

## ARTICLE 1 GENERAL PROVISIONS

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Article 1, General Provisions provides the foundation elements and operating mechanisms for the Unified Development Code. It includes establishing purposes, jurisdiction, authority and interpretation. It is most useful to those who will use the code on a daily basis such as City staff or property developers.

# UNIFIED DEVELOPMENT CODE

## ARTICLE 1 GENERAL PROVISIONS

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### 1.1 OVERVIEW

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#### 1.1.1 Title

These regulations shall be known as the “Cheyenne Unified Development Code,” and may be referred to throughout this Title as “these regulations,” “this code,” “this Title,” or “the UDC.” References to the “subdivision standards” (Article 4), “zoning ordinance” (Article 5), “design standards” (Article 6), or “form-based code” (Article 7) may refer to individual articles in these regulations if the context suggests a specific reference.

#### 1.1.2 Authority and Jurisdiction

These regulations are adopted under the authority granted by the Wyoming Statutes, including: Sections 34-12-101 to 34-12-115 (Platting and Dedication); 9-8-101 to 9-8-302 (Land Use Planning Act); 15-1-401 to 15-1-422 (Annexation; Determination of Boundaries; Addition and Exclusion of Land); 15-1-501 to 15-1-512 (Planning – Cities and Towns); 15-1-601 to 15-1-611 (Zoning – Cities and Towns); and all general police powers of the City of Cheyenne, Wyoming.

These regulations are applicable to all incorporated areas of the City of Cheyenne, Wyoming, any official additions to the incorporated boundaries, and where specifically stated and authorized by statute, some areas outside of the incorporated area in the City’s Planning Jurisdiction.

#### 1.1.3 Purposes

The purposes of these regulations are to:

- a. Promote the health, safety and the general welfare of the citizens of Cheyenne.
- b. Implement the Comprehensive Plan for the City of Cheyenne, including other official plans, policies and programs developed under the guidance of the Comprehensive Plan.
- c. Create safe and attractive living and working environments.
- d. Preserve and enhance long-term values of property and buildings.
- e. Promote economic vitality in the City.
- f. Guide and facilitate coordinated development and use of land.
- g. Establish standards for zoning districts and for the kinds and classes of buildings within districts that promote the unique character of districts and suitability for particular uses.
- h. Preserve and rehabilitate historic properties in certain districts.
- i. Achieve the Intent and Design Objectives specified in the detailed sections of these regulations.

#### 1.1.4 Effective Date

These regulations are effective from and after the date designated in the official action by the City Council in adopting this Title. This action shall not affect the prior effective date of any standards included in this Title and which were previously adopted under the Cheyenne - Laramie County Subdivision/ Development Standards, the Cheyenne and Laramie County Zoning Ordinance, and the City of Cheyenne Road, Street & Site Planning Design Standards.

#### 1.1.5 Severability

Should any provision of these regulations, or any application of these regulations to persons or circumstances, be declared invalid for any reason by a court of competent jurisdiction, the declaration shall be limited to that provision or specific application directly involved, and shall not affect the validity of other provisions of these regulations as a whole, or the application to other persons or circumstances.

### 1.1.6 Amendments

This Title may be added to, changed, modified or repealed. All proposals for amendments shall be referred to the Planning Commission and processed according to the procedures and criteria in Article 2.

### 1.1.7. Annual Review Requirement

A summary report of any formal issues and concerns regarding this code and received by Staff over the course of the previous year shall be brought before the Planning Commission for acknowledgement on an annual basis each February. The Planning Commission may direct action, additional research, or investigation into elements of this code that may need modification. This does not preclude modifications to the code being made at other times as may be initiated under 1.1.6 but provides for an opportunity for review to keep the code current and ensure its viability and responsiveness over time. Formal concerns may be reported using the form provided by the Department.

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## 1.2 REVIEW AUTHORITIES

### 1.2 REVIEW AUTHORITIES

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#### 1.2.1 Summary Table

Table 1-1 provides a summary of the review authorities for these regulations, and the applications and procedures of the review authorities. Specific procedures and criteria for these applications are included in Article 2.

TABLE 1-1: SUMMARY OF REVIEW AUTHORITY									
Application Type	Pre-app meeting	N'hood meeting	Review Body				Notice		
			Staff	PC	CC	BoA	Pub.	Mail	Post
Text Amendment			R	R/H	D/H		<input checked="" type="checkbox"/>		
Map Amendment ("rezoning")	<input type="radio"/>		R	R/H	D/H		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Subdivision – Administrative Plat	<input checked="" type="checkbox"/>		D	A*					<input checked="" type="checkbox"/>
Subdivision – Preliminary Plat	<input type="radio"/>		R	R	D		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Subdivision – Final Plat	<input type="radio"/>		R	R	D		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Site Plan Review	<input type="radio"/>		D			A			<input checked="" type="checkbox"/>
Master Development Plan / Regulating Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	R	R/H	D		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Administrative Use Approval	<input checked="" type="checkbox"/>		D			A			<input checked="" type="checkbox"/>
Conditional Use Approval	<input type="radio"/>		R			D/H	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Temporary Use Approval	<input checked="" type="checkbox"/>		D			A			
Administrative Adjustment	<input checked="" type="checkbox"/>		D			A			
Appeal of Administrative Decision	<input type="radio"/>					D/H		<input checked="" type="checkbox"/>	
Variance	<input type="radio"/>		R			D/H	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Subdivision Standard Waiver	<input checked="" type="checkbox"/>		D	A	A				
Annexation	<input type="radio"/>		R		D		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Street Vacation	<input type="radio"/>		R	R	D		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

R = Recommendation  
D = Decision  
A = Appeal  
H = Public Hearing  
PC = Planning Commission

CC = City Council  
BoA = Board of Adjustments  
 = Required  
 = Recommended or Optional  
\* May be appealed as a preliminary plat application to Planning Commission.

### 1.2.2 Staff

a. **Planning Services Director.** The Planning Services Director (Director) shall be the person appointed by the Mayor to head the Planning and Development Department. References to the Director shall include his or her designee, or any other administrative committees or groups established by the Director in exercising discretion on the operation and administration of the Department. The Director is the principal interpretation and enforcement officer under these regulations, and may consult with any other Department or relevant outside agencies when exercising this authority. In addition to other general administrative duties, the Director shall have the following review and decision-making responsibilities under these regulations:

1. **Review Authority.** The Director shall have the authority to review and make recommendations for the following:

- a. Text Amendments
- b. Zoning Map Amendments
- c. Subdivision – Preliminary Plats
- d. Subdivision – Final Plats
- e. Master Development Plan / Regulation Plan
- f. Conditional Use Permits
- g. Variances

2. **Decision-making Authority.** The Director shall have the authority to review and make the final decision on the following, all of which may be appealed in accordance with the procedures in Article 2:

- a. Subdivision - Administrative Plats
- b. Site Plans
- c. Administrative Use Approvals, where specifically indicated in these regulations
- d. Temporary Use Approvals
- e. Administrative Adjustments
- f. All other administrative decisions specifically mentioned or necessarily implied by these regulations

3. **Official Application Requirements.** The Director shall have the authority to make all official application requirements for submittal of formal applications under the review processes in Article 2. The Director shall have the authority to require all information that is reasonably necessary to evaluate the application

according to the standards and criteria of these regulations. All official application requirements shall be on file with the Department and available to the public on request. The official application requirements may be reviewed and amended by the Planning Commission or City Council in their discretion, and may be amended by the Director from time to time. Major amendments proposed by the Director shall be reviewed by Planning Commission and acknowledged by City Council. A major amendment may include new studies or significantly altering the timing of construction or other technical products. Any amendment to the official application requirements shall not impact any application that has formally been submitted, however the Planning Commission and City Council have the authority to require additional information in the review of applications as provided in these regulations.

b. **City Engineer.** The City Engineer shall be the person serving in the position of City Engineer and responsible for reviewing the engineering design, construction, operation and maintenance of all public improvements specified under these regulations. In addition to other administrative duties, the City Engineer shall have the following review and decision-making responsibilities under these regulations:

1. **Review Authority.** The City Engineer shall have the authority to review and make recommendations on the technical specifications and engineering design of all public improvements, private utilities, and other infrastructure associated with any development application under these regulations.

2. **Decision-making Authority.** The City Engineer shall have the authority to review and make final decision on the following, to the extent it deals with the engineering design, construction, operation or maintenance of public improvements:

- a. Subdivision Standard Waivers
- b. All other administrative decisions specifically mentioned and reasonably implied by these regulations. The City Engineer also makes final approval of processes not described in this code, relating to the processes involved with the submittals for technical design of various required facilities.

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3. **Official Application Requirements.** The City Engineer shall have the authority to require all information that is reasonably necessary to evaluate the application according to the standards and criteria of these regulations.

4. Subdivision – Final Plats
5. Master Development Plan / Regulating Plan
6. Annexation
7. Street Vacations

### 1.2.3 Planning Commission (Commission)

The Planning Commission is the appointed body of the City responsible for all long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of long-range and comprehensive planning policies. In addition to other general planning authority by statute, local ordinance or charter, or bylaws, the Planning Commission shall have the following responsibilities under these regulations.

- a. **Review Authority.** The Planning Commission shall have the authority to review and make recommendations for the following:
  1. Text Amendments
  2. Zoning Map Amendments
  3. Subdivision - Preliminary Plats
  4. Subdivision Final Plats
  5. Master Development Plan / Regulating Plan
  6. Street Vacations
- b. **Appeal Authority.** The Planning Commission shall have the authority to hear appeals of decisions for the following:
  1. Administrative Plats
  2. Subdivision Standard Waivers

### 1.2.4 City Council (Council)

The City Council is the elected governing body of the City responsible for all legislative decisions. In addition to other general authority, the City Council shall have the following review and decision-making responsibilities under these regulations.

- a. **Decision-Making Authority.** The City Council shall have the authority to review and make the final decision on the following:
  1. Text Amendments
  2. Zoning Map Amendments
  3. Subdivision – Preliminary Plats. The City Council may acknowledge the decision of the Planning Commission, or may elect to review the preliminary plat on its merits and come to its own decision prior to acknowledging the plat.

### 1.2.5 Board of Adjustment (Board or BoA)

- a. **Establishment.** The Board of Adjustment is the appointed body of the City responsible for appeals and quasi-judicial decisions under the zoning regulations. The Board of Adjustment shall consist of five to seven members each to be appointed for a term of three years. Board members shall be appointed by the Mayor, with the consent of City Council. Any member of the Board of Adjustment may be removed for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- b. **Meetings.** Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public except where specifically provided otherwise by law. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if the member was absent, or failed to vote. The Board shall keep records of its deliberations and other official actions, all of which shall be filed with the Director and shall be a public record.
- c. **Decision-making Authority.** The Board of Adjustment shall have the authority to review and make the final decision on the following:
  1. Variance
  2. Conditional Use Approval
  3. Appeal of an Administrative Decision
- d. **Appeal Authority.** In addition to any other authority granted by statute or local ordinance, the Board of Adjustment shall have the authority to hear appeals and affirm, modify, or over-rule the final decision on the following:
  1. Site Plan
  2. Temporary Use Approval
  3. Administrative Use Approval
  4. Administrative Adjustment

### 1.3 ADMINISTRATION AND ENFORCEMENT

- 1.3.1 Purpose
- 1.3.2 Compliance Required
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- 1.3.9 Abatement of Violations
- 1.3.10 Appeals
- 1.3.11 Nonconformances
- 1.3.12 Fees

#### 1.3.1 Purpose

This Section establishes procedures through which the City seeks to ensure compliance with the provisions of this code and obtain corrections for violations of this code. This Section also sets forth the remedies and penalties that apply to violations of this code. The provisions of this Section are intended to encourage the voluntary correction of violations, where possible.

#### 1.3.2 Compliance Required

Compliance with all provisions of this code is required by all persons owning, developing, dividing, managing, using, or occupying land or structures. Failure to comply with a standard, requirement, prohibition or limitation imposed by this code, or the terms or conditions of any permit, approval or authorization granted in accordance with this code, shall constitute a violation of this code punishable as provided in this Section.

#### 1.3.3 Responsible Persons

The owner, tenant or occupant of any land or structure, and an architect, engineer, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains a situation that constitutes a violation of these regulations, may be held responsible for the violation and be subject to the remedies and penalties set forth in this Section.

#### 1.3.4 Violations

It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained or otherwise initiated in violation of these regulations, or in violation of any amendment, order or decision authorized under these regulations. In addition to any other remedy provided in

these regulations, the City may institute proper actions or proceedings to prevent the unlawful activity or situation. Activities that constitute a violation include, but are not limited to, the following:

- a. Creating, expanding, replacing or changing any nonconformity except in compliance with this code;
- b. Reducing or diminishing the requirements for development, design or dimensional standards below the minimum required by this code;
- c. Increasing the intensity or density of development, except in accordance with the standards of this Code;
- d. Through any act or omission, failing to comply with any other provisions, procedures or standards as required by this code;
- e. Disturbing any landscaped area or vegetation required to be protected or maintained by this code;
- f. Installing, creating, erecting, altering or maintaining any sign without first obtaining the appropriate permits or required development approvals and complying with their terms and conditions;
- g. Failing to remove any sign installed, created, erected or maintained in violation of this code, or for which a previously approved permit has expired.

#### 1.3.5 Violation Notice

The following procedures shall be used in citing violations of these regulations:

- a. The first notice shall be by certified mail or by other provable means of service, which notice shall state that the violation must cease within fourteen (14) calendar days from the date of receipt of the notice. In cases where a health hazard or emergency may exist, or where removal of the violation is deemed imperative by the Director or his or her designated representative, the fourteen (14) day limit may be decreased. The notice may indicate potential penalties for violation.
- b. A final notice shall be by certified mail or by other provable means of service if the violation has not been corrected within the time period set forth in the first notice. The final notice shall indicate the dates and time frames previously provided and shall state that the violation must cease within seven (7) calendar days from the date of receipt of the final notice. Should the violation not cease within seven (7) days of receipt, the matter will be referred to the City Attorney who will act as expeditiously as possible and who may also follow the processes under Section 1.3.8 or 1.3.9.



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- c. Violations may be cited by the City.
- d. Notification under this section may also be made by placing a violation notice directly on the property if the provisions of this sub-section cannot be accomplished.
- e. The Director may grant one (1) extension of up to thirty (30) days should an extension be requested. Requests must be in writing and signed by the responsible persons. Should the Director approve the extension, a written approval will be sent to the responsible persons and added to the case file.

### 1.3.6 Investigatory Powers

- a. The Director is authorized to enter upon any property, excluding dwelling units, and at any reasonable time for the purpose of inspecting properties or performing other duties under these regulations.
- b. The City may investigate, and to the extent necessary administer an oath or affirmation, and upon request of any party, may subpoena witnesses, compel own motion, or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant of the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other relevant facts or any other matter reasonably calculated to lead to discovery of admissible evidence.
- c. Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the City may apply to any district court for an Order compelling compliance.

### 1.3.7 Penalties

Any person, firm or corporation which fails to comply with or violates any of these regulations shall be subject to any penalties permitted by the Wyoming Statutes authorizing these regulations, or any other remedy available to the City including:

- a. **Injunction.** If any building or structure is erected, constructed, reconstructed, repaired, converted, or any building, structure, or land is used in violation of these regulations, the Director or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies,

may institute an injunction, mandamus, or other appropriate action or proceeding to stop the violation.

- b. **Fine Generally.** Any person, violating any provision of these regulations is guilty of a separate offense for each and every day during any portion of which any violation of any provision of these is committed, continued, or permitted by any such person and shall be punished by a fine of the maximum allowed by the State Statute for each offense. Daily fines may be calculated from the date of first notice to the date of the hearing being scheduled or until date of remedy if remedied prior to a hearing date being established.

- c. **Fine for Misrepresentation of Subdivisions.** Any person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circulation of any false statement or misrepresentation concerning any subdivision/development for sale, in this or any other state, and every person with knowledge that any such advertisement, prospectus, pamphlet or letter concerning land of any subdivision/development thereto contains any written statement that is false or fraudulent in any material part or who issues, circulates, publishes or distributes the same or who causes the same to be circulated, published or distributed, shall upon conviction be imprisoned for a period not to exceed thirty (30) days or be fined the maximum amount authorized by the Wyoming Statute. Each day of violation constitutes a new offense.

- d. **Suspension of Permit or License.** Violations of these regulations may result in suspending a permit, license, or approval where the terms of the approval are not being met as provided in subsection 1.3.8, below.

- e. **Abatement of Violation.** Violations of these regulations may be abated at the election of the Director. This procedure shall not be the sole remedy available, and the City may enforce these regulations in any manner provided by law as provided in section 1.3.9, below.

- f. **Stay of Fines.** Should a remedy be initiated by the responsible persons or during a public hearing process, a stay of fines may be permitted.

### 1.3.8 Suspension of Permit or License

Suspension of any City issued permit, license or approval issued in accordance with these regulations or the Municipal



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Code may be made under the procedures and standards of this Section.

- a. A license, permit or approval shall be suspended if any of the following findings are made:
    1. A use or development action upon the parent property has not obtained approvals required by this code;
    2. The physical development, use, development option, or subdivision, violates the terms or conditions of the permit or any approval of this code; or
    3. The permit, approval, or license was issued on the basis of erroneous or misleading information or misrepresentation.
  - b. Rules of Procedure
    1. A suspension proceeding shall be governed by the contested case rules adopted by the City.
  - c. Process
    1. The process shall follow the proceedings of Section 2.92.020 of the Municipal Code of the City of Cheyenne.
- 1.3.9 Abatement of Violations**
- Abatement of violations of these regulations shall be made under the procedures and standards of this Section.
- a. A license, permit or approval shall be suspended if any of the following findings are made:
    1. Substantial evidence that a violation of this Code does exist; and
    2. Sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal development.
  - b. Effect
    1. If an Order to Abate is issued it shall mean that the land or development is in violation of this Code and the illegal activity shall be discontinued and rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the Order to Abate.
  - c. Rules of Procedure
    1. An abatement proceeding shall be governed by the Wyoming Administrative Procedures Act, W.S. 16-3-107 through -115.
  - d. Process
    1. Notice to Abate. If a Final Notice has been issued as specified in Section 1.3.5.b and the responsible persons is found to not be in compliance after the timeline specified in the final notice, a notice to abate may be mailed to the landowner stating the date and time the abatement will take place. Notice shall be sent at least fourteen (14) days prior to the abatement.
    2. Notice of Hearing to Abate. Should the responsible persons request to appeal the notice to abate after receiving the notice, a notice of a hearing to abate shall be mailed to the landowner stating the date, time, and location of the public hearing by certified mail, return receipt requested and stating the provisions of these regulations being violated. Notice shall be sent at least fourteen (14) days prior to the hearing.
    3. Hearing officer conclusion. If, after the conclusion of the hearing, the Officer finds that an Order to Abate shall be issued, the Hearing Officer shall prepare an Order to Abate outlining findings and specifying the nature of the violation, the method of abatement, and the time within which the abatement shall be commenced and completed. The Hearing Officer shall provide the landowner a copy of the Order to Abate, by mail, on the day the order is made.
    4. Abatement. The City's right to abate a violation of this Code, as provided in this Section, shall be cumulative to any other remedy provide by law.
  - e. Costs of abatement; notice of assessment
    1. Upon completion of abatement by the city, the city shall complete a statement of costs. The statement shall include the costs of abatement and any other expenses incurred by the city, plus an administrative fee in the amount of fifty (50) percent of the abatement costs.
    2. The city shall send written notice of the city's costs of the abatement to the owner of the property by certified mail, return receipt requested.
    3. The city will engage an independent contractor for abatement of a violation, the city is authorized to bill the costs of the abatement plus the administrative fee provided by UDC 1.3.9.e.1, above, to the owner of the property that is the subject of the abatement.

f. Rules of Procedure

1. If an owner or occupant of property to which a statement of costs has been sent fails to pay the costs of abatement within thirty (30) days after notification, the city attorney may file an appropriate lien with the county clerk and ex officio registrar of deeds for Laramie County. The lien shall contain the legal description of the property involved, the amount of the unpaid bill, and a notice that the city claims a lien for its costs of abatement. A lien for abatement costs may be foreclosed in accordance with the laws of the state of Wyoming. In addition, the city may pursue any remedies provided by law including assignment of the claim for costs of abatement to a collection agency.

### 1.3.10 Appeals

Appeals to the application and enforcement of these regulations shall be allowed by the procedures and criteria in Article 2. In general these regulations provide for the following distinct appeals.

- a. **Administrative Use Approval.** A process to administer the provisions of these regulations in a manner that best achieves the Purposes, Intent and Design Objectives of these regulations, and which may offer relief or alternative compliance to standards. Administrative Use Approvals are administrative decisions and only allowed where specifically identified in the provisions of these regulations, and subject to the procedures and criteria in Article 2.
- b. **Waiver.** A process to decide whether or not to apply a specific standard of the Subdivision Standards in Article 4, or decision to apply an alternative standard in a specific circumstance. Waivers are an administrative decision and only allowed subject to the procedures and criteria identified in Article 2.
- c. **Variance.** A process to decide whether to vary or adjust the strict application of a standard in Articles 5, 6 and 7. Variances are quasi-judicial decisions and allowed subject to the procedures and criteria identified in Article 2.
- d. **Appeal of an Administrative Decision.** A process to decide if any final administrative decision made by an administrative official in the interpretation or enforcement of the standards of this code are correct.

### 1.3.11 Nonconformances

- a. **Generally.** Within the zoning districts established by this

Title and amendments that may later be adopted, there exist land and uses of land which were lawful before this Title was passed or amended, but which would be affected by the terms of this Title or future amendments. Therefore, it is the intent of this Title to permit these nonconforming uses and conditions to continue, provided that:

1. The continuation of the nonconformance is not detrimental to the public health, safety and welfare;
2. Any future development activity on the site seeks to conform to the code to the extent practical; and
3. All efforts to alleviate or gradually eliminate the undesirable consequences of nonconformances are made. It is further the intent of this Title that these nonconforming uses and conditions shall not be used as grounds for allowing other uses or conditions prohibited elsewhere in the district.

- b. **Nonconforming Structures.** Structures that were legally constructed prior to the adoption or amendment of this code, but which could not be constructed under the terms of this code or subsequent amendment are considered nonconforming structures. A nonconforming structure may continue to exist or expand subject to the following:

1. An extension of a structure, or placement of an accessory building, which does not further encroach upon the violated yard requirement, may be granted upon the approval of the Director, if it is found the extension or placement of structure is not detrimental to the purposes or intent of this Title.
2. If destroyed by fire or other natural disaster, the structure may be restored to its original condition if the restoration is started within one year. A two-year extension may be granted by the Director for a building or structure provided a written request for such extension is received from the building owner prior to the end of the original one-year period.
3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this Title, and the cost of improvement or restoration exceeds fifty percent of the fair market value of the structure, then the right to maintain the nonconformance shall terminate.

- c. **Nonconforming Uses.** Use of land or buildings that legally existed prior to the adoption or amendment of this code, but which could not be commenced under the terms of this code or subsequent amendment are considered nonconforming uses. A nonconforming use may continue to exist subject to the following:
1. Expansion of a nonconforming use requires Board approval in accordance with the procedures and criteria in Article 2 for conditional uses.
  2. The use may be changed to a lesser nonconforming use, either in extent or intensity, if the Director determines that the impacts of the new use are less than those of the existing nonconforming use. Accommodating the new use shall not increase any other non-conformances that may exist.
  3. If the nonconforming use ceases its operation for a continuous period of one year, it shall not be reopened and the building or structure where such use previously existed shall be used only for a conforming use.
- d. **Nonconforming Lots.** Any platted lots that legally existed prior to the adoption or amendment of this code, but which could not be platted under the terms of this code or subsequent amendment are considered nonconforming lots. A nonconforming lot may continue to exist subject to the following:
1. Lots that existed at the time of enactment of the ordinance codified in this Title that do not meet the minimum area or frontage requirements of the zoning district in which they are located may be used as a building site. If Administrative or Board approval is required for a use on the lot, the lot size may be a factor in determining if the use is appropriate.
- e. **Nonconforming Site Conditions.** Any site condition associated with a conforming use or structure (such as parking, driveways, or other non-structural site characteristic) in existence prior to adoption of these regulations but not in compliance with these regulations or subsequent amendments is considered a nonconforming site condition. Any change in use, expansion of the use, or expansion of the structure associated with the use shall terminate the legal status of the nonconforming site condition, except that in instances where a site plan is required for the proposed development activity, an administrative adjustment may be granted by the Director
- if:
1. The proposed adjustment does not aggravate any other non-conformance that may exist on the site.
  2. The proposed adjustment will not have adverse impacts on adjacent property
  3. The proposed adjustment is the minimum deviation necessary from applicable standards and otherwise meets the intent of the current standards. In determining the minimum deviation necessary the Director shall consider:
    - (a) The degree that the applicable standard has changed from prior standards;
    - (b) The initial investment in the non-conforming site condition and the amount of benefit already received from that investment;
    - (c) The proposed action does not unreasonably extend the useful life of the nonconforming site condition; and
    - (d) The practical or financial feasibility of strict conformance in relation to the proposed investment in new development activity.
- f. **Determination of Nonconforming Rights and Status.** If nonconforming rights are challenged, or if there is a request to expand or continue nonconformances, it shall be the property owner's responsibility to provide proof through business records or other records and data that the nonconformance has not ceased operation and has continued in operation without a one-year lapse. It shall also be the property owner's responsibility to provide proof that the nonconforming use legally existed, or was previously grandfathered, at the time the ordinance codified in this Title was adopted.

### 1.3.12 Fees

Fees shall be required at the time of filing of any development application and are payable to the City in accordance with the fee schedule adopted by the City Council to defray some or all of the cost of processing land development applications of this Code. The City Council may amend the fee schedule from time-to-time. The fee schedule shall be made available to the public on the City website.

### 1.4 INTERPRETATION

- 1.4.1 General Interpretation
- 1.4.2 Interpretation of Dimensional Standards
- 1.4.3 Defined Terms
- 1.4.4 Descriptions of Uses of Land and Buildings
- 1.4.5 Interpretation of Zoning Map
- 1.4.6 Interpretation of Comprehensive Plan and Future Land Use Maps
- 1.4.7 Resources, Guides and Industry Standards

#### 1.4.1 General Interpretation

a. **Rules of Construction.** Unless the context clearly indicates otherwise, the following rules of construction shall apply to these regulations:

1. All words shall have the customary dictionary meaning, unless specifically defined in these regulations.
2. The present tense includes the future tense and the future tense includes the present tense.
3. The singular includes the plural and the plural includes the singular.
4. Lists of examples prefaced by “including the following,” “such as,” or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar and non-mentioned examples.
5. A reference to an administrative official shall refer to that official or his or her designee.
6. The term “building,” “structure,” or “premises,” or any similar term, shall be interpreted to include any part of the building, structure, premises or other similar term unless otherwise stated.
7. All references to other local, state, or federal government regulations or guiding documents in these regulations refer to the most current version and citation for those regulations or documents, where such versions are consistent with the purposes, intent, and objectives of these regulations.

8. This code is organized in Articles (i.e. 7.#), Sections (i.e. 7.2.#), and Sub-sections (i.e. 7.2.3), and further divided into sub-sections and headings within the main sub-sections (i.e. a.2.). Any reference to a Sub-section includes all provisions within the main Sub-section, any reference to a Section includes all of the Sub-sections within that Section, and any reference to an Article includes all of the Sections in that Article, unless context clearly indicates otherwise or the circumstances make any specific standard inapplicable.

#### b. **Graphics, Commentary, and Notes.**

1. Graphics and commentary associated with graphics used in this code are to aid interpretation of the text, unless otherwise specifically stated. In the event of a conflict or ambiguity between a graphic or commentary and the text, the text shall control.
2. Notes to tables shall apply only to the particular provision footnoted, or to the entire table if it is not specifically footnoted to an item in the table, and not as generally applicable rules.

#### c. **Purposes, Intent and Applicability Statements, and Design Objectives.** This code is developed under a hierarchy of guidance developed according to the Comprehensive Plan. The hierarchy is generally organized as follows, ranging from the most general to the most specific:

1. *Purpose:* refers to the overall purpose of this code;
2. *Intent:* refers to the general planning goals or policy of an article, section or sub-section in this code;
3. *Context:* with respect to each of the zoning districts, context refers to the most appropriate planning or land use category in the Comprehensive Plan in which to apply this particular zoning district;
4. *Applicability:* refers to the applicability of an article, section, or sub-section in this code to certain anticipated development circumstances or land areas;
5. *Design Objectives:* refers to the specific and desired physical result or performance criteria of standards in an article, section or sub-section of this code; and

6. *Review Criteria:* refers to a list of considerations that review bodies use to determine if applications meet the purpose, intent, applicability, and design objectives of these regulations.

This hierarchy should be used to guide consistent interpretation of the code, and to guide all discretionary approvals or relief authorized under this code.

- d. **Computations of Time.** Unless specifically stated in individual sections, wherever these regulations state a time period, it shall be interpreted as follows:
  1. The day of the act, event, or other means which commences the time period shall not be counted.
  2. The last day of the time period shall be included in the time period, unless it is a Saturday, Sunday, or legal City holiday, in which case the next working day shall end the time period.
  3. Whenever the time period is expressed to require a formal submittal to the City, the time period shall end at 5:00 P.M. on the last day of the time period.
  4. Any time period expressed in years shall include a full calendar year from the act, event or other means which commences the time period.
- e. **Conflicts.** In case of a conflict between these regulations or any part of these regulations, and any part of any other existing or future adopted ordinance of Cheyenne, Wyoming, the more restrictive provision in all cases shall apply. In determining which regulation is "more restrictive" the Director shall determine which one most closely follows the policies, strategies and principles of the Comprehensive Plan.

### 1.4.2 Interpretation of Dimensional Standards

Dimensional standards in these regulations shall be interpreted according to the following rules and guidance:

- a. **Build-to Line.** The line specified as a distance from a lot line at which a building line shall be located within an accuracy of one foot, sometimes expressed as a maximum "setback line." In cases where setback lines are listed as a range indicating a minimum and a maximum setback, the range shall be interpreted as a build-to line at or within such distance a building line shall be established.

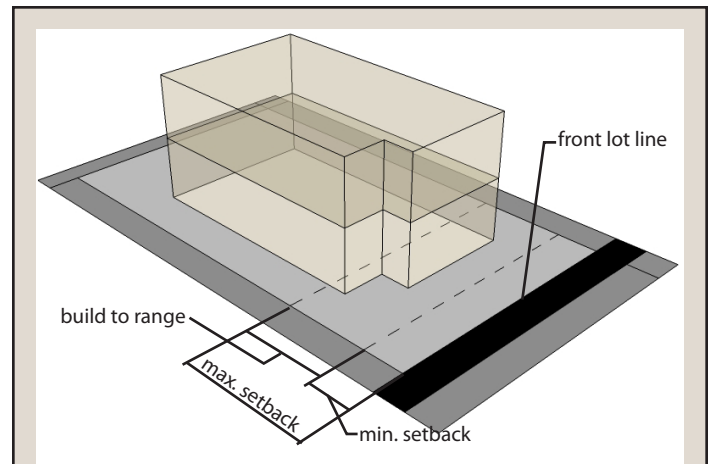


Figure 1-1: Build-to Range

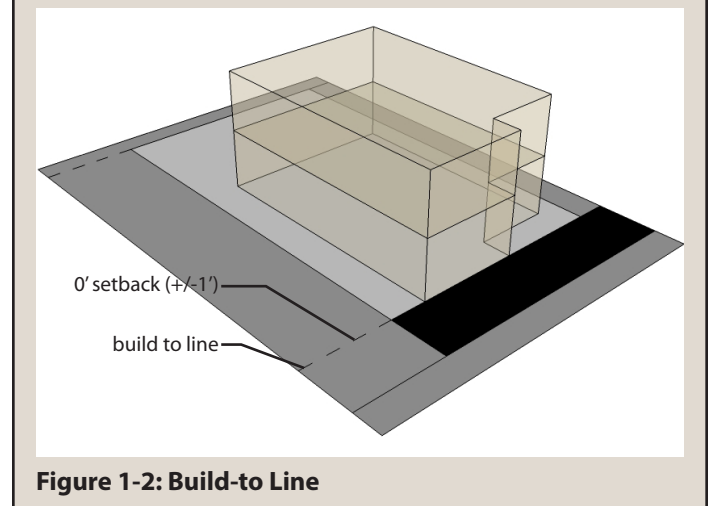


Figure 1-2: Build-to Line

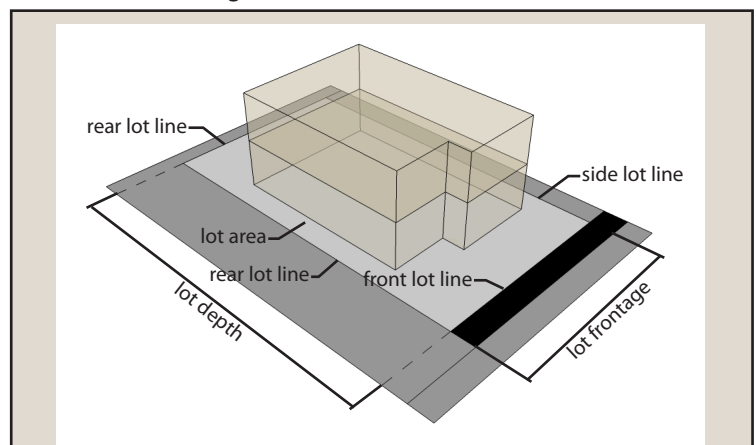
- b. **Building Envelope.** The horizontal area of a lot enclosed by the front setback line or build-to line, side setback lines, and rear setback line.
- c. **Building Height.** Where building height is expressed in feet, the interpretation of this sub-section shall apply [See also "Story"]. The vertical distance measured from the average elevation of the finished lot grade at the front building line to:
  1. The highest point of the roof deck in the case of a flat roof;
  2. The deck line of a mansard roof; or
  3. The average height between the plate and ridge of a gable, hip, or gambrel roof.



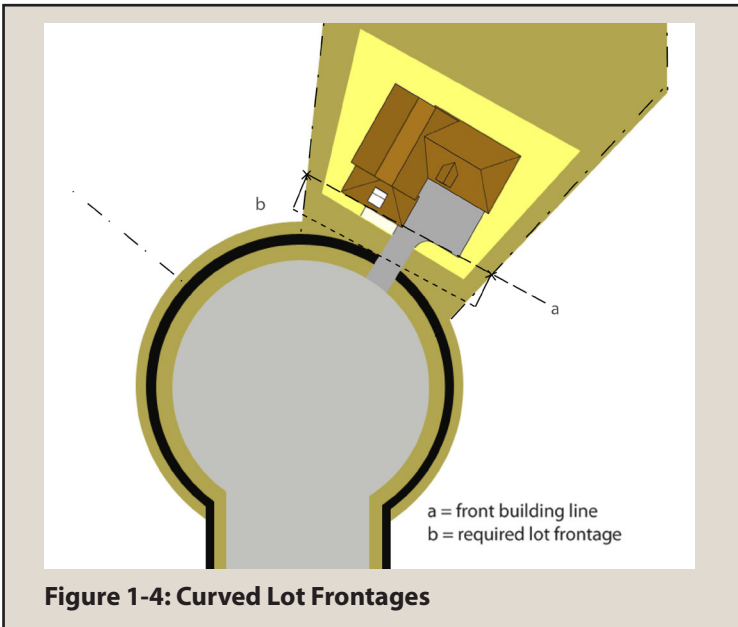
The height limitations of this Title, with the exception of the airport height restrictions and unless specified otherwise, shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, flag poles, light poles, monuments, water towers, transmission towers, smokestacks, chimneys, derricks, antennas and aerals.

- d. **Building Line.** The actual line at which the forward most part of a building is constructed, including the extension of that line to the edge of the lot, or beyond if context so indicates.
- e. **Floor Area.** The sum of the actual gross horizontal area of all floors, mezzanine space and interior balconies located at or above the established grade of the lowest abutting street, excluding:
  1. Attic space having less than 7' of head room, and which is not allocated in a permitted half story;
  2. Any interior space devoted to off-street parking or loading; and
  3. A utility room or furnace room.
- f. **Fractions.** When calculations result in fractions, the results shall be rounded as follows:
  1. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result shall be rounded up to the next consecutive whole number. For example, if a minimum requirement of one tree for every 30' is applied to a 40' strip, the resulting fraction of 1.33 shall be rounded up to 2 required trees.
  2. **Maximum Amounts.** When a regulation is expressed in terms of a maximum amount, any fractional result shall be rounded down to the next lower whole number. For example, if a maximum of one dwelling unit for every 3,000 square feet is applied to an 8,000 square-foot site, the resulting fraction of 2.67 shall be rounded down to 2 dwelling units.
- g. **Lot.** The following shall be used in interpreting lot dimensional standards:
  1. **Lot area.** The minimum required area of a horizontal plane bounded by the vertical planes through front, rear and side lot lines.

2. **Lot, corner.** A lot abutting upon two or more streets at their intersection or upon two parts of a street which forms an interior angle of less than 135 degrees.
3. **Lot, double frontage.** A lot abutting two (2) streets which do not intersect at the boundaries of the lot.
4. **Lot, triple frontage.** A lot having a frontage on three (3) intersecting streets.
5. **Lot, interior.** A lot other than a corner lot.
6. **Lot depth.** The horizontal distance between the front and rear lot lines measured at right angles to the front right-of-way lines. Where the front and rear lines are not approximately parallel, the lot depth shall be the average when measured from at least three different points along the front lot line, including the two corners at the front lot line.
7. **Lot frontage.** The horizontal distance between side lot lines, measured at the front lot line. Where the front lot line abuts a curved right-of-way, the lot frontage requirement may be applied at the front building line for purposes of regulating the dimensions of lots. See Figure 1-4.
8. **Lot line, front.** The lot line contiguous to the right-of-way line. On a corner lot, the front lot line is presumed to be the lot line along the street on which the lot has the least dimension. An exception may be made for a corner lot whose longer street-side lot line is clearly the primary street and where the orientation of the lot and buildings should face that street, based on the context and orientation of surrounding lots.



**Figure 1-3: Lot Elements**



**Figure 1-4: Curved Lot Frontages**

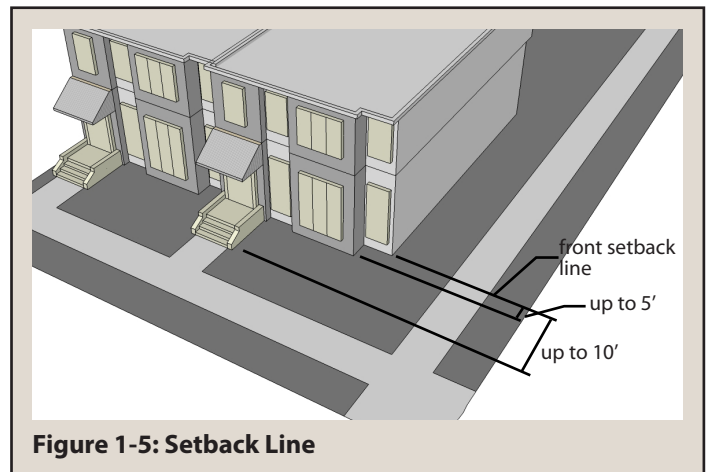
2. *Accessory building coverage.* The percentage of the lot or other specified dimension covered by an accessory building.
3. *Total Lot Coverage.* The portion of the lot covered by the principal building, accessory building, and any structure or constructed element which impedes infiltration of stormwater into the ground or disrupts vegetated surfaces. For purposes of lot coverage standards, structures or constructed elements that allow some infiltration, such as decks, patios and driveways, porous pavers or concrete, or other elements that disturb or compact permeable ground cover shall be counted towards the total surface coverage. Required formal open spaces such as Plazas, Courtyards or Patios may be excluded from the coverage calculation when they are designed to infiltrate all run-off within the open space or site.

9. *Lot line, rear.* Any lot line opposite to, parallel or nearly parallel with, and most distant from the front lot line. In the case of a triangular lot, or other similarly irregular shaped lots, where no lot line is nearly parallel with the front lot line, the rear lot line shall be interpreted as a line 10' in length, entirely within the lot, parallel to and at a maximum distance from the front lot line.

10. *Lot line, side.* Any lot line other than a front or rear lot line.

h. **Lot coverage.** The maximum allowed coverage of a lot. When measuring lot coverage, the following three measures shall apply:

1. *Building coverage, or principal building coverage.* The percentage of the lot or other specified dimension covered by the principal building excluding the following:
  - (a) Eaves or bays projecting less than 3' from a building;
  - (b) Trellises and similar structures which do not have solid roofs;
  - (c) The portion of any uncovered and unenclosed deck, porch, landing, balcony, planter or stairway; and
  - (d) Accessory buildings.



**Figure 1-5: Setback Line**

i. **Setback line.** A line that is the required minimum distance from any lot line and establishes the area on the lot within which buildings or structures shall not be built. In cases where setback lines are listed as a range indicating a minimum and a maximum setback, the range shall be interpreted as a "build-to line" at or within such distance a building line shall be established. Exceptions are described in Residential Design Standards, Section 6.6.



j. **Sign Area.** The following shall be used in interpreting dimensional standards for signs:

1. **Free-standing Signs.** The area of the sign shall be computed by the entire area of the face of the structure, cabinet or module enclosed by the border of the frame.

2. **Wall or window mounted Signs.** The area of the sign shall be computed by means of the smallest single and continuous perimeter of any standard geometric figure which encloses the outer limits of the writing, emblem or other display. Gaps in writing, emblems or other display which are greater than 25% of the sign area, when using the same single continuous perimeter above, may be subtracted from the calculation of the sign area.

3. Embellishments such as pole covers, framing, decorative roofing and support structures shall not be included in the area of the measurement if they contain no writing, emblem or other display.

4. Where the sign faces of a double-faced sign are no more than 3' apart at any location, only one face will be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign will be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign or the surface area of objects will be added together to compute the area of the sign.

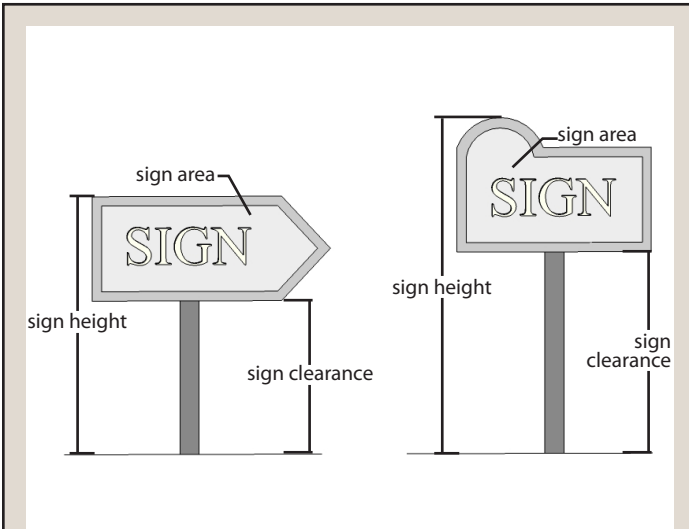
5. Sign height is measured from the lowest point of the ground directly below the sign to the highest point on the sign or sign structure.

6. Sign clearance is measured from the highest point of the ground directly below the sign to the lowest point on the sign structure enclosing the sign face.

k. **Story.** Where building height is expressed as a "story(ies)," the interpretation in this section shall apply. Where building height is expressed as both a maximum height in feet and a maximum height in stories, both shall apply and whichever results in the more restrictive interpretation shall be the maximum building height. "Story" shall be interpreted as follows:

1. **Story.** The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it or, where there is not a ceiling, to the top of the roof rafters.

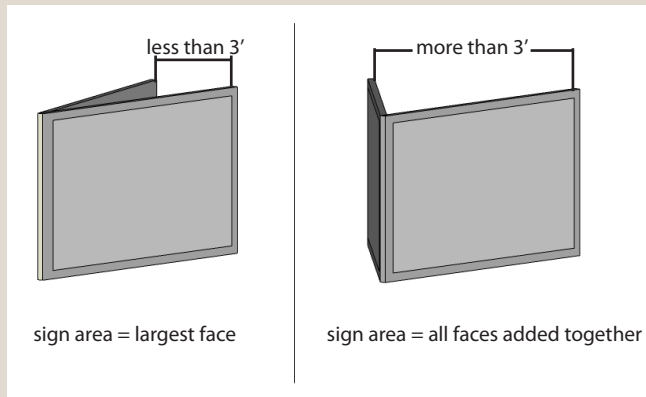
a. Stories shall begin at the first floor level that is between 3' above finished grade and 4' below grade.



**Figure 1-6: Free-standing Signs**



**Figure 1-7: Wall or Window Mounted Sign**



**Figure 1-8: Double-faced Sign**

- b. The minimum story shall be 9' and the maximum story shall be 14', except that the height of the first story may be as high as 20' for all non-residential buildings that are 2 stories or more.
  - c. *Exception:* Where ground floor manufacturing uses, or warehouse retail is allowed in the zoning district, buildings for those uses shall have no limit on the first story and the maximum building height expressed in feet shall control.
- 2 *Half-story.* A space under a sloping roof that has the line of intersection of the roof and the exterior wall supporting the roof not more than 3' above the floor level, and in which space the possible floor area with head room of 6' or more occupies between 30% and 70% of the total floor area of the story directly beneath.
- i. **Wall plane.** Any plane of continuous vertical, horizontal, or angled or inclined orientation which represents the exterior surface of a building or structure and which is not off-set by projections or recessions of at least 18 inches. Greater required off-sets and required total area of off-sets for wall planes may be specified in the context of these regulations.

### 1.4.3 Defined Terms

All words and phrases shall have their ordinary and customary meanings unless the context of the word or phrase indicates otherwise. The following terms shall have the meaning given below, unless the context of the use of the term clearly indicates otherwise based on the Purposes, Intent, Design Objective or other guidance associated with its use in a particular section.

*Abutting.* A description of proximity where two elements share a common boundary.

*Access Point.* A driveway, internal access street or similar vehicular entrance or exit to the interior of a block, lot or parcel from a street.

*Accessory Use.* A subordinate use, clearly incidental and related to the principal use and located on the same property.

*Activity Center.* Places where economic and social activity are focused. In addition, where the code specifically references PlanCheyenne or references specific types of activity centers described in PlanCheyenne the additional guidance in the Plan may be used to determine the context or applicability of a particular standard.

*Adjacent.* A description of the proximity of two elements which includes abutting and any surrounding vicinity where the impacts described could be reasonably assumed to extend.

*Alley.* A low capacity, low speed and minor street or access way typically located on the rear or side of properties and used for access to parking, service areas, accessory buildings or easements and not intended for through traffic.

*Antenna.* Any exterior transmitting or receiving communication device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Appeal.* A written request for a review of any final action or decision allowed by the provisions of this Title.

*Applicant.* Any person(s), firm, corporation or entity requesting permission or desiring to officially apply for any action regulated by this Title.

*Average Daily Traffic (ADT).* The total volume of vehicles during a given time period (in whole days greater than one day and less than one year) divided by the number of days in that time period.

*Awning.* A shelter constructed of non-rigid materials along windows and sidewalks at the first story of a building, and mounted on a supporting framework projecting from and supported by the exterior wall of a building.

*Base Flood Elevation.* The elevation of the flood having a one percent chance of being equaled or exceeded in any given year.

*Berm.* A mound of earth designed to provide a screen.

*Best Management Practice.* A technique, process, activity, or structure used to reduce pollutant discharges in stormwater. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff. BMPs are most effective when used in combination and selected and designed based on site-specific characteristics.

*Bicycle Route.* A portion of a system of bikeways designated by appropriate route markers which can be a bicycle trail or bikeway.

*Bicycle Trail.* A trail or path separated from motor vehicles and designated exclusively for bicycles or shared by bicycles and pedestrians.

# ARTICLE 1

## GENERAL PROVISIONS

## 1.4 INTERPRETATION

*Bikeway.* A street designed to incorporate bicycle travel through either shared vehicle / bicycle lanes or designated bicycle lanes.

*Billboard.* A sign structure advertising an establishment, a message, merchandise, service or entertainment which is not located, sold, produced, manufactured or furnished at the property on which the sign is located. Billboard includes Digital Billboard as defined in this code.

*Blinking.* A form of flashing where the pattern of sudden illumination changes occurs with more than 2 on-off cycles per second.

*Block.* An area of land that is entirely bounded by streets or other boundary permitted by these regulations where streets are not appropriate based on the context.

*Block Frontage.* The side or sides of a block that the majority of the lots or tracts face.

*BMP Maintenance.* Routinely scheduled activities, as well as non-routine repairs that may be required after large storms, or as a result of other unforeseen problems, as necessary to ensure proper BMP function.

*Building.* Any structure used or intended for supporting or sheltering any use or occupancy.

*Building, Accessory.* A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same property as that of the principal structure or use.

*Building, Attached.* A building having one or more party walls in common with an adjacent building.

*Building, Detached.* A building having no common wall or structural attachment with another building.

*Building, Existing.* A building erected prior to the adoption of the ordinance codified in this Title, or prior to the effective date of a provision in this Title, whichever is earlier, or one for which a building permit has been issued, or erected in accordance with this code after its adoption.

*Building, Nonconforming.* A building existing or one for which a building permit has been issued at the time of the adoption of this code which does not comply with the regulations of the zoning district in which the building is located.

*Building, Principal.* A building in which is conducted the main or principal use of the property on which the building is situated.

*Canopy.* A shelter constructed of rigid materials covered with fabric, metal or other material, along windows and sidewalks at the first story of a building, and projecting from the exterior wall, which may be freestanding or supported by a building at one or more points and by columns or posts embedded in the ground at other points.

*Certificate of Compliance.* A certificate issued by the Development Office which indicates that the site plan requirements have been met.

*Changeable Sign.* A sign whose informational content can be changed or altered by manual, electric, electromechanical or electronic means. Changeable signs do not include Digital Billboards as defined in this code.

*Change of Use.* Change of use constitutes at least one of the following:

1. The proposed use is appreciably different than the current use;
2. There is an increase in the size of the existing building or extent of the use of the land;
3. The use is permitted in the zoning district in which the use is located, but requires more parking than the previous use;
4. The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Institute of Transportation Engineers Trip Generation, latest edition;
5. The amount of stormwater runoff or impervious (to drainage) surface area will be increased with the new use.

*Channel.* A natural or artificial watercourse with a definite bed and banks that conveys continuously or periodically flowing water. Interchangeable terms include creek, drainageway, river, stream, and watercourse.

*City Engineer.* The City of Cheyenne City Engineer, his designated representative or the City Engineering Department.

*Comprehensive Plan.* The general plan for land use, transportation, utilities, annexation, and community facilities prepared and maintained by the Commission, and any other more specific plan, program or policy prepared under the guidance of that plan.

# ARTICLE 1

## GENERAL PROVISIONS

## 1.4 INTERPRETATION

*Construction, New.* Structures for which the construction commenced on or after the effective date of the ordinance codified in this Title.

*Construction, Start of.* The first placement of permanent construction of a structure (other than a manufactured home), such as the excavation of footings or foundations, or the pouring of slabs or foundations. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or sidewalks. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured home not within a manufactured home park or subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured home within manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the structure is to be affixed.

Corner lot. See "Lot, corner."

*Crosswalk.* Any portion of a roadway distinctly indicated for pedestrian crossing.

*Cul-de-sac.* A short dead-end street terminating with a vehicular turn-around area.

*Curb Radii.* The curved or flared portion of a street curb at driveway approaches or intersections.

*Decorative Fence.* A fence constructed out of materials such as wood, stone, or metal, or a combination thereof, primarily for aesthetic purposes to enhance the appearance of a property and generally not obstructing the visibility into or out of a property. A decorative fence shall not include chain link, wire, snow fences, or a standard wooden or vinyl privacy fences

*Detention.* The temporary storage of storm runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

*Detention Facility.* A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

*Developer.* The owner of land proposed for development, or the owner's authorized representative, or any person who causes the following to take place either directly or indirectly: division of property for the purpose of development; sells, leases or develops

property, or offers or advertises or otherwise engages in business for the same; or has control or is controlled in such a way to have influence in any of the above.

*Development.* Any man-made change to real estate, including, but not limited to, the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling.

*Development Footprint.* The development footprint is the total land area that is permanently affected by development activities, and includes buildings, structures, hardscape, utilities, roads and parking areas, maneuvering areas, storage areas, areas associated with the use on the property, and areas cleared of natural vegetation and topsoil.

*Digital Billboard.* A billboard displaying static images controlled by electronic communications.

*Dissolve.* A transition between digital messages that is achieved with varying light intensity and where the first message gradually appears to dissipate and loses legibility simultaneous to the gradual appearance and legibility of the subsequent message.

Double frontage lot. See "Lot, double frontage."

*Drive-in or Drive-up Facility.* A portion of an establishment designed for retail or service to persons in automobiles, including a driveway approach, order facilities, signs and delivery windows.

*Driveway.* A vehicle access way located on private property.

*Driveway Approach.* A constructed vehicle access point within the right-of-way between the roadway and the adjacent property line.

*Dwelling Unit.* One or more rooms which are intended for human occupancy as a place of residence with facilities for living, cooking and eating for one family unit, manifesting around one single kitchen, excluding wet bars with no stove or range, and one single laundry facility. Cooking facilities and other accommodations, such as laundry, should be accessible to all occupants of the dwelling through internally connected spaces.

*Easement.* A permanent or temporary grant of right by a property owner to the public, a corporation or other person(s) for the use of a strip or parcel of land for specified purposes. Ownership shall remain with the property owner.

*Electrical Sign.* A sign or sign structure in which electrical wiring, connections or fixtures are used. Electrical sign does not include a digital billboard as defined in this section.

*Fade.* A transition between static message displays that is achieved with varying light intensity and where the first message gradually loses light intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

*Family Unit.* One or more persons who are related by blood, marriage, domestic partnership or legal adoption living together as a single household; or a group of not more than four (4) persons not related by blood, marriage, domestic partnership or legal adoption, living together as a single household.

*Fence.* A man-made partition, structure, wall or a gate erected as a dividing marker, barrier, enclosure or screening device.

*Flag.* A sign made of fabric or other non-rigid material with no enclosing framework containing distinctive colors, patterns, or symbols, used as identification for or a symbol of a government, political subdivision, or other entity.

*Flashing.* A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated in a time frame of less than 4 seconds.

*Floor Area Ratio (FAR).* The total square feet of the building divided by the total square feet of the lot the building is located on.

*Foot Candle.* A unit of illuminance equal to 1 lumen, uniformly incident upon an area of 1 square foot.

*Freeboard.* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights greater than the height calculated for the design flood.

*Functional turf grass.* An area of living turf grass or lawn that is used regularly for human recreational purposes or domestic animal use. Functional turf grass or lawns include Kentucky bluegrasses, fescues, or similar sod-forming grasses requiring ½ inch or more of supplemental watering per week during hot, dry periods.

*Garage.* A building or portions of a building for the storage of automobiles or other property, accessory to the principle use of the site.

*Greenway.* A linear open space established along either a natural corridor, such as a stream valley, or overland along a road or railroad right-of-way converted to recreational use; a natural or landscaped course prepared for pedestrian or bicycle passage; certain designated strips or linear parks and open spaces connected and designated by the City as part of the Greenway System.

*Height.* When referring to a tower or other structure, height is the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

*High-power Transmission Lines.* Transmission lines which carry sixty-nine thousand (69,000) volts or more.

*Immediate.* A transition between static message displays that is achieved in 2 seconds or less.

*Impoundment Yard.* A fenced yard or enclosed area where storage of vehicles seized by, and in the custody of, a government agency, are stored for retrieval by the vehicle owner or are sold by proper means by the agency.

*Improvement.* Buildings, structures and all facilities of a public nature indented for public use – including streets, sidewalks, curbs, gutters, alleys and other public ways, parks, recreational facilities, water, sewage, solid waste disposal and other sanitary systems and facilities.

*Infill Development.* For commercial or residential parcels shall be defined by the following criteria:

1. One parcel surrounded by urban development on at least three sides (does not have to be directly adjacent to); and
2. Served by existing underground sewer and water utilities.

*Infiltration.* The process of percolating stormwater into the subsoil.

*Interior lot.* See "Lot, interior."

*Intermittent.* A pattern of changing light intensity, other than that achieved with immediate, fade or dissolve transitions, where any message remains static for over 4 seconds.

*Intersection.* The junction of two streets.

*Land Disturbance Activity.* Grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving,



construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

*Landscape Points System.* The point system used for determining the minimum vegetation requirement.

*Landscaped Setback.* The minimum required landscaping area on private or government-owned property which is adjacent to a property line common to a street right-of-way. Driveways and sidewalks to afford required access shall be allowed to interrupt this required space.

*Landscape, Street Tree Area.* The landscaped area between property line and the street, within the right-of-way.

*Landscaping.* Any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features, such as rock, stone, bark chips or shavings; and structural features, including, but not limited to, fountains, reflecting pools, outside art work, screen walls, fences or benches.

*Landscaping, Internal.* That area that lies within the property lines not covered by buildings, parking, outside storage, sidewalks and driveways.

*Landscaping, Xeriscape.* A water-saving landscape design that limits turf areas, utilizes mulches, efficient irrigation (often drip or subsurface) and use of native or drought-tolerant plant materials. When done properly, it is as lush and green as traditional landscapes, but has the benefits of lower water use and less maintenance after establishment.

*Loading Space.* An on- or off-street space for the standing, loading, and unloading of vehicles, people or articles.

*Lot.* A designated unit of land established by a plat or otherwise as permitted by law, for the transfer of ownership or to be used, developed, or built upon, whether immediate or future.

*Low Impact Development (LID).* An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. LID emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to mimic the pre-development hydrologic regime of watersheds through infiltrating, filtering, storing, evaporating, and detaining runoff. The term Green Infrastructure may also be used.

*Major Drainageway.* Any drainage flow path mapped with an

area of special flood hazard on the Flood Insurance Rate Map (FIRM).

*Manufactured Home.* A structure transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established by HUD. For manufactured homes built prior to June 15, 1976, a label certifying compliance to the standard for mobile homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

*Moving Light.* The physical change in position of any visible illumination source while lighted or the simulation of movement achieves with a pattern of sequentially illuminating visible illumination sources within close proximity to each other.

*MS4 Permit.* A state or federal stormwater discharge permit to regulate discharges from municipal separate storm sewer systems (MS4s) for compliance with Clean Water Act regulations; used interchangeably with the term National Pollutant Discharge Elimination System (NPDES) permit and collectively referred to as federal stormwater discharge permit.

*Nonfunctional turf grass.* An area of living turf grass or lawn that is not used regularly for human recreational purposes or domestic animal use. Nonfunctional turf grass or lawns include Kentucky bluegrasses, fescues, or similar sod-forming grasses requiring ½ inch or more of supplemental watering per week during hot, dry periods.

*Nonpoint Source Pollution.* Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

*Off-premise Sign.* Any sign not identified as a "Billboard" and which is used for the purpose of displaying, advertising, identifying, or directing attention to a business, service, activity or place, including products or services sold or offered for sale, on premises other than the premises where such sign is displayed.

*Open Space Systems.* A system of various types of outdoor space, designed to function as aesthetic, recreation, and ecological support for development. Elements of the open space system can include private, common, or public open spaces.

*Owner.* The owner of record of a parcel of land, as recorded in the office of the county clerk.

*Parapet.* The architectural enhancement in the design of the façade that extends ornamental details above a roof line to the extent necessary to screen the roof and roof-top equipment.

*Parcel.* A contiguous unit of land owned and recorded as the property of the same persons or controlled by a single entity.

*Parking Lot.* An area other than a street or alley designated for the parking of five or more motor vehicles.

*Parking Space.* A space specially designed for the parking of a motor vehicle.

*Party Wall.* A wall common to two or more units which are intended to be individually owned.

*Pedestrian.* A person on foot or a self-propelled conveyance intended for use of persons with physical impairments.

*Person.* An individual, firm, corporation, partnership, or association, or any combination of these, or any other legal or commercial entity acting as a unit.

*Pre-existing Towers and Pre-existing Antennas.* Any tower or antenna for which a building permit or wireless telecommunications permit (WTP) was issued prior to the effective date of this Title, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Public Drainage System.* The system of storm sewers, channels, culverts, creeks, flows within public streets, and associated detention and water quality structures owned and maintained by the City of Cheyenne, Laramie County, or the Wyoming Department of Transportation.

*Public Land.* Land owned, controlled and/or operated by a governmental unit.

*Published Notice.* A notice provided in accordance with Wyoming Statutes.

*Redevelopment.* The replacement of impervious surfaces on a developed site that is surrounded by urban development on

at least three sides. Redevelopment occurs when the existing facilities are demolished and rebuilt or substantially changed through reconstruction. Resurfacing parking lots with no charge in overall dimensions or drainage patterns is not considered redevelopment even if the pavement is completely replaced.

*Regional Detention Facilities.* A system or parts of a system to control run-off from a defined area within a drainage basin and designed to coordinate with other similar facilities to manage the drainage basin and tributaries, typically considering areas greater than 100 acres or capacities of more than 30 acre-feet or as otherwise specified in a drainage master plan or current Storm Drainage Manual.

*Remainder Lot.* A lot or tract of land designated on a plat which is not eligible for development, or to service adjacent development, and may be reserved for future platting. A remainder lot shall not be for the purpose of sale, lease, or financing; nor be eligible for development. Remainder lots shall not be required to meet the dimensional standards of the zoning district. Developed properties, excluding land developed for agricultural purposes, are not eligible to be remainder lots. Remainder lot(s) must be referred to as "outlots", "remainder lots", or "tracts" on plats.

*Right-of-way.* Land dedicated and set aside for use by the public, primarily for the right of vehicle or pedestrian travel, but typically designed to include multiple and other public purposes.

*Roadway.* That portion of a street designed and intended primarily for vehicles.

*Sanitary System.* A sewer system or systems including mechanisms of collection, treatment and disposal of domestic and/or commercial sewage.

*Screening.* A feature used to visually separate elements on abutting or adjacent development sites.

*Sidewalk.* That portion of a street designed and intended primarily for use of pedestrians.

*Sign.* Any announcement, declaration, demonstration, display illustration or insignia, or other identification, that is visible from any public place or is located on private property and exposed to the public and that directs attention to a product, service, place, activity, person, institution, business or solicitation, including structures that exist to support or enhance the sign.



# ARTICLE 1

## GENERAL PROVISIONS

## 1.4 INTERPRETATION

*Sign, Animated.* A sign that uses movement or change of lighting to depict action or create a special effect or scene.

*Signs, Building Marker.* A sign indicating the name of a building, a date and incidental information about its construction, cut into a masonry surface or made of bronze or other permanent material.

*Sign, Abandoned.* A sign which no longer identifies or advertises a bona fide business, service, owner, product, or activity, and/or for which no legal owner can be found.

*Sign, Electronic Message Center.* A sign where alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven, changeable segments.

*Sign, Government.* A sign erected and maintained by the United States or state of Wyoming, or any political subdivision thereof, for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.

*Sign, Nameplate.* A sign giving only the name, address and/or occupation of an occupant or group of occupants.

*Sign, Portable.* A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, and balloons used as signs. "Portable sign" shall not include umbrellas used for advertising, signs carried by individuals, and signs attached to or painted on vehicles parked and visible from the public right-of-way when such vehicle is used in the normal day-to-day operations of a business.

*Site Plan.* A plan of the land showing the existing and proposed features for the property.

*Static.* Having no motion within a particular message or copy displayed on a digital billboard.

*Storm Sewer.* An underground pipe system that carries stormwater from streets and other surfaces and discharges directly to a pond, stream or river; used interchangeably with the term "storm drain."

*Stormwater Management.* Anything associated with the planning, construction, maintenance, or regulation of facilities which collect, store, convey or treat stormwater.

*Storm Water Pollution Prevention Plan (SWPPP).* A written plan required under state and federal stormwater discharge permits identifying measures that will be implemented to minimize the discharge of pollutants in stormwater. Requirements for SWPPPs are specified in state and federal discharge permits. Requirements vary depending on whether the discharge permit is associated with municipal, industrial, or construction activities.

*Stormwater Retrofit.* A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

*Stormwater Runoff.* Also known as *Stormwater*, means flow on the surface of the ground, resulting from precipitation. Interchangeable terms include drainage and runoff.

*Street.* Any public way for the movement of vehicular and pedestrian traffic which is an existing federal, state, county or municipal roadway; or a right-of-way shown upon a plat, and approved pursuant to law, whether improved or unimproved, and may comprise pavement, shoulders, curbs, gutters, sidewalks, parking areas and other areas within the right-of-way.

*Street, Arterial.* Refers to the functional classification of a street in the entire transportation network, which has considerable continuity over long distances, and which is more specifically designed for speeds, volume and applicability according to the context, the standards in these regulations, and other specific transportation plans and policies.

*Street, Collector.* Refers to the functional classification of a street in the entire transportation network, which has moderate continuity over medium distances, and which is more specifically designed for speeds, volume and applicability according to the context, the standards in these regulations, and other specific transportation plans and policies.

*Street, Local.* Refers to the functional classification of a street in the entire transportation network, which has limited continuity except for short distances, and which is more specifically designed for speeds, volume and applicability according to the context, the standards in these regulations, and other specific transportation plans and policies.

*Structure.* That which is built or constructed, an edifice, or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

# ARTICLE 1

## GENERAL PROVISIONS

## 1.4 INTERPRETATION

*Tiedown.* Any device designed to anchor a manufactured home or any other accessory building or structure to the ground.

*Temporary Use.* A use or activity that is intended to occupy the site on a non-continuous basis for more than 14 days.

*Tower.* Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and any tower support.

*Tract.* A unit of land established by a plat or otherwise as permitted by law, designated for limited or no development as part of an approved plan for a legitimate public or community purpose and designated for public or common ownership and maintenance.

*Traffic-control Devices.* Signs, signals, markings, or other approved geometric designs in the roadway approved by the public body or official having jurisdiction for the purpose of regulating, warning, guiding, or calming traffic.

Triple frontage lot. See "Lot, triple frontage."

*Unit Space.* A designated portion of a manufactured home park for the accommodation of one manufactured home.

*Urban Drainage and Flood Control District (UDFCD).* The metropolitan Denver drainage organization.

*Utilities, Essential Services.* Those utility facilities that provide end user services to customers. They include local distribution and collection lines for gas, electricity, water, sewer, telephone or cable TV services throughout neighborhoods and connect with each customer. They consist of cables, wires or pipes with limited capacities and the associated hardware, such as transformers, relays and shut-off valves. They also consist of traffic-control boxes and traffic signal installations.

*Utility Facilities.* Any utility facility, whether or not regulated by the Wyoming Public Service Commission, not described as an essential service utility.

*Wall, Retaining.* A physical barrier necessary to prevent erosion and/or retain earth.

*Water Quality Capture Volume (WQCV).* Represents runoff from frequent storm events such as the 80th percentile storm. The volume varies depending on local rainfall data. The WQCV is based on runoff from 0.6 inches of precipitation (approximately 0.5 inches of runoff).

*Water System.* A public or private system of providing potable water to a structure for domestic use.

*Woonerf.* A street designed for use by pedestrian and vehicular traffic, where the pedestrian has the right-of-way.

*WyDEQ.* The Wyoming Department of Environmental Quality.

### 1.4.4 Descriptions of Uses of Land and Buildings

This section contains general descriptions associated with the uses of land and buildings. It is organized according to categories of uses and specific types of uses within each category. These categories and types correspond to the Use Table in Article 5, Zoning Regulations. Where a use appears to meet two or more descriptions or where a use is not described, the Director shall make a determination. If a use meets all of the characteristics of a use category and use type, or is so similar to a described use type as to create no anticipated differential impact, the Director may interpret that the described use includes the additional use. In making this determination, the Director shall compare: (a) the intensity and scale of the use relative to the site; (b) the typical site and building designs associated with the use; (c) the functional or operational characteristics and the potential impacts of the use on adjacent property; and (d) the potential contribution of the use to the overall character of the district or districts in which the comparable use is allowed. All other uses which cannot be interpreted in this manner are different from the described uses, are not anticipated by these regulations, and may only be allowed by a zoning text amendment.

- a. **Residential Uses.** The Residential use category is for all types of dwelling units used for permanent residence, including a variety of lot types, building types, and unit types, that may vary in the kind and classes of buildings based on the character of the neighborhood.

*Attached Dwelling ("Townhouse" / "Rowhouse").* A Residential use in a building designed with a series of attached principal dwelling units separated by a single common wall. Each unit is typically situated on its own fee simple lot where party walls are used, but buildings or grounds may be owned in common. Each unit has the same orientation and front façade, and has its own private entrance to the exterior of the structure.

*Detached Dwelling.* A Residential use in a detached building designed as a single principal dwelling unit and situated on its own fee simple lot.

*Semi-attached Dwelling ("Duplex").* A Residential use in a detached building designed as two principal dwelling units. It may be designed as a "paired house," matching the appearance of a house, or it may be designed as a "flat-over-flat," matching the appearance of a small apartment building. A duplex is situated on its own fee simple lot, but each unit of a side-by-side paired house may be platted on an individual lot if party walls are used.

*Cottage Lot.* A Residential use utilizing detached dwellings, semi-attached dwellings, or attached dwellings designed to face a common area (typically open space) with other shared facilities (such as shared public street access, shared parking, shared trash collection, etc.). Individual dwelling units may be on fee simple lots, a condominium, or on one larger ownership parcel. A cottage lot is also known as "bungalow court" or "cottage court". Cottage lots are subject to the provisions of UDC Section 6.6.5.

*Group Housing.* A residential use, Group Housing is the provision of in-home, 24-hour, 7-days a week custodial care for from 1 to 6 individuals living together as a single housekeeping unit in a single-family, detached dwelling unit. This maximum number excludes staff. This use does not include a household where custodial care is provided by a family member to from 1 to 6 persons in a single-family, detached dwelling unit. Custodial care includes the provision of in-home personal assistance, housekeeping service, supervision, and limited medical assistance to a resident or residents. Examples of Group Housing include, but are not limited to, homes for elders and disabled or mobility- impaired persons, homes for rehabilitation from drugs or alcohol addiction, or homes for formerly incarcerated persons. The Group Housing use is subject to the provisions of Section 5.7.5.d and e of the UDC.

*Dormitories.* A Residential use in a building that provides sleeping accommodations for a number of people.

*Multi-dwelling Building ("Apartment").* A Residential use in a building designed for more than two principal dwelling units and situated on a single fee simple lot.

This building type includes a variety of variations based on the permitted building scale, including "stacked flats" (3-story/tri-plex), "six-plex" (paired stacked flats), or larger apartment buildings.

*Live/Work.* A primarily residential use in a building designed for two principal uses, where a portion is designed for residential dwelling use, and a portion is designed for a limited non-residential use to support the occupation or vocation of the resident of the dwelling unit. The non-residential portion is limited to the 1<sup>st</sup> story and less than 50% of the total floor area of the building. The building is situated on its own fee simple lot but may be attached or detached based on zoning district standards and context.

*Mixed-use Dwelling.* A Residential use in a building designed for a mix of uses with office or retail on the 1<sup>st</sup> story / street-front and residential uses on the upper stories where the dwelling units are not accessory to the non-residential uses. Mixed-use buildings may be either small- or large-scale, with larger scale buildings, depending on the context and zoning district standards, and typically being broken into multiple fee simple lots with party walls, but the dwelling units may be owned in fee simple, as condominiums, or apartments.

*Accessory Dwelling.* A separate dwelling unit that is associated with, incidental to, and subordinate to another dwelling unit as the principal use, and is located on the same lot as the principal dwelling (commonly referred to as "In-laws Quarters" or "Garage Apartment").

*Urban Loft Building.* A residential use in a building designed for more than two principal dwelling units and situated on a single fee simple lot. This building type contemplates a taller multifamily building, often with parking structured or at grade with the building above, located in a walkable, mixed use context.

*Manufactured housing parks.* An area of land under one fee ownership, where designated spaces for manufactured home are rented for use as a principal dwelling unit, and which may provide associated facilities for common use.

- b. **Civic Uses.** The Civic use category includes uses serving a broad and general public and community interest to enhance daily cultural, social or recreation opportunities

for area landowners and residents. This category is based on the need of different kinds and classes of buildings in close proximity with other uses, which can be integrated in to these areas with the appropriate level of civic design. The Civic use category may contain uses that are either public and accessible to all citizens; common and accessible by rights associated with ownership; or private and accessible by membership or general association.

*Neighborhood Assembly (<350 maximum occupancy).* A Civic use that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare of nearby residents. Neighborhood Assemblies typically have buildings and supporting facilities designed for a capacity of no more than 350 people for any one event. Common examples include meeting halls, neighborhood association club houses, or smaller neighborhood churches.

*Community Assembly (350 -1000 maximum occupancy).* A Civic use that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare for citizens in the general vicinity. Community Assemblies typically have buildings and supporting facilities designed for a capacity of no more than 1000 people for any one event. Common examples include community centers, museum, or large churches. [ For larger assemblies see Entertainment, Venue].

*Cemeteries.* A Civic use where land is used for the burial of the deceased, both human and animals, and dedicated for interment purposes, including columbaria, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

*Primary and Secondary Schools.* A Civic use where buildings and facilities are used for the education and instruction of K through 12 students.

*Educational Facilities.* A Civic use where buildings and facilities are used for the education and instruction of post-secondary students, non-traditional students, or continuing education for adult or general population.

*Community Athletic Field.* A noncommercial facility for active outdoor recreation and organized sports,

including a facility which is an accessory use to a school, but excluding any facility with lighted fields or permanent buildings for refreshment stands, locker rooms or shower facilities.

*Developed Athletic Field or Stadium.* A facility for active outdoor recreation and organized sports which includes lighted fields, permanent grandstands, or permanent buildings for refreshment stands, locker rooms or shower facilities.

- c. **Service Uses.** The Service use category is for businesses engaged in the exchange of professional skills, advice, personal care or other resources, and the nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises, and where lots or buildings may require access or exposure to the public-at-large.

*Service Business – Limited.* A Service use that primarily supports adjacent residential uses by providing daily services for the convenience of residents, and involving less than 3,000 square feet of gross leasable area. Examples include post office, bank outlet, barber shop or beauty salon, tailor, or other similar services.

*Service Business – General.* A Service use that provides support for adjacent residential uses or businesses which may involve more than 3,000 square feet of gross leasable area. Examples include copy centers, large banks, or any other similar services that exceed the scale of Service Business – Limited.

*Assisted Living Facility / Nursing Home.* A Service use / institutional occupancy providing residential accommodations for 7 or more persons to meet the needs of the aging, semi-dependent or dependent population in a residential environment, together with recreation and support services and facilities for the benefit of the residents and where any permanent on-site staff is accessory to the primarily residential use. On-site skilled nursing care or medical facilities may be provided. An Assisted Living Facility/Nursing Home use is subject to the provisions of Section 5.7.5 of the UDC. An Assisted Living facility/Nursing Home use, pursuant to this definition, does not include a Group Housing use or site. An Assisted Living Facility/Nursing Home operation may take place within a residential or a non-residential structure.



*Animal Care, Kennel.* A Service use where domestic animals are boarded, bred or sold as a primary business.

*Animal Care, Hospital / Clinic.* A Service use where animals are admitted for examination, treatment, or health care by a doctor of veterinary medicine, which may include kennels, runs or other accessory accommodations.

*Family Child Care Home (FCCH).* A Service use where preschool care and education is provided for up to 10 children within the owner's primary residence. The owner's infants, toddler and/or children ages three (3) to five (5) shall count toward the capacity.

*Family Child Care Center (FCCC).* A Service use where preschool care and education is provided for up to 15 children within the owner's primary residence. The owner's infants, toddler and/or children ages three (3) to five (5) shall count toward the capacity.

*Child Care Center (CCC).* A Service use where preschool care and education is provided for children on a regular basis not located in any person's residence.

*Emergency Shelter.* A facility, which provides shelter or overnight accommodations and incidental support services for persons experiencing homelessness and/or families on a short-term basis.

*Entertainment, Indoor Recreation Facility.* A Service use where facilities for indoor sports, entertainment, or similar recreation opportunities for participants and spectators are offered. Examples of uses include bowling alleys, pool halls, roller skating rinks, swimming pools, movie theaters, video or similar gaming venues, racquetball courts, or fitness clubs.

*Entertainment, Outdoor Recreation Facility.* A Service use where facilities for outdoor sports, entertainment, or similar recreation opportunities for participants and spectators are offered. Examples include racetracks, driving ranges, music performance venues, or other outdoor entertainment venues.

*Entertainment, Venue.* A Service use where music concerts, floor shows or other forms of entertainment, performances or presentations by persons are provided indoors for guests or the general public, which may include accessory dining, bar, and similar refreshment services. Examples include concert halls, theatrical performance art centers, dinner theaters, other food

or beverage-serving establishments providing live entertainment venues, banquet halls, or auditoriums.

*Entertainment, Amusement, Recreation Services—Other.* A Service use primarily engaged in the operation of indoor or outdoor entertainment, amusement and recreation services not elsewhere classified, such as off-track betting, indoor or outdoor shooting range, amusement parks, or similar sports or recreation venues.

*Lodging, Bed and Breakfast.* A Service use where up to six guest rooms are rented, generally for short-term occupancy for sleeping, together with limited facilities for the accommodations of guests in a home-like atmosphere.

*Lodging, Hotel or Motel.* A Service use where six or more guest rooms are rented, generally for short-term occupancy for sleeping, together with incidental meeting rooms, restaurants and recreation facilities for the primary benefit of the guests.

*Medical Care, Clinic.* A Service use where physicians, dentists, or other health care professionals are associated for the purpose of carrying on their professions. A health clinic may include a dental or medical laboratory, after hours emergency care, but it may not include in-patient care or operating rooms for major surgery.

*Medical Care, Office.* A Service use where physicians, dentists, or other health care professionals carrying on their professions. A medical office may include a dental or medical laboratory, but may not include in-patient care or operating rooms for major surgery and may not be open for after-hours emergency care.

*Medical Care, Hospital.* A Service use providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

*Mini Storage.* A Service use where a building or group of buildings in a controlled access and fenced compound that contains varying sizes(s) of individual, compartmentalized and controlled-access stalls or lockers for the storage of a customer's goods or wares. Mini Storage may include individual units accessed

from inside of a building offered for rent or lease for the storage of personal property. It may also include parking areas for the storage of vehicles, trailers, recreational vehicles, boats, snow mobiles and other similar items as an accessory use. Outdoor storage, or the storage of junk, explosives, or flammable materials and other noxious or dangerous materials are specifically prohibited.

*Storage, Yard.* A Service use where exterior yards are leased for the outdoor storage of large-item personal property such as boats or recreational vehicles.

- d. **Employment Uses.** The Employment use category is for businesses engaged in administrative, clerical, and professional operations and support, where products or services are of the nature that generally, when compared to Retail Use Types, do not require daily on-premise interactions with the clients, customers or patrons, and where lots and buildings are not primarily designed to maximize exposure to the public-at-large.

*Home Occupation.* A business which is carried on entirely within a legal or legal non-conforming dwelling or allowed accessory building, and which is clearly incidental and secondary to the use of the premises as a dwelling.

*Office - Limited.* An Employment use which is not an accessory to another use, but limited individual units of gross leasable area are less than 3,500 square feet, and where each owner or tenant typically employs less than 20 employees on premises. Examples include small-scale professional service offices such as accountants, architects, insurance, law, real estate, or other similar businesses which can operate within the unit square footage and employee limits of this category.

*Office - General.* An Employment use where individual units of gross leasable area are between 3,500 and 20,000 square feet, and where each owner or tenant typically employs between 20 and 100 employees on premises. Examples include large professional service offices such as accountants, architects, insurance, law, real estate, or other similar businesses which exceed the Office - Limited category, or other moderate size business or corporate employment operations.

*Major Office or Office Complex.* An Employment use where individual units of gross leasable area may

be more than 20,000 square feet in a single building or group of buildings, and each owner or tenant may typically employ more than 100 employees on premises. Examples include major professional service firms or large corporate offices.

- e. **Commercial Uses.** The Commercial use category is for businesses engaged in the exchange of merchandise for general consumers, and nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises, where lots or buildings are primarily designed for exposure to the public-at-large.

*Convenience Retail / Corner Store (<2k).* A Commercial use primarily engaged in the small-scale sale of household merchandise and general consumer products and involving less than 2,000 square feet of gross leasable area. Convenience Retail / Corner Store uses are characterized by target market areas of less than 1/4 mile radius for most of its on-premise sales or are associated accessory to an employment or service business.

*Neighborhood Retail (<5K).* A Commercial use primarily engaged in the small-scale sale of household merchandise and general consumer products and involving less than 5,000 square feet of gross leasable area. Neighborhood retail uses are characterized by a target market area of less than 1/2 mile radius for most of its on premise sales.

*General Retail (5K - 25K).* A Commercial use primarily engaged in the sale of household merchandise, specialty merchandise, and consumer products and involving between 5,000 and 25,000 square feet of gross leasable area. General Retail uses are characterized by a target market area of less than 1 mile radius for most of its on-premise sales.

*Large-scale Retail (25K - 100K).* A Commercial use primarily engaged in the sale of household merchandise, specialty merchandise or general consumer products and involving between 25,000 and 100,000 square feet of gross leasable area. Large-scale Retail uses are characterized by a target market area that may be greater than 1 mile radius for the on-premise component of its sales.

*Warehouse Retail (> 100K).* A Commercial use primarily engaged in the sale of household merchandise, specialty products, general consumer products,

or wholesale products and involving greater than 100,000 square feet of gross leasable area. Warehouse Retail uses are characterized by a target market area that may be more than 1 mile radius for most of its sales.

*Grocery Store (<45K).* A Commercial use engaged in the retail sale of a broad range of food products and limited household products for consumption off premises, although some limited areas may be dedicated to the on-premise sale and consumption of food. A grocery store involves less than 45,000 square feet of gross leasable area and is characterized by a target market of less than 1-mile radius.

*Supermarket (> 45K).* A Commercial use engaged in the retail sale of a broad range of food and household products for consumption off premises, although some limited areas may be dedicated to the on-premise sale and consumption of food. A supermarket typically involves more than 45,000 square feet of gross leasable area and is characterized by a target market of greater than 1-mile radius.

*Outdoor Sales, Limited.* The limited display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted Commercial use. This display is further limited by the following: (1) it only occurs during regular business hours and is brought indoors; (2) is limited in extent to less than 10% of the entire merchandise area of the Commercial use; and (3) it is limited to seasonal sales or events lasting no longer than one-week at a time with at least 4 weeks between consecutive events.

*Outdoor Sales, Seasonal.* The limited display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted Commercial use. This display is further limited by the following: (1) it only occurs during regular business hours and is brought indoors; (2) is limited in extent to less than 20% of the entire merchandise area of the Commercial use; and (3) it is limited to seasonal sales or events lasting no longer than one month at a time with at least 2 months between consecutive events.

*Outdoor Sales, Event or Display Area.* The display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted Commercial use that does not meet the limitations of

Limited or Seasonal Outdoor Sales, and which may require areas to be designed and dedicated for display when part of the permanent operations of an interior retail business. Examples include lumber yards and garden centers.

*Outdoor Sales.* The display and sale of merchandise where the primary business is generated by merchandise displayed permanently and year round on an exterior portion of the site. Examples include automobile sales and implement sales.

*Bars.* A Commercial use primarily engaged in serving alcoholic beverages for consumption on-premises. Any food or entertainment services are generally secondary or accessory to the business.

*Liquor Store.* A Commercial use engaged primarily in the retail sale of alcoholic beverages for consumption off-premises. The sale of food or accessory beverage supplies are generally secondary or accessory to the business.

*Automobile Repair.* A Commercial use engaged in the repair, maintenance, or condition of motor vehicles and including the accessory sales of lubricants, parts, or accessories.

*Automobile Service Station – Limited.* A Commercial use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services. This use is limited to no more than 2 fuel pump islands and no more than 8 fueling stations.

*Automobile Service Station – General.* A Commercial use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services, or accessory Convenience Retail. This use is limited to no more than 4 fuel pump islands and no more than 16 fueling stations.

*Automobile Service Station – Large-scale.* A Commercial use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services, or accessory Convenience Retail. This use may have more than 4 fuel pump islands and more than 16 fueling stations.



*Food Service – Limited (< 2K).* Any Commercial use engaged in the preparation and retail sale of food and beverages for consumption on-site and including less than 2,000 square feet of seating area.

*Food Service – General (2K – 4K).* Any Commercial use engaged in the preparation and retail sale of food and beverages for consumption on-site and including between 2,000 and 4,000 square feet of seating area.

*Food Service – Large-scale (> 4k).* Any Commercial use engaged in the preparation and retail sale of food and beverages for consumption on site and including more than 4,000 square feet of seating area.

- f. **Industrial Use Category.** The Industrial use category is for businesses engaged in manufacturing, fabrication, warehousing, processing, wholesale or disposal of goods, products and component parts, and services related to these businesses. These uses typically belong in a special district due to their inability to blend with the uses from other use categories, except when occurring at the smallest scale.

*Data Center.* A use consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including power and cooling equipment. A data center may be used to provide data and transaction processing services, outsource information technology services and/or computer equipment colocation services. A data center may also include buildings or structures that support the operation of the data center including retrofit buildings, warehousing for logistics, independent network buildings, buildings for support staff, and emergency generators. A Data Center shall not include activities which consistently produce noise discernable at the property line. Should a Data Center produce noise discernable at the property line, it shall be classified as an Industrial use.

*Limited Industrial.* An Industrial use where small-scale activities produce no byproducts such as smoke, odor, dust or noise discernable from the outside of the building in which it is located. Individual facilities typically occupy less than 10,000 square feet of gross leasable area and distribution and deliveries

are commonly made by general consumer delivery services, requiring no significant truck access. A retail, showroom, or service component is often associated with the use. Examples include artist studios, metal and wood shops, arts and crafts manufacturing, small appliance or machine repairs, or other small-scale assembly of finished parts or products from previously prepared materials.

*Moderate Industrial.* An Industrial use where byproducts such as smoke, odor, dust or noise are not discernable from outside of the building in which it is located. Distribution and deliveries can occur from general consumer delivery services or limited commercial truck access. Examples include research labs or facilities, small electronics or computer assembly and manufacturing, furniture assembly.

*General Industrial.* An Industrial use where byproducts such as smoke, odor, dust or noise are not discernable from beyond the property boundary. Operations may require commercial vehicle access for distribution and deliveries. Examples include non-animal food processing, commercial warehouses or wholesale distribution centers or energy industry services.

*Industrial.* An Industrial use capable of producing significant byproducts discernable from outside the building and property including noise, odors, or other potentially offensive materials. Operations may require substantial commercial vehicle access for distribution and deliveries. Examples include food-processing involving animals (large-scale), metal or chemical manufacturing, and data centers which consistently produce noise discernable at the property line.

*Limited Outdoor Storage.* A use where less than 50% of the lot is used to store equipment and other materials customarily used in the operations associated with the principal use of the property in an unenclosed area.

*Outdoor Storage.* A use not classified as Limited Outdoor Storage where property is used to store equipment, vehicles, or other materials in an unenclosed area.

*Impoundment Yards.* An industrial use where a government agency establishes and operates a fenced yard or enclosed area where storage of vehicles seized

by, and in the custody of, the government agency, are stored for retrieval by the vehicle owner or are sold by proper means by the agency.

*Salvage Yards.* An Industrial use where materials are extracted from unusable equipment, structures, or vehicles and stored for future use or resale.

*Junk Yards.* An Industrial use where waste or used material are bought, sold, exchanged, stored or processed for disposal.

*Pet Crematory.* An Industrial use where land and buildings are used for the preparation and processing of deceased domestic animals.

*Air Cargo Terminals.* An Industrial use where land and buildings are used for the storage of airplanes, airplane cargo or other facilities associated with air transportation or air shipping.

*Aircraft Sales, Repair, Service, Storage.* An Industrial use where land and buildings are used for keeping inventory related to aircraft sales or for the storage and maintenance of aircraft.

*Railroad Yards and Maintenance Buildings.* An Industrial use where land and buildings are used for the storage of rail cars, rail cargo or other facilities associated with rail transportation or rail shipping.

- g. **Public Service Uses.** The Public Service use category is for businesses or government entities engaged providing technical and operational services that serve the general public and community interest to enhance general health, safety, welfare and convenience for landowners and residents, and that serve interests beyond the specific site or facility. This category is based on the need of different kinds and classes of buildings in close proximity with other uses, which can be buffered from the adjacent areas they serve with the appropriate site design, or alternatively which can be located in special purpose districts and still serve the public interest.

*Commercial or Public Parking Facility.* A Public Service use where land and buildings are used for hourly or daily parking of passenger vehicles that serves other uses, sites and buildings in the vicinity. The parking services may be owned by the government or owned and operated as a business.

*Government Facility.* A facility or area of land controlled and/or operated by a government entity to aid in providing a service to the citizens under the jurisdiction of that entity.

*Military.* A Public Service use where land and buildings are used for operations of the United States Armed Forces.

*Recycling Services.* A Public Service use where land and buildings are used for the public drop-off, storage, and packaging of recyclable materials. Processing may occur on site, or materials may be shipped to other industrial sites for further processing.

*Transportation Facilities.* A Public Service use engaged in the business of offering transportation services to the public, such as airport terminals, bus stations, train stations, taxi stations, parking garages, bicycle depots or similar facilities for common storage personal vehicles or common boarding of public vehicles.

*Utility Stations.* A Public Service use where land is used for the concentrated location of fixed equipment necessary to serve adjacent areas with utility service, including other accessory buildings and facilities essential to the operation of the equipment.

- h. **Agriculture Uses.** The Agriculture use category is for uses that are commonly associated with an agrarian or rustic lifestyle, and which demand little or no public infrastructure or services.

*General Agriculture.* The production of grain, animals, food and fiber; the science and art of farming and ranching; and the work of cultivating the soil, producing crops and raising livestock. General Agriculture specifically excludes concentrated feeding operations where swine are confined, fed and maintained for 45 consecutive days or more in any 12-month period.

*Limited Agriculture.* The production of grain, animals, food and fiber on a small scale where any impacts on potential adjacent property from storage, operations, and equipment can be internalized into the site or buffered from abutting areas, typically not occurring on lots or parcels larger than 10 acres.

*Agricultural Equipment and Supply.* An Agriculture use where the land and buildings are used for retail sales of equipment and materials used for agricultural-related land uses, and accessory servicing of agriculture equipment.

*Agriculture Product Sales / Farmers Market.* An Agriculture use where land and buildings are used for the retail sale of agricultural products and operated without any additional or permanent site facilities than are otherwise associated with agriculture use. Road side stands, truck sales, or barn sales are examples of such uses, however the intensity and frequency of such sales shall be so that no additional parking, roads, structures, warehouses, or other storage facilities are necessary on the site.

*Arenas and Show Barns.* An Agriculture use where the land and buildings are used for show or sale of livestock, and where the public can attend these and other related activities.

*Commercial Stables.* An Agriculture use where land and buildings are used for the business of boarding horses, donkeys, mules, burros, llamas or other similar equine animals.

*Nurseries, Landscaping.* An Agriculture use to grow plants of any kind for transplanting to another location or for sale as live plants rather than as crops, including the sale of related equipment and supplies.

*Work Camps.* A residential facility constructed by an employer used to house employees and dependents in accommodations which are temporary in design and site location.

### 1.4.5 Interpretation of Zoning Map

Where uncertainty exists with respect to any of the boundaries of a zoning district as shown on the zoning map, the following rules shall apply:

- a. Where district boundaries are indicated as approximately following the centerlines of streets or highways or railroad right-of-way lines or the lines extended, they shall be construed to be the boundaries.
- b. Where district boundaries are indicated as approximately

following the corporate limit line of the City, the corporate limit line shall be construed to be the boundaries.

- c. Where district boundaries are indicated as approximately following property lines or the lines extended, the property lines or the lines extended shall be construed to be the boundaries.
- d. Where district boundaries are indicated as approximately following the centerline of stream beds or riverbeds, the centerlines shall be construed to be the boundaries.
- e. Where district boundaries are indicated on unplatted properties, the line shall be interpreted as the ten (10) acre tract line created by the federal government under the Public Lands Survey, unless otherwise noted.
- f. Each zoning map page indicates from quarter section to four sections, with most pages showing only one section. When the zoning district designation is not shown on the section line or the edge boundary on any individual map, it shall be construed to be the edge boundary.

### 1.4.6 Interpretation of Comprehensive Plan and Future Land Use Maps

Where these regulations refer to the Comprehensive Plan, land use categories, or future land use maps, this shall include maps associated with the officially adopted Comprehensive Plan for the City. The maps shall be interpreted as follows:

- a. The maps are a general framework and guide for decision-making, and do not pre-determine any specific use of land or buildings, or application of any zoning category.
- b. The maps shall be interpreted and future zoning shall be consistent with the concepts, policies, principles and strategies in the plan, including descriptions of categories and activity centers, location criteria, checklists and other elements supporting the plan.
- c. Specific area plans, whether adopted by the City or proposed by private parties in accordance with these regulations, may be interpreted as an amendment or further refinement of the future land use map provided that plan is determined by the Planning Commission to be consistent with the Comprehensive Plan.

### 1.4.7 Resources, Guides and Industry Standards

- a. Resources, guides and industry standards that are recognized as reputable authority in the planning and urban design profession or engineering profession, may be used as a supplement to interpreting this code. Any use of such resources, guides and industry standards shall be subject to the approval of the Director upon a determination that the content is consistent with the Comprehensive Plan and the purposes, intent, and design objectives of these regulations. Any resource, guide, or industry standard approved by the Director shall be listed in Appendix A and at least one copy shall be kept on file with the Planning and Development Department.
- b. Design guidelines addressing any specific site or building design issues for public or private property may be prepared by the Planning and Development Department, and may be used as a supplement to interpreting this code. Any use of design guidelines shall be subject to the approval of the Director upon a determination that the content is consistent with the Comprehensive Plan and the purposes, intent, and design objectives of these regulations. The Director shall require approval by the Planning Commission, City Council, or other public review body prior to its use. Any design guidelines so approved shall be listed in Appendix B and at least one copy shall be kept on file with the Planning and Development Department.
- c. These materials may only be used to aid in the interpretation and application of these regulations, and any discretion specifically granted under these regulations, and shall not be used to otherwise modify, contradict, or in any way change the standards and requirements of these regulations.