

# ARTICLE 5. USE REGULATIONS

## 5.1 ALLOWED AND CONDITIONAL USES BY ZONING DISTRICT

### 5.1.1 Use Classification

- A. General. This section sets forth permitted uses by zoning district, as summarized in the Use Table (Table 5-1 below). Uses are either Allowed by right ("A"), permitted as Conditional Uses ("C"), or prohibited (blank cell). Some Allowed and Conditional Uses are also subject to specific use regulations, which are set forth in Section 5.2 below. These specific use regulations typically address how a specific use is laid out, developed, or operated; such use regulations apply in addition to the general development standards set forth in Article 6 of this Code and any district-specific regulations set forth in Article 4 above.
- B. Compliance with Use Regulations. No person shall use any land within the City except in accordance with the Use Table and with any applicable specific zoning district or specific use regulations. In addition to any specific use regulations set forth in §5.2 below, Conditional Uses shall comply with the general review criteria applicable to all conditional uses set forth in §3.14 of this Code.
- C. Uses Not Included in Use Table. Any specific use type not listed or included in the Use Table shall be prohibited unless it is determined to be included in a use classification according to §5.1.1.D below.
- D. Classification of Uses--Dispute Resolution.
  - 1. When there is ambiguity about a proposed use, an Applicant may seek a Written Interpretation from the Community Development Director (§3.22) whether a proposed use falls into one of the use classifications allowed in one or more zoning districts, as shown in the Use Table below. The Community Development Director shall base this determination on consideration of the following factors:
    - a. Whether the proposed use is similar in terms of hours of operation, traffic impacts, environmental impacts, and the potential for adverse impacts on surrounding properties;
    - b. Whether the proposed use is typically housed in buildings or structures similar and compatible to those used to house allowed uses in the zoning district; or
    - c. Whether the proposed use is consistent with the purpose and intent of the particular zoning district.

2. The Applicant shall have the right to appeal the Community Development Director's written interpretation to the City Council pursuant to §3.22.6 of this Code.
3. A proposed use that the Community Development Director determines does not fall into a permitted use classification, unless overturned on appeal, shall be prohibited until such time as the City Council may amend the Code to indicate that such use is an Allowed or Conditional Use in one or more zone districts pursuant to §3.5 of this Code.







USE CLASSIFICATION	SPECIFIC USE TYPE	USES ALLOWED BY ZONING DISTRICT																A = ALLOWED BY-RIGHT										C = CONDITIONAL USE					ADDITIONAL REGULATIONS							
		STANDARD ZONING DISTRICTS												NEW COMMUNITIES ZONING SUB-DISTRICTS				CLEAR CREEK ZONING SUB-DISTRICTS					PUD ZONING DISTRICTS																	
		A-1	C-1	R-CE	R-E	R-L	R-SL	R-NT	R-I	R-MD	R-M	P-1	B-1	B-2	B-3	B-4	I-1	I-2	AG	OS	RA	RB	RC	C/OF	I/OF	MU-A	MU-B	MU-C	SU	A	B	C		D	E	R	BP	BPR	I	
	Vehicle/equipment sales and rentals (other than motor vehicles)														A	A	A													A	A	A	A	A				C		
Visitor Accommodations	Bed and breakfast establishments	C		C	C	C	C	C	C			A		A												A	A	A		A	A	A	A	A	C			C		Sec. 5.2.6
	Hotel/motel												A	A	A									A					A	A	A	A	A		A		A		Sec. 5.2.32	
	Trailer park, overnight campground														A														A	A	A	A	A						Sec. 5.2.32	
Warehousing & Distribution	Freight terminal, excluding couriers															A	A												A	A	A	A	A						Sec. 5.2.15	
	Mini-storage and warehouse															A	A										A	A	A	A	A	A						Sec. 5.2.21		
	Retail sales in conjunction with warehouse establishment														A	A	A							A			A	A	A	A	A	A						Sec. 5.2.33		
	All other														A	A							A	A		A	A	A	A	A	A						Sec. 5.2.33			
Wholesale Establishments (Including Accessory Offices)	Bakery														A	A	A										A	A	A	A	A	A						Sec. 5.2.5		
	Retail sales in conjunction with wholesaling														A	A								A				A	A	A	A	A						Sec. 5.2.34		
	Wholesaling including stock														A	A							C				A	A	A	A	A						Sec. 5.2.34			
<b>INDUSTRIAL USES</b>																																								
Auction House or Yard																C	A							A				A	A	A	A	A						Sec. 5.2.18		
Industry	Concrete Products Production																C												A	A	A	A	A						Sec. 5.2.18	
	Custom crafts (such as ceramics, furniture making, and stained glass production)												A	A	A	A	A							A	A		A	A	A	A	A	A	C	C		A		Sec. 5.2.18		
	General machine shops														A	A	A							A			A	A	A	A	A					A	Sec. 5.2.18			
	Light trade & technical uses												C		C	A	A							A				A	A	A	A	A	C	C		A		Sec. 5.2.18 & 5.2.20		
	Meat processing plant																C											A	A	A	A	A						Sec. 5.2.18		
	Primary manufacturing																C											A	A	A	A	A						Sec. 5.2.18		
	Publishing plant																A	A										A	A	A	A	A						Sec. 5.2.18		
	Research and development																A	A							A	A		A	A	A	A	A				A	A	Sec. 5.2.28		
	Secondary manufacturing, processing, and fabrication																A	A										A	A	A	A	A					A	Sec. 5.2.18		







## **5.2. ADDITIONAL USE STANDARDS & CONDITIONS**

### **5.2.1 Adult Businesses**

- A. Adult businesses (other than massage parlors), as defined in Chapter 4 (§4-3) of the Arvada City Code, shall be allowed in the PUD-BP, PUD-I, and PUD-BPR zoning districts, subject to any reasonable conditions imposed by the City Council in its approval of the development plan for the PUD district. Provided, however, that Adult Businesses may be permitted in a PUD-BPR zoning district only if the approved final development plan does not include residential uses.
- B. Massage Parlors, as defined in Chapter 16 (§16-3) of the Arvada City Code, shall be permitted in the PUD-BP, PUD-BPR, and PUD-I zoning districts, subject to any reasonable conditions imposed by the City Council in its approval of the development plan for the PUD district.
- C. All Adult Businesses shall comply with the provisions, including standards governing location, distance from other uses, operations, and licensing set forth in Chapter 4, "Adult Businesses," of the Arvada City Code.
- D. All Massage Parlors shall comply with the provisions, including standards governing location, distance from other uses, operations, and licensing set forth in Chapter 16, "Massage Parlors," of the Arvada City Code.

### **5.2.2 Auction House or Yard**

- A. In the I-1 District, such use shall be completely enclosed.

### **5.2.3 Automobile Rentals**

- A. In the PUD-BP District, automobile rentals are permitted only in principal hotel and motel uses with a conditional use permit.

### **5.2.4 Automotive Wash Facility**

All automotive wash facilities including automotive detail facilities shall comply with the following conditions:

- A. Open bay automotive wash facility.
  - 1. An open bay automotive wash facility is prohibited at the intersection of two arterial streets, unless it is located in a center occupying at least two acres and containing other commercial establishments occupying at least 12,000 square feet gross floor area (GFA).
  - 2. The automotive wash facility, including all driveways, entrances and appurtenant structures, must be set back a minimum of 20 feet from any adjacent street. The entire 20-foot setback must be landscaped to provide a buffer from adjacent streets.

3. No new automotive wash facility may be located within one-half mile of any other existing automotive wash facility having two or more car wash bays within the city limits of Arvada.
4. No automotive wash facility shall be located on a corner lot.

B. Enclosed automotive wash facility.

1. An enclosed automotive wash facility is prohibited at the intersection of two arterial streets, unless it is located in a center occupying at least two acres and containing other commercial establishments occupying at least 12,000 square feet gross floor area (GFA).
2. The enclosed automotive wash facility, including all driveways, entrances and appurtenant structures, must be set back a minimum of 20 feet from any adjacent street. The entire 20-foot setback must be landscaped to provide a buffer from adjacent streets.
3. All car washing bays must have bay doors. No bay door shall face the adjacent street.
4. All enclosed automotive wash facilities must be self-contained, except those services such as drying, polishing or vacuuming which may be performed outdoors. Exterior vacuums must have the machinery located within the main wash building with only vacuum hoses located outside.
5. No enclosed automotive wash facility shall be located on a corner lot.

### 5.2.5 Bakery

- A. In the I-1 and I-2 Districts, no more than 50% of the gross floor area of a bakery shall be devoted to retail sales.

### 5.2.6 Bed & Breakfast Establishments

- A. Conditional Use Criteria & Standards. When allowed as a conditional use, the following criteria and standards shall be applied by Planning Commission and City Council in considering the conditional use application:
1. The structure should have architectural significance through an historical style or unique architectural design.
  2. The renovation and use as a bed and breakfast establishment will facilitate the renovation and/or maintenance of the structure.
  3. The renovation and use as a bed and breakfast establishment will contribute to the ambiance, character, or economic revitalization of the neighborhood.

- B. Design & Operational Standards. All bed and breakfast establishments shall comply with the following design and operational requirements:
1. The architectural and historic integrity and arrangement of the existing exterior and interior of the structure shall be maintained and any modifications necessary shall be due to changes needed to meet building and fire code requirements, or to provide a guest area such as a breakfast area, atrium, or to enlarge an existing bedroom. No additions may be added to increase the existing number of bedrooms. The structure may not be enlarged by more than 25% of the existing floor area and any changes must be compatible with the character of the existing structure.
  2. Any meal may be provided; however, it shall be served only to guests taking lodging in the facility.
  3. Lodging guests may stay for a maximum of 14 consecutive days in any 30-day period.
  4. Parking:
    - a. On-street parking may be permitted only if it is located adjacent to the property and if it is determined that its use would not be detrimental to the neighborhood.
    - b. No more than two (2) parking spaces may be located in the front setback area. Parking in excess of two spaces located behind the front setback and in one location must be screened from adjacent residential uses by a six-foot cedar fence or other approved method.
  5. Signs are permitted according to those allowed in the B-3, Central Business District, as set forth in §6.17, Signs. Signs shall be compatible in material and architectural style with the primary structure.

#### **5.2.7 Borrow Pits**

- A. The Applicant shall be responsible for securing all other permits or approvals required by any other governmental agency that may have jurisdiction over the proposed use.
- B. It shall be unlawful for any person, firm, or corporation to process, crush, blast or similarly treat earth materials on any approved borrow pit site.
- C. In addition to the standards specified in this Section and in Article 6 of this Code, the proposed use shall be evaluated using the applicable standards that the state or federal government use to evaluate a permit request for the specific use. Additionally, all annual or other reports required by another governmental agency shall be simultaneously submitted to the City.
- D. Exempt Activities. The following borrowing and hauling of earth material may be done without obtaining a conditional use permit from the City:

1. Minor projects which have cuts or fills each of which is less than 5 feet in vertical depth at its deepest point measured from the existing ground surface, which include the following:
  - a. Less than 50 cubic yards of earth material, or
  - b. The removal of less than 10,000 square feet of vegetation.
2. Minimum excavation required in connection with a building or other structure authorized by a valid building permit.
3. Grading work being done pursuant to an approved grading plan in conjunction with an approved recorded plat or over lot grading plan being done on the same property.
4. Trenching incidental to the construction and installation of approved underground pipeline, septic tank, disposal lines, electrical or communication facilities, and drilling or excavation for approved wells or fence posts.
5. Grading or excavation in accordance with plans incorporated in an approved conditional use permit.
6. Maintenance and cleaning of ditches, lakes, ponds, and water storage reservoirs.

#### **5.2.8 Building Materials and Services/Outdoor Storage**

- A. In I-1 and PUD-I Districts, outdoor storage areas in conjunction with a principal building materials and service use shall be allowed up to 10% of the parcel's gross land area.
- B. In the B-4 and I-2 Districts, outdoor storage areas in conjunction with a principal building materials and service use are allowed up to 100% of the parcel's gross land area excluding required setback areas.

#### **5.2.9 Convenience Lending Operations**

All convenience lending operations except national banks and those operating as of the effective date of this code shall comply with the following locational restrictions and standards:

- A. It shall be unlawful to operate a convenience lending operation within 2,500 feet of another convenience lending operation.
- B. It shall be unlawful to operate or cause to be operated a convenience lending operation within 300 feet of any residentially-zoned property.
- C. The distance between any two such operations shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each such operation is located, and the distance between a convenience lending operation and a residentially-zoned property shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the operation is located to the nearest property line of the residentially-zoned property, excluding public street rights of way.

## 5.2.10 Convenience Stores and Service Stations

All convenience stores and service stations shall comply with the following standards:

- A. Convenience Stores and Service Stations in the B-1 District. A single convenience store or single service station shall not contain more than 10,000 square feet of gross floor area.
- B. Convenience Stores in the R-NT District. A single convenience store shall not contain more than 2,500 square feet of gross floor area and shall not include fuel sales.
- C. Locational Restrictions and Access for Service Stations and Convenience Stores with Fuel Sales.
  - 1. Such uses shall locate only within 660 feet of the intersection of two (2) Arterial streets.
  - 2. No more than two (2) service stations or convenience stores with fuel sales may be located within 660 feet of a single Arterial/Arterial intersection. Where more than two (2) service stations or convenience stores exist at the time of the adoption of this Code, they shall be considered an allowed use.
  - 3. Vehicle access to such uses shall be limited to a maximum of one (1) curb cut per street frontage.
  - 4. On-site vehicle access and circulation shall be designed so that adjacent residential uses or properties are not disturbed, either by day or night, by the movement of vehicles or the lights from vehicles.
  - 5. Fueling stations (gas stations) accessory to a principle use such as a grocery store or retail discount store shall not be subject to the provisions of §5.2.9.C.1-2.
- D. Minimum Lot Dimensions for Service Stations and Convenience Stores with Fuel Sales.
  - 1. Minimum lot area: 12,000 square feet.
  - 2. Minimum lot width (street frontage): 120 feet.
- E. Limits on Number of Service Bays and Pump Islands. A service station or convenience store with fuel sales may have a maximum two (2) service bays and two (2) pump islands on a 12,000 square foot lot. One (1) service bay or one (1) pump island may be added for each additional 2,000 square feet of lot area, provided that the total number of service bays shall not exceed four (4) per lot and the number of pump islands shall not exceed four (4) per lot.

F. Building and Equipment Setbacks and Buffers.

1. The principal service station building and any accessory structures, except for fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment, shall be set back a minimum of 40 feet from all street rights-of-way and from all property lines abutting a residential zoning district or a parcel containing residential uses.
2. When the service station use abuts a residential zoning district, use, or property, a minimum 20-foot wide buffer shall be provided along the shared boundary as required by §6.5.6.B, except that the trees required by §6.5.6.B shall be planted on the side of the fence or wall facing the residential use.
3. Fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment shall be set back a minimum of 15 feet from any street right-of-way, and a minimum of 20 feet from all property lines abutting a residential zoning district, use, or property.

G. Service Stations--Equipment, Activity, and Materials Enclosure.

1. Hydraulic hoists, pits, and all lubrications, greasing, automobile washing, or repairing equipment shall be entirely enclosed within a building. When any such building or portion of a building faces, abuts, or is adjacent to residentially zoned property, the closest, adjacent building wall or face shall consist of a solid blank wall with no openings other than those required by applicable building codes.
2. All repair work, vehicle washing, lubrication, and installation of parts and accessories shall be wholly performed within an enclosed building or structure.
3. All vehicle parts, dismantled vehicles, and similar materials, and all discarded materials such as tires, cans, and drums, shall be stored within an enclosed building or totally screened from view by a solid, opaque fence. See §6.5.8 for acceptable fence/wall materials.

H. Service Stations--Vehicle Repair. All vehicles awaiting repair shall be stored on site in approved parking spaces and under no circumstances shall such vehicles be stored outside in an inoperable condition or stored on or obstruct access to a public right-of-way.

I. Service Stations & Convenience Stores with Fuel Sales--Vehicle Stacking. The subject property shall contain adequate space to allow a minimum of three (3) cars to stack in a line for fuel dispensing services without using or obstructing any portion of an adjacent public sidewalk or right-of-way.

J. Service Stations & Convenience Stores with Fuel Sales--Supplemental Development and Design Standards. In addition to any other development or design standard set forth in Article 6, Development

Standards, the following provisions shall apply to all service stations and convenience stores with fuel sales:

1. Landscaped Corner Feature. The applicant shall provide an on-site landscaped area at the corner of the Arterial/Arterial intersection, which shall be a minimum of 1,500 square feet in total area.
  - a. Such area shall be landscaped with a mixture of turf/sod, shrubs, trees, and other plants in accordance with the minimum plant material requirements set forth in §6.5.2.D.
  - b. No structure other than one (1) freestanding (ground-mounted) sign and sign illumination, as permitted by §6.17 of this Code, shall be allowed within the landscaped corner area.
2. Fuel Pump Canopies.
  - a. Any fuel pump canopy shall utilize the same architectural treatment as the primary or principal building.
  - b. A maximum of 25% of each canopy fascia area visible from a public street may be internally illuminated, and no portion of any fascia may be externally illuminated. Each side of a fuel pump canopy shall be considered a separate fascia area.
  - c. Where the use abuts a residential zoning district or a parcel containing residential uses, flood lights or other lights illuminating the fuel pumps or other areas of the site shall be extinguished at the close of business.
3. Drive-up Facilities or windows for the sale of goods other than fuel are prohibited.
4. Accessory Car Wash Bays. A single-bay car wash is allowed as an accessory use to a permitted service station (see §5.3.5.F), subject to the following development and design standards:
  - a. To the maximum extent practicable, the entrance to the car wash bay shall be sited so as not to be visible from the lot's primary street frontage;
  - b. The car wash bay shall be limited in size to a single vehicle;
  - c. The car wash bay shall be located outside of the 20-foot buffer required in subsection F.2 above;
  - d. In addition to any other off-street parking requirements or vehicle stacking requirements, the subject property shall contain adequate space to allow a minimum of three (3) cars to stack in a line for car wash services without using or obstructing any portion of an adjacent public sidewalk or right-of-way; and
  - e. Where the use abuts a residential zoning district or a parcel containing residential uses, the hours of operation for the car wash shall be limited to between 7:00 a.m. and 8:00 p.m.

### **5.2.11 Cultural Facilities in the R-NT Zoning District**

Cultural facilities in the R-NT Zoning District shall contain no more than 2,500 square feet of gross floor area.

### **5.2.12 Eating & Drinking Establishments**

- A. In the B-1 District, a single eating & drinking establishment shall not contain more than 10,000 square feet of gross floor area.
- B. See also §5.2.13 below for specific standards governing Fast Food Restaurants.

### **5.2.13 Events Center**

- A. In the R-NT Zoning District, an events center shall not contain more than 2,500 square feet of gross floor area.
- B. Event centers shall not provide for overnight lodging, except that an accessory dwelling unit may be provided for a manager or caretaker.
- C. Event centers shall not include or provide full-scale restaurant facilities except for limited kitchen and dining facilities necessary to support catered events.

### **5.2.14 Fast Food Restaurants**

All fast food restaurants shall comply with the following applicable design and operational standards:

- A. Conditions Applicable in the B-3 District: Free-standing fast food restaurants with drive-up facilities are prohibited in the B-3 District.
- B. Specific Conditions Applicable to All Freestanding Fast Food Restaurants: (Also see Section 8.6.5, Non-Conforming Fast Food Restaurant)
  - 1. A freestanding fast food restaurant shall have a minimum size of 925 square feet gross floor area.
  - 2. A freestanding fast food restaurant shall be located in an activity center occupying at least two (2) acres and containing other commercial establishments occupying at least 12,000 square feet gross floor area.
  - 3. If a freestanding fast food restaurant utilizes a drive-up facility, the drive-up facility, including all driveways, entrances and appurtenant structures, shall be set back a minimum of 20 feet from any adjacent street. The entire 20 foot setback must be landscaped and bermed with a minimum four (4) foot high berm to screen the drive-up facility from view from adjacent streets. Where a four (4) foot high berm may not be practical and landscaping can accomplish the desired intent, the berm may be reduced or deleted.

4. Any proposal for a fast food restaurant utilizing a drive-up facility within a PUD zoned district must be depicted on and approved as part of the Preliminary Development Plan (PDP). Any such approval is discretionary with the Decision-Making Body and must show compatibility with the Preliminary Development Plan, adjacent areas, and conformance with paragraphs 5.2.13.C, and 5.2.13.D.

C. Specific Conditions Applicable to Non-Freestanding Fast Food Restaurants:

1. Any building within which a non-freestanding fast food restaurant is operated shall have a minimum size of 1,600 square feet gross floor area. No minimum size shall be required as to the non-freestanding fast food restaurant itself.

D. Design Criteria Applicable to Freestanding Fast Food Restaurants:

1. Freestanding fast food restaurants shall be designed to provide variety and visual interest while still creating a unified overall image. Sufficient design details shall be used. Building elements shall have reasonable proportions and be complementary to one another. Strategies to achieve this include, but are not limited to:
  - a. Using creative entry treatments and other focal points such as canopies, awnings, cornice treatments, or atriums;
  - b. Using a variety of colors which are complementary;
  - c. Avoiding the use of one color or all dark and/or flat colors;
  - d. Using various window shapes and sizes and with different details; and
  - e. Varying the building shapes such as by using curved walls, recesses, angular forms, or other features.
2. Buildings shall be designed so that there is sufficient relief in building facades, especially those viewed from the street. Use of large, flat and unbroken planes should be avoided. Strategies to achieve this include, but are not limited to:
  - a. Using a variety of materials and colors to provide contrast, such as using brick and stone with wood siding or stucco, etc.;
  - b. Using materials with texture or depth, such as brick or other types of textured masonry;
  - c. Using sufficient window and door openings to break up the facade into identifiable visual elements; and
  - d. Providing variations in the building footprint, including incorporating recesses, offsets, angular forms, or other features to provide a visually interesting shape.
3. The bulk of buildings shall be broken up to provide visual interest. Box-like designs shall be avoided. Strategies to achieve this include, but are not limited to:
  - a. Using variations in the building footprints and facades proportional to the overall bulk of the buildings, with variations being greater for larger buildings;

- b. Using contrasting vertical and horizontal elements such as atriums or columns which extend to the roof to provide contrast with horizontal elements of the facade; and
  - c. Designing the roof so that portions of it are sloped to provide contrast with a flat roof, varying the height of various portions of the roof, and creating distinctive rooflines by incorporating cornices, parapets, and projecting elements.
- 4. Fast Food Restaurants within Shopping Centers: Unity of Design: Fast food restaurants located within a shopping center, whether freestanding or non-freestanding, shall exhibit a unity of design with the shopping center through the use of similar elements such as rooflines, materials, colors, window arrangements, and other architectural details.
  - 5. Trash Management Program. All fast food restaurant uses shall have a trash management program for the daily removal of trash and litter on the site and on any adjacent affected property.

#### **5.2.15 Financial Institutions in the R-NT Zoning District**

Financial institutions in the R-NT Zoning District shall not include drive-in facilities and shall contain no more than 2,500 square feet of gross floor area.

#### **5.2.16 Freight Terminals**

- A. Barriers shall be provided and located such that no part of parked vehicles will extend beyond the yard space or into the setback space from a lot line abutting a residential lot or separated therefrom by a street.

#### **5.2.17 Greenhouse Including Retail Sales of Related Products**

- A. The following requirements shall apply to greenhouse/nursery uses that include retail sales:
  - 1. Outdoor storage of bulk materials shall meet the setback requirements established for greenhouse/nurseries.
  - 2. The type and location of any bulk materials to be stored on any site shall be determined at the time of approval of the conditional use permit. Any materials approved for bulk outdoor storage shall not cause a hazard or nuisance to the health, welfare or safety of humans or animals.

#### **5.2.18 Group Living Facilities**

- A. Generally Applicable Regulations. Unless otherwise expressly stated, all Group Living Facilities shall be subject to the following standards:
  - 1. Licensing. The applicant is licensed by the State of Colorado to operate such facility, or is not required to be licensed. If said license is pending, a conditional use permit may be granted, but shall not take effect until licensing becomes final.

2. Building Code. The proposed occupancy complies, or will comply, with the requirements of the currently adopted Uniform Building Code.
3. Effects on Neighborhood. The proposed Group Living Facility will not have an adverse effect on the residential character and quality of life in the particular neighborhood. The Decision-Making Body may not deny development approval for a proposed Group Living Facility solely on the basis of neighborhood opposition, where no valid and substantive evidence has been offered to show that the proposed Group Living Facility would have such adverse effect.
4. Dispersal Policy.
  - a. Applicability. These provisions regarding dispersal shall apply only to Group Living Facilities subject to conditional use review. (See Use Table at §5.1.2.)
  - b. Policy. In the absence of compelling reasons to the contrary, it is the policy of the City of Arvada that in order to prevent the concentration of Group Living Facilities, no two Group Living Facilities may locate within 750 feet of each other. The Decision-Making Body shall therefore find that there is no other home located within 750 feet of the proposed Group Living Facility, or that there are compelling reasons for disregarding this dispersal policy in a particular case, including but not limited to making reasonable accommodations under the federal Fair Housing Act. (See §5.2.17.D below.)
5. Threats to Public Safety. As authorized by 42 USC §3604(f)(9), no Group Living Facility shall provide housing to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical danger to the property of others.
6. Duration. Conditional use approval for any Group Living Facility may be granted for the term of the facility's license, or for such shorter period as the Decision-Making Body shall find appropriate under the circumstances of the individual case, but in no event for a period greater than two years.
7. Abandonment of Use. If active and continuous operations are not carried on for a period of 12 consecutive months in a Group Living Facility approved as a conditional use, the Group Living Facility shall be considered to be abandoned. The use may be reinstated only after obtaining a new conditional use approval.
8. Renewal. At the expiration of its term, a conditional use permit for any Group Living Facility shall automatically renew under the same conditions, including duration, as the original approval, unless any City department or the Group Living Facility's licensing agency has received written complaints concerning the operation of the Group Living Facility during the term of the conditional use permit. If any such complaint has been received, the application for renewal must be heard by the Planning Commission and City

Council under the same requirements for a new conditional use application.

B. Additional Regulations Applicable to Group Homes. In addition to the general regulations set forth in §5.2.17.A above, Group Homes not otherwise more specifically listed as another type of Group Living Facility in the Use Table (§5.1.2 above) shall be subject to the following additional standards:

1. If the purpose and intent of the Group Home is to serve a class or group of residents protected under the federal Fair Housing Act, 42 U.S.C. §3601, et seq., as amended, the Group Home shall be allowed as a permitted by-right use in all residential zoning districts, provided the number of residents does not exceed 8 persons. If the number of residents is greater than 8 persons, then the Group Home may be allowed only as a conditional use. In no case may the number of residents exceed 12 persons, including resident supervisory personnel.
2. If the purpose and intent of the Group Home is not to serve a class or group of residents protected under the federal Fair Housing Act, 42 U.S.C. §3601, et seq., as amended, the Group Home shall be allowed only as a conditional use in all residential zoning districts, provided the number of residents does not exceed 12 persons, including resident supervisory personnel.

C. Additional Regulations for Group Homes for Juvenile Offenders. In addition to the general regulations set forth in §5.2.17.A above, the following shall apply to all Group Homes for Juvenile Offenders:

1. There shall be at least 1,000 square feet of lot area per occupant; and
2. Such group home shall have in place adequate 24-hour on-site supervision and security, approved by the Community Development Director and the Arvada Chief of Police, with input from the placing agency.

D. Reasonable Accommodations. The federal Fair Housing Act (42 U.S.C. §3601, et seq., as amended) requires that local governments be prepared to make "reasonable accommodations" in order to permit housing for certain protected groups to occur in certain types of residential areas. In response to a written application identifying the type of housing being provided and the portions of the Fair Housing Act that require that reasonable accommodations be made for such housing, the Community Development Director is authorized to take any of the following actions in order to provide reasonable accommodations without the need for a rezoning or variance process:

1. Modify any facility spacing, building setback, height, lot coverage, or landscaping requirement by no more than 20%;
2. Modify any limits on the number of non-related occupants allowed in the principal building by no more than 20%;
3. Modify the requirements for dispersal of Group Homes; or

4. Reduce any off-street parking requirement by no more than one space.

The Director may approve a type of reasonable accommodation different from that requested by the applicant if the Director concludes that a different form of accommodation would satisfy the requirements of the Fair Housing Act with fewer impacts on adjacent areas. The decision of the Community Development Director shall be accompanied by written findings of fact as to the applicability of the Fair Housing Act, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a variance or rezoning process.

#### **5.2.19 Industry, Manufacturing & Production**

- A. Operational Standards. In addition to the operational standards set forth in §6.19 of this Code, all industry and manufacturing and production uses shall comply with the following operational standards:
  1. The best industry standard, maintenance, and control currently available will be utilized in order to maintain the lowest possible measurement of emission of odorous gases.
- B. Primary Manufacturing. All primary manufacturing uses shall comply with the following standards, as applicable:
  1. In the NC-I/OF and NC-MU-A Sub-Districts, primary manufacturing, processing, and fabrication uses shall be completely enclosed within a building.
- C. Secondary Manufacturing. All secondary manufacturing uses shall comply with the following standards, as applicable:
  1. In the I-1 Zoning District and the NC-I/OF and NC-MU-A Sub-Districts, secondary manufacturing, processing, and fabrication uses shall be completely enclosed within a building.

#### **5.2.20 Kennels**

- A. All kennels shall be licensed by the City of Arvada pursuant to §6-100 et seq. of the Arvada City Code.

#### **5.2.21 Light Trade & Technical Uses**

- A. Conditions of Approval. All Light Trade and Technical Uses shall comply with the following standards:
  1. All operations shall be conducted entirely within a building or structure.
  2. There shall be no outdoor storage of materials or products at any time. Loading and unloading of shipments shall be permitted.

3. The arrangement of activities inside the building shall be such to preserve a commercial, retail or office character, rather than an industrial character, when it is viewed from the outside. Where the building facade includes windows or doors to the front or main retail area, the areas within the building visible through these openings shall be used for office or retail operations and not for storage, stockpiling of materials, or machinery.
4. The Applicant shall demonstrate that there is a retail component of the business which is an integral part of the operation.

#### **5.2.22 Mini-Storage & Warehouse**

- A. Such use shall be contained within an enclosed building or buildings.
- B. All mini-storage facilities shall provide a minimum 32-foot wide drive aisle between all buildings and adjacent to all building walls with storage compartment access doors.
- C. A conditional use permit shall be required for mini-storage facilities without a resident manager or with more than one resident manager dwelling unit. Mini-storage facilities with one on-site resident manager/caretaker dwelling shall be permitted by-right, subject to the following conditions:
  1. The manager/caretaker dwelling unit shall be incorporated into and occupy space on the premises of the mini-storage facility.
  2. One off-street, covered parking space shall be required for the exclusive use of the resident manager/caretaker.
  3. A single landscaped private recreation area, with a minimum area of 750 square feet, shall be provided within the mini-storage facility for the exclusive use of the resident manager/caretaker. The landscaped recreation area shall include a minimum of one 2½-inch caliper shade tree, turf shrubs, and recreation equipment approved by the Community Development Director. Recreation equipment shall consist of picnic table and barbeque facilities, or other comparable equipment for use by the resident manager/caretaker.
- D. All buildings in the mini-storage facility shall be architecturally compatible with the surrounding zoning. Architectural compatibility shall be measured as follows: projects constructed abutting residential or public/civic zoning shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction; projects abutting commercial or industrial zoning districts may employ more rigid lines and features; where a project abuts a residential or public/civic zoning district and any other zoning district, the residential compatibility requirement shall apply.
- E. Hours of public access to mini-storage units abutting one or more residential zoning districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m., Monday through Sunday.

### 5.2.23 Mining/Surface Resource Extraction

- A. In the NC Zoning Sub-District, mining/surface extraction uses shall be allowed only in the non-residential portions of the sub-district.
- B. All open mining operations, crushing, and stockpiling shall conform to the following standards:
  - 1. The Applicant shall be responsible for securing all other permits or approvals required by any other governmental agency that may have jurisdiction over the proposed use, including without limitation, permits or approvals evidencing compliance with State of Colorado residential noise standards regarding noise pollution and with applicable air quality standards set by the Colorado Air Quality Control Commission. An Applicant shall receive all such required governmental permits prior to beginning operation of the use.
  - 2. In addition to the standards specified in this Section and in Article 6 of this Code, the proposed use shall be evaluated using the applicable standards that the state or federal government use to evaluate a permit request for the specific use. Additionally, all annual or other reports required by another governmental agency shall be simultaneously submitted to the City.
  - 3. Mining equipment, except for reservoir construction equipment, shall be considered mechanical equipment and, in lieu of the screening standards set forth in §6.5 of this Code, such equipment shall be subject to the following requirements:
    - a. All mining equipment and operations areas shall be screened from the sight to adjacent properties or right-of-way by the use of berms or by other equivalent means; and
    - b. All mining equipment shall be located behind building setback lines.
  - 4. All roadways longer than 100 feet used for ingress and egress from the public roadway to the area of mining operations shall be cleaned and maintained to minimize the fugitive dust which is generated by vehicles.
  - 5. All mining operations, except for reservoir construction, shall be at least 200 feet from the property line. No open pit mine shall be deeper than 200 feet. No reclaimed open pit mine shall be left deeper than 100 feet.
  - 6. No finished grade shall exceed slopes of 1 foot of rise in 3 feet of horizontal distance. A diverse permanent vegetative cover shall be established on all disturbed areas to achieve erosion control equal to pre-mining levels. The cover shall be predominantly of native species. Disturbed areas shall be kept to a minimum. Reclamation shall commence within one growing season after slopes reach final grade.

7. Mining, processing, or transporting operations, except for reservoir construction, shall be within the time limits of 7:00 a.m. to 6:00 p.m., with no operations on Sunday. Maintenance operations are not subject to the provision.
8. The use of explosives is subject to all state and federal standards and restricted to a maximum of 5 calendar days per year. All blasting shall be conducted in a manner which will not cause a peak particle velocity on any adjacent property which exceeds 1/2 inch per second. A blast over pressure shall not exceed 130 db peak measured at 6 Hz or lower flat response at the property line.
9. Quarrying of hard rock aggregate is prohibited.
10. Sediment caused by accelerated soil erosion shall be removed from runoff water before leaving the site. Runoff shall not be discharged from the site in quantities or at velocities above those occurring before mining.

#### **5.2.24 Office - General Contractor with Outdoor Storage**

- A. The outdoor storage area shall be screened as required by §6.5.11.

#### **5.2.25 Outdoor Storage (As a Principal Use)**

- A. Except in the CC-D Sub-District and as set forth in §5.2.24.J. below, outdoor storage uses shall not include junkyards, salvage yards, or automobile wrecking yards.
- B. Except in the I-2 Zone District and the CC-A and CC-E Sub-Districts, no outdoor storage use shall be placed or maintained within a required front or side setback area.
- C. In the I-2 Zone District and the CC-A Sub-District, permitted outdoor storage may occupy up to 100% of a parcel or site area, excluding any required front setback area.
- D. Except where permitted within the front setback area, no outdoor storage use shall be located within 25 feet of the public road right-of-way.
- E. Except in the CC District, no such use shall be located closer than 300 feet from any lot line that abuts a residential zoning district or dwelling unit.
- F. No storage or accumulation of waste products, including paint, stain, oils, grease, or other flammable, toxic, or hazardous materials, or stagnant water, shall be permitted as part of any outdoor storage use if they exceed the currently adopted Uniform Fire Code requirements. Flammable liquids or gases in excess of 1000 gallons shall be stored underground.
- G. Suitable containers for rubbish shall be placed on the premises. See §6.5.11 (Outdoor Storage, Trash Collection/Compaction, and Truck Loading Areas) of this Code.

- H. There shall be at least one (1) access drive that shall be wide enough to accommodate two (2) vehicles side-by-side.
- I. Permitted hours of operation shall be 7:00 a.m. to 7:00 p.m.
- J. Additional Standards for the CC District. The following standards shall apply only to outdoor storage uses in the CC District. See also §5.3.5 for standards applicable to outdoor storage uses as an accessory use. In the case of a conflict between a standard set forth in §5.2.24.J and any other provision of this section or Code governing outdoor storage as a principal use, the standard set forth in this §5.2.24.J shall apply.
  - 1. Outdoor storage as a principal use is prohibited in the CC-C Sub-District. See §5.3.5.O for standards applicable to outdoor storage as an accessory use in the CC-C Sub-District.
  - 2. In the CC Sub-Districts, the maximum amounts of outdoor storage as a percentage of total lot area shall be:
    - a. Sub-District A: 100%
    - b. Sub-District B: 10%
    - c. Sub-District C: 0%
    - d. Sub-District D: 10%
    - e. Sub-District E: 50%.
  - 3. In Sub-Districts CC-B and CC-D:
    - a. Outdoor storage shall not exceed 500 square feet per lot; and
    - b. No outdoor storage is allowed within the front yard of any property.
  - 4. The screening requirements set forth in §6.5.11 shall apply to outdoor storage uses in the CC District, except as otherwise modified by the following provisions:
    - a. In Sub-Districts CC-A and CC-E:
      - i. In areas that adjoin a residential use in Sub-District CC-D, there is no height limit on the outdoor storage when it is screened from view above grade at the closest point of the adjacent residential structure, and
      - ii. There are no height restrictions for machinery, vehicles, and cranes licensed, leased, and/or titled to a business conducted on the property.
    - b. In Sub-Districts CC-B and CC-D, outdoor storage may not exceed the height of the required screen fence.
    - c. When Sub-District CC-D is completely occupied (100%) by non-residential uses, then:
      - i. The standards governing outdoor storage for Sub-District CC-A shall apply to Sub-District CC-D, including but not limited to the maximum amount of outdoor storage allowed;
      - ii. There shall be no height limit on the outdoor storage when it is screened from view at the closest point of the adjacent residential structure; and

- iii. There shall be no height restriction for machinery, vehicles, and cranes licensed, leased, and/or titled to a business conducted on the property.
- d. In Sub-District CC-E, storage of customer vehicles for a period not to exceed 90 days is exempt from the screening height restrictions.

#### **5.2.26 Recreation or Amusement Facilities, Private or Public, Indoor**

- A. Prior to commencement of operations, the owner or operator of an Amusement Arcade, as defined in §5-11 of the Arvada City Code, shall provide written verification of receipt of a valid amusement arcade license pursuant to the terms of Chapter 5, "Amusements," of the Arvada City Code.
- B. Prior to commencement of operations of any Amusement Device in an Amusement Center, as those terms are defined in §5-11 of the Arvada City Code, the owner or operator shall provide written verification of receipt of a valid amusement center license pursuant to the terms of Chapter 5, "Amusements," of the Arvada City Code.
- C. All Amusement Arcade and Amusement Center operations shall comply with the provisions of Chapter 5, "Amusements," of the Arvada City Code.

#### **5.2.27 Repair Services (Not Including Vehicles)**

- A. In the P-1 District, repair service uses shall be contained in the same building as a principal office or business service use, and shall not comprise more than 50% of the total gross floor area as the principal office or business service use.
- B. In the NC-I/OF and NC-MU-A Sub-Districts, repair services shall be completely enclosed within a building.

#### **5.2.28 Retail Establishments**

- A. In the P-1 District, retail establishments serving primarily the principal use may be contained in the same building as a principal office or business service use, and shall not comprise more than 25% of the total gross floor area, or exceed 25,000 sq. ft. in area as the principal office or business service use.
- B. In the B-1 District, no single retail establishment shall contain more than 10,000 square feet of gross floor area.

#### **5.2.29 Research, Development, & Testing Laboratories**

- A. In the P-1 District, such use may not involve the manufacture, fabrication, processing, or sale of products. Nor shall laboratories be permitted that contain toxic materials or where there is a danger of explosion.
- B. In the I-1 District, such use may be allowed provided such facilities are completely enclosed and provided that it is controlled in accordance with all applicable city, state, or federal regulations.

### **5.2.30 Reservoir Construction**

- A. Open mining operations, crushing, and stockpiling may be allowed for the purpose of creating a reservoir.
- B. Reservoir construction shall comply with the standards set forth for Mining/ Subsurface Resource Extraction in §5.2.22 above, except that there shall be no depth limitation and the finished grades shall be the same as the standards specified by the State for reservoirs. In addition, standards set forth in §5.2.22.B.7-8 and 5.2.22.B.1 regarding compliance with residential noise standards shall not apply to reservoir construction.
- C. The City Engineer shall approve all reservoir construction.
- D. If reservoir construction involves the extraction of commercial mineral deposits, all standards in §5.2.22 above regarding mining shall be met.
- E. Technical Studies Required: A reservoir feasibility study shall be provided in addition to the other required technical studies. The study shall present technical data including geological, financial, and structural feasibility, as well as water rights development and permanent use capabilities. Additionally, all information required for other governmental approvals shall be submitted to the City at the time of application.

### **5.2.31 Transportation & Heavy Equipment Repair and Service**

- A. Transportation & Heavy Equipment Service uses shall be subject to the standards applicable to Freight Terminals in §5.2.15 above.
- B. Vehicle/equipment repair in the NC-I/OF and NC-MU-A Sub-Districts shall be completely enclosed within a building.

### **5.2.32 Telecommunication Facilities & Dish Antennas**

- A. Purpose and Goals. The purpose of these provisions is to establish requirements for the siting of telecommunication facilities. The goals of these provisions are to:
  - 1. Encourage the use of wall mounted panel antennas;
  - 2. Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service;
  - 3. Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community;
  - 4. Encourage strongly the joint use of new and existing sites;
  - 5. Encourage telecommunications providers of antennas and towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - 6. Encourage telecommunications providers to configure them in a way that minimizes the adverse visual impact of the antennas and towers; and

7. Enhance the ability of telecommunications providers to provide such services to the community quickly, effectively, and efficiently.

B. Applicability. The requirements set forth in 5.2.31 shall not apply to:

1. Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.
2. Pre-existing telecommunication facilities. Any telecommunication facility for which a permit has been properly issued prior to August 12, 1997, shall not be required to meet the requirements of this Section, other than the requirements of Sections 5.2.31.D, 5.2.31.E., and 5.2.31.F below. Changes and additions to pre-existing telecommunication facilities shall meet the applicable requirements of this Section 5.2.31.
3. Miscellaneous Antennas. Antennas used for reception of television and radio such as television dish antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirements of §5.3, "Accessory Uses," of this Code and the requirement that the height be no more than the distance from the base to the property line are met.

C. Inventory of Existing Sites. Each Applicant for a telecommunication facility shall provide to the Community Development Department a narrative and map description of the Applicant's existing or then currently proposed telecommunication facilities within the City, and outside of the City within one mile of its boundaries. In addition, the Applicant shall inform the City generally of the areas of the City in which it believes telecommunication facilities may need to be located within the next three years. This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding the location of facilities within the City. Rather, it is an attempt to provide a mechanism for the City and all Applicants for telecommunication facilities to share general information, assist in the City's comprehensive planning process, and promote co-location by identifying areas in which telecommunication facilities might be appropriately constructed for multiple users.

The Community Development Department may share such information with other Applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however that the Community Development Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable unless a more stringent compliance schedule is mandated by the controlling federal agency.

D. Building Codes; Safety Standards. To ensure the structural integrity of telecommunication facilities, the owner of a telecommunication facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for telecommunication facilities that are published by the Electronic Industries

Association, as amended from time to time. If, upon inspection, the City concludes that a telecommunication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the telecommunication facility, the owner shall have 30 days from date of notice to bring such telecommunication facility into compliance with such standards. Upon good cause shown by the owner, the City's Chief Building Official may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such telecommunication facility into compliance within said time period, the City may remove such facility at the owner's expense.

- E. Removal of Abandoned Telecommunication Facilities. Any telecommunication facility that is not operated for a continuous period of 6 months shall be considered abandoned. The City, in its sole discretion, may require an abandoned telecommunication facility to be removed. The owner of such telecommunication facility shall remove the same within 30 days of receipt of written notice from the City. If such telecommunication facility is not removed within said 30 days, the City may remove it at the owner's expense and any special use site plan approving the telecommunication facility shall be deemed to have expired.
- F. Federal Requirements. All telecommunication facilities shall meet the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then the owners of the telecommunication facility governed by this section shall bring such telecommunication facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the telecommunication facility at the owner's expense.
- G. Aesthetics; Lighting. The guidelines set forth in this section shall apply to the location of all telecommunication facilities governed by this section; provided, however, that the City may waive these requirements if it determines that the goals of this section are better served thereby.
1. Freestanding telecommunication facilities shall either maintain a galvanized steel finish, or subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
  2. The design of a telecommunication facility and any accessory equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunication facility to the surrounding natural setting and built environment.
  3. If an antenna is installed on a structure other than a freestanding telecommunication facility, the antenna and accessory equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.

4. Freestanding telecommunication facilities shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the facility is mounted on a light pole or other similar structure primarily used for lighting purposes.

If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences.

5. No portion of any antenna may extend beyond the property line.
6. No trees larger than 4 inches in diameter measured at 4 ½ feet high on the tree may be removed, unless authorized by the Community Development Director. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of 2 to 1.
7. Accessory telecommunication equipment such as vaults, equipment rooms, and equipment enclosures shall be constructed out of non-reflective materials (visible exterior surfaces only).
8. Accessory equipment for telecommunication facilities shall be designed and constructed to look like a building, facility, or structure typically found in the area.
9. Telecommunication facilities in areas of high visibility shall, where possible, be sited below the ridgeline or be designed (e.g., placed underground, depressed, or located behind earth berms) to minimize their profile.
10. A special design may, where possible, be required of any telecommunication facility where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

H. Review Procedure: General. Applications for telecommunication facilities and dish antennas shall be reviewed pursuant to the following procedures:

1. Wall Mounted. Applications for building wall mounted telecommunication facilities utilizing panel antennas and applications for panel and whip antennas located on existing towers or alternative tower structures shall be reviewed by the Community Development Director for conformance to this section and Code using the Site Plan review procedures set forth in §3.15 of this Code.
2. Roof Mounted. Applications for building roof mounted telecommunication facilities using panel or whip antennas, shall follow the §3.15 Site Plan review process and, as such, the Community Development Director may administratively approve a request for roof mounted facilities or refer the application to City

Council for approval, after a recommendation by Planning Commission, should the Director consider the roof mounted facility to have a significant visual impact, (e.g., proximity to historical sites or significant views of historic sites) or otherwise be incompatible with the structure or surrounding area, or not meet the intent of these provisions. Applications for roof mounted facilities shall demonstrate that a wall mounted facility is inadequate to provide service.

3. Freestanding. Freestanding telecommunication facilities may be permitted as a conditional use, subject to a recommendation by the Planning Commission, after a public hearing, and approval by the City Council after a public hearing. Applications for freestanding telecommunication facilities shall provide the information required in §5.2.31.J below and any other information required pursuant to this Section 5.2.37, and shall be reviewed for conformance to this Section and Code. All applications for freestanding telecommunication facilities shall demonstrate that a wall or roof mounted facility is inadequate to provide service.
  4. Dish Antennas. Applications for dish antennas shall follow the §3.15 Site Plan review process and, as such, the Community Development Director may administratively approve a request for a dish antenna facility or refer the application to City Council for approval, after a recommendation by Planning Commission, should the Director consider the facility to have a significant visual impact, or otherwise be incompatible with the supporting structure or surrounding area, or not meet the intent of these provisions.
  5. Alternative Tower Structures. Applications for alternative tower structures shall follow the §3.15 Site Plan review process, and, as such, the Community Development Director may administratively approve a request for an alternative tower structure facility or refer the application to City Council for approval, after a recommendation by Planning Commission, should the Director consider the facility to have a significant visual impact, or otherwise be incompatible with the structure or surrounding area, or not meet the intent of these provisions.
- I. Radio Frequency Standards. All Applicants shall comply with federal standards for radio frequency emissions. At the request of the City upon complaint, but not more than annually, an Applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunication facility pursuant to §5.2.31.E. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the Applicant.
  - J. Signal Interference. All telecommunication facilities shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other telecommunication services utilized by adjacent residential and non-residential properties; nor shall any such

facilities interfere with any public safety telecommunications. The Applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems and shall allow the City to monitor interference levels with public safety communications during this process. Additionally, the Applicant shall notify the City at least ten calendar days prior to the introduction of new service or changes in existing service, and shall allow the City to monitor interference levels with public safety communications during the testing process.

K. Standards for Approval.

1. Wall mounted. A building wall mounted telecommunication facility shall be evaluated for approval subject to the following criteria:
  - a. Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached;
  - b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be 2 feet;
  - c. Modifications to the building penthouse, mechanical screening and other appurtenances may be approved by the Community Development Department to allow panel antennas for telecommunication facilities;
  - d. Wall mounted telecommunication facilities shall not extend above the roofline unless mounted to a penthouse.
  
2. Roof mounted. Such facilities shall be approved only where an Applicant demonstrates a wall mounted facility is inadequate to provide service and evaluated for approval based upon the following criteria:
  - a. Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.
  - b. Roof mounted telecommunication whip antennas shall extend no more than 12 feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached.
  - c. Roof mounted telecommunication panel antennas shall extend no more than 7 feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted.
  - d. Roof mounted telecommunication accessory equipment shall extend no more than 7 feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.
  
3. Alternative Tower Structures. Such structures shall be architecturally compatible with the surrounding area.
  - a. Alternative towers shall be evaluated for approval based upon the following criteria:
    - i. Height or size of the proposed alternative tower structure;

- ii. Proximity of the facility to residential structures and residential district boundaries;
- iii. Nature of uses on adjacent and nearby properties and the compatibility of the facility to these uses;
- iv. Compatibility with the surrounding topography;
- v. Compatibility with the surrounding tree coverage and foliage;
- vi. Compatibility of the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- vii. Impact on the surrounding area of the proposed ingress and egress, if any;
- viii. An evaluation of the Applicant's plans for development of its telecommunications facilities within the City in accordance with §5.2.31.C. above.

b. An alternative tower structure may also include utilization of a traffic signal, street light pole, or similar structure within a public right of way or freestanding structure within a commercial, office, or industrial area so long as such pole or structure is not more than ten feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within 500 feet of the pole or structure. Any such telecommunication pole shall in no case be higher than 40 feet, nor shall there be more than one telecommunication pole within 100 feet of another. An alternative tower structure under this subparagraph b. shall be evaluated for approval upon the criteria set forth in subparagraph a. above.

4. Dish Antennas. Dish antennas shall be evaluated for approval based upon the following criteria:

- a. Height of the proposed structure or size and number of dish antennas at the site;
- b. Proximity of the facility to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Compatibility with the surrounding topography;
- e. Compatibility with the surrounding tree coverage and foliage;
- f. Design of the dish antenna site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress, if any;
- h. An evaluation of the Applicant's plans for development of its facilities within the City in accordance with §5.2.31.C above; and
- i. Availability of suitable existing sites and other structures.

5. Freestanding Telecommunications Facilities.

- a. Information Required. Each Applicant shall submit a scaled site plan and scaled elevation view and other

supporting drawings, calculations, and other documentation, signed and sealed by appropriate qualified professionals, showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, tower height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the Community Development Director to be necessary to assess compliance with this section.

- b. Co-Location. Freestanding telecommunication facilities may be required to be designed and constructed to permit the facility to accommodate the attachment of at least 2 telecommunication providers on the same freestanding facility. No telecommunication facility owner or operator shall unfairly exclude a telecommunication competitor from using the same facility or location.
- c. Factors Considered in Granting Approval for Freestanding Telecommunication Facilities. The City shall consider the following factors in determining whether to issue a conditional use approval, although the City may waive or reduce the burden on the Applicant of one or more of these criteria if the City concludes that the goals of this section are better served thereby.
  - i. Height or size of the proposed tower;
  - ii. Proximity of the tower to residential structures and residential district boundaries;
  - iii. Nature of uses on adjacent and nearby properties;
  - iv. Compatibility with the surrounding topography;
  - v. Compatibility with the surrounding tree coverage and foliage;
  - vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - vii. Proposed ingress and egress;
  - viii. An evaluation of the Applicant's plans for development of its telecommunications facilities within the City in accordance with §5.2.31.C above; and
  - ix. Availability of suitable existing freestanding telecommunication facilities and other structures.
- d. Availability of Suitable Existing Freestanding Telecommunication Facilities or Other Structures. No new towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the City that no existing freestanding telecommunication facility or structure can accommodate the Applicant's needs. Evidence submitted to demonstrate that no existing tower or structure can accommodate the Applicant's proposed antenna may consist of the following:
  - i. No existing telecommunication facilities or structures at a suitable height are located within the geographic area required to meet the Applicant's engineering requirements;

- ii. Existing freestanding telecommunication facilities or structures do not have sufficient structural strength to support Applicant's proposed antenna and related equipment;
  - iii. The Applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the Applicant's proposed antenna;
  - iv. The Applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- e. Setbacks and Separation. The following minimum setbacks and separation requirements shall apply to all towers and antennas for which a conditional use approval is required; provided, however, that the City may reduce standard setbacks and separation requirements if the goals of this section would be better served thereby. A freestanding telecommunication facility shall meet the greater of the following minimum setbacks from all property lines:
- i. The setback for a principal building within the applicable zoning;
  - ii. Twenty-five percent of the facility height, including antennas;
  - iii. The facility height, including antennas, if the facility is in or adjacent to a residential district; or
  - iv. Towers over 90 feet in height shall not be located within one-quarter mile from any existing tower that is over 90 feet in height, unless the Applicant has shown to the satisfaction of the City that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.
- f. Standards. A freestanding telecommunication facility shall meet the following standards to minimize impacts:
- i. Use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;
  - ii. Comply with all applicable landscape regulations;
  - iii. Accommodate co-location of facilities unless the City approves an alternative design;
  - iv. Design, materials, and colors of antennas, and their support structures, shall be compatible with the surrounding environment, and monopole support structures shall taper from the base to the tip; and
  - v. Shall not be artificially lighted, unless required by the FAA or other applicable authority or the facility is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting

alternatives and approve the design that would cause the least impact on the surrounding area.

- g. Accessory Equipment. Accessory equipment for a freestanding telecommunication facility shall meet the following requirements:
  - i. The buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;
  - ii. Total footprint coverage area of the Applicant's accessory equipment shall not exceed 350 square feet;
  - iii. No accessory equipment or accessory structure shall exceed 15 feet in height; and
  - iv. Design, materials and colors of all structures shall be compatible with structures and vegetation on the same parcel and adjacent parcels, and shall not reduce the parking requirements and landscaped area for other principal uses on the parcel.
  
- h. Security Fencing. Freestanding telecommunication facilities shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the City may waive such requirements, if the goals of this section would be better served thereby.
  
- i. Landscaping. The following requirements shall govern the landscaping surrounding freestanding telecommunication facilities for which a conditional use approval is required; provided, however, that the City may waive such requirements if the goals of this section would be better served thereby.
  - i. Freestanding telecommunication facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the accessory equipment from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
  - ii. In locations where the visual impact of the telecommunication facility would be minimal, the landscaping requirement may be reduced or waived altogether.
  - iii. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the perimeter may be sufficient to buffer.
  
- j. Freestanding Telecommunication Facility Removal. Affidavits shall be required from the owner of the property and from the telecommunications Applicant acknowledging

that each is responsible for the removal of a tower that is abandoned or is unused for a period of 6 months.

- L. Decision. Any decision to deny an application for a telecommunication facility shall be in writing and supported by substantial evidence in a written record.

### **5.2.33 Travel Trailer Parks**

All travel trailer parks shall comply with the following standards and regulations in addition to the general development standards set forth in Article 6 of this Code. In the case of any conflict between the provisions of Article 6 and this subsection, this subsection shall apply in the case of travel trailer parks only.

- A. Location and Access. Any travel trailer park established under the standards of this Code shall have a minimum of forty (40) feet of frontage upon a street designated by the Comprehensive Plan, as a major arterial, parkway or expressway. No entrance to, or exit from, a travel trailer park shall be through a residential district or shall provide access to any street other than a major arterial as required above.
- B. Site Conditions. The condition of the soil, the ground water level, drainage or topography shall not create hazards to the property or the health and safety of the occupants. The site shall not be exposed to any objectionable level of smoke, noise, odors or other adverse influences of subsidence or erosion which would expose persons or property to hazards.
- C. Occupancy and Length of Stay. Spaces in travel trailer parks may be used by travel trailers, equivalent facilities constructed on automotive vehicles, tents or short-term housing or shelter arrangements or devices. The occupants of such space shall remain in the same trailer park a period not to exceed fifteen (15) days.

### **5.2.34 Warehousing & Distribution**

In the I-1 District, retail sales in conjunction with a permitted Warehouse establishment may be allowed subject to the following conditions:

- A. Not more than 20% of floor area or sales volume of any individual user or tenant may be devoted to retail operations except for furniture and carpet warehouses.
- B. All retail sales shall be conducted within the same structure housing the principal warehouse use, and no outdoor retail sales activity shall be allowed.
- C. Parking for the retail accessory use shall be provided in accordance with the off-street parking standards for retail uses as set forth in §6.16 of this Code.

### **5.2.35 Wholesale Establishments**

- A. I-1 Zone District. Wholesale establishments with stock may be permitted in the I-1 District except for the following:

1. Live animals;
2. Commercial explosives;
3. Flammable or combustible liquids exceeding a total quantity of 1,000 gallons. Flammable or combustible liquids not exceeding a total quantity of 1,000 gallons are permitted provided that their use, dispensing, mixing, and storage complies with all of the requirements of the currently adopted edition of the applicable Building Code, Fire Code, Plumbing Code, Mechanical Code, and the National Electrical Code and all applicable State and Federal laws;
4. Flammable gases over 750 cubic feet capacity in gaseous state or 15 gallons capacity in liquefied state. Flammable gases under 750 cubic feet or 15 gallons capacity are permitted provided that their use, dispensing, mixing, and storage complies with all of the requirements of the currently adopted edition of the applicable Building Code, Fire Code, Mechanical Code, Plumbing Code, and National Electrical Code and all applicable State and Federal Laws.

B. I-2 Zone District. Wholesale establishments with stock may be permitted in the I-2 District except for the following:

1. Live animals;
2. Commercial explosives;
3. Flammable or combustible liquids are permitted providing their use, dispensing, mixing, and storage complies with all the requirements of the currently adopted edition of the applicable Building Code, Fire Code, Plumbing Code, Mechanical Code, and National Electrical Code and all applicable State and Federal laws;
4. Flammable gases are permitted provided their use, dispensing, mixing, and storage complies with all of the requirements of the currently adopted edition of the applicable Building Code, Fire Code, Mechanical Code, Plumbing Code, and National Electrical Code and all applicable State and Federal laws.

C. Retail Sales in Conjunction with Wholesale Establishments.

1. Retail sales in conjunction with wholesale establishments may be allowed, provided not more than 20% of floor area or sales volume of any individual user or tenant may be devoted to retail operations. Notwithstanding this 20% limitation, furniture and carpet wholesalers may have greater than 20% of their floor area or sales volume devoted to retail operations.
2. All retail sales shall be conducted within the same structure housing the principal wholesale use, and no outdoor retail sales activity shall be allowed.

3. Parking for the retail accessory use shall be provided in accordance with the off-street parking standards for retail uses as set forth in §6.16 of this Code.

#### **5.2.36 Vehicle or Automobile Wrecking or Salvage Yards (Including Outdoor Storage of Inoperable Vehicles)**

In the CC-A Sub-District, vehicle or automobile wrecking or salvage yards shall not be located on property adjacent to any of the following streets:

- A. 52nd Avenue;
- B. 60th Avenue;
- C. Lamar Street;
- D. Sheridan Boulevard.

The above locational limitations do not apply to outdoor storage of inoperable vehicles when such use does not involve dismantling or salvage.

#### **5.2.37 Vehicle/Equipment Repair**

In the NC Zoning Sub-Districts, all vehicle/equipment repair uses shall be conducted within a completely enclosed building.

#### **5.2.38 Veterinary Clinic or Office**

- A. All facilities, including all treatment rooms, cages, pens, training rooms, and exercise runs, shall be within a completely enclosed, soundproof building.
- B. Short-term boarding associated with the medical treatment and post-operative care of animals shall be allowed, provided such boarding is contained within a completely enclosed building.

### **5.3 ACCESSORY USES AND STRUCTURES (INCLUDING HOME OCCUPATIONS)**

#### **5.3.1 General Standards**

- A. All allowed by-right and conditional uses shall be deemed to include the accessory uses, structures, and activities as set forth in this section, unless specifically prohibited.
- B. All accessory uses, structures, and activities shall be subject to the general, dimensional, operational, and use-specific regulations set forth in this section, in addition to the same regulations that apply to principal uses in each district. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this Code, the standards of this section shall control.
- C. All accessory uses and structures shall comply with the following conditions:

1. The accessory use or structure shall be clearly incidental and customarily found in connection with the principal use; and
2. The accessory use or structure shall be conducted and/or located on the same zoning lot as the principal use; and
3. There shall be unity of ownership between the principal use and the accessory use; and
4. The floor area of an accessory structure shall be less than that of the principal structure.

### **5.3.2 General Development & Operational Standards**

The following standards shall apply to all accessory uses and structures in all zoning districts, except for: (1) Satellite antenna dishes accessory to residential uses that are 1 meter (40 inches) or less in diameter; and (2) Satellite antenna dishes accessory to non-residential uses that are 2 meters (80 inches) or less in diameter.

- A. Time of Establishment. No accessory use shall be established and no accessory structures shall be allowed on the subject parcel until after all required permits and approvals for the principal use or activity have been obtained.
- B. Applicable Standards. Accessory uses and structures shall comply with all applicable development and design standards imposed on the associated principal residential or non-residential use in that zoning district or sub-district, except as expressly allowed or exempted in this Section. Applicable development and design standards include, but are not limited to, standards set forth in Article 4, "Zoning Districts," and Article 6, "Development Standards."
- C. Location of Accessory Structures
  1. Except as otherwise expressly allowed by the applicable zone district regulations, no accessory structure, except accessory mini-structures and permitted fences or walls erected on a property line, shall be erected in any required yard setback area.
  2. Accessory mini-structures shall not be permitted in a required front yard.
  3. No accessory structure shall be located within any platted or recorded easement of the City's or over any utility, except as otherwise expressly agreed to in writing by the City or utility provider, as applicable.
  4. Unless attached to the principal structure, accessory structures, except mini-structures, shall be located at least five (5) feet from any other principal or accessory structure. Nothing in this section shall prohibit an accessory garage located five (5) feet or more from the principal dwelling unit from being attached to the principal building by a breezeway or similar structure.

- D. Number of Accessory Structures.
  - 1. Principal Residential Uses: No more than 3 accessory structures shall be permitted on a single lot.
  - 2. Principal Industrial Uses: No more than 3 accessory structures shall be permitted on a single lot, unless approved as part of a PUD.
  - 3. All Other Principal Uses: No more than 1 accessory structure shall be permitted on a single lot, and shall not be used for storage unless approved as part of a PUD.
- E. Maximum Structure Size. Except as otherwise expressly limited or allowed in this Section, (including Section 5.3.3.E) and except for accessory recreational facilities including swimming pools and spas, accessory structures shall not be larger than the principle structure.
- F. Height. Except for television antennas and as otherwise expressly limited or allowed in this Section or Code, the height limitations set forth in the underlying zoning districts shall apply to all accessory buildings and structures located therein.
- G. Dwelling Unit Prohibited. Except as otherwise expressly allowed, no dwelling unit shall be located in any accessory structure or building.
- H. Limits on Mobile Homes/RV's. No mobile home or recreational vehicle (RV) shall be used for accessory uses.
- I. Material. – Fabric structures, except mini-structures, shall be prohibited except in industrial districts and to cover public recreational uses.

### **5.3.3 Uses/Structures Permitted as Accessory to Principal Residential Uses**

- A. General Provisions.
  - 1. Applicability. This §5.3.3 sets forth what types of uses and structures are permitted as accessory to principal residential uses in the Standard Zoning Districts, New Communities Zoning Sub-Districts, Clear Creek Zoning Sub-Districts, and PUD Zoning Districts.
  - 2. Unlisted Accessory Uses or Structures. If an accessory use or structure is not listed in this §5.3.3 below, but satisfies all the conditions set forth in §5.3.1.C above, it may be permitted subject to compliance with the general, dimensional, and operational standards set forth in this Section.
- B. Accessory Dwelling Unit, Residential. Accessory Dwelling Units are allowed in conjunction with all single-family detached dwellings in residential zone districts, subject to the following conditions:
  - 1. Conformance to Development Standards. Any Accessory Dwelling Unit must meet the same development standards required for the principal dwelling unit.

2. Parking. One on-site parking space shall be required for an Accessory Dwelling Unit. Parking for the Accessory Dwelling Unit is in addition to the required parking for the principal dwelling unit. The required parking space may be in tandem with other required spaces.
3. Unit Size and Configuration. For a principal dwelling unit of 1000 square feet or more of living space, the Accessory Dwelling Unit shall be no larger than 40% of the living space of such principal dwelling unit, or 800 square feet, whichever is smaller. For a principal dwelling unit of less than 1000 square feet of living space, the Accessory Dwelling Unit shall be no larger than 400 square feet. No Accessory Dwelling Unit shall be less than 200 square feet, and all Accessory Dwelling Units shall be designed and configured as either studio or one bedroom units. Square footage calculations, as contained herein, exclude any related garage, porch or similar area.
4. Unit Occupancy. No more than two persons shall occupy an Accessory Dwelling Unit of less than 600 square feet, and no more than three persons shall occupy an Accessory Dwelling Unit ranging from 600 to 800 square feet.
5. Existing Development on Lot. A single-family dwelling must exist as a principal dwelling unit on the lot or be constructed in conjunction with the Accessory Dwelling Unit. A certificate of occupancy will only be granted to an Accessory Dwelling Unit after it has been granted to the principal dwelling unit.
6. Number of Accessory Dwelling Units per Parcel. Only one Accessory Dwelling Unit shall be allowed for each parcel.
7. Owner Occupancy. The property owner, as reflected in title records and evidenced by voter registration, vehicle registration or other similar means, must occupy either the principal dwelling unit or Accessory Dwelling Unit. The Director may waive this requirement for temporary absences of less than one (1) year provided that the owner has maintained the permitted use for a minimum of two years and submits proof of the temporary absence. Prior to a building permit being issued for an Accessory Dwelling Unit, the property owner shall record a deed restriction, in a form acceptable to the Director, prohibiting renting out both the principal dwelling unit and the Accessory Dwelling Unit.
8. Design. To preserve the appearance of the single-family dwelling, Accessory Dwelling Units shall be designed in the following manner:
  - a. The design of the Accessory Dwelling Unit shall be compatible with the design of the principal dwelling unit by use of similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch and colors;

- b. The exterior finish material must be the same or visually match in type, size and placement of the exterior finish of the primary residence;
  - c. The roof pitch must be substantially the same as the predominant roof pitch of the primary residence;
  - d. Eaves must project from the building walls at substantially the same distance as the eaves on the primary residence;
  - e. Windows must substantially match those in the primary residence in proportion (width and height) and orientation (horizontal and vertical);
  - f. Trim must be substantially the same in type, size and location as the trim used on the primary residence;
  - g. The entrance to an Accessory Dwelling Unit shall not face the front of the lot, and not be directly visible to the public, unless it can be demonstrated that no other reasonable alternative exists. In such a case, only one Accessory Dwelling Unit entrance may be located on each front or street side of the principal dwelling unit and shall be located in such a manner as to be set back a minimum of 3 feet from the same view of the building which encompasses the entrance to the principal dwelling unit. In addition to being set back from the entrance to the principal dwelling unit, this secondary entrance shall be treated architecturally in such a way as to be de-emphasized in comparison to the principal dwelling unit. Uses of relatively smaller porches, overhangs or trim for the Accessory Dwelling Unit entrance are examples for creating this architectural hierarchy;
  - h. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors unless fencing or landscaping is provided which adequately accomplishes the same purpose.
9. Outdoor Areas. The site plan shall provide accessible outdoor space and landscaping for both the Accessory Dwelling Unit and the principal dwelling unit.
10. Utility Service Requirements. Accessory Dwelling Units must be connected to the utilities (except telephone, television and internet) of the principal dwelling unit and may not have separate services.
11. Garage Space. Garage space dedicated for use in conjunction with an ADU shall not exceed 250 square feet.
12. Home Occupations. Home occupations shall be allowed, subject to existing regulations, in the principal dwelling unit but not in the Accessory Dwelling Unit.
13. Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an Accessory Dwelling Unit.
14. Deed Restriction. Before obtaining a building permit for an Accessory Dwelling Unit, the property owner shall file with the County Clerk and Recorder, in a form acceptable to the Director, a

declaration of restrictions in reference to the deed under which the property was acquired by the present owner stating that:

- a. The Accessory Dwelling Unit shall not be sold separately from the principle dwelling unit, nor shall the lot on which it is situated be subdivided unless such subdivision can be accomplished in accordance with all provisions of the Arvada Land Development Code;
- b. The Accessory Dwelling Unit shall be restricted to the approved size;
- c. The Certificate of Occupancy for the Accessory Dwelling Unit shall be in effect only so long as either the main residence, or the Accessory Dwelling Unit, is occupied by the owner of record as their principal dwelling unit, subject to any temporary waiver granted pursuant subsection 5.3.3 B.7;
- d. The above restrictions are binding upon any successor in ownership of the property;
- e. Lack of compliance with deed restrictions may subject the owner of the property to any and all penalties provided for in the Arvada Land Development Code;
- f. The deed restrictions shall lapse upon removal of the Accessory Dwelling Unit. To effect this intent, and upon verification of such removal, the City shall record appropriate documentation releasing such encumbrance. The property owner shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

C. Barns and Stables.

1. Accessory barns and stables are allowed only on residential lots that are 12,500 square feet in area or larger, excluding the footprint of the house.
2. All barns and stables shall comply with the following setback requirements, unless a higher setback is required in the applicable zoning district.
  - a. Front setback: 30 feet
  - b. Rear setback: 25 feet
  - c. Side setback: 25 feet.
3. Accessory barns and stables shall not be used for commercial purposes, including but not limited to boarding, for compensation, animals not owned by the occupants of the principal dwelling.

D. Family Home Day Care.

1. Such accessory use shall be licensed by the State of Colorado.
2. All such uses shall be operated in conformance with the "Minimum Rules and Regulations of Children's Day Care Homes," as amended, issued by the Colorado Department of Social Services, Division of Public Welfare.

- E. Garages, Carports, and Off-Street Parking Areas.
1. Such accessory use shall serve only the residents of the property, and shall not be used for commercial purposes.
  2. A garage or carport may be detached from or attached to the principal structure, provided it complies with all applicable zone district regulations, including setback requirements.
  3. All garages or carports accessory to a single residential use, whether attached or detached to the principal dwelling, shall cumulatively be no larger than 75% of the total gross area of the principal dwelling.
- F. Gates and Guard Houses.
1. Gates and guard houses are allowed only when approved as part of a PUD final development plan.
- G. Guest Houses or Guest Rooms.
1. Such accessory use shall not include kitchen facilities.
  2. Guesthouses or rooms shall be used only for the housing of guests or resident employees of the occupants of the principal dwelling and such facilities shall not be used as rental units.
- H. Home Occupations. See §5.3.4 below for applicable standards.
- I. Keeping of Animals.
1. The keeping of animals shall comply with all applicable provisions of Chapter 6, "Animals and Fowl," of the Arvada City Code.
  2. Horses may be kept in the A-1, R-CE, R-E, NC-RA, NC-RB, NC-RC, and PUD-R zoning districts only, provided that the animals are kept in a fenced area and provided there shall be a minimum gross land area (not including land area occupied by the principal dwelling) of 12,500 square feet per horse, plus 6,000 square feet for each additional horse.
  3. Cows, goats, and other similar livestock may be kept in the A-1 and R-CE zoning district.
  4. In no case, shall the total number of horses or other livestock animals kept exceed four (4) animals per one (1) acre of land.
  5. All livestock pens, fenced corrals, or other structures for keeping horses or livestock shall be located no closer than one hundred (100) feet from an existing dwelling unit.
- J. "Mini-Structures" Including Playhouses, Cabanas, Gazebos, and Incidental Household Storage Buildings.
1. The height of such structures shall not exceed 12 feet, except for tree houses.

2. Such structures shall not exceed two structures per principal use or exceed two hundred twenty (220) square feet in cumulative gross floor area for all structures.
3. Such structures shall not be permitted in a required front setback area.
4. Such structures shall be compatible with the principal structure.
5. Such structure(s) shall not be included in the lot coverage requirement.
6. Such structures shall not be attached to a dwelling unit as an accessory building.
7. Such structures shall not be used as a garage or storage for a vehicle.

K. Private Greenhouses.

1. Allowed as accessory to a single-family detached dwelling only.
2. No retail sale, wholesale sale, or other commercial uses of the greenhouse are allowed.

L. Private Recreational and Play Facilities.

1. Such facilities shall be for the exclusive use of the residents of the property or development, and residents' guests.
2. No outdoor lighting shall be erected to light private tennis courts.
3. The height of any recreational or play facility shall not exceed 12 feet.
4. All swimming pools and spas shall be subject to the restrictions set forth in §5.3.3.Q below.

M. Satellite Dish Antennas 39 Inches (1 Meter) or less in Diameter.

1. See §5.2.31 above for standards applicable to telecommunications facilities, including dish antennas.
2. To the maximum extent feasible, but only where there is no impairment to acceptable signal quality, such satellite dish antenna shall be located in the rear yard of the residential use.

N. Satellite Dish Antennas Greater than 39 Inches (1 Meter) in Diameter.

1. See §5.2.31 above for standards applicable to telecommunications facilities, including dish antennas.
2. To the maximum extent feasible, but only where there is no substantial impairment to acceptable signal quality, such satellite

dish antenna shall be located in the rear yard of the residential use.

3. To the maximum extent feasible, the satellite dish antenna shall be screened from view from adjacent public rights-of-way.

O. Solar Energy Systems.

P. Storage or Parking of Trucks, Cars, or Major Recreational Equipment, Including but Not Limited to Boats, Boat Trailers, Camping Trailers, Motorized Homes, and House Trailers.

Storage or parking of major vehicles and major recreational equipment shall comply with §17.23 and §17.24 of the Arvada City Code.

Q. Swimming Pools/Spas.

1. All swimming pools and spa pools shall be enclosed with at least a four (4) foot wall, structure, or fence with a self-closing and self-latching gate in conformance with the applicable provisions of §6.5.8 of this Code and Chapter 7 of the Arvada City Code.
2. Swimming pools shall not be located in a front yard, shall be set back a minimum of ten (10) feet from all property lines and not located within a front set back, and shall not be counted in calculating lot coverage.
3. All spas shall be setback a minimum of ten (10) feet from all property lines, and shall not be counted in calculating lot coverage.

R. Wind Generators

Wind generators for the use of, and accessory to, single family residential home is permitted, providing that the height does not exceed 35 feet; the setback from the property line to the base of the supporting pole is equal to or greater than the distance from the base to top of the generator/pole, or the zoning district setback, whichever is greater; the blade diameter does not exceed 8 feet; and sound created does not exceed the residential limit (50 dba night, 55 dba day).

### 5.3.4 Home Occupations

All permitted home occupations shall comply with the following standards and conditions:

A. Development Standards.

1. The use is conducted entirely within the dwelling and not in any accessory building and is carried on only by inhabitants thereof and no others.
2. The entrance to the space devoted to such use shall be from within the dwelling, unless otherwise required by state law or regulation.

3. The use does not require internal or external alteration or involve construction features not customary in a dwelling.
4. No stock in trade is kept or commodities sold except such as are made on the premises. This does not include the storage of stock or commodities which are sold off the premises.
5. The use does not require internal or external alteration or involve construction features or use of mechanical equipment not customarily in a dwelling.
6. The use is limited to electric motors for power, with a total limitation of three (3) horsepower.
7. The use does not create any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
8. The use shall not change the character of the dwelling or create outside the dwelling any external evidence, either on the property or on the street, of the operation of the home occupation, except for one non-illuminated sign, having an area of not more than one square foot, which shall be attached flat against the dwelling. A garage or other accessory building shall not be utilized for, or in conjunction with, a home occupation.
9. There shall be no exterior/outside storage on the premises of material or equipment used as part of the home occupation.
10. The use shall not create any significant traffic burden within the immediate area.
11. All parking needs created by all home occupations shall be accommodated by off-street parking and shall not exceed the parking capacity of the existing and available parking facilities located on the property. No more than two vehicles that are associated with the home occupations at the dwelling may be parked on-site at any one time.

### **5.3.5 Uses/Structures Permitted as Accessory to Principal Non-Residential Uses**

#### **A. General Provisions.**

1. Applicability. This §5.3.5 sets forth what types of uses and structures are permitted as accessory to principal non-residential uses in the Standard Zoning Districts, New Communities Zoning Sub-Districts, Clear Creek Zoning Sub-Districts, and PUD Zoning districts.
2. Unlisted Accessory Uses or Structures. If an accessory use or structure is not listed in this §5.3.5 below, but satisfies all the conditions set forth in §5.3.1.C above, it may be permitted subject to compliance with the general, dimensional, and operational standards set forth in this Section.

B. Accessory Dwelling Unit, Live/Work

1. Design. To preserve the appearance of the principal unit, Accessory Dwelling Units shall be designed in the following manner:
  - a. The design of the Accessory Dwelling Unit shall relate to the design of the principal unit by use of similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch and colors;
  - b. The entrance to an Accessory Dwelling Unit shall face the interior of the lot, and not be directly visible to the public, unless it can be demonstrated that no other reasonable alternative exists. In such a case, only one Accessory Dwelling Unit entrance may be located on each front or street side of the principal unit and shall be located in such a manner as to be set back from the same view of the building which encompasses the entrance to the principal unit. In addition to being set back from the entrance to the principal unit, this secondary entrance shall be treated architecturally in such a way as to be de-emphasized in comparison to the primary entrance. Uses of relatively smaller porches, overhangs or trim for the Accessory Dwelling Unit entrance are examples for creating this architectural hierarchy;
  - c. The exterior finish material must be the same as, or visually match in type, size and placement, that of the exterior finish of the principle unit;
  - d. The roof pitch must be substantially the same as the predominant roof pitch of the principle unit;
  - e. Eaves must project from the building walls at substantially the same distance as the eaves on the principle unit;
  - f. Windows must correspond to those in the principle unit in proportion (width and height) and orientation (horizontal and vertical);
  - g. Trim must be substantially the same in type, size and location as the trim used on the principle unit.
2. Utility Service Requirements. Accessory Dwelling Units must be connected to the utilities (except telephone, television and internet) of the principal unit and may not have separate services.
3. Garage Space. Garage space dedicated for use in conjunction with an ADU shall not exceed 250 square feet;
4. Deed restriction. Before obtaining a building permit for an Accessory Dwelling Unit the property owner shall file with the County Clerk and Recorder, in a form acceptable to the Director, a declaration of restrictions in reference to the deed under which the property was acquired by the present owner stating that:
  - a. The Accessory Dwelling Unit shall not be sold separately from the principle unit, nor shall the lot on which it is situated be subdivided;
  - b. The Accessory Dwelling Unit shall be restricted to the approved size;

- c. The above restrictions are binding upon any successor in ownership of the property;
- d. Lack of compliance with deed restrictions may subject the owner of the property to any and all penalties provided for in the Arvada Land Development Code;
- e. The deed restrictions shall lapse upon removal of the Accessory Dwelling Unit. To effect this intent, and upon verification of such removal, the City shall record appropriate documentation releasing such encumbrance. The property owner shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

C. Animal Boarding Facility. Animal Boarding Facilities are allowed as an accessory use to a principal retail establishment that sells pet supplies as its primary business, provided:

- 1. The retail establishment has a gross floor area of at least 20,000 square feet.
- 2. The portion of the boarding facility devoted to animal kennels comprises a maximum of 10% of the gross floor area of the retail establishment.
- 3. The entire boarding facility comprises a maximum of 30% of the gross floor area of the retail establishment.
- 4. The boarding facility is contained entirely within the retail establishment building, with no outside activity and no direct access to outside.
- 5. The boarding facility is fully partitioned from the retail sales area.
- 6. The boarding facility design incorporates measures to eliminate any nuisance caused by sound or odor.
- 7. The boarding facility is adequately staffed 24 hours a day, 7 days a week whenever animals are present in the facility.

D. Automated Teller Machine (ATM).

E. Cafeterias, dining halls, and similar eating or drinking establishments provided that:

- 1. Such use is located inside the same building or structure as the principal permitted use; and
- 2. Such use is operated primarily for the convenience of employees, clients, customers, or visitors to the principal use.

F. Car Wash Bay. A single-bay car wash is allowed as an accessory to a permitted service station use only. See §5.2.9.J for additional requirements applicable to car wash bays accessory to a permitted service station use.

G. Clock Tower. Accessory clock towers shall comply with the following regulations:

1. Any proposed Clock Tower shall require a design review conducted by the Community Development Director and approval by the Planning Commission. Satisfactory provisions for proposed exterior lighting with reference to glare, traffic safety, and architectural and design compatibility with developed properties in the district shall be demonstrated upon review.
2. No Clock Tower shall have a clock face or time implement on more than four sides of the Clock Tower.
3. The area of the clock face or time implement shall not exceed 145 square feet on any side of a Clock Tower.
4. No Clock Tower shall have more than two sides displaying advertising signs in addition to the clock face. No sign other than the clock face on a Clock Tower shall exceed the height of 25 feet. No sign other than the clock face on a Clock Tower shall exceed 30 square feet. No freestanding signs will be permitted on the same lot or parcel as the Clock Tower.
5. All Clock Towers shall meet all setback requirements for applicable freestanding signs as set forth in §6.17.

H. Clubhouses including space for the sale of golf or other sporting equipment, food, and refreshments are allowed as an accessory to principal golf courses or indoor recreational facilities only.

I. Day Care Center. Such accessory use shall occupy not more than 25 percent of the gross floor area of the principal building, or shall be located in a freestanding building in a mixed-use development.

J. Donation Boxes

One-nonprofit donation box may be permitted as an accessory structure to a principal permitted non-residential use/structure provided the following conditions are met:

1. The size is not greater than 60 square feet.
2. The height is not greater than 6 feet.
3. The location of the donation box must be placed behind the front of the building, or if this is not suitable, an alternative site in an inconspicuous location may be approved by the Community Development Director. In no case shall it be located within the front setback.
4. The name of the non-profit agency and phone number in minimum four inch high lettering is provided on the donation box.
5. Only one donation box is permitted per individual lot or commercial center.

6. Only non-profit entities are allowed. For profit donation boxes, trailers, or other such facilities are not permitted as an accessory use.

K. Gasoline and Fuel Sales (Service Stations). Gasoline and fuel sales (service stations) are allowed as an accessory use to a principal grocery store or large retail establishment use, provided:

1. On-site vehicle access and circulation shall be designed so that adjacent residential uses or properties are not disturbed, either by day or night, by the movement of vehicles or the lights from vehicles.
2. Building and Equipment Setbacks and Buffers.
  - a. The service station building and any related structures, except for fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment, shall be set back a minimum of 40 feet from all street rights-of-way and from all property lines abutting a residential zoning district or a parcel containing residential uses.
  - b. When the service station use abuts a residential zoning district, use, or property, a minimum 20-foot wide buffer shall be provided along the shared boundary as required by §6.5.6.B, except that the trees required by §6.5.6.B shall be planted on the side of the fence or wall facing the residential use.
  - c. Fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment shall be set back a minimum of 15 feet from any street right-of-way, and a minimum of 20 feet from all property lines abutting residentially zoned property.
3. Service Stations - Equipment, Activity, and Materials Enclosure.
  - a. Hydraulic hoists, pits, and all lubrications, greasing, automobile washing, or repairing equipment shall be entirely enclosed within a building. When any such building or portion of a building faces, abuts, or is adjacent to residentially zoned property, the closest, adjacent building wall or face shall consist of a solid blank wall with no openings other than those required by applicable building codes.
  - b. All minor repair work, vehicle washing, lubrication, and installation of parts and accessories shall be wholly performed within an enclosed building or structure.
  - c. All vehicle parts, dismantled vehicles, and similar materials, and all discarded materials such as tires, cans, and drums, shall be stored within an enclosed building or screened from view by a solid, opaque fence. See §6.5.8 for acceptable fence/wall materials.
4. Vehicle Repair. All vehicles awaiting repair shall be stored on site in approved parking spaces and under no circumstances shall such vehicles be stored on or obstruct access to a public right-of-way.

5. Vehicle Stacking. The subject property shall contain adequate space to allow a minimum of three (3) cars to stack in a line for fuel dispensing services without using or obstructing any portion of an adjacent public sidewalk or right-of-way.
6. Fuel Pump Canopies.
  - a. Any fuel pump canopy shall utilize the same architectural treatment as the building housing the primary or principal use.
  - b. A maximum of 25% of each canopy fascia area visible from a public street may be internally illuminated, and no portion of any fascia may be externally illuminated. Each side of a fuel pump canopy shall be considered a separate fascia area.
  - c. Where the use abuts a residential zoning district, use, or property, floodlights or other lights illuminating the fuel pumps or other areas of the site shall be extinguished at the close of business.

L. Gates and Guard Houses.

M. Incineration as an accessory use to a principal manufacturing or processing use in the I-2 Zoning District or the NC-I/OF, NC-SU, or non-residential portions of the NC-MU-C Sub-Districts.

N. Meeting Rooms, Banquet Halls, and Similar Group Gathering Spaces and uses as accessory to a principal visitors accommodations use (not including a bed and breakfast establishment), provided:

1. Such use shall be located inside the same building housing the principal use;
2. Such facilities shall be operated primarily for the convenience of guests, customers, or visitors to the principal use; and
3. The total gross floor area of the accessory use shall count toward any maximum FAR requirement.

O. Miscellaneous Retail/Service Uses Accessory to Principal Office & Hospital Uses.

1. Barber/beauty shops, photocopy shops, news and novelty stands, gift shops, flower shops, cafeterias, day care centers, restaurants, snack bars, pharmacies, and similar retail and service establishments may be allowed as uses clearly incidental and accessory to a principal permitted office used provided:
  - a. Such accessory uses shall not occupy more than ten (10) percent of the total gross floor area of the office building or development.
  - b. Such accessory uses shall be located entirely within the structure housing the principal permitted office use.

P. Outdoor Retail Display or Sales. Outdoor retail display shall be allowed as an accessory use to a principal retail establishment use subject to the following condition:

1. Except in the CC District, outdoor retail display shall be relocated inside the building during non-business hours. Seasonal, temporary sales may be permitted subject to an approved temporary use permit (see §3.17 and §5.4.2.D).
2. The amount of permitted outdoor retail display area in the CC-District shall be as follows (percentage of total lot area):
  - a. CC-A Sub-District: 100%
  - b. CC-B Sub-District: 0%
  - c. CC-C Sub-District: 75%
  - d. CC-D Sub-District: 0%
  - e. CC-E Sub-District: 75%.
3. One vehicle may be displayed by membership oriented establishments of over 80,000 square feet in area provided that the vehicle is for sale inside the business, the vehicle is located in an approved area within 100 feet of the entrance, and the area on which the vehicle is parked is not on a landscaped area or blocking a sidewalk.
4. Two legal vehicles that are identified with the name of the business may be parked on a plaza that is connected to a building frontage. Each vehicle must be used in the daily operation of the business. If there is no dedicated sidewalk, the sidewalk will be considered to be a 5 ft. path next to the curb that continues the length of the property. The vehicles must be 15 ft. from the wall of the business, and not under any portion of the roof, or awning covering the plaza unless the roof has a fire protection system. The vehicles must be located at least 6 ft. from the sidewalk or pedestrian area, and also not block entrances to the building. The vehicles are allowed to be parked in this designated area no more than one hour before or after operating hours of the business.

Q. Outdoor Eating/Serving Areas as accessory to a principal restaurant use, provided that in all districts except the B-3 and PUD-BPR Zoning Districts, and NC-MU Subdistricts A, B, and C, the outdoor serving area is not located within one hundred (100) feet of a residential zoning district, use, or property.

R. Outdoor Storage. Outdoor storage of goods and/or materials accessory to a principal non-residential use shall be allowed subject to the following conditions:

1. In the I-1 District, accessory outdoor storage shall not occupy more than ten (10) percent of the total lot.
2. In the I-2 District, accessory outdoor storage may occupy up to one-hundred (100) percent of the total lot, but not including required front setback areas.

3. In the PUD-I District, accessory outdoor storage shall not occupy more than five (5) percent of the total lot.
4. In the NC Sub-Districts where industrial uses are permitted, the following standards shall apply to any accessory outdoor storage use:
  - a. Outdoor storage shall not be permitted within any required building setback area;
  - b. At a minimum, outdoor storage shall not be permitted within 100 feet of any Arterial street and the City may require a greater distance, up to 500 feet, from major highways or parkways including the Jefferson Parkway right-of-way;
  - c. Outdoor storage areas shall not exceed an area equal to twice the building coverage of the primary structure.
5. In the CC Sub-Districts, the maximum amounts of accessory outdoor storage as a percentage of total lot area shall be:
  - a. Sub-District A: 100%
  - b. Sub-District B: 10%
  - c. Sub-District C: 0%
  - d. Sub-District D: 10%
  - e. Sub-District E: 50%.
6. In the CC-C Sub-District, storage is restricted to an enclosed structure that is integrated structurally and architecturally with the main structure. Accessory outdoor and/or temporary storage areas shall be:
  - a. Identified during the development approval process;
  - b. Limited in area to no more than 1% of the lot area;
  - c. Screened from adjacent rights-of-ways and any adjacent residential uses by a building or opaque wall or fence a minimum of 6 feet high; and
  - d. Limited in duration to no more than 60 days within a calendar year.

Limited and/or temporary outdoor storage (exclusive of junkyards, automobile wrecking yards, and salvage yards) that does not fall within the above criteria may be approved through the conditional use procedures in §3.14.
7. In all other zoning districts, accessory outdoor storage is prohibited unless otherwise expressly allowed by this Code or by the terms of an approved PUD Zoning District.
8. All outdoor storage shall be screened as required by §6.5.11(Outdoor Storage).

S. Parking Garages and Off-Street Parking Areas for employees, customers, and guests.

T. Private Recreational Facilities for use by employees and guests, subject to the standards set forth in §5.3.3.Q for swimming pools.

- U. Production of Fermented Malt Beverages, malt, special malt and vinous and spirituous liquors (brew pub), as accessory to a principal restaurant use only.
- V. Restaurants, bars, newsstands, gift shops, clubs, and lounges when inside the principal building containing a permitted hotel use.
- W. Retail Sales as an accessory use to artisan and photography studios, provided the works of art or photographs for sale shall be work product from the principal studio use.
- X. Storage of Merchandise and Non-Hazardous Materials when located in the same building as the principal use. The following conditions shall apply to indoor storage accessory to a permitted retail use in the B-3 zoning district:
  - 1. Items stored within any building shall be screened so that the items are not visible through any window areas that face any public street or public way of the building.
  - 2. At least 1,000 square feet or 50% of the total floor area of the building used for such storage, whichever is greater, shall remain available for retail use.
- Y. Storage of Hazardous Materials outside of a bunker or structure as an accessory to a principal industrial use engaged in blasting provided such storage complies with all applicable Colorado or federal standards.
- Z. Storage Sheds.
  - 1. Free-standing storage sheds are permitted only as accessory to a permitted principal industrial use.
  - 2. Such structures shall not be permitted in a required setback area.
- AA. Swimming Pools and Tennis Courts located on the same parcel of a permitted principal hotel use, subject to the standards set forth in §5.3.3.Q for swimming pools.

## 5.4 TEMPORARY USES & STRUCTURES

### 5.4.1 Permit Required

The Community Development Director, except as set forth in §5.4.2.C.2.c (special events on public rights-of-way or in public parks), shall issue a permit for temporary uses or structures within any zone district provided such temporary use or structure meets the requirements of this Section. All permits shall be approved pursuant to the procedures set forth in §3.17 of this Code.

### 5.4.2 Temporary Uses Permitted

- A. Contractor's Office/Temporary Construction Uses.

Permitted in all Zoning Districts. The use of construction sheds or construction trailers in connection with site construction, or an area used for the temporary storage of building materials and equipment necessary for construction of a permanent use, are permitted temporary uses in all zoning districts, subject to the following regulations and restrictions.

1. Term of Approval. The term of a temporary use approval for construction uses shall automatically expire 30 days after completion of construction, or upon cessation of construction for more than 60 days, or 1 year after issuance, whichever occurs first. The Community Development Director may grant extensions if the builder maintains active and continuous construction on the site or within the subdivision.
2. Site Requirements.
  - a. A temporary construction trailer, construction shed, or a construction yard shall be located on the lot on which construction is progressing, or within the subdivision for which the construction is occurring, and shall not be located within 25 feet of any abutting residential lot.
  - b. Public Works projects may use private property in the vicinity of the project for the siting of construction trailers.
  - c. Siting of a temporary construction yard shall provide adequate setbacks for adjacent structures and uses.
  - d. A temporary construction yard shall be maintained in good condition during the time of its use. Construction yards and sites shall be regularly mowed, and weed growth shall be controlled. Trash and rubbish barrels/receptacles shall be provided on-site and trash pick-up and removal shall occur on at least a weekly basis.
  - e. Fencing up to 6 feet high may be approved in standard setbacks for a temporary period of time.
3. Dwelling Prohibited. A temporary construction trailer or construction shed shall be used only as temporary field offices and for storage of incidental equipment and supplies, and shall not be used as any type of dwelling.
4. Commencement of Use. A temporary construction trailer or construction shed, or a temporary construction yard, shall be moved, erected, or established on a construction site no earlier than 2 weeks prior to the date on which construction actually commences. If construction is interrupted and ceases for more than 60 days, excluding weather delays, a construction trailer or construction shed shall be removed until actual construction commences again.
5. Fire Hazards. No flammable materials shall be stored in a temporary construction trailer or construction shed.
6. Trailer/Shed Requirements.
  - a. All temporary construction trailers and construction sheds shall have at least 10 feet on all sides for clearance.

- b. Every temporary construction trailer and construction shed shall be maintained in clean and orderly condition.
  - 7. Completion of Temporary Use. Upon completion of the temporary use, the site shall be cleaned, all evidence of the use(s) removed, and left in a condition that minimizes adverse impacts to the site itself and to surrounding properties.
- B. Credit Union Car Sales. A credit union may have a special event car sale for members only provided the following requirements are met:
  - 1. The sale must be conducted within the paved parking area of the credit union and not on any landscaped or open area.
  - 2. Cars for the sale must be parked in the approved parking area of the credit union, and may not be parked on more than 50% of the paved parking lot.
  - 3. No more than two special event car sales may be conducted at a credit union per calendar year.
  - 4. Signs allowed for the special event car sale shall meet the sign code requirements which would allow, in most instances, a 40 square foot banner attached to the building.
- C. Natural Disasters and Emergencies. Temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency. No temporary use permit or other review shall be required.
- D. Special Events.
  - 1. Permit Required. No Special Event, as defined in Article 10 of this Code, shall be permitted unless a temporary use permit has first been obtained in accordance with this Section and the procedures of §3.17 (Permits for Temporary Uses and Structures). The requirement for a permit may be waived in whole or in part, upon the Decision-Making Body's written findings that the proposed special event creates little or no risk of those factors set forth in §3.17.7.l.
  - 2. Permitted Locations. A temporary use permit for a special event shall be required for any special event proposed to be held, in whole or in part, on any of the following properties, or a combination thereof:
    - a. Private property within one or more of the non-residential zoning districts (including PUDs) or the Clear Creek or New Communities Zoning Sub districts;
    - b. Private property within any residential zoning district that is not utilized as a private residence and that contains a total gross acreage of at least two (2) acres, or a private street; or
    - c. Public property, including public parks owned or maintained by the City or Apex Park and Recreation District, public street rights-of-way, and any other property

owned by the City, a special district, or other political subdivision of the State of Colorado.

3. Term of Approval/Permit. A special event authorized pursuant to this subsection shall be limited to a maximum duration of fourteen (14) days, unless otherwise specifically authorized by the Decision-Making Body.

E. Temporary Outdoor Sales.

1. Where Permitted. Temporary outdoor sales are permitted only in the following zoning districts:
  - a. B-1 Zoning District
  - b. B-2 Zoning District
  - c. B-3 Zoning District
  - d. B-4 Zoning District
  - e. PUD-BP, PUD-BPR Zoning Districts
  - f. CC Zoning Sub-Districts
  - g. NC-C/OF
  - h. NC-MU-C.
2. Term of Permit/Limits on Number. A temporary use permit for temporary outdoor sales shall not exceed a term of 120 consecutive days, within a calendar year per principal permitted use.
3. Conditions for Approval. All temporary outdoor sales activity shall comply with the following criteria:
  - a. The Applicant shall provide a plan for storage of any vending cart or motorized vehicle for hours of non-operation in a permanent structure.
  - b. Each Applicant shall possess a current city sales tax license.
  - c. The location of the temporary sales activity shall allow customers to drive into an existing off-street parking area. No temporary outdoor sales may interrupt the flow of traffic on public streets or access ways into a shopping area.
  - d. The Fire District shall approve all proposals for temporary outdoor sales from a tent.
  - e. The area occupied by the temporary sales activity, plus any adjacent clear area required by the Uniform Fire Code, shall occupy no more than 20% of any required off-street parking spaces or area. In no event shall any such area occupied by the temporary use be greater than seven thousand five hundred (7,500) square feet. In all cases, the Applicant shall demonstrate there will be adequate parking for the existing structures as well as the temporary outdoor sales.
  - f. All trucks or tents and associated parking shall be located on asphalt, concrete, or equivalent surface unless the Applicant demonstrates no adverse effect on drainage, access, or the intent of this Code, as determined by the Community Development Director.

- g. Temporary sales shall only be allowed if operated by the owner or lessee of the principal permitted use.
- 4. Temporary Sign Allowed. Any Applicant who possesses a valid permit in accordance with the requirements of this subsection, and while currently engaged in temporary sales operations, may display one portable sign not to exceed fifteen (15) square feet in area on one surface and not to exceed ten (10) feet in height at the location. Such sign shall be placed behind the applicable building setbacks. An approved temporary use permit for temporary outdoor sales activity shall also serve as a sign permit for the sign permitted by this subsection.

F. Temporary Real Estate Sales Office Including Model Home.

- 1. Where Permitted. Temporary real estate sales offices, including model or show homes, shall be permitted in all zoning districts when incidental to a new residential development.
- 2. Commencement of Use. A real estate sales office shall not be moved, erected, or established on a residential development site until the date on or after which construction actually commences.
- 3. Term of Permit. The term of a temporary use permit for a temporary real estate sales office shall automatically expire 30 days after completion of construction or 1 year after issuance, whichever occurs first. The Community Development Director may grant extensions if the builder maintains active and continuous construction on the site or within the subdivision.
- 4. Structure Setbacks. All temporary real estate sales offices, including model or show homes, shall comply with the building setbacks in the zoning district in which the building or structure is located.
- 5. Usage Allowed:
  - a. Permitted temporary real estate sales offices shall be used only as temporary field offices and for storage of incidental supplies, and shall not be used as any type of dwelling.
  - b. Use of the temporary real estate sales office for sales of residential sites or projects located off-site is prohibited.
- 6. Parking for the Temporary Use.
  - a. Except as provided in subparagraph b below, a minimum of three (3) off-street parking spaces shall be required for a temporary real estate sales office.
  - b. The Community Development Director may approve a temporary real estate sales office without off-street parking if the following conditions are met:
    - i. There is a minimum of three (3) adequate on-street parking spaces;
    - ii. There are no residences existing on that portion of the street that would be using the street for parking; and

- iii. There would be no anticipated adverse parking or traffic impacts.
  - c. An off-street parking area shall be paved if it is adjacent to the model or show home. Reconstituted asphalt may be used for paving in the winter when asphalt plants are closed.
- 7. Completion of Use. All temporary real estate sales offices shall be removed, and all model/show homes closed for viewing, within 30 days after the sale of the last dwelling unit in the development, even if the temporary use permit is still valid. As appropriate, the site of the temporary office use shall be returned to its original condition after completion of use.

G. Transient Merchants and Entertainment.

- 1. Definitions. For purposes of this §5.4.2.G, terms shall have such meanings as set forth below or in Article 10 of this Code:
  - a. “Ambulatory Vendor” means a pedestrian transient merchant such as a portrait artist or a person selling balloons who engages in vending while moving and operating with a minimum of equipment and without the use of a pushcart or similar structures or devices typically used by mobile vendors.
  - b. “Entertainment” means a performance or show held outdoors and designed to entertain the public, and includes musical performances and acts by street performers such as jugglers and magicians.
  - c. “Entertainment with Vending” means the vending of a recorded performance of an entertainer contemporaneously with a performance by such entertainer.
  - d. “Food Vending” means the vending of any type of edible substance or non-alcoholic beverage.
  - e. “Merchandise Vending” means the vending of any tangible item that is not a food product, and includes vending associated with entertaining (see “Entertainment with Vending”).
  - f. “Personal Services Vending” means the vending of personal services, such as a chair massage, on a one-on-one basis which does not involve the vending of food, merchandise, or entertainment.
  - g. “Public Space” means property, other than street right of way, that is owned or controlled by the City of Arvada and intended for or appropriate for use and enjoyment by the general public. Olde Town Square, located at the intersection of Olde Wadsworth Boulevard and West 57th Avenue, is an example of public space. Property owned or controlled by a governmental entity other than the City of Arvada shall be considered private property for purposes of this §5.4.2 G.
  - h. “Pushcart” means a wheeled, non-motorized vehicle propelled solely by a single human and used by a mobile vendor for the vending of items authorized by this

§5.4.2.G. A pushcart is included within the definition of “vending cart” as set forth in Article 10 of this Code.

- i. “Vending” means selling, offering for sale, exposing for sale, soliciting offers to purchase, bartering, or requesting or inviting donations in exchange for food, merchandise, or personal services in any publicly-accessible area, by an ambulatory vendor or from a pushcart, stand, or other allowed structure or device, as opposed to the traditional and customary conduct of business activities from a building at a fixed site.
- j. “Vending/Performance Area” means a geographical site to which a transient merchant or one providing entertainment is limited by the provisions of a temporary use permit or, where no temporary permit is required by this §5.4.2.G, a physical dimension not to exceed eight (8) feet by twelve (12) feet on private property or on public space or six (6) feet by ten (10) feet if on the allowed portion of a public street right of way, and within which the operations of a transient merchant or one providing entertainment shall be restricted. Due to the nature of ambulatory vending, the geographical site to which an ambulatory vendor may be restricted necessarily will be more broadly described. Transient merchants or those providing entertainment whose activities require no permit pursuant to this §5.4.2 G shall be required to reduce the size of the physical area in which they operate if necessary to ensure safe, efficient, and convenient pedestrian flow or to comply with any other provisions of this section or other applicable laws and regulations.

2. Where Permitted. The following activities are allowed within the prescribed zoning districts, as a permitted temporary use:

- a. Food vending in the B-2, B-3, B-4, PUD-BP, PUD-BPR, NC-C/OF, NC-I/OF, NC-MU-A, NC-MU-B, NC-MU-C, and CC Zoning Districts; or, if approved by the City in conjunction with an organized event, in any city park (regardless of zoning district).
- b. Entertainment, entertainment with vending, merchandise vending, and/or personal services vending in the B-3 Zoning District (Olde Town Arvada); or, if approved by the City in conjunction with an organized event, in any city park (regardless of zoning district).

3. Permit Required. Except as otherwise provided herein, no transient merchant or one providing entertainment may engage in any of the above-described activities without first obtaining a temporary use permit issued by the Community Development Director in accordance with §3.17 and this §5.4.2.G, or any additional regulations adopted in furtherance thereof.

4. Exceptions. The following shall be exempt from the requirement of a temporary use permit specific to transient merchants or entertainment, but may require a temporary use permit, or other

permit, pursuant to other provisions of this Code, the City Code, or the Charter of the City of Arvada:

- a. Sidewalk sales or similarly-described outdoor sales conducted by an existing business adjacent to its retail operation, which shall be governed by the provisions of §5.4.2 E (“Temporary Outdoor Sales”).
  - b. Vending or entertainment for special events authorized by the City, which shall be governed by the provisions of §5.4.2 D (“Special Events”).
  - c. Vending or entertainment for organized festivals or events in Olde Town Arvada and authorized by the City including, but not limited to, Harvest Festival and all HOTA-sponsored events approved by the Community Development Director.
  - d. Sales associated with outdoor seating for restaurants and taverns.
  - e. Vending by any individual or organization of the following items which have been created, written, composed or otherwise produced by the vendor: books, compact discs, paintings, photographs, or any other item that is inherently communicative and has nominal utility apart from its communication.
  - f. Vending by any individual of newspapers, leaflets, pamphlets, bumper stickers, or buttons.
  - g. Entertainment, unless one or more of the following applies:
    - i. The entertainment is generated by more than one performer;
    - ii. The equipment and appurtenances necessary to provide the entertainment cannot be carried or wheeled by the performer alone, or cannot be contained (during performance) within a rectangular area no larger than five (5) feet by six (6) feet; or
    - iii. The entertainment occurs in conjunction with the vending of food, merchandise, or personal services not falling within another exception or exemption.
5. Compliance with Regulations. Notwithstanding any exception or exemption from the above permit requirements, all transient merchants and those providing entertainment shall comply with the time, place, and manner restrictions and standards established in this §5.4.2.G or other applicable laws or regulations.
6. General Rules Application to Transient Merchants and Entertainment. The following rules and standards shall apply to all transient merchants and those providing entertainment, whether vending or entertaining on private property, on the allowed portions of public street rights of way, or on public space:
- a. Transient merchants and those providing entertainment shall be prohibited from operating in the following locations:
    - i. Within any city park, unless approved by the City in conjunction with an organized event;

- ii. Within forty (40) feet of any property used for school purposes (elementary to secondary) during school hours, unless written permission is obtained from the entity operating such school;
  - iii. Within forty (40) feet of any driveway entrance to a police or fire station;
  - iv. Within thirty (30) feet of any bus stop or transit station embarkment or disembarkment zone;
  - v. Within ten (10) feet of any other driveway, the pedestrian crosswalk at any intersection, or any designated pedestrian crossing point;
  - vi. Within ten (10) feet of any handicapped parking space or access ramp;
  - vii. Within a publicly-owned parking lot or publicly-controlled parking space, or within a privately-owned landscape area or parking lot to the extent that such operation would utilize landscape areas or parking spaces required to meet minimum requirements of this Code, unless the Community Development Director, considering the nature and duration of the proposed temporary activity, determines as applicable that such parking spaces are not necessary or that the landscape area will not suffer a significant permanent detrimental impact;
  - viii. Upon any private property without the written approval of the property owner;
  - ix. Within ten (10) feet of another permitted or otherwise allowed transient merchant;
  - x. In any location other than the vending area specified in the temporary use permit, if applicable; or
  - xi. In any location for which a temporary use permit has been issued to another, except that a violation of such locational restriction shall carry no penalty so long as the violator, upon being advised of the permit, relocates to a vending area in compliance with this §5.4.2 G.
- b. Transient merchants and those providing entertainment shall be prohibited from engaging in the following conduct:
- i. Vending or entertaining in violation of the provisions of this §5.4.2 G or contrary to the terms or conditions imposed in an approved temporary use permit issued pursuant to this §5.4.2;
  - ii. Soliciting or conducting business with persons in motor vehicles located on traffic lanes of public streets and highways;
  - iii. Leaving any vending/performance area without first collecting and disposing of all trash and refuse within such area. Disposing of trash or refuse, including any byproducts of food preparation such as grease or oil, in city trash receptacles, storm sewers, planters, landscaping, or similar features is specifically prohibited;
  - iv. Amplifying sound or otherwise generating sound in violation of §38-61 et seq. of the Arvada City Code.

For purposes of this §5.4.2.G, the Community Development Director shall have authority to act upon any request for a noise permit under §38-61 et seq. as part of the consideration of an application for a temporary use permit;

- v. Leaving any inventory, equipment, signage, or other items upon city-owned or city-controlled property or upon the public street rights of way overnight or at any other time when not engaged in vending or entertainment; or
  - vi. Utilizing any electrical outlet, water faucet or spigot, or other similar source of utility (including those within a public space) without the express written consent of the owner thereof.
- c. Transient merchants engaged in food, merchandise, or personal services vending shall be required to obtain a sales and use tax license from the City of Arvada Finance Department prior to engaging in such vending.
  - d. Transient merchants engaged in food vending shall comply with all applicable regulations of the Colorado Department of Public Health and Environment and other state and local agencies.
  - e. Transient merchants and those providing entertainment shall prominently display on site all required licenses and permits, or photocopies thereof, including temporary use permit, sales and use license, and health permit, as applicable.
  - f. If vending or entertainment is to occur on the sidewalk portion of a public street right of way, a minimum clearance of five (5) feet shall be maintained by the transient merchant or one providing entertainment.
  - g. Signage shall be limited to one sign attached to the pushcart or other primary structure or device utilized in the vending or entertainment, and no larger than four (4) square feet, on which shall be displayed, as applicable, the name of the business, the hours of operation, and the items or services offered and their prices.

7. Additional Rules Specific to Public Street Rights of Way and Public Space. In addition to all other requirements of this §5.4.2.G, vending and entertainment on the public street rights of way or on public space shall be subject to the following requirements:

- a. Transient merchants and those providing entertainment shall be prohibited from operating in the following locations:
  - i. Within a public alley or public street right of way, except upon a sidewalk or, when authorized by the Community Development Director, that portion of the public street right of way situated on the opposite side of the sidewalk from vehicular lanes; or unless otherwise authorized by the City as part of an organized festival or special event;

- ii. Within the boundaries of any sidewalk less than eight (8) feet in width;
  - iii. Within fifteen (15) feet of the main entrance or outdoor patio area to any permanent business establishment, unless written permission is obtained from the establishment's owner;
  - iv. Within forty (40) feet of the main entrance or outdoor patio area to any permanent business establishment that sells or offers for sale the same or substantially similar food, merchandise, or personal services as vended by the transient merchant, unless written permission is obtained from the establishment's owner; or
  - v. Within fifteen (15) feet of the main entrance to a public library or other government building.
- b. Transient merchants and those providing entertainment shall be prohibited from engaging in the following conduct:
- i. Vending weapons or facsimiles of weapons, drug paraphernalia, or obscene materials;
  - ii. Entertaining by juggling, casting, throwing, propelling, or otherwise using a burning projectile, knife, or other sharp instrument;
  - iii. Vending or entertaining at a location and time, whether pursuant to temporary use permit or not, when such location is within an area in which an organized festival or special event is to occur, unless the organizer of the festival or holder of the special event permit furnishes permission in writing; or
  - iv. Taking a motor vehicle onto public space such as Olde Town Square, or onto a sidewalk or that portion of the public street right of way situated on the opposite side of the sidewalk from vehicular lanes, in order to load or off-load a pushcart, equipment, merchandise, food, or any other item.
- c. Those granted a temporary use permit for vending or entertainment on a public street right of way or on public space shall be deemed to have agreed to indemnify and hold harmless the City of Arvada and its officers and employees against any and all claims arising from any occurrence occasioned by or related to the permitted temporary use.
- d. Unless waived by the Community Development Director, those granted a temporary use permit for vending or entertainment on a public street right of way or on public space shall be required to furnish proof of, and maintain during the term of the permit, comprehensive general liability insurance, including products/completed operations liability insurance, with liability coverage of at least \$150,000 per person and \$600,000 per occurrence, with an aggregate limit of \$1,000,000, and naming the City of Arvada as an additional insured on the policy.
- e. No coin-operated vending devices shall be permitted in the public street right of way, except for boxes for the sale of newspapers.

- f. The maximum permissible height for a pushcart shall be seven (7) feet and the maximum height for any other structure or device (tables, stands, etc.) shall be three (3) feet, excluding an allowance of one umbrella to shelter the operator or a canopy that constitutes an integrated part of a pushcart.
- g. Transient merchants operating pursuant to a temporary use permit may set their own specific hours, but except as to ambulatory vendors are required to be in operation at least three (3) hours per day, and an average of three (3) days per week during the term of the permit. At the discretion of the Community Development Director, those providing entertainment pursuant to a temporary use permit may be required to maintain specific periods of performance, as established in the permit.

8. Applications and Permit Issuance, Denial, and Revocation.

- a. An application for a temporary use permit for entertainment or transient merchant vending under this §5.4.2.G shall include:
  - i. The name and both home address and business address of the applicant and, if different, the owner of the business for which the permit is sought;
  - ii. A comprehensive description of the food, merchandise, personal services, or entertainment to be offered;
  - iii. The specific site, if any, from which the applicant/owner desires to conduct the vending or entertainment;
  - iv. A general description of any pushcart, stand, equipment, or other structure or device to be used in the vending or entertainment;
  - v. Proof of insurance, if required by subsection 7.d. hereof; and
  - vi. Payment of the applicable fee, as established in §74-31 of the Arvada City Code.
- b. In addition to any other city departments or agencies deemed necessary, the Community Development Director may, in the Director's discretion and pursuant to §3.17.6, distribute any application pertaining to entertainment or vending in the B-3 Zoning District to Historic Olde Town Arvada for comments.
- c. With respect to an application for a temporary use permit for entertainment or transient merchant vending upon the public street rights of way or public spaces within the B-3 Zoning District, the Community Development Director shall consider, in addition to the approval criteria of §3.17.7 A – E, the degree to which an application meets the following criteria:
  - i. The proposed temporary use would offer a product, service, or entertainment experience that is unique, unusual, or otherwise not widely available in Olde Town Arvada;
  - ii. The proposed temporary use would contribute to diversity and variety within the category of activity

- (entertainment or food, merchandise, or personal services vending) applicable to that use;
- iii. The proposed temporary use would not have a significant detrimental effect upon nearby permanent business establishments;
  - iv. The proposed temporary use would not contribute to an inordinate physical concentration of substantially similar product or service offerings from vendors and entertainers in Olde Town Arvada, whether such population is considered alone or together with permanent business establishments in Olde Town Arvada; and
  - v. The proposed temporary use would not have a significant detrimental effect upon the safe, efficient, and convenient flow of pedestrian or vehicular traffic in Olde Town Arvada.
- d. The Community Development Director shall retain the authority to establish a limit on the number of temporary use permits for entertainment or transient merchant vending issuable within the B-3 Zoning District (either in total or by category of activity or type of vending), and shall exercise such discretion based upon a consideration of the factors enumerated above and in §3.17.7 A- E, including pedestrian flow, diversity of products, effect on nearby permanent business establishments, and the public health, safety, or general welfare.
- e. The Community Development director may deny an application for any of the following reasons:
- i. The application does not contain the information required by this §5.4.2.G;
  - ii. The application fails to satisfy the approval criteria or meet the requirements of §3.17.7 A – E and this §5.4.2 G;
  - iii. The applicant has knowingly made a false, misleading or fraudulent statement of fact in the application process;
  - iv. The application, if granted, would result in outstanding permits of the applicable category or type in excess of the maximum number previously established by the Community Development Director for the B-3 Zoning District pursuant to this §5.4.2 G; or
  - v. Any other basis as provided for in this Code, the City Code, or the Charter of the City of Arvada.
- f. The Community Development Director shall take action to approve, approve with conditions, or deny a complete application in accordance with §3.17.6 and the above provisions. The approval of an application may include any condition reasonably related to ensuring compliance with, or promoting the purposes and intent of, this §5.4.2 G, or any condition consistent with the law that is reasonably related to promoting the public health, safety, and welfare including, but not limited to facilitating safe and efficient pedestrian and vehicular flow, maintaining the aesthetic attractiveness of the City of Arvada as it relates to transient merchants and those providing entertainment,

or preserving the character of Olde Town Arvada and enhancing its economic and cultural vitality (as applicable).

- g. Temporary use permits issued under this §5.4.2 G may be renewable for additional terms upon proper application, but neither an original permit nor a renewal shall be for a term of more than one (1) year.
- h. The Community Development Director may revoke an existing temporary use permit issued under this §5.4.2 G for any of the following reasons, following notice and a public hearing pursuant to §9.5.1 C:
  - i. A violation of any of the applicable provisions of this §5.4.2 G;
  - ii. A breach of any condition in the permit;
  - iii. The inclusion of materially false or misleading information in the application for the temporary use permit;
  - iv. A violation of any other law applicable to the activity or site to which the temporary use permit relates, including the provisions of Article 9 of this Code; or
  - v. Any other basis as provided for in this Code, the City Code, or the Charter of the City of Arvada.

9. Appeals. All appeals of a denial or revocation of a temporary use permit under this §5.4.2 G shall be taken in accordance with the provisions of §3.2.4 of this Code.

H. Other Temporary Uses. Subject to this Section and the procedures and criteria set forth in §3.17 above, the Community Development Director may approve other temporary uses and activities or special events if it is determined that such uses would not jeopardize the health, safety or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.