(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location, where applicable;

(f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) the compatibility of the proposed use with the existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(k) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

5. Upon consideration of the factors of section 11-8-18(A)4. and the purposes of this ordinance, the Director of Community Development or the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

6. The City of Westminster shall maintain the records of all appeals actions, including technical information and report any variances to the Federal Emergency Management Agency.

**(B) Conditions for Variances.**

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a)-(k) in section 11-8-18(A)4. have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

3. Variances shall not be issued within any designated floodway if any increase in the 100-year Flood Elevation would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

(a) a showing of good and sufficient cause;

(b) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) a determination that the granting of a variance will not result in increased flood heights, increased velocities, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 11-8-18(A)4. or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk from the granting of the variance.

**11-8-19: RECORDS.** The City of Westminster shall obtain, maintain, and have available for public inspection:

(A) All of the Official Flood Studies.

(B) Certificates of floodproofing and a statement whether a structure has been floodproofed and to what elevation (with Building Permits as applicable).

(C) For structures in the Floodplain:

1. Information on the elevation of the lowest floor, including basement, for all new or substantially improved structures.
2. A statement whether a new or substantially improved structure contains a basement.

**11-8-20: ANNEXATION NOTIFICATION OF FEDERAL INSURANCE.** The City will annually notify the Federal Emergency Management Agency whenever the boundaries of Westminster have been added to by annexation or decreased by disconnection. With the notification, the City will include a copy of the map of the community suitable for reproduction, clearly delineating the new corporate limits.

**11-8-21: BIENNIAL REPORT TO FEDERAL EMERGENCY MANAGEMENT AGENCY.** The City shall submit a biennial report to the Federal Emergency Management Agency Administrator, utilizing a biennial report form designated by the Federal Emergency Management Agency.

## **CHAPTER 9 - BUILDING CODES**

### **11-9-1: ADOPTION OF BUILDING CODES.**

**(A) Intent and Findings.** The intent of this chapter is to adopt by reference and with modifications the Uniform Building Code, 1994 Edition; the National Electrical Code, 1996 Edition; the Uniform Plumbing Code, 1994 Edition; the Uniform Mechanical Code, 1994 Edition; the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition; the Uniform Swimming Pool, Spa, and Hot tub Code, 1994 Edition; the Model Energy Code, 1986 Edition. Hereinafter, all such Codes may be referred to as "Building Codes." The City Council finds that the adoption of such Codes is essential in the preservation of the health, safety, and welfare of the citizens of Westminster. City Council finds that it is necessary to protect the health, safety and welfare of the citizens of the City to exempt the procedural requirements specified in Colorado Revised Statutes, Section 31-16-203, as the procedures contained therein are duplicative of existing procedures established in the City Charter and Ordinances.

**(B) Adoption of Building Codes.** The following documents, one copy each of which is on file in the Office of the City Clerk, being marked and designated as stated, are hereby referred to, adopted, and made a part hereof as if fully set forth in this codification with, however, the amendments indicated in the following sections of this chapter.

**1. Uniform Building Code.** The "Uniform Building Code, 1994 Edition, Volumes 1, 2 and 3", published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298, and in particular Chapters 1 through 35 inclusive and Appendix Chapters 3 (Divisions I and IV), 10, 11 (Divisions I and II), 12, (Division II), 15, 29, 30, and 31 (Divisions II and III) of Volume 1; Chapters 16 through 23 inclusive and Appendix Chapters 16 (Division 1), 18, 21, and 23 of Volume 2; and Volume 3 inclusive are hereby adopted as the Building Code of and for the City of Westminster.

**2. National Electrical Code.** The "National Electrical Code, 1996 Edition", published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and in particular Article 90 through Chapter 9 inclusive and the Appendix, is hereby adopted as the Electrical Code of and for the City of Westminster.

**3. Uniform Plumbing Code.** The "Uniform Plumbing Code, 1994 Edition", published by the International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, California 91789-2825, in particular Chapters 2 through 14 inclusive and Appendix Chapters A, B, D, E, and G inclusive is hereby adopted as the Plumbing Code of and for the City of Westminster.

**4. Uniform Mechanical Code.** The "Uniform Mechanical Code, 1994 Edition", published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601-2298, and in particular Chapters 2 through 16 inclusive and the Appendix, is hereby adopted as the Mechanical Code of and for the City of Westminster.

**5. Uniform Code for the Abatement of Dangerous Buildings.** The "Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition", published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601-2298, and in particular Chapters 1 through 9 inclusive is hereby adopted as the Code for the abatement of Dangerous Buildings of and for the City of Westminster.

**6. Uniform Swimming Pool, Spa, and Hot Tub Code.** The "Uniform Swimming Pool, Spa, and Hot Tub Code, 1994 Edition", published by the International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, California 91789-2825, and in particular Chapter 1 through 5 inclusive is hereby adopted as the Swimming Pool, Spa, and Hot Tub Code of and for the City of Westminster.

**7. Model Energy Code.** The "Model Energy Code, 1986 Edition", published by the Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041, and in particular Chapters 1 through 7 inclusive and the Appendix, is hereby adopted as the Energy Code of and for the City of Westminster.

## **11-9-2: ADMINISTRATIVE PROVISIONS.**

### **(A) Purpose and Scope.**

1. The provisions of the Building Codes shall apply to the construction, installation, alteration, moving, abatement, demolition, repair, use, or maintenance of any building or structure; electrical system; plumbing system; heating, ventilating, cooling, and refrigeration system, incinerator or other miscellaneous heat-producing appliance; swimming pool, spa, or hot tub; elevator, escalator, or moving walk; or fire protection system within the City, except structures and equipment specifically exempted or not specifically regulated by this chapter or the Building Codes.

2. Where, in any specific case, different sections of the Building Codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

3. Whenever in the Building Codes reference is made to an appendix, the provisions of such appendix shall not apply unless specifically adopted.

4. The Building Codes adopted by reference in this chapter do not include "administrative" provisions. Whenever an administrative provision is referred to in a Building Code, the respective provision in the Westminster Municipal Code shall apply.

### **(B) Alternate Materials and Methods of Construction.**

1. **General.** The provisions of the Building Codes are not intended to prevent the use of any material or method of construction not specifically prescribed by the Building Codes, provided any alternate material or method has been approved and its use authorized by the Building Official. The Building Official may approve an alternate material or method, provided he finds that the proposed design is satisfactory and complies with the provisions of the Building Codes and that the material, method, or work offered, is, for the purpose intended, at least the equivalent of that prescribed in the Building Codes for

suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the use of an alternate material or method. Any decision approving or denying the use of an alternate material or method of construction shall be made in writing by the Building Official and shall include the reasons therefor.

2. **Tests.** Whenever there is insufficient evidence of compliance with the provisions of the Building Codes regarding the use of an alternate material or method of construction, or evidence that a proposed material or method of construction does not conform to the requirements of the Building Codes, the Building Official may require that tests be made at the expense of the proponent of the questioned material or method of construction.

(a) Test methods shall be as specified by the Building Official or by other recognized test standards. In the absence of recognized and accepted test methods of the proposed alternate material or method of construction, the Building Official shall determine which test procedures are appropriate.

(b) All tests shall be made by an approved agency. Reports of such tests shall be retained by the Building Official.

**(C) Modifications.** Whenever there are substantial practical difficulties involved in complying with the provisions of the Building Codes, the Building Official may grant modifications for individual cases, provided he shall first find that a special individual reason makes the strict letter of the Building Codes impractical; that the modification is consistent with the intent and purpose of this Code; and that such modification not lessen health, life, and fire safety requirements. Any decision approving or denying a modification shall be made in writing by the Building Official and shall include the reasons therefor.

**(D) Enforcement of Building Codes.**

1. **General.** The Building Official is authorized to enforce all the provisions of this Chapter and the Building Codes. For such purposes, he shall be deemed a peace officer. The Building Official shall have the power to render interpretations of the Building Codes and to adopt and enforce supplemental regulations as he may deem necessary in order to clarify the application of the provisions of the Building Codes. Such interpretations, rules, and regulations shall be consistent with the intent and purpose of this Code. The Building Official may delegate certain duties for the administration and enforcement of the Building Codes to qualified officers, inspectors, and other qualified employees authorized by the City Council.

2. **Right of Entry.** Whenever it is necessary to make an inspection to enforce the provisions of the Building Codes, or whenever the Building Official or his authorized representative has probable cause to believe that there exists in any building or upon any premises any condition or violation of the Building Codes which makes the building or premises unsafe, dangerous, or hazardous, the Building Official or authorized representative may enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Building Official by this Code, provided that if such building is occupied, he shall first present his credentials to the occupant and request entry. If such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If the owner or occupant cannot be located after a reasonable effort, a notice of intent to inspect shall be posted on the premises. The notice shall state that the property owner has the right to refuse entry and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge of the City.

(a) After entry is refused or 24 hours after the building has been posted, the Building Official may appear before the Municipal Judge and, upon showing of probable cause, shall obtain a search warrant entitling him to enter upon the premises. Upon presentation of the search warrant and proper credentials, or possession of same in the case of unoccupied premises, the Building Official may enter upon the premises using such reasonable force as may be necessary to gain entry.

(b) For purposes of Subsection (D) of this section, "probable cause" exists where the facts and circumstances within the Building Official's knowledge are sufficient to warrant a person of reasonable caution in the belief that there exists a condition or violation of the Building Codes which makes the building or premises unsafe, dangerous, or hazardous to life or property. The Building Official shall not be required to demonstrate specific knowledge of the conditions of the particular premises in issue to obtain a search warrant.

(c) It is unlawful for any owner or occupant of the premises to resist reasonable force used by the Building Official acting pursuant to Subsection (D) of this section.

3. **Stop Orders.** Whenever any work is being done in violation of the provisions of the Building Code or other ordinances implemented through the enforcement of this Code, the Building Official may order the work stopped by issuing a notice in writing and serving it upon any persons engaged in doing such work or causing such work to be done. Upon receipt of the notice, such persons shall stop work until authorized by the Building Official to proceed with the work. It is unlawful to continue work after receipt of a notice to stop work. Each day that work is continued after receipt of a notice shall constitute a separate violation of this Code.

4. **Authority to Disconnect Utilities in Emergencies.** In the case of an emergency, where it is necessary to eliminate an immediate hazard to life or property, the Building Official or his authorized representative shall have the authority to cause the disconnection of fuel-gas utility service or energy supplies to a building, structure, premises, or equipment regulated by the Building Code. The Building Official shall, whenever possible, notify the serving utility, the owner, and the occupant of the building, structure, or premises of the decision to disconnect prior to taking such action.

(a) When such fuel-gas utility service or energy supply are disconnected, written notice of such disconnection and causes therefor shall be given within twenty-four (24) hours to the serving utility, the owner, and the occupant of the building, structure, or premises. The City shall not be responsible for the cost to reconnect the fuel-gas utility service or energy supply.

(b) It is unlawful to make connections from any energy, fuel, or power supply which has been disconnected or to supply energy or fuel to any equipment regulated by the Building Codes which has been disconnected, ordered to be disconnected, or the use of which has been ordered to be disconnected by the Building Official. Each day that such unlawful connection or supply continues shall be considered a separate violation of this Code.

5. **Unsafe Buildings, Structures, and Equipment.** For the purpose of this subsection, any building, structure, or equipment regulated by the Building Codes which are structurally unsafe or not provided with adequate egress, or which constitutes a fire or health hazard or is otherwise dangerous to human safety or welfare is unsafe.

Any use of buildings, structures, or equipment constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary, and other appendages or structural members which are supported by, attached to, or part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Codes are unsafe building appendages.

#### **(E) Compliance With Building Codes.**

1. **Violation.** It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure; electrical system; plumbing system; heating, ventilating, cooling, or refrigeration system; incinerator or other miscellaneous heat-producing appliance; swimming pool, spa, or hot tub; elevator, escalator, or moving walk; or fire protection system, in the City, or cause or permit the same to be done in violation of any of the provisions of the Building Codes.

2. **Nuisance.** It is a public nuisance to use a building, structure, or equipment in violation of the Building Codes. This condition may be abated pursuant to the provisions of Chapter 4 of Title VIII of this Code.

3. **Penalties.** Any person in violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine or imprisonment for each violation as set forth in Section 1 of Chapter 8 of Title I of this Code. Any violation of the provisions of this chapter shall be a criminal offense.

4. **Notice of Violation.** Prior to causing a summons to be issued for a violation of the provisions of this chapter, the Building Official may, at his discretion, issue a written notice to the person in found in violation, describing the violation and ordering the person to correct or remedy the violation within a stated period of time.

**(F) Board of Building Code Appeals.** Appeals of orders, decisions, or determinations made by the Building Official or Fire Chief regarding the application or interpretation of the Building Codes shall be made to the Board of Building Code Appeals pursuant to Chapter 10 of Title II of this Code.

### 11-9-3: PERMITS AND FEES.

#### (A) Permits Required.

1. **General.** No person shall construct, install, enlarge, alter, repair, move, improve, remove, replace, convert, demolish, equip, occupy, or maintain any building or structure; electrical system; plumbing system; heating, ventilating, cooling, or refrigeration system; incinerator or other miscellaneous heat-producing appliance; swimming pool, spa or hot tub; elevator, escalator, or moving walk; or fire protection system, in the City, or cause the same to be done without first obtaining a separate building permit for all such work from the Building Official, except as follows:

(a) A public utility, duly franchised or authorized as such in the City, shall not be required to obtain a permit prior to performing emergency maintenance or repairs on its equipment, building, or structure, when necessary to sustain service or protect life or property; provided, however, that the public utility shall obtain a permit for the work as soon as it is practical to do so.

(b) Public utilities, duly franchised or authorized as such in the City, shall not be required to obtain a permit for the installation of service piping for the conveyance of natural gas.

2. **Exempt work.** A building permit shall not be required for the following:

(a) One-story, detached accessory buildings used as tool and storage sheds, playhouses, and similar uses provided that the floor area does not exceed 120 square feet;

(b) Oil derricks;

(c) Movable cases, counters, and partitions not over 5 feet 9 inches in height;

(d) Retaining walls which are not over 3 feet in height when measured from the grade level on the low side to the top of the wall, unless supporting an additional load due to a surcharge of earth; a structure; or impounding Class I, II, or IIIA flammable liquids;

(e) Water tanks supported directly upon the grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one (2:1);

(f) Platforms, patios, or decks not more than 30 inches above grade at any point and not over any basement or story below;

(g) Non-structural concrete slabs on grade;

(h) Painting, papering, and similar finish work;

(i) Temporary motion picture, television, and theater sets and scenery, except that, the Fire Code provisions shall apply;

(j) Window awnings supported by an exterior wall of any Group R, Division 3 or U Occupancy, when projecting not more than 54 inches beyond the plane of the wall;

(k) Agricultural buildings as defined in Chapter 2 of the Uniform Building Code;

(l) Portable heating, ventilating, and cooling appliances or equipment; unit refrigeration systems; and the replacement of any component part or assembly or an appliance so long as the appliance continues to comply with other applicable requirements of this Code;

(m) Portable wading pools constructed of flexible plastic, rubber, or similar materials and less than 12 inches in depth;

(n) The repair of broken or defective electrical sockets, switches, or base receptacles;

(o) The clearing of stoppages or the repair of leaks in pipes, valves, or fixture drains, provided such maintenance or repair does not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

(p) Fences not over 30" high

3. **Separate Permits.** Unless otherwise exempt, separate plumbing, electrical, or mechanical permits may be required for work on the buildings or structures listed in subsection (A)2 of this section. Exemption from the permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of this Code or any other laws or ordinances of the City.

**(B) Contractor Registration/License Required.**

1. **Contractor Registration Required.** Only persons, firms, or corporations holding a current City contractor's registration certificate, issued pursuant to Chapter 5 of Title V of this Code may obtain a building permit, except as follows:

(a) Any person who intends to build and occupy a Group R, Division 3, or U building or structure, or a building or structure accessory thereto, may apply for a building permit without a City contractor's registration certificate provided, however, that only one such permit may be issued in any calendar year.

(b) Homeowners shall not be required to obtain a City contractor's registration certificate for the purposes of remodeling, enlarging, altering, repairing, or in any other way improving any Group R, Division 3 or U building or structure which they own.

2. **License Required.** The State of Colorado laws applicable to licensing of electricians and plumbers shall apply within the City.

**(C) Application for Permit.**

1. **Application.** To obtain a permit, the applicant shall file an application therefor in writing on a form furnished by the Building Official for that purpose. Each application shall:

(a) Identify and describe the work to be covered by the permit for which application is made.

(b) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.

(c) Fully describe the use or occupancy for which the proposed work is intended. For non-residential uses, state the name of the user and describe the nature of the use or business.

(d) Include plans, diagrams, computations, specifications, and other data as required in Subsection (C)2 of this section.

(e) State the valuation of any new building or structure or any addition, remodeling, or alteration to an existing building.

(f) Be signed by the permittee or his authorized agent.

(g) Give such other data and information as may be required by the Building Official.

2. **Plans and Specifications.** Plans, engineering calculations, diagrams, and other data shall be submitted in one or more sets with each applications for a permit. All proposed erection, construction, reconstruction, alteration, or remodeling shall be prepared by and bear the seal of an architect or engineer licensed by the State of Colorado unless exempted in section 11-9-3(C)3. When such plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting such plans or other data to demonstrate that the State law does not require that the plans be prepared by a licensed architect or engineer. The Building Official may require plans, computations and specifications to be prepared and designed by an architect or engineer licensed by the state to practice as such even if not required by state law.

The Building Official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Code.

An architect's or engineer's design and stamp will be required on plans, engineering calculations, diagrams, and other data on the following types of projects:

- (a) Fire Alarm Systems
- (b) Fire Sprinkler Systems
- (c) Smoke Control Systems
- (d) Elevators, escalators and moving walks
- (e) Foundation designs for all buildings or structures excluding U Occupancies.
- (f) Retaining walls over 3 feet in height when measured from the grade level on the low side to the top of the wall

3. **Exemptions.** Any applicant may prepare plans, calculations, and specifications for construction, alterations, remodeling, additions to, or repair of any of the following:

- (a) One, two, three, and four family dwellings, including accessory buildings commonly associated with such dwellings;
- (b) Garages, industrial buildings, offices, farm buildings and buildings for the marketing, storage, or processing of farm products, and warehouses, which do not exceed one story in height, exclusive of a one-story basement, and which under the provisions of this Code are not designed for occupancy by more than ten people.
- (c) Additions, alterations, or repairs to the foregoing buildings which do not cause the completed buildings to exceed the applicable limitations set forth in this subsection.
- (d) Nonstructural alterations of any nature to any building if such alterations do not affect the life safety of the occupants of the building.

4. **Construction Inspection.** When special inspection is required by Section 1701 of the Uniform Building Code, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work that require special inspection and the name or names of the individuals or firms who are to perform the special inspections, and indicate the duties of the special inspectors. The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work.

5. **Information on Plans and Specifications.** Plans and specifications shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed, and shall show in detail that it will conform to the provisions of the Building Codes and all relevant laws, ordinances, rules, and regulations.

#### **(D) Permit Issuance.**

##### **1. Issuance.**

(a) The application, plans, specification, computations, and other data submitted by the applicant for a permit shall be reviewed by the Building Official. The required plan review fee shall be paid by the applicant prior to review of the plans and specifications. Such plans may be reviewed by other City departments to substantiate compliance with any applicable laws under their control. If the Building Official finds that the work described in an application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of the Building Codes and other pertinent laws, and that all applicable fees have been paid, he shall issue a permit to the applicant.

(b) When the Building Official issues a permit for which plans are required, he shall endorse in writing or stamp the plans and specifications "Approved." The approved plans and specifications shall not be changed, modified, or altered without authorization from the Building Official, and all work regulated by this Code shall be done in accordance with the approved plans.



(c) The Building Official may issue a permit for the construction of part of a building and structure before all of the plans and specifications for the entire building or structure have been submitted or approved provided that adequate information verifying compliance with all pertinent requirements of the Building Codes have been submitted and approved for that portion of the building or structure. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building or structure will be granted.

2. **Retention of Plans.** One set of approved plans, specifications, and computations shall be retained by the Building Official for a period of not less than 90 days from the date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant and shall be kept on the job site at all times during which work is in progress.

3. **Validity of Permit.** The issuance of a permit or approval of plans, specifications, and computations shall not be construed to be a permit for or an approval of any violation of any of the provisions of the Building Codes or other ordinances of the City. Permits presuming to give authority to violate or cancel the provisions of the Building Codes shall be invalid. The issuance of a permit based upon plans, specifications, and other data shall not prevent the Building Official from thereafter requiring the correction of errors in the plans, specifications, and other data, or from ordering the work being carried on to be stopped when in violation of the Building Codes or other ordinances of the City.

#### 4. **Expiration of Permit.**

(a) Every permit issued by the Building Official under the provisions of the Building Codes shall expire if the building or work authorized by such permit is not commenced within 180 days from the date the permit was issued, or if the building or work authorized by such permit is suspended or abandoned for a period of 180 days at any time after the work is commenced. Before such work can be resumed, a new permit shall be obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes are to be made in the original plans and specifications for such work and, provided further, that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after the work authorized by such permit has been suspended or abandoned for more than one year, the permittee shall pay a new, full permit fee.

(b) When a permittee is unable to commence work within the time required by this subsection for good and satisfactory reasons, a permittee holding an unexpired permit may apply for an extension of the time in which he may commence work under that permit. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

5. **Suspension or Revocation.** The Building Official may, in writing, suspend or revoke a permit issued under the provisions of the Building Codes or other ordinances of the City whenever the permit is issued in error or on the basis of incorrect information supplied by the applicant.

6. **Expiration of Permit Applications or Plan Review.** Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and the plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant, showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

#### **(E) Fees and Taxes.**

1. **General.** Fees shall be assessed in accordance with the provisions of this subsection.

(a) Building use tax shall be paid in accordance with this Code.

(b) Park development fees shall be paid in accordance with this Code.

(c) Water and sanitary sewer tap fees shall be paid in accordance with this Code.

**EXCEPTION:** The Building Official shall indefinitely waive the permit fees and use tax for the conversion of existing non-conforming solid fuel burning devices to gas, electric, phase III, or devices meeting the most stringent emission standard for solid fuel burning devices established under the State statutes and/or regulations promulgated by the Colorado Air Quality Control Commission, as demonstrated by a test by an EPA accredited laboratory. This exemption shall be in effect for those devices purchased or installed on or after September 1, 1993.

2. **Permit Fees.** A fee for each building permit shall be paid to the City of Westminster as specified in the "Building Permit Fee Schedule" set forth in subsection (E)8 of this section; except that, the City, the Counties of Adams and Jefferson, the State of Colorado, the United States Government, and all agencies and departments thereof, shall be exempt from payment of building permit fees for the construction or repair of buildings or structures owned wholly by such agencies and departments and devoted to governmental use.

3. **Valuation.** The determination of value or valuation under any of the provisions of the Building Codes shall be made by the Building Official. The valuation to be used in computing the permit and plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, conveyance systems, fire protection systems, and other permanent work or equipment. In determining the value or valuation, the Building Official shall be guided by the use and interpretation of current building valuation data and regional modifiers in Building Standards as published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California.

4. **Plan Review Fees.** When plans or other data are required to be submitted by the Building Codes, a plan review fee shall be paid at the time the plans and specifications are submitted for review. Said plan review fee shall be 65 percent of the building permit fee as shown in Subsection (E)8 of this section. The plan review fee specified in this subsection are separate fees from the permit fees and are in addition thereto. Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged at the rate shown in Subsection (E)8 of this section.

5. **Work Commenced Without a Permit.** When work for which a permit is required by the Building Codes is commenced without first obtaining the required permit, the fee for any subsequently issued permit shall be double the prescribed permit fee as set forth in subsection (E)8 of this section, provided, however, that this provision shall not apply to emergency work when it can be demonstrated to the satisfaction of the Building Official that such work was urgently necessary and that it was not practical to obtain a permit prior to the commencement of such work. In all such cases, a permit shall be obtained as soon as practical to do so, and any unreasonable delay in obtaining such permit shall result in the assessment of a double permit fee. Payment of such double permit fee shall not relieve any persons from fully complying with the requirements of the Building Codes in the execution of the work nor from any other penalties prescribed herein.

6. **Reinspection Fees.** Permit fees provide for customary inspections only. A reinspection fee may be assessed when the portion of work for which an inspection is scheduled is not complete or when corrections listed during a previous inspection have not been made. This subsection is not to be interpreted as requiring reinspection fees the first time work fails to comply with the requirements of the Building Codes but as a means of controlling the practice of calling for inspections before the work is ready for inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which an inspection is requested, or for deviating from plans requiring the approval of the Building Official. In instances where a reinspection fee has been assessed, a reinspection fee as set forth in the "Building Permit Fee Schedule" as set forth in subsection (E)8 of this section shall be paid by the holder of the permit to the Building Official before any additional inspections or reinspections may be made.

7. **Fee Refunds.** The Building Official may authorize fee refunds as follows:

- (a) The Building Official may authorize the refund of any fee which was erroneously paid or collected.
- (b) The Building Official may authorize the refund of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this Code.
- (c) The Building Official may authorize the refund of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plans are reviewed.

(d) The Building Official shall not authorize the refund of any fee paid except upon receipt of a written request, by the original permittee, filed not later than 180 days after the date such fee was paid.

8. **Fee Schedule.** The following table is hereby adopted as the "Building Permit Fee Schedule" for the City of Westminster:

**BUILDING PERMIT FEE SCHEDULE:**

Value			
\$1 to \$500	\$15		
\$501 to \$2,000	\$15 for the first \$500 plus \$2 for each additional \$100 or fraction thereof		
\$2,001 to \$25,000	\$45 for the first \$2,000 plus \$9 for each additional \$1,000 or fraction thereof		
\$25,001 to \$50,000	\$252 for the first \$25,000 plus \$6.50 for each additional \$1,000 or fraction thereof		
\$50,001 to \$100,000	\$414.50 for the first \$50,000 plus \$4.50 for each additional \$1,000 or fraction thereof		
\$100,001 to \$500,000	\$639.50 for the first \$100,000 plus \$3.50 for each additional \$1,000 or fraction thereof		
\$500,001 to \$1,000,000	\$2,039.50 for the first \$500,000 plus \$3 for each additional \$1,000 or fraction thereof		
\$1,000,000 and up	\$3,539.50 for the first \$1,000,000 plus \$2 for each additional \$1,000 or fraction thereof		
Miscellaneous Permit Fees:	Miscellaneous Residential Permit Fees:		
Mobile Home Set-ups	\$15.00	Re-Siding	\$15.00
Mobile Home Elec.	\$15.00	Re-Roofing	\$15.00
Banners	\$12.50	Water Heater Replacement	\$15.00
Election Sign	\$10.00	Evaporative Cooler*	\$15.00
Permanent Sign Per Fee Schedule			
Demolition	\$25.00	Furnace Replacement*	\$15.00
		Air Conditioner*	\$15.00
		Lawn Irrigation Sprinkler	\$15.00
		Fence	\$15.00
		Pool	\$37.00
		Spa/Hot Tub*	\$15.00
		Storage Shed	\$15.00
		Gas Log**	\$15.00

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Other Inspections and Fees:

1. Inspection outside of normal business hours (minimum charge of two hours) \$30 per hour
2. Reinspection fees \$30
3. Inspections for which no fee is specifically indicated \$30
4. Additional plan review required due to changes additions, or other revisions to plans \$30
5. For use of outside consultants for plan and/or inspections actual costs

\*May also require an electrical permit fee

\*\*See Section 11-9-3(E)1 for exceptions.

Actual cost are those above and beyond the plan review fee as established by Section 11-9-3(E)4.

**11-9-4: INSPECTIONS.**

**(A) Inspection Procedures.**

**1. General.**

(a) All construction or work for which a permit is required shall be subject to inspection by the Building Official, and all such construction or work shall remain accessible and exposed for inspection until approved by the Building Official. In addition, certain types of construction shall have continuous inspection as specified in the Building Codes. It shall be the

duty of the permittee to cause the work to remain accessible and exposed for inspection. Neither the Building Official nor the City shall be liable for expense entailed in the removal or replacement of any material to allow inspection.

(b) Approval as a result of inspection shall not be construed to be an approval of a violation of the provisions of the Building Code. Inspections presuming to give authority to violate or cancel the provisions of the Building Codes shall not be valid.

(c) A survey of the lot may be required by the Building Official, at the permittee's expense, to verify that the structure is located in accordance with the approved plans.

2. **Inspection Record Card.** Work requiring a permit shall not be commenced, and required inspections of such work shall not be made, until the permittee or his authorized agent has posted or has otherwise made an inspection record card available to the inspector to make the required entries thereon regarding inspection of the work. This card shall be kept available by the permittee until final approval has been granted by the Building Official.

3. **Inspection Requests.** It shall be the responsibility of the person doing the work authorized by a permit to notify the Building Official that the work is ready for inspection. The Building Official may require that every request for inspection be filed one day prior to the day the inspection is desired. The request shall be by telephone as specified on the inspection record card. It shall be the duty of the person requesting any inspection required by this Code to provide access to and means for inspection of the work.

4. **Approval Required.** Work shall not be done beyond the point indicated in each successive inspection. Reinforcing steel or the structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the Building Official.

#### **(B) Required Inspections.**

1. **General.** The Building Official, upon notification, shall make an inspection required by this subsection and shall either approve that portion of the work or shall notify the permittee or his authorized agent that the work does not comply with the Building Codes. Any portions of the work which does not comply shall be corrected and shall not be covered or concealed until authorized by the Building Official. The following are required inspections:

(a) **Footing Inspection.** Shall be made after excavations are completed, all forms are in place, any required reinforcing steel is in place, and the footing is ready for the placement of concrete but before any concrete is placed.

(b) **Caisson/Drilled Pier Inspection.** Shall be made after caisson drilling has been completed and prior to any concrete being placed.

(c) **Foundation Inspection.** For concrete foundations, all forms, required void material, and required reinforcement shall be in place prior to the placement of any concrete. Where the foundation is to be constructed of approved, treated wood, additional inspections may be required by the Building Official.

(d) **Underslab or Underground Inspection.** Shall be made after all underslab or underground building service equipment, electrical conduit, plumbing piping, and other ancillary equipment items are in place, but before any such equipment, conduit, or piping is buried or any concrete is placed. Required pressure tests of underground piping or ductwork shall be performed at this time, as specified in the Building Codes.

(e) **Rough Inspection.** Shall be made after all rough-in work is completed and ready for inspection; all circuits are made up, electrical boxes, and plaster rings are installed, electrical panels are set, neutrals and grounds are made up, and all grounding is completed; all air or water tests required by the Building Codes have been performed; all ductwork, venting, and piping are completely roughed in; the roofing and all framing are complete; and when the job is ready for drywall but prior to the installation of any insulation.

(f) **Wallboard Inspection.** Gypsum wallboard which is part of a required fire assemble or designed to resist shear forces shall be inspected after all gypsum board, interior and exterior, is in place and properly fastened but before any gypsum board joints or fasteners are taped or finished.

(g) Final Inspection. Shall be made after all work, including final grading, is completed, and the building or space is ready for occupancy.

2. **Other Inspections.** In addition to the inspections specified in Subsection (B) of this section, the Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of the Building Codes and other laws which are enforced by the City.

### **(C) CERTIFICATES OF OCCUPANCY.**

1. **Use and Occupancy.** No building or structure, except Group U occupancies, shall be used or occupied and no change in the existing occupancy classification of a building or structure, or portion thereof, shall be made until the Building Official has issued a certificate of occupancy therefor. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the Building Codes. Certificates presuming to give authority to violate or cancel the provisions of the Building Codes or other ordinances of the City shall be invalid.

2. **Change in Use.** Changes in the character or use of a building shall not be made without the approval of the Building Official.

3. **Certificate Issued.** After all required final inspections have been made, finding no violations of the provisions of the Building Codes or any other laws or ordinances of the City, all fees have been collected, and all improvements required by the City have been made in accordance with City specifications, including the installation of sidewalks, curbs, gutters, street paving, and any required landscaping, the Building Official may issue a certificate of occupancy.

However, the certificate of occupancy may be issued prior to the completion of the required improvements provided the City has entered into an agreement with the owner of the property regarding delayed completion. Only those improvements specified in such agreement with the City shall be considered for delayed completion, and the certificate of occupancy shall not be issued if required improvements, other than those included in the agreement with the City, have not been completed. The certificate of occupancy shall contain the following information:

- (a) The building permit number.
- (b) The address and legal description of the building.
- (c) The name and address of the owner.
- (d) A description of the portion of the building for which the certificate was issued, including the occupancy group classification.
- (e) A statement that the described portion of the building has been inspected for compliance with the requirements of the Building Codes for the group and division of occupancy and the use for which the proposed occupancy is classified.
- (f) The date of issuance of the certificate.
- (g) The signature of the Building Official or his representative.

4. **Temporary Certificate.** If the Building Official finds that no substantial hazard will result from the occupancy of a building or portion thereof before completion, he may issue a temporary certificate of occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

5. **Revocation.** The Building Official may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of the Building Codes whenever the certificate is issued in error or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of the Building Codes.

### **11-9-5: UNIFORM BUILDING CODE AMENDMENTS.**

(A) **Definitions.** Section 203 of the Uniform Building Code is amended to read:

**Section 203. Basement** is any floor level below the first story in a building; except that in Group R, Division 1 Occupancies, floor levels containing dwelling units and located either partially or entirely below grade level shall be classified as the "first story."

(B) **Room Dimensions.** Section 310.6 of the Uniform Building Code is amended to read:

**Section 310.6.1. Ceiling Heights.**

1. Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, basements, halls, bathrooms, and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the member is not less than 7 feet above the floor.

2. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half of the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

3. If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet. In basements, a minimum clear height of 6 foot 8 inches is permitted under beams, ducts, and pipes. The finished height under such beams, ducts, and pipes may be 6 foot 6 inches.

(C) **Requirements for Group U Occupancies.** Section 312 of the Uniform Building Code is amended to read as follows:

**Section 312.1 Group U Occupancies Defined.** Group U Occupancies shall include buildings or structures, or portions thereof, and shall be:

Division 1: Private garages, carports, and sheds.

Division 2: Fences, tanks, and towers.

(D) **Fences.** Section 312.7 is added to the Uniform Building Code as follows:

**Section 312.7.1. General.** Fences erected in the City shall comply with the provisions of this section. Fences around swimming pools shall comply with the provisions of the Uniform Swimming Pool, Spa, and Hot Tub Code as set forth in section 11-9-9 of this Code.

**Section 312.7.2. Fence Classifications.** Fences shall be classified as follows:

Class 1: Masonry Walls

Class 2: Ornamental Iron

Class 3: Woven Wire

Class 4: Fences more than 50 percent open

Class 5: Fences less than 50 percent open

**Section 312.7.3. Height limitations, Residential/Business Districts.**

1. Fences erected in front of the front building line or in front of the required front setback may be of any class provided the height of the fence does not exceed 36 inches. Class 2 and 3 fences more than 50 percent open may be erected to a height not to exceed 42 inches. Ornamental post caps shall not be included in any calculation of fence height. See section 312.7.6 for additional requirements.

2. Fences erected in side yards which do not project beyond the front building line or required front setback, including rear yard perimeter fences, may be of any class and shall not exceed the height of 6 feet. See section 312.7.6 for additional requirements.

3. Fences erected on top of retaining walls shall not exceed the height limitations specified in Paragraph 1 and 2 of this subsection. The height of such fence shall be measured from the ground level on the high side of the retaining wall to the top of the fence.

**Section 312.7.4. Height Limitations, Industrial Districts.** Fences erected in industrial districts may be of any classification.

Fences erected in required front yards shall not exceed a height of 6 feet. In other than required front yards, fences may be of any height. See section 312.7.6 for additional requirements.

**Section 312.7.5. Prohibited Fences.**

1. Barbed wire or similar sharp pointed fences shall not be erected or maintained unless approved on the Official Development Plan or the Preliminary Development Plan and, when approved, shall be installed at a height not less than 6 feet above the surrounding grade level.

2. No electrically charged fence shall be erected or maintained.

**Section 312.7.6. Intersection Sight Distance Criteria.** Fences and retaining walls erected within vehicular sight triangles or vehicular safe line of sight shall comply with the City Standard Specifications for Design and Construction. No fence or retaining wall shall be erected or maintained which obstructs the vision of motorists, as determined by the City Traffic Engineer. Any fence or retaining wall which does obstruct the vision of the motorists may be abated as a nuisance as set forth in Title 8, Chapter 4 of this Code.

**(E) Stairways.** Section 1006.9, paragraph two of the Uniform Building Code is amended by the addition of an exemption to read:

**Section 1006.9 Handrails. Exemption:** Stairways serving one individual dwelling unit in Group R, Division 1 or 3, or Group R, Division 3 congregate residence may have the starting newels or volute posts located on the first tread of each flight of stairs. The handrail height shall be measured from the nosing of the second lowest tread in each flight to the top of the gripping portion of the handrail.

**(F) Light and Ventilation in Group R Occupancies.** Section 1203.3, paragraph three, of the Uniform Building Code is amended to read:

**Section 1203.3 Ventilation.** Bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one twentieth of the floor area of such rooms with a minimum of 1 1/2 square feet.

**EXCEPTION:** Laundry rooms within individual dwelling units.

**(G) Roof Design.** Section 1605.4, second paragraph, of the Uniform Building Code is amended to read:

**Section 1605.4 Snow Loads.** Potential unbalanced accumulation of snow at valleys, parapets, roof structures and offsets in roofs of uneven configuration shall be considered. The snow load as determined by the Building Official for use within the City of Westminster shall be 30 pounds per square foot.

**(H) Wind Design.** Section 1616 of Volume 2 of the Uniform Building Code is amended to read:

**Section 1616. Basic Wind Speed.** The minimum basic wind speed for any site within the limits of the City of Westminster shall be a minimum of 90 miles per hour or as established by Building Division operations and procedures.

**(I) Footings.** Section 1806.1, first paragraph, of the Uniform Building Code is amended to read:

**Section 1806.1. General.** Footings and foundations shall be constructed of masonry, concrete or treated wood in accordance with Division II and shall extend to a depth of 36 inches. Footings of concrete and masonry shall be of solid material. Foundations supporting wood shall extend at least 6 inches above the adjacent finish grade. Foundations shall have a minimum depth of 36 inches unless another depth is specifically designed by an Engineer or Architect as required by section 11-9-3(C)2.

**(J) Building Security.** The Uniform Building Security Code as adopted in Appendix Chapter 10 of the Uniform Building Code is amended as follows to read:

**Section 1027. Tests and Identification.** Is deleted.

**Section 1029. Swinging Doors.**

1. **Section 1029.1. General** All exterior doors shall be constructed of solid core wood a minimum of 1 3/8 inch in thickness or a metal door constructed with at least 18 gauge metal.

2. **Section 1029.4 Locking Hardware.** Single swinging doors and the active leaf of doors in pairs shall be equipped with an approved exterior key-operated deadbolt. Deadbolt locks shall have at least a one inch bolt throw which will penetrate the strike at least 3/4 of an inch. See Chapter 10 of the Building Code for requirements on door operation for exiting.

**Section 1030. Sliding Doors.** Is deleted.

**Section 1031. Windows.** Is deleted.

**(K) Permits - Certificates of Inspection.** Section 3011 of Appendix Chapter 30 of the Uniform Building Code is amended to read:

**Section 3011.5. Fees.** A fee for each elevator permit shall be paid to the City of Westminster as set forth in this Code. A fee for each certificate of inspection shall be paid to the Building Official as follows:

Annual Certification of Inspection:	
For each elevator:	\$125.00
For each escalator or moving walk*:	\$125.00
For each commercial dumbwaiter:	\$125.00

\*Each escalator or moving walk unit powered by one motor shall be considered as a separate escalator or moving walk.

## **11-9-6: NATIONAL ELECTRICAL CODE AMENDMENTS.**

**(A) Service Equipment Disconnecting Means.** Article 230-70(a) of the National Electrical Code is amended to read:

**Article 230-70(a) Location.** The service disconnecting means shall be installed at a readily accessible location on the outside of the building. No service disconnecting means shall be installed inside a residential dwelling unit.

Exception: The service disconnecting means may be installed inside the garage of a residential dwelling unit when it is located back-to-back to the meter.

**(B) Panelboards.** Article 384-16(a) of the National Electrical Code is amended to read:

**Article 384-16(a). Overcurrent Protection.** Each lighting and appliance branch-circuit panelboard shall be individually protected on the supply side by not more than two main circuit breakers or two sets of fuses having a combined rating not greater than that of the panelboard. No circuit breaker shall be added to the upper section of an existing split bus panelboard unless main overcurrent protection is provided for the panelboard.

Exception No. 1: Individual protection for a lighting and appliance panelboard shall not be required if the panelboard feeder has overcurrent protection not greater than the rating of the panelboard.



Exception No. 2: Is deleted.

## **11-9-7: UNIFORM PLUMBING CODE AMENDMENTS.**

**(A) Mandatory Water Conservation Standards.** Section 402.0 is deleted from the Uniform Plumbing Code and replaced as follows:

**Section 402.1. Residential User Standards.** Water conservation shall be mandatory for all residential dwelling units constructed in the City after January 1, 1978, and shall include the following:

1. Water closets constructed with a maximum flush of 3.5 gallons.
2. Water-saving shower heads with a maximum flow of 3 gallons per minute.
3. Aerators on all sinks and lavatory faucets with a maximum flow of 2.5 gallons per minute.
4. Shower cut-off valve incorporated in either a single-control mixing valve or the shower head.

**Section 402.2. Non-Residential User Standards.** The following conservation standards shall be mandatory for non-residential users:

1. Bathrooms, shower rooms, lunchrooms, and similar facilities for human use within office, recreational, commercial, and industrial buildings or facilities shall incorporate the use of low-flow plumbing fittings and fixtures as specified in Subsection 402.1 of this section.
2. Commercial and industrial facilities shall incorporate water conservation design features.
3. Water recycling systems shall be mandatory for all full-service commercial car wash facilities constructed in the City after December 23, 1982. Water recycling systems shall not be mandatory for self-service commercial car wash facilities.

**(B) Installation.** Section 408.0 of the Uniform Plumbing Code is amended to read as follows:

**Section 408.5. Setting.** Fixtures shall be set level and in proper alignment with reference to adjacent walls. Each water closet or bidet shall be located in a clear space not less than 30 inches in width and have a clear space in front of the water closet or bidet of not less than 24 inches. No water closet or bidet shall be set closer than 15 inches from its center to any side wall or obstruction nor closer than 30 inches center to center to any similar fixture. No urinal shall be set closer than 12 inches from its center to any side wall or obstruction nor closer than 24 inches center to center.

**(C) Materials.** Section 604.0 of the Uniform Plumbing Code is amended as follows:

**Section 604.1.** Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials. Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC and PB water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of like material, except where otherwise approved by the Administrative Authority.

**(D) Grease Interceptors.** Section 1012.0 of the Uniform Plumbing Code is amended to read:

**Section 1012.0. Grease Interceptors for Commercial Kitchens.** When grease interceptors are required by this Code they shall be sized, installed, and maintained in accordance with adopted City specifications.

**(E) Garbage Disposal Units.** Section 1013.0 of the Uniform Plumbing Code is amended to read as follows:

**Section 1013.0. Garbage Disposal Units Required.** No building containing a kitchen or kitchen facilities shall be constructed or remodeled without the installation of a garbage disposal unit. Garbage disposal units in connection with commercial grease interceptors shall comply with adopted City specifications.

## **11-9-8: ABATEMENT OF DANGEROUS BUILDINGS CODE AMENDMENTS.**

**(A) Enforcement.** Chapter 2 of the Abatement of Dangerous Buildings Code is deleted and the following sections are substituted:

**Section 201. Administration and Enforcement.** The Building Official is authorized to enforce the provisions of this Code. The Fire Marshal, the Building Official, and their authorized representatives may make inspections necessary to enforce this Code pursuant to the provisions of Section 11-9-2(D)2 of the Westminster Municipal Code. All buildings and structures within the scope of this Code and all construction for which a permit is required shall be subject to inspection by the Building Official pursuant to Section 11-9-4 of the Westminster Municipal Code.

**Section 202(a). Nuisance.** It is a public nuisance to allow, own, operate, or use a building or portion thereof which has been determined by the Building Official to be dangerous as defined in this Code. A dangerous building, or portion thereof, may be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this Code pursuant to the provisions of Chapter 4 of Title VIII of the Westminster Municipal Code, or by any other legal means.

**Section 202(b). Violations.** It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this Code.

**Section 202(c). Penalty.** Any person in violation of the provisions of this Code shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine or imprisonment for each violation as set forth in Section 1-8-1 of the Westminster Municipal Code. Any violation shall be a criminal offense.

**(B) Appeal and Procedure for Conduct of Hearing Appeals.** Section 501.2 and 501.3 and Chapter 6 of the Abatement of Dangerous Buildings Code are deleted. Appeals shall be made to the Board of Building Code Appeals. Appeals and hearings shall be as set forth in Chapter 10 of Title II of the Westminster Municipal Code.

**(C) Performance of Work and Recovery of Cost.** Chapters 8 and 9 of the Abatement of Dangerous Buildings Code are deleted and the following section is substituted:

**Section 801(a). Performance of Work.** When any work of repair or demolition is to be done pursuant to Section 701.3.3 of this Code, the Building Official shall issue his order therefor and the City of Westminster may decide to delay the work, perform the work with City personnel, or contract with a private entity to do the work. Plans and specification therefor may be prepared by the City or outside consultants under contract with the City.

**Section 801(b). Costs.** The costs of such work may be collected pursuant to the provisions of Section 8-4-5 of the Westminster Municipal Code.

## **11-9-9: UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE AMENDMENTS.**

**(A) Public and Private Pools.** Section 320 is added to the Uniform Swimming Pool, Spa, and Hot Tub Code as follows:

**Section 320. Location.** Outdoor swimming pools, wading pools, hot tubs, spas, and similar facilities shall be constructed or installed so that there will be at least 5 feet between the side or rear property line and the rim of the facility and at least 50 feet between the front property line and the rim of the facility; except as follows:

1. In the case of outdoor swimming pools, in conjunction with Group 3, Division 1 or 3 Occupancies, located on developer owned or commonly owned land, the front setback shall be determined on the Preliminary Development Plan or the Official Development Plan.

2. Portable wading pools constructed of flexible plastic, rubber, or similar materials shall not be subject to the spacing requirements specified in this Section.

**(B) Enclosures.** Section 321 is added to the Uniform Swimming Pool, Spa, and Hot Tub Code as follows:

**Section 321(a). General.** All outdoor swimming pools, wading pools, hot tubs, spas, and similar facilities shall be completely surrounded by a fence or other solid structure not less than 5 feet nor more than 6 feet in height with no openings therein larger than 4 inches in width provided, however, that a dwelling or accessory structure may form a portion of the required enclosure. Such dwelling or accessory structure shall not be subject to the above-specified maximum height restrictions. The following are exceptions to this provision:

1. Portable spas, or hot tubs equipped with locking security covers may be surrounded by a fence or other solid structure not less than 3 feet in height provided that such fence or structure meets all of the other enclosure requirements set forth in this Section.

2. Portable wading pools constructed of flexible plastic, rubber, or similar materials, not more than 12 inches in depth, shall be exempt from the above enclosure requirements set forth in this Section.

**Section 321(b). Openings in Enclosures.** All gates or doors opening through required enclosures shall be equipped with a self-closing and self-latching device, with the latching device to be located a minimum of 48 inches above grade, capable of keeping, such gate or door securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming a part of the required enclosure need not be so equipped.

## **11-9-10: MOBILE HOMES.**

### **(A) Permits Required.**

1. **General.** Building permits for work on mobile homes or accessory buildings shall be obtained in accordance with the provisions of the Building Codes unless the work is specifically exempt pursuant to the provisions of the Building Codes.

2. **Initial Installation.** No person shall install or set up a mobile home on any mobile home space without first obtaining a separate permit for each installation from the Building Official. Such permit issuance and fees therefore shall be in accordance with the Building Codes. No utility service shall be provided to any building service equipment without a building permit.

3. **Accessory Buildings and Structures.** Building permits shall be required for the installation of all accessory buildings and structures and their building service equipment, unless the work is specifically exempt pursuant to the provisions of the Building Codes. Such permit issuance and fees therefor shall be pursuant to the Building Codes.

4. **Additions, Alterations, and Repairs to Mobile Homes.** No person shall alter, remodel, repair, or enlarge a mobile home or accessory building subsequent to its initial installation without first obtaining a separate building permit for each such alteration, addition, enlargement, or repair from the Building Official. Such permit issuance and fees therefor shall be pursuant to the Building Codes.

### **(B) Installation Requirements.**

1. **General.** The installation of a mobile home upon a mobile home space shall comply with the manufacture's installation instructions as well as the provisions of this subsection, the Building Codes, and other provisions of the City codes. If the manufacture's installation instructions are not available the installation of such mobile homes shall comply with the provisions of the Federal Manufactured Home Construction and Safety Standards, NCSBCS/ANSI A225.1 - 1994.

2. **Location on Property.** Mobile homes and accessory buildings shall be located on the mobile home space as follows:

(a) No mobile home shall be parked less than 7 feet 6 inches from the front boundary of the mobile home space, measured from the flowline of the curb and gutter of the road providing access to the space. No mobile home shall be parked less than 3 feet from the side or rear boundaries of the mobile home space.

(b) Accessory buildings to mobile homes shall be located on the mobile home space so that no part of the accessory building is closer than 3 feet to the side or rear boundaries of the mobile home space nor closer than 7 feet 6 inches to the front boundary of the mobile home space. Accessory buildings may be adjacent to mobile homes or other accessory buildings within the same mobile home space.

(c) Temporary carport and patio cover structures shall not be erected closer than 3 feet to the side or rear boundaries of the mobile home space nor closer than 7 feet 6 inches to the front boundary of the space. Patio and carport structures may be adjacent to mobile homes or accessory buildings within the same mobile home space.

3. **Pier Construction.** Piers shall be designed and constructed to distribute loads evenly. Such piers shall be considered to resist vertical forces acting in a downward direction only and shall not be considered as providing any resistance to horizontal or uplift loads. The construction and spacing of piers shall be as specified in the manufacturer's installation instructions or in accordance with City specifications. Alternate materials and methods of construction may be used for piers when designed by an architect or engineer, licensed as such in the State of Colorado, alternate designs may be used when approved by the Building Official.

4. **Anchorage.** Ground anchors shall be of the auger type and shall be designed and installed to transfer the anchoring loads to the ground. The installation and spacing of all ground anchoring equipment shall be specified in the manufacturer's installation instructions or in accordance with City specifications. Alternate materials and methods of construction may be used for the anchoring systems when designed by an architect or engineer licensed as such in the State of Colorado and approved by the Building Official.

5. **Building Service Equipment.** The installation, alteration, repair, replacement, addition to, or maintenance of all building service equipment within the mobile home park shall comply with the applicable plumbing, mechanical, and electrical provisions of the Building Codes. Utility service shall not be provided to any building service equipment which is regulated by the Building Codes, and for which a mobile home set up permit is required by the Building Codes, until the building service equipment has been inspected and approved by the Building Official.

6. **Stairs and Landings.** Landings and stairways with handrailings and guardrailings shall be provided at each exterior door from a mobile home. Landings, stairways, guardrails and handrails shall comply with the provisions of the Building Code and shall be in place prior to requesting the set-up inspection.

7. **Skirting.** The area beneath each mobile home unit shall be enclosed with full perimeter skirting of material that is compatible with the exterior cladding of the mobile home unit. At least one access opening not less than 18" in any dimension and not less than 3 square feet in area shall be provided and located so that any water supply and sewer drain connections located under the unit are accessible. The skirting shall not be installed prior to the approval of the set-up inspection but shall be installed as soon as it is practical to do so after such inspection.

8. **Smoke Detectors.** Smoke detectors shall be located in each mobile home unit. A detector shall be installed in each sleeping room and at a point centrally located in the hallway or area giving access to each separate sleeping area. Smoke detectors added to satisfy the requirements of this subsection may be of the battery-operated type and shall be installed in accordance with their listing.

### **(C) Additions, Alterations, and Repairs to Mobile Homes.**

1. **Permanent Additions.** No permanent additions of any type shall be built onto or become part of any mobile home unless designed and constructed to conform with the applicable provisions of the Federal Manufactured Home Construction and Safety Standards, NCSBCS/ANSI A225.1 - 1994. A certificate of compliance issued by the manufacturer and verified by the State of Colorado shall be provided to the Building Official for any such addition.

2. **Carport and Patio Cover Structures.** Temporary carport and patio cover structures may be attached to and structurally supported by a mobile home when justified by engineering calculations or when approved by the Building Official. All such structures shall be of light-weight metal, fiberglass, plastic, or other material similar in type and color to the exterior cladding of the mobile home unit and shall be entirely open on two or more sides. All such structures shall be designed and approved in accordance with the applicable provisions of the Building Codes and other provisions of the City code.

3. **Structural Additions.** Accessory buildings or structures shall not be structurally supported by or attached to any mobile home unless engineered calculations are submitted to the Building Official to substantiate any proposed structural connection and approved by the Building Official; except that the Building Official may waive the submission of engineering

calculations if he finds that engineering calculations are not necessary to show conformance to the requirements of the Building Codes.

4. **Fences.** Individual lot perimeter fences may be erected at the lot line of individual mobile home spaces. Such fences shall be constructed of the chain link fencing and shall be of a standard design for the entire mobile home park. The top of such fences shall not exceed 36 inches in height. Fence permit issuance and fees therefor shall be in accordance with the provisions of this Code.

## **CHAPTER 10 - FIRE CODES**

**11-10-1: INTENT:** The intent of this chapter is to adopt by reference and with modifications the Uniform Fire Code, 1994 Edition. Hereinafter, this Code may be referred to as the "Fire Code." The City Council of the City of Westminster finds that the adoption of the Fire Code is essential for fire prevention and the preservation of the health, safety, and welfare of the citizens of Westminster.

**11-10-2: ADOPTION OF FIRE CODE:** That certain document, one (1) copy of which is on file in the Office of the City Clerk, being marked and designated as the "Uniform Fire Code, 1994 Edition, Volumes 1 and 2" published by the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California 90601, and, in particular, Articles 1-90 inclusive and Appendices I-C, II-B, II-E, II-F, II-G, II-H, II-I, III-A, III-B, III-C, IV-A, IV-B, V-A, VI-A, VI-B, VI-D, VI-E, and VI-F is hereby adopted as the Fire Code of and for the City. These sections of the Fire Code, as modified in this chapter, are hereby referred to, adopted, and made a part of the Code as if fully set forth.

### **11-10-3: ARTICLE 1 AMENDMENTS:**

(A) **APPEALS.** Section 103.1.4 of the Uniform Fire Code is amended to read as follows:

**Section 103.1.4.** Appeals of orders, decisions, or determinations made by the Building Official or Fire Chief relative to the application and interpretation of the Building and Fire Codes, and amendments thereto, shall be made to the Board of Building Code of Appeals pursuant to Title II, Chapter 10, of this Code.

(B) **RIGHT OF ENTRY.** Section 103.3.1.2 of the Fire Code is amended to read:

**Section 103.3.1.2.** Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Fire Chief or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Marshal, the Fire Chief, and the members of the Fire Prevention Bureau may make such inspections pursuant to the provisions of Section 11-10-2(E)2 of the Westminster Municipal Code.

(C) **TAGS.** Section 103.4.1.2 of the Fire Code is amended to read:

**Section 103.4.1.2. Unsafe Heating or Electrical Equipment and Structural Hazards.** Whenever the Fire Chief or his duly authorized representative deems any chimney, smokestack, stove, oven, incinerator, furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally approved standard in or upon any building, structure, or premises not specifically mentioned in this Code, to be defective or unsafe so as to create an immediate hazard, he shall serve upon the owner or the person having control of the property a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment.

He may affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag may be removed only by the order of the Fire Chief or his duly authorized representative and may be removed only when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

When an apparent structural hazard is caused by the faulty installation, operation, or malfunction of any of the hereinabove-mentioned items or devices, the Fire Chief shall immediately notify the Building Official who shall investigate such hazard and shall cause such hazard to be abated as required under the Westminster Municipal Code.

(D) **COMPLIANCE WITH TAG.** Section 103.4.3.2 of the Uniform Fire Code is deleted.

(E) **UNSAFE BUILDINGS.** Section 103.4.5 of the Fire Code is amended to read:

**Section 103.4.5. Unsafe Buildings.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage, or abandonment as specified in this Code or any other effective ordinance are, for the purpose of this section, unsafe buildings. Unsafe buildings are declared to be a public nuisance which may be abated pursuant to the Abatement of Dangerous Buildings Code as adopted in 11-10-1, or by any other legal means.

(F) Section 103 of the Uniform Fire Code is amended by the addition of the following section:

**Section 103.4.3.4. Penalties.** Any person who violates any of the provisions of this Code, or who fails to comply therewith, or who builds any structure in violation of a detailed statement of specifications or plans submitted and approved pursuant to this Code and from which no appeal has been taken, or who fails to comply with a final order issued pursuant to this Code within the time fixed therein shall be guilty of a misdemeanor punishable by a fine or imprisonment pursuant to the limits set forth in Section 1-8-1 of the Westminster Municipal Code, or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and, when not otherwise specified, each 10 days that a prohibited condition is maintained shall constitute a separate offense. The imposition of a criminal penalty shall not prevent the abatement of prohibited conditions.

(G) **APPLICATION FOR PERMIT.** Section 105.3 of the Uniform Fire Code is amended to read:

**Section 105.3.** All applications for a permit required by this Code shall be made to the Bureau of Fire Prevention in such form and detail as it shall prescribe. Such applications for permits shall be accompanied by such plans as required by the Bureau. All applications for a permit required by Subsection 105.8.f.6 of this Code for the installation, alteration, or repair of fire protection or life safety systems shall be made to the Building Official for review and approved by the Fire Prevention Bureau in accordance with the provisions of Section 11-10-3 of the Westminster Municipal Code.

(H) **PERMIT REQUIRED.** Section 105.8 of the Uniform Fire Code is amended to read as follows. All other provisions of Section 105.8 are hereby deleted.

**Section 105.8 Permit Required.** A permit shall be obtained from the bureau of fire prevention prior to engaging in the following activities, operations, practices or functions:

**a.4 Asbestos removal.** To conduct asbestos-removal operations regulated by Article 87.

**c.1 Open flames in assembly areas.** To use an open flame in an assembly area, including open flame devices used in conjunction with theatrical performances. For definition of ASSEMBLY, see Article 2. See Article 25 for open flame and candles.

**c.2 Carnivals and fairs.** To conduct a carnival or fair. See Article 25.

**e.1 Explosives or blasting agents.** For permits for explosives or blasting agents, see Article 77.

**f.2 Fireworks.** For permits for fireworks, see Article 78.

**f.3 Flammable or combustible liquids.** See Article 79.

1. To use or operate, repair or modify a pipeline for the transportation of flammable or combustible liquids.

2. To store, handle or use Class I liquids in excess of 5 gallons (18.9 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:

2.1 The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the chief, would cause an unsafe condition.

2.2 The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

3. To store, handle or use Class II or Class III-A liquids in excess of 25 gallons (94.6 L) in a building or in excess of 60 gallons (227.1 L) outside a building, except for fuel oil used in connection with oil-burning equipment.

4. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.

5. To install, construct, alter or operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.

6. To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.

7. To change the type of contents stored in flammable or combustible liquid tank to a material other than that for which the tank was designed and constructed.

**f.6 Fire Protection and Life Safety Systems.** No persons, firm, or corporation shall install, alter, modify, or replace any fire protection or life safety system in the City, or cause the same to be done, without first obtaining a separate fire protection permit for all such work from the Building Official. Fire protection and life safety systems requiring such permits shall include, but are not limited to, the following:

1. Fire Alarm Systems;
2. Automatic Fire Extinguishing Systems;
3. Standpipe Systems;
4. Emergency Communication Systems;
5. Smoke Evacuation Systems;
6. Special Life Safety or Emergency Systems.

**l.1 Liquefied petroleum gases.** See Article 82.

1. To store, use, handle or dispose LP-gas.
2. To install or maintain LP-gas containers.

**l.2 Liquid- or gas-fueled vehicles or equipment in assembly buildings.** To display, compete or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings. See Article 25.

**m.2 Mall, covered.** See Article 35. To use a covered mall in the following manner:

1. Placing or constructing temporary kiosks, display booths, concession equipment or the like in the mall.
2. To use a mall as a place of assembly.
3. To use open-flame or flame-producing devices.

4. To display any liquid- or gas-fueled powered equipment.

**o.1 Open burning.** To conduct open burning. Where burning is conducted on public property or the property of someone other than the permit applicant, the permit applicant shall demonstrate that permission has been obtained by the appropriate government agency, the owner, or the owner's authorized agent. When limits for atmospheric conditions or hours restrict burning, such limits shall be designated in the permit restrictions. See Section 1102.3

**p.3 Pyrotechnical special effects material.** For permits for pyrotechnical special effects material, see Article 78.

**t.1 Tents, canopies and temporary membrane structures.** To erect or operate a tent or air-supported temporary membrane structure having an area in excess of 200 square feet (18.6 m<sup>2</sup>), or a canopy in excess of 400 square feet (37.2 m<sup>2</sup>), except for structures used exclusively for camping. See Article 32.

(I) **FEES.** Section 105 of the Uniform Fire Code is amended by the addition of the following section:

**Section 105.9. General.** The fee for permits required by Section 105.8 of this Code shall be \$35.00 per event and shall be collected by the City of Westminster Bureau of Fire Prevention. Fees and taxes for permits required by Subsection 105.8.f.6 of this Code for the installation, alteration, or repair of fire protection or life safety systems shall be assessed by and paid to the City of Westminster in accordance with the provisions of Section 11-10-3 of the Westminster Municipal Code.

**11-10-4: ARTICLE 2 AMENDMENTS: FIREWORKS:** Section 207 of the Uniform Fire Code is amended to read:

**Section 207. Fireworks.** "Fireworks" shall mean any articles, devices, or substances prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks:

Toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, dayglo bombs, sparklers and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or device containing any explosive substances. "Fireworks" shall not include:

1. Toy caps which do not contain more than twenty-five-hundredths (.25) of a grain of explosive compound per cap, or
2. Highway flares, railway fuses, ship distress signals, smoke candles, and other emergency signal devices.

**11-10-5: ARTICLE 9 AMENDMENTS:**

(A) **MARKINGS.** Section 901.4 of the Uniform Fire Code is amended to read:

**Section 901.4.2. Fire Apparatus Access Roads.** The marking of fire lanes on private property devoted to public use shall be approved by the Fire Chief in accordance with the Uniform Traffic Control Manual. It shall be the duty of the Fire Chief to inform the Chief of Police of these designated fire lanes of the posting of such fire lanes.

(B) **FIRE APPARATUS ACCESS ROADS.** Section 902.2 of the Uniform Fire Code is amended to read:

**Section 902.2.4.1. General.** The required width of any fire apparatus access road shall not be obstructed in any manner, including by parked vehicles. Minimum required widths and clearances established under this section shall be maintained at all times. The Fire Chief or any of his subordinates, working with the assistance of the Police Department or commissioned members of the Fire Investigation Team in the line of duty with knowledge of the existence of any vehicle parked in the fire lane, or in such manner as to interfere with the use of any fire hydrant, or in any manner in violation of this Section (902.2) may have such vehicle towed away and the charges of such towing shall be assessed to the owner of such vehicle. The aforesaid violation shall be sufficient grounds to cause a citation to be issued. In the event of a fire, the Fire Department shall have the authority to cause the vehicle blocking a fire hydrant or fire lane to be removed with any subsequent damage to the vehicle being paid by the owner of said vehicle. The towing of any vehicle pursuant to this section shall comply with the provisions of Chapter 1 of Title X of the Westminster Municipal Code.

(C) **HYDRANT USE APPROVAL.** Article 9 of the Uniform Fire Code is amended by the addition of the following section:



1. **Section 903.4.5. Hydrant Use Approval.** No person shall use or operate any hydrant or other valves installed on any water system intended for use by the Fire Chief for fire suppression purposes without the permission of the Fire Chief. This section does not apply to the use of a hydrant or other valves by a person employed by and authorized to make such use by the water company which supplies water to such hydrants or other valves.

(D) **PRIVATELY OWNED HYDRANT SYSTEMS.** Article 9 of the Uniform Fire Code is amended by the addition of the following sections:

1. **Section 903.4.6. Privately Owned Hydrant Systems.** Hydrants in all developments in which streets and common areas have privately owned fire hydrant systems shall be installed with proper thread size and in locations required by this Code or by the City administration based on other recognized public safety standards. Hydrants shall be installed by the developer or other private person at an elevation of 18 inches from finished grade to the center of the "steamer cap connection." Hydrant connection points shall face in the direction established by the Fire Department.

Privately owned hydrants shall be maintained at the expense of the private property owner, subject to the direction and requirements of the Fire Chief. Such private hydrants shall be flushed and tested periodically according to American Water Works Association standards. In the event such testing reveals that the flow from private hydrants is inadequate according to applicable standards, modifications necessary to meet these standards shall be ordered by the Fire Chief and made at the expense of the property owner. All private hydrants shall be painted the same color as hydrants on public rights-of-way or elsewhere throughout the City. Appropriate markings or signs restricting parking in front of or adjacent to fire hydrants shall be designated by the Fire Chief and implemented at the expense of the owner of the property. No point of connection to any private fire hydrant shall be left uncapped without permission of the Fire Chief.

2. **Section 903.4.7. Existing Hydrants.** Existing hydrants which do not conform to City specifications or which do not face in the direction most consistent with emergency use by the Fire Department, as established by the Fire Chief, shall be changed to meet the City's requirements by the property owner and at the property owner's expense, within 15 days of service of notice of the required changes upon the property owner or its resident agent.

#### **11-10-6: ARTICLE 10 AMENDMENTS:**

(A) **REQUIRED INSTALLATIONS.** Section 1007.2 of the Uniform Fire Code is amended as follows:

**Section 1007.2.1.1. When required.** An approved fire alarm system shall be installed in the following occupancies, regardless of area separation or type of construction:

**1007.2.2** All Group A occupancy serving an occupant load of 100 or more persons.

**1007.2.3** All Group B occupancy serving an occupant load of 100 or more persons.

**1007.2.4** All Group E occupancy.

**1007.2.5** All Group F occupancy serving an occupant load of 100 or more persons.

**1007.2.6** All Group H occupancy.

**1007.2.7** All Group I occupancy.

**1007.2.8** All Group M occupancy serving an occupant load of 100 or more persons.

**1007.2.9** All Group R-1 occupancy, as defined in the Building Code, with three or more dwelling units. The alarm system shall include provisions for smoke detection and manual operation in interior corridors and automatic detection in storage rooms, laundry rooms, furnace rooms, and similar common areas.

**1007.2.9.1** Existing Group R-1 occupancies, apartment dwelling units, and hotel or lodging house guest rooms that are used for sleeping purposes shall be provided with smoke detectors. Detectors shall be installed according to the currently adopted Uniform Building Code requirements. (94 UBC, Sec. 310.9).

**1007.2.10** All Group S occupancy serving an occupancy load of 100 or more persons.

**(B) General System Design and Installation Requirements.** Section 1007.3 of the Uniform Fire Code is amended as follows:

**1007.3.1 Design standards and installation.** The installation of all required fire alarm systems shall be approved by the Bureau of Fire Prevention according to applicable National Fire Protection Association and Uniform Fire Code standards. A permit and plans review process is required. (See Permit Required, Section 105.8, subsection f.6.)

**1007.3.1.1 Approved Fire Alarm Systems.** An approved fire alarm system shall consist of, but not limited to, control panels, annunciation, pull stations, area detection, alarm signals, duct detection, and approved monitoring.

**1007.3.1.2 Nonrequired Fire Alarm Systems.** Any fire alarm system installed, regardless if required, will meet standards of installation, as in Section 1007.3.1.

**Exception 1.** When the occupancy is protected with an approved automatic fire extinguishing system, these requirements may be altered as approved by the Fire Chief. The system must still meet the intention of the early detection of fire or smoke and notification of occupants in an emergency.

**11-10-7: ARTICLE 77 AMENDMENTS: GENERAL REQUIREMENTS.** Article 77 of the Uniform Fire Code is amended with the addition of the following subsection:

**Section 7701.7.3.1.** The storage of explosives and blasting agents is prohibited within all zones except 01 and PUD (Planned Unit Development) where such storage is specifically listed as an allowed use, except for temporary storage for use in connection with approved blasting operations; provided, however, that this prohibition shall not apply to wholesale and retail stocks of small arms, ammunition, explosive bolts, explosive rivets, or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds of explosive material.

For Permits, see Section 105.

**11-10-8: ARTICLE 78 AMENDMENTS: PROHIBITION.** Section 7802.3 of the Uniform Fire Code is amended to read:

**Section 7802.3. Prohibition.** The storage, use and handling of fireworks is prohibited. It shall be unlawful for any person within the City of Westminster to offer for sale, sell or have in his possession with intent to offer for sale, or to possess, use or explode any fireworks.

**EXCEPTIONS:** 1. Storage and handling of fireworks is allowed as set forth in Article 77.

2. The use of fireworks for display is allowed as set forth in Section 78.203 and Section 6-8-3 of the Westminster Municipal Code.

**11-10-9: ARTICLE 82 AMENDMENTS: LOCATION OF CONTAINERS.** Subsection 8204.2 of the Uniform Fire Code is amended to read:

**Section 8204.2. Maximum Capacity within Established Limits.** The aggregate capacity of any one installation shall not exceed 2,000 gallons water capacity in RA, RE, R1, R2, R3, R4, R5, B1, C1, T1, and PUD (Planned Unit Development) zoned districts. For permits -- see Section 4.101.

## **CHAPTER 11 - SIGN REGULATIONS**

**11-11-1: LEGISLATIVE INTENT.** Whereas, it is the intent of the regulations herein set forth to recognize that signs are a necessary means of visual communication for the convenience of the public and to insure the right of those concerned to identify businesses, services, and other activities by the use of signs; and

Whereas, in order to meet this intent, it is necessary to limit those signs which are accessory and incidental to the use on the premises where such signs are located; and

Whereas, to provide a reasonable balance between the right of an individual to identify his business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices; and

Whereas, to insure that signs are compatible with adjacent land uses and with the total visual environment of the community; and

Whereas, to protect the public from hazardous conditions which result from signs that are structurally unsafe, obscure vision of motorists, and/or compete or conflict with necessary traffic signals and warning signs; and

Whereas, to promote an overall visual effect which has a minimum of overhead clutter; and

Whereas, to recognize that the size of signs which provide adequate identification in pedestrian-oriented business areas differs from that necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in pedestrian areas; and

Whereas, to encourage signs which are well-designed and compatible with their surroundings and with the buildings to which they are appurtenant; and

Whereas, to recognize that the expeditious and reasonable elimination of certain existing signs not in conformance with the provisions of this ordinance is necessary to the public health, safety, and welfare and to the protection of the visual environment as is the prohibition of new signs which would violate the provisions of this ordinance.

**11-11-2: SIGNS PERMITTED IN ALL ZONING DISTRICTS AND NOT SUBJECT TO PERMIT.** The following signs, which shall be nonilluminated unless specifically stated to the contrary, are permitted in all zoning districts and are exempt from the provisions of the Code and require no permit for erection:

(A) **Public Signs.** Any sign erected by any governmental agency including, but not limited to, federal, state, county and city governments, school and recreation districts, but not including private water and sanitary sewer districts.

(B) **Interior or Window Signs.** Signs within any structure or attached to the inside of any window of a structure.

(C) **Commemorative Plaques.** Any memorial or commemorative plaque or tablet that contains the primary name of a building, the date of erection and use of the building when the sign is built into the building or mounted flat against the wall of the building, or is designed to designate any particular location of historical significance as determined by the City.

(D) **Address Signs.** Any sign designed to identify a particular parcel of land, provided such contains only the street address and name of the owner of the property or the name of the property and does not exceed two (2) square feet in area for residential land uses and five (5) square feet in area for nonresidential land uses.

(E) **Special Event Signs.** Signs in conjunction with and in conformance with the Colorado Revised Statutes. Special events such as a philanthropic campaign, church, circus, carnival or of community celebration provided that such are removed within ten (10) days of the termination of the event of which they are a part.

(F) **Real Estate Signs.** Temporary, nonilluminated real estate signs indicating the availability for sale, rent, or lease of a specific lot, building, or portion of a building upon which this sign is erected or displayed which do not exceed six (6) square feet in total area and four feet (4') in height for residential properties or twenty (20) square feet in total area and six (6) feet in height for nonresidential properties and are located on properties to be sold, limited to one such sign per street frontage. Such signs shall not remain in place more than seven (7) days following sale or rental of the subject property.

(G) **Building Identification Signs.** Signs which identify by name or number individual buildings within institutional or residential building group complexes which are limited to signs attached to the building, not more than two (2) signs per building, and not more than four (4) square feet each. These signs may be illuminated or non-illuminated.

(H) **Traffic Directional Signs.** Private traffic directional signs guiding or directing vehicular or pedestrian traffic onto or off of a lot or within a lot, when such do not exceed three (3) square feet per sign per face in area and eight (8) feet in height, do not contain any advertising or trade name identification, and are nonilluminated, internally or indirectly illuminated. Private traffic control signals shall conform to the standards of the Colorado Manual of Uniform Traffic Control Devices and exceed three (3) square feet per face in area but shall not exceed seven (7) square feet per face. Such signs shall not exceed four (4) feet in height and shall be set back at least five (5) feet from the property line.

(I) **Information and Directional Signs.**

1. Signs commonly associated with and limited to information and directions related to the permitted use on the lot on which the sign is located, provided that each such sign does not exceed two (2) square feet in total area and is nonilluminated, internally illuminated or indirectly illuminated. This category shall be interpreted to include such signs as "No Smoking," "Restroom," "No Solicitors," "Self Service," "Vacancy," and similar informational signs located at least five feet (5') from the property line.

2. Off Premises Informational Directional Sign. A single or doublefaced sign designed to give direction to a church, school, philanthropic organization, or similar use of a nonretail or business nature. Sign may contain only name of organization, direction, and number of blocks. Sign shall be metal, no more than two (2) square feet, and shall be mounted on minimum two inch (2") square steel pole. Bottom of sign shall be a minimum of seven (7) feet above grade. Such signs may be located in the right of way.

(J) **Courtesy Signs.** Nonilluminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as credit cards accepted and redemption stamps offered, are not to exceed four (4) square feet per face or eight (8) square feet in total area. Such signs may be attached to the building as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.

(K) **Flags.** The flag, pennant, or insignia of any nation, organization of nations, state, county, city, any religious, civic, or fraternal organization or any educational institution.

(L) **Holiday Decorations.** Temporary decorations or displays when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration.

(M) **Warning Signs.** Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence or underground cables, gas lines and similar devices.

(N) **Gasoline Price Signs.** For gasoline or service stations, two (2) unlighted signs listing only the prices and types of gasoline available are permitted with each sign, not to exceed ten (10) square feet in area or six feet (6') in height.

(O) **Construction Signs.** A temporary sign not exceeding thirty two (32) square feet announcing subdivision, development, construction or other improvement of a property by a builder, contractor or other person furnishing services, materials or labor to said premises. For the purposes of this Code, a "construction sign" shall not be construed to be a "real estate sign" as defined herein and shall contain only project name; developer, architect, builder, and/or consultants; lending institution; and opening date.

(P) **Canopy Signs.** Not to exceed two (2) square feet.

(Q) **Garage Sale Sign.** A sign advertising the existence of a garage sale for the sale of personal property and advertising the date, time and location of the garage sale with such signs having a maximum area of six (6) square feet, a maximum height of three feet (3'), and a minimum setback of ten feet (10'), posted for the period three days prior and three days following the date of the garage sale. Such signs shall not block or interfere with traffic visibility.

**11-11-3: PERMITTED SIGNAGE.** The following signs shall be permitted with building permit in accordance with the conditions and prohibitions stated herein:

**(A) Class 1. Free Standing ground Signs.**

1. Permitted in Zoning Districts B1, C1, S1, T1, and M1.
2. Characteristics: Intended to identify shopping or business centers, office/industrial/technical parks or centers and individual structures which are not within a shopping or business center.
3. Maximum Area:
  - (a) For developments over ten (10) acres in size one hundred (100) square feet.
  - (b) For developments ten (10) acres or less in size and individual structures on lots over two (2) acres in size sixty (60) square feet.
  - (c) For individual lots two (2) acres in size or less thirty two (32) square feet.
4. Maximum Height:
  - (a) For signs over sixty (60) square feet in area twenty five feet (25').
  - (b) For signs over thirty two (32) square feet in area but less than sixty (60) square feet in area eight feet (8').
  - (c) For signs thirty two (32) square feet in area or less six feet (6').
5. Minimum Allowable Setback From Property Line:
  - (a) For Signs over eight feet (8') in height or over sixty (60) square feet in area twenty five feet (25').
  - (b) For signs eight feet (8') in height or less and under sixty (60) square feet in area ten feet (10').
6. Limitation and Number:
  - (a) For developments or individual structures over ten (10) acres in size one (1) per frontage with a maximum of two (2), with said signs to be identical in design.
  - (b) For developments or individual structures ten (10) acres or less one (1).
7. Restrictions, Clarifications and Exceptions:
  - (a) Identification signs for nonretail business centers or office/industrial/technical parks or centers shall contain only the name, address and logo or trademark of the office park or center. Such signs may include the name of not more than two of the tenants therein, with said names to be integrated into the overall design of the sign with the name of the structure utilizing at least 50% of the sign area. Identification signs for retail shopping centers shall contain the name of the center and may include not more than two names of any structure or tenants therein with the overall design of said signs to be of an integrated design.
  - (b) Lighted signs are permitted.
  - (c) No freestanding signs over eight feet (8') in height are permitted within one hundred feet (100') of any residential district boundary or residential development.
  - (d) Supporting structure of permanent ground signs must be solid construction at least two thirds the dimension of the width and thickness of the sign it supports.
  - (e) Where a nonretail business center or office/industrial/technical park or center is planned as a series of individual structures on individual lots with each individual lot having frontage on a public street, each individual structure may be permitted to have freestanding signs in accordance with this paragraph if said sign(s) are included and approved on an Official Development Plan(s). Where a non-retail business center or office/industrial/technical park is planned as a series of individual structures on a single lot, each individual structure is permitted to have a freestanding sign of not more than 32 square feet in area and 6 feet in height. Such signs shall be consistent in design and color.
  - (f) Freestanding signs must be located on the premises of the use being advertised or identified. For use in this Section, premises does not include easements or similar adjacent parcels of land.
  - (g) Menu Boards. Menu boards in conjunction with restaurant drive-through pick up activities and automobile service facilities including car washes, lubrication shops, detail shops and similar uses may be allowed under the following restrictions:

- (1) Not more than two (2) such signs.
- (2) Twenty five foot (25') setback from property lines.
- (3) Forty (40) square feet maximum area.
- (4) Six foot (6') maximum height.
- (5) May be freestanding or wall mounted.

(h) When shopping centers, business centers, and office/industrial/technical parks or centers are to be developed or redeveloped, overall sign program performance standards to be included in the Official Development Plan, shall be submitted which address size, height, design, lighting, color, materials, and type and method of construction to insure that all signage within the center is designed in a harmonious, consistent, and compatible manner. The overall sign program shall be included in required Official Development Plans.

**(B) Class 2. Wall Signs.**

1. Permitted in Zoning Districts T1, B1, C1, S1 and M1.
2. Characteristics: Intended to identify individual businesses, offices, office buildings, industrial, technical and employment establishments. Signs may be either placed flat against the building or projecting from the building.
3. Maximum Area:
  - (a) The greater of thirty (30) square feet or one (1) square foot sign area for each lineal foot of building or tenant frontage, not to exceed one hundred fifty (150) square feet in area for all types of signs except that signs composed of individual raised letters may contain two (2) square feet of sign area for each lineal foot of building or tenant frontage, not to exceed three hundred (300) square feet in area. This criteria shall not apply to signs for individual tenants in buildings that are primarily multitenant office buildings.
4. Maximum Height: May not project above the roof line of the building to which sign is attached.
5. Minimum Allowable Setback: Same setback as the building to which sign is attached.
6. Limitation in Number: One (1) sign per street frontage not to exceed two (2) frontages, or three (3) frontages with an area not to exceed the total sign area permitted for two (2) frontages.
- 0 7. Restrictions, Additions, Clarifications and Exceptions:
  - (a) Projecting signs may not exceed thirty (30) square feet in area. Projecting signs may not project over public right of way or more than five feet (5') from the building wall.
  - (b) The total length of any individual sign may not exceed seventy five percent (75%) of the length of the frontage of the establishment, store front or tenant space on which the sign is placed.
  - (c) Lighted signs are permitted.
  - (d) Uses that have no external building frontage, such as might be located within a shopping mall, may have one (1) external sign not to exceed forty (40) square feet.
  - (e) Buildings that are primarily office buildings may have no tenant or user signs above the first floor with the exception that building identification signs may be located above the first floor.
  - (f) Changeable copy signs are permitted for motion picture theaters or theater complexes with a total maximum area not to exceed the greater of eighty (80) square feet or thirty (30) square feet per individual theater.
  - (g) Where approved on an Official Development Plan the total allowable square footage of signage for an individual use containing over twenty thousand (20,000) square feet of gross floor area may be divided into a primary sign and not more than two (2) secondary signs with each secondary sign not to exceed more than sixty (60) square feet in area.
  - (h) Projecting signs may not project over public right of way or more than five feet (5') from the building wall.
  - (i) For individual uses over 100,000 square feet in area, signage restrictions may vary from the provisions of this Section and shall be as approved on an Official Development Plan.
  - (j) Tenant Sign. For multitenant office buildings, a maximum of forty (40) square feet per sign, one hundred twenty (120) square feet per frontage shall conform to 7(b) and 7(e). The building identification sign shall be in conformance with (b) above with a maximum of one hundred (100) square feet except signs composed of individual letters which will have a maximum of two hundred (200) square feet.

(k) When shopping centers, business centers, and office/industrial/technical parks or centers are to be developed or redeveloped, overall sign program performance standards shall be submitted which address size, height, design, lighting, color, materials, and type and method of construction to insure that all signage within the center is designed in a harmonious, consistent, and compatible manner.

**(C) Class 3. Information and Directional Signs.**

1. Permitted in Zoning Districts T1, B1, C1, S1, and M1.
2. Characteristics: A freestanding sign intended to provide information and directions related to the principal permitted use on that lot.
3. Maximum Area:
  - (a) Wall Sign Fifteen (15) square feet.
  - (b) FreeStanding Sign Five (5) square feet.
4. Maximum Height:
  - (a) Wall Sign Eight feet (8').
  - (b) FreeStanding Sign Thirty Two (32) inches.
5. Minimum Allowable Setback:
  - (a) Twenty five feet (25') from the property line.
6. Limitation in Number:
  - (a) Two (2).
7. Restrictions, Additions, Clarifications and Exceptions:
  - (a) Lighted signs are permitted.

**(D) Class 4. Directory Sign for Retail Shopping Centers.**

1. Permitted in Zoning Districts B1 and C1.
2. Characteristics: A freestanding sign intended to list and locate all merchants within the center for pedestrian or internal automobile traffic.
3. Maximum Area:
  - (a) For a retail center four (4) acres or less in area Sixteen (16) square feet.
  - (b) For a retail center over four (4) acres in area Thirty (30) square feet.
4. Minimum Allowable Setback Fifty feet (50') from property line.
5. Limitation in Number:
  - (a) For retail center four (4) acres or less in area - One (1) sign.
  - (b) For retail center over four (4) acres in area - One (1) per four (4) acres, not to exceed four (4) signs.
6. Restriction, Additions, Clarifications and Exceptions:
  - (a) Internally illuminated signs are permitted.

**(E) Class 5. Permanent Subdivision Identification Signs.**

1. Permitted in Zoning Districts PUD, RE, R1, RA, R2, R3, R4, R5 and T1.
2. Characteristics:
  - (a) A freestanding sign intended to provide identification of a residential subdivision by name only.
3. Maximum Area Forty (40) square feet.
4. Maximum Height Seven feet (7').
5. Minimum Allowable Setback:
  - (a) Three feet (3') from the curb. This sign may be located in the right of way but not over existing or future utilities. Location and placement shall insure traffic visibility as determined by the City.
6. Limitation in Number One (1) per subdivision or one (1) per each arterial or collector street entrance. The permitted signage may be split and two signs may be permitted per each arterial or collector street entrance; however, no more than forty (40) square feet of signage may be located at any such entrance.
7. Restrictions, Additions, Clarifications and Exceptions:
  - (a) A right of way maintenance agreement must be on file with the City signed by the responsible party from the homeowners association if the signs(s) are to be located in public right of way.
  - (b) External lighting is permitted.
  - (c) Sign material and design must be approved by the City.

(d) Under unusual hardship circumstances, as determined appropriate by the City Manager, a single offsite sign may be permitted with the permission of the property owner on whose property said sign would be located. Such a sign will have a maximum area of 20 square feet and a maximum height of 3 feet.

**(F) Class 6. Temporary Project Identification Sign.**

1. Permitted in all Zoning Districts.
2. Characteristics. Intended to identify or advertise structures being built, sold, leased, rented or remodeled.
3. Maximum Area One hundred (100) square feet.
4. Maximum Height:
  - (a) Twenty feet (20') for signs over fifty (50) square feet.
  - (b) Ten feet (10') for signs fifty (50) square feet and under.
5. Minimum Setback Thirty feet (30').
6. Limitation in Number One (1) sign per sixty (60) acres, not to exceed a total of four (4) and not to exceed an aggregate of two hundred (200) square feet.
7. Restrictions, Additions, Clarifications and Exceptions:
  - (a) Must be located on the property being advertised. Offsite signs are not permitted except in conjunction with a permitted Class 8 billboard sign.
  - (b) Signs shall be unlighted.

**(G) Class 7. Home Occupation Signs.**

1. Permitted in all zone districts.
2. Characteristics: To identify a home occupation Wall or window signs only.
3. Maximum Area One (1) square foot.
4. Maximum Height Below the eave of the building on which the sign is located.
5. Minimum Setback Must be attached to the front of the building on which the sign is located.
6. Limitation in number One (1).
7. Restrictions, additions, clarifications and exceptions:
  - (a) . Signs may not be illuminated.

**(H) Class 8. Billboards.**

1. Permitted in Zone Districts O1 and M1.
2. Characteristics: Large faced signs advertising any product or event. Such signs will be considered a principal use of the lot or parcel on which they are located and therefore may not be located on any lot or parcel where another principal permitted use exists.
3. Maximum Area Three hundred (300) square feet per sign; maximum two (2) signs per facing.
4. Maximum Height Thirty feet (30').
5. Minimum Setback Fifty feet (50') from property line or two hundred feet (200') from any intersection of streets, whichever is greater.
6. Limitation in Number One (1) per lot or parcel, with the provision that said lot or parcel is a minimum of two (2) acres in size.
7. Restrictions, Additions, Clarifications, and Exceptions:
  - (a) May not be located within five hundred feet (500') of another Class 8 sign.
  - (b) May not be located within five hundred feet (500') of a residential district or residential portion of a Planned Unit Development.

**(I) Class 9. Election Signs.**

1. Permitted in all zone districts.
2. Characteristics: A sign advocating or advertising the election of any candidate for public office or any question upon which a public vote is being taken.
3. Maximum Area Fifty (50) square feet in Zones T1, C1, C2, M1 and O1 and portions of Planned Unit Developments with comparable uses; eight (8) square feet in all other zones and portions of Planned Unit Developments with residential uses or uses comparable to allowed uses in B1 Districts
4. Maximum Height Six feet (6').
5. Minimum Setback Ten feet (10').
6. Limitation in Number No limitation.



7. Restrictions, Additions, Clarifications, and Exceptions:

(a) Such signs shall not be erected more than thirty (30) days before an election or in the case of a mailed ballot election, signs shall not be erected more than thirty (30) days before the first day to mail ballots to all registered elections. All election signs shall be removed within ten (10) days following an election. Exception: Successful primary candidates may leave their signs up until ten (10) days after a general or run-off election.

(b) A permit application for an election sign must include name, address and phone number of person responsible for maintenance and removal of signs.

(c) Election signs may be located in City right of way provided:

- (1) They do not block or otherwise interfere with traffic visibility;
- (2) They are not located within fifty feet (50') of an intersection;
- (3) They do not exceed three (3) square feet in area.

**(J) Class 10. Bus Bench Signs. Singlefaced, to be located only on bus benches.**

1. Bench Design: Benches must be constructed of substantial material and must be no longer than eight feet (8'), no higher than forty two inches (42"), no wider than thirty inches (30"), and must weigh no less than four hundred (400) pounds. Bench shall be located only on top of a four foot by eight foot (4' x 8') concrete, stone, asphalt, concrete block, cinder block or crushed dolomite pad which serves as a means of preventing mud and weeds from accumulating near the bus benches. The crushed dolomite must be applied wet, a minimum of four inches (4") thick, and must be tamped and rolled. In addition to the materials listed above, the City may permit the pad to be 12-7-4 (J,1) constructed of alternate materials insofar as said materials accomplish the performance standard of the prevention of mud and weeds in the vicinity of the bench.

2. Sign Design and Color on Bus Benches: Bench sign background color covering no less than fifty percent (50%) of the visible area of the whole sign shall be beige, cream, tan, green, or white insofar as the background color is identical on all bus bench signs in the City. A sign is permitted only on a single, vertical face of the bus bench. Lettering on the sign may be of any single color or any single color in combination with black. A multicolored logo which does not exceed a coverage of fifteen percent (15%) of the total area of the permitted sign and which is located not closer than four inches (4") from the edge of the sign shall be permitted. No fluorescent, dayglo, or other reflective or brilliant colors are permitted anywhere on the sign.

The sign that is permitted only on a single, vertical face of the bus bench shall be no higher than twenty four inches (24") and no longer than eight feet (8'). No part of the sign shall be projecting, nor shall it interfere with normal seating. The area covered by the bus bench advertising shall be no more than sixteen (16) square feet. The bench company name and phone number must be on each bench. The bus bench seat may be painted dark green, dark brown, black, or any earth tone color insofar as all permitted bus bench seats in the City are painted the same color. The side of the vertical surface of the bus bench back may be painted to match the bus bench seat or the background color of the permitted sign insofar as all vertical surfaces not containing a sign in the City are painted the same color.

3. Placement of Bus Benches: Benches bearing advertising may be located only at officially designated RTD bus stops and must be no closer than three feet (3') to the roadway edge, either in front of or behind a public sidewalk. Bus benches must not obstruct public walkways, sidewalks, sight triangles or pedestrian access to traffic control devices. Bus benches shall be placed adjacent to residential property only with the consent of the adjacent property owner. In residential districts, there shall be only one bus bench per bus stop. In nonresidential districts, two benches per bus stop may be allowed at intersections of designated arterial streets. In all other locations a maximum of one (1) bench per bus stop shall be allowed.

4. Award of Exclusive Right: The applicant shall file an application on a form furnished by the City. The City will accept bus bench advertising applications which will be evaluated using the following categories. If an applicant with existing benches is not awarded the exclusive right to advertise on bus benches for the five (5) year period, all benches belonging to the applicant must be removed.

Points

- |      |  |
|------|--|
| 0-10 | 1. Bus bench design, materials and colors.   |
| 0-20 | 2. Method of weed and mud control.   |
| 0-10 | 3. Sign design and color controls.   |
| 0-30 | 4. References from other cities.   |
| 0-20 | 5. Method of selection of locations and determination of number of benches to be placed. |

0-10 6. What premium, if any, would be offered the City for the exclusive right to place bus benches within the City limits. Premiums may take the form of cash or benches with no advertising for public use.

The applicant receiving the most points will be awarded the exclusive right to place bus benches with advertising within the City limits.

5. Permits: A building permit is required before the placement of all bus benches.

(a) One permit will be issued for each bench, provided the bench complies with the commitment in the application and with this Section. The successful applicant shall be required to have applicable City licenses. If a bench is not installed within thirty (30) days from the date the permit is issued, the permit will become null and void.

(b) Such bus benches shall not be constructed or maintained in a manner which will constitute a violation of any section of the Municipal Code of the City.

(c) Bond Required: Before any license, as provided in this Section, will be issued to an applicant, such applicant shall file with the City a bond running to the City in the sum of six hundred dollars (\$600) executed by the applicant as principal and at least one surety bond upon which service of process may be made in the State of Colorado. Such bond to be conditioned that the said applicant shall comply fully with all the provisions of the laws of the City, and statutes of the State of Colorado, regulating and concerning the applicant's business and will pay all judgment rendered against statutes. Such bond must be approved by the City, both as to form and as to the responsibility of the surety thereon.

(d) Insurance Required: Before any permit, as provided in this Section, will be issued, the applicant shall furnish a certificate of insurance with limits of not less than three hundred thousand dollars (\$300,000) combined single limit bodily injury and property damage, with a thirty (30) day notice of cancellation, to be maintained during the life of the permit. The policy shall hold the City of Westminster harmless from all claims, judgments and liability which may be a result of the applicant's activities under the permit issued in this Section. Should the applicant cause the policy to lapse, be canceled, be withdrawn or be subject to a reduction in the required amount of insurance, the City will cause the operations permitted under this Section to cease.

6. Moving of Bus Benches: Bus benches shall be permitted for one location only. Benches may not be moved from stop to stop without a permit. Relocation or cancellations of a bus stop by RTD will require moving or removing of the bus bench and pad respectively within ten (10) days.

7. Maintenance and Repair of Bus Benches: The permittee shall maintain all benches bearing advertising in a safe and clean condition at all times. Permittee shall repair damaged or disfigured benches within ten (10) days of notification of discovery of such damage or disfiguration.

8. Violations: If provisions of this Ordinance are violated, the City may serve either personally or by mail, written notice upon the owner, or any person having the care and control of said bus bench, or by posting of notice on said bus bench to correct the violations. If the person upon whom said notice is served fails, neglects or refuses to correct the violation within ten (10) days of mailing or service of said notice, the City may have the bus bench removed and the cost of such work plus fifteen percent (15%) for inspection shall be reported by the City Manager to the City Council and shall be assessed against the permit holder and be collected from the bond.

**(K) Class 11. Signs in Planned Unit Developments.** Signs in Planned Unit Developments shall be permitted in accordance with the conditions and prohibitions stated herein.

1. Permitted Signs:

(a) Class 1, freestanding signs; Class 2, wall signs; Class 3, information and directional signs; and class 12, temporary outside signs, are permitted in conformance with the conditions and prohibitions of the applicable class of sign described above for designated commercial, office, and industrial uses within Planned Unit Developments.

(b) Class 4, directory signs for retail shopping centers, is permitted in conformance with the conditions and prohibitions of Class 4, signs for designated retail commercial uses within a Planned Unit Development.

(c) Class 5, permanent subdivision identification signs; Class 6, temporary project identification signs; and Class 7, home occupation signs, are permitted in conformance with the conditions and prohibitions of the applicable class of sign designated residential uses within Planned Unit Developments.

(d) Class 9, election signs, are permitted in conformance with the conditions and prohibitions of Class 9 signs with a maximum area of eight (8) square feet allowed in designated residential areas and a maximum area of fifty (50) square feet allowed in designated nonresidential areas within a Planned Unit Development.

(e) Class 10, bus bench signs, are permitted in conformance with the conditions and prohibitions of Class 10 signs with said conditions and prohibitions pertaining to residentially zoned property being applicable to designated residential land uses and conditions and prohibitions pertaining to nonresidential districts being applicable to designated nonresidential land uses within a Planned Unit Development.

(f) Class 13, offsite development directional signs are permitted in conformance with the conditions and prohibitions of Class 13 signs.

## 2. Restrictions, Additions, Clarifications, and Exceptions:

(a) Preliminary Development Plans, amendments to Preliminary Development Plans, Official Development Plans and amendments to Official Development Plans may include conditions and prohibitions pertaining to signs which are more restrictive than the conditions and prohibitions contained in this Chapter.

(b) When shopping centers, business centers, and office/industrial/technical parks or centers are to be developed or redeveloped, overall sign program performance standards shall be submitted which address size, height, design, lighting, color, materials, and type and method of construction to insure that all signage within the center is designed in a harmonious, consistent, and compatible manner.

(c) Sign performance standards and criteria which are contained in Preliminary Development Plans or Official Development Plans which were approved prior to the adoption of this Chapter shall remain in effect subsequent to the adoption of this Chapter unless modified by an amendment to the Preliminary Development Plan or Official Development Plan.

### **(L) Class 12. Temporary Outside Signs.**

1. Permitted in Zoning Districts B1, C1, S1 and M1.

2. Characteristics: A sign, banner, or similar device, not including pennants on a string or rope, or display which is intended for a temporary period of display for the purpose of announcing a special event for a business such as a grand opening, a sale or a newservice. Said sign may be constructed of cloth, canvas, cardboard, wallboard, plywood or other light temporary material. Sign must be attached flat against a building.

3. Maximum Area Forty (40) square feet per sign.

4. Maximum Height May not project above the roof line on the building to which the sign is attached.

5. Minimum Allowable Setback Same setback as the building to which the sign is attached.

6. Limitation in Number One (1) per street frontage, not to exceed two (2) signs.

7. Restrictions, additions, clarifications, and exceptions:

(a) May be erected for a period not to exceed thirty (30) consecutive days or sixty (60) days in any one-year period for any particular business.

(b) Must be removed at the expiration of the temporary permit.

### **(M) Class 13, Off Site Residential Development Directional Signs.**

1. Permitted in undeveloped areas of all zone districts.

2. Characteristics: A ground sign intended to direct vehicle traffic to developments with residential units for sale or lease.

3. Maximum Area: No ground sign structure shall exceed eight feet (8') by four feet (4') in area. Each ground sign structure shall be capable of display of three individual directional signs per face and no single individual directional sign shall exceed twenty-four inches (24") in height by forty-two inches (42") in length.

4. Minimum Allowable Setback: Ground sign structures in the right of way shall be located within two feet (2') of the property line and shall be located in a manner that does not obstruct traffic visibility. A site plan shall be submitted and shall require approval of the City for all sign placements.

5. Maximum Height: Twelve feet (12').

6. Limitation in Number: Maximum number of individual directional signs -- one (1) per residential development per sign structure and a maximum of three (3) individual directional signs per face of each ground sign structure.

7. Restrictions, Clarifications, and Exceptions:

(a) Maximum of one (1) sign on each undeveloped corner at an intersection of two arterial streets.

(b) Animation or Illumination: No sign shall be illuminated or have moving, rotating, or otherwise animated parts.

(c) Identification: Each sign shall bear in a prominent position thereon a clearly legible identification plate stating the name of the person responsible for the construction of the sign and the date of installation.

(d) Maintenance: Signs erected under this Section shall be structurally sound and satisfactorily maintained so as not to become a nuisance to the surrounding neighborhood or any eyesore to passersby.

(e) **Sign Design, Color, and Construction:** Support posts, frame, and plywood backing shall be painted cream, tan, or beige. Sign panels may be of any color except fluorescent, dayglo, or other reflective or brilliant colors. All signs shall be designed and constructed in accordance with guidelines prepared by the City of Westminster.

(f) No individual directional signs shall be permitted that advertise developments outside the City limits of the City of Westminster.

(g) Signs will be removed within thirty (30) days of completion of the project, as determined by the Chief Building Official.

(h) Any person desiring to install a ground sign structure within six hundred sixty feet (660') of a State Highway right-of-way shall first obtain a permit from the Colorado Highway Department and then submit an application for a City sign permit to the Chief Building Official. The application shall include a copy of the State Permit.

**11-11-4: PROHIBITED SIGNS.** The following types of signs are prohibited in all districts:

(A) Any sign not specifically permitted by the City Code.

(B) **Signs Within Street Right Of Way.** Any sign erected upon or over the public right of way of any street, roadway, or alley with the exception of those signs erected by a governmental entity, Class 5 signs, and those instances where existing buildings are contiguous with the right of way and a sign is to be attached to said building.

(C) Signs with visible moving, revolving, or rotating parts or visible mechanical movement or any description or other apparent visible movement achieved by electrical, electronic or mechanical means, except for time temperature date signs, traditional barber poles and except for gauges and dials which may be animated to the extent necessary to display correct measurement.

(D) Signs that are animated with lights or illuminations which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

(E) Strings of light bulbs used in connection with commercial premises for commercial purposes, other than traditional holiday decorations, pennants, streamers, balloons, and any other inflatable object or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

(F) **Imitations of Official Government Protective or Warning Signs:** Any sign using the word "stop" or "danger" or which otherwise presents or implies the need or requirement of stopping, or a caution for the existence of danger, or which is a copy of, or which for any reason is likely to be confused with any municipally approved official signs, such as those signs approved and shown in the Uniform Traffic Code.

(G) Any sign that obstructs any window, door, fire escape, stairway, ladder, or openings intended to provide light, air, ingress, or egress for any building, as required by law.

(H) **Portable Signs.** Any portable sign, including any sign displayed on a vehicle when said vehicle is used primarily for the purpose of displaying such sign, when used outside a building. Any advertising device used on a vehicle meeting the following criteria shall be excepted:

1. Such vehicle at no time remains in one visible place for more than twenty four (24) consecutive hours; and
2. Such vehicle is actually used by its owner or another as a means of transportation of people or goods.

(I) Any sign that violates any provision of any law of the State of Colorado relative to outside advertising.

(J) Temporary cardboard or paper signs attached to utility poles or stakes that have the intent of advertising merchandise for sale.

(K) Changeable copy signs other than marquees, notice or listing of church services, or gasoline price signs.

(L) Any sign which causes any direct glare into or upon any residential building or premises other than the building or premises to which the sign is attached.

(M) Any attached sign projecting above the roof line of a structure.

(N) Any sign advertising an activity, business, product or service which has not been produced or conducted upon the premises upon which such sign is located for a period of ninety (90) days or more.

If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the City if good cause is shown for such extension. This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided there is clear intent to continue operation of the business.

(O) Off premise advertising or directional sign, except as allowed for a Class 8 billboard sign and as allowed in Section 11-11-2(I)2 and 11-11-2(M)

#### **11-11-5: GENERAL SIGN PROVISIONS.**

(A) **Sign Permit Required.** It shall be unlawful for the owner, manager, or occupant, of any property located within the City of Westminster to erect, maintain, or permit the erection or maintenance of any sign on such property without first obtaining a sign permit through the following procedure:

1. An application for a sign permit shall be filed with the Chief Building Official and must contain the following information unless waived by the Chief Building Official.

(a) An elevation of the proposed sign, drawn to scale, showing the sign that is proposed to be erected and the message that it will carry.

(b) The color scheme and construction materials of the sign.

(c) A plot plan showing the location of the sign on the property. If the sign is to be attached to the face of the building, the elevation shall also show the outline of the building.

2. If after review the Chief Building Official finds the sign to be in conformity with this Code and the Building Code of the City of Westminster and any applicable Official Development Plans, a sign permit shall be issued. If the application is denied, the Chief Building Official shall inform the applicant of the reason for denial.

(B) **Measurement.** In determining the size of any sign, the following procedure shall be used:

1. For signs involving individual letters which are placed flat against the facade of a building or which are to be supported on individual standards and which will be freestanding, the area of said sign will be considered to be that of a single rectangle or square encompassing all of the letters used to convey the message of the sign, and shall include the open space between letters of words within that square or rectangle. The height of letters will be measured on the upper case letters.

2. For signs, either freestanding or facade mounted, with background material, the area measurement shall be determined by the area of the entire sign including the background material.

3. For all two faced freestanding or projecting signs or billboards, the area measurement shall be determined by measurement of one face of the sign only. No sign shall have more than two faces.

4. The height of any sign shall be determined by the distance between the topmost portion of the sign or the structure supporting the sign and the elevation of the ground at the base of the sign.

(C) **Altering or Moving Existing Signs.** A new permit shall be required prior to moving an existing sign from one location to another or altering a sign in any manner other than for normal maintenance. It shall be unlawful to erect or maintain a sign not in conformity with an approved Official Development Plan and a new permit is required prior to moving or altering such a sign in order to bring it into conformity. An alteration to an existing sign or to a sign not in conformity with an approved Official Development Plan which requires a new permit includes, but is not limited to, a change in text, height, size, shape, construction material, or lighting.

(D) **Non Conforming Signs.** Any legal, nonconforming sign which exists excepting those signs described in Section 12-7-5(E) prior to the adoption or amendment of this code may be continued subject to the following provisions:

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

2. If any such sign or nonconforming portion thereof be destroyed by any means or removed for any reason, voluntary or otherwise, to an extent of more than fifty percent (50%) of its replacement cost at the time of said removal or destruction, it shall not be reconstructed or reassembled except in conformity with this Chapter.

3. If any such sign should, for any reason, be removed from its location, it shall conform to the provisions of the district in which it is located after it is moved.

**(E) Sign Removal.**

1. Any sign which is listed in Section 1275 as a "prohibited sign" and any sign which meets the definitions of "illegal, nonconforming" shall be removed within sixty (60) days following the effective date of adoption of this Chapter. Any sign listed in 1275 erected after the effective date of this Ordinance may be removed in accordance with the following paragraph.

2. Any sign erected without a permit, any sign deemed hazardous by an authorized City official, or any sign for which a permit has expired may be removed and stored by the City for ten (10) days after the owner has been ordered to remove or repair the sign and has not done so, the owner shall be notified of the removal and storage of said sign by registered mail, and if the sign is not claimed within ten (10) days after mailing of said notice the sign may be disposed of by the City. Signs erected without permit within a City street right of way may be removed without notice by the City. Any sign removed from the public right-of-way having a value in excess of five dollars (\$5.00) shall be stored by the City for three (3) days, excluding Saturdays, Sundays, and holidays, with notice of such removal and storage given to the owner by telephone or other means of communication if the owner is identified on the sign. If the sign removed from public right-of-way is not claimed within three (3) days, it may be disposed of by the City. Any sign removed from the public right-of-way valued at less than five dollars (\$5.00) may be disposed of by the City without Notice. All written notices required under this Section shall be mailed to the owner, or if the owner is unknown, to the owner of the property on which the sign is located. The City shall have the authority to levy against the owner of the sign or, if the owner is unknown, the owner of the property on which the sign is located, whatever costs are incurred by the City for the removal, storage, and/or disposition of the sign.

**(F) Appeals.**

1. Appeals or modifications to the conditions and prohibitions of the applicable class of sign within a Planned Unit Development district shall be submitted in the form of an application for approval of a Preliminary Development Plan or Official Development Plan or an amendment thereto.

2. Appeals to modify conditions of a permitted sign may be made to the Board of Adjustment and Appeals in accordance with the provisions of Title II, Chapter 6, of this Code. However, in no case shall the Board of Adjustment and Appeals be allowed to consider or approve a request for a class of sign other than that which is specifically permitted.

3. In considering a request for a variance to the Sign Code, the Board of Adjustment and Appeals shall determine 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.

(b) The variance, if authorized, will weaken neither the general purpose of the Sign Code nor the regulations prescribed for the zoning district in which the sign is located.

(c) The variance, if authorized, will not alter the essential character of the zoning district in which the sign is located.

(d) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

(G) These conditions and prohibitions shall apply to the area included in the Westminster Urban Renewal Plan except as otherwise specified in the plan.

Section 2. Title 11, Chapter 12 will be the previously adopted Rental Property Maintenance Code pursuant to Ordinance No. 2532 which was previously numbered Title 11, Chapter 14.

Section 3. Title XII, W.M.C., is hereby REPEALED IN ITS ENTIRETY.

Section 4. Section 11-6-8, W.M.C. is hereby REPEALED AND REENACTED IN ITS ENTIRETY AS NEW SECTION 1-17-1 as follows:

~~11-6-8~~ **1-17-1: PRIVATE ACTIVITY OR INDUSTRIAL DEVELOPMENT REVENUE BOND FEES.**

(A) **FEES.** The following fees shall be paid to the City by applicants for the issue, reissue, refunding or remarketing of private activity or industrial development revenue bonds:

1. A \$500 original application fee shall be paid to the City by every applicant for industrial development revenue bonds. This original application fee shall be payable one time only and shall be non-refundable.
2. No issue, reissue, refunding, or remarketing of any private activity or industrial development revenue bonds of the City shall occur or be valid except upon the payment to the City of a document review fee in the amount of 1/4 of 1 percent of the principal amount of the bond issue or \$2,000, whichever amount is greater.
3. Upon request of the City Attorney, the City Council may retain special legal counsel to represent the City in connection with the issue, reissue, refunding, or remarketing of any private activity or industrial development revenue bonds and may require the applicant for such bonds to pay the fees of such special legal counsel.
4. At the request of the applicant, the City Council may, in its sole discretion, permit any fee required by this Section to be paid at the closing for the bonds or at such other time as the City may deem appropriate.

(B) **RATING REQUIREMENT.** No issue, reissue, refunding or remarketing of any private activity or industrial development revenue bonds of the City shall be approved unless such bonds shall be rated "AA" or higher by Standard and Poor's, Moody's, or Finch, or such other nationally recognized rating agency as may be acceptable to the City.

Section 5. Title 2, Chapter 10, Section 4 of the Official Code of the City of Westminster is amended as follows:

2-10-4: **APPLICABLE CODES:** The provisions of this Chapter shall apply to all building, FIRE AND RENTAL MAINTENANCE codes and amendments thereto as adopted by reference in Chapters 9, 10 ~~11~~ and 12 of Title XI of this Code, except that the Board of Adjustment and Appeals shall hear appeals based on Section 11-9-5 (D) of this Code. References in this Chapter to "A Code" refer to the codes specified in this section.

Section 6. The City Clerk is hereby authorized to renumber all sections of the Westminster Municipal Code that refer to sections that are being renumbered pursuant to this ordinance.

Section 7. This ordinance shall take effect upon its passage after second reading.

Section 8. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of August, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this        day of August, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

---

City Clerk



**(M) Class 13, Off Site Residential Development Directional Signs.**

1. Permitted in undeveloped areas of all zone districts.
2. Characteristics: A ground sign intended to direct vehicle traffic to developments with residential units for sale or lease.
3. Maximum Area: No ground sign structure shall exceed eight feet (8') by four feet (4') in area. Each ground sign structure shall be capable of display of three individual directional signs per face and no single individual directional sign shall exceed twenty-four inches (24") in height by forty-two inches (42") in length.
4. Minimum Allowable Setback: Ground sign structures in the right of way shall be located within two feet (2') of the property line and shall be located in a manner that does not obstruct traffic visibility. A site plan shall be submitted and shall require approval of the City for all sign placements.
5. Maximum Height: Twelve feet (12').
6. Limitation in Number: Maximum number of individual directional signs -- one (1) per residential development per sign structure and a maximum of three (3) individual directional signs per face of each ground sign structure.
7. Restrictions, Clarifications, and Exceptions:
  - (a) Maximum of one (1) sign on each undeveloped corner at an intersection of two arterial streets.
  - (b) Animation or Illumination: No sign shall be illuminated or have moving, rotating, or otherwise animated parts.
  - (c) Identification: Each sign shall bear in a prominent position thereon a clearly legible identification plate stating the name of the person responsible for the construction of the sign and the date of installation.
  - (d) Maintenance: Signs erected under this Section shall be structurally sound and satisfactorily maintained so as not to become a nuisance to the surrounding neighborhood or any eyesore to passersby.
  - (e) Sign Design, Color, and Construction: Support posts, frame, and plywood backing shall be painted cream, tan, or beige. Sign panels may be of any color except fluorescent, dayglo, or other reflective or brilliant colors. All signs shall be designed and constructed in accordance with guidelines prepared by the City of Westminster.
  - (f) No individual directional signs shall be permitted that advertise developments outside the City limits of the City of Westminster.
  - (g) Signs will be removed within thirty (30) days of completion of the project, as determined by the Chief Building Official.
  - (h) Any person desiring to install a ground sign structure within six hundred sixty feet (660') of a State Highway right-of-way shall first obtain a permit from the Colorado Highway Department and then submit an application for a City sign permit to the Chief Building Official. The application shall include a copy of the State Permit.

**Date:** August 11, 1997

**Subject:** Resolution No. re Stroberg annexation Petition

**Prepared By** David Falconieri, Planner III

**Introduction:**

City Council action is requested on the attached resolution which addresses finding compliance of the proposed petition requesting annexation of the Alice Dike property, located at 10101 Brentwood Way, with statutory requirements and establishing a hearing date.

**Summary:**

The property in question is located on the south side of the new Church Ranch Boulevard extension and north of the Burlington Northern railroad right-of-way (see attached map). The proposed annexation consists of a total of 3.4 acres, and is proposed to be zoned PUD, for a veterinary hospital and kennel.

City water and wastewater utility lines are available to the site, which is currently undeveloped. The proposed kennel will consist of a 4700 square foot building with all boarding kennels entirely indoors. The property is subject to the development standards established in the joint City of Westminster/Jefferson County Northeast Comprehensive Development Plan which regulate site design for all land in the enclave area and, which will be reflected on the Official Development Plan for the site.

**Staff Recommendation:**

Adopt Resolution No. accepting the annexation petition submitted by George Stroberg, and make the findings required by State Statute on the sufficiency of the petition. This resolution also sets the date of September 22, 1997, for the annexation hearing.

**Background Information:**

Upon receiving a petition for annexation, the City Council is required by State Statute to make a finding of whether or not said petition is in compliance with Section 31-12-107 (1) of the C.R.S. In order for the petition to be found in compliance, Council must find that the petition contains the following information:

1. An allegation that the annexation is desirable and necessary.
2. An allegation that the requirements of Section 31-12-104 and 31-12-105 of the C.R.S. have been met. (These Sections are to be reviewed by the Council at a formal public hearing).
3. Signatures and mailing addresses of at least 50% of the landowners of the land to be annexed. (In this case, Alice Dike, signer of the petition, owns 100% of the property).

4. The legal description of the land to be annexed.
5. The date of each signature.
6. An attached map showing the boundaries of the area.

Planning Staff has reviewed the petition and have found to Staff's satisfaction that the petition complies to the above requirements.

If the City Council finds that the petition is in substantial compliance with these requirements, a resolution must be approved that establishes a hearing date at which time Council will review the merits of the proposed annexation.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

\_\_\_\_\_

WHEREAS, there has been filed with the City Clerk of the City of Westminster, a petition, a copy of which is attached hereto and incorporated herein by reference, for the annexation of certain territory therein-described to the City; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying map are in substantial compliance with Sections 31-12-101, et.seq., Colorado Revised Statutes, as amended.

NOW, THEREFORE, be it resolved that by City Council of the City of Westminster that:

1. City Council finds the said petition and annexation map to be in substantial compliance with all state statutory requirements, including C.R.S. Section 31-12-107(1).
2. City Council hereby establishes September 22, 1997, 7:00 p.m., at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by C.R.S. Section 31-12-108(1).
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with C.R.S. Section 31-12-108(2).

Passed and adopted this 11th day of August, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** August 11, 1997

**Subject:** Councillor's Bill No. re McKay Lake Area Land Acquisitions

**Prepared by:** Dave Downing, City Engineer

### **Introduction**

City Council action is requested to pass on first reading the attached Councillor's Bill requesting a supplemental appropriation of \$600,000 from the Reserve Fund. These funds are required to close on the purchase of one of the subject properties, and to deposit funds with the Court in a condemnation action for a second property. Reimbursement of this \$600,000 to the Reserve Fund is proposed in early 1998 from the General Capital Improvement Fund.

The subject properties are involved in the McKay storm drainage protection project.

### **Summary**

City Council adopted Resolution No. 36 in June of this year, authorizing the City Manager and City Attorney to acquire sufficient lands for the construction of the McKay Lake storm drainage improvements (see attached map), including through eminent domain if necessary. Staff and an acquisition agent have successfully negotiated a purchase from the Fonay family. This purchase should close within a few weeks, and the purchase price with closing costs will be approximately \$315,000.

Staff and the acquisition agent have not been successful thus far in negotiating the second acquisition from the Lamberston family.

Following numerous meetings, the parties have agreed to proceed with condemnation. This action has been filed, and attorneys for both parties are working on an agreement to grant possession of the land to the City, while negotiations continue for several months or longer regarding the land value. The City will be required to deposit the appraised value of the property with the Court (approximately \$250,000) in the very near future. Anticipating legal fees, court costs and related administrative costs, Staff recommends an additional appropriation of \$35,000 at this time, for a total of \$285,000 toward acquisition of the Lambertson property. The total of the two acquisitions is expected to be \$600,000.

City Council action is requested to pass the attached Councillor's Bill for a supplemental appropriation of \$600,000 from the Reserve Fund. It is proposed that the Reserve Fund will be reimbursed by this amount, from the 1998 General Capital Improvement Fund in early 1998. There currently is \$1,900,000 in the Reserve Fund.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading appropriating \$600,000 from the Reserve Fund into the General Capital Improvement Fund for the McKay Lake storm drainage protection project.

### **Background Information**

McKay Lake, located just south of 144th Avenue, between Huron and Zuni Streets, is operated by the Farmers' Reservoir and Irrigation Company (FRICO) as an irrigation reservoir. This lake also provides considerable stormwater detention, protecting areas downstream in Westminster from flooding events, and decreasing costs for storm drainage improvements which would be necessary without the lake in place.

Staff recently became aware that FRICO was considering the sale of McKay Lake to various parties, who might then remove the lake and build homes. In June, City Council authorized the purchase of McKay Lake interests necessary to keep the lake in place, for storm drainage and open space purposes. McKay Lake is somewhat unusual in having two dams. A recent study by the State Engineer indicates a requirement that spillways be constructed at both dams, and that provisions be made (land acquired) for drainage channels leading away from both spillways.

These two acquisitions from the Fonay and Lambertson properties will provide for construction of the storm drainage channels leading away from McKay Lake, to protect Westminster residents from flooding downstream. These improvements will also lower overall costs to Westminster residents for storm drainage facilities in this northeastern part of the City.

This recommended action does not include the McKay Lake acquisition. This effort is still being pursued.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments - Councillor's Bill and Project area map

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1996

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE INCREASING THE 1997 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT PROJECT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1997 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1997 appropriation for the General Capital Improvement Project Fund initially appropriated by Ordinance No. 2473 in the amount of \$11,285,000 is hereby increased by \$600,000 which, when added to the fund balance as of the City Council action on August 11, 1997 will equal \$43,797,625. The actual amount in the General Capital Improvement Project Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a transfer from the Reserve Fund for the McKay Lake Area Land Acquisitions.

Section 2. The \$600,000 increase in the General Capital Improvement Project Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>
<u>REVENUES</u>		
Transfer from Reserve Fund		
75-9999-513	\$200,000	<u>\$600,000</u>
\$800,000		

<u>EXPENSES</u>		
McKay Lake Land Acquisition		
75-30-88-555-340	\$0	<u>\$600,000</u>
\$600,000		

Section 3. The Reserve Fund budget will not change as a result of this ordinance but is included here for clarification purposes only.

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>
<u>EXPENSES</u>		
Contingency		
11-10-99-999-000	\$2,500,000	<u>\$(600,000)</u>
\$1,900,000		
Transfer to GCIF		
11-10-95-990-975	\$200,000	<u>\$600,000</u>
\$800,000		

Section 4 - Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this Ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.



Section 5. This ordinance shall take effect upon its passage after the second reading.

Section 6. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of August, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this            day of August, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** August 11, 1997

**Subject:** Councillor's Bill No. re Westminster Comprehensive Land Use Plan Amendment

**Prepared by:** Sharon Widener, Assistant City Attorney

### **Introduction**

City Council action is requested to pass the attached Councillor's Bill on first reading, amending the ordinance adopting the Westminster Comprehensive Land Use Plan, to use the identification date of July 15, 1997.

### **Summary**

The ordinance adopting the Comprehensive Land Use Plan identifies the Plan by use of the date May 28, 1997. Because various changes were made to the Plan between May 28 and the date of the adoption ordinance, some concern has been expressed that not all approved changes were incorporated in the version identified as "May 28, 1997," adopted by Council. The proposed amendment would change the identification date to July 15, 1997, the date used in the final printed version. No substantive changes to the Plan would be made, nor would the date of the adoption of the Plan be changed.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading amending the ordinance adopting the Westminster Comprehensive Land Use Plan, to use the identification date of July 15, 1997.

### **Background Information**

The Comprehensive Land Use Plan underwent numerous changes before the Plan was adopted by Council. Staff incorporated some changes after various meetings with property owners; some of these changes were made before the Plan was submitted to Council while other changes were made after Council reviewed particular parcels in its Study Sessions. Because changes were ongoing, a concern has been raised that the date used to identify the Plan when it was formally adopted may not accurately reflect all the provisions approved by Council. The Plan does incorporate all approved provisions, but greater clarity may be achieved if the identifying date is amended to reflect the final printed version.

At the time the ordinance adopting the Plan was prepared, the most recent draft was identified as "May 28, 1997," and this date was used in the ordinance, which was passed on first reading on June 9, 1997. After June 9, Council considered several changes at its Study Session on June 16, 1997. While the approved changes were incorporated in the Plan after the Study Session, the date identifying the Plan was not changed. Further changes were incorporated on second reading on June 23, 1997, but the identifying date was not changed. Finally, on June 30, 1997, another ordinance dealt with a particular property; this was incorporated in the Plan, but again, the identifying date was not changed.

Amendment of Ordinance Adopting the Comprehensive Land Use Plan

Page 2

The Plan, with all provisions approved by Council, has been printed and distribution has begun. This final printing is dated "July 15, 1997." In order to identify the Plan, and to assure the public that all provisions approved by Council are incorporated in the document, Staff recommends that the adopting ordinance be amended to use the July 15, 1997, identification date. This amendment will not change the date of adoption of the Plan or make any substantive changes in the Plan.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment: Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1997

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

**FOR AN ORDINANCE AMENDING THE DATE IDENTIFYING THE ADOPTION  
OF THE WESTMINSTER COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Whereas, the date identifying the Westminster Comprehensive Land Use Plan previously adopted by the City Council may be misleading or inaccurate; and

Whereas, City Council finds it necessary and prudent to clearly identify the Comprehensive Land Use Plan which has been adopted.

Now therefore, Section 1 of Ordinance No. 2518, Series of 1997, is hereby amended as follows:

Section 1. The Westminster Comprehensive Land Use Plan, dated ~~May 28, 1997~~, JULY 15, 1997, is hereby adopted.

Section 2. The amended identification date does not modify the date of adoption of the Comprehensive Plan, or change the substance of the Comprehensive Plan. The Plan identified by the date "July 15, 1997," includes all provisions approved by City Council up to and including passage on second reading on June 23, 1997, and a portion continued to and approved on June 30, 1997.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of August, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Mayor

ATTEST:

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

**Date:** August 11, 1997

**Subject:** Bond Counsel Fees for Effluent Pipeline Bond Issue

**Prepared by:** Martin R. McCullough, City Attorney  
Mary Ann Parrot, Finance Director

### **Introduction**

City Council action is requested to authorize an additional \$5,000 for bond counsel services rendered by Mr. Loring Harkness of Ballard, Spahr, Andrews & Ingersoll in connection with the recent Water and Wastewater Enterprise bond issue for the Effluent Pipeline Project.

### **Summary**

City Council previously approved an engagement letter with Ballard, Spahr, Andrews & Ingersoll for bond counsel services for the recent financing of the \$13.2 million Effluent Pipeline Project.

Mr. Harkness' original fee estimate was \$12,000. However, this estimate was based on the bond issue being structured as a "parity" bond issue (on parity with the Enterprise since the 1994 bonds closed) and uninsured. During the course of the negotiations with the Colorado Water Resources and Power Authority, it was determined that the City would be better served by making this a "subordinate bond issue" and insuring it with AMBAC, which would then protect the Enterprise's future bonding capacity.

During the course of the structuring of the bond issue, Staff indicated that Staff would support an additional \$5,000 for the additional work associated with the restructuring of the bond issue from a parity/uninsured to a subordinate/insured bond issue.

### **Staff Recommendation**

Authorize the City Manager to approve an additional \$5,000 payment to Ballard, Spahr, Andrews & Ingersoll in connection with the City's \$13.2 million Water and Wastewater Utility Enterprise Bond Issue.

### **Background Information**

During the course of the structuring of the bond issue, Staff indicated that Staff would support an additional \$5,000 for the additional work associated with the restructuring of the bond issue from a parity/uninsured to a subordinate/insured bond issue. These changes required additional meetings with the officers of the Enterprise and the Authority, as well as the redrafting of the bond documents to effect a subordinate pledge of revenues in compliance with AMBAC requirements. Bond counsel was also required to negotiate pre-payment and defeasance details with underwriters' counsel. As a result, the City has received an invoice for an additional \$5,000 in connection with these services.

A copy of the letter from Ballard Spahr Andrews & Ingersoll explaining the additional fees is attached for Council's information.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Date:** August 11, 1997  
**Subject:** Resolution No. re Westminster City Center Service Commitments  
**Prepared by:** Terri Hamilton, Planner III

**Introduction**

City Council action is requested to adopt the attached Resolution awarding 10.6 Category "C" Service Commitments for the Westminster City Center Filing 3, office building at Block 2, Lot 1A (Pad 6).

**Summary**

Planning Commission approved the Westminster City Center Official Development Plan (ODP) in June 1997. Section 11-5-1 of the Municipal Code permits the City Manager to award service commitments for projects he has administratively approved, but does not give him authority to award service commitments for projects that are approved by the Planning Commission, therefore, an award of service commitments by City Council is necessary.

A total of 10.6 service commitments is required for this commercial project.

**Staff Recommendation**

Adopt Resolution No. awarding 10.6 Category "C" service commitments for the Westminster City Center Filing 3, office building at Block 2, Lot 1A (Pad 6).

**Background Information**

The project is located on the north side of the Farmers' High Line Canal and the Westminster City Center Marketplace retail center. The original Official Development Plan (ODP), approved by City Council, indicated a one-to two-story office building, future fire station, and a retail or restaurant building at this location. The amended ODP will allow one, three to four-story office building, ranging from 51,000 to 52,785 square feet in area. The developer, Jim Sullivan, has paid the City a cash-in-lieu payment for the new fire station location at 92nd Avenue and Lowell Boulevard.

The primary building material of the office building will be architectural precast concrete instead of brick. Overall architectural design and color will match those of the existing, phase I, retail development of the Marketplace. Planning Commission supported the change in building material because it will allow the building design and construction to easily incorporate and emphasize architectural details such as lintels, cornices, reveals etc. on the multi-story building. Construction plans have not been submitted to the City for this project at this time; however, they are being prepared by the Developer's consultants.

Respectfully submitted,

William M. Christopher, City Manager  
Attachment

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

CATEGORY C SERVICE COMMITMENT AWARD FOR THE WESTMINSTER  
CITY CENTER, OFFICE BUILDING AT LOT 1A, BLOCK 2 (PAD 6)

WHEREAS, the City of Westminster has adopted by ordinance a Growth Management Program for the period July 1, 1990, through June 30, 2000; and

WHEREAS, within that ordinance there is a provision for an award of Service Commitments to Category C, Non-Residential Developments; and

WHEREAS, Category C is the category which is appropriate for the Westminster City Center Filing 3, office building at Lot 1A, Block 2 (Pad 6); and

WHEREAS, there are 552.30 Service Commitments available for award in Category C; and

WHEREAS, the Planning Commission approved the Official Development Plan for the Westminster City Center Filing 3, office building at Lot 1A, Block 2 (Pad 6).

NOW, THEREFORE, be it resolved that the Westminster City Council resolves that:

1. An award of 10.6 Service Commitments is hereby made for use in the Westminster City Center Filing 3, Lot 1A, Block 2 (Pad 6).
2. A reduction of 10.6 Service Commitments is hereby made to the total number of Service Commitments available in Category C.
3. This award shall be valid for a period ending July 28, 1999.
4. This shall constitute the resolution required under Section 11-5-4 of the City Code.

Passed and adopted this 11th day of August, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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