

Title 26
LAND USE REGULATIONS
PART 100 — GENERAL PROVISIONS

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Chapter 26.104 GENERAL PROVISIONS

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26.104.010. Authority and title.

This Title 26 shall be known as the Aspen Land Use Code ("LUC") and is intended to incorporate and implement, without limitation, all legal power and home rule authority vested in the City under Article XX of the Colorado Constitution and the Home Rule Charter of the City and all land use regulatory and zoning power statutorily delegated to local and municipal governments by the General Assembly through the Colorado Revised Statutes. The City Council of the City has determined that land use planning, zoning and the management and regulation of land uses are matters of local municipal concern and that the ordinances, regulations and policies of the City shall supersede within the territorial limits and other jurisdiction of the City any law or regulation of the state in conflict therewith.

26.104.020. Purpose.

It is the purpose of this Title to promote and protect the health, safety and welfare of the citizens and City through the establishment and enforcement of comprehensive, efficient, clear and consistent standards, regulations and procedures for the planning, evaluation, approval and implementation of land uses and development within the City. In furtherance of this purpose, all development and uses of land shall be analyzed within the context of its impact on the historic, architectural, aesthetic and natural environmental character of the City, the City's economic and infrastructure needs and capacities and the legitimate rights and reasonable expectations of property owners.

26.104.030. Master Plans, Comprehensive Community Plan and other plans, guidelines or documents.

A. The City shall from time to time adopt and update a comprehensive community plan (known as the Aspen Area Community Plan or AACP) which shall establish and project the City's land use and development planning philosophy, goals and policies. The comprehensive community plan shall be broad in scope and serve as a guide to all land use development and planning. The plan shall encourage and incorporate regional planning as well as land use development cooperation and coordination between the City and neighboring communities and jurisdictions.

B. From time to time the City may re-adopt, amend, extend or add to its comprehensive community plan or carry any part of its subject matter into greater detail through the development of supplemental plans, guidelines or documents, pursuant to Section 26.311, Master Plans.

(Ord. No. 50-a, 2005, §1; Ord. No. 31, 2012, §6)

26.104.040 Applicability and penalty.

A. Development without development order prohibited. Unless specifically exempted from its terms, no development of land or land use shall be undertaken without first having been reviewed, approved and issued a development order consistent with the provisions of this Title. Additionally, this Title shall apply to the activities of all public and governmental entities, agencies and districts, **whether federal, state, county or municipal, to the extent permitted by law.**

B. Building without building permit prohibited. Unless specifically exempted from its terms, no building shall be erected, moved or structurally altered unless a building permit has been issued pursuant to the terms of this Title. All building permits shall be issued in conformance with the provisions of this Title.

C. Occupancy without a Certificate of Occupancy prohibited. No land or building shall be changed in use, nor shall any new structure, building or land be occupied or used, unless the owner shall have obtained a Certificate of Occupancy from the Community Development Department.

D. Penalty. Any person violating the provisions of this Title shall be subject to prosecution in Municipal Court and upon conviction may be subject to the general penalty provisions set forth at Section 1.04.080 of this Code. Each day that a violation occurs or continues shall constitute a separate offense and nothing contained herein shall preclude the City from instituting such necessary proceedings to enjoin, abate or correct any violation.

E. Civil Remedies.

1. Inspections. The City Manager is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist in violation of any provision of this Title. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct such violation or comply with the order. This Title shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect or by reason of issuing a building permit as herein provided or by reason of pursuing or failing to pursue an action for injunctive relief as herein provided.
2. Remedies. The City Attorney may institute injunctive, abatement or other appropriate action to prevent, enjoin, abate or remove a violation of this Title when it occurs. The same right of action shall also accrue to any property owner who may be especially damaged by a violation of this Title.

26.104.050. Void permits.

All persons are presumed to know the terms and requirements of this Title and the extent of the legal authority of the City and its employees, boards and commissions to issue development approvals or permits. Any permit or approval issued in error or otherwise not in conformity with the requirements

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of this Title, shall be void. Similarly, any permit or approval issued in reliance upon or as a result of, a materially false statement or representation made in the process of obtaining the permit or development approval shall, likewise, be void. Any person having received a void or voidable permit or approval shall not be relieved from having to comply with all applicable terms and conditions of this Title and the City shall not be estopped from fully enforcing same.

26.104.060. Emergencies.

The City Council may temporarily suspend the operation and applicability of any provision of this Title in accordance with Section 4.11 of the Home Rule Charter in the event of a natural or man-made disaster or catastrophe.

26.104.070. Land use application fees.

Hourly Review Fee (per hour):		\$325.00 Planning
No Charge - Planning and Historic Preservation Services		
		Applies to:
\$0.00		Pre-Application / Pre-Permit meetings Call-in, walk-in development questions GMQS - SF or Dx on Historic Landmark Historic Designation Hist. Pres. - Exempt Development Hist. Pres. - Minor Amendment, HPO Review Hist. Pres. - Minor Amendment, Monitor Review Development Order Publication Fee
<p><u>Note:</u> Applicant meetings with the Zoning Officer or a Planner to discuss prospective planning applications or prospective building permit applications are a free service and staff time is not charged to the applicant. However, this service is limited to the time reasonably necessary for understanding a project's requirements, review procedures, city regulations, etc. An applicant shall be billed for any pre-application or pre-permit staff time significantly in excess of that which is reasonably necessary. Billing will be at the Planning/Zoning hourly billing rate. The applicant will be notified prior to any billing for pre-application or pre-permit service.</p>		
Planning Review - Administrative, Flat Fees		
		Applies to:
Flat Fee 1	\$81.00	GMQS - Temporary Food Vending Code Interpretation, formal issuance Historic Pres. - Cert of No Negative Effect
Flat Fee 2	\$163.00	Temporary Use, admin.
Flat Fee 3	\$325.00	GMQS - SF or Dx replacement - cash-in-lieu GMQS - SF or Dx replacement - ADU, admin. GMQS - Change-in-use for Historic landmark

		GMQS - Minor Enlargement for Historic landmark GMQS - Alley Store GMQS - Exemption from MF Housing Replacement
Flat Fee 4	\$650.00	Residential Design Variance, admin.

Planning Review - Administrative, Hourly Fee

Deposit Hours	Deposit	Applies to:
2	\$650.00	Review of Condominium plats or amendments. Review time for City Attorney and other referral departments also applies and is billed at same hourly rate. Review time for City Engineer is billed at the rate stated below.
Deposit Hours	Deposit	Applies to:
3	\$975.00	Recordation Documents Review - review of subdivision plats, subdivision exemption plats (except condo), Planned Development, development agreements, subdivision agreements, Planned Development agreements, or amendments to recorded documents. Review time for City Attorney and other referral departments also applies and is billed at same rate. Review time for City Engineer is billed at the rate stated below.
Deposit Hours	Deposit	Applies to:
4	\$1,300.00	Admin. Cond. Use or Special Review Admin. ESA or ESA exemption Admin. Subdivision - Lot Line Adjustment Admin. Planned Development Amendments Admin. Commercial Design Review Amendment Exempt Timesharing
	Plus hourly rate	Applies to:
	\$325.00	per hour for staff review time in excess of deposit hours. If case takes less time than deposit, the applicant will be refunded.
Referral Agency Fees - Admin. reviews, as applicable		
	\$265.00	City Engineering, per hour. Billed with planning case
	\$650.00	Aspen/Pitkin County Housing Authority, flat fee
	\$650.00	City Parks Department, flat fee
	\$650.00	City Environmental Health Department, flat fee

Planning Review - One-Step, Hourly Fee

Deposit Hours	Deposit	Applies to:
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4	\$1,300.00	Historic Pres. - Minor Development Historic Pres. - Major Development up to 1,000 s.f. Temporary Use, City Council Vested Rights Extension, City Council Appeals of Administrative or Board Decisions
Deposit Hours	Deposit	Applies to:
6	\$1,950.00	Historic Pres. - Major Development over 1,000 s.f. Historic Pres. - Demolitions and Off-Site Relocations Historic Pres. - Substantial Amendment Board of Adjustment variance
Deposit Hours	Deposit	Applies to:
10	\$3,250.00	Growth Management - Minor P&Z (incl. AH certificate) Conditional Use Special Review (incl. ADU @ P&Z) Environmentally Sensitive Area Review Residential Design Variance - P&Z Minor Subdivision - Lot Split, Historic Lot Split
Deposit Hours	Deposit	Applies to:
14	\$4,550.00	Planned Development Amendment - P&Z only Commercial Design Review, Conceptual or Final Growth Management - Major P&Z, or City Council Subdivision "other" review - City Council only
	Plus hourly rate	Applies to:
	\$325.00	per hour for staff review time in excess of deposit hours. If case takes less time than deposit, the applicant will be refunded.
Referral Agency Fees - one-step reviews, as applicable		
	\$265.00	City Engineering, per hour. Billed with planning case
	\$975.00	Aspen/Pitkin County Housing Authority, flat fee
	\$975.00	City Parks Department, flat fee
	\$975.00	City Environmental Health Department, flat fee

Planning Review - Two-Step, Hourly Fee

Deposit Hours	Deposit	Applies to:
24	\$7,800.00	Subdivision Land Use Code Amendment Rezoning or Initial Zoning (Annexations)
	Plus hourly rate	
	\$325.00	per hour for staff review time in excess of deposit hours. If

		case takes less time than deposit, the applicant will be refunded.
Referral Agency Fees - two-step reviews, as applicable		
	\$265.00	City Engineering, per hour. Billed with planning case
	\$1,300.00	Aspen/Pitkin County Housing Authority, flat fee
	\$1,300.00	City Parks Department, flat fee
	\$1,300.00	City Environmental Health Department, flat fee

Planning Review – Planned Development, Hourly Fee

Deposit Hours	Deposit	Applies to:
32	\$10,400.00	Planned Development projects Planned Development Substantial Amend.
Plus hourly rate		
	\$325.00	per hour for staff review time in excess of deposit hours. If case takes less time than deposit, the applicant will be refunded.
Referral Agency Fees – Planned Development reviews, as applicable		
	\$265.00	City Engineering, per hour. Billed with planning case
	\$1,625.00	Aspen/Pitkin County Housing Authority, flat fee
	\$1,625.00	City Parks Department, flat fee
	\$1,625.00	City Environmental Health Department, flat fee

Planning Review - COWOP Review or Joint Applicant

Applications for the City's COWOP process - Convenience or Welfare of the Public - shall be assessed land use review fees and/or a portion of joint planning costs as determined appropriate by City Council. If no such determination is made, the application shall be billed as a Planned Development.

Special Services - Planning. *Applies when no fee is otherwise established*

\$325.00 per hour, a minimum of one hour for any one special project.

Planning Review Deposit and Billing Administration

The Community Development Department staff shall keep an accurate record of the actual time required for the processing of each land use application and additional billings shall be made commensurate with the additional costs incurred by the city when the processing of an application by the Community Development Department takes more time than is covered by the deposit. In the event the processing of an application by the Community Development Department takes less time than provided for by the deposit, the department shall refund the unused portion of the deposited fee.

The Community Development Director shall establish appropriate guidelines for the regular issuance of invoices and collection of amounts due.

The Community Development Director shall establish appropriate guidelines for the

collection of past due invoices, as required, which may include any of the following: 1) Assessment of additional late fees for accounts at least 90 days past due in an amount not to exceed 1.75% per month. 2) Cessation of application processing. 3) Review of past-due accounts with City Council. 4) Withholding the issuance of a Development Order. 5) Withholding the recordation of development documents. 6) Prohibition of the acceptance of building permits for the subject property. 7) Cessation of building permit processing. 8) Revocation of an issued building permit. 9) Other penalties, assessments, fines, or actions as may be assigned by the Municipal Court Judge.

Flat fees for the processing of applications shall be cumulative. Applications for more than one land use review requiring an hourly deposit on planning time shall require submission of the larger deposit amount.

The Community Development Director shall bill applicants for any incidental costs of reviewing an application at direct costs, with no administrative or processing charge.

Land use review fee deposits may be reduced if, in the opinion of the Community Development Director, the project is expected to take significantly less time to process than the deposit indicates. A determination shall be made during the pre-application conference by the case planner. Hourly billing shall still apply.

Review fees for projects requiring conceptual review, final review, and recordation of approval documents. Unless otherwise combined by the Director for simplicity of billing, all applications for conceptual, final, and recordation of approval documents shall be handled as individual cases for the purposes of billing. Upon conceptual approval all billing shall be reconciled and all past due invoices shall be paid prior to the Director accepting an application for final review. Final review shall require a new deposit at the rate in effect at the time of final application submission. Upon final approval all billing shall again be reconciled prior to the Director accepting an application for review of recordation documents.

Notwithstanding the planning review fee schedule, the Community Development Director shall waive planning review fees for General Fund Departments of the City of Aspen consistent with City policy.

Notwithstanding the planning review fee schedule, City Council may authorize a reduction or waiver of planning review fees as deemed appropriate.

This fee structure applies to applications submitted on or after January 1, 2013.

(Ord. No. 57-2000, §9; Ord. No. 47-2002, §8; Ord. No. 63-2003, §4; Ord. No. 38-2004, §7; Ord. No. 49-2005, §9; Ord. No. 48, 2006, §13; Ord. 52-2007; Ord. No.4 - 2011, §2; Ord. No. 29-2012)

26.104.071. Reserved.

(Ord. No. 57-2000, §10; Ord. No. 47-2002, §9; Ord. No. 63-2003, §5; Ord. No. 38-2004, §8; Ord. No. 49-2005, §10; Ord. No. 48, 2006, §14; Ord. No.4, 2011, §3)

26.104.072. Zoning fees.

General and Applicability

Zoning review fees shall apply to all development requiring a building permit and all development not requiring a building permit but which requires review by the Community Development Department. The fee covers the Zoning Officer's review of a permit including any correspondence with the caseload planner, Historic Preservation Officer, the Deputy Director, the Director, or other city staff.

A permit, amendment to a permit, or change order which requires a Floor Area, Height, net leasable, or net livable measurement by the Zoning Officer shall be considered a Major permit. All other permits are considered Minor permits.

For the purposes of zoning fees, the square footage used to calculate the fee shall be the greater of the gross square footage affected by the permit or the gross square footage which must be measured to review the permit. All change orders and amendments to a permit require additional fees. A change order or amendment to an un-issued permit shall require payment of both fees (initial and change order).

Official confirmation of existing conditions of a property which requires measurement of Floor Area, Height, net leasable area, or net livable area of a structure, prior to demolition or for other purposes, shall be considered a Major permit.

For projects with multiple uses, the zoning review fee for each individual use shall be calculated based on the gross square footage of the use and added to determine the total project fee.

Zoning review fees for major permits for properties within a Planned Development shall be 125% of the fee schedule. This additional charge does not apply to demolition permits.

Zoning referral fees - for official zoning comments on a planning application - shall be according to the fees policy for planning review.

Notwithstanding the zoning review fee schedule, the Community Development Director shall waive zoning review fees for General Fund Departments of the City of Aspen consistent with City policy.

Notwithstanding the zoning review fee schedule, City Council may authorize a reduction or waiver of zoning review fees as deemed appropriate.

This fee structure applies to applications submitted on or after January 1, 2013.

50% of Zoning Review Deposit Required

For any Zoning fee of \$500 or more, 50% of the fee is due at permit submittal. This deposit

is non-refundable. The applicant shall pay the remaining 50% at permit issuance, which shall include any reconciliation of fees due.

Special Services - Zoning Review

	per hour	
Hourly Zoning Review Fee	\$325.00	

Pre-Permit or Pre-Application Meetings

Applicant meetings with the Zoning Officer or a Planner to discuss prospective planning applications or prospective building permit applications are a free service and staff time is not charged to the applicant. However, this service is limited to the time reasonably necessary for understanding a project's requirements, review procedures, city regulations, etc. An applicant shall be billed for any pre-application or pre-permit staff time significantly in excess of that which is reasonably necessary. Billing will be at the Planning/Zoning hourly billing rate. The applicant will be notified prior to any billing for pre-application or pre-permit service.

	per hour	
Zone District Confirmation Letter	\$325.00	Formal issuance of a letter confirming parcel's zoning only. Does not confirm legality of existing improvements or uses.
Existing Conditions Confirmation	Service subject to authorization by Community Development Director and may not be available. Fee based on a Major permit review for the type of land use. Does not confirm legality of existing improvements or uses. Requires submission of dimensioned drawings.	
Expedited Zoning Review	Double Applicable Fee. Prioritizes project's zoning review over all other projects. Service subject to authorization by Community Development Director considering department workload, staffing, and effects on other projects.	

Change Order Fees - Zoning Review

Applications for change orders shall require an additional Zoning Review Fee. A change order which does not require a new measurement of floor area, height, net leasable, or net livable shall be considered a Minor change order and assessed the minor fee. A change order which requires a new measurement of floor area, height, net leasable area, or net livable area shall be assessed the Major zoning fee. Fees for the previously submitted permit application shall not be refunded or credited toward change order fees.

Certificate of Occupancy or Final Inspection Fee - Zoning

No charge

Conditional Certificate of Occupancy - Zoning

	Flat Fee
for first CCO issued	\$325.00
for second CCO issued	\$650.00
for third or subsequent CCO issued	\$975.00
Business License Approval - Zoning	
No charge. Other fees may be required. Apply to City Finance.	
Vacation Rental Permit	
No Charge. Business license fees may be required. Apply to City Finance. Includes initial permit, renewals & updates to an existing vacation rental permit (e.g. change of property manager)	
Special Review or Inspection Fee - Zoning. Applies when no fee is otherwise established	
	Per hour
\$325.00	a minimum of one hour for any one review or inspection
Demolition Zoning Review Fees	
Minor Zoning Fee - Does not require measurement or confirmation of existing conditions.	
Square footage of Project	Fee
Up to 500 sq. ft.	\$65.00
501 to 2,500 sq. ft.	\$163.00
2,501 to 5,000 sq. ft.	\$244.00
Above 5,000 sq. ft.	\$325.00
Major Zoning Fee - If demolition requires measurement of the structure or confirmation of existing conditions, the fee will be the major fee according to the land use.	
Exterior Repair Zoning Review Fees	
Applies to Residential, Commercial, Lodging, Arts/Cultural/Civic/Institutional exterior repair work requiring a building permit or review by the Historic Preservation Officer. Does not apply to interior work. Does not apply to alteration. Fee is based on wall area or roof area being repaired. Does not apply to signs or awnings.	
Square footage of Repair	Fee
Up to 500 sq. ft.	\$33.00
501 to 1,000 sq. ft.	\$65.00
1,001 to 2,500 sq. ft.	\$163.00
Above 2,500 sq. ft.	\$325.00
Residential Zoning Review Fees	
Applies to single-family, duplex, accessory dwelling units, carriage houses, multi-family and residential units in a mixed-use building	

Minor Zoning Fee - Existing Development, Minor Remodel or Minor Change Order

Projects up to \$5,000 in total valuation:

	Fee
Valuation \$0 to \$5,000	\$33.00

Projects over \$5,000 in total valuation:

Square footage of Project	Fee
Up to 500 sq. ft.	\$325.00
501 to 2,500 sq. ft.	\$650.00
2,501 to 5,000 sq. ft.	\$975.00
Above 5,000 sq. ft.	\$1,300.00

Major Zoning Fee - New Development, Major Remodel, Demolition w/ Confirmation, Major Change Order

Square footage of Project	Fee based on project size
Up to 500 sq. ft.	\$1.25 per sq. ft. of project; minimum \$325.00
501 to 2,500 sq. ft.	\$1.35 per sq. ft. of project
2,501 to 5,000 sq. ft.	\$1.50 per sq. ft. of project
Above 5,000 sq. ft.	\$1.65 per sq. ft. of project

Major Residential permits within a Planned Development shall be 125% of the above fee schedule. (Does not apply to demo.)

For 2013, the zoning review fee shall be reduced by 10% for major residential projects submitted in the format specified in the adopted zoning permit submission guide. Applicants should see ComDev staff for more information.

Commercial Zoning Review Fees

Applies to commercial projects and commercial portions of a mixed-use project.

Minor Zoning Fee - Existing Development, Minor Remodel or Minor Change Order

Projects up to \$5,000 in total valuation:

	Fee
Valuation \$0 to \$5,000	\$33.00

Projects over \$5,000 in total valuation:

Square footage of Project	Fee
Up to 500 sq. ft.	\$325.00
501 to 2,500 sq. ft.	\$650.00

2,501 to 5,000 sq. ft.	\$975.00
Above 5,000 sq. ft.	\$1,300.00
Major Zoning Fee - New Development, Major Remodel, Demolition w/ Confirmation, Major Change Order	
Square footage of Project Fee based on project size	
Up to 500 sq. ft.	\$1.25 per sq. ft. of project; min. \$325.00
501 to 2,500 sq. ft.	\$1.35 per sq. ft. of project
2,501 to 5,000 sq. ft.	\$1.50 per sq. ft. of project
Above 5,000 sq. ft.	\$1.65 per sq. ft. of project
<p>Major Commercial permits within a Planned Development shall be 125% of the above fee schedule. (Does not apply to demo.)</p> <p>For 2013, The zoning review fee shall be reduced by 10% for major commercial projects submitted in the format specified in the adopted zoning permit submission guide. Applicants should see Com Dev staff for more information.</p>	
<u>Lodging Zoning Review Fees</u>	
<p>Applies to lodging projects and lodging portions of a mixed-use project. All fractional interest, timeshare, and exempt timeshare projects are considered Lodging for the purposes of this review fee.</p>	
Minor Zoning Fee- Existing Development, Minor Remodel or Minor Change Order	
Projects up to \$5,000 in total valuation:	
	Fee
Valuation \$0 to \$5,000	\$33.00
Projects over \$5,000 in total valuation:	
Square footage of Project	Fee
Up to 1,000 sq. ft.	\$325.00
1,001 to 5,000 sq. ft.	\$650.00
5,001 to 10,000 sq. ft.	\$975.00
Above 10,000 sq. ft.	\$1,300.00
Major Zoning Fee - New Development, Major Remodel, Demolition w/ Confirmation, Major Change Order	
Square footage of Project Fee based on project size	
Up to 5,000 sq. ft.	\$1.50 per sq. ft. of project; min. \$325.00

Above 5,000 sq. ft.	\$.60 per sq. ft. of project
<p>Major Lodging permits within a Planned Development shall be 125% of the above fee schedule. (Does not apply to demo.)</p> <p>For 2013, The zoning review fee shall be reduced by 10% for major lodging projects submitted in the format specified in the adopted zoning permit submission guide. Applicants should see Com Dev staff for more information.</p>	

Arts/Cultural/Civic/Institutional Zoning Review Fees

Applies to Arts, Cultural, Civic and Institutional uses or portions of a mixed-use project with these uses.

Minor Zoning Fee - Existing Development, Minor Remodel or Minor Change Order

Projects up to \$5,000 in total valuation:

	Fee
Valuation \$0 to \$5,000	\$33.00

Projects over \$5,000 in total valuation:

Square footage of Project	Fee
Up to 1,000 sq. ft.	\$325.00
1,001 to 5,000 sq. ft.	\$650.00
5,001 to 10,000 sq. ft.	\$975.00
Above 10,000 sq. ft.	\$1,300.00

Major Zoning Fee - New Development, Major Remodel, Demolition w/ Confirmation, Major Change Order

Square footage of Project Fee based on project size	
Up to 5,000 sq. ft.	\$.50 per sq. ft. of project; min. \$325
Above 5,000 sq. ft.	\$.60 per sq. ft. of project

Major Arts/Cultural/Civic/Institutional permits within a Planned Development shall be 125% of the above fee schedule. (Does not apply to demo.)

For 2013, The zoning review fee shall be reduced by 10% for major arts/cultural projects submitted in the format specified in the adopted zoning permit submission guide. Applicants should see Com Dev staff for more information.

Signs and Awnings - Zoning Review Fees

Type	Fee	
Individual Sign Permit Fee	\$65.00	per sign
Multiple Sign Permit Fee	\$163.00	per business, unlimited number of signs

Permanent Sandwich Board Sign Annual Renewal	\$163.00	per sign	* Must be in an approved sandwich board location
	\$65.00	per sign	
Temporary Sandwich Board Sign	\$33.00	per one-week permit	
	\$163.00	for 8 one-week permits	
Outdoor Merchandising on public property	\$0	0-6 sq. ft.	*must be in an approved outdoor merchandising location
	\$65	6-50 sq. ft.	
	\$163	50+ sq. ft.	
Awning Permit Fee	\$65.00	per awning	* Includes signage review fee.
Multiple Awning Permit Fee	\$163.00	per business	
Banner Installation Fee	\$65.00	Single banner	* Banner fees collected by the City Manager's Office
	\$163.00	Double banner	

Fence - Zoning Review Fee

	Fee	
Single-Family and Duplex Residential	\$65.00	
All other uses	\$163.00	

Bear-Proof Trash Container - Combined Zoning & Building Review Fee

	Fee	
Single-Family and Duplex Residential	\$65.00	
All other uses	\$163.00	

Enforcement Fees, Fines, and Penalties

No Certificate of Occupancy or Conditional CO shall be issued until all fees have been paid in full. Failure to pay applicable fees is subject to fines, penalties, or assessments as assigned by the Municipal Court Judge.

Non-Permitted Work Fee:

Work done without a zoning approval (when one is required), without a building permit (when one is required), or work done counter to an issued zoning approval is subject to this enforcement fee. Non-permitted work fee is per infraction and per project. Additional hourly fees may be applicable to account for staff time. No other action on the project may occur until non-permitted work issue has been rectified to the satisfaction of the Community Development Director. Any correction requiring a building permit or zoning application shall also be subject to the Correction Order Fees described below.

	Fee	
First infraction	\$325.00	plus, hourly fee for any staff time in excess of one hour.
Second Infraction	\$650.00	plus, hourly fee for any staff time in excess

		of one hour.
Third Infraction	\$975.00	plus, hourly fee for any staff time in excess of one hour.

Correction Order Fee:

This fee shall apply to any work required to correct a zoning violation or to permit work that has been accomplished without a permit or not covered by an issued permit. Infractions are per project.

Fee	
First infraction	Double Zoning Review Fee, minimum of \$500
Second Infraction	Four times the Zoning Review Fee, minimum of \$500
Third Infraction	Eight times the Zoning Review Fee, minimum of \$500. Subject to additional penalties by citation as assigned by the Municipal Judge.
For any correction requiring a planning review, the planning review fees shall be increased according to the above schedule.	

Municipal Court Enforcement - Zoning

Fees, fines, and penalties by citation for violations of the Land Use Code shall be established by the Municipal Court Judge according to the scope and duration of the offense. Zoning Enforcement Fee may include an assessment for administrative time required by the Zoning Officer to address the violation.

(Ord. No. 57-2000, §11; Ord. No. 12-2001, §1; Ord. No. 47-2002, §10; Ord. No. 63-2003, §5; Ord. No. 38-2004, §9; Ord. No. 49-2005, §11; Ord. No. 48, 2006, §15; Ord. 52-2007; Ord. No.4-2011, §4; Ord. No. 29-2012)

26.104.080 Rules of construction.

A. General rules of construction and application. All provisions, words and phrases shall be read in the context in which they are written and applied according to their plain terms. Words and phrases that have acquired a technical or particular meaning, whether by ordinance definition or otherwise, shall be construed and applied accordingly. All provisions shall be read and considered as a whole in order to ascertain and fulfill the legislative intent in its adoption.

B. Multiple regulations. Where any provision imposes a greater or lesser restriction or requirement upon a given subject matter than a general or other provision, the provision imposing the more restrictive or greater regulation shall be deemed controlling.

C. Computation of time. The time period within which an act is to be done or a default shall occur, shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded and the time period shall be extended until the end of the next day which is not one of the aforementioned days.

D. Delegation of authority. Whenever a provision requires the head of the department or some other city officer or employee to perform an act or duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

E. Gender. Words importing the masculine gender shall be construed to include the feminine and vice versa.

F. Month. The word *month* shall mean a calendar month.

G. Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.

H. Shall and may. Unless the context would impose an injustice or a result contrary to the intent of the provision in question, the word *shall* means mandatory, while *may* means permissive.

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

J. Week. The word *week* shall be construed to mean seven (7) consecutive days.

K. Written or in writing. The term *written* or *in writing* shall be construed to include any inscribed representation of words, letters or figures, whether by printing or otherwise.

L. Year. The word *year* shall mean a calendar year.

M. Boundaries. Interpretations regarding zone district *boundaries* shall be made in accordance with the following:

1. Boundaries shown as perpendicular to or following or approximately following, any street, alley, right-of-way or watercourse shall be construed as perpendicular to or following the centerline of the street, alley, right-of-way or watercourse.
2. Boundaries shown as following or approximately following, any platted lot line or other property line shall be construed as following such line.
3. Boundaries shown as following or approximately following, section lines, half-section lines or quarter-section lines shall be construed as following such lines.
4. Boundaries shown as separated from and parallel or approximately parallel, to any of the features listed in the paragraphs above shall be construed to be parallel to such features and at such distance therefrom as are shown on the Zone District map.

26.104.090. Reserved.

26.104.100. Definitions.

As used in this Code, unless the context otherwise requires, the following terms shall be defined as follows:

Academic uses. The use of land or buildings for educational activities with attendant research, housing, administration and public venues. *Academic uses* may include public or private school, university, teaching hospital, research facility, testing laboratory, library, auditorium, administrative offices, faculty housing, student housing or similar uses.

Accessory dwelling unit (ADU). A deed restricted dwelling unit attached to or detached from a principal residence situated on the same lot or parcel and which meets the occupancy, dimensional and other requirements set forth in Section 26.520 of this Title and requirements set forth in the Aspen/Pitkin County Housing Guidelines.

Accessory structure or building. A building or other structure that is supportive, secondary and subordinate in use and/or size to the principal building or structure on the same parcel or lot. (See Supplementary Regulations — Section 26.575.140, Accessory uses and accessory structures).

Accessory use. A use that is supportive, secondary and subordinate to the principal use of a lot, parcel, building or structure. (See Supplementary Regulations — Section 26.575.140, Accessory uses and accessory structures).

Accessway. An area intended to provide ingress or egress to vehicular or pedestrian traffic from a public or private right-of-way or easement to an off-street parking, loading or similar area.

Adjacent parcel. Sharing all or part of one (1) common lot line with another lot or parcel of land, or would share all or part of one (1) common lot line if not for the separation caused by a street, alley, sidewalk, railroad right-of-way, utility line, trail or irrigation ditch.

Affordable housing. A dwelling unit or units subject to the size, type, rental, sale and occupancy restrictions and guidelines for affordable housing adopted by the City as part of the Affordable Housing Guidelines. (See Supplementary Regulations — Chapter 26.520, Affordable Housing).

Affordable housing guidelines. Guidelines recommended by the Aspen/Pitkin County Housing Authority and adopted by the City Council to govern the development of, admission to and occupancy of deed restricted affordable housing units in the City and Pitkin County.

Agricultural uses. The use of land and buildings for the production of crops, animals, animal products and the keeping of livestock including riding stables, arenas orchards, nurseries, flower production, dairy operations, fisheries, animal husbandry services or similar uses. *Agricultural uses* shall not receive the general public or support a membership or academic club. Uses incidental to a residence (such as a backyard garden) shall not constitute *Agricultural uses* unless intended to support wholesale or retail sales. Cultivation, Manufacturing, and Testing of Medical or Retail Marijuana shall not be considered *Agricultural uses*.

Alley. A public or private way for vehicular traffic having less width than a street and used as a secondary access to abutting property, normally at the rear.

Animal boarding facility: An establishment which houses animals overnight or over an extended period of time.

Animal grooming establishment: An establishment principally engaged in grooming animals in which overnight boarding is prohibited.

Antenna. Any structure, including but not limited to a monopole, tower, parabolic and/or disk shaped device in single or multiple combinations or either solid or mesh construction, intended for the purpose of receiving or transmitting communication to or from another antenna, device or orbiting satellite, as well as supporting equipment necessary to install or mount the antenna.

Applicant. A person or entity submitting a development application under this Title.

Approval Documents. A set of maps, drawings, depictions, or descriptions of a project prepared pursuant to Chapter 26.490 – Approval Documents.

Architectural projection. A nonfunctional or ornamental feature on a building or other structure that does not extend to or from, the ground.

Areaway. An outdoor uncovered space developed below the grade of the surrounding ground which may provide exterior access from a basement or lower level of a building and which may incorporate or be independent of required egress.

Arts, cultural and civic uses. The use of land or buildings by nonprofit, arts, cultural, religious or public organizations such as a church, fraternal club, performing arts theater, library, museum and other similar purposes.

Artist's Studio. Primarily a fine arts workshop of a light industrial nature such as a sculptor, potter, weaver, carver, jeweler, or other similar art that requires artistic skill, and not related to personal hygiene or adornment, and secondarily receiving the public and engaging in retail sales on a limited basis.

Aspen Area Community Plan. A comprehensive community plan adopted and amended by the City Council and Board of County Commissioners which establishes the City's and Aspen Metropolitan Area's land use and development planning philosophy, goals and policies.

Aspen community growth boundary. Same as Aspen metropolitan (metro) boundary.

Aspen infill area. That geographical area of Aspen east of Castle Creek and south of the Roaring Fork River.

Aspen metropolitan (metro) boundary. That geographic area described and illustrated in the Aspen Area Community Plan, as amended from time to time, encompassing both the City and its environs. (Also known as the Aspen community growth boundary).

Awning. A roof-like cover that projects not less than three (3) feet and not more than five (5) feet from the wall of a building for the purpose of shielding a doorway or window from the elements.

Bakery. Same as commercial kitchen.

Balcony. Same as a *deck*.

Bandit unit. A dwelling unit or other structure developed or used in violation of the land use or building regulations in effect at the time of its construction.

Base flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year, also known as the one hundred (100) year flood.

Basement floor. See *subgrade area*.

Bathroom. That portion of a structure which may include a bathtub, toilet, shower or other personal bathing or washing area.

Bed and breakfast. A single-family dwelling used as a commercial lodging establishment for temporary guests, other than a hotel or lodge, and which contains no more than twelve (12) guest rooms and is operated by an on-site resident manager or owner. This shall include all uses formerly known as *boardinghouses*. The dimensions for a bed and breakfast shall meet those for a single-family home in the zone district.

Bedroom. A portion of a dwelling unit intended to be used for sleeping purposes, which may contain closets, and may have access to a bathroom.

Breezeway. A covered walkway connecting two or more buildings or structures or which connects portions of the same building or structure.

Brewery or Distillery. A facility, licensed by the State of Colorado and which is subject to all applicable state and local liquor laws, for the production and packaging of alcoholic beverages for distribution, and secondarily receiving the public and engaging in retail sales on a limited basis, which shall not prohibit on-site beverage consumption.

Building. A permanent structure having a roof supported by walls and intended to act as an enclosure or shelter for persons, animals or property of any kind.

Building envelope. A designated area on a lot or parcel in which all structures and development shall be constructed or occur, unless specifically excepted or exempted, including but not limited to excavation, landscaping, building, grading, demolition or filling. (See Supplementary Regulations — Section 26.575.110, Building envelopes).

Building permit. A permit authorizing an applicant under this Code to undertake construction or other development activity.

Canopy. A roof-like cover that projects more than five (5) feet from the wall of a building.

Carport. A roofed structure providing space for the parking of automobiles and enclosed on not more than three (3) sides.

Carriage house. A deed restricted dwelling unit attached to or detached from a principal residence situated on the same lot or parcel and which meets the occupancy, dimensional and other requirements set forth in Section 26.520 of this Title and requirements set forth in the Aspen/Pitkin County Housing Guidelines.

Category housing. Deed restricted affordable housing categorized to reflect different income levels as set forth in the Affordable Housing Guidelines. *Category housing* also refers to low, moderate and middle income categories. This term does not include Resident Occupied (RO) housing.

Child care center. A facility that is maintained for the whole or part of a day for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school

programs, nursery schools, kindergartens, preschools, day camps and centers for developmentally disabled children and those facilities that give twenty-four-hour care for children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system of at least six grades. The term shall not include any facility licensed as a family child care home or foster care home. (See Supplementary Regulations — Section 26.575.080, Child care center).

Coffee Roasting Facility. A facility for the processing and packaging of coffee beans for distribution and secondarily receiving the public and engaging in retail sales on a limited basis, which shall not prohibit onsite beverage consumption.

Commercial kitchen. A commercial establishment producing or wholesaling prepared food items with no on-site consumption but which may have retail dispensing with no seating or wait service.

Commercial parking facility. The use of a parcel or structure for the short-term parking of automobiles as an independent commercial venture. Lease periods of less than one (1) month shall constitute short-term parking and shall be considered *commercial parking facilities*. Leasing of off-street parking spaces to tenants, guests, patrons or the general public for periods of one (1) month or more shall not constitute a *commercial parking facility*. When the use of off-street parking spaces by tenants, guests, patrons or the general public, is accessory to an on-site business or operation and is not an independent commercial venture, the parking shall not be considered a *commercial parking facility*. *Commercial parking facilities* may require conditional use approval or special review approval in some Zone Districts. Public parking facilities owned by a public agency shall be considered "public uses."

Commercial use. Land or a structure intended to support offices, retail, warehousing, manufacturing, commercial recreation, restaurant/bar or service oriented businesses, not including lodges or hotels.

Commission. The City of Aspen Planning and Zoning Commission.

Consignment retail establishment. A retail establishment in which the operator sells second-hand goods as a third party agent between the buyer and seller.

Contiguous. The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered contiguous where separated by private rights-of-way, water courses or water bodies situated between them.

Cul-de-sac. A short local street terminating in a vehicular turnaround.

Day care center. See "Child Care Center." (See Supplementary Regulations — Section 26.575.080, Child care center or home.)

Deck. An outdoor, unheated area appended to a living space but not intended for living.

Demolition. To raze, disassemble, tear down or destroy forty percent (40%) or more of an existing structure (prior to commencing development) as measured by the surface of all exterior wall and roof

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area above finished grade and associated assembly and components necessary for the structural integrity of such wall and roof area. For the method of determining demolition, see Section 26.575.020(E), Measurement of demolition. Demolition shall also include the removal of a dwelling unit in a multi-family or mixed-use building, its conversion to nonresidential use, or any action which penetrates demising walls or floors between Multi-Family Housing Units if such action is undertaken to combine the units. (See Section 26.470.070.5, demolition or Redevelopment of Multi-Family Housing)

Density. The number of dwelling units or bedrooms per unit of land as permitted in the Zone District.

Design studio. A workshop primarily devoted to the design or representation of built form, landscapes, consumer products or graphic arts.

Developer. A person or entity undertaking any development as authorized by this Title.

Development. The use or alteration of land or land uses and improvements inclusive of, but not limited to: 1) the creation, division, alteration or elimination of lots; or 2) mining, drilling (excepting to obtain soil samples or to conduct tests) or the construction, erection, alteration or demolition of buildings or structures; or 3) the grading, excavation, clearing of land or the deposit or fill in preparation or anticipation of future development, but excluding landscaping.

Development Agreement. A recorded written agreement between the City and a project owner/developer, prepared pursuant to Chapter 26.490 – Approval Documents, describing an approved development application and describing, depicting, or referencing plans and drawings outlining the nature of the project, regulatory approvals, policies related to land uses, financial assurances for physical improvements, deed restrictions, timing of improvements, acceptance procedures for improvements, noncompliance provisions and any other requirements of the Development Order for the project.

Development application. A written request submitted in accordance with this Title to undertake development.

Development order. A written authorization issued pursuant to the terms of this Title to undertake development according to an approved site-specific development plan. (See Common Development Review Procedures — Section 26.304.070, Development orders.)

Dormer. A small gable or shed roof projecting above the slope of the primary roof of a building. A dormer usually covers a vertical window.

Dormitory. A building or portion thereof, providing group sleeping accommodations in one (1) room, with shared bath and toilet facilities. (See Supplementary Regulations — Section 26.575.160, Dormitory.)

Dwelling. A structure or portion thereof, intended and used as a shelter in which a person or people reside and sleep.

Dwelling, attached residential. A residential dwelling which is physically connected to one or more other dwellings or buildings on one or more sides.

Dwelling, detached residential. A residential structure consisting of a single Dwelling Unit with open yards on all sides, excluding mobile homes. Also known as a Single-Family Home or a Single-Family Residence.

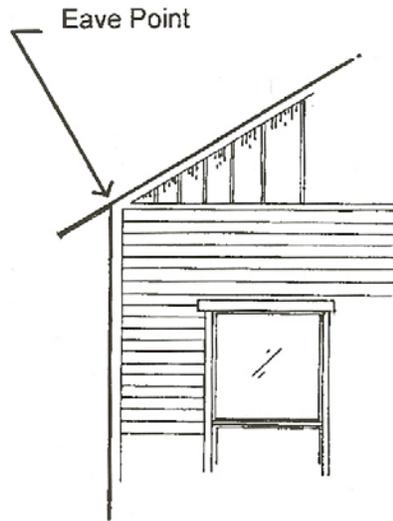
Dwelling, duplex. A residential building on a single lot or parcel comprised of two (2) attached Dwelling Units in either an over-and-under or side-by-side configuration having a common unpierced above-grade wall of at least one (1) story in height and ten (10) feet in length, or a common unpierced wall or floor/ceiling as applicable. Each unit in the duplex shall contain no less than twenty-five percent (25%) of the total floor area of the duplex structure.

Dwelling, multi-family. A residential structure containing three (3) or more attached Dwelling Units in either an over-and-under or side-by-side configuration with common unpierced demising walls or floors/ceilings as applicable, not including hotels and lodges, but including townhomes, that may include accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. One (1) or more Dwelling Units located within a Mixed-Use building shall also be considered a multi-family dwelling. The term "multi-family dwelling" also includes properties listed on the Aspen Inventory of Historic Landmark Sites and Structures consisting of three (3) or more Detached Residential Units where permitted by the Zone District.

Dwelling unit. A structure or portion thereof, intended and used as a shelter in which a person or people reside and sleep which contains a kitchen and bathroom and which is designed for or used as an individual residence. Also known as a Dwelling or a Residence. (Ord. No. 22-2008, § 2)

Easement. A legal interest or right that entitles its holder to a specific limited use or enjoyment of the land of another.

Eave point. The point in the roof plane of a structure or building which intersects with the exterior wall surface. (See drawing, below).



Employee housing. The same as *affordable housing*.

Essential public facility. A facility which serves an essential public purpose is available for use by or benefit of, the general public and serves the needs of the community.

Essential services. The development or maintenance by public utilities or the city of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment. The development or maintenance of commercial wireless telecommunication services facilities and/or equipment is not an essential service, but the development or maintenance of wireless telecommunication services facilities and/or equipment used exclusively for police, fire and/or other emergency response communication systems shall be considered *essential services*.

Exterior passageway. An unenclosed deck on the second floor or above that is open on at least two (2) sides that links two or more enclosed portions of a structure and serves as a principal access to outside-loaded lodge rooms or multi-family dwelling units.

Family. Two (2) or more persons related by blood, marriage or adoption or between whom there is a legally recognized relationship or not more than five (5) unrelated persons occupying the same dwelling unit.

Farm buildings. Structures used to shelter or enclose livestock, poultry, feed, flowers, field equipment, horticultural activities and similar land uses.

Farm uses. Uses of land devoted to the raising of crops, poultry or livestock.

Farmers' market. A market established by an organization of farmers/producers to provide the opportunity for direct sale (by farmers or their representatives) of primarily Colorado-grown produce, with the potential for accessory sales of other agriculturally-related products, to wholesale or retail buyers at stalls or other similar structures of a temporary nature. (See Supplementary Regulations — Section 26.575.190, Farmers' markets).

Fence. A constructed barrier, including berms, intended to prevent escape or intrusion or to mark a boundary or shield or screen view or to perform any similar function. (See, Supplementary Regulations — Section 26.575.050, Fences)

Flood hazard area. Any land area susceptible to being inundated by water from any source as identified by the Federal Emergency Management Agency (FEMA).

Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland waters; (b) the unusual and rapid accumulation or runoff of surface waters from any source; or (c) mudslides which are proximately caused by flooding as defined in Subsection (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Floodway. The channel of a river or other watercourse and the adjacent land area necessary or reserved to discharge a base year flood without increasing the water surface elevation.

Floor. The base walking surface within a room or other enclosure.

Floor area. The sum total of the gross horizontal areas of each story of the building measured from the exterior walls or from the centerline of the party walls. (See, Supplementary Regulations — Section 26.575.020, Calculations and measurements).

Floor area ratio (FAR). The total floor area of all structures on a lot divided by the lot area.

Floor area ratio, external. The total floor area of all structures compared to the total area of the building site.

Floor area ratio, internal. The floor area within a building devoted to a particular use, compared to the total floor area of the building.

Food market. A store which principally sells packaged, bulk and/or fresh foods but which may have indoor customer seating of up to ten (10) seats for food service, but no wait service.

Footprint. The horizontal extent to which a structure covers the ground plane as represented in plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.

Free market unit. A dwelling unit not subject to the construction, occupancy or other regulations adopted by the City or its housing designee under the City's affordable housing program.

Garage. A roofed structure providing space for the parking of automobiles and enclosed on all sides.

Gazebo. An uninsulated, unheated area under a roof, not connected to any other building and open on all sides to the outdoors, with or without screens.

Geographic information system (GIS). A managed interactive system of computer hardware and software and geographic data, designed to capture, store, update, manipulate, analyze, retrieve and display geographically recorded information.

Grade, finished. The elevation of the ground surface measured where it meets the exterior wall of a structure upon completion of construction.

Grade, natural. The undisturbed elevation of the ground surface prior to construction or other development activity.

Graphic design. An artistic portrayal or decorative pattern painted or otherwise placed directly on an exterior wall, fence, awning, window or other exterior surface which may be viewed from outside the premises upon which it has been placed and which is not used or displayed as an identification, advertisement or promotion for the premises, a person, business, service organization or product.

Gross Lot Area. The total horizontal area contained within the lot lines of a lot or other parcel of land.

Ground floor. The floor of a structure approximately the same elevation as the natural grade of the surrounding area.

Group home. A residential building licensed by the State as an owner-occupied or nonprofit facility for the housing of up to eight (8) aged, mentally ill or developmentally disabled persons, as those classifications of persons are defined under the Colorado Revised Statutes. (See Supplementary Regulations — Section 26.575.200, Group homes)

Growth Management Commission: Same as Planning and Zoning Commission. See Chapter 26.212 — Planning and Zoning Commission

HPC. The Historic Preservation Commission of the City.

Height, building. The height of a building shall be the maximum distance possible measured vertically from natural grade at any point within the interior of the building; and from natural or finished grade (whichever is lower) at any point around the perimeter of the building to the highest point or structure within a vertical plane. (See Supplementary Regulations — Section 26.575.020, Measurements and calculations).

High water line. The boundary dividing a river bed from a river bank and defined as line on the bank up to which the presence and action of water are so usual and long-conditioned as to impress on the bed a character distinct from that of the bank with respect to the nature of the ground surface, soil and vegetation.

Historic landmark. A structure or site designated and regulated for its historic architectural or other importance under Chapter 26.415 of this Title.

Historic Overlay District, "H." An area or site designated and regulated for its historic architectural importance under Chapter 26.415 of this Title.

Historic significance. A building, structure, park, cemetery, archeological site, landscape or object which has importance to the history, architecture, neighborhood or community character of Aspen or the area surrounding Aspen. As a general rule in preservation, any structure or portion of a structure that is at least fifty (50) years old may be considered historically significant.

Home occupation. A business, occupation or trade conducted principally within a dwelling or a structure accessory to the dwelling and allowed only as an accessory use. (See Supplementary Regulations — Section 26.575.090, Home occupations).

Hotel (a.k.a. Lodge). A building or parcel containing individual units used for overnight lodging by the general public on a short-term basis for a fee, with or without kitchens within individual units, with or without meals provided and which has common reservation and cleaning services, combined utilities and on-site management and reception services. Timeshare (a.k.a. fractional) units and timeshare developments are considered hotels for the purposes of this Title. For hotels with flexible unit configurations, also known as “lock-off units,” each rentable division or “key” shall constitute a lodge unit for the purposes of this Title.

Unless otherwise approved pursuant to Chapter 26.590 – Timeshare Development, occupancy periods of a hotel or unit thereof, by any one (1) person or entity with an ownership interest in the hotel or units thereof, shall not exceed thirty (30) consecutive days or exceed ninety (90) days within any calendar year, regardless of the form of ownership. Occupancy periods for person or entities with no

ownership interested (e.g. vacationers) shall be limited only by the ninety-days per calendar year requirement.

Housing designee. A person, agency or entity appointed by the City Council to provide expertise, management and administrative services concerning affordable housing.

Junk yard. A site or parcel of land used for the collection, storage, salvaging, dismantling, disassembly or sale of waste paper, rags, scrap metal, discarded appliances, vehicles, machinery or other discarded materials. (See Supplementary Regulations — Subsection 26.575.045(H), Junk yards).

Kitchen. A room or other portion of a structure used for the preparation and cooking of food and which contains a refrigerator, sink, stove, range, cook top or similar cooking device.

Landscape terrace. An outdoor uncovered, at-grade space which may be paved or planted.

Light well. An outdoor uncovered space developed below the grade of the surrounding ground which provides egress from a basement or lower level of a building as required by adopted building or fire codes.

Linked pavilion. An enclosed walkway connecting a primary structure to an accessory structure.

Liquor Store. A commercial establishment engaged in the retail sale of alcoholic beverages, with no on-site consumption, and subject to local licensing allowances and restrictions.

Lodge. Same as *hotel*.

Loggia. A deck or porch attached to a living space and open on at least one (1) side developed under a roof as an integral part of the building's mass rather than as an appended element.

Logo. An artistic portrayal or decorative pattern printed or otherwise placed on an exterior wall, window sign or other exterior surface which may be viewed from outside the premises upon which it has been placed and which is used or displayed to identify, advertise or promote the premises, a person, business, service organization or product.

Long term. The occupancy of a dwelling unit for residential purposes for a consecutive time period greater than thirty (30) days.

Lot. A defined individual area or unit of land resulting from subdivision and reflected on a recorded plat approved by the City; or if created and recorded prior to the adoption by the City of subdivision regulations or prior to its annexation into the City, a unit or area of land designated by a separate and distinct number or letter which is illustrated on a plat recorded in the office of the Clerk and Recorder for Pitkin County.

Lot depth. The shortest horizontal distance between the front and rear lot lines.

Lot line. The property boundary dividing a lot from a street or street right-of-way, alley, or an adjacent parcel.

Lot width. The horizontal distance between the side lot lines as measured along the front yard setback line.

Manufactured home. A single-family dwelling unit which is partially or entirely manufactured in a factory or at some location other than the site of final construction and installation. A manufactured home is installed on an engineered, permanent foundation and has brick, wood or cosmetically equivalent siding and a pitched roof. A manufactured home is certified to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended.

Marijuana Cultivation Facility. A commercial establishment engaged in the growing and production of marijuana for wholesale distribution, with no on-site consumption, and subject to local licensing allowances and restrictions.

Marijuana, Medical Establishment. A commercial establishment engaged in the retail sale of medical marijuana, with no on-site consumption, and subject to local licensing allowances and restrictions. A Medical Marijuana Establishment may include a medical marijuana center, infused product manufacturing facility, or optional premises cultivation facility as such terms are defined in the Colorado Revised Statutes.

Marijuana Product Manufacturing Facility. A commercial establishment engaged in the preparation or adaptation of marijuana into marijuana products for wholesale distribution, with no on-site consumption, and subject to local licensing allowances and restrictions.

Marijuana, Retail Establishment. A commercial establishment which may include any combination of the following uses: Marijuana Retail Store, Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, and Marijuana Testing Facility.

Marijuana Retail Store. A commercial establishment engaged in the retail sale of marijuana, with no on-site consumption, and subject to local licensing allowances and restrictions.

Marijuana Testing Facility. A commercial establishment engaged in the technical evaluation of marijuana or marijuana-related products for safety, quality, potency, or other metrics or measurable effects, with no on-site consumption, and subject to local licensing allowances and restrictions.

Mixed-use. The use of land or a structure for more than one (1) of the following land uses:

Commercial, which shall include retail and restaurant uses, neighborhood commercial uses, office uses, service uses, service commercial industrial uses, food market and commercial parking facilities, but which shall exclude agricultural uses and artist studios;

Residential, which shall include detached dwelling, attached dwelling, single-family dwelling, duplex dwelling, multi-family dwelling, manufactured home, free-market residence, affordable housing, employee housing, group home, dormitory, accessory dwelling unit and carriage house;

Lodging, which shall include hotel, timeshare lodge and exempt timesharing, but shall exclude boardinghouse and bed and breakfast;

Civic, which shall include arts, cultural and civic uses; child care center; essential public facilities; recreational use and public uses; but shall exclude open space, open use recreation site; and

Accessory uses, temporary uses and the ownership of property by a nonprofit organization that is not used as set forth above shall not qualify a property or structure as *mixed-use*.

Mobile home. A detached, transportable, one-family dwelling unit intended for year round occupancy and containing sleeping accommodations, flush toilet, a tub or shower bath, kitchen facilities with plumbing and electrical connections intended for attachment to outside systems. All mobile homes must be certified to the National Manufactured Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. A mobile home shall be made to be readily moveable as a unit on its own running gear and designed to be used as a dwelling unit with or without permanent foundation, but to be installed in either a permanent or semi-permanent manner. A mobile home is not licensed as a recreational vehicle or park model. The phrase "without a permanent foundation" indicates that the support system/chassis is constructed with the intent that the mobile home placed thereon may be moved from time to time at the convenience of the owner.

Mobile home park. A parcel or area of land upon which two (2) or more mobile homes, occupied or intended to be occupied for a dwelling, are located for any period of time, regardless of whether or not a charge is made for such accommodations and whether or not the mobile homes and/or land are owned by the occupants.

Monopole. A wireless communication facility which consists of a monopolar structure, erected to support wireless telecommunication antennas and connecting appurtenances.

Motel. Same as *hotel*.

Neighborhood. The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.

Neighborhood café. A commercial eating and drinking establishment where food is prepared and served for consumption on or off premises, limited to no more than one thousand five-hundred (1,500) net leasable square feet and no limitation on outdoor seating and which may provide music or other performances and entertainment incidental to the primary use.

Neighborhood commercial uses. Commercial establishments engaged in the selling or renting of consumer goods and merchandise to the general public and the rendering of services incidental to the sale or rental of such products. *Neighborhood commercial uses* shall include retail uses (with the exception of restaurants and nightclubs and bars), post office branch, artist studio, commercial kitchen, bakery, food market, neighborhood café, broadcasting facility, movie theaters and the sale or rental of motorcycles, motor-drive cycles and motorized bicycles as defined by Section 42-1-102, C.R.S, nonmotorized vehicles such as bicycles, clothing, sporting goods, jewelry, books, videos, prescription drugs, liquor, hardware, furniture and art and similar uses and activities.

Net leasable commercial and office space. Those areas within a commercial or office building which are permitted to be leased to a tenant and occupied for commercial or office purposes. (Also see Section 26.575.020 – Calculations and Measurements.)

Net livable area. The areas within a building designed to be used for habitation and human activity. (Also see Section 26.575.020 – Calculations and Measurements.)

Net Lot Area. The total horizontal area contained within the lot lines of a lot or other parcel of land less those areas of the property affected by certain physical or legal conditions. (Also see Section 26.575.020, Calculations and Measurements).

Nightclub and bar. A commercial establishment engaged in the sale or dispensing of liquor by the drink for on-site consumption in which the preparation and serving of food may be available and where music, dancing or other entertainment may be provided or conducted.

Nonconforming lot of record. A lot or other parcel of land on record with the office of Clerk and Recorder for Pitkin County which as the result of the adoption of dimensional regulations contained within this Title fails to meet the minimum lot area and lot width requirements for the Zone District in which it is located.

Nonconforming lot or parcel. A lot or other parcel of land which as the result of the adoption of dimensional regulations contained within this Title fails to meet the minimum dimensional requirements for the zone district in which it is located.

Nonconforming structure. A structure which was originally constructed in conformity with zoning and building codes or ordinances in effect at the time of its development, but which no longer conforms to the dimensional or other requirements imposed by this Title for the zone district in which it is located.

Nonconforming use. The use of land or a building or structure which was originally established in conformities with the zoning and building codes or ordinances in effect at the time of its development, but which is no longer allowed as a permitted or conditional use under the regulations imposed by this Title for the zone district in which it is located.

Nonprofit organization. An entity which has received a favorable determination letter from the United States Internal Revenue Service regarding their tax exempt status and is incorporated, subject to or in compliance with the applicable provisions of the Colorado Revised Statutes (CRS) Corporations and Associations articles 121 to 137.

Nonunit space. The floor area within a lodge, hotel or mixed-use building that is commonly shared, such as lobbies, hallways, stairways, recreational areas and dining rooms.

Normal maintenance. That nonextraordinary maintenance carried out in any twelve (12) month period on a regular schedule necessary to preserve the safety and structural integrity of a nonconforming use or structure, including the repair and/or replacement of nonbearing walls, fixtures, wiring or plumbing.

Office. A type of land use involving the establishment and delivery of business, professional or governmental activities and/or services.

Office uses. A building or portion thereof, used for the transaction of business, professional or medical services and activities including, without limitation, realtors, timeshare sales, nonprofit organizations, travel agents, advertising or insurance agents, lawyers, physicians, dentists, architects, engineers, accountants, other licensed professionals and property management companies or agents.

Officer or official. An official or officer of the City.

Official Zone District Map. The official map authorized in Section 26.710.030 designating Zone District boundaries in the City.

Off-street parking. A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and used for the parking of vehicles.

Open space. A designated space or area of land suitable for public or private use, including space available for landscaping. Such space shall be open to the sky, free of automobile traffic, parking, display of merchandise, outdoor storage or undue hazard. (See, Miscellaneous Supplementary Regulations - Section 26.575.030, Open Space).

Open-use recreation site. Land devoted to public recreation uses or structures.

Owner. A person or entity in whom is vested the ownership or Title, either in whole or in part, of a building, structure or land or a part thereof.

P&Z. The Planning and Zoning Commission of the City.

Paint your own ceramics, arts and crafts studio. A workshop that includes the making, glazing, firing and/or painting of ceramics by hand or involving the use of hand tools or small scale equipment by the public, which may include accessory retail sales and office space for purposes directly related to the studio.

Panel antenna. A flat surface antenna used to achieve transmission or reception from a specific direction.

Parcel. An area of land which is capable of being described with such specificity that its location and boundaries may be established and which has been or may be developed as a single unit of land.

Park. A publicly or privately owned area of land dedicated to active or passive recreational uses or as a refuge for wildlife.

Park maintenance building. A building used in conjunction with the operation or maintenance of a park, including, but not limited to the storage and repair of park vehicles and equipment, greenhouses and offices for park personnel.

Patio. An outdoor uncovered, at-grade space which may be paved or unpaved. (A “covered patio” connected to a living space or building is considered a Porch. A “covered patio” not connected to any other building is considered a Gazebo. A “sunken patio” is considered an Areaway.)

Person. An individual, business, corporation, partnership, government or government agency, limited liability company, trust or any other legal entity.

Pharmacy. A commercial establishment engaged in the retail sale of prescription medicine, with no on-site consumption, and subject to State licensing allowances and restrictions.

Planned Unit Development (PUD). A zoning designation used prior to the adoption of Ordinance 36, Series 2013, replaced by the provisions of Chapter 26.445 – Planned Development.

Plat. A map or plan with written provisions that is prepared in compliance with this Code which, when approved by the City, is recorded in the Clerk and Recorder's Office of Pitkin County. (See Supplementary Regulations, Chapter 26.580, Engineering Department regulations).

Plate height. The point at which there is an inflection in an interior wall, where the wall meets the ceiling of the room, corridor or other space. Where stairs penetrate the ceiling of the room, corridor or other space, plate height for that space shall be the height of the immediately adjacent ceiling within that room, corridor or other space.

Porch. An uninsulated, unheated area under a roof, enclosed on at least one side by an exterior wall of a building and open on at least two sides to the outdoors, with or without screens.

Preapplication conference. A meeting between a potential land use applicant and/or their representative and member(s) of the Community Development Department held prior to submission of a land use application where aspects of development regulations, review criteria, review processes, application contents and application fees are discussed. (See, Common Development Review Procedures - Section 26.304.020, Preapplication conference.)

Primary Care Physician's Office: A physician's office, where the sole use is the delivery of primary care medical services that shall include one or more of the following areas of health care practice: pediatrics, family practice, internal medicine, and obstetrics-gynecology, where sale of supplies and/or medicines is incidental to the sale of services, and where walk-in and either Medicare or Medicaid patients are accepted.

Principal building. The primary structure on a lot.

Public buildings and uses. A building, facility or land use/activity owned, occupied or carried out by a government or government agency.

Public facilities. Major capital improvements, including but not limited to transportation, sanitary sewer, solid waste, drainage, potable water, education and parks and recreation facilities. Commercial wireless telecommunication services facilities and/or equipment are not public facilities, but those used exclusively for police, fire and/or other emergency response communication systems shall be considered public facilities.

Public right-of way. A dedicated strip or other area of land on or over which the City and/or public may travel or use for passage and within which public utilities and/or streets, alleys, trails, sidewalks and other ways may be installed.

Public uses. The use of land or buildings by public or quasi-public organizations for public use such as government administration and service, transportation buildings and facilities, utility services and administration, public parking, post office, fire station, police station, library, meeting hall, visitor center, hospital, essential public facilities and other similar purposes.

Reconstruction. To demolish and rebuild an existing structure or part of a structure in kind.

Recreation club. A building and associated land devoted to recreational use including, but not limited to, a golf, swimming pool or tennis clubhouse, an exercise room, a playground/activity center and which may include kitchen, bathing or toilet facilities, locker rooms or assembly halls.

Recreational uses. The use of land or buildings for recreational uses such as park, playground, play field, golf course, skateboard park or similar uses.

Recreational vehicle. A wheeled vehicle intended to provide temporary living accommodations. A recreational vehicle is either self-propelled, hauled or towed by a noncommercial vehicle. Included in the term are units commonly referred to as travel-trailers, camper-trailers, trailer-coaches, motor homes and pickup campers. A recreational vehicle is not a mobile home as defined in this Chapter.

Recycling center. A building or facility used for the collection and preparation of recyclable material for efficient shipment.

Rehabilitation. To restore or return a substandard or dilapidated building or structure to a habitable condition consistent with existing building codes and regulations.

Relocation. The moving of a building or structure to a location on or off of the lot or parcel on which it is situated.

Remodel. A construction project comprising revisions within or to elements of an existing structure, as distinct from additions to an existing structure.

Renovate. To upgrade an existing structure to a more contemporary and/or efficient use through repair and alteration, including making additions to the existing structure.

Residential multi-family housing. A dwelling unit which has in its history ever housed a working resident and which is located in a building in one of the following configurations:

- 1) A multi-family residential building;
- 2) A mixed-use building; or
- 3) A detached building on a property listed on the Aspen Inventory of Historic Landmark Sites and Structures containing three (3) or more detached residential units where permitted by the zone district.

Excluded from this definition shall be single-family and duplex dwellings and dwelling units used exclusively as tourist accommodations by or nonworking residents.

Resident-occupied (RO) unit. A dwelling unit which is limited by deed restriction or other guarantee running with the land to occupancy by qualified employees set forth in the housing guidelines of the Aspen/Pitkin County Housing Authority.

Residential use. Used or intended for use exclusively for dwelling purposes, but not including hotels or lodges.

Restaurant. A commercial eating and drinking establishment where food is prepared and served for consumption on or off premises, not subject to size or seating capacity limitation and which may provide music or other performances and entertainment incidental to the primary use. A grocery store or similar establishment which prepares and serves food but which principally sells packaged or nonperishable food and drink shall not be considered a restaurant.

Retail and Restaurant Uses. Commercial establishments engaged in the selling or renting of consumer goods and merchandise and the preparation and serving of food and drink to the general public. The sale or rental of products manufactured or enhanced on-premises and the rendering of services incidental to the sale or rental of such products shall be permitted. *Retail and restaurant uses* shall include restaurant, nightclub and bar, food market, neighborhood café, movie theater and the sale or rental of motorcycles, motor-driven cycles and motorized bicycles as defined by Section 42-1-102, C.R.S., nonmotorized vehicles such as bicycles, clothing, sporting equipment, jewelry, books, videos, pharmacy, liquor store, medical marijuana establishment, retail marijuana establishment, hardware, furniture and art and similar uses and activities. Office and service uses shall not be considered retail uses.

Reverse-corner lot. A corner lot bounded on three (3) sides by streets.

Right-of-way. A strip or other area of land specifically designated or reserved for travel, passage and/or the installation of utilities or other similar uses by persons other than or in addition to, the landowner.

Rooming house. Same as *boardinghouse*.

Satellite dish antenna or satellite radio frequency signal reception and/or transmission device. A dish-shaped or parabolic-shaped reception or transmission device used for the reception and/or transmission of satellite signals, including but not limited to television signals, AM radio signals, FM radio signals, telemetry signals or any other reception or transmission signals using free air space as a medium, whether for commercial or private use. This definition does not apply to wireless telecommunication services facilities and/or equipment including cellular telephone, paging, enhanced specialized mobile radio (ESMR), personal communication services (PCS), commercial mobile radio service (CMRS) and other wireless commercial telecommunication devices and all associated structures and equipment including transmitters, antennas, monopoles, towers, masts and microwave dishes, cabinets and equipment rooms.

Scale. The perceived or relative size and proportions of a structure or architectural element.

Service commercial industrial uses. The use of buildings or land for the manufacture, repair and servicing of consumer goods, the provision of common domestic services and with limited retail, showroom or customer reception areas. (See Service/Commercial/Industrial Zone District, Section 26.710.160.)

Service yard. A yard or area used for storage of material accessory to or used in conjunction with the principal commercial use of a lot or structure. (See Miscellaneous Supplementary Regulations — Section 26.575.045, Service yards.)

Service uses. Commercial establishments engaged in providing personal or financial services to the general public including banking, dry cleaning, laundromat, tailoring, mortuary, post office branch, shipping and receiving services, personal or sporting equipment storage lockers, barber and beauty shop, tattoo parlor, pharmacy, medical marijuana establishment, instructional or performing arts studio with no public performances, health and fitness facility, spa and similar activities. Accessory retail sales of products associated with the primary service use are permitted.

Setback. An area commencing and extending horizontally and vertically from a lot line, property line or other boundary which shall be unoccupied and unobstructed from the ground upward, excepting trees, vegetation and/or fences or other structures or projections as allowed. (See Supplementary Regulations — Section 26.575.040, Yards).

Short-term. The occupancy of a hotel, lodge unit, or vacation rental for a consecutive time period equal to or lesser than thirty (30) days in duration.

Sidewalk. That portion of a street or right-of-way which is paved and designed for use by pedestrians.

Sidewalk area. That portion of a street, right-of-way or area bordering a street or right-of-way, primarily intended for use by pedestrians, but inclusive of planting strips, park strips, border areas, parkways or similar area.

Sign. An object, device, symbol, light or structure that is intended to convey information or to advertise, that is freestanding or fixed to, painted on, placed on or incorporated into the surface of the structure or that is displayed from or within a structure. Window displays of merchandise and representations thereof, are not considered signage and shall not be subject to sign regulations (See Section 26.510.140, Signs-window displays).

Sign, "A" frame or sandwich. A portable sign which is ordinarily in the shape of an "A" or some variation thereof and which usually has no wheels.

Sign, free standing. Any sign which is permanently affixed to the ground, which is self-supported by a standard or legs or other self-supporting structure used solely for that sign and which is physically separated from any building or structure.

Sign, off-site. A sign which directs attention to a business, commodity, service, entertainment, attraction or product sold, offered or existing elsewhere than upon the same lot where such sign is located. The term shall include outdoor advertising signs (billboards), unless otherwise preempted by state or federal law.

Sign, portable or wheeled. A sign not permanently affixed to the ground, a building or other permanently affixed structure which may be moved from place to place and which may be mounted on wheels.

Sign, projecting. Any sign, other than a freestanding sign, affixed to or supported by a building or structure, which projects beyond the surface of that portion of the building or structure to which it is affixed or supported by more than six (6) inches.

Sign, roof. A sign created, placed or maintained in whole or in part upon, against or directly above the roof or parapet line of a building.

Sign, temporary. A nonpermanent sign erected, affixed or maintained for a short, usually fixed, period of time.

Sign, wall. Any sign painted or placed on, incorporated in or affixed to, a building wall, window or canopy or any sign consisting of cut-out letters or devices affixed to a building wall, window or

canopy with no background defined on the building wall, window or canopy, with the exposed face of the sign located in a place substantially parallel to the wall, window or canopy surface on which it is placed.

Site. The specific location of an actual or planned structure or structures or an identifiable and defined area of ground/land occupied or that may be occupied, by a structure or structures.

Site coverage. The percentage of a site covered by buildings, measured at the exterior walls of a building at ground level. (See Supplementary Regulations - Section 26.575.020, Calculations and measurements.)

Site Specific Development Plan (SSDP). A development plan that has obtained final approval from the City after review and evaluation as provided for in this Title, including notice and public hearing and which describes with reasonable certainty the type and intensity of use for a specific lot(s), parcel(s), site(s) or other area(s) of land and which incorporates all of the terms and conditions of approval. An SSDP may include or take the form of a Planned Development, subdivision plat, development and/or subdivision improvement agreement, a use or activity permitted on review or such instrument or document as identified and agreed upon by the City and landowner or developer. A license, map, variance, easement or permit shall not constitute an SSDP.

Specially Planned Area (SPA). A zoning designation used prior to the adoption of Ordinance 36, Series 2013, replaced by the provisions of Chapter 26.445 – Planned Development.

Split-level building. A structure or portion thereof, with floor levels separated from the adjacent sidewalk level by four (4) or more feet of both horizontal and vertical separation and which has a finished grade below the level of the sidewalk in the area between the building and the sidewalk.

Storage area. A detached accessory structure or a separately accessible portion of structure, intended to house items normally associated with the principal use of the property but not independently capable of residential, commercial or lodging use. Areas defined for storage purposes shall not contain plumbing fixtures or mechanical equipment that support the principal residential, commercial or lodging use of the property. Mechanical equipment may be located in conjunction with storage space, but the floor area on which mechanical equipment exists shall not be considered storage area.

Street. A way or thoroughfare, other than an alley, containing a public access easement and used or intended for vehicular, bicycle or pedestrian traffic. The term *street* shall include the entire area within a right-of-way.

Street, arterial. A street which has the primary function of carrying traffic and which may provide access to abutting land while receiving and distributing traffic to and from collector streets and/or highways.

Street, collector. A street which carries through traffic and may provide access to abutting lands. The primary function of *collector streets* is receiving and distributing traffic to and from local streets and providing for the distribution of traffic within.

Street, local. A street which has the primary function of receiving and distributing traffic to and from residential streets and providing access to abutting lands, but which is not intended for and does not normally carry through traffic.

Street, private. A street designated to comply with City engineering standards which is retained in private ownership, maintained by the private owners, but dedicated for the use of the public.

Street, public. A street designed to comply with City engineering standards dedicated to the public as a public right-of-way.

Street, unopened. A public or private street that while depicted on a plat, map, right-of-way or other document has not been engineered, installed and/or approved for use by the City.

Structure. Anything constructed, installed or erected which requires location on the ground or is attached/supported by something on the ground, inclusive of buildings, signs, roads, walkways, berms, fences and/or walls greater than six feet (6') in height, tennis courts, swimming pools and the like, but excluding poles, lines, cables or similar devices used in the transmission or distribution of public utilities.

Structure, detached. A structure not physically connected in any manner to another structure, above or below ground, exclusive of utility connections.

Subdivider. Any person or entity that divides or seeks to divide land into two or more lots, parcels or other units of land.

Subdivision. A land use action as required by Chapter 26.480 – Subdivision.

Subdivision agreement. A recorded document between the City and a project owner/developer describing an approved subdivision, the associated regulatory approvals, financial assurances for physical improvements, timing of improvements, acceptance procedures for improvements and noncompliance provisions and any other requirements of the land use approval.

Subgrade area. An area below the natural or finished grade of the ground. (See, Supplemental Regulations, Subsection 26.575.020(A), Floor area).

Tattoo parlor. A business establishment principally engaged in the business of creating indelible marks or figures fixed upon the human body by insertion of pigment under the skin.

Temporary use or structure. A use or structure that may or may not be permitted in a given zone district, but which may be allowed on a nonpermanent and temporary basis upon review. (See Chapter 26.450, Temporary Uses.)

Timeshare development or unit. A development, building or dwelling unit the title to which is or is to be, divided either into interval estates or time-span estates as defined at Section 38-33-110, C.R.S., as may be amended from time to time.

Timeshare lodge. A development or a unit that has been approved for timesharing, pursuant to Chapter 26.590 and has the characteristics of a timeshare lodge, as specified in Section 26.590.060. Each unit in a timeshare lodge shall be subdivided into no less than seven (7) time span or interval

estates. A timeshare lodge unit may contain a kitchen and still be considered to be a lodge unit (not a residential dwelling unit) for purposes of this Land Use Code (although the City's adopted building codes will consider a unit with a kitchen to be a dwelling unit and the City may, therefore, require it to comply with the applicable provisions of those codes for a dwelling unit).

Timeshare use. A contractual or membership right of occupancy (which cannot be terminated at the will of the owner) for life or for a term of years, to the recurrent and exclusive use or occupancy of a dwelling unit on some periodic basis for a set period of time that has been allotted from use or occupancy periods into which the dwelling unit has been divided.

Top of slope. A line generally running parallel to a stream or river from which development must be setback and which delineates the bank of the river or stream or other riparian area as determined by the City Engineer.

Townsite or original Aspen Townsite. Land depicted on the City Incorporation Plat of Record, dated 1880. Parcels of land lying partially within this area shall not be considered within the *original Townsite*.

Trail. A marked or dedicated path or way for pedestrian and/or nonmotorized traffic.

Trash compactor. A mechanical device intended to minimize volume and store domestic refuse meeting the requirements of this Code, Chapter 12.04 — Solid Waste.

Upper floors. The floors of a structure located entirely above the ground floor of the same structure.

Use. The purpose or activity for which a lot, other area of land or a building is designated, arranged, intended, occupied or maintained.

Utility/trash service area. An area approved or designated for the placement of garbage or trash containers or mechanical equipment, accessory to a principal structure or use.

Vacation rental. The short term occupancy of a residential dwelling unit by the general public for a fee. A vacation rental shall not include the rental of individual rooms within a residential dwelling unit.

Vested property right. The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Veterinary clinic. A facility maintained by or for the use of a licensed veterinarian in the care and treatment of animals wherein overnight care is prohibited except when necessary for medical purposes.

Watercourse. A river, stream or water irrigation ditch.

Whip antenna. A flexible rod antenna supported on a base insulator.

Wildlife resistant dumpster or trash enclosure. A device or structure intended to store domestic refuse and limit access by nondomestic mammals meeting the requirements of this Code, Chapter 12.08, Wildlife protection.

Wireless telecommunication services facilities and/or equipment. Cellular telephone, paging, enhanced specialized mobile radio (ESMR), personal communication services (PCS), commercial mobile radio service (CMRS) and other wireless commercial telecommunication devices and all associated structures and equipment including transmitters, antennas, monopoles, towers, masts and microwave dishes, cabinets and equipment rooms. This definition does not apply to noncommercial satellite dish antennae, radio and television transmitters and antennae incidental to residential use.

A. *Cellular* means an analog or digital wireless communication technology that is based on a system of interconnected neighboring cell sites, each of which contains antenna.

B. *Enhanced Specialized Mobile Radio (ESMR)* means a digital wireless communication technology that specializes in providing dispatching services.

C. *Personal Communication Services (PCS)* means a digital wireless communication technology that has the capacity for multiple communications services and will provide a system in which calls will be routed to individuals rather than places, regardless of location.

Working resident. A person as defined in the Affordable Housing Guidelines.

Yard. The grounds surrounding a building on the same lot or parcel which are unoccupied and unobstructed above and below ground, except for trees and vegetation or as otherwise permitted in this Title. (See Supplementary Regulations — Section 26.575.040, Yards. See also *Setbacks*.)

Yard, front. The yard extending the full width of a lot or parcel, the depth of which is measured by the narrowest horizontal distance between the front lot line and the nearest surface of the principal building at grade.

Yard, rear. A yard extending the full width of a lot or parcel, the depth of which is measured at the narrowest horizontal distance between the rear lot line and the nearest surface of the principal building at grade.

Yard, side. A yard extending from the front yard to the rear yard of a lot or parcel, the width of which is measured at the narrowest horizontal distance between the side lot line and the nearest surface of the principal building at grade.

(Ord. No. 2-1999, §2; Ord. No. 34-1999, §1; Ord. No. 39-1999 §7; Ord. No. 41-1999, §1; Ord. No. 5-2000, §§1, 2; Ord. No. 38-2000, §1; Ord. No. 56-2000, §9; Ord. No. 39-2001, §1 [part]; Ord. No. 46-2001, §3; Ord. No. 1-2002, §1; Ord. 9-2002, §2; Ord. No. 21-2002, §2; Ord. No. 40-2002, §1; Ord. No. 52-2003 §1; Ord. No. 53-2003, §1; Ord. No. 54-2003, §1; Ord. No. 55-2003, §1; Ord. No. 7-2004, §1; Ord. No. 28a-2004, §1; Ord. No. 9-2005, §5; Ord. No. 13-2005, §§1,2; Ord. No. 17-2005, §2; Ord. No. 12-2006, §20; Ord. No. 12, 2007 §§1—3; Ord. No. 4-2008, § 2; Ord. No. 22-2008, § 2; Ord. No. 27-2010, §5–6; Ord. No. 34-2011, §1; Ord. No. 7-2013, §1; Ord. No. 13-2013, §3; Ord. No. 39-2013, §1 & 2; Ord. No. 36-2013, §4; Ord. No.37-2013, §1)