

ARTICLE I

Administration

Sec. 16-1-10. Title and short title.

This Code, as amended from time to time, shall be known and may be cited as the *City of Salida Land Use Code*. It may also be called the *Land Use Code*. (Ord. 03, 2002 §9-1-1; Ord. 2005-07 §1)

Sec. 16-1-20. Authority.

It is the intention of the City Council in adopting this Land Use Code to fully exercise all relevant powers conferred on it by state law, including but not limited to the following:

- (1) State Enabling Legislation. All of the powers granted to the City by:
 - a. Title 29, Article 20, C.R.S. The provisions of the Local Government Land Use Control Enabling Act of 1974.
 - b. Title 31, Article 12, C.R.S. The provisions of the Colorado Municipal Annexation Act of 1965.
 - c. Title 24, Articles 65, 67 and 68, C.R.S. Articles 65, 67 and 68 of Title 24, C.R.S., which respectively provide for the review of areas and activities of state interest, authorize the planned development approach to land development and provide for the establishment of vested property rights.
 - d. Title 31, Article 23, C.R.S., which enables municipalities to adopt zoning regulations and subdivision requirements.

(2) All Other Powers Authorized. All other powers authorized by statute or by common law for the regulation of land uses, land development and subdivision, including but not limited to the power to abate nuisances. (Ord. 03, 2002 §9-1-2; Ord. 2005-07 §1; Ord. 2006-08 §1)

Sec. 16-1-30. Purposes.

- (a) General Purposes. The general purposes of this Land Use Code are as follows:
- (1) Establish Development Standards. To establish the standards for the review of all proposed development of land within the City.
 - (2) Protect Quality of Life. To protect and enhance the quality of life in the City and its environs so as to promote the general health, safety and welfare of the present and future inhabitants of the City and to protect the environment.
 - (3) Establish Review Process. To establish a clear, consistent, predictable and efficient land development review process.
 - (4) Provide for Orderly Development of City. To provide for the efficient, well-ordered and safe development of the City and to accommodate a variety of desirable

residential, commercial, industrial and public land uses in an appropriate, efficient and attractive development pattern.

(5) Conserve Property Values. To conserve the value of properties and to respect the rights of property owners and the interests of the citizens of the City.

(b) Implement Comprehensive Plan. To promote these general purposes, this Land Use Code establishes regulations which are guided by the vision of the City's Comprehensive Plan by:

(1) Improving Overall Attractiveness and Livability. The regulations provide clear standards to address public facility needs and amenities so that the overall livability of the City is improved.

(2) Providing Public Facilities and Services. Ensuring that adequate water supply, sewage disposal, storm drainage, solid waste disposal, electrical, all public utilities, road, park/recreation and trail and public safety facilities and services are provided to meet current needs and that development provides for its fair share of the facilities and services demanded for growth.

(3) Providing Safe and Efficient Transportation. Providing a safe and efficient multi-modal transportation system which provides safe, easy access to parcels while controlling access onto the road network and which offers choices in the method and manner of travel.

(4) Encouraging Economic Development. Encouraging the continued growth and diversification of the City's economy, while preserving and strengthening the existing economic base, including the central business district.

(5) Encouraging Adequate Housing Supply. Ensuring an adequate housing supply which provides diverse housing types of good quality construction in a wide range of prices to support a wide range of incomes.

(6) Encouraging an Adequate Supply of Land. Providing for an appropriate range of uses within a particular zone district to ensure an adequate supply of land within the district.

(7) Managing Natural and Visual Resources. Managing the City's water, air, land, wildlife and visual resources. (Ord. 03, 2002 §9-1-3; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-1-40. Applicability.

(a) General Applicability. No building, structure or land shall be used or occupied and no development shall be undertaken within the limits of the City, as now and hereafter established, unless it is in conformity with the provisions of this Chapter and other applicable laws and regulations. Structures and uses existing on the effective date of this Chapter which do not conform with the Land Use Code shall be permitted to continue, subject to the provisions of Article XV of this Chapter.

(1) Applicability to Governmental Agencies. To the extent permitted by state and federal law, this Land Use Code shall apply to all units and agencies of the federal, state, county and municipal government.

(2) Exemption for Essential Services. The provision of essential services as defined under Section 16-1-80 of this Article shall be exempt from this Chapter. However, this Chapter shall apply to the development of operations and maintenance buildings by a public or private utility or municipal department, or any other essential services which are to be located within a building.

(b) Exceptions.

(1) Existing Development Approvals. The provisions of this Chapter shall not abrogate, annul or affect the validity of any preexisting development (including mobile home parks, except where otherwise addressed in this Chapter), building permit, certificate of occupancy or development approval, including any conditional use, variance, final subdivision or PUD or PD approval, lawfully established and issued prior to the effective date of this Land Use Code or any amendments thereto. The terms, covenants and conditions applicable to a development or permit that was approved at the time of land development approval shall continue to apply and control the use or occupation of such land.

(2) Complete and Code-Compliant Land Development Applications Submitted Prior to Effective Date. Any complete and code-compliant conditional use, variance, map amendment, PUD, PD or subdivision application submitted prior to the effective date of this Land Use Code or any amendments thereto may be processed according to the provisions of this Municipal Code in effect at the time the application was submitted, so long as the application shall receive final approval from the appropriate body within one (1) year after the effective date of this Land Use Code.

(3) Building Permit Applications Submitted Prior to Effective Date. Any complete and code-compliant building permit application submitted prior to the effective date of this Land Use Code may be processed according to the provisions of this Code in effect at the time the application was submitted, so long as the building permit remains active, pursuant to the provisions of Chapter 18 of this Municipal Code.

(4) Changes. A development application or building permit application which was submitted or approved prior to the effective date of this Land Use Code which remains unchanged or changed only so that no substantial modification occurs to application may be processed according to the provisions of this Municipal Code in effect at the time the application was submitted. An insubstantial change is a change that becomes necessary due to technical or engineering considerations discovered during actual development, that could not reasonably be anticipated during its initial review and that, in the discretion of the City Administrator, does not significantly change the original approval granted. A development application that was submitted or approved prior to the effective date of this Land Use Code which is changed in any other manner shall be in conformance with this Land Use Code.

(c) Expiration of Application, Approval or Permit. In the event a development application, building permit application, development approval or building permit expires subsequent to the effective date of this Land Use Code, in the event final development approval for an application in process is not obtained within one (1) year after the date of adoption of this Land Use Code, or in the event a building permit application expires pursuant to the provisions of Chapter 18 of this Municipal Code, then all further applications or development permits shall be

processed according to the provisions of this Land Use Code and all other Chapters of this Municipal Code then in effect.

(d) Voluntary Compliance. Notwithstanding the other provisions of this Section, any applicant may request to have a development application reviewed pursuant to the procedures and standards of this Land Use Code. (Ord. 03, 2002 §9-1-4; Ord. 01, 2005 §1; Ord. 2005-07 §1; Ord. 2006-08 §2)

Sec. 16-1-50. Presumption of validity.

All provisions of this Land Use Code are presumed to be valid and enforceable. In any challenge to the validity of any provision, the burden of proof shall rest with the person bringing the challenge. (Ord. 03, 2002 §9-1-7; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-1-60. Rules of construction.

This Section establishes rules that shall be observed and applied when interpreting the language of this Chapter, unless the context clearly requires otherwise.

(1) Conflicting Provisions. Where there exists a conflict or overlap between any limitation or requirement within this Chapter or between this Chapter and the remainder of this Code, the limitation or requirement which is the more restrictive shall prevail. If a conflict or overlap arises between the provisions of the text of this Chapter and any table, illustration, graphic depiction or the captions for any section or subsection, the provisions of the text shall prevail.

(2) Provisions Are Minimum Requirements. The provisions of this Chapter shall be regarded as the minimum requirements necessary for the protection of the public health, safety, general welfare and environment.

(3) Exercise of Authority. Whenever a provision appears requiring the City Administrator or head of any other City department to perform an act or duty, it shall be construed to authorize the City Administrator or head of any other City department to designate, delegate and authorize subordinates to perform the duty or act, unless the terms of the provision or section specify otherwise.

(4) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday observed by the City, that day shall be excluded.

- a. Day. The end of a *day* shall be at 5:00 p.m.
- b. Week. The word *week* shall mean seven (7) days.
- c. Month. The word *month* shall mean thirty (30) days.
- d. Year. The word *year* shall mean three hundred sixty-five (365) days.
- e. Business day. The phrase *business day* means Monday through Friday, excluding regularly observed holidays.

(5) Fractions. Whenever a fraction is generated in the computation of development requirements, such as the number of required parking spaces or the number of required trees or shrubs, the fraction at five-tenths (0.5) or greater shall be rounded up to the next highest whole number. If the fraction is less than five-tenths (0.5), it shall be rounded down to the next lowest whole number. In the case of allowed density, the number of dwelling units shall not be rounded up.

(6) Word usage.

a. Tense. Words used in the past or present tense include the future, as well as the past or present.

b. Singular/plural. A word importing the singular number may extend and be applied to several persons and things, as well as to one (1) person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates the contrary.

c. Shall/may/should. *Shall* means mandatory, *may* means permissive, and *should* means preferred.

d. Masculine/feminine. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

e. Used for. The phrase *used for* includes *arranged for*, *designed for*, *intended for*, *maintained for* and *occupied for*.

f. Common/technical terms. Words and phrases shall be construed according to the common and approved usage of the term; however, technical words and phrases which have acquired a particular meaning shall be understood according to such meaning.

g. Person. The word *person* includes individuals, firms, corporations, associations, trusts and any other similar entities.

(7) Abbreviations. The following abbreviations are used in this Land Use Code, and are intended to have the following meanings:

a. *C.R.S.* means Colorado Revised Statutes, as amended.

b. *d.u.* means dwelling unit.

c. *eff.* means efficiency dwelling unit.

d. *ft.* means feet.

e. *HUD* means the U.S. Department of Housing and Urban Development.

f. *max.* means maximum.

g. *min.* means minimum.

h. *m.f.* means multi-family dwelling unit.

- i. *N/A or Not Applic.* means not applicable.
- j. *No req.* means no requirement.
- k. *Req.* means requirement.
- l. *sq. ft. or s.f.* means square feet. (Ord. 03, 2002 §9-3-1; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-1-70. Interpretations.

(a) Authority. The Administrator, shall be authorized to interpret the text of this Chapter, based upon the purposes as set out in Section 16-1-30 above, and to interpret the boundaries of the Official Zoning Map, according to the provisions of Section 16-3-50 of this Chapter.

(b) Submission of Written Request. Where formal interpretation is needed or where a possible conflict of interpretation exists, the person requesting an interpretation shall submit a written request to the Administrator, specifying the section of the Land Use Code or the Official Zoning Map boundary for which an interpretation is requested, which shall state the person's understanding of the meaning of the section or map boundary.

(c) Rendering of Interpretation. The Administrator, shall render an interpretation of the meaning of the Land Use Code section or Official Zoning Map boundary within fifteen (15) business days of receipt of the request. The interpretation shall be in writing and shall be sent to the person requesting the interpretation by mail or hand-delivery.

(1) Consider Legislative Intent. When interpreting the Land Use Code or Official Zoning Map, the Administrator, shall consider the City's legislative intent, as expressed in this Land Use Code and the City's official records. An interpretation which permits increased flexibility in the application of this Land Use Code is encouraged, while one (1) which reduces the protection afforded by the standards of this Land Use Code shall be prohibited.

(2) Official Record. The Administrator, shall keep an official record of all interpretations which have been rendered. The record shall be available for public inspection, upon reasonable request, during normal business hours, and be used as a basis for periodic revisions to this Land Use Code and the Official Zone District Map. (Ord. 03, 2002 §9-3-2; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-1-80. Definitions.

This Article defines words, terms and phrases contained within this Land Use Code. The following terms shall have the following meanings when used in this Land Use Code:

Accessory building or structure means a detached, subordinate building or structure located upon the same lot as the principal building or structure to which it is related, which is:

- a. Clearly incidental, subordinate, secondary and devoted to the principal building or structure.

- b. Customarily found in conjunction with the principal building or structure.

Accessory use means a use conducted upon the same lot as the principle use to which it is related, which is:

- a. Clearly incidental, subordinate, secondary and devoted to the principle use of the lot.
- b. Customarily found in conjunction with the principle use.
- c. Not a prohibited use in the zone district in which it is located.

Addition means any work which adds square footage, volume or exterior wall or roof area to an existing structure.

Adjoining means a lot or parcel of land which shares all or a part of a common boundary line with another lot or parcel of land. Parcels shall also be considered adjoining when they are only separated from each other by an alley, easement or right-of-way.

Alley means a strip of land dedicated to public use, located at the side or rear of lots and providing a secondary means of vehicular access to the property.

Alteration means any change, addition, reduction, modification or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another, of any building or structure. *Alteration* also consists of changes to the exterior surface of an existing structure including, but not limited to, changes in doors, windows and exterior materials.

Annexation means the process of incorporating an unincorporated portion of Chaffee County into the boundaries of the City pursuant to the Municipal Annexation Act of 1965, Section 31-12-101, et. seq., C.R.S.

Apartment means a room or group of rooms within a structure, which are intended to be occupied by renters and nonowners and include cooking facilities.

Appliance, large means a household apparatus such as a washing machine, stove, dishwasher, and similarly sized items.

Appliance, small means a household apparatus such as a toaster, iron, blender, vacuum cleaner and similarly sized items.

Architectural projection means a nonfunctional or ornamental building feature.

Attention-attracting device means any device or object visible from any public street which is primarily designed to attract the attention of the public to a business, institution, sign or activity through such means, including but not limited to illumination, color, size or locations. Attention-attracting devices or objects often-times incorporate illumination, which may be stationary, moving, turning, blinking (including animation) or flashing. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, barber poles, internally illuminated

translucent canopies or panels, electronically controlled message boards (time/temperature signs, gas price signs, public service announcements, etc.), banners, streamers, pennants, propellers and inflatable objects (including strings of balloons) or other devices or objects designed to attract attention. Approved traffic-control devices are not considered attention-attracting devices for purposes of this Code.

Automobile repair garage means any building or structure where automobiles, trucks or commercial vehicles are stored, repaired, painted or equipped for remuneration.

Awning means a shelter constructed of nonrigid materials on a supporting framework which projects from and is supported by the exterior wall of a building.

Bank, credit and loan services means a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments and fiduciary activities.

Banner means a sign made of fabric, plastic or other nonrigid material which has no enclosing framework.

Beauty and barber shops means any commercial establishment wherein cosmetology is offered or practiced on a regular basis for compensation, including hair care, nail care and skin care.

Bed and breakfast inn means a private home containing no more than nine (9) lodging units, that provides short-term lodging for a charge to the public, generally for periods of less than one (1) month, having an owner or manager residing on the site, in which no more than two (2) daily family style meals are provided, to guests of the inn only. Incidental sale of supplies or products associated with the bed and breakfast shall be permitted on premises. An appropriate sales tax license shall be obtained and maintained during the course of business.

Bedroom means a room in a dwelling unit that is marketed and designed for sleeping, or otherwise has the potential to function primarily for sleeping.

Berm means a man-made landform, typically built as a planted earth mound, located so as to separate differing land uses; to screen structures, parking area or yards from view; or to provide sound relief from a nearby road or use.

Board means the Board of Adjustment of the City.

Boarding or rooming house means a building, other than a hotel, bed and breakfast, cafe or restaurant, where, for direct or indirect compensation, lodging and/or meals are provided for three (3) or more boarders and/or roomers, exclusive of the occupant's family.

Building means any structure used or intended for supporting or sheltering any use or occupancy and within the purview of the building codes as adopted by the City.

Building area means the maximum horizontal area within the outer perimeter of the building walls, dividers or columns at ground level or above, whichever is the greater area, including exterior stairways, and inner courts but excluding uncovered decks, uncovered porches, patios, terraces and steps of less than thirty (30) inches in height, and completely

open, uncovered, cantilevered balconies that have a minimum of eight (8) feet vertical clearance below.

Building, enclosed means a building separated on all sides from adjacent open space or other buildings by fixed exterior walls or party walls, with openings only for windows and doors, and covered by a permanent roof.

Building height means the distance measured on a vertical plane from the average preconstruction or post-construction grade around the perimeter of a building or structure, whichever is lower, to the highest point on the roof surface of the building or structure.

Building line means the average setback of the primary structures on a block.

Building, principal means a building in which the primary use for the lot on which the building is located is conducted.

Bus station means any premises for the storage or parking of motor-driven buses and the loading and unloading of passengers. Stations may include ticket purchase facilities, toilets, restaurants and retail stores.

Campground means a parcel of land used or intended to be used, let or rented for overnight or short-term occupancy by campers, trailers, tents or recreational vehicles.

Canopy means an ornamental roof-like structure, cantilevered or supported by posts or pillars, built in accordance with the adopted building code.

Certificate of appropriateness or *CA* means the official document/permit issued by the Historic Preservation Commission approving and/or concerning, without limitation, the erection, moving, demolition, renovation, rehabilitation, remodeling, restoration, reconstruction, repair or alteration of any historic landmark building, site or structure, or any building, site or structure within a designated historic district.

Certificate of compliance means a certificate issued by an authorized official of the Community Development Department verifying that a proposed development complies with the provisions of this Land Use Code.

Church means any building that is architecturally designed and/or particularly adapted for the primary use of conducting formal religious services on a regular basis.

City means the incorporated City of Salida.

City Administrator means the City Administrator of the City.

City Comprehensive Plan means that plan and amendments thereto for the City which provides objectives, guiding principles and recommended actions to guide the current and long-range development of the City.

City Engineer means the City Engineer of the City.

City property means any dedicated public right-of-way or property owned by the City.

Clear sight triangle means the area at the intersection of any two (2) streets that is to be kept clear of any shrubs, groundcovers, berms, signs, structures or other materials greater than two (2) feet in height above the street centerline grade. A clear sight triangle is measured at the intersection of any two (2) streets. A triangle measuring fifteen (15) feet for alleys, thirty (30) feet for local streets, fifty (50) feet for collector streets and one hundred (100) feet for arterial streets along each curb or edge of roadway/pavement from their point of intersection, the third side being a diagonal line connecting the first two (2).

Club means a membership organization catering exclusively to members and their guests, whose facilities are limited to use by the membership except on occasion, and whose activities are not conducted principally for monetary gain.

Club, athletic means a commercial club establishment providing indoor or outdoor health and recreation facilities. *Athletic club* includes country club.

College or university means a public or private institution for higher learning (beyond twelfth grade) providing courses of instruction as approved by the appropriate governing board.

Commercial, large scale means a commercial use where the total area utilized by a single tenant or group of tenants in an attached structure, exclusive of parking, occupies twenty thousand (20,000) square feet or more.

Commercial lodging means hotels, motels, lodges or convention centers which have sleeping accommodations and similar commercial facilities that provide temporary lodging in guest rooms, which have common facilities for reservations, reception and maintenance, and in which meals, entertainment and various personal services for the public may or may not be provided for remuneration.

Commercial use means an activity involving the sale of goods or services carried out for profit.

Commercial zones refers to Residential Mixed Use (RMU), Commercial (C-1, C-2) and Industrial (I) zones. These zones are also referred to as ***commercial, business and industrial zone districts***.

Commission means the Planning Commission of the City.

Community building or use means a building which is owned by the City, the County, the State, United States Government or a nonprofit organization that is open to the general use, participation and enjoyment of the public for the purposes of group assembly and other civic functions, and which, notwithstanding anything to the contrary in this Code, includes use primarily for offices.

Compatible and/or compatibility means harmonious and complementary in design, style, character, structure, materials and/or appearance, inclusive of landscaping.

Condominium means a common interest community in which portions of real estate are designated for separate ownership (e.g., units) and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. A

common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Contributing building or structure means a building or other structure originally identified and listed as having historical and architectural significance by the National Park Service of the United States Department of the Interior pursuant to the creation and designation of a National Register Historic District and which is still so identified and listed.

Council means the City Council of the City.

Day care, adult means a facility providing care for adults sixty (60) years of age or older and/or functionally impaired adults in a protective setting for part of a twenty-four-hour day.

Day care, large means a residence, facility or preschool which provides regular care and supervision for more than eight (8) children at any one (1) time during the day for compensation.

Day care, small means a residence, facility or preschool which provides regular care and supervision for eight (8) or less children at any one (1) time during the day for compensation.

Dedication means the intentional transfer of private property to public ownership upon written acceptance by the City for any general or public purpose. Such dedications may be a requirement of annexation, subdivision or development approval and may include land for streets, utilities, community facilities, parks, trails or open spaces.

Dedication, fees in lieu of means payments in cash that may be required of an owner or developer as an alternative to dedication of land or physical improvements.

Demolition means the total or partial destruction, disassembly, damage, razing or tearing down of a structure or any portion thereof. The term includes the removal of any material constituting part of the structure other than for purposes of ordinary maintenance or repair, which removal affects the exterior appearance of the structure or which reduces the stability or longevity of the structure. The term excludes the sudden or cataclysmic destruction of or damage to a structure due to acts of nature, including fire, earthquake, wind, excessive snow load or flood.

Demolition by neglect means any total or partial destruction of or damage to a structure, or any portion thereof, due to the failure of the owner or lessee to adequately maintain or repair the structure.

Density means the total number of dwelling units permitted on any parcel of property planned for residential development. *Density* is calculated based on the total area of a lot and the zoning district of said lot.

Design standards means local, state or national criteria, specifications or requirements referenced within this Chapter and used for the design of public or private infrastructure.

Designation means the denotation or identification of an area of land for a specific purpose such as privately accessible open space or park. Designation of land as part of an annexation, subdivision or development approval may be appropriate as determined by the City rather than dedication of land to the City.

Development means any of the following activities:

- a. The subdivision of land, as defined herein.
- b. A change in use or the intensity of use of land, such as the establishment of or an increase or decrease in the number of dwelling units or floor area of a building, and the extension of any use of land.
- c. Land disturbance done in preparation for or in conjunction with construction, including clearing or removal of vegetation, soil grading or filling, or paving.
- d. Commencement of drilling (except for a water well or to obtain soil samples), mining, excavation or deposit of refuse, solid or liquid waste on a parcel of land.

Drive-in facility means an establishment which provides such products and services as, but not limited to, food, beverages or financial services, to customers in vehicles.

Dry cleaner means an establishment which launders or dry-cleans articles dropped off on the premises directly by the customer or where articles are dropped off, sorted and picked up but where laundering or cleaning is done elsewhere.

Dwelling means a building or a portion of a building containing one (1) room, or several rooms connected together, including a separate bathroom and a single kitchen, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure.

- a. *Accessory dwelling* means a dwelling unit that is located on the same site as, but has a separate entrance from, a single-family or duplex dwelling.
- b. *Condominium dwelling* means an individual air space unit, together with the interest in the common elements appurtenant to such unit, which is subject to the provisions of Article 33 of Title 38, C.R.S.
- c. *Duplex dwelling* means a detached residential structure containing two (2) dwelling units separated by a building code-compliant common wall. A duplex dwelling unit may have a side-by-side or stacked configuration.
- d. *Efficiency dwelling* means a dwelling having a living area of not less than three hundred (300) square feet of floor area. An additional one hundred (100) square feet of floor area shall be provided for each occupant of such unit in excess of two (2). *Efficiency dwellings* shall be provided with:

1. A separate bathroom containing a water closet, lavatory and bathtub, or shower.
2. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than twenty-four (24) inches in front.
3. A separate closet.
4. Light and ventilation conforming to standards of the Uniform Building Code.

e. *Multi-family dwelling* means a building containing three (3) or more separate dwelling units, which may be separated vertically or horizontally, but not including commercial lodging or bed and breakfast inns.

f. *Single-family dwelling* means a detached principal building, designed for or used as a dwelling exclusively by one (1) family as an independent living unit.

Easement means a grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity. Easements are generally granted for a stated purpose, including but not limited to access, placement of utilities or construction and maintenance of trails.

Erection means the process of building a structure.

Essential services means those services and infrastructure necessary to provide and maintain the public health, safety and general welfare of the residents of the City. These services are provided by public utilities, private utilities or municipal departments. Essential services include new overhead towers, poles, wires and similar equipment serving as an upgrade, rebuild or replacement of existing equipment.

Exterior architectural feature means the architectural style and general arrangement of the exterior of a structure, including the type and texture of the building materials, and including all windows, doors, lights, painted wall signs or displays, and other fixtures appurtenant thereto.

External improvement means any structure, addition, man-made landscape element or other object constituting a physical betterment or alteration of real property which is visible from a public way or adjoining property.

Family means an individual, two (2) or more persons related by blood, marriage, adoption or between whom there is a legally recognized relationship, or not more than five (5) unrelated persons who occupy a single dwelling unit.

Fee schedule means the schedule of application processing fees adopted by resolution of the City Council.

Final development plan means the second stage of a Planned Development District and includes a finer level of detail and more site-specific information than is found in the overall development plan for a planned development project.

Floodplain means that ground covered by water in the case of the flood of one-hundred-year frequency, as delineated by federal flood insurance maps and the flood control regulations of the City.

Floor area means the habitable area included within the outside walls of a building.

Foster home, family means a home which receives one (1) to four (4) children for regular full-time care.

Fully shielded light fixture means an outdoor light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal.

Funeral home and mortuary means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Gasoline service station means a building or premises in which is conducted the retail sale of batteries, tires, oil, gasoline or other fuel for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, and where the only repair work is done is the exchange of parts and maintenance requiring no open flame or welding.

Glare means the effect produced by light from a luminaire with intensity sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

Good repair means a condition which not only meets minimum standards of health and safety, but which also guarantees continued attractiveness, structural soundness and usefulness.

Government administrative facilities, services and buildings mean office buildings, maintenance facilities and operations centers owned and operated by a governmental agency.

Grade, natural or historic means the average elevation of the surface of the ground within the building setbacks of a lot or parcel prior to construction or development activity.

Grade, post-construction means the elevation of the finished surface of the ground within the building setbacks of a lot or parcel after construction or development activity.

Group home means a residential building that is owned and operated by a nonprofit organization or is owner-occupied, which is occupied by not more than eight (8) persons who are sixty (60) years of age or older who do not require skilled or intermediate care facilities; or a residential building that contains a state-licensed facility for the exclusive use of not more than eight (8) developmentally disabled persons having such illnesses as cerebral palsy, multiple sclerosis, mental retardation, autism or epilepsy as defined in Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by Section 24-34-301, C.R.S.

Heliport means a paved area designated expressly for the landing and take-off of helicopters.

Historic district means a defined neighborhood or area determined by the City, State or National Park Service within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale, including proportion, form and architectural detail, the design of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

Historical and/or architectural significance means that which has a special historic or aesthetic interest or value as part of the development, heritage or cultural character of the City, region, State or Nation.

Home business means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support by residents of the dwelling and employees residing off-premises, which may serve patrons on the premises.

Home occupation means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support, only by residents of the dwelling and employees residing off-premises which does not serve patrons on the premises, except in an incidental manner.

Hospice means a facility for the treatment and support of terminally ill patients which may occur in an institutional or residential setting, but not including when such treatment or support occurs in the patient's own residence.

Hospital means a building or portion thereof used for the overnight accommodation, medical care of and ancillary services for human patients.

HPC means the City's Historic Preservation Commission.

Improvement means grading, paving and curbing of streets, the installation of fire hydrants, water mains, sanitary sewers, storm sewers and drains, pedestrian ways, crosswalks and such other construction as may be designated by the City Council.

Indoor amusement and entertainment establishment means provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to bowling alleys, game rooms/video arcades, pool/billiard halls, skating rinks, theaters and similar establishments.

Indoor and outdoor eating and drinking establishment means a permanent building containing a restaurant, bar or tavern which serves food and/or beverages, prepared or consumed on the premises, within a building or on an outdoor patio, served to the customer at tables or counters.

Insubstantial or minor activity means and/or includes alterations, additions or other work performed on a building, structure or site, that does not result in the increase or decrease of site coverage, floor area or any exterior wall or roof surface in excess of five percent (5%); the installation, removal or replacement of a fence; the replacement or repair

of surface materials, such as roofing or siding or an exterior architectural feature, with materials of identical or substantially similar type and/or design on a building or structure; the cleaning of an exterior surface of a building or structure by sandblasting, high-pressure spraying or other chemical or mechanical means; and such other activities as would not detrimentally impact or influence in any substantial way the historic integrity and/or appearance of a landmark building, structure, site or designated historic district, and/or as deemed to be insubstantial or minor upon petition to and determination by the Historic Preservation Commission.

Junkyard means a building, structure or parcel of land, or portion thereof, used for the collection, storage or sale of wastepaper, rags, scrap metal or discarded material such as inoperable or disassembled appliances and other household equipment; or for the collecting, dismantling, storage, salvaging or demolition of vehicles, appliances, machinery or other materials.

Kenel means any premises wherein a person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and cats. This term does not mean *veterinary clinic*.

Laboratory means any premises where a person engages in scientific research, analysis or production processes involving the use of hazardous chemicals, biological materials, radioactive materials or electromagnetic propagation.

Landmark means City of Salida, State of Colorado or National Park Service designation of a particular building, structure or site that represents historic significance because of its style of architecture, its association with historic events or persons or its archeological interest.

Landscape area means an area which has been improved through the planting and maintenance of living plants such as trees, shrubs, plants, vegetative groundcover and turf grasses. *Landscape area* may include natural nonliving elements such as rock, stone and bark, as well as structural features, including but not limited to walks, trail connections, fences, benches, works of art, reflective pools or fountains and outdoor recreation facilities, such as swimming pools, tennis courts and the like, but shall not include areas covered by buildings, parking or access areas. In subdivisions, PDs and mobile home and RV parks, *landscape area* may mean an unimproved natural area, including land under water, wetlands, floodplains and similarly sensitive lands when approved by the Commission.

Laundry means an establishment providing washing, drying or dry-cleaning machines on the premises for rental use to the general public.

Loading area means a parking space, other than a public street or alley, for the temporary parking of commercial vehicles for the purposes of loading or unloading persons, material or merchandise.

Lot means a portion or parcel of land (whether a portion of a platted subdivision or otherwise) occupied or intended to be occupied by a building or use and its accessories, together with such yards, as are required under the provisions of this Land Use Code, having not less than the minimum area and off-street parking spaces required by this Land Use Code for a lot in the zone district in which it is situated, and having frontage on any improved public street or on an approved private street. A *lot* shall be an integral unit of

land held under unified ownership in fee or in co-tenancy, or under legal control tantamount to such ownership, that is precisely identified by a legal description; and was created in a legal subdivision.

Lot area means the number of square feet included within the boundaries of the lot, measured on a horizontal plane upon which the boundaries have been vertically projected.

Lot coverage means that area or portion of a lot which is occupied or covered by all buildings on that lot. The area included as *coverage* shall be that area defined herein as *building area*.

Lot, double frontage means a lot which runs through a block from street to street and which abuts two (2) or more streets.

Lot frontage means lot width measured at the street frontage.

Lot length means the average distance from the street to the rear of a lot, measured perpendicularly from the street line upon which the lot faces.

Lot line adjustment means an adjustment of a lot line between two (2) contiguous lots that is necessary to correct a survey or engineering error in a recorded plat, to allow an insubstantial boundary change between adjacent lots or parcels to relieve hardship or practical necessity, or to allow a transfer of land from a larger conforming lot to a smaller nonconforming lot so as to make both lots conforming.

Lot line, front means the property line dividing a lot from a street right-of-way. On a corner lot, both lot lines along the street right-of-way shall be considered *front lot lines*.

Lot line, rear means the property line opposite the front lot line. On a corner lot adjacent to an alley, the *rear lot line* shall be that line contiguous with the alley right-of-way. On a corner lot where no alley exists, the *rear lot line* shall be the property line opposite the shorter of the front lot lines.

Lot line, side means any lot line other than a front or rear lot line.

Lot width means the average distance between the two (2) side lot lines, measured perpendicularly from one (1) of the sides.

Lumen means the unit used to measure the actual amount of light which is produced by a lamp.

Major activity means the same as substantial activity.

Manufactured home means a factory-built dwelling that is manufactured or constructed to comply with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 and is to be used as a place for human habitation.

Maximum extent feasible means that no prudent and feasible alternative exists and that all possible efforts to comply with a regulation and/or minimize potential harm, damage or adverse impacts have been undertaken.

Meat processing plant means a building where live animals are killed and processed; and/or a building where meat, poultry or eggs are cooked, smoked or otherwise processed or packed, but does not include a butcher shop or rendering plant.

Minor activity means the same as *insubstantial activity*.

Mobile home means a dwelling which is eight (8) feet or more in width and forty (40) feet or more in body length, is designed to be transported on its own permanent chassis after fabrication, and is designed to be used as a dwelling, with or without permanent foundation, when the required plumbing, heating and electrical facilities are connected. *Mobile homes* shall comply with the HUD Code. New or used mobile homes installed after July 7, 2002, shall comply with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (hereinafter referred to as the *HUD Code*).

Mobile home lot means that area of a mobile home park allotted and designed for the location of one (1) mobile home.

Mobile home park means a plot of ground upon which two (2) or more mobile homes, either occupied or intended to be occupied for dwelling or sleeping purposes, are located regardless of whether a charge is made for such accommodations.

Modular home means a factory-built dwelling structure designed to be transported after fabrication and located as a permanent addition to and becoming a part of the real property. Such structure shall be considered a *manufactured home*.

Moving means any relocation, repositioning or removal of a structure.

Nonconforming lot means any lot which was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which does not conform to the standards of this Chapter for the zone district in which the lot is located regarding minimum lot size or minimum lot frontage.

Nonconforming structure means any structure which was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which does not comply with the standards of this Chapter for the zone district in which the structure is located regarding minimum setbacks, maximum height, maximum lot coverage, maximum density, minimum landscape area, minimum building width, minimum floor area or the applicable standards for off-street parking, landscaping or improvements.

Nonconforming use means any use of a structure or land which was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which use is not designated in this Chapter as a permitted or conditional use in the zone district in which the use is located.

Nursing home means any place or institution which operates and maintains facilities providing full-time or part-time convalescent and/or chronic care, for a period exceeding twenty-four (24) hours for two (2) or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. *Nursing home* may include continuing care retirement facilities.

Official zoning map means the official zoning map adopted by the City by ordinance as amended.

Open space means any parcel or area of land or water, essentially unimproved and set aside for public use, enjoyment or benefit.

Ordinary maintenance and/or repair means any work for which a building permit is not required by law and where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not substantially alter the appearance, composition or texture of the exterior surface of the structure.

Outlot means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision or be conveyed to an owners' association.

Outdoor amusement establishment means the provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range or miniature golf course and similar establishments. This use does not include a stadium.

Overall development plan means the first stage of a Planned Development District and constitutes the overall zoning plan for a planned development project. Adoption of the overall development plan by ordinance constitutes a rezoning of property.

Overlay zone means a zoning district that encompasses one (1) or more underlying zones and that imposes additional requirements beyond those required for the underlying zone.

Owner means a person, firm, association, syndicate, joint venture, partnership, governmental unit or corporation holding fee simple title to property.

Ownership parcel means *lot*, as defined herein.

Parcel means *lot*, as defined herein.

Park means an area open to the public and reserved for gathering spaces, community agriculture and recreational, educational, cultural or aesthetic purposes. *Parks* may include public facilities or other community buildings and uses such as the Salida SteamPlant or Salida Hot Springs Aquatic Center.

Parking area means an open area or an enclosed structure or building used for the temporary parking of automobiles or other vehicles.

Parking, off-street means a parking area located wholly within the limits of a parcel of land.

Parking space means that part of a parking area, exclusive of aisles, turning areas or loading space, devoted to parking for one (1) automobile or vehicle.

Parkway means the area, excluding the sidewalk, if any, between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.

Personal service means a business which provides both products and services, such as bank, credit and loan service; beauty and barber shop; catering service; funeral home and mortuary; laundry and dry cleaners; photographic studio; repair and maintenance of small appliances, electronics and sporting goods; secretarial, copying and related services; self-service Laundromat; tailor and shoe repair service; and travel agency.

Personal wireless telecommunication service facility means an unmanned facility or equipment for the reception, transmission or switching of personal wireless telecommunications and/or telecommunication services utilizing frequencies that may or may not be licensed by the Federal Communications Commission.

Personal wireless telecommunication services means communication services involving the transmission of voice or other information by radio between mobile stations or receivers and land stations, or between mobile stations themselves, including, by way of example and not limitation, cellular telephone, paging and mobile radio services.

Photographic studio means a facility primarily engaged in the retail sale, lease and service of photography equipment and supplies, including limited on-site processing or development.

Plan, sketch means a map of a proposed subdivision or other development, drawn and submitted in accordance with the requirements of this Chapter to evaluate feasibility and design characteristics at an early stage in the planning.

Plat, final means the map of a proposed subdivision drawn and submitted in accordance with the requirements of this Chapter approved by the proper Board, Commission or City Council as outlined in this Chapter to be used as an instrument for recording real property interests with the County Clerk and Recorder.

Plat, preliminary means the map of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this Chapter, to permit the evaluation of the proposal prior to detailed engineering and design.

Porch means a roofed, open area, which may be screened, attached to or part of a building and with direct access to or from it.

Preservation means the act or process of stabilizing and maintaining a structure or site in its existing form and materials by preventing further change or deterioration.

Printing establishment means a commercial printing operation involving a process that is considered printing, imprinting, reproducing or duplicating images and using printing methods, including but not limited to offset printing, lithography, web offset, flexographic and screen process printing.

Professional office means a business which primarily provides professional services in an office environment, including services such as legal, accounting, investment, insurance and real estate; medical, dental and other health services; engineering, architecture, survey

and design services; counseling, psychiatric and social services; editing/publishing; and administrative and sales offices for business, industry and government, provided that only the administrative, bookkeeping and clerical activities of the sales office are conducted on-site.

Public hearing means a meeting of the Board, Commission, HPC or City Council for the purpose of hearing comments, testimony, recommendations and other responses from the staff, the applicant, other interested parties and the public regarding the applicant's proposal which is preceded by public notice.

Public meeting means a meeting held for the purpose of conducting business for which public notice is not required.

Public notice means notice given to the public that a public hearing will be held by a decision-making body with regard to a development application. Notice, unless otherwise noted, is provided by Section 16-10-50 of this Chapter.

Reconstruction means the act or process of reproducing by new construction the exact form and detail of a vanished building, site or structure, or part thereof, as it previously appeared at a specific period of time.

Recreation facility means a place designed and equipped for the conduct of sports and leisure-time activities.

Recreational vehicle (RV) means a pickup camper, motor home, travel trailer, tent trailer or similar mobile unit which has wheels, is intended to be transported over streets, roads and highways as a motor vehicle or attached to a motor vehicle, and is designed primarily for use as a temporary unit for human occupancy. *Recreational vehicles* shall be used for human occupancy only when located within a lawful recreational vehicle park, except that recreational vehicles may be inhabited for no more than five (5) days on private property within a thirty-day period.

Recreational vehicle park means a plot of ground upon which two (2) or more recreational vehicles, either occupied or intended to be occupied on a short-term or seasonal basis for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodations.

Recreational vehicle park, dependent status, means a recreational vehicle park which accommodates recreational vehicles that are not manufactured with a toilet, lavatory or bathing facility, or a recreational vehicle park that also permits tent camping and is dependent upon a service building for toilets, lavatories and bathing facilities.

Recreational vehicle park, independent status, means a recreational vehicle park which accommodates only recreational vehicles that are manufactured with toilet, lavatory and bathing facilities requiring individual connections to a sanitary sewer, drinking water supply and electricity.

Rehabilitation means the act or process of upgrading a building or structure previously in a dilapidated or substandard condition for human habitation or use while preserving those portions or features that are significant to their historical, architectural and/or cultural value.

Remodeling means the act or process of physically changing the appearance and/or function of a building or structure from its original form.

Renovation means the act or process of returning a property through repair or alteration to a state of utility and efficient contemporary use.

Reserve strip means a portion of property on a plat dedicated to the City, usually for the purpose of controlling access.

Resort means a building or group of buildings designed for recreational purposes and used to accommodate individuals on a temporary or term occupancy basis.

Restoration means the act or process of accurately recovering the form and details of a structure or site as it appeared at a particular period of time by means of the removal of later work and/or materials, or by the replacement of missing earlier work or materials.

Resubdivision means the changing of any existing lot of any subdivision plat previously recorded with the County Clerk and Recorder.

Retail, large scale means a store engaged in the sale of tangible personal property for any purpose other than for resale where the total area utilized by a single tenant or group of tenants, exclusive of parking, occupies twenty thousand (20,000) square feet or more.

Retail sales establishment means a store engaged in the sale of tangible personal property for any purpose other than for resale.

Right-of-way means all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public as a matter of right, for the purpose of vehicular or pedestrian travel or for other public purposes.

Salida Downtown Historic District means that geographic area within historic commercial area of the City designated and listed as a national historic place on the National Register of Historic Places by the National Park Service of the United States Department of the Interior.

Satellite or electronic transmission device means, but is not limited to, parabolic-shaped devices or antennae for the transmission of satellite or electronic signals, including television, radio, telemetry, data communication or any other signals which use free air space as a medium, whether for commercial or private use.

Satellite reception device means a dish-shaped or parabolic-shaped device for the reception of satellite signals, including television, radio, telemetry, data communication or any other signals which use free air space as a medium, whether for commercial or private use.

School means any building or part thereof that is designed, constructed or used for education or instruction in any branch of knowledge.

Service building means a structure housing toilet, laundry facilities, recreation equipment and such other facilities incidental to maintenance and management of a mobile home park or recreational vehicle park.

Setback means the distance required by this Chapter between the face of a building or structure and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots, curved streets or similar features exist, the *setback* shall be taken as the closest distance.

Shop, welding or machine means an establishment where lathes, presses, grinders, shapers and other wood- and metal-working machines are used, including blacksmith and welding shops, sheet metal shops and boiler shops, that produce metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates and similar products.

Sign means any device, structure, fixture, display or placard which is permanently affixed to, painted on, placed on, incorporated in or displayed from within a building surface or structure, or is freestanding upon a site.

Sign area means that area within the marginal lines of the sign surface which bears the advertisement or message; or in the case of messages, figures or symbols attached directly to or painted on the surface of a building, that area which is included in the smallest geometric figure which encloses the message, symbol or figure displayed thereon.

Sign making and sign sale or repair shop means an establishment where the primary use is the on-site fabrication, creation, repair or sale of signs, banners or similar items.

Site-specific development plan means a plan which has obtained final development approval under the standards and procedures contained in this Chapter, inclusive of public notice and public hearing, and which describes with reasonable certainty the type and intensity for a specific parcel of property and includes all terms and conditions of approval. A sketch plan, preliminary plat, variance, license, zoning, map exemption, easement, permit, certificate of appropriateness, conditional use or waiver shall not constitute a site-specific development plan, but may be incorporated into and become part of a site-specific development plan.

Solar access means access which protects reasonably placed solar energy systems from shadow-blocking exposure to the sun during hours of high insolation which are between 10:00 a.m. and 3:00 p.m. on December 21.

Street means a dedicated public right-of-way or private road which provides vehicular and pedestrian access to adjacent properties. *Street* shall include *road, lane, place, avenue, drive* and similar terms. The following are types of streets addressed in this Chapter:

a. *Arterial street* means the major street in the street hierarchy, which has a high traffic volume and is not intended to be a residential street. An *arterial street* provides connections with or is a major state or interstate roadway and is often the location of significant community facilities as well as retail, commercial and industrial facilities.

b. *Collector street* means a street whose function is to conduct traffic between major arterial streets and/or activity centers. It is a principal traffic artery within residential areas and carries relatively high volume.

c. *Cul-de-sac street* means a local street with only one (1) outlet, which is terminated at the other end by a vehicular turnaround. The length of the cul-de-sac

shall be measured from the center of the turnaround to the nearest point where the cul-de-sac intersects with the intersecting street.

d. *Local street* means a street whose primary purpose is to conduct traffic to and from dwelling units to other streets within the hierarchy.

Street frontage means that portion of the boundary of a parcel of land which is parallel with any single public street or way. Corner lots, by way of illustration, are deemed to have two (2) street frontages.

Street frontage, primary means the street frontage on which the residential or business address abuts.

Structural alteration means an addition to or subtraction of parts from a structure, including walls, columns, beams, girders, foundation, doors, windows and roof.

Structure means any building, carport, deck, fence, gazebo, pole, antenna, satellite reception or transmission device, storage tank, tower, bridge, dam, culvert, pier or any other construction or erection, except porches, slabs, patios, decks, walks and steps which are uncovered and do not exceed thirty (30) inches above grade.

Studio, radio and television means commercial and public communications uses, including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

Subdivider means a person who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision, and who either owns the land or has written authorization from the owner of the land to proceed with the subdivision.

Subdivision means the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, transfer of ownership or building development; and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. *Subdivision* includes the creation of duplex lots and "lot splits." *Subdivision* also means any parcel of land which is to be used for condominiums unless such land was previously subdivided and the filing accompanying such subdivision complied with municipal regulations applicable to subdivisions of substantially the same density. *Subdivision* also refers to any resubdivision of land within any subdivision heretofore platted within the City and also refers to any division of land by a metes-and-bounds description, whether or not said land is within a platted subdivision. Unless the method of land disposition is adopted for the purpose of evading this definition, *subdivision* shall not apply to any of the following divisions of land or interests in land:

a. The division of land by order of any court in the State or by operation of law.

b. The division of land by a lien, mortgage, deed or trust or any other security instrument.

c. The division of land by a security or unit of interest in any investment trust regulated under the laws of the State or any other interest in an investment entity.

d. The division of land which creates cemetery lots.

e. The division of land which creates an interest in oil, gas or minerals which are now or hereafter severed from the surface ownership of real property.

f. The division of land by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this Section as only one (1) interest.

g. The division of land by conveyance of real property to the City in satisfaction of land dedication, subdivision, annexation or other City requirements.

Subdivision improvements agreement means one (1) or more security arrangements which may be accepted by the City to guarantee the construction of such public improvements as are required by the subdivision regulations within the subdivision and shall include collateral such as but not limited to, performance or property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on property, deposit of certified funds or other similar surety agreements.

Substantial means material and/or considerable in importance, value, degree, amount or extent and, with respect to alterations or additions to buildings, structures or sites, means involving more than five percent (5%) of the total external surface area, square footage or site coverage of such building, structure or site.

Substantial or major activity means an activity not defined or qualifying as an insubstantial or minor activity, including, but not limited to, the reconstruction, rehabilitation, remodeling, renovation or restoration of more than five percent (5%) of the exterior surface area or exterior architectural features, including roof area and porches, of a building, structure or site; or the erection, moving, demolition, relocation or substantial alteration of or addition to a building, structure or site.

Temporary commercial activity means a general retail sales or other commercial use operated outside of a building on a seasonal basis. *Temporary commercial activities* do not include farm stands, farmers' market, holiday tree sales, rafting and similar recreational operations.

Trail means a pathway designed for and used by the public for nonmotorized recreation and transportation. A trail may include amenities such as parking areas, benches, restrooms and signage.

Truck terminal means a facility for the receipt, transfer, short-term storage and dispatch of goods transported by heavy truck.

Uncovered parking and access area means that portion of a parcel which is used for or intended to be used for vehicle parking or loading areas, circulation areas to and within vehicle parking and loading areas, and access driveways from a public or private right-of-way, whether such areas are kept in paved, gravel or other surface.

Unit space means a designated place in an approved mobile home or recreational vehicle park.

Upholstery shop means a business that repairs and replaces upholstery to household and office furnishings; does not include motor vehicle upholstery or repair.

Use means the purpose for which any land, structure or building is designed, maintained or occupied.

a. *Allowed use* means a use which is allowed in a zone district, subject to all of the restrictions applicable to that zone district and all of the standards of this Chapter.

b. *Conditional use* means a use that is generally compatible with the other uses permitted in a zone district, but which requires site-specific review of its location, design, configuration, density, intensity and operating characteristics, and may require the imposition of appropriate conditions in order to ensure compatibility of the use at a particular location, to mitigate its potentially adverse impacts and to ensure that it complies with all of the standards of this Chapter.

Utilities available means that City utilities are available to serve a lot or a proposed lot, specifically with regard to sewer and water utilities. Utilities are deemed available when a public main runs along the length of a front or rear property line.

Variance means a deviation from the terms of this Chapter that would not be contrary to the public interest; where, owing to conditions peculiar to the property and not the actions of the applicant, and where a literal enforcement of this Chapter would result in unnecessary and undue hardship.

Vested property right means a site-specific development plan which shall only be deemed established upon the final action of the reviewing body or official designated under the subdivision regulations with authority to grant final development approvals.

Veterinary clinic means a building or area in which animals requiring special medical care are treated or temporarily housed. The term shall not be construed to include *kennel*.

Warehouse means an enclosed building designed and used primarily for the storage of goods and materials.

Wholesale business means the sale of goods and merchandise for resale instead of for direct consumption.

Yard means the portion of a lot which does not have a structure located thereon and which is unobstructed from the ground to the sky, except for the following permitted projections:

a. Building eaves and architectural projections. Building eaves and architectural projections may project eighteen (18) inches into a yard, provided that they are in compliance with the City's Building Code.

b. At-grade structures. Uncovered porches, slabs, patios, decks, walks and steps which do not exceed thirty (30) inches above or below grade may project into a yard. Projections may exceed thirty (30) inches below grade if required by the Building Official for window or other building egress.

c. Covered porches. Covered porches which are unenclosed may encroach into the front yard setback by twenty-five percent (25%).

d. Fences. Fences which are not more than six (6) feet in height may project into a yard.

Yard, front means a yard extending across the width of the lot and measured from the front line of the lot or street to the nearest line of the building on which it fronts.

Yard, rear means a yard extending across the width of the lot and measured between the rear line of the lot and the nearest line of the building.

Yard, side means a yard on each side of the building between the building and the side line of the lot and extending from the front yard to the rear yard.

Zero lot line development means a residential development in which a dwelling unit is located on one (1) side lot line and/or on the rear lot line of the subject lot. The reduced setback shall result in an equal amount of setback increase on the opposite side of the lot. A *zero lot line development* may be carried out for an entire block, as a row of units or as a cluster, in order to achieve an overall compatibility of design and so zero lot line dwellings are not situated immediately adjacent to traditionally sited dwellings. (Ord. 03, 2002 §9-4-1; Ord. 01, 2005 §1; Ord. 2005-07 §1; Ord. 2006-01 §1; Ord. 2006-08 §3; Ord. 2006-20 §1; Ord. 2007-11 §1; Ord. 2007-23 §1)

Sec. 16-1-90. Severability.

It is hereby declared to be the legislative intent of the City Council that the several provisions of this Land Use Code shall be severable as follows:

(1) Provision declared invalid. If any provision is declared invalid by a decision of any court of competent jurisdiction, then:

a. Effect limited. The effect of such decision shall be limited to that provision which is expressly stated in the decision to be invalid.

b. Code shall remain in effect. Such decision shall not effect, impair or nullify this Land Use Code as a whole or any other part thereof, and the rest of this Land Use Code shall continue in full force and effect.

(2) Application to tract of land invalid. If the application of this Land Use Code to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, then:

a. Effect limited. The effect of such decision shall be limited to that tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered.

b. Code shall remain in effect. Such decision shall not effect, impair or nullify this Land Use Code as a whole or the application of any provision thereof to any other tract of land. (Ord. 03, 2002 §9-1-6; Ord. 01, 2005 §1; Ord. 2005-07 §1)