

CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
TUESDAY FEBRUARY 8, 2022
CITY HALL COUNCIL CHAMBERS @ 12:00 NOON

1. Call meeting to order
2. Roll Call, excused members
3. Pledge of Allegiance
4. Approval of Agenda for the February 8, 2022 meeting.
5. Approval of Minutes from the January 11, 2022 regular meeting.
6. New Business:
 - A. Special Exemption Public Hearing to allow modifications of two nonconforming freestanding signs at 1502 Sheridan Avenue.
 - B. Review the Special Exemption request to allow modifications of two nonconforming signs at 1502 Sheridan Avenue.
 - C. Ordinance Changes (draft)
7. P & Z Board Matters (announcements, comments, etc.)
8. Council Update
9. Staff Items: Downtown Parking District Expansion
10. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

City of Cody
Planning, Zoning, and Adjustment
Board Meeting January 11, 2022

A meeting of the City of Cody Planning, Zoning and Adjustment Board was held in the Council Chambers of City Hall in Cody, Wyoming on Tuesday, January 11, 2022 at 12:00 pm.

Carson Rowley called the meeting to order at 12:02 pm, followed by the pledge of allegiance.

The City Council reappointed Carson Rowley to a 3-year term on the Planning, Zoning, and Adjustment Board. New Board members are Ian Morrison (3-year term), Andrew Murray (3-year term), and Mathew Moss (1-year term).

Present: Carson Rowley; Scott Richard; Cayde O'Brien; Karinthia Herweyer; Ian Morrison; Mathew Moss; City Attorney Scott Kolpitcke; Administrative Coordinator Bernie Butler

Absent: Andrew Murray; City Planner Todd Stowell; Council Liaison Andy Quick; City Deputy Attorney Sandee Kitchen

Scott Richard moved to approve the agenda for January 11, 2022, seconded by Ian Morrison. Vote on the motion was unanimous, motion passed.

Scott Richard moved to approve the minutes from the December 28 2021 meeting, seconded by Ian Morrison. Vote on the motion was unanimous, motion passed.

Scott Richard nominated Carson Rowley to serve as Chairman of the Board for the 2022 calendar year. Ian Morrison seconded the motion. Vote on the motion was unanimous, motion passed.

Karinthia Herweyer nominated Scott Richard to serve as Vice Chairman of the Board for the 2022 calendar year. Mathew Moss seconded the motion. Vote on the motion was unanimous, motion passed.

City Attorney Scott Kolpitcke presented the City of Cody Planning and Zoning Commission Orientation and Training. He reviewed public records and open meeting issues including emails, personal and private conflicts of interest, meeting conduct, and government ethics.

Scott Richard made a motion, seconded by Ian Morrison to adjourn the meeting. Vote on the motion was unanimous. Carson Rowley adjourned the meeting at 12:52 pm.

Bernie Butler

Bernie Butler, Administrative Coordinator

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT

MEETING DATE:	FEBRUARY 8, 2022	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	SPECIAL EXEMPTION PUBLIC HEARING: MODIFICATION OF NONCONFORMING FREESTANDING SIGNS AT 1502 SHERIDAN AVE. SUP 2022-01	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

PROJECT DESCRIPTION:

KTK General Contracting Limited, representing Mainstreet KT's, has submitted a sign package update for the property at 1502 Sheridan Avenue. The update is proposed as part of a conversion of the existing Exxon fuel station to the Sinclair brand. The property currently has two freestanding signs, both of which are proposed to be altered. The monument style sign, which contains the gas price information, would be changed from approximately 36.6 square feet in size to 63.3 square feet. The pole sign would also increase in size due to being a slightly different shape (taller rectangle than existing sign). The original proposal is depicted below. The signs proposed on the canopy and gas pumps are not discussed here, as they meet applicable requirements.



1502 Sheridan Ave., Cody, WY



Procedurally, there were two options for how to consider the proposal—either as a non-conforming use alteration due to the fact that there are two signs where only one freestanding sign per property is permitted and they are both proposed to be altered, or as a special exemption to authorize the two signs as an exemption to the number of signs permitted on the property. Both processes involve the same public notice and public hearing requirements. The special exemption process was chosen, but with the liberty of applying a non-conforming use concept that the end result should be more conforming than the existing situation, when possible.

To make the end result closer to conforming, the applicant has agreed to reduce the height of the pole sign from its former non-conforming height (about 30 feet) to meet the current 25' maximum height requirement. It is noted that the total square footage of the two freestanding signs (132.7 sq. ft.) is within the allowable amount.

The public hearing for the request was advertised as required by U.S. mail to neighboring properties within 140 feet on January 20, 2022, and by publication in the newspaper on January 27, 2022.

REVIEW CRITERIA:

Pursuant to Section 10-14-2(B) of the City of Cody Code, the Planning and Zoning Board may consider special exemptions to the City's sign standards. The standards for approval of a special exemption are as follows, with staff comments provided.

No special exemption shall be approved unless the planning and zoning board finds:

- a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;*

Staff Comment: Ten neighboring property owners were notified of the proposal and at the time of this staff report two letters of support and no letters of objection have been received. The fact that so few responded and that none had objection may be interpreted as an indication that there is no significant undesirable change or detriment to neighboring properties from this proposal.

- b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;*

Staff Comment: The proposal includes a reduction in the pole sign height to 25', in order to meet current height limits for freestanding signs, which will make the sign more compatible and consistent with other permitted signs in the downtown sign district. Granting the special exemption request is not expected to create any significant compatibility issues.

- c. The special exemption is the minimum deviation from the specifications of the zoning ordinance necessary and adequate for the proposed activity, structure or use;*

Staff Comment: If two signs are to remain on the property, either a special exemption or non-conforming alteration permit is necessary.

- d. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;*

Staff Comment: As noted in the initial summary, a non-conforming use alternation was the other option, yet that process is essentially the same as a special exemption, and the City planner believed the special exemption process is "cleaner". No other feasible options have been identified.

- e. Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use;*

Staff Comment: No additional utility services or public infrastructure improvements are necessary for this project.

- f. The special exemption is consistent with the goals, policies and future land use map of the master plan.*

Staff Comment: The future land use map designation for this area is "downtown mixed use", which is consistent with the continued commercial use of the property. Principle 1.2b of the master plan states that "Permitted signage should have a professional appearance and scale..." Staff believes the signs have a professional appearance and it could be argued that they are in scale with the property. While the freestanding pole sign is likely larger than needed, it does not exceed the allowable size for the area.

ALTERNATIVES:

Approve, deny or approve with conditions.

ATTACHMENTS:

Application materials and neighbor responses.

RECOMMENDATION:

That the Planning and Zoning Board make the following findings:
(Draft, subject to information received at the public hearing.)

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by U.S. mail to all property owners within 140 feet at least ten days before the hearing.

2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(B)(2) are met.

AND,

Approve the Special Exemption to allow installation of the two freestanding signs at the locations, sizes and heights requested at 1502 Sheridan Avenue.

Notice to Owners of Neighboring Properties:

Please return your comments by Feb. 2, 2022 to:

Date: January 21, 2022

Cody City Planner

P.O. Box 2200

RE: **SPECIAL EXEMPTION REQUEST**

Cody, WY 82414

Or, send an email to: todds@cityofcody.com

**THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A SPECIAL EXEMPTION.
YOUR COMMENTS WOULD BE APPRECIATED.**

Applicant Name(s): KTK General Contracting Limited

Address of Subject Property: 1502 Sheridan Ave., Cody, WY (Exxon)

Description of Request: A special exemption to allow modification of two nonconforming freestanding signs. The monument sign would be enlarged from approximately 36.6 square feet in size to 63.3 square feet. The pole sign would be approximately the same size, and lowered to 25 feet in height. The following rendering shows existing and proposed conditions.



This request will be considered at a public hearing held by the City of Cody Planning & Zoning Board at their regularly scheduled meeting on Tuesday, February 8, 2022 at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave. Anyone is welcome to attend and comment at the public hearing.

Response Letter from Owners of Neighboring Properties within 140 Feet of the Subject Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the proposal by KTK General Contracting Limited for the Special Exemption request described above.

☒ I have **NO OBJECTION** to the Special Exemption request.

Name: M. Kathleen Blaylock

Address: 707 Meadow Lane Ave

Comments: Cody, WY 82414

We are happy to help
Our good neighbors to the
West of our business at
1550 Sheridan - Cody -

☐ I **OBJECT** to the Special Exemption request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

Notice to Owners of Neighboring Properties:

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Cody City Planner

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Dear Planning and Zoning Board Members:

I am familiar with the proposal by KTK General Contracting Limited for the Special Exemption request described above.

☒ I have NO OBJECTION to the Special Exemption request.

Name: _____

Address: A Woman's Place, LLC by Jim P. Williams

Comments: _____

☐ I OBJECT to the Special Exemption request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT			
MEETING DATE:	FEBRUARY 8, 2022	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	
SUBJECT:	INITIAL DISCUSSION OF DRAFT AMENDMENTS TO THE ZONING ORDINANCE.	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	X

INTRODUCTION:

There are always projects that need done, and after some internal discussion at City Hall, it is proposed that the Planning and Zoning Board and City Planner prioritize working toward some updates to the City zoning ordinance and related development codes.

The primary reason for making this a priority is to see if anything can be done in the City's development codes to help address the ongoing and worsening housing shortage. This would involve looking at the City development regulations with a perspective of incentivizing additional housing development and expanding housing choices.

A second reason for going through these codes is simply to update them based on experience and newer trends. The City did update the residential portion of the zoning ordinance almost five years ago and developed a subdivision infill ordinance about four years ago, but other portions of the City's development regulations have not been seriously reviewed for decades. Even the newer portions could use some minor adjustments.

To start the process, I plan to send the Planning and Zoning Board drafts of amendments to the City code as they are completed, with the intent of the Board members acting as a committee to not only review the edits that I propose, but analyze the accompanying sections of code themselves and identify any additional modifications that should be made. We will then discuss the draft changes at Planning and Zoning Board meetings as the agenda allows, and determine how to further proceed. It likely makes sense to divide the work into groups of related amendments, rather than wait for everything to be reviewed, but we will wait and see. After this initial committee process is completed, the amendments will be packaged into a group for the formal public comment, review and adoption process.

Due to not knowing how full the upcoming Board agendas will be, it is realized that this project may only happen in short spurts of activity, but the sooner it is accomplished the better.

The first set of draft edits by the City planner is attached. Please review, as we will start the discussion at the next meeting on February 8th. Admittedly most changes in this first set are technical clean ups, but a few relate to housing. All of the edits are made using "track changes", which uses red colored underline and strikethrough to identify the changes.

ATTACHMENTS:

Initial Draft Edits for Chapters 1, 2, 4, 5 and 6 of Title 10.

CHAPTER 1
GENERAL PROVISIONS
SECTION:

[10-1-1](#): Title

[10-1-2](#): Scope And Purposes

[10-1-3](#): Compliance Required; Review Authority Delegated to City Planner

[10-1-4](#): Rules Of Interpretation

[10-1-5](#): Enforcement

[10-1-6](#): Processing Fees, Notice Costs, And Refunds

[10-1-7](#): Districts Established

[10-1-8](#): Zoning Lots

10-1-1: TITLE:

The provisions of this title shall be known and may be cited as the *ZONING ORDINANCE OF THE CITY OF CODY, WYOMING*. (Ord. 2017-02, 3-7-2017)

10-1-2: SCOPE AND PURPOSES:

This title is in pursuance of the authority conferred by Wyoming Statutes sections 15-1-601 through 15-1-611, and shall apply to all properties and developments within the Cody City limits, except those that are federally exempted.

The purpose of this title is to promote the health, safety, morals and general welfare of the inhabitants of the City by:

- A. Preserving the character of the City of Cody and its neighborhoods;
- B. Conserving the value of buildings;
- C. Encouraging the most appropriate use of land;
- D. Encouraging compatible uses within the neighborhoods or districts;
- E. Lessening congestion in the streets;
- F. Securing safety from fire, panic and other dangers;
- G. Ensuring provisions for adequate light and air;
- H. Preventing the overcrowding of land;
- I. Avoiding undue concentration of population; and
- J. Facilitating adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.

This title is implemented in accordance with the City of Cody Master Plan (aka Comprehensive Plan). (Ord. 2017-02, 3-7-2017)

10-1-3: COMPLIANCE REQUIRED; REVIEW AUTHORITY DELEGATED TO CITY PLANNER:

A. Compliance Required: No land shall be used, or structure constructed, except in accordance with the regulations and requirements of this title, including the requirement to obtain applicable approvals and permits prior to the development of the property. No application for the development of land shall be approved unless the application is determined to be in conformance with the requirements of this title and all applicable development regulations, including any standards, plans or policies that have been adopted by the City so as to have a regulatory effect. All development applications filed on or after the effective date of this title, as initially adopted and subsequently amended, whether for new development or for the expansion

or alteration of existing development, shall be processed in accordance with the standards, requirements and procedures established herein.

B. Review Authority Delegated to City Planner: Notwithstanding any language in City of Cody Code Sections [9-2-2](#), [9-2-3](#), [10-10B-4](#), [10-10C-5](#), and [10-10E-3](#) that otherwise requires the Planning and Zoning Board to review site development plans, architectural plan compatibility, landscaping plans, or downtown sign district applications, the City Planner is granted authority to review and approve applications to the Planning and Zoning Board for such proposals in the instances listed below; provided, the proposal clearly complies with all applicable standards and purposes of the City of Cody Code, including demonstrating architectural compatibility, suitably addressing all site plan conditions (e.g. vehicle access location and design, parking, drainage, storm water retention, snow storage, lighting methods and intensity, utilities, fire protection and access, waste and recycling collection, ADA site requirements, pedestrian facilities, setbacks, buffers, easement restrictions, screening requirements, natural hazards, outdoor use areas, outstanding frontage improvements, and landscaping), and avoiding or reasonably mitigating any potential significant negative impact(s) to neighboring properties and public infrastructure that would otherwise occur due to the configuration and design of the proposed site plan improvements.

1. Exterior renovations to existing structures, placement of new accessory buildings, and additions to existing structures of up to twenty percent (20%) of the gross floor area of the structure, when the land use is classified as a permitted use and the structure is not a commercial building in the downtown architectural district;
2. Minor modifications to components of a previously approved site plan (including landscape plan) due to either #i above, or independently if no building is being placed or expanded;
3. Construction of residential land uses in commercial and light industrial zoning districts, but not including new mobile home parks or mixed-use buildings; and,
4. Downtown sign district applications only requiring Board evaluation pursuant to City of Cody Code section [9-2-2](#).

Nothing herein prevents the City Planner from forwarding an application to the Planning and Zoning Board for review due to a need to interpret or resolve a question as to whether a provision of the City code is met. Decisions of the City Planner are subject to review pursuant to [10-4-3](#) (C)(1). Application forms and fees for reviews that are conducted by the City Planner are the same as if the proposal were reviewed by the Planning and Zoning Board. (Ord. 2017-02, 3-7-2017; amd. (Ord. 2021-01, 2-16-2021))

10-1-4: RULES OF INTERPRETATION:

In interpreting the language of this title, the rules set out in this section shall be observed unless the interpretation would be inconsistent with the express language of this title.

A. Minimum Requirements: In interpreting and applying the provisions in this title, they shall be held to be the minimum requirements for the protection of health, safety, morals, comfort, convenience or the general welfare. In case of conflict between this title and any other laws that exercise control over the same feature, the more stringent regulation shall apply.

B. Meaning And Intent: All provisions, terms, phrases and expressions contained in this title shall be liberally construed in order to carry out the intent of the Governing Body. Words and phrases shall be construed according to the common and approved usage in the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that meaning. Such terms, words, and

phrases used in this title, when defined herein or elsewhere in this Code, shall have the meaning noted. Terms, words and phrases not defined by this Code shall have the meanings prescribed by Wyoming Statutes for the same terms, when defined therein. Any term, word or phrase not specifically defined or prescribed in this Code or Wyoming Statutes shall have the ordinary meaning ascribed to it in a dictionary of common usage.

C. Text Controls: In case of any conflict between the text of this title and any figure or table, the text shall control.

D. Computation Of Time: The time within which an act is to be performed shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, legal holiday or other day that the City offices are officially closed to the public, that day shall be excluded. The following time-related words shall have the meanings ascribed below:

"Day" means a calendar day unless otherwise stated. "Week" means seven (7) calendar days. "Month" means one (1) calendar month. "Year" means a calendar year, unless a fiscal year is indicated.

E. Other Clarifications:

1. Headings: The headings contained in this title are for convenience only and do not limit or modify the intent or meaning of the provisions.

2. Tense: Unless clearly indicated to the contrary, words used in the present tense shall include the future, words used in the plural shall include the singular, words used in the singular shall include the plural, and words of one (1) gender shall include the other.

3. Use Of Certain Words: The words "shall", "must", and "will" are always mandatory. The words "may" and "should" are discretionary.

4. Written Information: References to "written" information shall mean any representation of words, letters or figures whether by printing or other form or method of writing.

5. Conjunctions: Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

"And" indicates that all connected items or provisions apply; and

"Or" indicates that the connected items or provisions may apply singularly or in any combination.

F. Private Covenants Or Deed Clauses: No provision of this title is intended to interfere with or abrogate or annul any easement, private covenants, deed restriction or other agreement between private parties. In cases in which this title imposes a greater restriction upon the use of land or structures, the provisions of this title shall prevail and control. The City has no power or authority to enforce private deed covenants, conditions or restrictions to which it is not a party. Private covenants or deed restrictions which impose conditions more restrictive than those imposed by this title, or which impose restrictions not covered by this title, are not implemented nor superseded by this title.

G. Limitations On City Action: The issuance or granting of a building permit or approval of plans or specifications under the authority of the building code shall not be construed to be a permit for, or an approval of, any violation of any provisions of this title or any amendments thereto, or of any other law. No permit, approval, representation, action or inaction on the part of a City officer or employee which purports, or could be interpreted, to authorize the violation or cancellation of any of the provisions of this title shall limit the City's authority to enforce the provisions of this title or any other provision of this Code. Any permit, license or other approval which is issued in error in conflict with this title is voidable by order of the City.

H. Other Permits: Nothing in this title shall eliminate the need for obtaining any other required permits, including, but not limited to building permits; plumbing, electrical, or mechanical permits; grading permits; or any permit, approval, or entitlement required by other titles of this Code, other political subdivisions of the State of Wyoming, or agencies of the State of Wyoming.

I. Other Limitations: No provision in this title amounts to a guarantee, warranty or promise that any particular type of construction will be free from defect, will perform in a certain manner, or will be exempt from other legal requirements applicable thereto. The issuance of a permit, or the inspection or approval of any permit, plans or work under this title, shall in no way constitute a guarantee, warranty or promise that any particular material, labor or construction will be free from defect, or perform in a certain manner, or will be durable, safe or fit for a particular purpose or use. Compliance with this title is not intended to substitute for the performance of any private duty, nor to reduce or eliminate any private liability on the part of an owner, developer or permittee.

J. Severability: If for any reason any part, section, subsection, sentence, clause or phrase of this title, or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this title. (Ord. 2017-02, 3-7-2017)

10-1-5: ENFORCEMENT:

A. General:

1. Purpose: Enforcement of the provisions of this title shall be pursued in order to provide for its effective administration, to ensure compliance with any condition of development approval, to promote the City's planning efforts, and to protect the public health, safety and general welfare.

2. Responsibility: The provisions of this title and any conditions of development approval which have been imposed thereunder may be enforced by the City Administrator, City Planner, City Building Official, City Code Enforcement Officer, City Police Department, and any other City officer or employee designated by the City Administrator to do so. Any structure or use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to the provisions of this title shall be subject to the remedies and penalties set forth in this title. A building permit, certificate of occupancy, sign permit, subdivision, and other land development application may be denied for failure to comply with this title, including any condition or standard imposed on any application granted under this title.

3. Stop Work Order: A "stop work order" may be issued by any of the persons identified in subsection A2 of this section with respect to any construction, change of use, activity, advertisement, and occupancy which is in violation of this title or in violation of any condition which has been imposed on a permit or other approval under this title. The "stop work order" shall identify the property location, briefly describe the reason for the stop work order, be signed and dated by the individual issuing the order, and contain information on how to contact the Community Development Department about the apparent violation.

B. Violations: Pursuant to Wyoming Statute section 15-1-610, if any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure or land is used in violation of this title or other regulation made under its authority, the proper authorities of the City, in addition to other remedies prescribed by ordinance, may

institute any appropriate action to prevent the violation; the occupancy of the building, structure or land; or, any illegal act, conduct, business or use in or about the premises.

1. Misdemeanor: A violation of this title, or any permit issued in accordance therewith, whether such violation was caused by disobedience, omission, neglect, or refusal to comply, constitutes a misdemeanor, as follows:

a. It is unlawful for any person, whether acting as a principal, agent or employee, to violate any provision of this title, or of any condition or requirement imposed upon any permit or authorization granted hereunder, including but not limited to those specified in a conditional use permit, site development authorization (plan review), special exemption, variance, administrative deviation, home occupation permit, sign permit, or a temporary use permit.

b. It is unlawful for the owner, general agent, lessee or tenant of a building or premises or for any other person to cause, permit or assist in the occurrence or commitment of a violation of any provision of this title, or of any condition or requirement imposed upon a permit or authorization granted hereunder, including but not limited to those specified in a conditional use permit, site development authorization (plan review), special exemption, variance, administrative deviation, home occupation permit, sign permit, or a temporary use permit.

Upon conviction, said person shall be punished as provided in section [1-4-1](#) of this Code. Each day that a violation is permitted to exist after notice has been given by a City representative noted in subsection A2 of this section shall constitute a separate offence.

2. Administrative Action: For any violation of this title, or of any approval granted or condition of approval imposed hereunder, the City may pursue administrative action to:

a. Review, modify, suspend, or revoke an approval or permit issued hereunder;

b. Require the discontinuance of a use operating as [an illegal use](#), conditional use or special use under this Code; or

c. As an alternative to requiring discontinuance under subsection B2b of this section, require that a use operating as a conditional use or special use under this Code comply with additional conditions or limitations.

3. Nuisance: Any building or structure set up, erected, built, moved, or maintained or any use of property contrary to the provisions of this title shall be, and is declared to be, unlawful and a public nuisance and the City Attorney shall, upon order of the City Administrator or City Council, immediately commence actions or proceedings for the abatement, removal and enjoinder of it in a manner provided by law and shall take such other steps and shall apply to the court as may have jurisdiction to grant relief to abate or remove the building, structure or use, and restrain and enjoin any person from setting up, erecting, building, moving, or maintaining any building or structure, or using any property contrary to the provisions of this title.

4. Remedies Cumulative: All remedies provided herein shall be cumulative and not exclusive.

5. Violations Continue: Any violation of a former version of the Zoning Code, or portion thereof, shall continue to be a violation under this title and be subject to penalties and enforcement under this section, unless the use, development, construction, or other activity complies with the current provisions of this title. (Ord. 2017-02, 3-7-2017)

10-1-6: PROCESSING FEES, NOTICE COSTS, AND REFUNDS:

A. Payment Of Processing Fee Required: The Governing Body shall establish and maintain a fee schedule for the processing of applications required pursuant to this title. The fee schedule

may be adopted by resolution. No application shall be processed without payment of the required fee.

B. Applications Requiring Fees: Applications requiring fees shall include, but not be limited to: site plan reviews, planned unit developments, rezones, text amendments, administrative deviations, special exemptions, conditional use permits, special use permits, variances, sign permits, architectural and landscaping reviews, and any other review conducted by the Planning and Zoning Board.

C. Costs: Costs for publishing public notices in the newspaper and costs for mailing required notices shall be paid by the applicant, and are in addition to the City's processing fee.

D. Withdrawn Applications: Applications that are withdrawn prior to receiving a decision may be eligible for a partial refund as follows. The City Planner shall have the discretion to authorize a partial refund based upon the application fee paid minus the approximate costs of processing the application incurred to date.

E. Refunds: Refunds are not available for applications that have been processed to the point of receiving a decision from the reviewing official. (Ord. 2017-02, 3-7-2017)

10-1-7: DISTRICTS ESTABLISHED:

A. Adoption Of Official Zoning Map: To bring about the purposes of this title and provide for regulations that are customized to the different character districts and neighborhoods of the City, the City is divided into zoning districts. The boundaries of each zoning district are delineated and shown on the Official Zoning Map of the City of Cody. The Official Zoning Map, together with all notations, references, dimensions, designations and other information shown on the map is adopted and made part of this title by reference. The Official Zoning Map shall be stored, maintained, and kept current by the Community Development Department.

B. Establishment Of Zones:

1. The residential zoning districts established by this title are as follows and shall be known and cited as:

Abbreviated Designation	Zoning District Name
RR	Rural Residential
R-1	Single Family Residential
R-2	Medium-Low Density Residential
R-2MH	Medium-Low Density Manufactured Home
R-3	Medium-High Density Residential
R-4	High Density Residential
MHP	Mobile Home Park

2. The commercial and industrial zoning districts established by this title are as follows and shall be known and cited as:

Abbreviated Designation	Zoning District Name
D-1	Limited Business
D-2	General Business

D-3	Open Business/Light Industrial
D-4	High Tech/Data Processing/Light Manufacturing
E	Industrial
HI	Heavy Industrial

3. The special area zoning districts established by this title are as follows and shall be known and cited as:

Abbreviated Designation	Zoning District Name
PUD	Planned Unit Development

4. The overlay districts established by this title are as follows and shall be known and cited as:

Abbreviated Designation	Zoning District Name
A-O	Airport Overlay
DA-O	Downtown Architectural Overlay
DP-O	Downtown Parking Overlay
E-O	Entry Corridor Overlay

C. Amendments:

1. No change to the Official Zoning Map shall be authorized without the approval of a rezoning application, which approval shall be in the form of an ordinance approved by the Governing Body.

2. The Official Zoning Map shall show the dates and ordinance numbers of all amendments approved hereafter.

D. Rules For Interpretation Of Zoning District Boundaries: The following presumptions shall apply in determining boundaries of a district as shown on the Official Zoning Map:

1. Where a boundary follows a public street, the centerline of the street shall be the boundary. When there are two (2) or more adjacent streets, the centerline of the street with the higher classification shall be the boundary (e.g., use centerline of highway instead of frontage road).

2. Where a boundary follows a lot line, the lot line shall be the boundary.

3. Where a property is split by a boundary, the boundary shall be determined by the context of the situation when possible, which methods may include, for example: review of the legal description of a former rezone ordinance, the extension of an adjacent property line, the presence of a physical feature such as a canal or stream, a line between two (2) known points, and an elevation contour. When the context is not sufficiently clear to determine the precise location of the district boundary, the boundary shall be determined by scaling the location from the zoning map.

4. Where a public right-of-way is officially vacated or abandoned, the boundary shall automatically be shifted, if necessary, to follow the new property boundary, which is typically, but not always, the former centerline of the vacated right-of-way. (Ord. 2017-02, 3-7-2017)

10-1-8: ZONING LOTS:

The City of Cody contains some developments and land uses that encompass multiple lots and parcels, without respect to zoning setbacks, building code regulations, or other development regulations. A property consisting of more than one (1) lot or parcel in a single ownership, which is developed and/or utilized in such a manner as to constitute a single development, of which no individual lot or parcel could be excluded without causing the development to violate an applicable provision of the Building Code, Fire Code, this title, or other adopted City Development Code shall be treated as a single lot for purposes of this title, which lot is termed a "zoning lot". No new zoning lots shall be created, except pursuant to title 11, chapter 6, article B, "Lot Consolidations", of this Code. (Ord. 2017-02, 3-7-2017)

1.25.2022 DRAFT

CHAPTER 2
DEFINITIONS
SECTION:

10-2-1: Definitions

10-2-1: DEFINITIONS:

ACCESSORY BUILDING: A building or structure subordinate to the principal building on the same lot and used for purposes customarily incidental to those of the main building. Cargo containers and similar portable structures that remain in place more than thirty (30) days shall be considered buildings (either accessory or primary, depending on situation) for purposes of this title, except while utilized in conjunction with permitted construction on the property on which it is located.

ACCESSORY DWELLING UNIT (ADU): An independent, self-contained dwelling unit within or attached to a detached single-family dwelling or building accessory thereto. An ADU that complies with this title is considered a separate land use for purposes of zoning definition and zoning classification. ~~Accessory dwelling units are not included in density calculations for a property, such that it shall not individually constitute a single family dwelling or cause a single family dwelling in which it is located to be considered a two family dwelling (duplex), as the ADU shall be clearly subordinate to the primary dwelling unit, both in use and appearance.~~

Mobile homes, ~~manufactured homes~~, recreational vehicles and temporary structures shall not be used as accessory dwelling units.

ACCESSORY USE: A use incidental or secondary to the principal use of a lot, building or structure and located on the same lot as the principal use. The intensity and level of activity in an accessory use is less than that of the primary use.

ADJACENT: To be separated by a common property line or lot line; or, to be located directly across a street, private street or access easement, alley, or right-of-way (other than a State highway) from the subject property.

ALLEY: A private or public way that affords only a secondary means of access to abutting property and that is not intended for general travel or circulation. Alleys are not considered a type of street.

AMENITY: A natural or created feature that enhances the aesthetic quality, visual appeal or attractiveness of a particular property, place or area.

ANTENNA: Any exterior apparatus that is mounted on a structure and is used for transmitting or receiving communications, including digital signals, analog signals, radio frequencies, wireless communication signals or other communication signals.

ANTENNA TOWER: A pole or other structure, including any supporting elements, that is used to support one (1) or more wireless communication antennas. The term includes a pole or other structure that supports a wireless communication antenna, including those attached to a trailer or other portable support.

APARTMENT HOUSE: See definition of dwelling, multi-family.

ASSISTED LIVING APARTMENTS: A multi-family building in which personal care services are provided to elderly residents for daily living needs. Such services may include, but are not limited to, preparation and service of meals, housekeeping, laundry, monitoring of rooms, monitoring of medication, or assistance with bathing. The term includes commercial uses that are ancillary to an assisted living apartment complex as long as the total amount of floor space dedicated to such uses does not exceed five percent (5%) of the total gross floor area of the

Commented [TS1]: Remove unnecessary language—the two prior sentences cover it, and in clearer language. Removed language caused confusion that it applied to building code as well, which it does not.

Commented [TS2]: Manufactured homes as ADUs are now an option in some residential zones—see supplemental development standards for ADUs.

complex and there is no external signage for, nor external access to, the commercial uses. The term does not include a convalescent care facility/nursing home or other medical facility that is specifically defined in this chapter.

AUXILIARY KITCHEN: A second kitchen in a single-family ~~detached~~ dwelling that is:

A. Intended solely for use by members of the household for ~~the preparation of food to be consumed by the household and any guests without compensation~~ ~~private dinner parties or social gatherings~~; and

B. Not located within an accessory structure and is directly accessible from the rest of the dwelling.

BASEMENT: A story, as defined herein, which is partly or completely below finished grade. A basement shall be counted as a story for purposes of height measurement when the basement has more than one-half ($\frac{1}{2}$) of its height above finished grade.

BED AND BREAKFAST INN: A private single-family detached home that is used to provide temporary overnight lodging accommodations for a charge to the public with not more than four (4) lodging units or not more than a daily average of eight (8) persons per night during any thirty-day period and in which one (1) but no more than two (2) family-style meals are offered to the guests per 24-hour period. Total guest occupancy of a bed and breakfast inn shall not exceed ten (10) persons. (Facilities with a guest occupancy greater than 10 persons shall be classified as hotels under this title.) Bed and breakfast inns differ from the short-term rental land use categories in that they allow the sleeping rooms to be individually rented and a meal service to be provided.

BUFFER ZONE: A minimum fifteen foot (15') wide strip of land, to be landscaped and maintained, on a commercially zoned property to separate it from any adjacent land that is zoned residential.

BUILDABLE AREA: That portion of a building site, exclusive of the required setback areas, in which a structure or building improvements may be erected.

BUILDING: A structure having a roof supported by columns or walls, for the shelter or enclosure of persons, animals, or property. Such term shall include "structure".

BUILDING COVERAGE: The percentage of the net lot area that is covered by buildings, and measured to the exterior wall surfaces at the ground floor. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than six feet (6') above grade. Eaves are not included in building coverage.

BUILDING, DETACHED: One (1) building on one (1) building lot surrounded by yards or open space; or buildings in a building group that are physically detached one from the other.

BUILDING ELEVATION: The exterior face of a building, including all vertical elements of the building facing in the same general direction.

BUILDING FACADE: That portion of any exterior elevation of a building extending from grade to top of parapet, wall, or eaves, together with the entire width of the building elevation.

BUILDING HEIGHT: Building height refers to the vertical distance between the average finished grade along the front of a building and either: a) the highest point of the coping of a flat roof; b) the deck line of a mansard roof; or c) the height of a point midway between the eaves of the main roof and the highest ridge line of a gable, hip or gambrel style roof. For structures without a roof, building/structure height is the vertical distance from the average finished grade to the highest point of the structure, except those projections otherwise exempted or specified in this title. Note: Sign height is as measured pursuant to the Sign Code.

Commented [TS3]: Clarification of purpose. Prior language was too restrictive.

BUILDING LINE: A line running parallel to a lot line, that is the same distance from the lot line as the closest portion of a building on the site.

BUILDING, MAIN: A building devoted to the principal use of the lot on which it is situated. On any lot in a residential district, the term refers to the principal building, whether a single-family or multi-family building, located on that lot.

CARPORT: A roofed structure for vehicle parking that is open on at least two (2) sides. If less than two (2) sides are open, the structure shall be classified as a garage.

CHILD CARE: A business service provided by an individual, partnership, corporation or other business entity to keep or care for any minor child for a period of less than twenty four (24) hours, at the request of the parents, legal guardians or an agency which is responsible for the child; and which is required to be regulated as a child care facility by the Wyoming Department of Family Services.

Family Child Care Center Category: A business providing child daycare for up to fifteen (15) children at any one time in a residential or commercial type structure. If located within a residential zone, the facility must be located in the primary home of the child care provider.

Family Child Care Home Category: A business providing child daycare for up to ten (10) children at any one time. The facility must be located in the primary home of the child care provider.

CHILD CARE CENTER: A business operating in a non-residential building that provides child daycare for sixteen (16) or more children. Maximum size is fifty (50) children when located in a residential zoning district.

CHURCH AND HOUSE OF WORSHIP: Any building used for religious worship services, religious education, and fellowship activities and programs of a religious organization. The term does not include a for-profit daycare center, general education school, thrift shop, homeless shelter, or commercial activity - such uses are regulated independently.

CITY: The City of Cody, Wyoming.

CITY COUNCIL (COUNCIL): The Mayor and City Council of the City of Cody, Wyoming.

CITY STANDARDS: In their most recent editions and with the most recent amendments, any engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required pursuant to this Code.

COMMERCIAL VEHICLE: A vehicle customarily used as part of a business for the transportation of goods or people.

COMMUNITY CENTER, PRIVATE (ACCESSORY): A privately owned and maintained facility associated with a planned residential development, neighborhood organization, or multi-family development which provides for community activities for residents of the development.

COMMUNITY GARDEN: An area of land established and used for gardening by a community-based organization or other group of people with the intent of harvesting produce for personal consumption or for sales or distribution to the community on a limited basis. The term does not include a garden that is incidental to a residential use and whose products are primarily intended for consumption or use by those residing on the property.

COMMUNITY RESIDENCE FOR THE DISABLED: A residential family-like living arrangement for up to ten (10) unrelated individuals with disabilities who are in need of the mutual support furnished by other residents, as well as the support services, if any, provided by the operator of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff that furnishes habilitative or rehabilitative services related to the

needs of the residents. Interrelationships among residents are an essential component of a community residence. A community residence shall be considered a residential use of property for purposes of all zoning and building codes. However, the Fire Marshal, pursuant to and consistent with the City's Fire Code, may require enhanced fire protection, including the installation of fire sprinklers and other mitigating measures, where one (1) or more residents has a lessened ability to ambulate adequately. Prior to authorization of a community residence for more than five (5) residents, the applicant shall provide a certification from a qualified medical practitioner that the number of disabled residents proposed is necessary to provide the mutual support and interrelationships required for treatment. The use does not include any of the following:

- A. Senior citizen apartment (aka "housing for older persons" under the provisions of Federal law);
- B. Child or adult daycare;
- C. Convalescent care facility/nursing home;
- D. Facility for transitional living for released offenders;
- E. Facility to provide testing, treatment, or counseling for drug and alcohol abuse;
- F. Hospice;
- G. Sex offender counseling facility;
- H. Boarding house or rooming house;
- I. Any other group living arrangement for unrelated individuals who are not disabled; and
- J. Any of the following:
 - 1. Modified medical detoxification facilities;
 - 2. Facility for the treatment of narcotics; or
 - 3. Community triage center.

CONDOMINIUM: A multi-family dwelling or a commercial building within which the occupied area is owned individually and the structure, land, common open space areas and facilities are owned by all of the owners on a proportional, undivided basis. See Wyoming Statute title 34, chapter 20, Condominium Ownership Act.

CONVALESCENT CARE FACILITY/NURSING HOME: A building or structure designed, used, or intended to be used to house and provide care for persons who have a chronic physical or mental illness or infirmity, but who do not need medical, surgical or other specialized treatment normally provided by a hospital. The term includes a rest home and nursing home, but does not include an assisted living apartment, hospital, or other medical facility that is specifically defined in this chapter.

CUL-DE-SAC: A local street with only one (1) connection to other streets (dead end) and with an approved method of termination at the closed end.

CURB: A stone, concrete or other improved border that is typically used to mark the edge of a roadway or paved surface.

CURB CUT: The opening constructed in the curb line of a street at which point vehicles may enter or leave the roadway to access adjacent property.

DEVELOPABLE ACREAGE (DEVELOPABLE ACRES): The total area within the lot lines of a property of a lot or parcel of land before public streets or other areas to be dedicated or reserved for a public use are deducted from such lot or parcel through the subdivision process.

The term does not include any property that:

- A. Has already been dedicated or reserved for such purposes;

B. Contains slopes in excess of thirty three percent (33%) for a horizontal distance of at least twenty feet (20'), measured up/down the slope;

C. Is below the ordinary high water mark of a waterbody; or,

D. Is within a protected wetland.

DORMITORY: A building other than a single-family dwelling that is used for non-transient group sleeping accommodations either in one (1) room or a series of closely associated rooms for persons not constituting a family, and which building is under single management. Dormitories may include common dining, cooking, recreation, and bathing facilities. A single-family dwelling may be converted into a dormitory pursuant to the requirements of the adopted Building Code in order to meet this definition. Sorority and fraternity houses fall within this category.

DWELLING: A building, structure, or portion thereof, designed or used exclusively for residential occupancy as a separate living quarter, with sleeping, cooking and sanitary facilities provided. Dwellings may be further classified by their number of dwelling units (e.g., two-family dwelling) and configuration (attached or detached).

DWELLING, ATTACHED: A single-family dwelling attached to one (1) or more single-family dwellings by common vertical walls, with each dwelling on a separate lot. Attached dwellings are required to share a common or abutting wall for at least twenty five percent (25%) of the length of the side of the dwelling.

DWELLING, MULTI-FAMILY: A building or group of buildings on a single lot that contain at least three (3) attached dwelling units, and may be configured so that the dwelling units are stacked one over another.

DWELLING, SEMIDETACHED SINGLE-FAMILY: A residential building containing two (2) attached single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof, with each dwelling unit on a separate lot. In other words, a single-family attached dwelling that is attached to only one (1) other single-family attached dwelling.

DWELLING, SINGLE-FAMILY DETACHED: A dwelling unit:

- A. That is not attached to any other dwelling by any means;
- B. That is located on a separate and individually owned lot;
- C. That is surrounded by open space or yards;
- D. That is for the exclusive use of a single family maintaining a household;
- E. That has no more than one (1) kitchen with full kitchen facilities; and
- F. In which all rooms used for human habitation have interior access to one another.

Nothing in this definition, however, prohibits the construction or use of an accessory dwelling unit in accordance with this title, or the construction or use of an auxiliary kitchen as defined in this chapter.

DWELLING, SITE-BUILT: A dwelling that is primarily constructed on the lot on which it is intended to be occupied, in accordance with the standards of the City's adopted building codes. The term includes modular homes as defined herein, and "stick built" homes. The term does not include mobile homes, manufactured homes, and similar factory-built structures.

DWELLING, TOWNHOUSE: A row or cluster of at least three (3) single family attached dwelling units in which each dwelling unit is located on a separate lot; each unit is separated by one (1) or more common vertical walls; each unit has its own front and rear yard access; and no unit is located over another unit. A townhouse complex may include common open space and recreational areas and facilities which are owned by all owners on a proportional, undivided basis.

DWELLING, TWO-FAMILY (aka DUPLEX): ~~A residential building containing two (2) dwelling units that share a common vertical fire wall, with both dwelling units located on the same lot or parcel. A detached building on a single lot that is designed for occupancy by two families living independently of each other in separate dwelling units.~~

Commented [TS4]: It is a broader definition that allows additional configuration options.

DWELLING UNIT: A residential unit providing complete and independent living facilities for the exclusive use of a single family maintaining a household, including lawful facilities for living, cooking, eating, sleeping and sanitation. Except where authorized otherwise by the land use table and/or supplemental development standards, occupancy of a dwelling unit is limited to one (1) family.

EASEMENT: A grant of one (1) or more property rights by a property owner that allows others to use the owner's land for a specific purpose, such as for access or to locate utilities, as defined by the granting document.

EGRESS: An exit.

ENGINEER: A person currently registered as a professional engineer to practice in the State of Wyoming.

ESTABLISHMENT: A use, building, structure or premises used for business, office, or commercial purposes.

FAMILY: Any number of persons living and cooking together on the premises as a single housekeeping unit, but not including a group of more than five (5) individuals not related by blood or marriage.

FRONTAGE (Street): The portion of a property that borders a street right-of-way, measured along the property line.

FUNCTIONAL CLASSIFICATION: A classification system that defines the purposes and hierarchy of all streets and highways. Refer to the Master Street Plan.

GARAGE: A building enclosed on more than two (2) sides, or a portion of an enclosed building, which is used for the parking of vehicles.

GARAGE, REAR-LOAD: A private garage with the overhead door(s) accessed from the rear of the lot.

GARAGE, SIDE-LOAD: A private garage where the overhead door(s) are oriented perpendicular to the front lot line.

GOVERNING BODY: The City Council of the City of Cody.

GRADE, FINISHED: The average proposed level of the finished surface of the ground adjoining a building after all site development work has been completed.

GRADING: Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

GROSS FLOOR AREA: The sum of the gross horizontal areas of all the floors of a building or structure measured from the exterior face of exterior walls, but excluding basements with less than six feet eight inches (6'8") ceiling height and any other area where the floor-to-ceiling height is less than five feet (5').

HAZARDOUS MATERIAL: A substance or material, including a hazardous substance, which has been determined by the United States Secretary of Transportation under title 49 of the Code of Federal Regulations to be capable of posing an unreasonable risk to health, safety and property and which has been so designated; and, nuclear or radioactive materials or waste; and, chemicals listed in Title III List of Lists Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July, 1987, U.S. Environmental Protection Agency.

HAZARDOUS WASTE: Any material that is subject to the hazardous waste manifest requirements of the United States Environmental Protection Agency as specified in 40 CFR part 262; or which is regulated by the Wyoming hazardous waste rules and regulations pursuant to the Wyoming Environmental Quality Act, Wyoming Statutes 35-11.

HOME OCCUPATION: A business activity conducted from a residential dwelling unit, or building or land accessory thereto, pursuant to the standards of this title, with the intent of generating income. Home occupations are further classified as follows:

Large-Scale: A business or professional enterprise operated ~~from out of~~ a residential dwelling, ~~or accessory building~~ or land accessory thereto, by a resident of the household and potentially up to two (2) non-resident employees, which is of a scale and character that does not alter or detract from the residential character of the property or neighborhood, and is incidental and accessory to the primary use of the property for residential purposes. Large-scale home occupations shall meet the standards outlined in the supplemental development standards.

Small-Scale: A business or professional enterprise operated out of a residential dwelling by a resident of the household, which is of a scale and character that does not alter or detract from the residential character of the dwelling or neighborhood, and is incidental and accessory to the primary use of the dwelling for residential purposes. Small-scale home occupations shall meet the standards outlined in the supplemental development standards.

IMPROVEMENT: Any building, structure, utility, landscaping, or other object constituting a physical betterment of real property, or any part of such betterment.

INDIVIDUAL CARE CENTER: A commercial facility that provides 24-hour personal care and related services to more than ten (10) children or dependent adults in a supervised, protective, congregate setting. Such a use is subject to the care-related regulations and standards of the State of Wyoming Department of Health. Services typically offered in conjunction with dependent adult care include social and recreational activities, training, meals, and personal daily living care. See also definition of individual care - family home for a list of uses not included in this definition.

INDIVIDUAL CARE - FAMILY HOME: A residential dwelling used primarily as a residence where 24-hour personal care and related services is provided to a maximum of five (5) children or dependent adults living as a single household, for compensation. Such a use is subject to the care-related regulations and standards of the State of Wyoming Department of Health Aging Division, under their category of "boarding home". Services typically offered in conjunction with dependent adult care include social and recreational activities, training, meals, and personal daily living care. The following uses are not included in any of the individual care categories:

- A. Facility for transitional living for released offenders;
- B. Facility to provide testing, treatment, or counseling for drug and alcohol abuse;
- C. Hospice;
- D. Sex offender counseling facility;
- E. Any of the following:
 - 1. Modified medical detoxification facilities;
 - 2. Facility for the treatment of narcotics;
 - 3. Community triage center; or
 - 4. Habilitative or nursing care.

INDIVIDUAL CARE - GROUP HOME: A facility that provides 24-hour personal care and related services to a minimum of six (6) children or dependent adults and a maximum of ten (10) children or dependent adults living as a single household, for compensation. When located on a

Commented [TS5]: Some large-scale home occupations may be conducted outside, or in accessory buildings.

single-family residential lot, the provision of care shall take place in a dwelling used primarily as a residence. When located on a parcel developed with multi-family housing, the provision of care shall take place within a structure not used as a residence. In any case, such a use is subject to the care-related regulations and standards of the State of Wyoming Department of Health Aging Division. Services typically offered in conjunction with dependent adult care include social and recreational activities, training, meals, and personal daily living care. See also definition of individual care - family home for a list of uses not included in this definition.

INGRESS: Access or entry.

~~INTENSITY OF USE: The number of dwelling units per acre for residential development and floor area ratio for nonresidential development.~~

KENNEL: An establishment where five (5) or more dogs, cats or other domestic household pets age six (6) months or older, are bred, raised, ~~trained,~~ or boarded, for compensation.

KITCHEN: That portion of a dwelling unit devoted to the cooking or preparation of food for the purpose of consumption by residents of the dwelling unit. ~~The term includes a "kitchenette", "wet bar" or any area equipped with items such as a counter top hot plate, counter top grill, or microwave oven, together with an under counter refrigerator and sink. "Full kitchen facilities" indicates the presence of complete cooking facilities (i.e., stove, oven or microwave oven, refrigerator, and sink).~~ The presence within any food preparation area of a ventilation hood, gas stub, two hundred twenty-volt electrical outlet or wiring, or any combination thereof, shall cause the area to be considered a full kitchen facilities.

LANDSCAPING: The combination of natural elements such as trees, shrubs, ground covers, and other organic and inorganic materials that are installed for purposes of creating an attractive and pleasing outdoor environment.

LIVING AREA: For accessory dwelling unit purposes, living area is calculated by excluding the following from the gross square footage of the building:

- A. The exterior walls;
- B. Garages;
- C. Basements with less than six feet eight inches (6'8") ceiling height; and
- D. Other areas with ceiling height less than five feet (5').

LODGING UNIT/ROOM: A lodging unit or lodging room is a room with one (1) or more beds, bunks or other facilities for sleeping purposes.

LONG-TERM RENTAL: A residential dwelling unit rented for periods of thirty (30) days or more to one (1) family.

LOT: In its strictest sense, "lot" is a plot, tract, or portion of a subdivision or addition or other parcel of land whose existence, location and dimensions have been defined either by a legally authorized and recorded subdivision map (plat); or as a government lot or tract in a United States public land survey subdivision. However, for purposes of applying zoning regulations, "lot" is typically used generically to refer to any legally created piece of divided land, whether technically a platted lot, government lot, lot of record, tract, plot, or parcel. The use of "lot" in this manner avoids needless repetition (lot area, plot area, parcel area, etc.).

When it is necessary to distinguish between types of lots, such as often occurs in the realm of surveying and subdivision regulation, the term "lot" is typically limited to the strict definition, and the terms tract, lot of record, deeded parcel, etc., carry their respective meanings. Due to the potential for misinterpretation, the reviewing official has the authority to determine the proper interpretation of "lot" consistent with the language of this title, so that its use does not inadvertently preclude applicability of any particular regulation.

Commented [TS6]: Overly simplified definition, prefer remove as likely not necessary.

Commented [TS7]: Training is a separate activity.

Commented [TS8]: Not used in zoning code.

LOT AREA: That area of a horizontal plane bounded by the front, side and rear property lines of a lot, including any portion of an easement which may exist within such property lines but exclusive of rights-of-way for street purposes.

LOT AREA, NET: As of the date of adoption of this chapter, "net lot area" means the area of a lot (lot area) minus any portion thereof that:

- A. Is dedicated or reserved for a public or private street;
- B. Contains slopes in excess of thirty three percent (33%) for a horizontal distance of at least twenty feet (20'), measured up/down the slope;
- C. Is below the ordinary high water mark of a waterbody;
- D. Is within a protected wetland; or,
- E. Is in the "pole" portion of a flag lot.

[Note: Historically, some plats used the term "net lot size" to differentiate between the size of a lot after right-of-way dedication through the plat process, from its size before. The terms are not interchangeable.]

LOT, CORNER: A lot situated at the intersection of two (2) or more streets, with frontage on at least two (2) streets.

LOT DEPTH: The length of a line connecting the mid-point of the front and rear property lines of a lot.

LOT, DOUBLE FRONTAGE: A lot (not a corner lot) that adjoins two (2) streets that are parallel or within forty five degrees (45°) of being parallel to each other.

LOT, FLAG: A lot with two (2) distinct parts: the "flag", which is the only building site; and is located behind another lot; and the "pole", which connects the flag to the street and provides the only street frontage for the lot. Flag lots are prohibited, except as may be authorized through the subdivision variance or PUD process. A lot that is at least as wide, at all points, as the minimum frontage required for the lot, or forty feet (40'), whichever is greater, shall not be considered a flag lot, regardless of its appearance.

LOT FRONTAGE: The portion of the lot that fronts on a street or drive.

LOT, IMPROVED: A lot provided with the infrastructure and utilities required for a building to be authorized to be constructed and occupied thereon; or, a lot with existing buildings or structures.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: For purposes of this title, "lot line" means a line that divides one (1) lot from another lot, or from a street right-of-way or easement, or any other area reserved or dedicated for public use. In situations where underlying property ownership extends under a street or highway right-of-way or easement, the lot line shall be considered to be at the boundary of the right-of-way or easement.

LOT LINE, CORNER: The lot line abutting a street or drive, other than a front lot line.

LOT LINE, FRONT: The lot line separating the lot frontage from a street right-of-way or access easement. On corner lots, the front lot line will typically be the line with the narrowest frontage. However, if the lot will contain only one (1) dwelling, or if neither street is a collector or arterial, then the property owner may choose which of the two (2) lot frontages shall be considered the front lot line for setback purposes, and all other setbacks shall be applied accordingly. In the case of a through lot, either frontage may be considered the "front", except in cases where deed restrictions, regulations, or plat notes prohibit access from one (1) street, in which case said restricted frontage may be considered a rear property line. Notwithstanding the above, the City may specify the curb cut/driveway location to any City street.

LOT LINE, REAR: The property line opposite and most distant from the front property line. In the case of a triangular or otherwise irregularly shaped lot with no clear rear lot line, a line ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front property line shall constitute the rear lot line for setback purposes.

LOT LINE, SIDE: Any property line which is not a front lot line, rear lot line or corner lot line. A side lot line is roughly perpendicular to a front or rear property line.

LOT OF RECORD: A plot, tract, or parcel of land that:

A. Was not created through an approved subdivision, or as a government lot or tract in a United States Public Land Survey; and,

B. Was created by a deed or legal instrument other than a plat, which was executed before December 4, 1989, and which has been recorded in the County Clerk's Office.

LOT, REVERSE CORNER: A corner lot, the rear of which abuts the side of another lot.

LOT SIZE, MINIMUM: The smallest area permissible for any lot that is to be created or modified in size; and, the smallest lot on which a use or structure may be located, except as may be authorized pursuant to section [10-13-3](#), "Legal Nonconforming Lots", of this Code. For any lot created after adoption of this chapter, minimum lot size shall meet the "minimum net lot area" standard. Unmanned public utility facilities are exempt from minimum lot size requirements.

LOT, SUBSTANDARD: A lot that has less than the minimum area or minimum dimensions required by the zoning district in which the lot is located.

LOT, THROUGH: A lot that fronts upon two (2) parallel streets or that fronts upon two (2) streets that do not intersect at the boundaries of the lot. Also known as "lot, double-frontage".

LOT, TRANSITION: A lot in one (1) zoning district which abuts another zoning district.

LOT WIDTH: The mean horizontal distance between the side lot lines.

LOT, ZONING: A property consisting of more than one (1) lot or parcel in single ownership, which is developed and/or utilized in such a manner as to constitute a single development, of which no individual lot or parcel could be excluded without causing the development to violate an applicable provision of the Building Code, Fire Code, Sign Code, Parking Code, this title, or other adopted Development Code. A zoning lot shall be considered a single lot for purposes of this title. New zoning lots shall not be created except pursuant to title 11, chapter 6, article B, "Lot Consolidations", of this Code.

MAINTENANCE (Also MAINTAINED): The upkeep of a property, building, structure, amenity, parking facility, landscaping or lot including repair, painting, trimming, pruning, watering, weeding, and other on-going activities that are associated with property maintenance.

MANUFACTURED HOME: A structure built to the Federal Manufactured Home Construction and Safety Standards (HUD Code effective June 15, 1976) and that displays an official red certification label indicating such on the exterior of each transportable section. Manufactured homes are built in a plant and are transported in one (1) or more sections on a permanent chassis. Manufactured homes are further classified as follows:

A. "Multi-wide" (aka double-wide or triple-wide manufactured home) has a minimum width of more than eighteen feet (18') as measured at all points perpendicular to the length of the manufactured home;

B. "Single-wide", has a width of eighteen feet (18') or less as measured at any point perpendicular to the length of the manufactured home.

MOBILE HOME: A dwelling on one (1) or more chassis for towing to the point of use, which dwelling does not meet the Federal Manufactured Home Construction and Safety Standards (HUD Code effective June 15, 1976). Mobile homes are further classified as follows:

A. "Multi-wide" (aka double-wide mobile home) has a minimum width of more than eighteen feet (18') as measured at all points perpendicular to the length of the mobile home;

B. "Single-wide", has a width of eighteen feet (18') or less as measured at any point perpendicular to the length of the mobile home.

This definition does not include manufactured homes, modular homes, commercial coaches, recreational vehicles or motor homes.

MOBILE HOME PARK: A lot used for the placement of three (3) or more mobile and/or manufactured homes, which are used as dwellings. The term does not include unoccupied mobile or manufactured homes in a sales lot or commercial storage lot.

MOBILE HOME SPACE: That portion of a mobile home park designated, used, or designed for the occupancy of not more than one (1) mobile or manufactured home and includes that area set aside or used for associated automobile parking, carports, awnings, accessory buildings or other structures, and the yard area as required herein for each space.

MODULAR HOME: A residential dwelling constructed of pre-made parts and/or modules manufactured at a facility, which parts and modules are transported to a fixed site, placed by crane, and permanently affixed to and supported by a perimeter foundation. A modular home shall be constructed in accordance with the City's adopted Building Code, as opposed to a HUD Code. Manufactured homes, and other dwellings with a permanent chassis designed for purposes of transporting and supporting the structure, cannot qualify as modular homes, as defined herein. A modular home is considered equivalent to a site-built home for zoning purposes.

NON-TRANSIENT: Occupancy of a dwelling or sleeping room for thirty (30) days or more.

OCCUPANCY OR OCCUPIED: With respect to a structure, refers to the residing of one (1) or more individuals in a dwelling or to the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

OFF-SITE PARKING: Parking provided for a specific use but located on a lot other than the one (1) on which the specific use is located.

OPEN SPACE: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public use or enjoyment.

OPEN SPACE, COMMON: Land within or related to a development that is designed and intended for the common use or enjoyment of the residents of the development and their guests.

OPEN SPACE, PRIVATE: Open space which is normally owned by and limited to the use of the occupants of a building or property that abuts such open space.

OPEN SPACE, PUBLIC: Open space owned and maintained by a public agency for the use and enjoyment of the general public.

OUTDOOR STORAGE: The commercial or industrial use of an area outside of an enclosed building for the long term retention (more than 48 hours) of materials, machinery or equipment, regardless of whether the materials, machinery or equipment are to be bought, sold, repaired, stored, incinerated, or discarded. The term does not include new or used motor vehicle sales and rental display, nor does it include accessory and incidental parking of vehicles for residents, guests, customers or employees in connection with a principal use.

OVERLAY ZONE: A zoning district that may be imposed on one (1) or more underlying base zoning districts, which provides additional requirements and standards beyond those required by the underlying zoning district.

OWNER: An individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land.

OWNER-OCCUPIED: A property or building where the owner is living at the time the regulated activity takes place.

PERMITTED USE: Any use allowed in a zoning district as a matter of right if it is conducted in accordance with the restrictions applicable to that district. Permitted uses are designated in the Land Use Table by the letter "P".

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, governmental entity, trustee, receiver, assignee or similar representative of any of them.

PLANNED UNIT DEVELOPMENT, RESIDENTIAL: A residential subdivision authorized pursuant to title 11, chapter 7 of this Code.

PLANNING AND ZONING BOARD: The board appointed as such by the Mayor with the consent of the Governing Body. The Planning and Zoning Board serves as the Planning Commission as authorized by Wyoming Statutes section 15-1-502, the Zoning Commission as authorized by Wyoming Statutes section 15-1-604, and the Board of Adjustment as authorized by Wyoming Statutes section 15-1-605; and has the powers and duties as prescribed by State law and City ordinances.

PRINCIPAL BUILDING: The building in which the principal use of the lot is conducted. Lots with multiple uses may have multiple principal buildings. The term does not include storage buildings, garages or other buildings which normally are considered accessory buildings.

PRINCIPAL USE: The purpose for which land, premises or building is designed, arranged or constructed.

PROHIBITED USE: A use that is not permitted by any means in a particular zoning district.

PROPERTY: A lot, parcel, or tract of land together with the building and structures located thereon.

PUBLIC PARK OR PLAYGROUND: A park, playground, swimming pool, reservoir, golf course, or athletic field owned, operated and maintained by a Local or State level governmental entity.

PUBLIC UTILITY: A regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare.

RECEPTION FACILITY: A property other than a church at which formal parties, weddings, receptions, or social gatherings are held, for compensation.

RECREATIONAL VEHICLE (RV): A vehicle towed, or self-propelled on its own chassis, or attached to the chassis of another vehicle, which is designed or used for temporary living accommodations, typically in a recreational, camping and/or traveling situation. For zoning purposes, the term includes, but is not limited to, travel trailers, pickup/truck campers, camping trailers, motorhomes, camper vans, tiny houses on wheels, and converted trucks or buses.

RECREATIONAL VEHICLE PARK: Any lot or tract of land used, or intended to be used, for renting of space to accommodate one (1) or more recreational vehicles. The definition does not include vehicle storage. RV parks may also offer tent camping, cabin rental, and accessory support services such as laundry, bath houses, and an on-site store.

REVIEWING OFFICIAL: The person, board, or Governing Body responsible for issuing the permit, authorization, or approval that has been requested.

ROOMING HOUSE: An owner-occupied dwelling with no more than five (5) guest lodging rooms where, for compensation, individual furnished rooms are provided for no more than five (5) non-transient persons who are not members of the immediate family occupying such building, and no more than two (2) such persons occupy any guest lodging room. (Note:

"Rooming house" falls within the definition of lodging house in the International Residential Code.)

SETBACK: The minimum required separation distance between the nearest wall or support of a structure and the lot line, measured at a right angle from the property line.

Commented [TS9]: Adds clarification.

SETBACK AREA, CORNER SIDE: A yard area of which the width is measured between the side street property line and the required corner side yard setback line; and the depth is measured between the front yard setback line and the rear yard setback line.

SETBACK AREA, FRONT: A yard area of which the width is measured the entire length of the front property line between the side property lines; and the depth is measured as the distance between the street right-of-way line and the required front setback line.

SETBACK AREA, REAR: A yard area of which the width is measured the entire length of the rear property line between the side property lines; and the depth is measured as the distance between the rear property line and the required rear yard setback line.

SETBACK AREA, SIDE: A yard area of which the width is measured between the side property line and the required side yard setback line; and the depth is measured between the front yard setback line and the rear yard setback line.

SETBACK, GARAGE ENTRANCE: A setback that is measured from a street lot line to the entrance of a garage or carport. It is essentially a minimum driveway length.

SETBACK LINE: A line established by measuring from the property line, perpendicularly and into the property a distance equal to the required setback. No part of a building shall project into the area between the property line and the setback line except as otherwise provided in this title.

SHORT-TERM RENTAL: The use of a residential dwelling, or portion thereof, in which lodging, but no meal, is provided to guests in exchange for compensation and any individual guest rents or occupies the dwelling or portion thereof for a period of less than thirty (30) consecutive days. Capacity of a short-term rental is limited to five (5) or fewer lodging units and ten (10) or fewer guests.

SIDE STREET: A street running along a side property line of a corner lot.

SPOT ZONING: The rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the ~~adopted Master General~~ Plan. The fact that an individual lot is zoned differently from adjacent properties shall not automatically mean the situation constitutes spot zoning. Additional factors such as the relationship to the adjacent zones, size of the property, and characteristics of the proposed zone must also be considered.

STORAGE: A space or place where goods, materials or personal property is placed and kept for more than forty eight (48) consecutive hours.

STORY: That portion of a building 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.

STREET: A thoroughfare which affords a principal means of access to abutting property. The term does not include an "alley" as that term is defined in this title.

STRUCTURE: Any object constructed or installed, the use of which requires location in or on the ground, or attached to something having a permanent location in or on the ground.

"Structure" includes but is not limited to buildings, decks, fences, towers, flag poles, signs, and other similar objects. "Structure" does not include paved areas, or vegetative landscaping materials.

TRACT: A piece of land created and designated as part of a land division that is not a lot, lot of record, or a public right-of-way. Tracts are created and designed for a specific purpose. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private alley tracts, and open space tracts. Note: The term "tract" has not consistently been applied in this manner in the past - e.g., some plats label open space or stormwater basins as lots.

USE: The purpose (type and extent) for which land or a building is arranged, designed, or intended; or for which either land or a structure is occupied or maintained.

USED FOR RESIDENTIAL PURPOSES: A lot that is two (2) acres or less in area and contains a residential dwelling unit.

UTILITY INFRASTRUCTURE SITE: Electric substations, domestic water treatment and storage facilities, natural gas regulator stations, fiber optic booster stations, outdoor pumping stations, and similar large-scale utility infrastructure sites.

VISUAL SCREEN: A fence or evergreen hedge at least six feet (6') in height and of sufficient density or construction to prevent visual contact from opposite sides. If the option for an evergreen hedge is used, it must be of sufficient size at planting to achieve the required height within two (2) years.

WALL HEIGHT: For purposes of accessory building setback regulation, the vertical distance from the building floor to the top plate of the wall.

WIND ENERGY SYSTEM, SMALL: A wind energy conversion system consisting of a wind turbine, a tower or supporting structure, and associated control or conversion electronics, which has a rated capacity sized for on-site electric usage (typically 10 kW or less for a single-family dwelling) and which is primarily intended to reduce on-site consumption of utility power. For purposes of this title, the use shall not be deemed an accessory use.

WIRELESS COMMUNICATION ANTENNA: An antenna that transmits and/or receives wireless communication signals. The term does not include any device, such as a radio antenna, telephone antenna, television antenna, satellite dish antenna or amateur radio antenna, that is accessory or incidental to a residential use and is employed by an ultimate user to receive radio, television or other communication signals.

WIRELESS COMMUNICATION DEFINITIONS: (Applicable to the definition and regulation of wireless communication facilities only.)

Applicant: Any person engaged in the business of providing wireless communication services or the wireless communications infrastructure required for wireless communications services and who submits an application.

Base Station: A structure or equipment at a fixed location that enables commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

B. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks).

C. The term includes any structure other than a tower that, at the time the relevant application is filed with the City under this title, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

D. The term does not include any structure that, at the time the relevant application is filed with the State or the City under this title, does not support or house equipment described in this section.

Collocation: The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.

Distributed Antenna System Or DAS: A network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

Eligible Facilities Request: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- A. Collocation of new transmission equipment;
- B. Removal of transmission equipment; or
- C. Replacement of transmission equipment.

Eligible Support Structure: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City under this title.

Existing: A tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

FCC: The Federal Communications Commission.

Macrocell: An antenna or antennas mounted on a tower, ground-based mast, rooftops and other towers or structures, at a height that provides a clear view over the surrounding buildings and terrain. Macrocells are typically designed to provide coverage to large areas.

Monopole (aka Slim-Line Pole): A wireless communication facility, consisting of a pole and one (1) or more antennas, on which the antenna panels are narrow and closely spaced with one another atop the pole and extend no more than one foot (1') beyond the circumference of the pole.

Public Utility: A regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare.

Site: In relation to a tower that is not in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. In relation to support structures other than towers, site means an area in proximity to the structure and to other transmission equipment already deployed on the ground.

Small Cells: Compact wireless communication equipment containing their own transceiver equipment and which function like cells in a mobile network but provide a smaller coverage area than traditional macrocells.

Stealth Design: Technology that minimizes the visual impact of wireless communication facilities by camouflaging, disguising, screening or blending into the surrounding environment such that it is not readily seen or discernable as a wireless communication facility to a casual passerby. Examples of stealth design include but are not limited to antennas integrated into

architectural elements such as steeples, cornices, and bell towers; facilities disguised as trees and flagpoles; and architecturally screened roof-mounted antennas.

Substantial Change: A modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

A. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20'), whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten feet (10'), whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 USC section 1455(a));

B. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet (6');

C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

D. It entails any excavation or deployment outside the current site;

E. It would defeat the concealment elements of the eligible support structure; or

F. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections A through D of this subdefinition.

Tower: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Transmission Equipment: Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility Support Structure: Utility poles or utility towers supporting electrical, telephone, DAS, small cells, cable or other similar facilities; street light standards; or pedestrian light standards.

Wireless Communication Antenna: An antenna that transmits and/or receives wireless communication signals. The term does not include any device, such as a radio antenna, telephone antenna, television antenna, satellite dish antenna or amateur radio antenna, that is accessory or incidental to a residential use and is employed by an ultimate user to receive radio, television or other communication signals.

Wireless Communication Facility Or WCF: A staffed or unstaffed facility or location or equipment for the transmission or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one (1) or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets, and including small cell technologies.

Wireless Communication Facility, Non-Stealth Design: A wireless communication facility that does not qualify as a stealth design wireless communication facility.

Wireless Communication Signals: Communication signals, including analog signals, digital signals and other spectrum-based communication signals. The term does not include television broadcast signals; direct broadcast signals; direct broadcast satellite services; multi-channel, multi-point distribution services; or amateur radio signals.

WIRELESS COMMUNICATION FACILITY, STEALTH DESIGN: A wireless communication facility that is screened or designed to blend into the surrounding environment such that it is not readily seen or discernable as a wireless communication facility to a casual passerby. Examples include roof-mounted antennas with architectural screening; panel antennas mounted against the wall of an existing building and painted or finished to match the existing structure; antennas integrated into architectural elements such as steeples or cupolas; and antennas and antenna structures designed to look like streetlight poles or flagpoles.

YARD: The areas on a lot that are unoccupied by structures, except for projections and the specific accessory structures allowed in those areas under the provisions of this title.

YARD, CORNER SIDE: The yard of a corner lot extending from the front yard to the rear yard and between the side street and the primary structure.

YARD, FRONT: The yard area extending along the entire length of the front property line and the depth between the street right-of-way line and the primary structure. (See also definition of lot line, front.)

YARD, REAR: The yard area extending along the entire length of the rear property line and the depth between the rear property line and the primary structure.

YARD, SIDE: The yard area extending from the front yard to the rear yard and between the side property line and the primary structure.

ZONING DISTRICT: An area designated on the Official Zoning Map in which certain uses are permitted and certain others are not permitted, all in accordance with this title. (Ord. 2017-02, 3-7-2017; amd. Ord. 2017-11, 6-6-2017)

CHAPTER 4
PLANNING AND ZONING COMMISSION
SECTION:

[10-4-1](#): Established; Membership

[10-4-2](#): Meetings

[10-4-3](#): Appeals; Powers

[10-4-4](#): District Court Review

[10-4-5](#): Preferential Issues

[10-4-6](#): Court Judgment; Appeal To Supreme Court

10-4-1: ESTABLISHED; MEMBERSHIP:

There is hereby established a planning and zoning commission, consisting of seven (7) members, each to be appointed by the mayor with the approval of the governing body, for a three (3) year term. The mayor shall also appoint a member of the governing body to act as a nonvoting, nonparticipating member in the commission and to report to the council on the activities and actions of the commission. Any member of the planning and zoning commission may be removed for cause by the governing body upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The planning and zoning commission shall hear and decide appeals from, and review any order, requirement, decision or determination made by, the administrative officer charged with the enforcement of this title. It shall also hear and decide all matters referred to it or upon which it is required to pass under this title. (Ord. 2007-22, 11-16-2007)

10-4-2: MEETINGS:

The commission shall adopt rules in accordance with the provisions of this title. Meetings of the commission shall be held at the call of the chairperson and at such other times as the commission may determine; provided, that the commission shall meet not less than four (4) times per year. The chairperson or, in his/her absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings of the commission are open to the public. The commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating that fact and shall keep records of its examinations and other official actions. All minutes shall be filed immediately in the office of the commission and are public records. (1960 Compilation § 26-104; amd. Ord. 74-16; Ord. 80-7; Ord. 85-1; Ord. 87-3; Ord. 99-11)

10-4-3: APPEALS; POWERS:

A. Appeal: Appeals to the planning and zoning commission may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative officer. Appeals shall be taken within a reasonable time as provided by the rules of the commission by filing with the officer from whom the appeal is taken and with the planning and zoning commission a notice of appeal specifying the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the commission all the papers constituting the record upon which the action appealed from was taken.

B. Stay Of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the planning and zoning

commission, after notice of appeal has been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause immediate peril to life or property; in which case proceedings shall not be stayed otherwise than by a restraining order, granted by the district court for the fifth judicial district, or a judge thereof, on notice to the officer from which the appeal is taken and on due cause shown.

C. Hearing; Powers: The planning and zoning commission shall fix a reasonable time for hearing the appeal, give public notice, adequate notice to the parties in interest and appear in person or by agent or by attorney. The planning and zoning commission has the following powers:

1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this title.

2. To hear and decide special exemptions to the terms of this title upon which the commission is required to pass.

3. To vary or adjust the strict application of any of the requirements of this title in the case of an irregular, narrow, shallow or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. No adjustment in the strict application of any provision of this title may be granted by the commission unless it finds:

- a. That there are special circumstances or conditions, fully described in the findings of the commission, applying to the land or building for which the adjustment is sought, which circumstances or conditions are peculiar to the land or building and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of July 8, 1952;

- b. That, for reasons fully set forth in the findings of the commission, the circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of the reasonable use of the land or of the land or building, and that the adjustment as granted by the commission is the minimum adjustment that will accomplish this purpose; and

- c. That the granting of the adjustment will be in harmony with the general purposes and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

4. To grant exceptions and variances upon request after a showing that an illegal construction or a nonconforming building or use existed for a period of at least five (5) years in violation of this title and the city has not taken steps toward enforcement.

5. To prepare and recommend to the governing body, a comprehensive plan of public improvements, looking to the present and future development and growth of the city. Such a plan, after its adoption by the governing body, will be known as the master plan.

6. Such plan shall include reasonable requirements in reference to streets, alleys and public grounds within the corporate limits ~~and in contiguous territory outside of and distant not more than one and one-half (1½) miles from such limits and not included in any municipality~~; such requirements to be effective if any such land shall be subdivided after the adoption of such plan.

7. To prepare and recommend to the governing body, from time to time, such changes in the plan or any part thereof as may be deemed necessary by the governing body or by the planning and zoning commission.

8. To prepare and recommend to the governing body, from time to time, plans or recommendations for specific improvements in pursuance of such master plan.

Commented [TS1]: State statute was modified. Any master planning outside the city limits must now be adopted by the County as well. (Don't see need to go into details here, as process is outlined in state statute.)

9. To give aid to the city officials charged with the direction of projects for improvements embraced within the master plan, to further the making of such improvements and generally to promote the realization of the master plan.

10. To arrange and conduct any form of publicity relative to its activities for the general purpose of public understanding.

11. To cooperate with county and regional planning commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.

12. To exercise such other powers germane to the powers granted by statute.

D. Decision: In exercising its powers, the commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as necessary, and to that end has all the powers of the officer from whom the appeal is taken. (1960 Compilation § 26-104; amd. Ord. 74-16; Ord. 80-7; Ord. 85-1; Ord. 87-3; Ord. 99-11)

E. Vote Required: A concurring vote of a majority of the commission is necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the application on any matter upon which it is required to pass under any ordinance or to effect any variation of this title. (Ord. 2007-23, 11-6-2007)

10-4-4: DISTRICT COURT REVIEW:

A. Manner Of Review: The decision of the planning and zoning commission concerning an appeal from an alleged error in any order, requirement, decision or determination made by an administrative official in the enforcement of this title, but not decisions of the commission concerning matters of city planning, may be reviewed by the district court upon appeal taken in the following manner:

1. Any person or persons, jointly or severally aggrieved by any decision of the commission or any taxpayer or any officer, department, board or bureau of the city shall file written notice of appeal with the secretary of the commission within ten (10) days after the decision has been entered on the commission's records, setting forth that the decision is illegal in whole or in part, specifying the grounds of the illegality.

2. Within ten (10) days after filing the notice of appeal with the secretary of the commission, the appellant shall file with the clerk of the district court a transcript consisting of the order, requirement, decision or determination of any administrative official charged with the enforcement of this title, and the commission's decision on the matter, together with a copy of this title and the record of the administrative officer and the commission, covering all their acts in the matter.

3. Upon payment of the necessary fees therefor, the transcripts shall be furnished by the secretary of the commission, and by him/her certified to contain full, true and correct copies of all matters and proceedings required to be included in the transcript. The fees shall be the same as the fees payable to the clerk of the district court on appeal to the supreme court in civil cases.

4. At the time of filing the notice of appeal with the clerk of the district court, the appellant shall execute and file with the clerk of the district court a sufficient bond in a penal sum of two hundred dollars (\$200.00), with at least two (2) sureties, to be approved by the judge of the court, conditioned to prosecute the appeal without delay, and if unsuccessful, to pay all costs to which the city is put because of the appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds, as the necessity of the case may require.

5. Within three (3) days after the transcript is filed in the district court, the appellant shall give written notice to the city attorney and to the secretary of the commission that the transcript is filed. The notice shall set a time, not less than three (3) days from the service thereof, for hearing and the district court shall, at that time or at a time fixed by order of the court or judge, hear and determine the appeal.

6. If it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as it may direct and report to the court. The referee's findings of fact and conclusions of law shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or modify the decision brought up for review.

B. Costs Against Commission; Conditions: Costs shall not be allowed against the commission, unless it appears to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from. Any costs allowed by the court against the commission shall be paid by the city. (1960 Compilation § 26-104; amd. Ord. 74-16; Ord. 80-7; Ord. 85-1; Ord. 87-3; Ord. 99-11)

10-4-5: PREFERENTIAL ISSUES:

All issues in any proceeding under this chapter have preference over all other civil actions and proceedings. (1960 Compilation § 26-104; amd. Ord. 74-16; Ord. 80-7; Ord. 85-1; Ord. 87-3; Ord. 99-11)

10-4-6: COURT JUDGMENT; APPEAL TO SUPREME COURT:

The judgment of the court shall conform, correct, modify or annul the decision appealed from, insofar as it affects the appellant or his property. A certified copy of the judgment of the court shall be filed with the clerk of the commission, and he shall modify and correct the decision in accordance with that judgment. An appeal shall lie to the supreme court from the judgment of the district court, as in other cases. The appeal shall be taken within fifteen (15) days after the date of entry of the judgment in the district court. The record and opening brief of the appellant shall be filed with the supreme court within sixty (60) days after the appeal has been taken by notice as provided in this chapter. The time for filing the record, service and filing of briefs may be extended by order of the district court, or by stipulation of the parties concerned. The supreme court may correct, change, modify, confirm or annul the decision of the administrative officer, the commission or the district court, insofar as it affects the appellant or his property. A certified copy of the order of the supreme court shall be filed with the secretary of the commission, who shall modify and correct the decision of the commission in accordance with that decision. (1960 Compilation § 26-104; amd. Ord. 74-16; Ord. 80-7; Ord. 85-1; Ord. 87-3; Ord. 99-11)

CHAPTER 5
CHANGES AND AMENDMENTS
SECTION:

[10-5-1](#): City Council Authority

[10-5-2](#): Protest

[10-5-3](#): Petition

10-5-1: CITY COUNCIL AUTHORITY:

The city council may by ordinance at any time, on its own motion or petition, or upon the recommendations by the planning and zoning commission, amend, supplement or change the regulations or districts herein or subsequently established; provided, however, that a public hearing shall first be held in relation thereto, after one publication of notice of the time, place and purpose of such hearing, in an official newspaper, at least fifteen (15) days prior to such hearing.

The City Planner is granted authority to perform or require applicants to perform optional notice to inform neighboring property owners, lessees, utility providers, or others that may be affected of the public hearing. Optional notice is not subject to the fifteen (15) day requirement, may take any form, and is completely discretionary. Optional notice, or lack thereof, shall not be grounds for appeal.

(1960 Compilation § 26-115; amd. Ord. 86-5; Ord. 87-3)

10-5-2: PROTEST:

If there is a protest against any change signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change, or of those immediately adjacent within a distance of one hundred forty feet (140'), the amendment shall not become effective except upon the affirmative vote of three-fourths ($\frac{3}{4}$) of all the members of the city council. In determining the one hundred forty feet (140'), the width of any intervening street or alley shall not be included. The provisions for public hearings and notice apply to all changes or amendments.

(1960 Compilation § 26-115; amd. Ord. 86-5; Ord. 87-3)

10-5-3: PETITION:

Whenever the owners of more than fifty percent (50%) of the frontage in any proposed new district shall present to the council a petition duly signed and acknowledged, requesting an amendment to the districts map, the city council shall act upon such petition within ninety (90) days after the filing thereof. (1960 Compilation § 26-115; amd. Ord. 86-5; Ord. 87-3)

CHAPTER 6

GENERAL DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS

SECTION:

[10-6-1](#): Applicability

[10-6-2](#): Table

10-6-1: APPLICABILITY:

This chapter applies to each of the residential zoning districts, except as follows:

A. Properties within the Mobile Home Park Zoning District shall be subject to the development standards of title 9, chapter 6 of this Code.

B. Properties that are approved and developed as a planned unit development shall be subject to the development standards authorized and used for the planned unit development. If a planned unit development plan or other documentation did not clearly or implicitly identify what development standards were established for the planned unit development, the following standards are to be utilized, as applicable, based on the underlying zoning district. Provided, none of the following standards shall cause a lot or legal structure in the planned unit development to be classified as non-conforming. (Ord. 2017-02, 3-7-2017)

10-6-2:TABLE:

Standard	Zoning District					
	RR	R-1	R-2	R-2MH	R-3	R-4
Lot dimension and density requirements:						
Minimum lot area* ¹	0.40 acre	n/a (<i>Use minimum net lot area or developable acreage per dwelling, as applicable.</i>)				
Minimum net lot area* ¹	n/a	7,000 sq. ft.	5,500 sq. ft. for single-family dwelling; 10,000 sq. ft. for duplex	5,500 sq. ft. for single-family dwelling; 10,000 sq. ft. for duplex	3,200 sq. ft. for detached*, semi-detached*, and attached* single-family dwellings only. (<i>For multi-unit dwellings see next row.</i>)	n/a (<i>Use developable acreage per dwelling requirement</i>)

	Developable acreage per dwelling*	n/a				4,000 sq. ft. for multi- unit dwellings, including those in condominium ownership; also, for dwellings in residential subdivisions with yards in common area	1,800 sq. ft.
	Minimum lot width*	100'	50'	50'	50'	30 22' for interior lot, 40' corner lot	20 16' for interior lot, 30' corner lot
	Maximum lot depth to width ratio	3:1	3:1	3.5:1	3.5:1	5 8:1	5 10:1
	Minimum frontage on street/access easement	80'	45' ²	45' ²	45' ²	30 20' for up to 5 dwelling units; 30' for >5 dwelling units	20' for up to 5 dwelling units; 30' for >5 dwelling units
Building height, placement, and size requirements:							
	Number of main buildings* on a lot	1	1	1	1	n/a	n/a
	Maximum building coverage*	30%	40%	50%	50%	65%	85%

	Maximum building height*	2 stories and 30' above grade	2 stories and 30' above grade	2 stories and 30' above grade	2 stories and 30' above grade	2 stories and 30' above grade	3 stories and 40' above grade ³
	Minimum size of dwelling in gross floor area, excluding garage	1,000 sq. ft.	1,000 sq. ft.	864 sq. ft.	720 sq. ft.	720 600 sq. ft.	240 sq. ft.
	Minimum garage entrance setback from front lot line*, applicable to direction of approach	35'	25' ⁴	25' ⁴	25' ⁴	20'; and 25' from any arterial or major collector R/W ⁴	20'; and 25' from any arterial or major collector R/W ⁴
	Minimum garage entrance setback from corner lot line*, applicable to direction of approach	30'	22'; and 25' from any arterial or major collector R/W ⁴	22'; and 25' from any arterial or major collector R/W ⁴	22'; and 25' from any arterial or major collector R/W ⁴	20 2'; and 25' from any arterial or major collector R/W ⁴	20 2'; and 25' from any arterial or major collector R/W ⁴
	Minimum front yard setback (see also minimum garage entrance setback)	35'	25' ⁴	20'; and 25' from any arterial or major collector R/W ⁴	20'; and 25' from any arterial or major collector R/W ⁴	15'; and 25' from any arterial or major collector R/W ⁴	10'; and 25' from any arterial or major collector R/W ⁴
	Minimum side yard setback from side	30'	15' ⁴	15' ⁴	15' ⁴	10 5' ⁴	10'

	street ⁵ (corner lot line)						
	Minimum side yard setback from neighboring lot, alley, or private easement	15'	5'	5'; except 0' at a common wall	5'; except 0' at a common wall	5'; except 0' at a common wall	5'; except 0' at a common wall
	Minimum rear yard setback	15'	15'	15'	15'	10 5 '	10'
	Minimum setback from utility easement	Edge of easement, and no overhang unless authorized otherwise by the easement grantee					
	Minimum separation between main buildings* within lot	n/a	n/a	n/a	n/a	10'	10'
Reduced <u>minimum</u> setbacks for accessory buildings (exceptions to above setbacks):							
	From neighboring lot, when <u>accessory building is ≥ 120 sq. ft. and wall height* of accessory building is 10'6" or less</u>	10'	5'	3' ⁶	3' ⁶	3' ⁶	3' ⁶

	From neighboring lot when accessory building is 120 sq. feet or less, wall height is 10'6" or less, and located at least 6' from any other accessory building and any neighbor's dwelling	<u>5'</u>	<u>3'</u>	<u>0'</u>	<u>0'</u>	<u>0'</u>	<u>0'</u>
	From adjacent alley or common open space (OS)	5'	5'	3'; 0' if no doorway (garage/person) in wall next to alley/ OS - no overhang permitted	3'; 0' if no doorway (garage/person) in wall next to alley/ OS - no overhang permitted	3'; 0' if no doorway (garage/person) in wall next to alley/ OS - no overhang permitted	3'; 0' if no doorway (garage/person) in wall next to alley/ OS - no overhang permitted
<u>Reduced minimum setbacks for open-walled structures (e.g. open porches, patio covers, pergolas, carports) that are attached to the primary building ⁷</u>							
	From a rear lot line	<u>10'; 3' if next to alley or open space</u>	<u>10'; 3' if next to alley or open space</u>	<u>10'; 3' if next to alley or open space</u>	<u>10'; 3' if next to alley or open space</u>	<u>5'; 3' if next to alley or open space</u>	<u>5'; 3' if next to alley or open space</u>
Multi-family development standards:							

Multi-family development with >4 dwelling units	n/a	See Supplemental Development Standards, "Multi-Family Development"
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* Means term is defined.

(*Italics*) - Language italicized and within parenthesis are instructions for utilizing the table.

Footnotes:

1. Must be served with public sewer and public water to qualify for the sizes noted. If public sewer and public water are not available, minimum lot area is 1.0 acre.
2. Lots located entirely along the circular portion of a cul-de-sac bulb or outside knuckle of a street corner may be reduced to a minimum of 30 feet, provided the lot width requirement is met.
3. Buildings taller than 2 stories and 30 feet shall be set back from any adjoining residential property in a RR, R-1, R-2, R-2MH, R-3, or MHP Zone an additional two feet for each foot in height over 30 at least 40 feet.
4. Park strip option: When the yard of the property abuts an improved street right-of-way with an existing park strip (aka planting strip - an area between the back of the curb and the sidewalk) that is at least 5 feet wide, the minimum yard setback requirement is 10 feet, provided any garage opening shall be not less than 22 feet from the back of the public sidewalk in this situation.
5. See definition of "lot line, front" for options on selecting the front yard on corner lots. See also minimum garage entrance setback.
6. Placing a structure larger than 120 square feet closer than 5 feet from an adjacent lot triggers fire-resistant construction requirements pursuant to the adopted Building Code. If the structure is not constructed to such fire-resistant standards, the minimum setback requirement is 5 feet.
7. No wall or visual screen shall be installed on the portion of the structure that utilizes the reduced setback. Any portion of the structure that meets the minimum setback required for the primary structure to which it is attached may be enclosed with a wall or visual screen.

(Ord. 2017-02, 3-7-2017; amd. Ord. 2017-26, 1-2-2018)