

TITLE 26
LAND USE REGULATIONS
PART 500 — SUPPLEMENTARY REGULATIONS

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Chapter 26.500
DEVELOPMENT REASONABLY NECESSARY FOR THE CONVENIENCE AND
WELFARE OF THE PUBLIC

Sections:

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26.500.010 Purpose

It is the purpose of this Chapter to exempt certain types of development from all applicable sections, except as herein noted, of Title 26 and to establish an alternative process and standards for the review, analysis and approval of those types of developments determined to be eligible for such alternative review and analysis. The purpose in identifying and applying alternative review standards for certain developments eligible for such treatment is to provide a more flexible, streamlined, thorough and coordinated review and approval process and to allow for greater public participation in the review process when it is determined by the City Council to be in the best interests of the City to do so.

(Ord. No. 7-2000, § 3)

26.500.020 Authority

As a home rule municipality organized and operating under Article XX of the Colorado Constitution, the City of Aspen is vested with the authority and power to exempt certain types of development from the Aspen Land Use Code, Title 26 of the Aspen Municipal Code. See *Clark v Town of Estes Park*, 686 P.2d 777 (Cob. 1984); *City of Colorado Springs v Smartt*, 620 P.2d 1060 (Colo. 1980).

(Ord. No. 7-2000, § 3)

26.500.030 Applicability

Only those development applications determined by the City Council to be reasonably necessary for the convenience or welfare of the public shall be eligible for review and approval in accordance with this Chapter. Only those portions of Title 26 which are specifically incorporated in the ordinance granting final approval of a development order shall be applicable to a project determined to be reasonably necessary for the convenience or welfare of the public.

(Ord. No. 7-2000 § 3)

26.500.040 Standards for determination

A development may be determined to be reasonably necessary for the convenience or welfare of the public if the applicant for development is the City, an agent of the City authorized by the City Council to proceed under this Chapter of the Land Use Code or the City or agent of the City is a co-applicant with a private party for the development of land which constitutes an essential public facility, provides essential services to the public and which is in the best interests of the City to be completed. By way of example and not limitation, the following types of developments may be

determined to be reasonably necessary for the convenience or welfare of the public: (a) affordable housing projects developed by the City by itself or in conjunction with an agent or private developer; (b) the development of public utilities; (c) park and recreational facilities development; (d) public infrastructure improvements; (e) public buildings and structures; or (f) transportation improvements.

(Ord. No. 7-2000, § 3)

26.500.050 Procedure

A. Community Development Director. The Community Development Director, upon determining that the proposed development application may be eligible for consideration as a project reasonably necessary for the convenience or welfare of the public may consult with the Planning and Zoning Commission regarding the proposed development's eligibility and shall thereafter prepare a memorandum for the City Council that: (a) outlines the reasons for consideration as an eligible project; (b) sets forth the conclusions of any referral comments received by the Community Development Director, if any; (c) includes the procedures the applicant would be required to follow if the project is determined not to be an eligible project; (d) includes a recommendation on the alternative procedure to be followed should the project be determined to be an eligible project; and (e) includes a recommendation as to the appropriate City boards and commissions and other interested parties necessary for the review of the project. The Community Development Director, before preparing such a memorandum for the City Council may convene a technical staff meeting consisting of the applicant, the applicant's representative, City staff members, consultants and any other persons for the purpose of identifying and resolving any potential issues associated with the provision of utilities and services, environmental constraints, site engineering, access and circulation, anticipated public concerns and any other technical information which would assist the Community Development Director to prepare the initial memorandum to the City Council. The Community Development Director shall formally notify the Planning and Zoning Commission, the Historic Preservation Commission and, if applicable, the Aspen/Pitkin County Housing Authority, in writing, of the date of the hearing before the City Council at which time a determination is to be made concerning eligibility of the proposed development pursuant to this Chapter. The Community Development Director shall provide notice to the public, including publication, posting and mailing, in accordance with Paragraphs 26.304.060.E.3.a, b and c.

B. City Council determination of eligibility. Following a public hearing in accordance with Subsection 26.304.060.C, the City Council shall by resolution (a) make a determination whether the proposed development is reasonably necessary for the convenience and welfare of the public by applying the standards of Section 26.500.040 below; (b) establish a procedure for review of the proposed project to include standards of review; (c) establish a Task Force Team to review the development proposal and identify members of City boards, commissions and other interested parties (including at least two (2) members of the public at large) to be included as members of the Task Force Team, which shall include representation by the Planning and Zoning Commission; and (d) establish a timeframe for the procedures to be used to review the proposed development. If the proposed project proposes development subject to Chapter 26.415, Development involving the Aspen Inventory of Historic Landmark Sites and Structures or Development in an H, Historic Overlay District, the City Council shall include in the review procedures the requirement for an application for review of the eligible project to the Historic Preservation Commission in accordance with the applicable sections of the Land Use Code. The City Council may, in appropriate circumstances, include as part of the review process it adopts a separate referral to the Planning and Zoning

Commission or any other City board and commission for their separate review and recommendation. Should the City Council determine that the proposed development is not reasonably necessary for the convenience and welfare of the public, the application shall be reviewed in accordance with the applicable sections of this Code. The City Council may amend the resolution at any time upon the request of the applicant, the Community Development Director or upon its own motion. Pursuant to Chapter 26.310, Amendments to the Land Use Code and Official Zone District Map, of this Code, the City Council hereby amends Section 26.510.030 of this Code to read as follows. (Note that only the specific passage to be amended is indicated. All portions of these Sections not listed below shall remain in effect).

C. Community development technical staff review. Following a determination by the City Council that a proposed development is reasonably necessary for the convenience or welfare of the public, the Community Development Director shall convene a staff level, interdepartmental development review committee meeting for the purpose of identifying and resolving any potential issues associated with the provision of utilities and services, environmental constraints, site engineering, access and circulation and for providing any other technical information to the applicant which would assist in the preparation of an application for further review. Following the technical staff review process, the Community Development Director shall assist the applicant in preparing a formal application and preparation for submission of the development application to the appropriate boards, commissions and other interested parties identified by the City Council for such reviews.

D. Review of application by task team. The members of the task team, composed of members of City Boards and Commissions and interested parties identified by the City Council resolution shall meet and review the proposed development application using the standards of review identified in the resolution adopted by the City Council in accordance with Subsection (B), above. The chair of the Task Force Team shall be the Director of the Community Development Department. The chair of the Task Force Team shall prepare meeting agendas, coordinate meeting dates for the Task Force Team and facilitate all meetings. Following a review of the proposed development and at such time as the Community Development Director believes that further review would not significantly improve the overall development proposal, the Community Development Director shall report to the City Council the recommendations of the Boards, Commissions and interested members of the public which participated in the review of the proposed project. The Community Development Director's report to Council shall include: (a) a recommendation as to whether the proposed development should continue to be considered to be reasonably necessary for the convenience and welfare of the public; (b) all of the land use decisions and approvals that need to be made for the proposed development; (c) a report of the deliberations and recommendations made by the Task Force Team; and (d) any conditions of approval that may be necessary for the land use approvals. The Community Development Director shall present to the City Council a proposed ordinance that incorporates all of the applicable recommendations of the report.

E. City Council adoption of ordinance. The City Council, upon receipt of the report and proposed ordinance from the Community Development Director, shall approve, approve with conditions or disapprove an ordinance granting a development order for the proposed development. The review shall be a public hearing for which notice has been published, posted and mailed, pursuant to Paragraphs 26.304.060.E.3.a, b and c.

(Ord. No. 7-2000, § 3; Ord. No. 1-2002, § 12; Ord. No. 27-2002, §§ 20 and 21, 2002)

Chapter 26.510 SIGNS

Sections

26.510.010	Purpose
26.510.020	Applicability and scope
26.510.030	Prohibited signs
26.510.040	Signs not requiring a permit
26.510.050	Procedure for sign permit approval
26.510.060	Sign measurement and location
26.510.070	Sign illumination
26.510.080	Sign lettering, logos and graphic designs
26.510.090	Definition, sign types and characteristics
26.510.100	Signage allotment
26.510.110	Sandwich board signs
26.510.120	Policies regarding signage on public property

26.510.010 Purpose

In order to preserve the City as a desirable community in which to live, vacation and conduct business, a pleasing, visually attractive environment is of foremost importance.

Toward this end, the City Council finds that the City is an historic mountain resort community that has traditionally depended on a tourist economy. Tourists, in part, are attracted to the visual quality and character of the City. Signage has a significant impact on the visual character and quality of the City.

The purpose of this Chapter is to promote a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements.

These sign regulations are intended to:

- A.** Enhance the attractiveness and economic well-being of the City as a place to live, vacation and conduct business.
- B.** Work with businesses to preserve and maintain the City as a pleasing, visually attractive environment.
- C.** Address community needs relating to upgrading the quality of the tourist experience, preserving the unique natural environment, preserving and enhancing the high quality human existence, retaining the City's premier status in an increasingly competitive resort market, preserving the historically and architecturally unique character of the City, fostering the "village style" quality of the City and preserving and enhancing scenic views.
- D.** Enable the identification of places of residence and business.
- E.** Allow for the communication of information necessary for the conduct of commerce.

F. Encourage signs that are appropriate to the zone district in which they are located and consistent with the category of use to which they pertain.

G. Permit signs that are compatible with their surroundings and aid orientation and preclude placement in a manner that conceals or obstructs adjacent land uses or signs.

H. Preclude signs from conflicting with the principal permitted use of the site or adjoining sites.

I. Enable businesses to promote their business, while reasonably restraining the size and number of signs necessary to identify a residential or business location and the nature of any such business.

J. Protect the public from the dangers of unsafe signs and require signs to be constructed, installed and maintained in a safe and satisfactory manner.

K. Lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.

L. Regulate signs in a manner so as to not interfere with, obstruct vision of or distract motorists, bicyclists or pedestrians.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.020 Applicability and scope

This Chapter shall apply to all signs of whatever nature and wherever located within the City except for those signs permitted through an approved Planned Development.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1; Ord. No. 36-2013, §12)

26.510.030 Prohibited signs

The following signs are expressly prohibited for erection, construction, repair, alteration, relocation or placement in the City.

A. "A" Frame, Sandwich Board and Sidewalk or Curb Signs except as allowed per Sec. 26.510.110, Sandwich Board Signs.

B. Permanent Banners and Pennants used for commercial purposes not associated with a special event approved by the Special Events Committee per Section 26.510.120.

C. Billboards and Other Off-Premise Signs. Billboards and other off-premise signs, including security company signs which do not comply with the regulations set forth in this Title and signs on benches, are prohibited, except as a temporary sign as provided for in Section 26.510.040.A, Signs Not Requiring a Permit.

D. Flashing Signs. Signs with lights or illuminations which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color or use intermittent electrical pulsations except as permitted per Section 26.575.150, Outdoor lighting.

E. Moving/Variable Message Signs. Electronically controlled copy changes, or any other signs that move or use movement to emphasize text or images shall be prohibited. Objects independent of a sign or objects on a sign that move, rotate, or revolve and do not include text or images shall be permitted (see also Section 26.510.030.S, Television Monitors, and Section 26.510.070, Sign Illumination).

F. Neon and Neon Appearing Signs. Neon lights, similar gas-filled light tubes, and lighting made to appear as neon are prohibited, except when used for indirect illumination and in such a manner as to not be directly exposed to public view. This includes technology that simulates or mimics neon signs through the use of LED lights or other methods.

G. Obsolete Signs. A sign which identifies or advertises an activity, business, product, service or special event no longer produced, conducted, performed or sold on the premises upon which such sign is located. Such obsolete signs are hereby declared a nuisance and shall be taken down by the owner, agent or person having the beneficial use of such sign within ten (10) days after written notification from the Community Development Director and upon failure to comply with such notice within the time specified in such order, the Community Development Director is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the property on which the sign was located. That an obsolete sign is nonconforming shall not modify any of the requirements of this Subsection. Signs of historical character shall not be subject to the provisions of this Section. For the purpose of this Section, historical signs are defined to be those signs at least fifty (50) years in age or older.

H. Portable and Wheeled Signs except as allowed per Sec. 26.510.110, Sandwich Board Signs.

I. Roof Signs. A sign mounted on a roof.

J. Search Lights or Beacons except as approved per Subsection 26.575.150.H, Outdoor Lighting, Exemptions.

K. Signs Causing Direct Glare. A sign or illumination that causes any direct glare into or upon any public right-of-way, adjacent lot or building other than the building to which the sign may be accessory.

L. Signs Containing Untruthful or Misleading Information.

M. Signs Creating Optical Illusion. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

N. Signs Obstructing Egress. A sign which obstructs any window or door opening used as a means of ingress or egress, prevents free passage from one part of a roof to any other part, interferes with an opening required for ventilation or is attached to or obstructs any standpipe, fire escape or fire hydrant.

O. Signs on Parked Vehicles. Signs placed on or affixed to vehicles and/or trailers, including bicycles, which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product, service or

activity or direct people to a business or activity located on the same or nearby property. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

P. Signs in Public Right-of-Way. A sign in, on, or above a public right-of-way that in any way interferes with normal or emergency use of that right-of-way. Any sign allowed in a public right-of-way may be ordered removed by the Community Development Director upon notice if the normal or emergency use of that right-of-way is changed to require its removal.

Q. Street Blimps. Parked or traveling cars used primarily for advertising, sometimes referred to as "street blimps," are prohibited. Vehicle signage incidental to the vehicle's primary use is exempt.

R. Strings of Light and Strip Lighting. Strip lighting outlining commercial structures and used to attract attention for commercial purposes and strings of light bulbs used in any connection with commercial premises unless the lights shall be shielded and comply with Section 26.575.150, Outdoor lighting.

S. Television Monitors. Television monitors, or any other electronic device that emits an image onto a screen, displaying commercial content unrelated to the store or business, shall be prohibited. Television monitors displaying related commercial content on a screen of thirty-two (32) inches or less in size that are placed at least fifteen (15) feet from the storefront window, and monitors displaying related commercial content installed perpendicular to the public right-of-way shall be permitted. Television monitors displaying non-commercial content, such as news, sporting events, and weather forecasts shall be permitted within fifteen feet of the storefront provided that they are not directly oriented towards the public right-of-way and are not more than thirty-two (32) inches in size.

T. Unsafe Signs. Any sign which:

1. Is structurally unsafe;
2. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
3. Is not kept in good repair;
4. Is capable of causing electrical shocks to persons likely to come into contact with it;
5. In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official government regulatory or informational sign;
6. Uses any words, phrases, symbols or characters implying the need for stopping or maneuvering of a motor vehicle or creates, in any other way, an unsafe distraction for vehicle operators or pedestrians;
7. Obstructs the view of vehicle operators or pedestrians entering a public roadway from any parking area, service drive, public driveway, alley or other thoroughfare;
8. Is located on trees, rocks, light poles or utility poles, except where required by law; or

9. Is located so as to conflict with the clear and open view of devices placed by a public agency for controlling traffic or which obstructs a motorist's clear view of an intersecting road, alley or major driveway.

U. Temporary Signs. Unless otherwise approved, signage associated with a temporary use is not allowed.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.040 Signs not requiring a permit

A. Ordinary preventive maintenance including repainting of a lawfully existing sign, which does not involve a change of placement, size, lighting or height is exempt from having to obtain a permit. Also, the following signs or sign activities shall be exempt from obtaining a sign permit. Exemptions shall not be construed as relieving the applicant and owner of the sign from the responsibility of complying with all applicable provisions of this Title. The exemption shall apply to the requirement for a sign permit under this Section.

1. Banners, Pennants, Streamers and Balloons. Temporary banners, pennants, streamers and balloons shall only be permitted as outlined below:
 - a. *On Private Property:*
 - 1) Non-permanent streamers, pennants, and balloons in association with a retail special event not exceeding ten (10) days shall be permitted.
 - 2) Temporary banner(s) associated with a non-profit event, or a city-approved special event not exceeding ten (10) days shall be permitted. These banners must be removed within two (2) days of the event's conclusion. Banners are allowed to be thirty two (32) square feet in size. This maximum size allotment may be comprised of multiple banners. Content should primarily be information identifying the event, date and time, and a graphic/logo related to the event. Commercial content or sponsor logos shall be no more than twenty five percent (25%) of the total sign area.
 - b. *On Public Property,* including the public right-of-way, temporary banners, pennants, streamers, balloons and inflatables shall only be permitted per Section 26.510.120, Policies Regarding Signage On Public Property.
2. Construction Signs. One (1) freestanding or wall sign along each property lot line facing a street for a site under construction not to exceed a total of two (2) signs per site, which do not exceed six (6) square feet in area per sign, which are not illuminated and which identify individuals or companies involved in designing, constructing, financing or developing a site under construction. Such signs may be erected and maintained only for a period not to exceed thirty (30) days prior to commencement of construction and shall be removed within fourteen (14) days of termination of construction. A graphic design painted on a construction barricade shall be permitted in addition to such signs, provided it does not identify or advertise a person, product, service or business.
3. Designated Public Posting Signs - Signs such as concert announcements, special event notifications, and grand openings can only be placed on designated public posting areas such as the ACRA kiosk adjacent to the pedestrian mall and designated areas of public buildings, or private business windows.

4. Directional, Instructional, or Courtesy Signs. Signs, not exceeding two (2) square feet in area, which provide direction or instruction to guide persons to facilities intended to serve the public as required by law or necessity. Such signs include those identifying restrooms, public telephones, public walkways, public entrances, accessibility routes, restrictions on smoking or solicitation, delivery or freight entrances, affiliation with motor clubs, acceptance of designated credit cards and other similar signs providing direction or instruction to persons using a facility including courtesy information such as “vacancy,” “no vacancy,” “open,” “closed,” and the like. Advertising material of any kind is strictly prohibited on directional, instructional, or courtesy signs. Signs related to ski area operations, including signs affixed to ski lifts, may exceed the allowed size subject to approval by the Community Development Director.
5. Fine Art. Works of fine art which in no way identify or advertise a person, product, service or business.
6. Flags. Flags, emblems and insignia of political or religious organizations providing such flags, emblems and insignia are displayed for noncommercial purposes.
7. Garage, Estate, Yard Sale or Auction Signs. On-site or off-site signs which advertise a private garage, estate, yard sale or auction provided such signs are displayed no more than twice per year per residence for a period not to exceed three days. Sign must be removed at the conclusion of the event.
8. Government Signs. Signs placed or erected by governmental agencies or associations for a public purpose in the public interest, for control of traffic and for other regulatory or informational purposes, street signs, official messages, warning signs, railroad crossing signs, signs of public service companies indicating danger, or aids to service and safety which are erected by or for the order of government. These signs may include a variable message display of information for a public purpose.
9. Historic Designation. Signs placed on or in front of a historic building or site identifying and providing information about a property listed on the Aspen Inventory of Historic Landmark Sites and Structures or the National Register of Historic Places, which sign shall not exceed six (6) square feet in area, as approved by the Historic Preservation Officer.
10. Holiday Decorations. Noncommercial signs or other materials temporarily displayed on traditionally accepted civic, patriotic and/or religious holidays, provided that such decorations are maintained in safe condition, do not constitute a fire hazard and that the decorations comply with Section 26.575.150, Outdoor Lighting.
11. Incidental Signs on Vehicles. Signs placed on or affixed to vehicles or trailers where the sign is incidental to the primary use of the vehicle or trailer. This is in no way intended to permit signs placed on or affixed to vehicles or trailers which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product, service or activity or direct people to a business or activity located on the same or nearby property.

12. Interior Signs. Signs which are fully located within an enclosed lobby or courtyard of any building, which are not visible from the public right-of-way, adjacent lots or areas outside the building.
13. Memorial Signs. Memorial plaques or tablets, grave markers, statuary declaring names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials or other remembrances of persons or events that are noncommercial in nature.
14. Menu Signs Boxes. An exterior surface mounted or pole mounted sign box which advertises and/or identifies a restaurant menu, drinks or foods offered or special activities incidental to drink and food. One (1) sign per use, with an area not to exceed four (4) square feet, with a height not to exceed the eave lines or parapet wall of that portion of the principal building in which the use to which the sign applies is located, and which is located on or in front of the building within which the restaurant is located.
15. Movie Theater and Performance Venue Signs. Signs not to exceed thirty inches by forty-two inches (30" x 42"), located within the inner or outer lobby, court or entrance, window display, or interior or exterior poster box of a theatre or performance venue. These signs are intended to convey information regarding movie, theater, music, or other similar artistic performances or events and shall not be used for unrelated commercial content. Variable message displays, televisions, or other forms of digital marquees which may be visible from the exterior may be used, if they comply with the following: only one variable message display, television, or similar digital marquee may be designed to be visible exclusively from the exterior, and may be up to thirty-two (32) inches in size. Screen shall not contain commercial content unrelated to the advertised events and shall not be mounted on the exterior of the building.
16. Political Signs. Political signs announcing political candidates seeking public office, political parties or political and public issues shall be permitted provided:
 - a. All such sign may be erected no sooner than ninety (90) days in advance of the election for which they were made.
 - b. All such signs shall be removed no later than seven (7) days after the election for which they were made.
 - c. Political signs may not be placed on publicly owned property, rights-of-way adjacent to public property, or within the State Highway 82 traffic way including the round-a-bout and traffic islands. Political signs carried or worn by a person are exempt from these limitations.
17. Property Management/Vacation Rental/Timeshare Identification Signs. A building may have one sign with an area not exceeding two (2) square feet identifying the name and phone number of a contact person or management entity for the property and stating that it has been approved. Multi-Family buildings may have up to one (1) sign per ten (10) residential units. A building that is approved for exempt timesharing, pursuant to Section 26.590.030, Exempt Timesharing, may have a wall-mounted sign with an area not exceeding two (2) square feet, stating that it has been approved for timesharing and identifying the name and phone number of a contact person or management entity for the property.

18. Public Notices. Official government notices and legal notices.
19. Practical Purpose Signs. Practical signs erected on private property, such as lost property signs, cautionary or “beware” signs, wedding announcements, graduation celebrations, and other signs announcing a special events or functions which do not exceed two (2) square feet and limited to two (2) per property.
20. Real Estate for Sale or Rent Sign. Real estate signs advertising the sale or rental of the property upon which the sign is located, provided:
 - a. *Type*. A real estate for sale or rent sign shall be a freestanding or wall sign.
 - b. *Number*. There shall not be more than one (1) real estate for sale or rent sign per unit or parcel.
 - c. *Area*. The area of the temporary sign shall not exceed three (3) square feet. When multiple units or parcels are available, the area may be combined, but no one development or property shall have more than twelve (12) square feet of signage announcing the sale or rental of units or parcels.
 - d. *Height*. The height of the temporary sign shall not exceed five (5) feet as measured from the grade at the base of the sign.
 - e. *Duration*. The temporary sign may be used as long as the property is actively for sale or rent but must be removed within seven (7) days of the sale or rental of the real estate upon which the sign is located
 - f. *Location* - Real estate for sale or rent signs must be placed on the subject private property or on public rights-of-way adjacent to the respective private property. Real estate for sale or rent signs shall not be located on public or private property unassociated with the offering. Real estate signs placed in the public right-of-way are subject to the public safety standards of the city and may be removed.
21. Real Estate Photo Boxes. Real estate offices may place descriptive images of property that is currently for sale in storefront windows or on an exterior wall.
 - a. *Area*. Not to exceed 25% of the window surface area. Photo boxes not placed in a window shall be no larger than an area of six (6) square feet. Any individual image with description shall not exceed one (1) square foot in area.
22. Regulatory Signs. Regulatory signs erected on private property, such as “no trespassing,” are allowed up to two (2) square feet in size and limited to two (2) per property, as applicable.
23. Religious Symbols. Religious symbols located on a building or property used for organized religious services.
24. Residential Name and Address Signs. Detached residential dwelling units and duplex units may have wall or freestanding signs on or in front of the building or portion thereof to identify the street address and/or names of the occupants or name of the dwelling unit. The area of the sign is not to exceed two (2) square feet per dwelling unit. For mobile home parks, subdivision entrances, and multi-family housing, see the requirements found in Section 26.510.100.B.3, Residential Uses.

25. Street addresses on mailboxes.
26. Signs Carried by a Person. Signs carried by a person advertising or identifying a local service, product or sale or identifying a restaurant menu are permitted. There shall not be more than one (1) person carrying signs at any one time within the city. Signs must not exceed six (6) square feet per side.
27. Security Signs. Every parcel may display security signs not to exceed an area of six inches wide by six inches long (6" x 6"). Security signs may contain a message, logo or symbol alerting the public to the presence of a security system on the premises. Security signs shall be of a neutral color. Security signs may not be placed in the City right-of-way.
28. Temporary Food Vending Signs. The food vending permit must include details of the intended signage including size, material and location.
29. Temporary Sale Signs and Going-Out-of-Business Signs. Going-out-of-business signs and temporary sale signs, announcing special sales of products and services, shall be subject to the following:
 - a. *Type.* The sign(s) shall be placed in the window or windows of the business holding the sale.
 - b. *Number.* There shall be permitted not more than one (1) temporary sign(s) in any window and a total of not more than three (3) temporary signs for each use.
 - c. *Area.* Each temporary sign shall not exceed three (3) square feet.
 - d. *Duration.* Temporary signs may be maintained for a period not to exceed ten (10) days and shall be removed at the end of the tenth (10th) day or on the day following the end of the sale, whichever shall occur first and shall not be replaced for fourteen (14) days following the removal of the sign(s).
30. Vending Machine Signs. Permanent, potentially internally illuminated but non-flashing signs on vending machines, gasoline pumps, ice or milk containers or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use and other similar information. Vending machine signs that are internally illuminated must be located inside of a building or in a space that is not visible from the public right-of-way.
31. Temporary Signs for a New Business. A new business that has not yet received a permit, but is in the process of obtaining permits and/or producing signs, may be permitted to display temporary signs at the discretion of the Community Development Director.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.050 Procedure for sign permit approval

A. Permit Required. It shall be unlawful to erect, place, construct, reconstruct or relocate any sign without first obtaining a sign permit from the Community Development Director. Existing signage, with an approved sign permit, may be maintained after the adoption of this Chapter.

B. Application. A development application for a sign permit shall include the following information:

1. That information required on the form provided by the Community Development Director;
2. A letter of consent from the owner of the building;
3. Proposed location of the sign(s) on the building or parcel and material;
4. A Net Leasable calculation of the applicant's commercial space per the definition in 26.575.020, along with an explanation of how this information was obtained.
5. Any information needed to calculate permitted sign area, height, type, placement or other requirements of these regulations.

C. Determination of Completeness. After a development application for a sign permit has been received, the Community Development Director shall determine whether the application is complete. If the Community Development Director determines that the application is not complete, written notice shall be provided to the applicant specifying the deficiencies. The Community Development Director shall take no further action on the application unless the deficiencies are remedied. If the application is determined complete, the Community Development Director shall notify the applicant of its completeness. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Chapter.

D. Determination of Compliance. After reviewing the application and determining its compliance and consistency with the purposes, requirements and standards in this Chapter, the Community Development Director shall approve, approve with conditions or deny the development application for a sign permit.

E. Appeal. An applicant aggrieved by a determination made by the Community Development Director, pursuant to this Section, may appeal the decision to the Administrative Hearing Officer, pursuant to the procedures and standards of Chapter 26.316, Appeals.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.060 Sign measurement and location

A. Sign Setback. Signs are not subject to the setback requirements of the Zone District where they are located.

B. General. In calculating the area allowance for signs in all Zone Districts, there shall be taken into account all signs allowed therein including window decals and signs identifying distinctive features and regional or national indications of approval of facilities. See Section 26.510.060.D, Sign Area for the method or measuring signs.

C. Two or More Faces. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except where two such faces are placed back to back and are at no point more than two feet from one another. The area of the sign shall be taken as the area of the face if the two faces are of equal area or as the area of the larger face if the two faces are of unequal area.

D. Sign Area. Sign area shall be the area of the smallest four-sided geometric figure which encompasses the facing of a sign including copy, insignia, background and borders.

E. Cut-Out Letter Signs. Cut-out letter signs shall be credited toward allowable sign area at one-half (1/2) the measured area (see Figure 1 on the following page). The cut-out letter sign credit is given because these types of signs encourage transparency in regards to building materials and store windows, or lessen the impact of signage on awnings. In order to receive the credit on sign area, cut-out letter signs shall include the following:

1. Cut-out wall signs made out of wood, metal, stone or glass.
2. Cut-out window signs (such as laminate adhesive lettering)
3. Cut-out window signs should be primarily text. If the cut out letter sign contains graphics it will not receive the sign area credit.
4. Lettering on awnings that use the awning’s primary color for the backing, for example, white lettering placed on an awning that is completely red. The credit would not be given to white lettering in front of a black background on an awning that is otherwise completely red.

*Note: For the purposes of calculating cut-out letter signs for compliance with Section 26.510.100, Signage Allotment, the size of the cut-out letter sign shall be the final area after the reduction has

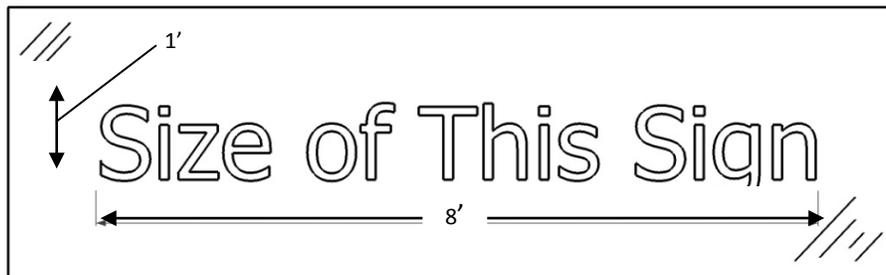
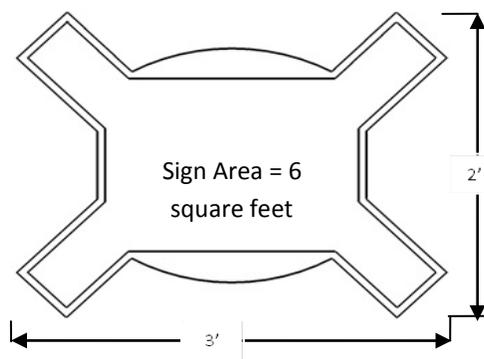
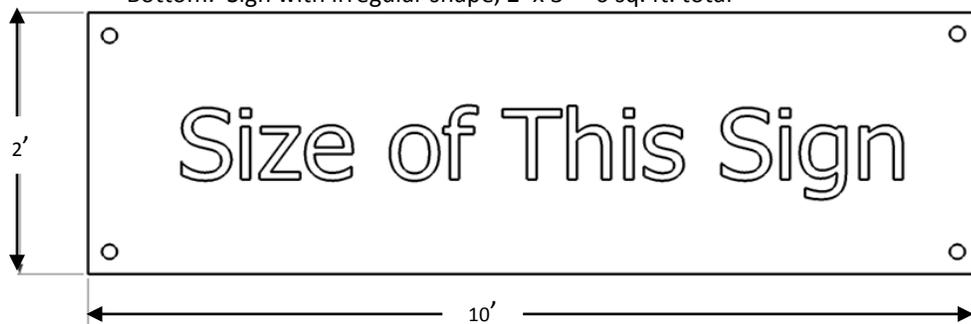


Figure 1: Above: Window sign with cutout letters. $(8' \times 1') * .5 = 4 \text{ sq. ft. total}$
 Below: Window sign with solid backing. $2' \times 10' = 20 \text{ sq. ft. total}$
 Bottom: Sign with irregular shape, $2' \times 3' = 6 \text{ sq. ft. total}$



been applied. For example, a two by six foot (2' x 6') cut-out letter sign shall be permitted on the wall of a retail use, given that after the reduction has been applied it is only considered a (6) square foot sign.

Sign Location and Placement. When possible, signs shall be located at the same height on buildings with the same block face. Architectural features should not be hidden by sign location. Signs should be consistent with the color, scale, and design of the building and not overpower facades. The location of a sign on a building shall correspond with the interior tenant space associated with the sign. For example, a business on the first floor of a building shall not place a sign on the third floor of the building. However, businesses on upper levels may place signage on the

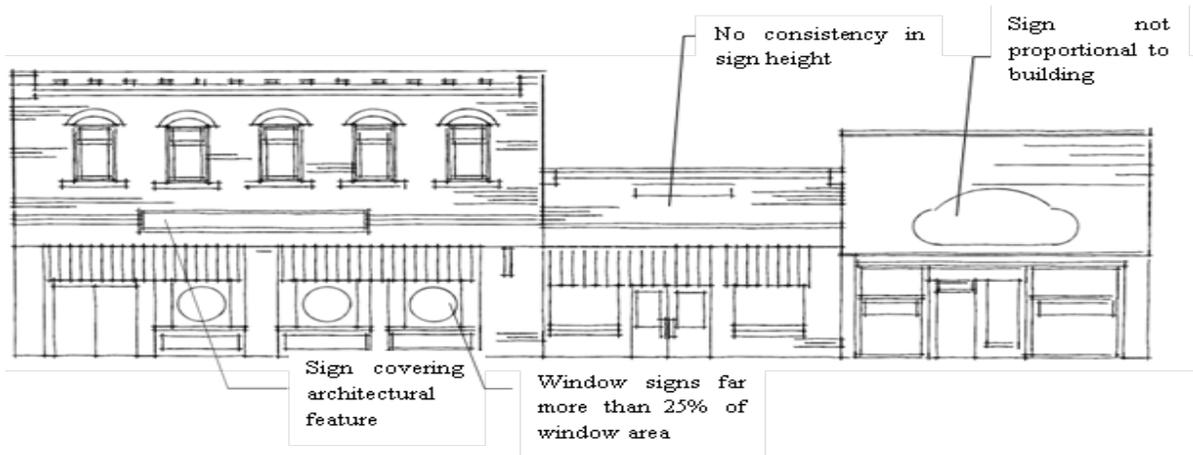


Figure 3 (Above): Undesirable Style

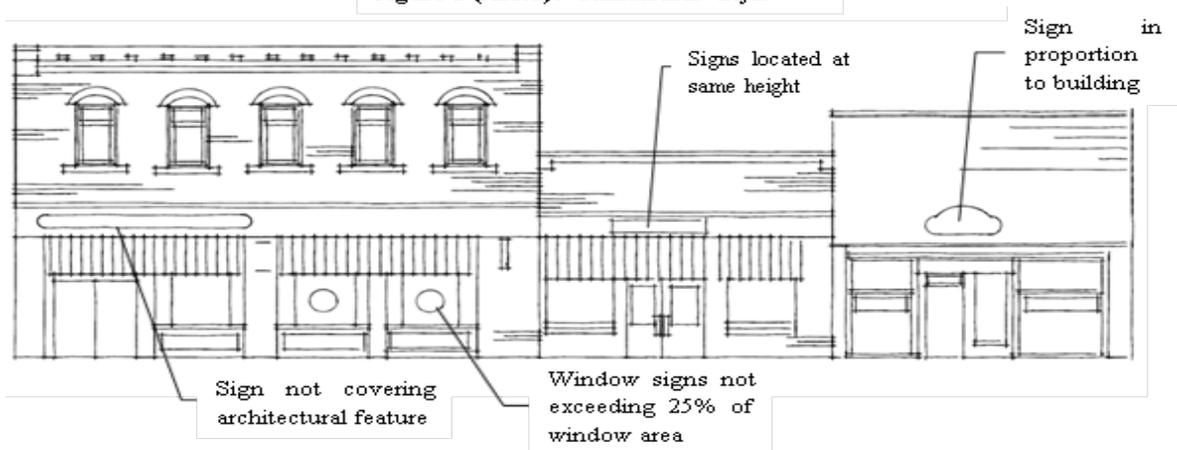


Figure 2 (above): Desired Style

ground level to indicate the entrance for the business.

6.510.070 Sign illumination

A. Allowed Illumination. Illumination of signs shall be designed, located, directed and shielded in such a manner that the light source is fixed and is not directly visible from and does not cast glare or direct light upon any adjacent property, public right-of-way, or motorist's vision. Illumination shall comply with Section 26.575.150, Outdoor lighting. Backlit signs are permitted for Retail,

Restaurant and Lodge uses, provided that the emitted light does not create excess glare or light trespass on to other properties. Backlit signs shall be constructed of an opaque material. Illuminated channel-letter signs are allowed provided the face and sides are constructed of an opaque material. The City encourages sign lighting be controlled by a light sensor or a timer in order to minimize the duration of illumination. Businesses are allowed no more than one backlit or illuminated channel-letter sign.

B. Prohibited Illumination. No sign shall be illuminated through the use of internal, oscillating, flickering, rear (excluding permitted backlit illumination), variable color, fluorescent illumination or neon or other gas tube illumination except when used for indirect illumination and in such a manner as to not be visible from the public right-of-way.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.080 Sign lettering, logos and graphic designs

A. Lettering. No lettering on any sign, including cut out letter signs, shall exceed twelve (12) inches in height, except that the first letter in each word shall not exceed eighteen (18) inches in height.

B. Logos. No logo on any sign, including cut out letter signs, shall exceed eighteen inches in height and eighteen inches in length (18" x 18"). This applies to logos that are primarily letters.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1; Ord. No. 14-2013, §1)

26.510.090. Definitions, sign types and characteristics

A. Awning Signs. No sign placed on an awning may project above, below, or off of an awning. Signs may only be placed on awnings that meet the definition for Awning in Section 26.104.100, Definitions.

B. Freestanding Signs. The highest point of any part of a Freestanding sign shall not be higher than the principal building or six (6) feet, whichever is less, and cannot project into the public or pedestrian right-of-way.

C. Identification Signs. Signs intended to identify the name of a subdivision, multi-family residential complex, mobile home park, or business name. Identification signs shall be visible from the public right-of-way or Private Street.

D. Individual Business. A commercial operation with a proprietary or distinct identity. This identity can be established through unique advertising, branding, logo(s), operations, ownership structure, inventory, products, services, location, physical separation, or other characteristics that make the commercial operation distinctly different. An operation shall qualify as an Individual Business if it has a preponderance of these characteristics. Distinctions created for the sole purpose of increasing signage shall not be accepted.

E. Logo. A symbol or other small design adopted by an organization to identify its products, uniform, vehicles, etc.

F. Materials. Signs shall be made primarily out of wood, glass, metal, or stone. Sandwich board signs must contain a fixed message or be made out of chalkboard. Dry erase boards are prohibited.

G. Monument Signs. A sign which has a bottom that is permanently affixed to the ground, not a building, shall be considered a monument sign. The size and design shall meet the use requirements for that type of sign. The sign face must be directly connected to the base of the sign. Landscaping shall be provided so that the sign transitions into the ground naturally.

H. Portable Sandwich Board Signs. Sandwich board signs are two-sided self-supported a-frame signs, or any other two-sided portable sign, and must comply with those requirements found within Section 26.510.110.

I. Projecting or Hanging Signs. Projecting and hanging signs, also known as blade signs, shall not be higher than the eave line or parapet wall of the top of the principal building, shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way and shall not extend more than four (4) feet from the building wall to which they are attached, except where such sign is an integral part of an approved canopy or awning.

J. Variable Message Display. An electronic traffic sign, which may contain a changing message, often used on roadways to give travelers information on special events or road conditions.

K. Wall Signs. Wall signs shall not be higher than the eave line or parapet wall of the top of the principal building and no sign part, including cut out letters, shall project more than six (6) inches from the building wall.

L. Window Signs. A window sign is a commercial sign placed in the window of a commercial establishment. Window signs may be made out of adhesive vinyl material. Window signs consist of either business names, logos, or both.

M. Window Wrap. A window wrap is a non-permanent window covering placed directly on a window that consists predominately of graphics.

N. Window Displays: Window displays of merchandise and representations thereof are not subject to sign regulations, sign square footage and do not require a sign permit. Window displays may have minimal illumination which shall be directed inward towards the business to minimize excess glare or light trespass on adjacent properties and public rights-of-way. The following types of illumination and signage are prohibited within window displays:

1. Televisions, computer monitors or other similar technological devices that create oscillating light.
2. Neon or other gas tube illumination, rope lighting or low-voltage strip lighting, except when used for indirect illumination and in such a manner as to not be directly exposed to public view.
3. Backlit or internally illuminated displays or graphics.

(Ord. No. 17-2010, §; Ord. No. 14-2013, §1)

26.510.100 Sign allotment

A. General Sign Allotment Rules.

1. Allotment. Sign allotment for all commercial businesses is based on the size of the Net Leasable Space the business occupies. How to calculate Net Leasable Commercial Space can be found in Section 26.575.020.I, Measurement of Net Leasable Commercial Space.
2. Projecting/Hanging Sign. The area of a Projecting/hanging sign is exempt from sign allotment if:
 - a. The sign is installed perpendicular to the front façade of the building.
 - b. The sign is no larger than six (6) sq. ft. per side.
3. Interior Signage. Interior signage placed within fifteen (15) feet of storefront windows shall count towards a business's signage allotment. This type of signage shall include, but is not limited to, special sale signs, names of products, official logos, and descriptions of inventory. Signage placed perpendicular to the public right-of-way or more than fifteen (15) feet from the storefront window shall be exempt from signage calculations.
4. Business Directory. Buildings with four (4) or more tenants (restaurant, retail, office, or service uses) may create two (2) business directory signs. Each tenant may use no more than one (1) square foot for the purposes of business identification. The business directory sign shall not count towards the signage allotment for the individual tenants. The maximum area for any business directory sign shall be ten (10) square feet. One of the business directories may be in the form of a freestanding sign or a sandwich board sign.
5. Window Signs/Displays.
 - a. *Window Signs*. A Window sign shall not exceed 25% of a windows area.
 - b. *Window Wraps*. Window wraps predominantly consisting of commercial content (advertising a product or service through text, logos, graphics, or imagery) or announcements of sales are prohibited. Window wraps that are predominately graphics will not count towards a business's sign allotment. If the window wrap includes commercial message content (Business names, logos, etc.) in excess of 25% of the window wraps square footage, than that excess square footage will count towards a business's sign allotment. In no case may window wraps cover more than fifty percent (50%) of the total aggregate window surfaces of a business.
6. Sandwich board signs do not count towards a business's sign allotment.

B. Sign Allotment.

1. Each business receives its own individual sign allotment, and the signage allotment for an individual business must be used only by that individual business.
2. For arts, cultural, academic, recreational, restaurant and retail uses, the sign allotment will be based on the square footage of the business as follows:
 - a. For a space with 2,500 square feet or less of Net Leasable Space, the sign allotment will be six (6) square feet.

- b. For a space of greater than 2,500 square feet, but less than 24,000 square feet, of Net Leasable Space, the sign allotment will be eight (8) square feet.
 - c. For a space of 24,000 square feet or more of Net Leasable Space, the sign allotment will be twenty (20) square feet.
 - d. If the space is larger than 2,500 square feet of Net Leasable Space, then up to two (2) individual businesses may share a common space and receive an individual signage allotment.
3. Residential Uses:
- a. *Identification Sign.* A multi-family complex, subdivision entrance, or mobile home park shall be allotted one wall, freestanding or monument identification sign with a maximum area of 20 square feet
 - b. *Bed and Breakfast or Home Occupation.* A Bed and Breakfast or Home Occupation shall be allotted one (1) sign with a maximum area of six (6) square feet
4. Arts, Cultural, Civic, Academic, Recreational, Retail and Restaurant Uses. No single sign may be larger than six (6) sq. ft. in area.
5. Lodge Uses. Lodge uses shall receive a sign allotment of twelve (12) square feet per business.
6. Office and Service Uses. Office and Service uses shall receive a sign allotment of six (6) square feet per business. In buildings with four (4) or more tenants with an office or Service use, the allotment shall be reduced to three (3) square feet per individual business.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.110 Sandwich board signs

A. Sandwich Board signs are only permitted for retail and restaurant businesses within the City of Aspen. These signs are not permitted for businesses that have an incidental retail component to their operations.

B. Sandwich board signs must be made primarily of wood or metal and must have a professional finish. Incorporated inserts must contain a fixed message or be made out of chalkboard. Dry erase boards are prohibited. Sandwich board signs shall not be used as merchandise displays. The size is not to exceed six (6) square feet per side.

C. Sandwich board signs may only be displayed on or adjacent to the parcel that contains the business. A six (6) foot travel width must be maintained on sidewalks and pedestrian malls. This does not allow for signs aligned on edge with one another, thus creating a solid line of sandwich board signs, unless the six (6) foot travel width is maintained on both sides, and they shall not be left out overnight.

D. All commercial parcels may display one sandwich board sign per parcel, per street inclusive of directory signs in the form of a sandwich board sign. Parcels that face directly onto two streets (corner properties) may display two sandwich board signs. If a building has 6 or more retail

businesses, then two signs per street may be displayed. These signs may be maintained year-around. Multiple businesses may be advertised on one sign. An annual permit must be obtained.

E. Restaurants may display one sandwich board sign per establishment. These signs are in addition to the one-per-parcel allowance stated above, and a parcel may have multiple sandwich board signs for restaurants. These signs may be maintained year-around. Multiple businesses may be advertised on one sign. An annual permit must be obtained.

F. In order for any business to display a sandwich board sign, the Community Development Department must receive a completed application along with appropriate fees as amended from time-to-time, and a signed letter of approval from the property owner or property manager.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

26.510.120 Policies regarding signage on public property

Purpose of regulations. The purpose of these regulations is to establish reasonable regulations for the posting of temporary signs, displays and banners on certain public property. The regulations herein include signage on public rights-of-way, banners and flags on light posts on Main Street, signs in City parks, displays in City parks, signs hung across Main Street at Third Street, and signs on public buildings. These regulations shall be read in conjunction with this Chapter and are not intended to supersede the regulations of signs as set forth therein.

Temporary signs and displays provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left completely unregulated, temporary signs and displays can become a threat to public safety as a traffic hazard and detrimental to property values and the City's overall public welfare as an aesthetic nuisance. These regulations are intended to supplement this Chapter and to assist City staff to implement the regulations adopted by the City Council. These regulations are adopted to:

1. Balance the rights of individuals to convey their messages through temporary signs or displays and the right of the public to be protected against unrestricted proliferation of signs and displays;
2. Further the objectives of this Chapter, Signs; and
3. Ensure the fair and consistent enforcement of the sign and display regulations specified below.

This Section, Signs on public right-of-ways, states: "It shall be unlawful to erect or maintain any sign in, on, over or above any land or right-of-way or on any property, including light posts, belonging to the City without the permission of the City Council." Sign permits issued by the City Manager or his or her designee, that are in conformance with these regulations shall constitute City Council permission within the meaning of this Section, Signs on public right-of-ways. Applications for sign permits that do not comply with these regulations shall be forwarded to the City Council for consideration if requested by the applicant.

A. Definitions.

1. Unless otherwise indicated, the definitions of words used in these regulations shall be the same as the definitions used in this Chapter, Signs. In addition, the following definitions shall apply:
2. Banner means any sign of lightweight fabric, plastic or similar material that is attached to any structure, pole, line or vehicle and possessing characters, letters, illustrations or ornamentations.
3. Banner, Light Post means any sign of lightweight fabric, plastic or similar material that is attached to a light post and possessing characters, letters, illustrations or ornamentations which meets the dimensional requirements for and is intended to be installed on municipal light posts.
4. Display means any symbol or object that does not meet the definition of a sign as defined in this Code, but like a sign is intended to convey a message to the public.
5. Flag means any fabric or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity which meets the dimensional requirements and is intended to be installed on municipal light posts.
6. Public Right-of-Way means the entire area between property boundaries which is owned by a government, dedicated to the public use or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use; and includes without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, pedestrian malls and any public way.
7. Sign means and includes the definition for sign as contained in Section 26.104.100, Definitions, of this Code. The term shall also include *displays* as that term is defined above.
8. Sign, Inflatable means any inflatable shape or figure designed or used to attract attention to a business event or location. Inflatable promotional devices shall be considered to be temporary signs under the terms of this Chapter and, where applicable, subject to the regulations thereof.

B. Signs on Public Rights-of-Way.

1. Purpose: The purpose of this policy is to regulate signs permitted to be located temporarily in the public right-of-way. Temporary signs shall be permitted in public rights-of-way to advertise noncommercial special events open to the general public provided the following policies and procedures are followed. These regulations do not apply to banners on the Main Street light posts or hanging across Main Street that are subject to different regulations and criteria.
2. Size/Number/Material: Only two signs per event/organization shall be permitted. Signs shall not exceed ten square feet each and banners shall not exceed fifty square feet. Banners must be made of nylon, plastic or similar type material. Paper signs and banners are prohibited.
3. Content: Signs authorized pursuant to this policy are allowed for signs that advertise the name, date, time and location of a special event for noncommercial purposes. The City

recognizes the success of special events often depends on commercial sponsorship. Therefore, the City shall allow signs that contain the name of the applicant and/or event, date, time, names and location of the event, as well as sponsorship names and logos; provided, however, that the total sponsorship information shall not be the most prominent information conveyed by the signs and shall take up no more the thirty percent (30%) of the total area of the individual signs.

4. Cost/Fees/Procedures: Applicants shall be required to pay the necessary fees for approval from the Special Events Committee. Any event not requiring review by the Special Events Committee shall submit a sign plan to the Community Development Department for review and approval for a fee as outlined in Chapter 26.104.072, Zoning Fees, of this Code. Applications must be received a minimum of thirty days prior to the event. The applicant shall also submit a refundable security deposit as outlined in the current fee schedule to be applied to any damages, repairs or the cost of removal if not corrected/removed by the applicant within three days.
5. Eligibility: Signs authorized pursuant to this policy shall be allowed for a special campaign, drive, activity or event of a civic, philanthropic, educational or religious organization for noncommercial purposes.
6. Duration: Temporary signs authorized pursuant to this Section shall be erected and maintained for a period not to exceed fourteen (14) days prior to the date of which the campaign, drive, activity or event advertised is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity or event. Small directional signs are permitted the day of the event only and must be removed immediately following said event.
7. Maintenance: All signs and banners shall be maintained in an attractive manner, shall not impede vehicular or pedestrian traffic and shall not pose a safety risk to the public.
8. Exceptions: Any exceptions from the above requirements shall require City Council review and approval.

C. Banners and Flags on Main Street Light Posts.

1. Purpose: Banners and flags hung from light posts on Main Street have traditionally been permitted to celebrate special events of community interest. The purpose of these policies and regulations is to clarify which events may be celebrated and advertised through the use of banners or flags hung from the City-owned light posts on Main Street.
2. Eligibility: Banners hung from the Main Street light posts shall be permitted for anniversaries of local nonprofit organizations beginning at the organization's tenth (10th) year and for events that are considered relevant to a large segment of the local community. The United States, Colorado, Aspen or foreign country flags shall be permitted at the discretion of the City Manager.
3. Size/Number/Material: All proposed banners or flags should meet the City's specifications for size, mounting and material. Banners shall be two feet wide and four feet high (2' x 4') to be compatible with mounting system on the light posts. Banners and flags must be made of nylon, plastic or similar material. Paper is not allowed.

4. Content: Banners shall only contain information identifying the event, the date and time or a simple graphic/logo related to the event. Any commercial advertising shall be minimized so that any commercial content is not the most prominent information conveyed on the banner or flag and shall be no more than thirty percent (30%) of the area of the sign. The City reserves the right to request changes to the design, color or content in order to assist the applicant to comply with this requirement.
5. Cost/Fees/Procedures: The cost of installation is outlined in the current fee schedule as amended from time to time. A refundable security deposit as outlined in the current fee schedule shall be required to assure replacement of damaged banners and retrieval of the banners from the City (see Section g below for maintenance requirements). The applicant shall be required to submit an application to the City Manager's office showing the dimensions, design and colors of the proposed banners or flags at least three (3) months prior to the event. Flags are required to be delivered to the City Parks Department one (1) week prior to the event. Banners shall be delivered to the Utility Department on Fridays at least two (2) weeks prior to their installation.
6. Duration: The display of banners and flags on the Main Street light posts shall not exceed fourteen (14) days or the duration of the event, whichever is less.
7. Maintenance: Prior to the placement of banners or flags on City street light posts, the applicant shall provide to the City a number of replacement flags or banners to be determined by the City. These replacement flags or banners shall be used by the City to replace banners or flags that are stolen or damaged. The cost of replacing banners or flags shall be deducted from the security deposit. Once banners have been removed, the applicant shall be required to pick up the banners from the City within three (3) days.

D. Signs in City Parks Related to Special Events in the City Park.

1. Purpose: Unattended signs are generally prohibited in City parks. Separate regulations apply to temporary unattended signs placed in Paepcke Park (See below for those regulations.) The purpose of this policy is to regulate unattended temporary signs that are permitted in limited circumstances in City parks. The City recognizes that unattended temporary signs may be a necessary element to many special events that are permitted in City parks in order to communicate general information to the public and advertise services, products and offerings as well as sponsorship of the special event. Accordingly, temporary unattended signs are permitted, subject to these policies, when the signs are connected to a special event at a City park for which a permit has been obtained from the City. Signs in City parks are typically temporary in nature and review occurs through the Special Events Committee.
2. Size/Number/Material: Unattended temporary signs located in City parks shall be limited in size to three feet by six feet. Two (2) signs per sponsor are allowed to face towards the event venue, and five (5) signs are allowed to face towards the public rights-of-way. These signs are not allowed to extend more than ten (10) feet above grade. Banners must be made of nylon, plastic or similar material. Paper banners and flags are prohibited. The Special Events Committee may approve one (1) inflatable per event of no more than twenty (20) feet in height if a suitable on-site location can be provided and if there is a demonstrable community benefit.

3. Content/Location: The sign's content may include general information (i.e., dates, times, locations of activities) as well as advertisement of services, products, offerings and sponsorship up to thirty percent (30%) of the area of the sign. Unattended temporary signs conveying a commercial message shall be set back at least ten (10) feet from the public right-of-way.
4. Cost/Fees/Procedures: Applicants shall be required to pay the necessary fees for approval from the Special Events Committee. Any event not requiring review by the Special Events Committee shall submit a sign plan to the Community Development Department for review and approval for a fee as outlined in the current fee schedule. The applicant shall also submit a refundable security deposit as outlined in the current fee ordinance to be applied to any damages, repairs or the cost of removal if not corrected/removed by the applicant within three (3) days. The applicant shall receive the necessary approval prior to the installation of any signs. Applications must be received no later than thirty (30) days prior to the event.
5. Eligibility: Unattended temporary signs may be located in City parks only for the following reasons: a special campaign, drive, activity or event for a civic, philanthropic, educational or religious organization for noncommercial purposes for which a special event permit has been obtained from the City. An exception to this regulation is six inch by thirty inch (6" x 30") directional signs for commercial organizations using City parks.
6. Duration. Unattended temporary signs may be erected and maintained only for the duration of the event or forty-eight (48) hours, whichever is less. All signs must be removed immediately following the event.
7. Maintenance: All signs must be maintained in an attractive manner, shall not impede vehicular or pedestrian traffic and shall not pose a safety risk to the public. A fifty dollar (\$50.00) refundable security deposit will be required to insure compliance.
8. Exceptions: The Special Events Committee may grant exceptions to the size and number regulations if deemed an appropriate location and/or event. Included in its evaluation, the Special Events Committee shall consider if there is a demonstrable community benefit to the event. The Special Events Committee, at its discretion, may send any requests for exceptions to Subsection 26.510.120.D to City Council for review and approval.

E. Unattended Temporary Signs in Paepcke Park

1. Purpose: Unattended signs in public parks are prohibited with the exception to Paepcke Park. The purpose of this policy is to regulate the placement of unattended temporary signs in Paepcke Park that are civic, philanthropic, educational or religious in nature.
2. Size/Number/Material: Applicants are allowed one (1) sign that shall comply with the City lighting and sign codes. The sign shall not exceed fifty (50) square feet in size. A total of four (4) signs shall be permitted in Paepcke Park at any single period of time, and applications will be handled on a first come, first serve basis.

3. Content/Location: The content of the display and any signs may not be commercial in nature. The applicant shall work with the Parks Department to find an appropriate location so that there is minimal impact on the park. Displays may not be affixed on or near the gazebo and shall not obstruct the view of the gazebo from Main Street.
4. Cost/Fees/Procedures: The applicant shall pay an application fee and a refundable security deposit as outlined in the current fee schedule to cover any damages caused by the installation, maintenance or removal of the sign. The applicant shall reimburse the Parks Department for any electric fees. An application shall be submitted to the Community Development Department for review by the City Manager or his/her designee. Applications shall be received no later than thirty (30) days prior to the proposed installation of the object.
5. Eligibility: Civic, philanthropic, education or religious nonprofit organizations shall be eligible. The City reserves the right to deny any application for a sign that would interfere in City-sponsored activities in the park.
6. Duration: Applicants are permitted to maintain their signs for no more than fourteen (14) days.
7. Maintenance: All signs shall be maintained in an attractive manner, shall not impede vehicular or pedestrian traffic and shall not pose a safety risk to the public. The applicant must work with the City Parks Department regarding all maintenance issues.
8. Exceptions: Any exceptions from the above requirements shall require City Council review and approval.

F. Signs Across Main Street at Third Street.

1. Purpose: The purpose of this policy is to regulate signs permitted to be located temporarily across the Main Street right-of-way at Third Street. Temporary signs shall be permitted in this location to advertise noncommercial special events open to the general public provided the following policies and procedures are followed. These regulations do not apply to banners on the Main Street light posts or signs other than those hanging across Main Street at Third Street.
2. Size/Number/Material: Banners must consist of the following specifications:
 - a. Any type of durable material;
 - b. Semi circular wind holes in banner;
 - c. Metal rivets at all corners and every twenty four (24) inches along the top and bottom of the banner;
 - d. Size will be twelve (12) feet in length and three (3) feet in width.
3. Content/Location: No commercial advertising will be allowed, except in cases where a sponsoring entity's name is part of the name of the event. In such cases, the organization promoting the event may not construct the banner such that sponsoring entity's commercial name is the most overwhelming aspect of the banner and the sponsor's name and logo shall be no more than thirty percent (30%) of area of the sign. Political advertising on or located in

the public right-of-way on public property (even by a nonprofit organization) is prohibited per Subsection 26.510.040.A.16.c.

4. Cost/Fees/Procedures:

- a. Main Street banner application and banner policy and procedure form must be obtained from the City Manager's office and completed by the party making the request and returned to the City Manager's office no less than 30 days prior to the date requested to hang the banner.
 - b. The exact legend of the banner must be indicated in writing (see specific area on application form). For your benefit, it is found that banners are most visually effective when kept simple: i.e., event, date organization and logo.
 - c. The cost of installation is outlined in the current fee schedule as amended from time to time, and must accompany the application form and be reviewed in the City Manager's office 30 days prior to the date the banner will be hung. All organizations will be charged the same rate, accordingly.
 - d. All banners should be delivered directly to the Electric Department, which is located in back of the Post Office at 219 Puppy Smith Road, by noon the Friday prior to the Monday hang date. Any banner not delivered by noon the prior Friday is subject to an additional fifty dollar (\$50.00) charge.
 - e. Please pick up the banner from the Electric Department within 30 days after the display week(s). The City assumes no responsibility for banners, and any banners left more than 30 days may be discarded.
5. Eligibility: The City provides space to hang four (4) single-sided banners and two (2) double-sided banners across Main Street with the intent of advertising community events, be it for arts organizations or nonprofits and/or not-for-profit organizations. These six (6) spaces are reserved on a first come, first serve basis. Reservations will be taken each year on November 1st for the following year. The first organization to have their contract negotiated, signed and paid will be offered the banner space on a first come, first serve basis.
6. Duration: One (1) banner, per event, may be hung for a maximum of fourteen (14) days, as per Subsection 26.510.040.A.1. Banner approvals are not guaranteed and will only be hung upon availability of the Electric Department staff. The length of time that a banner is to be hung is not guaranteed and may be shortened at the discretion of the City. Based on his/her judgment as to the best interest of the City, the City Manager may determine which banners are to be given priority when there are multiple requests for the same time period.
7. Maintenance: All banners shall be maintained in an attractive manner.
8. Exceptions: Any exceptions from the above requirements shall require City Council review and approval.

G. Signs on Public Buildings. Signs on public buildings shall be prohibited.

(Ord. No. 17-2010, §1; Ord. No. 14-2013, §1)

Chapter 26.515
OFF-STREET PARKING

Sections:

- 26.515.010 General provisions
- 26.515.020 Characteristics of off-street parking spaces
- 26.515.030 Required number of off-street parking spaces
- 26.515.040 Special review standards
- 26.515.050 Cash-in-lieu for mobility enhancements

26.515.010 General provisions

A. General requirements. All development shall be provided with off-street parking as provided in this Chapter.

B. Requirements for expansion/redevelopment of existing development. No development shall reduce the number of existing off-street parking spaces below the minimum number of existing spaces required herein for that development, unless expressly exempted by this Chapter. If existing development is expanded, additional off-street parking spaces shall be provided for that increment of the expansion as if it is a separate development. An existing deficit of parking may be maintained when a property is redeveloped.

C. Off-street parking calculation. All requirements for off-street parking for residential dwellings and lodges shall be calculated based on the number of units. Requirements for off-street parking for commercial uses shall be calculated based on the net leasable area of the structure or use. Requirements for all other land uses not considered residential, lodging or commercial shall be established by special review.

D. Required number of spaces when fractional spaces computed. When any calculation of off-street parking results in a required fractional space, said fractional space may be paid through a cash-in-lieu payment, or an entire space may be provided on the site.

E. Commercial Parking Facilities. When a parking facility is proposed to function as a commercial parking facility, as such terms are used herein, review and approval shall be according to Chapter 26.430, Special review and the review standards of Section 26.515.040, Special review standards. Development of such a facility may also require conditional use review in some Zone Districts. Also see definition of "Commercial parking facility," Section 26.104.100.

(Ord. No. 17-2005, § 1)

26.515.020 Characteristics of off-street parking spaces

A. General. Each off-street parking space shall consist of an open area measuring eight and one half (8½) feet wide by eighteen (18) feet long and seven (7) feet high with a maximum slope of twelve percent (12%) in any one direction. Each parking space, except those provided for detached residential dwellings and duplex dwellings, shall have an unobstructed access to a street or alley. Off-street parking provided for multi-family dwellings which do not share a common parking area may be exempted from the unobstructed access requirement subject to special review pursuant to Chapter 26.430, Special review and the standards set forth at Section 26.515.040, Special review

standards, below. Off-street parking must be paved with all weather surfacing or be covered with gravel. For residential development, a grass ring or grass-paver-type surface may be used. All parking shall be maintained in a usable condition at all times.

B. Location of off-street parking. Off-street parking shall be located on the same parcel as the principal use or an adjacent parcel under the same ownership as the lot occupied by the principal use. For all uses, parking shall be accessed from an alley or secondary road, where one (1) exists unless otherwise established according to this Chapter.

C. Detached and duplex residential dwelling parking. Off-street parking provided for detached residential dwellings and duplex dwellings are not required to have unobstructed access to a street or alley, but shall not block access of emergency apparatus to the property or to structures located on the property. This allows for "stacking" of vehicles where one (1) vehicle is parked directly behind another.

D. State Highway 82 off-street parking. All parking required for uses fronting State Highway 82 shall, if an alley exists, be provided access off the alley and shall not enter from or exit onto State Highway 82.

E. Restrictions on use of off-street parking areas. No off-street parking area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies, nor shall any such activity adjacent to off-street parking spaces obstruct required access to off-street parking areas. Parking spaces shall be used for the parking of vehicles and shall not be used for nonauto related uses such as storage units or trash containers. Parking spaces may only be used as a commercial parking facility if approved for such use. See Subsection 26.515.010.E and the definition of commercial parking facility, Section 26.104.100. Commercial parking facilities shall require special review approval and may also require conditional use approval in some Zone Districts.

F. Surface parking. Surface parking is prohibited or requires conditional use review as a principal use of a lot or parcel in some Zone Districts. For surface parking of eight (8) or more spaces, parking areas shall include one (1) tree with a planter area of twenty (20) square feet for each four (4) parking spaces. Planter areas may be combined, but shall be proximate to the parking spaces. The Planning and Zoning Commission may waive or modify this requirement on a per case basis. Parking within structures is exempt from this landscaping provision.

G. Restrictions on drainage, grading and traffic impact. Off-street parking spaces shall be graded to ensure drainage does not create any flooding or water quality problems and shall be provided with entrances and exits so as to minimize traffic congestion and traffic hazards.

H. Restrictions on lighting. Lighting facilities for off-street parking spaces, if provided, shall be arranged and shielded so that lights neither unreasonably disturb occupants of adjacent residential dwellings nor interfere with driver vision. All outdoor lighting shall comply with the outdoor lighting regulations, Section 26.575.150.

(Ord. No. 17-2005, § 1)

Sec. 26.515.030 Required number of off-street parking spaces.

Off-street parking spaces shall be provided for each use according to the schedule, below. Whenever the off-street parking is subject to establishment by adoption of a planned unit development final development plan, that review shall be pursuant to Chapter 26.445, Planned unit development. Whenever the parking requirement shall be established through a special review, the standards and procedures set forth at Section 26.515.040, Special review standards, below, shall apply. Whenever the parking requirement may be provided via a payment-in-lieu the standards and procedures set forth at Section 26.515.050, Cash-in-lieu for mobility enhancements, below, shall apply. An existing deficit of parking may be maintained when a property is redeveloped.

Use	Aspen Infill Area	All Other Areas
Commercial	One space per 1,000 net leasable square feet of commercial space. 100% may be provided through a payment in lieu.	Three spaces per 1,000 net leasable square feet of commercial space.
Residential – Single-Family and Duplex	Lesser of one space per bedroom or two spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.	Lesser of one space per bedroom or two spaces per unit.
Residential – Accessory Dwelling Units and Carriage Houses	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.
Residential – Multi-Family (as a single use)	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.	Lesser of one space per bedroom or two spaces per unit.
Residential – Multi-Family within a mixed-use building	One space per unit. 100% may be provided through a payment in lieu. No requirement for residential units in the CC and C-1 Zone Districts.	One space per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.

Hotel/Lodge	.5 spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040. No requirement for lodging units in the CC and C-1 Zone Districts.	0.7 spaces per unit. Fewer spaces may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.040.
All Other Uses (civic, cultural, public uses, essential public facilities, child care centers, etc.)	Established by special review according to the review criteria of Section 26.515.040.	Established by special review according to the review criteria of Section 26.515.040.

For properties listed on the Aspen Inventory of Historic Landmark Sites and Structures, fewer spaces may be provided and/or a waiver of cash-in-lieu fees may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria set forth below.

For lodging projects with flexible unit configurations, also known as "lock-off units," each separate "key," or rentable division, shall constitute a unit for the purposes of this Section.

For projects with parking requirements in multiple categories (residential, commercial, lodging or other), the provision of on-site parking may be approved to satisfy the requirements for each use concurrently, pursuant to Chapter 26.430, Special review and according to the review criteria set forth below. (For example: A project comprised of commercial use requiring five [5] parking spaces and lodging use requiring five [5] parking spaces may be approved to provide less than ten [10] total parking spaces.) This shall not apply to parking which is provided through a payment-in-lieu.

(Ord. No. 17-2005, §1)

26.515.040. Special review standards

Whenever the off-street parking requirements of a proposed development are subject to special review, an application shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304 and be evaluated according to the following standards. Review is by the Planning and Zoning Commission.

If the project requires review by the Historic Preservation Commission and the Community Development Director has authorized consolidation pursuant to Subsection 26.304.060.B, the Historic Preservation Commission shall approve, approve with conditions or disapprove the special review application.

A. A special review for establishing, varying or waiving off-street parking requirements may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generation of the project, any shared parking opportunities, expected schedule of parking demands, the projected impacts on the on-street parking of the neighborhood, the proximity to mass transit

routes and the downtown area and any special services, such as vans, provided for residents, guests and employees.

2. An on-site parking solution meeting the requirement is practically difficult or results in an undesirable development scenario.
3. Existing or planned on-site or off-site parking facilities adequately serve the needs of the development, including the availability of street parking.

B. A special review to permit a commercial parking facility may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The location, design and operating characteristics of the facility are compatible with the mix of development in the immediate vicinity of the parcel in terms of density, height, bulk, architecture, landscaping and open space, as well as with any applicable adopted regulatory master plan
2. The project has obtained growth management approvals or is concurrently being considered for growth management approvals.
3. The location, capacity and operating characteristics, including effects of operating hours, lighting, ventilation, noises etc., of the facility are compatible with the existing land uses in the surrounding area.
4. Access to the facility is from an acceptable location that minimizes staging problems, conflicts with pedestrian flow, conflicts with service delivery and elimination of on-street parking.
5. The proposed style of operation is appropriate (manned booth, key cards etc.).
6. The massing, scale and exterior aesthetics of the building or parking lot are compatible with the immediate context in which it is proposed.
7. Where appropriate, commercial uses are incorporated into the exterior of the facility's ground floor to mimic conventional development in that Zone District.

(Ord. No. 17-2005, §1; Ord. No. 3-2012, §19)

26.515.050. Cash-in-lieu for Mobility Enhancements

A. General. The City conducted a parking facility analysis in the fall of 2001 and determined the costs associated with developing new parking facilities to serve the demands of development. While not all potential facilities represented the same potential expenditure, facilities considered likely to be developed by the City required an expected twenty-five thousand dollars (\$25,000.00) to forty thousand dollars (\$40,000.00) per space to develop in 2001 dollars.

B. Parking serving commercial and mixed-use development is a public amenity and serves the mobility of the general population. As such, the mobility needs of the general population can be improved through various means other than the provision of on-site parking spaces.

C. Cash-in-lieu. A cash-in-lieu payment, for those types of development authorized to provide parking via cash-in-lieu, may be accepted by the Community Development Director to satisfy the off-street parking requirements as long as the following standards are met:

1. Amount. In developments, where the off-street parking requirement may be provided via a payment-in-lieu, the applicant shall make a one-time only payment to the City, in the amount of thirty thousand dollars (\$30,000.00) per space. A prorated payment shall be made when a portion of a space is required.
2. Time of payment. The payment-in-lieu of parking shall be due and payable at the time of issuance of a building permit. All funds shall be collected by the Community Development Director and transferred to the Finance Director for deposit in a separate interest bearing account.
3. Use of funds. Monies in the account shall be used solely for the construction of a parking facility, transportation improvements, including vehicles or station improvements, transportation demand management facilities or programs, shared automobiles or programs and similar transportation or mobility-related facilities or programs as determined appropriate by the City.
4. Refunds. Fees collected pursuant to this Section may be returned to the then-present owner of the property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the Council shall have earmarked the funds for expenditure on a specific project, in which case the time period shall be extended by up to three (3) more years. To obtain a refund, the present owner must submit a petition to the Finance Director within one (1) year following the end of the seventh (7th) year from the date payment was received by the City.

For the purpose of this Section, payments collected shall be deemed spent on the basis of "the first payment in shall be the first payment out." Any payment made for a project for which a building permit is revoked or cancelled, prior to construction, may be refunded if a petition for refund is submitted to the Finance Director within three (3) months of the date of the revocation or cancellation of the building permit. All petitions shall be accompanied by a notarized, sworn statement that the petitioner is the current owner of the property and that the development shall not commence without full compliance with this Chapter and by a copy of the dated receipt issued for payment of the fee.

5. Periodic review of rate. In order to ensure that the payment-in-lieu rate is fair and represents current cost levels, it shall be reviewed periodically. Any necessary amendments to this Section shall be initiated pursuant to Section 26.310.020, Procedure for amendment.

(Ord. No. 17-2005, §1)

26.520
ACCESSORY DWELLING UNITS AND CARRIAGE HOUSES

Sections:

- 26.520.010 Purpose
- 26.520.020 General
- 26.520.030 Authority
- 26.520.040 Applicability
- 26.520.050 Design standards
- 26.520.060 Calculations and measurements
- 26.520.070 Deed restrictions and enforcement
- 26.520.080 Procedure
- 26.520.090 Amendment of an ADU or carriage house development order

26.520.010 Purpose

The purpose of the accessory dwelling unit (ADU) and carriage house program is to promote the long-standing community goal of socially, economically and environmentally responsible development patterns which balance *Aspen the resort* and *Aspen the community*. Aspen values balanced neighborhoods and a sense of commonality between working residents and part-time residents. ADUs and carriage houses represent viable housing opportunities for working residents and allow employees to live within the fabric of the community without their housing being easily identifiable as "employee housing." ADUs and carriage houses also help to address the effects of existing homes, which have provided workforce housing, being significantly redeveloped, often as second homes.

ADUs and carriage houses support local Aspen businesses by providing an employee base within the City and providing a critical mass of local residents important to preserving Aspen's character. ADUs and carriage houses allow second homeowners the opportunity to hire an on-site caretaker to maintain their property in their absence. Increased employee housing opportunities in close proximity to employment and recreation centers is also an environmentally preferred land use pattern, which reduces automobile reliance.

Detached ADUs and carriage houses emulate an historic development pattern and maximize the privacy and livability of both the ADU or carriage houses and the primary unit. Detached ADUs and carriage houses are more likely to be occupied by a local working resident, furthering a community goal of housing the workforce.

To the extent Aspen desires detached ADUs and carriage houses, which provide viable and livable housing opportunities to local working residents, detached ADUs and carriage houses qualify existing vacant lots of record and significant redevelopment of existing homes for an exemption from the growth management quota system. In addition, detached ADUs and carriage houses deed restricted as "for sale" units, according to the Aspen/Pitkin County Housing Authority Guidelines, as amended and sold according to the procedures established in the guidelines, provide for certain floor area incentives.

(Ord. No. 53-2003, §2)

26.520.020 General

Accessory dwelling units and carriage houses are separate dwelling units incidental and subordinate in size and character to the primary residence and located on the same parcel or on a contiguous lot under the same ownership. A primary residence may have no more than one (1) ADU or carriage house. An ADU or carriage house may not be accessory to another ADU or carriage house. A detached ADU or carriage house may only be conveyed separate from the primary residence as a "for sale" affordable housing unit to a qualified purchaser pursuant to the Aspen/Pitkin County Housing Authority Guidelines, as amended. ADUs and carriage houses shall not be considered units of density with regard to zoning requirements. ADUs and carriage houses shall not be used to satisfy employee housing requirements of the Growth Management Quota System (GMQS), except as outlined in Paragraph 26.470.060A.2. ADUs and carriage houses also may not be used to meet the requirements of Paragraph 26.470.070(5), Demolition or redevelopment of multi-family housing. All ADUs and carriage houses shall be developed in conformance with this Section.

(Ord. No. 53-2003, §2; Ord. No. 12, 2007, §31)

26.520.030 Authority

The Community Development Director, in accordance with the procedures, standards and limitations of this Chapter and the Common development review procedures, Chapter 26.304, shall approve, approve with conditions or disapprove a land use application for an accessory dwelling unit or carriage house.

An appeal of the Community Development Director's determination shall be considered by the Planning and Zoning Commission and approved, approved with conditions or disapproved, pursuant to Subsection 26.520.080.D, Special review.

A land use application requesting a variation of the ADU or carriage house design standards shall be approved, approved with conditions or disapproved by the Planning and Zoning Commission, pursuant to Subsection 26.520.080.D, Special review.

If the land use application requesting a variation of the ADU or carriage house design standards is part of a consolidated application process, authorized by the Community Development Director, requiring consideration by the Historic Preservation Commission, the Historic Preservation Commission shall approve, approve with conditions or disapprove the variation, pursuant to Subsection 26.520.080.D, Special review.

(Ord No. 53-2003, § 2)

26.520.040 Applicability

This Section applies to all Zone Districts within the City in which an accessory dwelling unit or carriage house is a permitted use, as designated in Chapter 26.710, Zone Districts and to all accessory dwelling units approved prior to the adoption of Ordinance No. 46, Series of 2001.

26.520.050 Design standards

All ADUs and carriage houses shall conform to the following design standards unless otherwise approved, pursuant to Subsection 26.520.080.D, Special review:

1. An ADU must contain between three hundred (300) and eight hundred (800) net livable square feet, ten percent (10%) of which must be a closet or storage area. A carriage house must contain between eight hundred (800) and one thousand two hundred (1,200) net livable square feet, ten percent (10%) of which must be closet or storage area.
2. An ADU or carriage house must be able to function as a separate dwelling unit. This includes the following:
 - a. An ADU or carriage house must be separately accessible from the exterior. An interior entrance to the primary residence may be approved, pursuant to special review;
 - b. An ADU or carriage house must have separately accessible utilities. This does not preclude shared services;
 - c. An ADU or carriage house shall contain a kitchen containing, at a minimum, an oven, a stove with two (2) burners, a sink and a refrigerator with a minimum of six (6) cubic feet of capacity and a freezer; and
 - d. An ADU or carriage house shall contain a bathroom containing, at a minimum, a sink, a toilet and a shower.
3. One (1) parking space for the ADU or carriage house shall be provided on-site and shall remain available for the benefit of the ADU or carriage house resident. The parking space shall not be stacked with a space for the primary residence.
4. The finished floor heights of the ADU or carriage house shall be entirely above the natural or finished grade, whichever is higher, on all sides of the structure.
5. The ADU or carriage house shall be detached from the primary residence. An ADU or carriage house located above a detached garage or storage area shall qualify as a detached ADU or carriage house. No other connections to the primary residence or portions thereof, shall qualify the ADU or carriage house as detached.
6. An ADU or carriage house shall be located within the dimensional requirements of the Zone District in which the property is located.
7. The roof design shall prevent snow and ice from shedding upon an entrance to an ADU or carriage house. If the entrance is accessed via stairs, sufficient means of preventing snow and ice from accumulating on the stairs shall be provided.
8. ADUs and carriage houses shall be developed in accordance with the requirements of this Title which apply to residential development in general. These include, but are not limited to, the International Building Code requirements related to adequate natural light, ventilation, fire egress, fire suppression and sound attenuation between living units. This standard may not be varied.
9. All ADUs and carriage houses shall be registered with the Housing Authority and the property shall be deed restricted in accordance with Section 26.520.070, Deed restrictions and enforcement. This standard may not be varied.

(Ord. 53-2003, § 2)

26.520.060 Calculations and measurements

A. Floor area. ADUs and carriage houses are attributed to the maximum allowable floor area for the given property on which they are developed, pursuant to Section 26.575.020, Calculations and measurements.

B. Net livable square footage. ADUs and carriage houses must contain certain net livable floor area, unless varied through a land use review. The calculation of net livable area differs slightly from the calculation of floor area inasmuch as it measures the interior dimensions of the unit.

(Ord. No. 53-2003, § 2)

26.520.070 Deed restrictions and enforcement

A. Deed restrictions. At a minimum, all properties containing an ADU or a carriage house shall be deed restricted in the following manner:

- The ADU or carriage house shall be registered with the Aspen/Pitkin County Housing Authority.
- Any occupant of an ADU or carriage house shall be qualified as a local working resident according to the current Aspen/Pitkin County Housing Authority Guidelines, as amended.
- The ADU or carriage house shall be restricted to lease periods of no less than six (6) months in duration or as otherwise required by the current Aspen/Pitkin County Housing Authority Guidelines. Leases must be recorded with the Housing Authority.

A detached and permanently affordable Accessory Dwelling Unit or Carriage House qualifying a property for a floor area exemption, pursuant to Subsection 26.575.020.A.6, shall be deed restricted as a "for sale" affordable housing unit and conveyed to a qualified purchaser, according to the Aspen/Pitkin County Housing Authority Guidelines, as amended and according to the following sales price limitations:

- Accessory dwelling units from 300 to 500 net livable square feet – Category 3 or lower.
- Accessory dwelling units from 501 to 800 net livable square feet – Category 4 or lower.
- Carriage houses from 800 to 1,000 net livable square feet – Category 5 or lower.
- Carriage houses from 1,001 to 1,200 net livable square feet – Category 6 or lower.

Category sales prices shall be those specified in the Aspen/Pitkin County Housing Authority Guidelines, as amended. The initial developer may select the first qualified purchaser of the unit. Subsequent conveyances shall be according to the lottery sales procedures specified in the Aspen/Pitkin County Housing Authority Guidelines, as amended.

Accessory dwelling units deed restricted to mandatory occupancy in exchange for a floor area bonus, prior to the adoption of Ordinance No. 46, Series of 2001, shall be continuously occupied by a local working resident, as defined by the Aspen/Pitkin County Housing Authority, for lease periods of six (6) months or greater, unless the owner is granted approval to remove that restriction pursuant to Subsection 26.520.090.A, Insubstantial amendments.

The Aspen/Pitkin County Housing Authority shall provide a standard form for recording accessory dwelling unit or carriage house deed restrictions. The deed restriction shall be recorded with the County Clerk and Recorder prior to an application for a building permit may be accepted. The book and page associated with the recordation shall be noted in the building permit plans for an ADU or carriage house.

B. Enforcement. The Aspen/Pitkin County Housing Authority or its designee, shall enforce the recorded deed restriction between the property owner and Aspen/Pitkin County Housing Authority.

(Ord. No. 53-2003, § 2)

26.520.080 Procedure

A. General. Pursuant to Section 26.304.020, Pre-Application Conference, applicants are encouraged to meet with a City Planner of the Community Development Department to clarify the requirements of the ADU and carriage house program.

A development application for an ADU or carriage house shall include the requisite information and materials, pursuant to Section 26.304.030, Application and fees. In addition, the application shall include scaled floor plans and elevations for the proposed ADU or carriage house. The application shall be submitted to the Community Development Department.

Any bandit dwelling unit which can be demonstrated to have been in existence on or prior to the adoption of Ordinance No. 44, Series of 1999 and which complies with the requirements of this Section may be legalized as an accessory dwelling unit, if it shall meet the health and safety requirements of the International Building Code, as determined by the Chief Building Official. No retroactive penalties or assessments shall be levied against any bandit unit upon legalization.

After a development order has been issued for an ADU or carriage house, a building permit application may be submitted in conformance with Section 26.304.075, Building permit.

B. Administrative review. In order to obtain a development order for an ADU or carriage house, the Community Development Director shall find the ADU or carriage house in conformance with the criteria for administrative approval. If an application is found to be inconsistent with these criteria, in whole or in part, the applicant may either amend the application, apply for a special review to vary the design standards or apply for an appeal of the Director's finding pursuant to Subsection C, below.

An application for an ADU or carriage house may be approved, approved with conditions or denied by the Community Development Director based on the following criteria:

1. The proposed accessory dwelling unit or carriage house meets the requirements of Section 26.520.050, Design standards.
2. The applicable deed restriction for the accessory dwelling unit or carriage house has been accepted by the Aspen/Pitkin County Housing Authority, and the deed restriction is recorded prior to an application for a building permit.

C. Appeal of Director's determination. An appeal of a determination made by the Community Development Director shall be reviewed as a special review pursuant to Subsection D, below. In this

case, the Community Development Director's finding shall be forwarded as a recommendation and a new application need not be filed.

D. Special review. An application requesting a variance from the ADU and carriage house design standards or an appeal of a determination made by the Community Development Director, shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304. The special review shall be considered at a public hearing for which notice has been posted and mailed, pursuant to Subparagraphs 26.304.060.E.3.(a), (b and c).

Review is by the Planning and Zoning Commission. If the property is an historic landmark, on the Inventory of Historic Sites and Structures or within an Historic Overlay District and the application has been authorized for consolidation pursuant to Chapter 26.304, the Historic Preservation Commission shall consider the special review.

A Special Review for an ADU or Carriage House may be approved, approved with conditions or denied based on conformance with the following criteria:

1. The proposed ADU or carriage house is designed in a manner which promotes the purpose of the ADU and carriage house program, promotes the purpose of the Zone District in which it is proposed and promotes the unit's general livability.
2. The proposed ADU or carriage house is designed to be compatible with and subordinate in character to, the primary residence considering all dimensions, site configuration, landscaping, privacy and historical significance of the property.
3. The proposed ADU or carriage house is designed in a manner which is compatible with or enhances the character of the neighborhood considering all dimensions, density, designated view planes, operating characteristics, traffic, availability of on-street parking, availability of transit services and walking proximity to employment and recreational opportunities.

E. Inspection and acceptance. Prior to issuance of a certificate of occupancy for an ADU or carriage house, the Aspen/Pitkin County Housing Authority or the Chief Building Official, shall inspect the ADU or carriage house for compliance with the design standards. Any unapproved variations from these standards shall be remedied or approved pursuant to this Chapter prior to issuance of a certificate of occupancy or certificate of compliance.

(Ord. 53-2003, § 2)

26.520.090 Amendment of an ADU or Carriage House Development Order

A. Insubstantial amendment. An insubstantial amendment to an approved development order for an accessory dwelling unit or carriage house may be authorized by the Community Development Director if:

1. The change is in conformance with the design standards, Section 26.520.050, or does not exceed approved variations to the design standards; and
2. The change does not alter the deed restriction for the ADU or carriage house or the alteration to the deed restriction has been approved by the Aspen/Pitkin County Housing Authority.

An amendment application that proposes to remove a mandatory occupancy ADU deed restriction placed on the property prior to adoption of Ordinance No. 46, Series of 2001, may be approved if all of the following criteria are met:

- a) The mandatory occupancy deed restriction shall have been recorded on the property for a minimum of three (3) years prior to the date of application for its removal. The applicant shall demonstrate a change in circumstances supporting the request to remove the restriction.
- b) The mandatory occupancy deed restriction on the ADU is replaced with the minimum ADU deed restriction allowing voluntary occupancy; and
- c) The applicant has obtained approval either:
 - (1) From the City to develop a deed restricted affordable housing unit on a site that is not otherwise required to contain such a unit or from the Aspen/Pitkin County Housing Authority to convert an existing free-market unit and deed restrict the unit to affordable housing status. The replacement affordable housing unit shall be within the Aspen infill area, shall be of a comparable size and type as the ADU, shall be accepted by the Aspen/Pitkin County Housing Authority and shall be deed restricted as a Category 3 or lower, sales unit according to the Aspen/Pitkin County Housing Guidelines, as amended; or
 - (2) From the Aspen/Pitkin County Housing Authority to pay an affordable housing conversion fee, calculated according to the following formula:

$$\begin{array}{r}
 \$ \\
 \text{payment}
 \end{array}
 = \left(\frac{\text{square footage of bonus floor area}}{\text{area}} \right) \times \left(\frac{\text{actual value of parcel plus improvements}}{\text{floor area of residence (excluding bonus FAR)}} \right)$$

Where:

- The actual value of the lot plus improvements shall be that value assigned to the lot and improvements in the most current assessment made by the Pitkin County Assessor.
- The floor area of the residence shall be calculated pursuant to Subsection 26.575.020.A, as amended.
- Payment shall be made in compliance with the applicable requirements for payment-in-lieu contained in the Aspen/Pitkin County Housing Guidelines, as amended.

- d) The structure granted the bonus floor area shall be considered a legally created nonconforming structure and subject to the provisions of Chapter 26.312.

E. Other amendments. All other amendments to an approved development order for an accessory dwelling unit or carriage house shall be reviewed pursuant to the terms and procedures of this Section.

(Ord. No. 44-1999, §1; Ord. No. 46-2001, §1 (part); Ord. No. 47-2001, §2; Ord. No. 1-2002, §15; Ord. No. 27-2002, §22; Ord. No. 53, 2003, §2; Ord. No. 12-2006, §18)

Chapter 26.530
Reserved*

***Editor's note:** Ordinance No. 14-2007 §1 replaced former Chapter 26.530, which pertained to the resident multi-family replacement program and enacted amendments to Chapter 26.470. Former Chapter 26.530 was derived from Ordinance No. 40-2002 §2 as amended by Ordinance No. 51-2003 §1. Refer to Section 26.470.070.5, Demolition or Redevelopment of Multi-Family Housing. Chapter 26.535

Chapter 26.535
TRANSFERABLE DEVELOPMENT RIGHTS (TDR)

Sections:

26.535.010	Purpose
26.535.020	Terminology
26.535.030	Applicability and prohibitions
26.535.040	Authority
26.535.050	Procedure for establishing an historic transferable development right certificate
26.535.060	Procedure for extinguishing an historic transferable development right certificate
26.535.070	Review criteria for establishment of an historic transferable development right
26.535.080	Review criteria for extinguishment of an historic transferable development right
26.535.090	Application materials
26.535.100	Appeals

26.535.010 Purpose

The purpose of this Chapter is to encourage the preservation of historic landmarks, those properties listed on the Aspen Inventory of Historic Landmark Sites and Structures and those properties identified on the AspenModern Map, within the City by permitting those property owners to sever and convey, as a separate development right, undeveloped floor area to be developed on a different property within the City. The program enables standard market forces and the demand for residential floor area, to accomplish a community goal of preserving Aspen's heritage as reflected in its built environment.

(Ord. No. 54-2003, §§4, 5; Ord. No. 16-2008; Ord. No. 28-2010, §3)

26.535.020 Terminology

Establishment of a TDR. The process of creating an historic TDR certificate in exchange for a property owner lessening the allowable development on an historic property (the sending site) through a permanent deed restriction.

Extinguishment of a TDR. The process of increasing the allowable development on a property (the receiver site), as permitted in the Zone District, through the redemption of an historic TDR certificate.

Historic transferable development right certificate (historic TDR certificate). An irrevocable assignable property right which allows a certain amount of development, which may be conveyed separate from the property in which it has historically been associated (the sending site) and which may be used to increase development rights on another property (the receiver site). TDR certificates shall require execution by the Mayor, pursuant to a validly adopted ordinance.

Receiver site. A property on which developments rights are increased in exchange for the City extinguishing an historic TDR certificate held by the developer of the property. Receiver sites are also referred to as *landing sites*.

Sending site. The designated historic landmark property, or property identified on the AspenModern Map, being preserved by reducing its allowable floor area in exchange for the City establishing and issuing an historic TDR certificate.

(Ord. 54-2003, §§4, 5; Ord. No. 28-2010, §3)

26.535.030 Applicability and prohibitions

This chapter shall apply to properties eligible for issuance of a Historic TDR Certificate, known as Sending Sites, and properties eligible for the extinguishment of a Historic TDR Certificate, known as Receiving Sites. City of Aspen Historic TDR Certificates may only be used within the city limits of the City of Aspen, as hereinafter indicated, or in unincorporated Pitkin County, if and as may be permitted by the Pitkin County land Use Code. Pitkin County TDRs are not eligible for extinguishment within the City of Aspen.

Sending Sites shall include all properties within the City of Aspen designated as a Historic Landmark, those properties listed on the Aspen Inventory of Historic Landmark Sites and Structures, and those properties identified on the AspenModern Map, in which the development of a single-family or duplex home is a permitted use, according to Chapter 26.710, Zone Districts. Properties on which such development is a conditional use shall not be eligible. Sending Sites may also be established through adoption of a Final PUD Development Plan, pursuant to Chapter 26.445.

Sending sites shall remain eligible for all benefits, bonuses, etc. allowed properties designated a Historic Landmark after establishment of transferable development rights, pursuant to Chapter 26.415.

Receiving Sites shall include all properties in the City of Aspen permitted additional development rights for extinguishment of a Historic TDR is Chapter 26.710, Zone Districts. A property may also be designated as a Receiving Site through adoption of a Final PUD Development Plan, pursuant to Chapter 26.445.

The allowable development extinguishment of a Historic TDR Certificate varies depending upon the zone district of the Receiving Site and the use of the land. Chapter 26.710, Zone Districts, describes the development allowance for each Historic TDR Certificate extinguished.

A Historic TDR Certificate may be sold, assigned, transferred, or conveyed. Transfer of Title shall be evidenced by an assignment of ownership on the actual certificate document and by recordation in the real estate records of the Pitkin County Clerk and Recorder. Upon transfer, the new owner may request the City re-issue the certificate acknowledging the new owner. Re-issuance shall not require re-adoption of an ordinance.

The market for Historic TDR Certificates is unrestricted and the City shall not prescribe or guarantee the monetary value of a Historic TDR Certificate.

The Community Development Director shall establish policies and procedures not inconsistent with this Chapter for the printing of certificates, their safe-keeping, distribution, recordation, control, and extinguishments.

(Ord. No. 54-2003, §§ 4, 5; Ord. No. 16-2008; Ord. No. 28-2010, §3)

26.535.040 Authority

The City Council, in accordance with the procedures, standards and limitations of this Chapter and of Chapter 26.304, Common development review procedures, shall approve or disapprove, pursuant to adoption of an ordinance, a land use application for the establishment of historic transferable development rights. The Mayor, in accordance with the procedures, standards and limitations of this Chapter and of Section 26.304, Common development review procedures, shall validate and issue historic TDR certificates, pursuant to a validly adopted ordinance.

The Community Development Director, in accordance with the procedures, standards and limitations of this Chapter and of Section 26.304, Common development review procedures, shall approve or disapprove a land use application for the extinguishment of historic transferable development rights.

(Ord. No. 54-2003, §§ 4, 5)

26.535.050 Procedure for establishing a historic transferable development right certificate

The following steps are necessary for the issuance of a City historic transferable development right certificate:

Preapplication conference. Property owners interested in the City's historic TDR program are encouraged to meet with a member of the Community Development Department to clarify the process, benefits and limitations of the program.

Owner confirmation. An application for the issuance of a historic TDR certificate shall only be accepted by the City upon submission of a notarized affidavit from the sending site property owner signifying understanding of the following concepts:

A deed restriction will permanently encumber the sending site and restrict that property's development rights to below that allowed by right by zoning according to the number of historic TDR certificates established from that sending site.

For each certificate of development right issued by the City for the particular sending site, that property shall be allowed two hundred and fifty (250) square feet less of floor area, as permitted according to the property's zoning, as amended.

The sending site property owner shall have no authority over the manner in which the certificate of development right is used by subsequent owners of the historic TDR certificate.

Application for issuance of historic TDR certificate. An applicant shall supply the necessary application materials, identified in Section 26.535.090, Application materials, along with applicable review fees.

City review and approval of application. The Community Development Department shall review the application according to the review standards identified in Section 26.535.070, Review criteria for establishment of a historic TDR and shall forward a recommendation to the City Council. The City Council shall approve or disapprove the establishment of a historic TDR certificate by adoption of an ordinance, according to the review standards identified in Section 26.535.070, Review criteria for establishment of a historic TDR. The manner of public notice shall be publication, pursuant to Paragraph 26.304.060.E.3.a.

Scheduling of closing date. Upon satisfaction of all relevant requirements, the City and the applicant shall establish a date on which the respective historic TDR certificates shall be validated and issued by the City, and a deed restriction on the property shall be accepted by the City and filed with the County Clerk and Recorder.

Closing. On the mutually agreed upon closing date, the Mayor shall execute and deliver the applicable number of historic TDR certificates to the property owner, and the property owner shall execute and deliver a deed restriction lessening the available development right of the sending site together with the appropriate fee for recording the deed restriction with the County Clerk and Recorder's Office.

(Ord. 54-2003, §§ 4, 5)

26.535.060 Procedure for extinguishing a historic transferable development right certificate

The following steps are necessary for the extinguishment of a City historic transferable development right certificate:

Preapplication conference. Property owners interested in the City's historic TDR program are encouraged to meet with a member of the Community Development Department to clarify the process, benefits and limitations of the program. Applicants are encouraged to meet with the City Zoning Officer and review potential development plans to ensure the additional development right can be properly incorporated on the receiver site.

Associated planning reviews. An applicant must gain all other necessary approvals for the proposed development, as established by this Title.

Application for building permit. An applicant shall submit the necessary materials for a building permit, pursuant to Section 26.304.075, Building permit.

Confirmation of historic TDR certificate. The applicant shall submit the requisite historic TDR certificates, and the City shall confirm its or their, authenticity.

City review of application. The Community Development Department shall review the application according to the review standards identified in Section 26.535.070, Review standards for extinguishment of a historic TDR.

Extinguishment of historic TDR certificate. Prior to and as a condition of, issuance of a building permit for a development on a receiver site requiring the extinguishment of a historic TDR certificate, the applicant shall assign the requisite historic TDR certificates to the City whereupon the certificates shall be marked "extinguished." The property shall permanently maintain the additional development benefit of the extinguished TDR according to the development allowance for a TDR pursuant to Section 26.710, Zone Districts. The property owner may, at their discretion, record a confirmation letter from the Community Development Director acknowledging the extinguishment of the TDR(s) for the receiver site.

(Ord. No. 54-2003, §§ 4, 5)

26.535.070 Review criteria for establishment of a historic transferable development right

A historic TDR certificate may be established by the Mayor if the City Council, pursuant to adoption of an ordinance, finds all the following standards met:

9. The sending site is a historic landmark or property identified on the AspenModern Map, on which the development of a single-family or duplex residence is a permitted use, pursuant to Chapter 26.710, Zone Districts. Properties on which such development is a conditional use shall not be eligible.

10. It is demonstrated that the sending site has permitted unbuilt development rights, for either a single-family or duplex home, equaling or exceeding two hundred and fifty (250) square feet of floor area multiplied by the number of historic TDR certificates requested.

11. It is demonstrated that the establishment of TDR certificates will not create a nonconformity. In cases where a nonconformity already exists, the action shall not increase the specific nonconformity.

12. The analysis of unbuilt development right shall only include the actual built development, any approved development order, the allowable development right prescribed by zoning for a single-family or duplex residence, and shall not include the potential of the sending site to gain floor area bonuses, exemptions or similar potential development incentives.

13. Any development order to develop floor area, beyond that remaining legally connected to the property after establishment of TDR Certificates, shall be considered null and void.

14. The proposed deed restriction permanently restricts the maximum development of the property (the sending site) to an allowable floor area not exceeding the allowance for a single-family or duplex residence minus two hundred and fifty (250) square feet of floor area multiplied by the number of historic TDR certificates established.

For properties with multiple or unlimited floor areas for certain types of allowed uses, the maximum development of the property, independent of the established property use, shall be the floor area of a single-family or duplex residence (whichever is permitted) minus two hundred fifty (250) square feet of floor area multiplies by the number of historic TDR certificates established.

The deed restriction shall not stipulate an absolute floor area, but shall stipulate a square footage reduction from the allowable floor area for a single-family or duplex residence, as may be amended from time to time. The sending site shall remain eligible for certain floor area incentives and/or exemptions as may be authorized by the City Land Use Code, as may be amended from time to time. The form of the deed restriction shall be acceptable to the City Attorney.

15. A real estate closing has been scheduled at which, upon satisfaction of all relevant requirements, the City shall execute and deliver the applicable number of historic TDR certificates to the sending site property owner and that property owner shall execute and deliver a deed restriction lessening the available development right of the subject property together with the appropriate fee for recording the deed restriction with the County Clerk and Recorder's office.

16. It shall be the responsibility of the sending site property owner to provide building plans and a zoning analysis of the sending site to the satisfaction of the Community Development Director. Certain review fees may be required for the confirmation of built floor area.

17. The sale, assignment, conveyance or other transfer or change in ownership of transferable development rights certificates shall be recorded in the real estate records of the Pitkin County Clerk and Recorder and must be reported by the grantor to the City of Aspen Community Development Department within five (5) days of such transfer. The report of such transfer shall disclose the certificate number, the grantor, the grantee and the total value of the consideration paid for the certificate. Failure to timely or accurately report such transfer shall not render the transferable development right certificate void.

(Ord. 54-2003, §§ 4, 5; Ord. No. 28-2010, §3)

26.535.080 Review criteria for extinguishment of a historic transferable development right

Historic TDR certificates may be extinguished to accommodate additional development if the Community Development Director finds the following standards have been met:

F. The receiving site is not restricted by a prescribed floor area limitation or the restricting document permits the extinguishment of historic TDR certificates for additional development rights.

G. The receiving site and is eligible to receive an increase in development rights as specified in Chapter 26.710, Zoning Districts, according to the Zone District and the land use or as otherwise specified in a final PUD plan for the property.

H. All other necessary approvals for the proposed development on the receiver site, as established by this Title, have been obtained.

I. The applicant has submitted the requisite authentic historic TDR certificates for redemption.

J. The applicant has submitted the necessary materials for a building permit on the receiver site, pursuant to Section 26.304.075, Building permit and the additional development can be accommodated on the receiver site in conformance with all other relevant requirements.

K. Prior to and as a condition of, issuance of a building permit for a development requiring the extinguishment of a historic TDR certificates, the applicant shall assign and deliver the authentic certificates to the City whereupon the certificates shall be marked "extinguished."

L. The Community Development Director shall issue a letter confirming the extinguishment of the TDR certificates and increasing the available development rights of the receiver site. The applicant may wish to record this document with the County Clerk and Recorder. The confirmation letter shall not stipulate an absolute total floor area, but shall stipulate a square footage increase from the allowable floor area, according to the Zone District and land use of the receiver site at the time of building permit submission. The receiver site shall remain subject to amendments to the allowable floor area and eligible for certain floor area incentives and/or exemptions as may be authorized by the City Land Use Code, as may be amended from time to time. The form of the confirmation letter shall be acceptable to the City Attorney.

M. The development allowed on the receiver site by extinguishment of historic TDR certificates shall be that allowed in Chapter 26.710, Zone Districts, according to the Zone District and the land use or as otherwise specified in a final PUD plan for the receiver site and shall not permit the creation of a nonconforming use or structure.

(Ord. No. 54-2003, §§4, 5; Ord. No. 16-2008)

26.535.090 Application materials

A. The contents of a development application to establish an historic TDR certificate shall be as follows:

1. The general application information required in Common development review procedures, Chapter 26.304.
2. A notarized affidavit from the sending site property owner signifying acknowledgment of the following:
 - a) A deed restriction will permanently encumber the sending site and restrict that property's development rights to below that allowed by right by zoning according to the number of historic TDR certificates established from that sending site.
 - b) For each certificate of development right issued by the City for the particular sending site, that property shall be allowed two hundred and fifty (250) square feet less of floor area, as permitted according to the property's zoning, as amended.
 - c) The sending site property owner shall have no authority over the manner in which the certificate of development right is used by subsequent owners of the historic TDR certificate.
3. A site improvement survey of the sending site depicting:
 - a) Existing natural and man-made site features.
 - b) All legal easements and restrictions.
4. Dimensioned, scaled drawings of the existing development on the sending site and a floor area analysis of all structures thereon.
5. A proposed deed restriction for the sending site.
6. Written response to each of the review criteria.

B. The contents of a development application to extinguish an historic TDR certificate shall be as follows:

1. The necessary application materials for a complete building permit submission, pursuant to Section 26.304.075, Building permit.
2. Written response to each of the review criteria.

(Ord. No. 54-2003, §§4, 5)

26.535.100 Appeals

An applicant aggrieved by a determination made by the Community Development Director, pursuant to this Section, may appeal the decision to the City Council, pursuant to the procedures and standards of Chapter 26.316, Appeals.

An applicant aggrieved by a determination made by the City Council, pursuant to this Section, may appeal the decision to a court of competent jurisdiction.

(Ord. No. 54-2003, §5)

Chapter 26.540
CERTIFICATES OF AFFORDABLE HOUSING CREDIT

Sections:

- 26.540.010 Purpose
- 26.540.020 Terminology
- 26.540.030 Applicability and prohibitions
- 26.540.040 Authority
- 26.540.050 Application and fees
- 26.540.060 Procedures for establishing a credit
- 26.540.070 Review criteria for establishing an affordable housing credit
- 26.540.080 Procedures for issuing a certificate of affordable housing credit
- 26.540.090 Authority of the certificate
- 26.540.100 Transferability of the certificate
- 26.540.110 Exchanging category designation of an affordable housing certificate
- 26.540.120 Extinguishment and re-issuance of a certificate
- 26.540.130 Amendments
- 26.540.140 Appeals

26.540.010 Purpose

There are two main purposes of this chapter: to encourage the development of affordable housing; and to establish an option for housing mitigation that immediately offsets the impacts of development. A Certificate of Affordable Housing Credit is issued to the developer of affordable housing that is not required for mitigation. Another entity can purchase such a Certificate and use it to satisfy housing mitigation requirements. Establishing this transferable Certificate creates a new revenue stream that can make the development of affordable housing more economically viable. Establishing this transferable Certificate also establishes an option for mitigation that reflects built and occupied affordable housing, thereby offsetting the impacts of development before those impacts are felt. This Chapter describes the process for establishing, transferring and extinguishing a Certificate of Affordable Housing Credit.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.020 Terminology

Certificate of Affordable Housing Credit (Credit or Certificate). A transferable document issued by the City of Aspen acknowledging and documenting the voluntary provision of affordable housing which is not otherwise required by this Title or by a Development Order issued by the City of Aspen. The Certificate documents the Category Designations and number of employees housed by the affordable housing. The Credit is irrevocable and assignable. A Certificate of Affordable Housing Credit is a bearer instrument.

Establishing a Credit. The process of the City of Aspen acknowledging the voluntary provision of affordable housing through issuance of a transferable Credit.

Extinguishing a Credit. The process of the City accepting a Credit to satisfy affordable housing requirements of a development.

Category Designation. A classification system used to reflect different sales price and rental rate restrictions of affordable housing as set forth in the Aspen/Pitkin County Housing Authority Guidelines.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.030 Applicability and prohibitions

This Chapter applies to all Certificates of Affordable Housing Credit created prior to the adoption of Ordinance No. 32, Series 2012, and henceforth. Credit Certificates may be used within the city limits of the City of Aspen as provided in this Title. Credit Certificates may be used in other jurisdictions as may be authorized by that jurisdiction.

This Chapter applies to affordable housing created on a voluntary basis. It does not apply to affordable housing created to address an obligation of a Development Order or which is otherwise required by this Title to mitigate the impacts of development. This Chapter does not apply to affordable housing units created prior to the adoption of Ordinance No. 6, Series of 2010.

A Certificate of Affordable Housing Credit may be sold, assigned, transferred, or conveyed. Transfer shall be evidenced by an assignment of ownership on the actual certificate document. Upon transfer, the new owner may request the Community Development Director re-issue the Credit Certificate acknowledging the new owner.

The market for Certificates of Affordable Housing Credit is unrestricted and the City shall not prescribe or guarantee the monetary value of a Credit.

The Community Development Director shall establish policies and procedures not inconsistent with this Chapter for the printing of certificates, their safe-keeping, issuance, re-issuance, record-keeping, and extinguishments.

Projects seeking approval to develop affordable housing in exchange for Certificates of Affordable Housing Credit may be subject to additional reviews pursuant to this Title.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.040 Authority

The Planning and Zoning Commission, in accordance with the procedures, standards and limitations of this Chapter and of Chapter 26.304, Common Development Review Procedures, shall approve, approve with conditions, or deny an application for the establishment of a Certificate of Affordable Housing Credit.

The Community Development Director, in accordance with the procedures, standards and limitations of this Chapter and of Section 26.304, Common Development Review Procedures, is authorized to issue, re-issue, exchange Category designations, and extinguish a Certificate of Affordable Housing Credit.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.050 Application

All applications shall include the information required under Chapter 26.304, Common Development Review Procedures. In addition, all applications must also include the following information.

- 9. The net livable square footage of each unit.
- 10. If applicable, the conditions under which reductions from net minimum livable square footage requirements are requested according to Aspen Pitkin County Housing Authority Guidelines.
- 11. Proposed Category Designation of sale or rental restriction for each unit.
- 12. Proposed employees housed by the affordable housing units in increments of no less than one-one-hundredth (.01) according to Section 26.470.100.2 – Employees Housed.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.060 Procedures for establishing an affordable housing credit

A development application to establish a certificate of Affordable Housing Credit shall be reviewed pursuant to the Common Development Review Procedures set forth at Chapter 26.304, and the following procedures and standards. The City of Aspen Planning and Zoning Commission shall review a recommendation from the Community Development Director and shall approve, approve with conditions, or deny an application to establish Certificates of Affordable Housing Credit. This requires a one-step process as follows:

A. Step One – Review before the Planning and Zoning Commission.

- 1. Purpose: To determine if the application meets the standards for authorizing establishment of a Certificate of Affordable Housing Credit
- 2. Process: The Planning and Zoning Commission shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director.
- 3. Standards of review: 26.540.070
- 4. Form of decision: Planning and Zoning Commission decision shall be by resolution. The resolution may include a description or diagram of the affordable housing.
- 5. Notice requirements: The requirements of 26.212.060 shall apply. No public hearing notice is required.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.070 Review criteria for establishing an affordable housing credit

An Affordable Housing Credit may be established by the Planning and Zoning Commission if all of the following criteria are met. The proposed units do not need to be constructed prior to this review.

- A.** The proposed affordable housing unit(s) comply with the review standards of Section 26.470.070.4(a-d).

B. The affordable housing unit(s) are not an obligation of a Development Order and are not otherwise required by this Title to mitigate the impacts of development.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.080 Procedure for issuing a certificate of affordable housing credit

Once the Planning and Zoning Commission has approved an Affordable Housing Credit through adoption of a Resolution, and a Certificate of Occupancy has been issued for the affordable housing unit(s), the Community Development Director shall issue a Certificate of Affordable Housing Credit in a form prescribed by the Director.

A. The Certificate of Affordable Housing Credit shall include the following information:

1. A number of the Certificate in chronological order of their issuance.
2. Parcel identification number, legal address and the street address of the affordable housing.
3. The Category Designation and number of employees housed by the affordable housing units, according to Section 26.470.100.2 – Employees Housed, in increments of no less than one-one-hundredths (.01).

B. Issuance of the Certificate. At the time of issuance of a Certificate by the City, a letter acknowledging receipt and acceptance of the certificate shall be submitted by the owner to the Community Development Department.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.090 Authority of the Certificate

The Certificate may be utilized in whole or in part, including fractions of an FTE no less than .01 FTE, to satisfy affordable housing mitigation requirements in accordance with other applicable sections of this Title.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.100 Transferability of the certificate

A. A Certificate of Affordable Housing Credit may be sold, assigned, transferred, or conveyed in whole or in part, in increments no less than one-one-hundredth (.01). Transfer of Title shall be evidenced by an assignment of ownership on the actual certificate document. Upon transfer, the new owner may request the City re-issue the Certificate acknowledging the new owner. Re-issuance shall not require re-review by the Planning and Zoning Commission.

B. The sale, assignment, conveyance or other transfer or change in ownership of a Certificate of Affordable Housing Credit shall be recorded in the real estate records of the Pitkin County Clerk and Recorder and must be reported by the grantor to the City of Aspen Community Development Department within five (5) days of such transfer. The report of such transfer shall disclose the Certificate number, the grantor, the grantee and the total value of the consideration paid for the Certificate. Failure to timely or accurately report such transfer shall not render the Credit void.

C. The market for Certificates of Affordable Housing Credit is unrestricted and the City shall not prescribe or guarantee the monetary value of a Certificate of Affordable Housing Credit.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.110 Converting category designation of an affordable housing certificate

Certificates of Affordable Housing Credit represent a number of employees housed at a specific Category designation. Projects seeking extinguishment of a Credit to satisfy affordable housing mitigation standards of this Title may have a different Category Designation requirement than an existing Certificate represents. This section sets forth a process to convert a Certificate of a certain Category Designation for a Certificate of a different Category Designation. This process amends the number of employees housed to create an equivalency. This Section relies on the Affordable Housing Dedication Fees (aka Fee-in-Lieu) stated in the Aspen Pitkin County Housing Authority Guidelines, as are amended from time to time.

To convert a Certificate of a certain Category Designation for a Certificate of a different Category Designation, the following steps are necessary:

Step 1. Multiply the employees housed stated on the existing Certificate by the per employee Fee-in-Lieu fee for the Category Designation as stated in the APCA Guidelines.

Step 2. Divide the resulting number from step 1 by the Fee-in-Lieu fee for the Category Designation of the proposed Certificate.

The resulting number from step 2 shall be the employees housed for the proposed Certificate. The Community Development Director shall re-issue a Certificate using this number of employees housed and specifying the proposed Category Designation.

Example: An owner of a Category 3 Certificate wishes to exchange the Certificate for a Category 2 Certificate. The existing Certificate states 2.25 employees housed.

Step 1. Employees housed multiplied by Category 3 per-FTE Fee-in-Lieu.

$$2.25 \times \$217,567 = \$489,525.75$$

Step 2. Number from step 1 divided by Category 2 per-FTE Fee-in-Lieu.

$$\$489,525.75 / \$230,583 = 2.12$$

In this example, the Community Development Director would re-issue a Certificate stating 2.12 employees housed and a Category 2 designation. Please note that the Aspen/Pitkin County Housing Authority Fee-in-Lieu rates change from time to time. The rates used for this calculation shall be those in effect upon request for conversion.

The conversion of a Certificate's Category Designation shall be approved by the Community Development Director and shall not require additional review by the Planning and Zoning Commission.

(Ord. No. 32-2012, §1)

26.540.120 Extinguishment and Re-Issuance of a Certificate

G. Unless otherwise stated in a Development Order, extinguishing all or part of a Certificate of Affordable Housing Credit shall occur prior to issuance of a Building Permit for the development for which the housing mitigation is required. Extinguishment shall be evidenced by an assignment of ownership on the actual certificate document to “the City of Aspen for extinguishment.”

B. Certificates of Affordable Housing Credit may be extinguished to satisfy affordable housing requirements of this Title if the Community Development Director finds the following standards met:

1. All other necessary approvals for the proposed development, as required by this Title, have been obtained and the applicant has submitted the necessary information, pursuant to Section 26.304.075, Building Permit.
2. The applicant has submitted authentic Certificates of Affordable Housing Credit in the number and Category Designation required for the development.
3. The Certificate owner has assigned ownership of the Certificates to “the City of Aspen for extinguishment.”

C. When all of a Certificate is extinguished, the city shall void the Certificate. When part of a Certificate is extinguished, the city shall issue a Certificate citing the remaining FTEs in increments of no less than .01 of employees housed.

(Ord. No. 32-2012, §1)

26.540.130 Amendments

Amendments to an affordable housing project that occur during additional review(s) required by this Title or other amendments which do not change the essential nature of the project may be approved by the Community Development Director. Revisions to the number or Category Designation of the affordable housing units and Credit Certificates to be issued shall be reflected in a revised development order.

Revisions to the number or Category Designation of the affordable housing units and Credit Certificates to be issued, proposed after all approvals are granted, shall require re-review pursuant to the standards and procedures of this Chapter.

(Ord. No. 32-2012, §1)

26.540.140 Appeals

An applicant aggrieved by a determination made by the Community Development Director or Planning and Zoning Commission, pursuant to this Chapter, may appeal the decision to the City Council, pursuant to the procedures and standards of Chapter 26.316, Appeals.

(Ord. No. 32-2012, §1)

Chapter 26.575
MISCELLANEOUS SUPPLEMENTAL REGULATIONS

Sections:

26.575.010	General
26.575.020	Calculations and measurements
26.575.030	Public amenity
26.575.040	Reserved
26.575.045	Junkyards and service yards
26.575.050	Fences
26.575.060	Utility/trash/recycle service areas
26.575.070	Use square footage limitations
26.575.080	Child care center
26.575.090	Home occupations
26.575.100	Landscape maintenance
26.575.110	Building envelopes
26.575.120	Satellite dish antennas
26.575.130	Wireless telecommunication services facilities and equipment
26.575.140	Accessory uses and accessory structures
26.575.150	Outdoor lighting
26.575.160	Dormitory
26.575.170	Fuel storage tanks
26.575.180	Restaurant
26.575.190	Farmers' market
26.575.200	Group homes
26.575.210	Lodge occupancy auditing
26.575.220	Vacation rentals

26.575.010 General

Regulations specified in other Sections of this Title shall be subject to the following supplemental regulations.

26.575.020 Calculations and Measurements

A. Purpose. This section sets forth methods for measuring floor area, height, setbacks, and other dimensional aspects of development and describes certain allowances, requirements and other prescriptions for a range of structural components, such as porches, balconies, garages, chimneys, mechanical equipment, projections into setbacks, etc. The definitions of the terms are set forth at Section 26.104.100 – Definitions.

B. Limitations. The prescribed allowances and limitations, such as height, setbacks etc., of distinct structural components shall not be aggregated or combined in a manner that supersedes the dimensional limitations of an individual structural component. For example, if a deck is permitted to be developed within five feet of a property boundary and a garage must be a minimum of ten feet from the same property boundary, a garage with a deck on top of it may not be developed any closer than ten feet from the property boundary or otherwise produce an aggregated structural component that extends beyond the setback limit of a garage.

Non-conforming aspects of a property or structure are limited to the specific physical nature of the non-conformity. For example, a one-story structure which extends into the setback may not be developed with a second-story addition unless the second story complies with the required setback.

Specific non-conforming aspects of a property cannot be converted or exchanged in a manner that creates or extends a different specific non-conforming aspect of a property. For example, a property that exceeds the allowable floor area and contains deck area that exceeds the amount which may be exempted from floor area cannot convert deck space into additional interior space.

C. Measuring Net Lot Area. A property’s development rights are derived from Net Lot Area. This is a number that accounts for the presence of steep slopes, easements, areas under water, and similar features of a property. The method for calculating a parcel’s Net Lot Area is as follows:

Table 26.575.020-1	Percent of parcel to be included in Net Lot Area to determine allowable Floor Area	Percent of parcel to be included in Net Lot Area to determine allowable Density
Areas of a parcel with 0% to 20% slope. Notes 2, 3.	100%	100%
Areas of a parcel with more than 20% and up to 30% slope. Notes 2, 3.	For properties in the R-15B Zone: 100% For all other properties: 50%.	100%
Areas of a parcel with more than 30% slope. Notes 2, 3.	For properties in the R-15B Zone: 100% For all other properties: 0%.	100%
Areas below the high water line of a river or natural body of water. Note 1.	0%	0%
Areas dedicated to the City or County for open space or a public trail.	100%	100%
Areas within an existing, dedicated, reserved for dedication, proposed for dedication by the application, or vacated public vehicular right-of-way, public vehicular easement, or vehicular emergency access easement.	0%	0%

Areas within an existing, dedicated, reserved for dedication, or proposed for dedication by the application private vehicular right-of-way or vehicular easement. Notes 4, 5.	0%	0%
Areas within a vacated private vehicular right-of-way or vehicular easement, when any affected parcel has no other established physical and legal means of accessing a public way. Notes 4, 5.	0%	0%
Areas within a vacated private vehicular right-of-way or vehicular easement, when all affected parcels have established alternate physical and legal means of accessing a public way. Notes 4, 5.	100%	100%
Areas of a property subject to above ground or below ground surface easements such as utilities or an irrigation ditch that do not coincide with vehicular easements.	100%	100%

Notes for Table 26.575.020 - 1:

Lot Area shall not be reduced due to the presence of man-made water courses or features such as ditches or ponds.

In instances where the natural grade of a property has been affected by prior development activity, the Community Development Director may accept an estimation of pre-development topography prepared by a registered land surveyor or civil engineer. The Director may require additional historical documentation, technical studies, reports, or other information to verify a pre-development topography.

The total reduction in Floor Area attributable to a property's slopes shall not exceed 25%.

Areas of a property within a shared driveway easement, when both properties sharing the easement abut a public right-of-way, shall not be deducted from Lot Area. This enables adjacent property owners to combine two driveways into one without reducing development rights.

When a property of 9,000 square feet or less contains a private vehicular access easement dedicated to no more than one back parcel, when such back parcel has no other means of access, the area of the access easement shall not be deducted from Lot Area for either Floor Area or density purposes. Otherwise, areas of a vehicular access easement serving another parcel shall be deducted from Lot Area as provided in the table above.

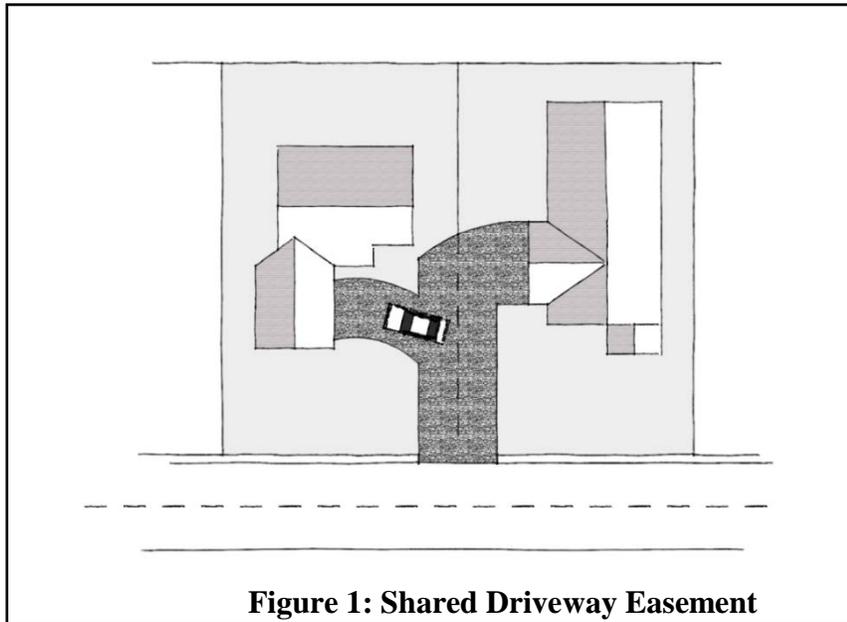


Figure 1: Shared Driveway Easement

D. Measuring Floor Area. In measuring floor areas for floor area ratio and allowable floor area, the following applies:

1. **General.** Floor area shall be attributed to the lot or parcel upon which it is developed. In measuring a building for the purposes of calculating floor area ratio and allowable floor area, there shall be included all areas within the surrounding exterior walls of the building or portion thereof. When measuring from the exterior walls, the measurement shall be taken from the exterior face of framing, exterior face of structural block, exterior face of straw bale, or similar exterior surface of the nominal structure excluding sheathing, vapor barrier, weatherproofing membrane, exterior-mounted insulation systems, and excluding all exterior veneer and surface treatments such as stone, stucco, bricks, shingles, clapboards or other similar exterior veneer treatments. (Also, see setbacks.)

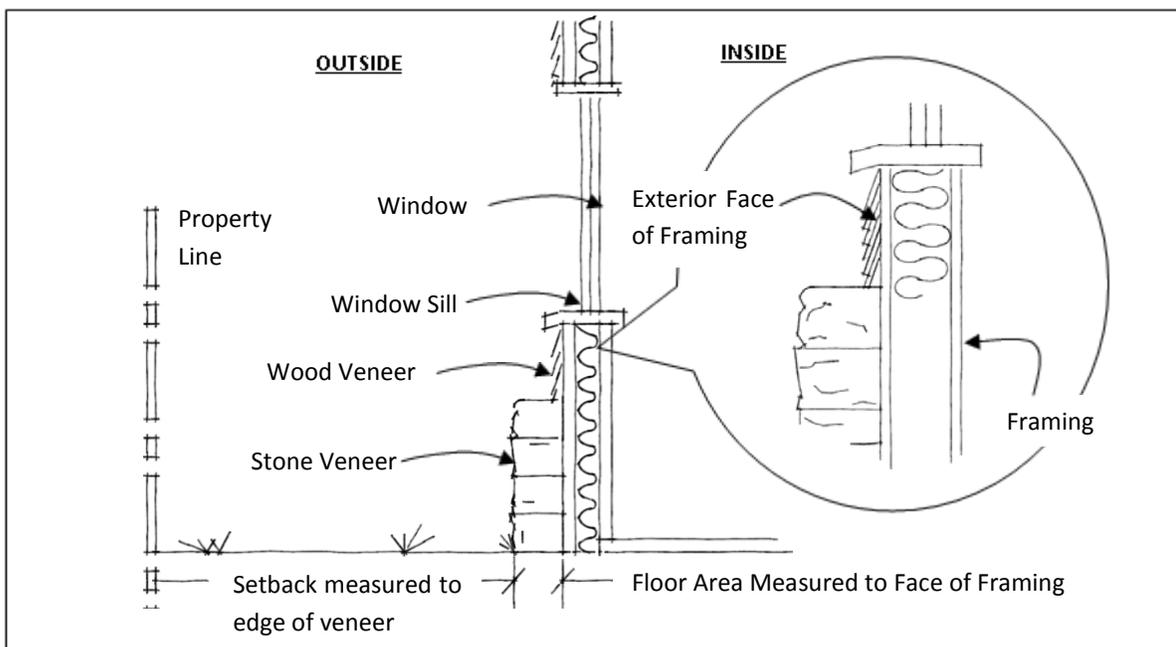


Figure 2: Measuring to Face of Framing

2. Vertical circulation. When calculating vertical circulation, the circulation element shall be counted as follows:
 - a) For stairs and elevators, the area of the feature shall be projected down and counted on the lower of the two levels connected by the element and not counted as Floor Area on the top-most interior floor served by the element.
 - b) When a stairway or elevator connects multiple levels, the area of the feature shall be counted on all levels as if it were a solid floor except that the area of the feature shall not be counted as Floor Area on the top-most interior level served by the element.
 - c) Mechanical and overrun areas above the top-most stop of an elevator shall not be counted as Floor Area. Areas below the lowest stop of an elevator shall not be counted as Floor Area.
3. Attic Space. Unfinished and uninhabitable space between the ceiling joists and roof rafters of a structure which is either inaccessible or accessible only as a matter of necessity is exempt from the calculation of Floor Area Ratio and allowable Floor Area. If the space is conveniently accessible and is either habitable or can be made habitable it shall be counted in the calculation of Floor Area Ratio and allowable Floor Area.

Examples:

- a) An area created above a “hung” or “false” ceiling is exempt.
- b) An area accessible only through an exterior access panel or crawl space is exempt.
- c) An area accessible only through an interior pull-down access ladder is exempt.
- d) A sleeping loft accessible via a stairway or a ladder is counted.
- e) An unfinished space which has convenient access is counted.

If any portion of the attic level of a structure is to be counted, then the entire level shall be included in the calculation of Floor Area Ratio and allowable Floor Area regardless of other practical limitations to routine use. Areas of an attic level with thirty (30) vertical inches or less between the finished floor level and the finished ceiling shall be exempt, regardless of how that space is accessed or used

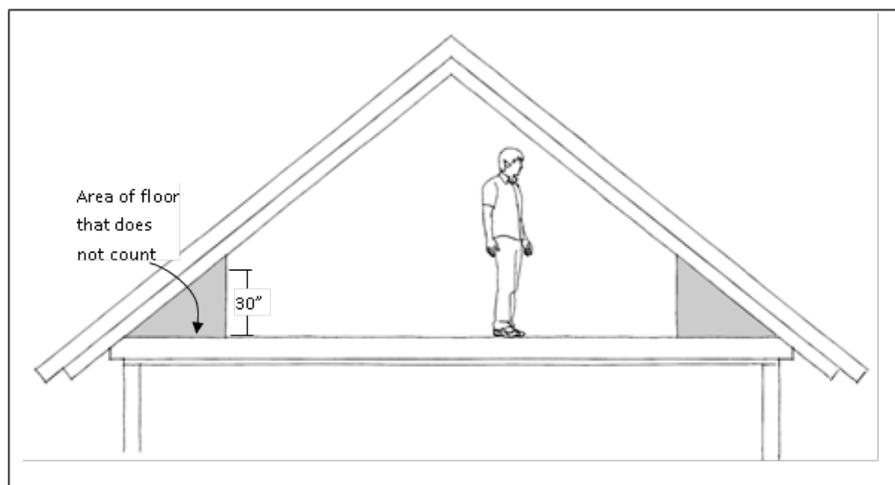


Figure 3: Thirty inch height exemption

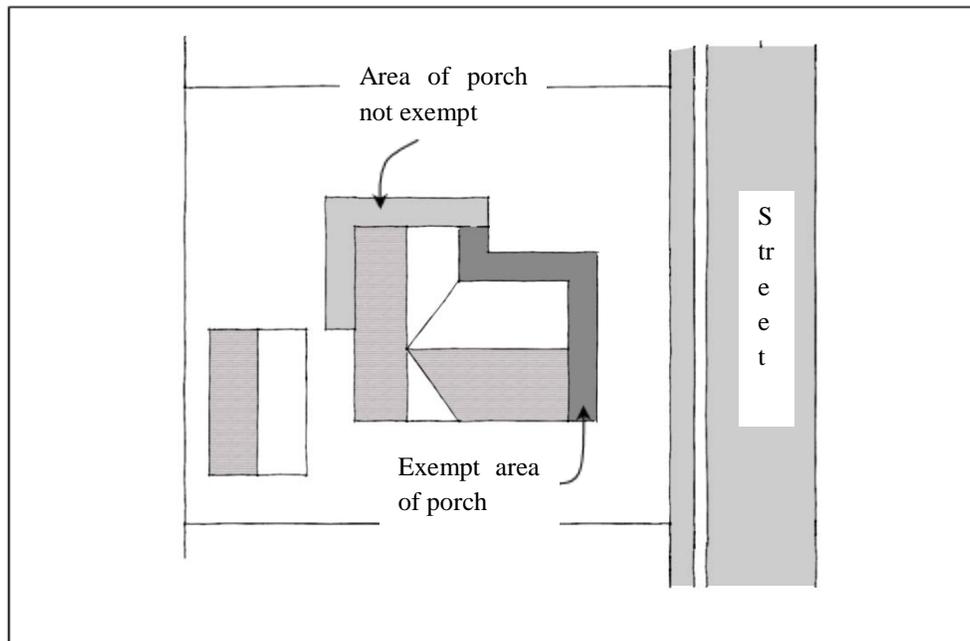
5. Decks, Balconies, Loggias, Gazebos, Exterior Stairways, and non-Street-facing porches. The calculation of the Floor Area of a building or a portion thereof shall not include decks, balconies, exterior stairways, non Street-facing porches, gazebos and similar features, unless the area of these features is greater than fifteen percent (15%) of the maximum allowable floor area for the property and the use and density proposed.

If the area of these features exceeds fifteen percent (15%) of the property's maximum allowable Floor Area (for that use and density proposed) only the areas in excess of the fifteen percent (15%) shall be attributed towards the allowable Floor Area for the property.

The area of these features shall be the maximum footprint of the feature including railings, fixed seating, fixed planter boxes, overhangs, and similar structural components of the feature.

Unenclosed areas beneath Decks, Balconies, and exterior stairways shall be exempt from Floor Area calculations unless that area is used as a carport. (See provisions for garages and carports, Subsection 7.) Enclosed and unconditioned areas beneath Porches, Gazebos, and Decks or Balconies when those elements have a finished floor level within thirty (30) inches of the surrounding finished grade shall be exempt from Floor Area calculations regardless of how that area is used.

6. Front Porches. Porches on Street-facing façade(s) of a structure developed within thirty (30) inches of the finished ground level shall not be counted towards allowable Floor Area. Otherwise, these elements shall be attributed to Floor Area as a Deck.



6. Patios and Landscape Terraces. Patios and Landscape Terraces developed at finished grade shall not be counted towards allowable Floor Area. These features may be covered by roof overhangs or similar architectural projections of up to thirty (30) inches and remain exempt from Floor Area calculations.

7. Garages and carports. For all multi-family and mixed-use buildings or parcels containing residential units, 250 square feet of the garage or carport area shall be excluded from the calculation of floor area per residence on the parcel. All garage and carport area in excess of 250 square feet per residence shall be attributed towards Floor Area and Floor Area Ratio with no exclusion. Garage and carport areas for properties containing no residential units shall be attributed towards Floor Area and Floor Area Ratio with no exclusion.

In the R-15B Zone District, garage and carport areas shall be excluded from the calculation of Floor Area up to a maximum exemption of five-hundred-square-foot total for the parcel.

In zone districts other than the R-15B Zone District, properties containing solely a Single-Family, two single-family residences, or a Duplex, the garage and carport area shall be excluded from the calculation of Floor Area as follows:

Table 26.575.020-2

Size of Garage or Carport	Area excluded per primary dwelling unit (not including Accessory Dwelling Units or Carriage Houses)
First 0 to 250 square feet	100% of the area
Next 251 to 500 square feet	50% of the area
Areas above 500 square feet	No area excluded.

For any property abutting an alley or private road entering at the rear or side of the property, the garage or carport area shall only be excluded from floor area calculations as described above if the garage or carport is accessed from said alley or road. If an alley or private road does exist and is not utilized for garage or carport access, the garage or carport area shall be attributed towards Floor Area calculations with no exclusion. If an alley or private road does not abut the property, the garage or carport area shall be excluded from floor area calculations as described above.

8. Subgrade areas. Subgrade or partially subgrade levels of a structure are included in the calculation of Floor Area based on the portion of the level exposed above grade.

The percentage of the gross area of a partially subgrade level to be counted as Floor Area shall be the surface area of the exterior walls exposed above the lower of natural and finished grade divided by the total exterior wall area of that level. Subgrade stories with no exposed exterior surface wall area shall be excluded from floor area calculations.

Example: If a the walls of a 2,000 square foot level are forty percent (40%) exposed above the lower of natural or finished grade then forty percent (40%) of that level, 800 square feet is counted as Floor Area.

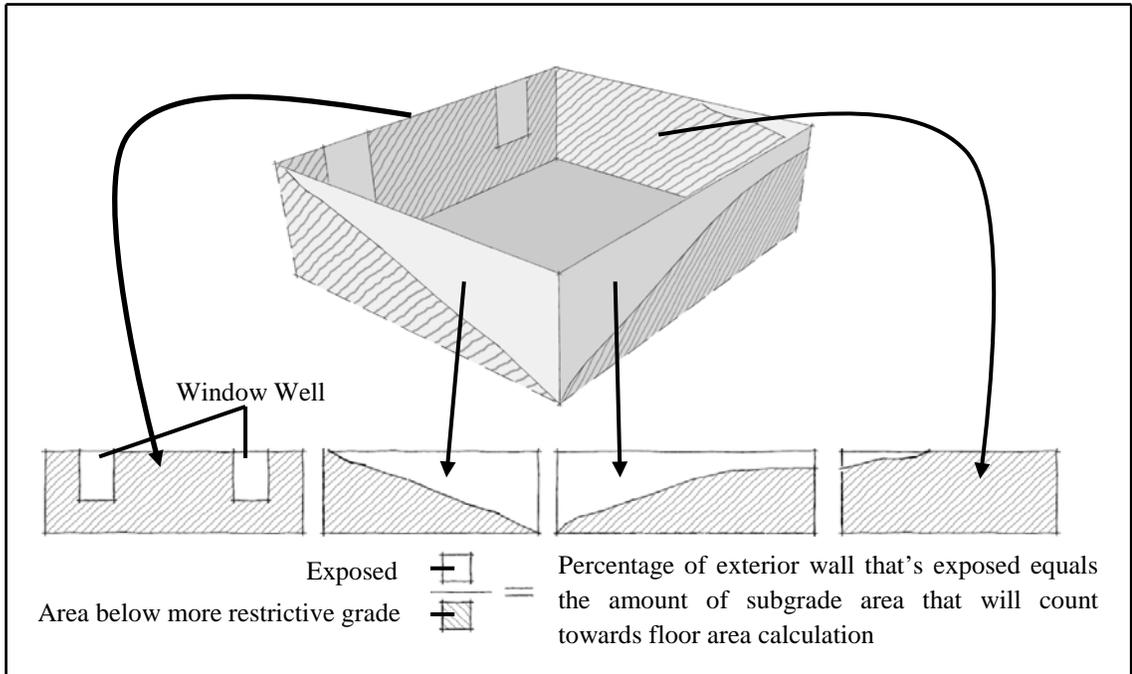


Figure 4: Determining the amount of a subgrade floor to be counted as Floor Area

For the purposes of this section, the exterior wall area to be measured shall be the interior wall area projected outward and shall not include exterior wall areas adjacent to foundation or floors of the structure.

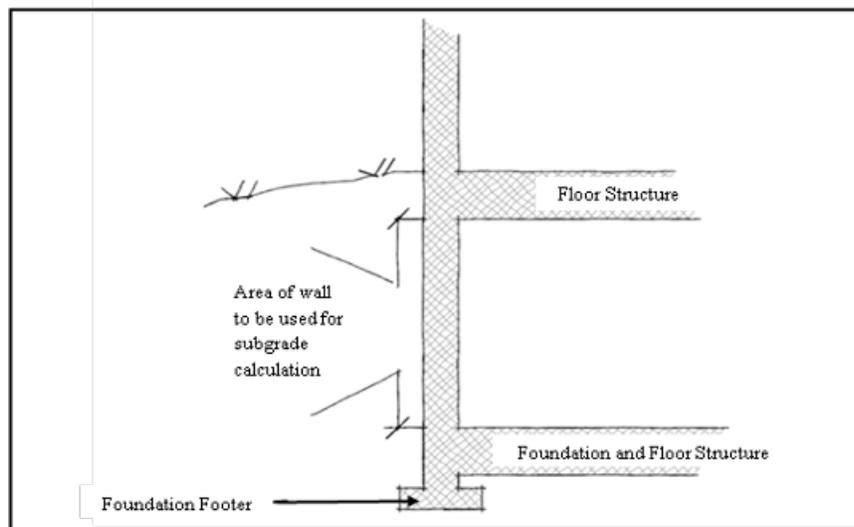


Figure 5: Measuring the Area of a Subgrade Wall

When considering multi-level subgrade spaces, adjacent interior spaces shall be considered on the same story if the vertical separation between the ceilings of the spaces is less than 50% of the distance between the floor and ceiling of either space.

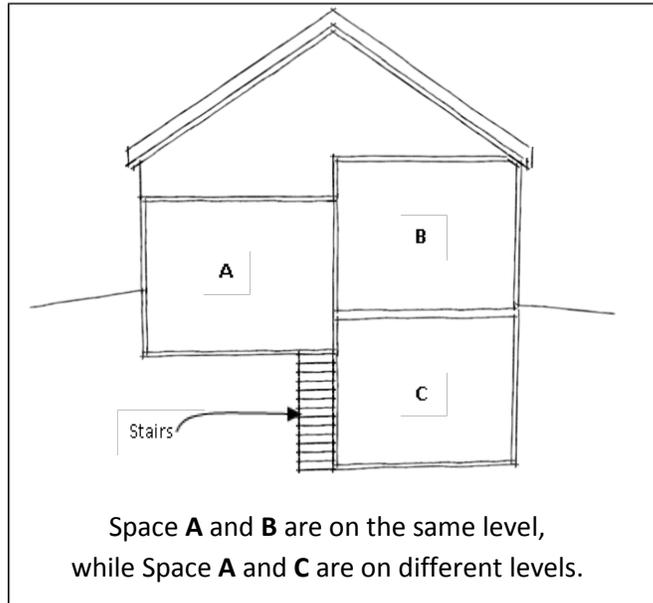


Figure 6: Determining different building

When a partially subgrade space also contains a vaulted ceiling within a pitched roof, the wall area shall include the area within the gable of the roof.

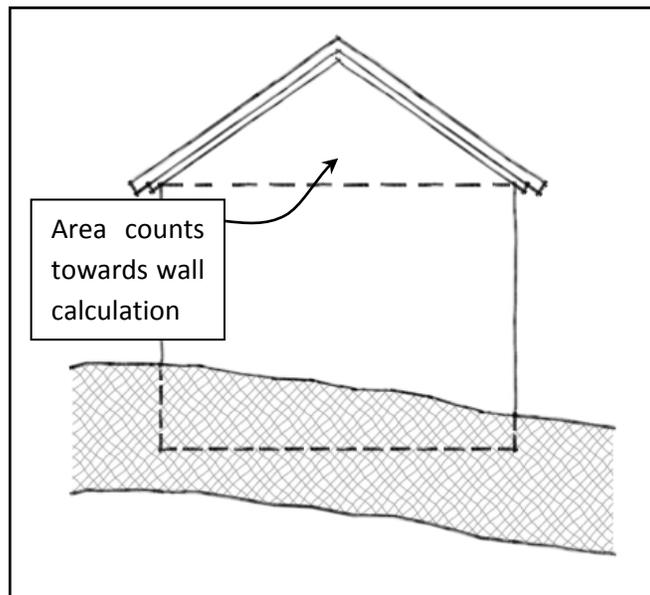


Figure 7: Pitched roof with subgrade calculation

For garages that are part of a subgrade area, the garage exemption is taken from the total gross below-grade area prior to calculating the subgrade exemption. For example, a 2,000 square foot story containing a 350 square foot garage which is 40% above grade, the calculation shall be as follows:

Garage exemption – the first 250 square feet is exempt and the next 100 square feet counts 50% or 50 square feet = 300 square feet of the garage which is exempt.

Subgrade exemption – 2,000 gross square feet minus 300 square feet of exempt garage space = 1,700 gross square feet multiplied by 40% = 680 square feet of that level which counts towards allowable Floor Area.

9. Accessory Dwelling Units and Carriage Houses. An accessory dwelling unit or carriage house shall be calculated and attributed to the allowable floor area for a parcel with the same inclusions and exclusions for calculating floor area as defined in this Section.
10. Permanently Affordable Accessory Dwelling Units and Carriage Houses. One hundred percent (100%) of the area of an Accessory Dwelling Unit or Carriage House which is detached from the primary residence and deed-restricted as a "for sale" affordable housing unit and transferred to a qualified purchaser in accordance with the Aspen/Pitkin County Housing Authority Guidelines, as amended, shall be excluded from the calculation of floor area, up to a maximum exemption of one thousand two hundred (1,200) square feet per parcel.

In addition, the allowable floor area of a parcel containing such a permanently affordable Accessory Dwelling Unit or Carriage House shall be increased in an amount equal to fifty percent (50%) of the floor area of the Accessory Dwelling Unit or Carriage House, up to a maximum bonus of six hundred (600) square feet per parcel.

11. Sheds, Storage Areas, and similar Accessory Structures. Sheds, storage areas, greenhouses, and similar uninhabitable accessory structures, not within a garage, are exempt from floor area limitations up to a maximum exemption of thirty-two (32) square feet per residence. Storage areas within a garage shall be treated as garage space eligible for the garage exemption only. Accessory structures thirty-six inches or less in height, as measured from finished grade, shall be exempt from Floor Area calculations (also see setback limitations). Accessory structures larger than thirty-two square feet per primary residence and more than thirty-six inches in height shall be included in their entirety in the calculation of Floor Area. Properties which do not contain residential units are not eligible for this Floor Area exemption.
12. Historic Sheds and Outbuildings. The Community Development Director may provide a parcel containing an uninhabitable and limited function historic shed, outbuilding, or similar historic artifact with a Floor Area exemption to accommodate the preservation of the historic resource. The shed or outbuilding must be considered a contributing historic resource of the property. Functional outbuildings, such as garages, art studios, home offices, and the like shall not be eligible for an exemption. The Director may consult the Historic Preservation Commission prior to making a determination. The Director may require the property's potential to receive Floor Area bonuses be reduced to account for the structure. The exemption shall be by issuance of a recordable administrative determination and shall be revocable if the artifact is removed from the property.
13. Wildlife-Resistant Trash and Recycling Enclosures. Wildlife-resistant trash and recycling enclosures located in residential zone districts are exempt from floor area requirements of the zone district regulations if the enclosure is the minimum reasonably necessary to enclose the trash receptacles in both height and footprint, is an unconditioned space not located inside other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant dumpster enclosures

located in commercial, mixed-use, or lodging zone districts are not exempt from floor area requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas.

Enclosures shall be located adjacent to the alley if an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic Preservation Commission, enclosures shall not abut or be attached to an historic structure. Enclosures may abut other non-historic structures.

14. Allocation of Non-Unit Space in a mixed-use building. In order to determine the total floor area of individual uses in a mixed-use building, the total floor area for non-unit space, which is common to all uses on the property, shall be allocated on a proportionate basis of the use categories outlined in the subject zone district's FAR schedule. The building's gross floor area, minus all non-unit space, shall be divided proportionately amongst the individual use categories in a building. These numbers shall then be calculated as a percent of the gross floor area number that does not include the non-unit space. A proportionate share of the non-unit floor area shall then be allocated towards each use category. This provision shall apply to all zone districts permitting mixed-use buildings.

For instance, if a building was comprised of the following square footages:

$$\begin{array}{r} 2,000 \text{ sq. ft. commercial floor area} \\ + 4,000 \text{ sq. ft. free-market residential floor area} \\ + 2,000 \text{ sq. ft. affordable housing floor area} \\ + \underline{1,000 \text{ sq. ft. nonunit floor area}} \\ = 9,000 \text{ sq. ft. total floor area} \end{array}$$

Then the total unit floor area in the building would be eight thousand (8,000) square feet floor area. Using the allocation of nonunit space standard, the uses account for the following percentages of the total unit floor area:

$$\begin{array}{l} \text{Commercial floor area} = 25\% \\ \text{Free-market residential floor area} = 50\% \\ \text{Affordable housing floor area} = 25\% \end{array}$$

Therefore, the one thousand (1,000) square feet of non-unit space is allocated to the different uses as follows:

$$\begin{array}{l} \text{Commercial floor area} = 25\% \times 1,000 \text{ sq. ft.} = 250 \text{ sq. ft.} \\ \text{Free-market residential floor area} = 50\% \times 1,000 \text{ sq. ft.} = 500 \text{ sq. ft.} \\ \text{Affordable housing floor area} = 25\% \times 1,000 \text{ sq. ft.} = 250 \text{ sq. ft.} \end{array}$$

When non-unit space is used exclusively by one use, the space shall be attributed to the floor area for that use. For example, if a lobby and elevator serve the free-market residential uses on the property, exclusively, then the area associated with the lobby and elevator shall be assigned to the floor area for free-market residential uses.

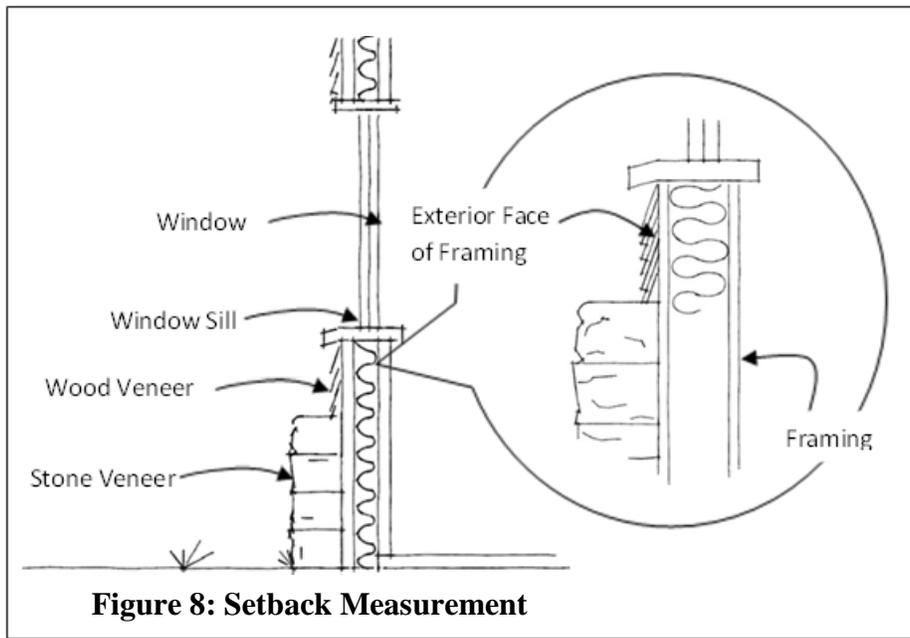
15. Airlocks. Permanently installed interior airlock spaces are exempt from the calculation of Floor Area Ratio and allowable Floor Area up to a maximum exemption of 100 square feet

per building. This exemption only applies to buildings containing non-residential uses and does not apply to single-family, duplex, or multi-family buildings.

E. Measuring Setbacks.

1. General. Required setbacks shall be unoccupied and unobstructed within an area extending horizontally from the parcel boundary to the setback line and vertically above and below grade, excepting allowed projections as described below.

Required setbacks shall be measured perpendicular from all points of the parcel boundary to the outmost exterior of a structure, including all exterior veneer such as brick, stone or other exterior treatments, but excluding allowed projections as further described in subsection E.5, below.



2. Determining Front, Rear, and Side Yards. The front yard setback shall be measured from the front lot line. The Front Lot Line shall be the parcel boundary closest to or dividing a lot from a Street or street right-of-way. All parcels have a front lot line. There shall not be more than one front lot line.

The rear yard setback shall be measured from the rear lot line. The Rear Lot Line shall be the parcel boundary opposite the front lot line. All parcels have a rear lot line. A parcel shall have only one rear lot line.

Side yard setbacks shall be measured from the side lot lines. Side lot lines shall be those parcel boundaries other than a front or rear lot line. All parcels will have at least one side lot line and may have multiple side lot lines.

For corner parcels, the front lot line shall be the parcel boundary along the Street with the longest block length and the remaining boundary shall be a side lot line.

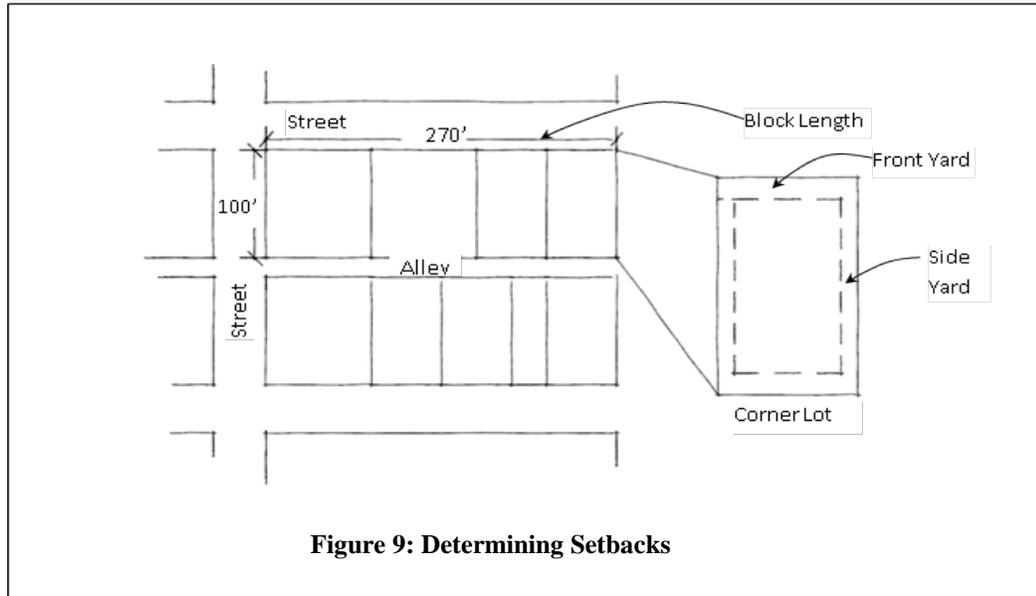


Figure 9: Determining Setbacks

For corner parcels where the parcel boundary follows a curving Street, the midpoint of the curve shall be used to differentiate the front lot line and the side lot line. In this case, the boundary segment with the shortest Street frontage shall be the front lot line.

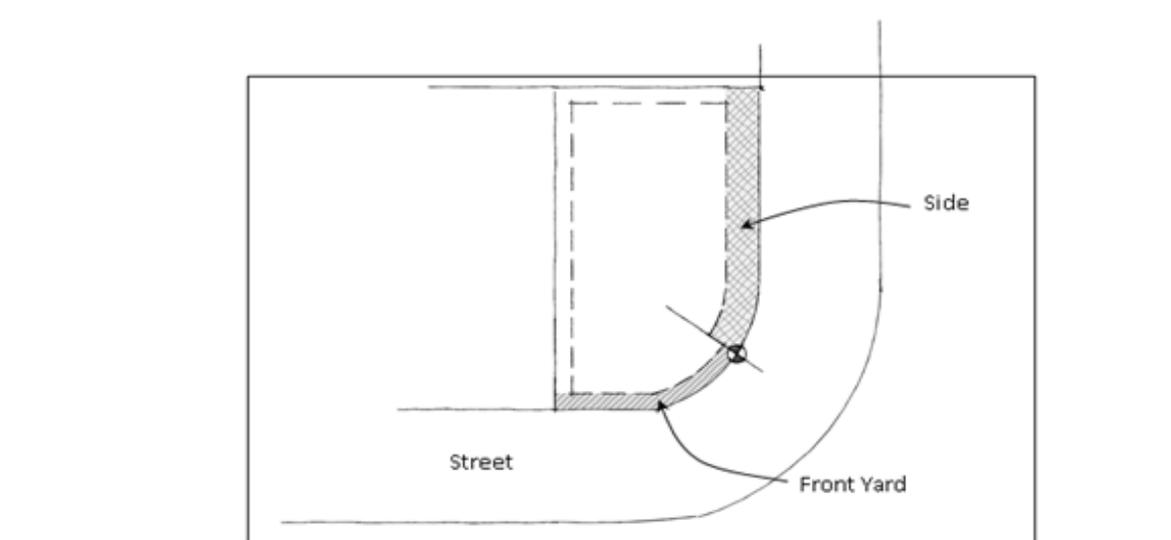


Figure 10: Corner lot with curved street

For reverse curve lots, the curved portion of the lot line shall be considered the front lot line and the two opposing parcel boundaries shall be considered side lot lines.

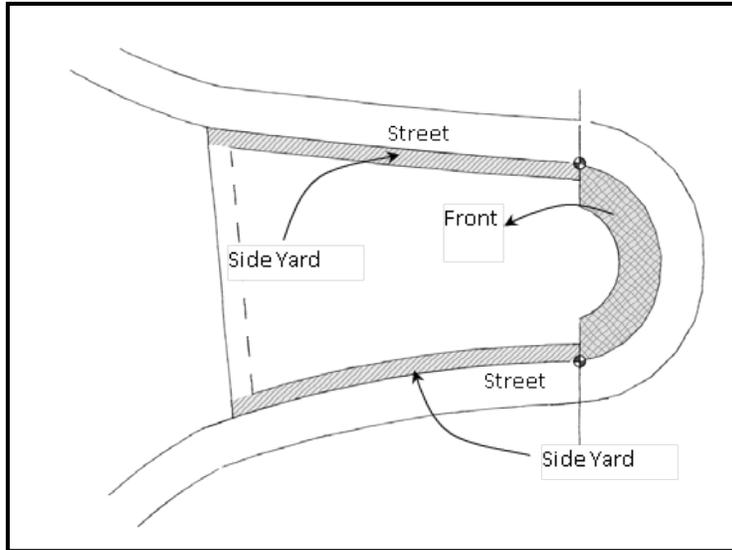


Figure 11: Reverse curve lot

For all double frontage lots with Streets on opposite sides of the parcel, except for those parcels abutting Main Street, the front lot line shall be the parcel boundary with the greatest length of Street frontage and the opposing lot boundary shall be the rear lot line.

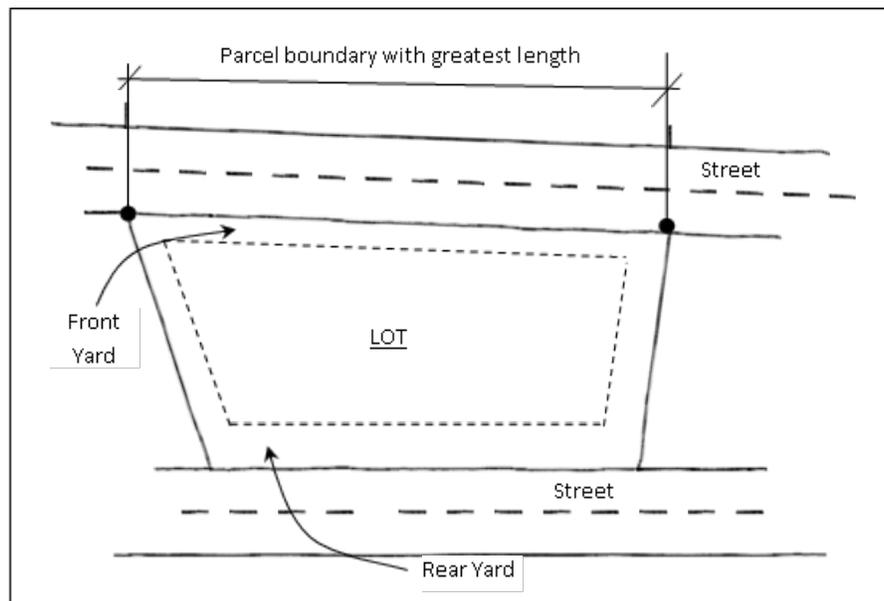


Figure 12: Double frontage lot

For double frontage lots with equal length street frontages, the front lot line shall mirror the front lot lines of the adjoining lots to the extent practical.

For double frontage lots abutting Main Street, the front lot line shall be the lot line adjoining Main Street.

The Community Development Director shall resolve any discrepancies or situations where the foregoing text does not provide definitive clarity by issuance of a recordable administrative determination.

3. Determining required setbacks adjacent to streets or rights-of-way. When a property does not extend into an adjacent public or private right-of-way or street easement, the required setback shall be measured from the lot line.

When a property extends into an adjacent public or private right-of-way or street easement, the required setback for that portion of the lot shall be measured from the edge of the right-of-way or street easement closest to the proposed structure.

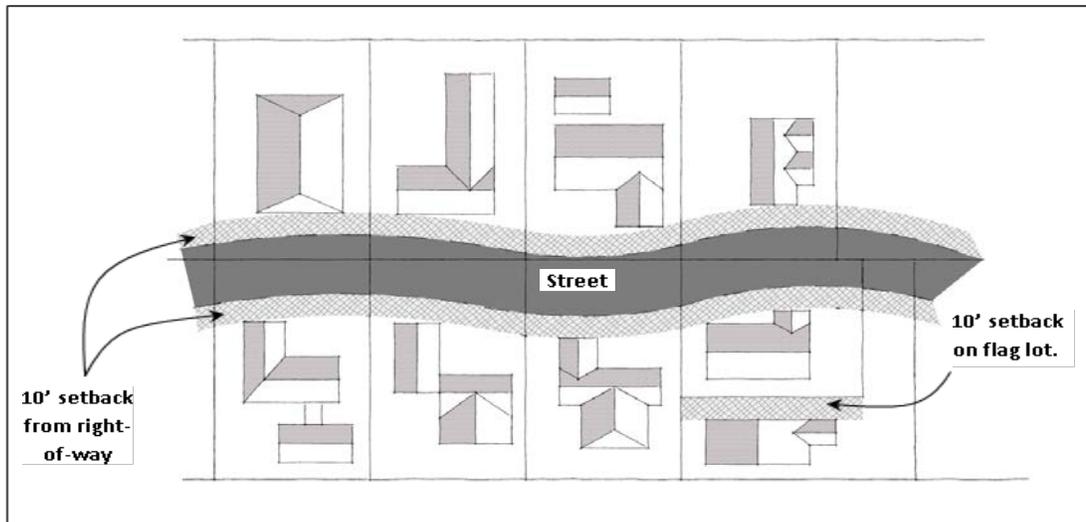


Figure 13: Required setback from a right-of-way or street easement

4. Combined Setbacks. Where zoning provisions require a combined yard setback (either front-rear or side-side), the narrowest point on each yard shall be the basis for measuring the combined setback. A combined yard requirement may not be met by staggering the required yard setbacks.

For example, if a lot requires a combined side-yard setback of 30', with a minimum of 10' on either side, Figure 14 shows compliance with the requirement – one side yard is 10', the other is 20', and each side yard setback is consistent from front to rear.

Given the same example, Figure 15 meets the individual 10' setback requirements, but the combined setback is staggered and is not consistent from front to rear. This example does not meet the combined setback requirement.

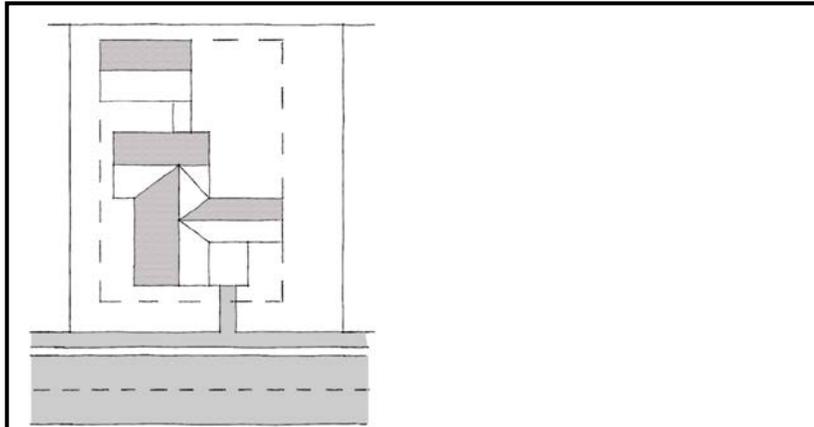


Figure 14: Compliance with combined setbacks

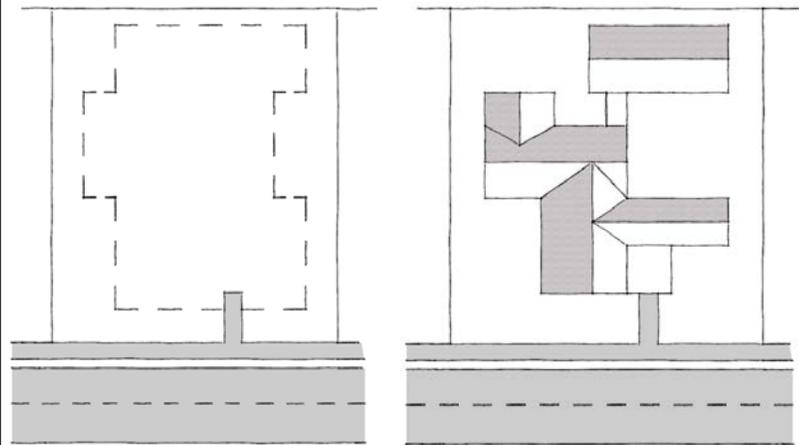


Figure 15: Does not comply with combined setbacks

5. Allowed Projections into Setbacks. Setback areas shall be unobstructed above and below ground except for the following allowed projections:
 - a) Above or below ground utilities, below-grade heating or cooling conduit or infrastructure such as a ground-source heat pump system, below-grade dry wells or other at-grade or below-grade drainage infrastructure.
 - b) Trees and vegetation.
 - c) Artwork, sculpture, seasonal displays.
 - d) Flagpoles, mailboxes, address markers.
 - e) Foundation footers, soil nails or below-grade tiebacks, and similar improvements necessary for the structural integrity of a building or other structures.
 - f) The minimum projection necessary to accommodate exterior mounted utility junctions, meters, cable boxes, vent flues, standpipes, and similar apparatus and including any protective structure as may be required by the utility provider.
 - g) Building eaves, bay windows, window sills, and similar architectural projections up to eighteen (18) inches.

- h) Balconies not utilized as an exterior passageway may extend the lesser of one-third ($\frac{1}{3}$) of the way between the required setback and the property line or four (4) feet. In no case shall the projection be allowed closer than five (5) feet to a property line. This projection is allowed for balconies only and does not permit projections of other improvements, such as garages or carports.
- i) The minimum projection necessary to accommodate light wells and exterior basement stairwells as required by adopted Building or Fire Codes as long as these features are entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s).

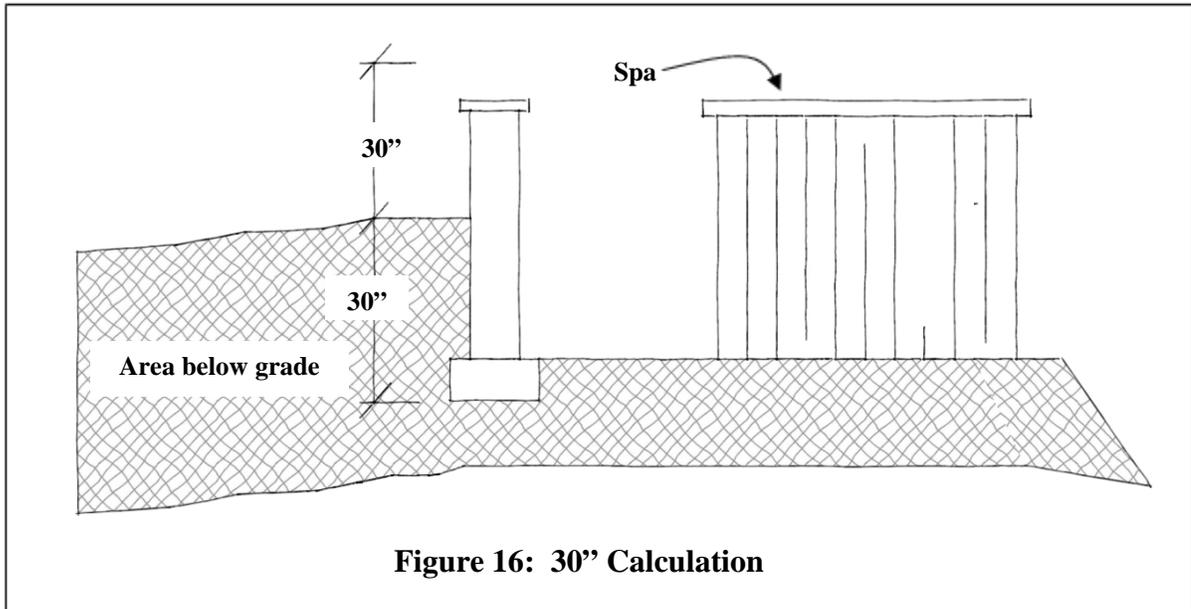
If any portion of the feature projects into the setback, the entire feature may be no larger than the minimum required.

Features required for adjacent subgrade interior spaces may be combined as long as the combined feature represents the minimum projection into the setback. There is no vertical depth limitation for these features.

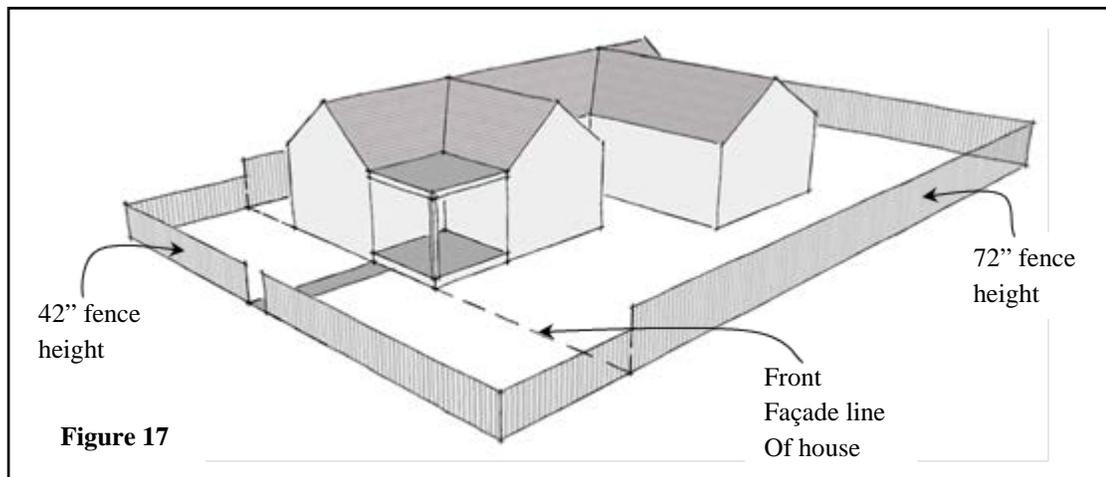
This exemption does not apply to Areaways. This exemption does not apply to light wells and exterior basement stairwells which are not required by adopted Building or Fire Codes.

- j) The minimum projection necessary to accommodate an exterior-mount fire escape to an existing building, as may be required by adopted Building or Fire Codes.
- k) Uncovered porches, landscape terraces, slabs, patios, walks, landscape walls, earthen berms, retaining walls, steps and similar structures, which do not exceed thirty (30) inches vertically above or below natural grade or finished grade, whichever is more restrictive. (Also see Chapter 26.410 – Residential Design Standards for limits on the location of berms.) Improvements may be up to thirty (30) inches above and below grade simultaneously, for up to a sixty (60) inch total. Improvements may exceed thirty (30) inches below grade if determined to be necessary for the structural integrity of the improvement. (See Figure 16).
- l) Drainage swales, stormwater retention areas, bio retention areas, rain collection systems, and similar stormwater retention, filtration or infiltration devices or facilities are permitted in setbacks as long as the finished grade of the top of the improvement does not exceed thirty (30) inches vertically above or below the surrounding finished grade. Stormwater improvements or portions thereof may be buried and exceed thirty (30) inches below grade as long as the finished grade above the facility does not exceed thirty (30) inches vertically above or below the surrounding finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously.
- m) Hot tubs, spas, pools, water features, and permanently affixed outdoor grills, furniture, seating areas, and similar permanent structures are prohibited in all yards facing a Street. These elements may be placed within non-street facing yards but shall not exceed thirty (30) inches above or below finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously. Improvements may exceed thirty (30) inches below grade if necessary for the structural integrity of the improvement.
- n) Heating and air conditioning equipment and similar mechanical equipment are prohibited in all yards facing a Street. Mechanical equipment may be placed within non-street facing

yards but shall not exceed thirty (30) inches above or below finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously. The Planning and Zoning Commission may consider exceptions to this requirement pursuant to the procedures and criteria of Chapter 26.430 – Special Review.



- o) The height and placement of energy efficiency or renewable energy production systems and equipment which are located adjacent to or independent of a building shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. These systems are discouraged in all yards facing a Street. For energy production systems and equipment located on top of a structure, see sub-section F.4.
- p) Fences and hedges less than forty-two (42) inches in height, as measured from finished grade, are permitted in all required yard setbacks. Fences and hedges up to six (6) feet in height, as measured from finished grade, are permitted only in areas entirely recessed behind the vertical plane established by the portion of the building facade which is closest to the Street. This restriction applies on all Street-facing facades of a parcel. (Also see Section 26.575.050 – Supplementary Regulations for limitations on fence materials.)



- q) Driveways not exceeding twenty-four (24) inches above or below natural grade within any setback of a yard facing a Street. Within all other required setbacks, finished grade of a driveway shall not exceed thirty (30) inches above or below natural grade.
- r) Parking may occur in required setbacks if within an established driveway or parking area and the curb cut or vehicular access is from an alleyway, if an alleyway abuts the property, or has otherwise been approved by the City.
- s) Non-permanent features which are not affixed to the ground such as movable patio furniture, outdoor seating or a picnic table, barbeque grills, children’s play equipment, and similar non-permanent features which are not affixed to the ground. This exemption shall not allow storage sheds or containers.
- t) Wildlife-resistant Trash and Recycling enclosures located in residential zone districts shall be prohibited in all yards facing a Street. These facilities may be placed within non-street facing yards if the enclosure is the minimum reasonably necessary in both height and footprint, is an unconditioned space not integrated with other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant trash and recycling enclosures located in commercial, mixed-use, or lodging zone districts are not exempt from setback requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas.
- u) Temporary intermittent placement of trash and recycling containers in or along yards facing a Street is allowed. For example, on “trash day.”
- v) Enclosures shall be located adjacent to the alley where an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic Preservation Commission, enclosures shall not abut or be attached to a historic structure. Enclosures may abut other non-historic structures.

F. Measuring Building Heights.

1. For properties in the Commercial Core (CC), Commercial (C1), Commercial Lodge (CL), Neighborhood Commercial (NC) and Service Commercial Industrial (SCI) Zone Districts, the height of the building shall be the maximum distance between the ground and the highest point of the roof top, roof ridge, parapet, or top-most portion of the structure. See subsection 3, below, for measurement method.
2. For properties in all other Zone Districts, the height of the building shall be measured according to the pitch of the roof as follows. See subsection 3, below, for measurement method.
 - a) *Flat roofs or roofs with a pitch of less than 3:12.* The height of a building with a roof pitch of less than 3:12 shall be measured from the ground to the top-most portion of the structure.

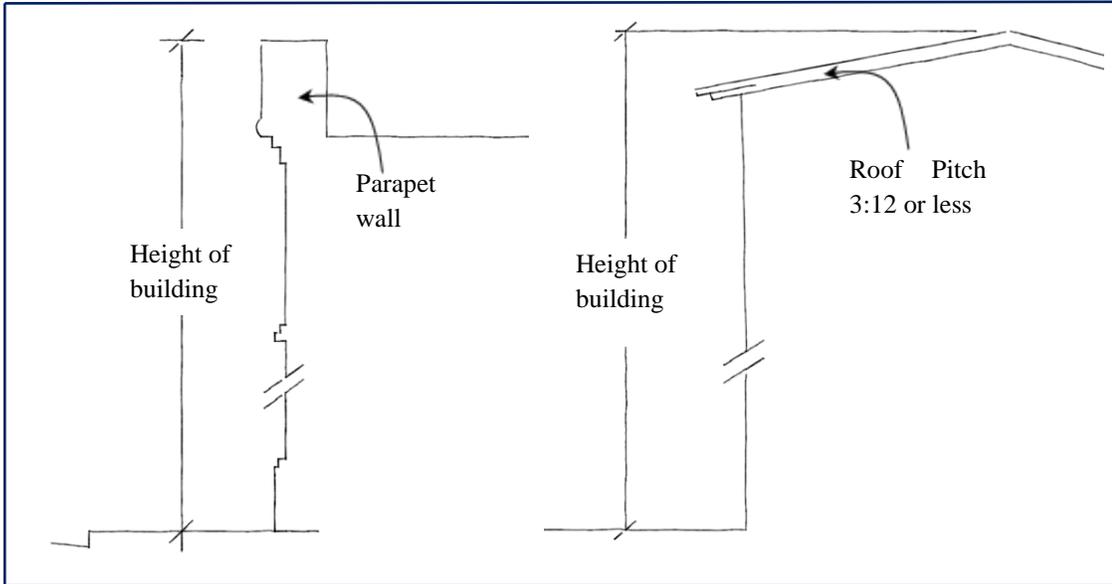


Figure 18: Measuring height for flat roofs or roofs with less than 3:12 pitch

- b) *Roofs with a pitch from 3:12 to 7:12.* The height of a building with a roof pitch from 3:12 to 7:12 shall be measured from the ground to the point of the roof vertically halfway between the eave point and the ridge. There shall be no limit on the height of the ridge.

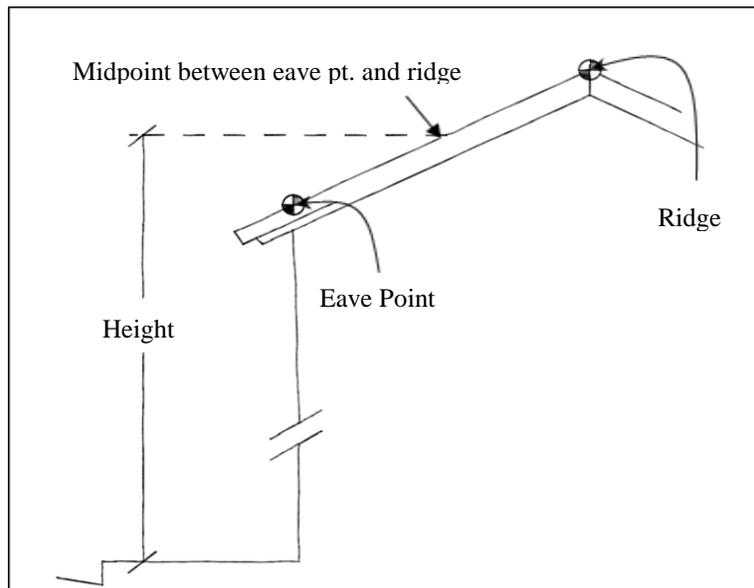


Figure 19: Measuring height for roofs with pitch from 3:12 to 7:12

- c) *Roofs with a pitch greater than 7:12.* The height of a building with a roof pitch greater than 7:12 shall be measured from the ground to the point of the roof vertically one-third ($\frac{1}{3}$) of the distance up from the eave point to the ridge. There shall be no limit on the height of the ridge.

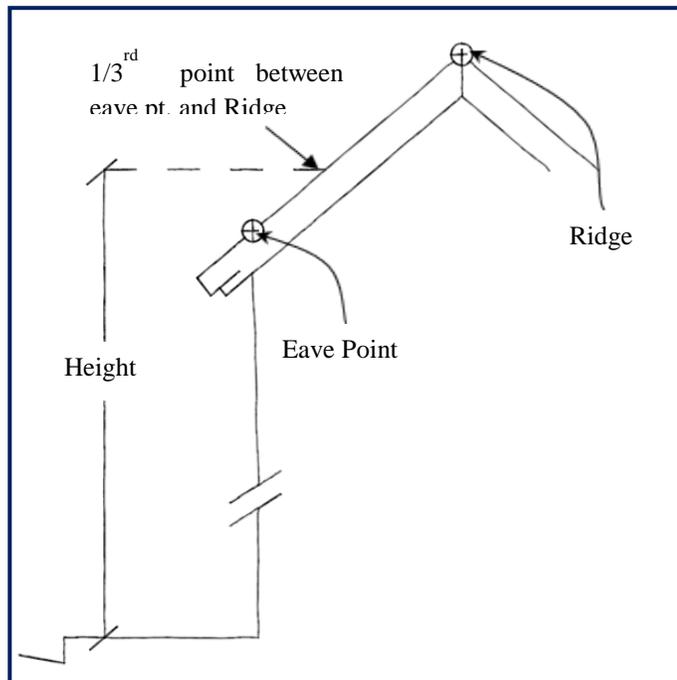


Figure 21: Eave Point and Exterior Sheathing of a Roof

For roofs with multiple pitches within one vertical plane, the height of the roof shall be measured by drawing a line within a vertical section between the ridge and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.

- d) For barrel-vault roofs, height shall be measured by drawing a line within a vertical section between the top-most point of the roof and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.
 - e) For “shed” roofs with a single-pitch, the methodology for measuring shall be the same as described above according to the slope of the roof and by using the highest point of the roof as the ridge.
 - f) Dormers shall be excluded from the calculation of height if the footprint of the dormer is 50% or less of the roof plane on which the dormer is located and the ridge of the dormer is not higher than the ridge of the roof on which it is located. If there are multiple dormers on one roof plane, the aggregate footprint shall be used. Otherwise, dormers shall be included in the measurement of height according to the methods described above.
3. Height Measurement Method. In measuring a building for the compliance with height restrictions, the measurement shall be the maximum distance measured vertically from the ground to the specified point of the building located above that point, as further described below:
- a) *Measuring height along the perimeter of the building*. At each location where the exterior perimeter of a building meets the ground, the measurement shall be taken from the lower of natural or finished grade. Building permit plans must depict both natural and finished grades.

- b) *Measuring height within the footprint of the building.* For the purposes of measuring height within the footprint of a building, areas of the building within 15 horizontal feet of the building's perimeter shall be measured using the perimeter measurement, as described above. In all other areas, the natural grade of the site shall be projected up to the allowable height and the height of the structure shall be measured using this projected topography.

In instances where the natural grade of a property has been affected by prior development activity, the Community Development Director may accept an estimation of pre-development topography prepared by a registered land surveyor or civil engineer. The Director may require additional historical documentation, technical studies, reports, or other information to verify a pre-development topography.

If necessary, the Community Development Director may require an applicant document natural grade, finished grade, grade being used within the footprint of the building, and other relevant height limitation information that may need to be documented prior to construction.

- c) *Measuring to the roof* – The high point of the measurement shall be taken from the surface of a structure's roof inclusive of the first layer of exterior sheathing or weatherproofing membrane but excluding exterior surface treatments such as shakes, shingles, or other veneer treatments or ornamentation.

When measuring roofs to a point between the ridge and the eave point, the eave point shall be the point where the plane of a roof intersects the plane of the exterior wall. The roof and wall planes shall be of the nominal structure, excluding all exterior treatments.

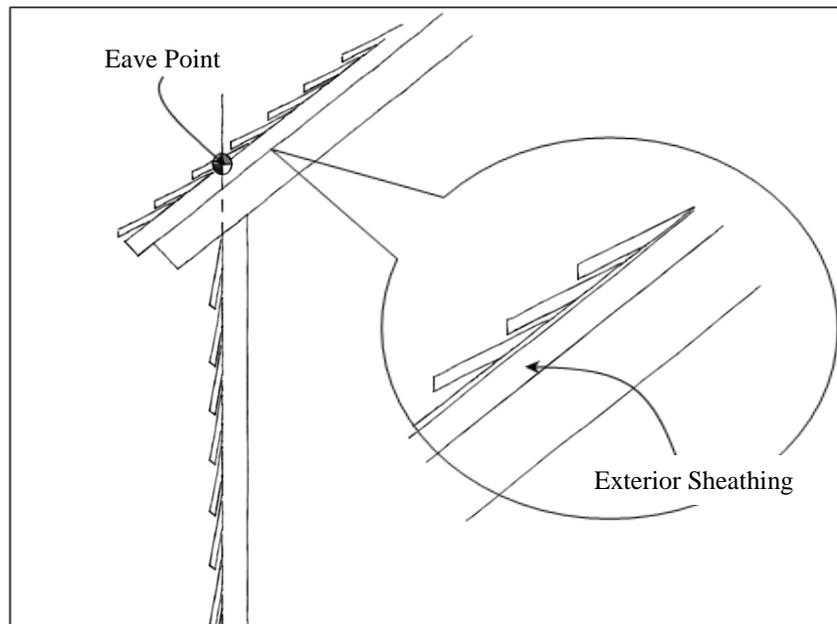


Figure 21: Eave Point and Exterior Sheathing of a Roof

4. Allowed Exceptions to Height Limitations.

- a) *Chimneys, flues, and similar venting apparatus.* Chimneys, flues, vents, and similar venting apparatus may extend no more than ten (10) feet above the height of the building at the point the device connects. For roofs with a pitch of 8:12 or greater, these elements may not extend above the highest ridge of the structure by more than required by adopted building codes or as otherwise approved by the Chief Building Official to accommodate safe venting. To qualify for this exception, the footprint of these features must be the minimum reasonably necessary for its function the features must be combined to the greatest extent practical. Appurtenances such as hoods, caps, shields, coverings, spark arrestors, and similar functional devices or ornamental do-dads shall be contained within the limitations of this height exception.

On structures other than a single-family or duplex residential building or an accessory building, all Chimneys, flues, vents, and similar venting apparatus should be set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint should be minimized and combined to the greatest extent practicable.

- b) *Communications Equipment.* Antennas, satellite dishes, and similar communications equipment and devices shall comply with the limitations of Section 26.575.130 – Wireless Telecommunication Services Facilities and Equipment.
- c) *Elevator and Stair Enclosures.* On structures other than a single-family or duplex residential building or an accessory building, elevator overrun enclosures and stair enclosures may extend up to five (5) feet above the specified maximum height limit.

Elevator and stair enclosures may extend up to ten (10) feet above the specified maximum height limit if set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint of the elevators or stair enclosures are minimized and combined to the greatest extent practicable.

For single-family and duplex residential buildings and for accessory buildings, elevator and stair enclosures are not allowed a height exception.

- d) *Rooftop Railings.* On any structure other than a single-family or duplex residential building, rooftop railings and similar safety devices permitting rooftop access may extend up to five (5) feet above the height of the building at the point the railing connects. To qualify for this exception, the railing must be the minimum reasonably necessary to provide adequate safety and building code compliance and the railing must be 50% or more transparent. All railings shall be set back from any Street facing facade of the building by an amount equal to the height of the railing.

For single-family and duplex residential buildings, rooftop railings shall not be allowed a height exception.

- e) *Mechanical Equipment.* Heating, ventilation, and air conditioning systems, and similar mechanical equipment or utility apparatus located on top of a building may extend up to six (6) feet above height of the building at the point the equipment is attached. This allowance is inclusive of any pad the equipment is placed on, as well as any screening. Mechanical equipment shall be screened, combined, and co-located to the greatest extent practicable. On structures other than a single-family or duplex residential building or an accessory building, all mechanical equipment shall be set back from any Street facing façade of the building a minimum of fifteen (15) feet.

- f) *Energy Efficiency or Renewable Energy Production Systems and Equipment.* Energy efficiency systems or renewable energy production systems and equipment including solar panels, wind turbines, or similar systems and the system's associated equipment which is located on top of a building may extend up to five (5) feet above the height of the building at the point the equipment is attached.

On any structure other than a single-family or duplex residential building or an accessory building, these systems may extend up to ten (10) feet above height of the building at the point the equipment is attached if set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint of the equipment is minimized and combined to the greatest extent practicable. Certain additional restrictions may apply pursuant to Chapter 26.412, Commercial Design Review.

The height and placement of energy efficiency or production systems which are not located on top of a building (located independent of a building) shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. (Also see setback requirements for these systems at sub-section E.5.)

- g) Church spires, bell towers and like architectural projections on Arts, Cultural and Civic buildings may extend over the height limit as may be approved pursuant to Commercial Design Review.
- h) Flag poles may extend over the specified maximum height limit.
- i) *Exceptions for buildings on slopes.* For properties with a slope that declines from the front lot line, the maximum height of a building's front (street-facing) facade may extend horizontally for the first thirty (30) feet of the building's depth.
- j) *Exceptions for light wells.* Exceptions for light wells and basement stairwells. A light well or basement stairwell, limited to that area required to meet adopted Building or Fire Codes, entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s), and enclosed on all sides to within eighteen (18) inches of the first floor level (e.g. not a walk-out style light well) shall not be counted towards maximum permissible height.
- k) *Exceptions for Areaways.* An Areaway no more than one hundred (100) square feet, entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s), not projecting into any required setback, and enclosed on all sides to within eighteen (18) inches of the first floor level (e.g. not a walk-out) shall not be counted towards maximum permissible height.

G. Measuring Site coverage. Site coverage is typically expressed as a percentage. When calculating site coverage of a structure or building, the exterior walls of the structure or building at ground level should be used. When measuring to the exterior walls, the measurement shall be taken from the exterior face of framing, exterior face of structural block, or similar exterior surface of the nominal structure excluding sheathing, vapor barrier, weatherproofing membrane, exterior-mounted insulation systems, and excluding all exterior veneer and surface treatments such as stone, stucco, bricks, shingles, clapboards or other similar exterior veneer treatments. Porches, roofs or balcony overhangs, cantilevered building elements and similar features extending directly over grade shall be excluded from maximum allowable site coverage calculations.

H. Measurement of Demolition. The City Zoning Officer shall determine if a building is intended to be or has been demolished by applying the following process of calculation:

At the request of the Zoning Officer, the applicant shall prepare and submit a diagram showing the following:

4. The surface area of all existing (prior to commencing development) exterior wall assemblies above finished grade and all existing roof assemblies. Not counted in the existing exterior surface area calculations shall be all existing fenestration (doors, windows, skylights, etc.).
5. The exterior surface area, as described above, to be removed. Wall area or roof area being removed to accommodate new or relocated fenestration shall be counted as exterior surface area being removed.
6. The diagram shall depict each exterior wall and roof segment as a flat plane with an area tabulation.

Exterior wall assembly and roof assembly shall constitute the exterior surface of that element in addition to the necessary subsurface components for its structural integrity, including such items as studs, joists, rafters etc. If a portion of a wall or roof structural capacity is to be removed, the associated exterior surface area shall be diagrammed as being removed. If a portion of a wall or roof involuntarily collapses, regardless of the developer's intent, that portion shall be calculated as removed. Recalculation may be necessary during the process of development and the Zoning Officer may require updated calculations as a project progresses.

Replacement of fenestration shall not be calculated as wall area to be removed. New, relocated or expanded fenestration shall be counted as wall area to be removed.

Only exterior surface area above finished grade shall be used in the determination of demolition. Sub-grade elements and interior wall elements, while potentially necessary for a building's integrity, shall not be counted in the computation of exterior surface area.

According to the prepared diagram and area tabulation, the surface area of all portions of the exterior to be removed shall be divided by the surface area of all portions of the exterior of the existing structure and expressed as a percentage. The Zoning Officer shall use this percentage to determine if the building is to be or has been demolished according to the definition in Section 26.104.100, Demolition. If portions of the building involuntarily collapse, regardless of the developer's intent, that portion shall be calculated as removed.

It shall be the responsibility of the applicant to accurately understand the structural capabilities of the building prior to undertaking a remodel. Failure to properly understand the structural capacity of elements intended to remain may result in an involuntary collapse of those portions and a requirement to recalculate the extent of demolition. Landowner's intent or unforeseen circumstances shall not affect the calculation of actual physical demolition. Additional requirements or restrictions of this Title may result upon actual demolition.

I. Measurement of Net Leasable Commercial Space. The calculation of Net Leasable Space shall include all interior space of a building measured from interior wall to interior wall, including interior partitions and inclusive of all areas which can be leased to an individual tenant including

offices, hallways, meeting rooms, display areas, showrooms, kitchens, dining rooms, coat rooms, bathrooms, storage, storage rooms, walk-in refrigerators or freezers, changing rooms, waiting rooms and similar space which may be leased to a tenant. The calculation of Net Leasable Space shall exclude common areas of a building not intended or designed to be leased to an individual tenant such as common bathrooms, common stairways, common circulation corridors, common mechanical areas, common storage areas or similar common spaces not intended or designed to be leased to an individual tenant.

Permanently installed interior airlock spaces are exempt from the calculation of net leasable space up to a maximum exemption of 100 square feet. Seasonal airlocks of more than 10 square feet, installed on the exterior of a building, shall be considered Net Leasable Area and shall be subject to all requirements of the Land Use Code, including employee mitigation, prorated according to the portion of the year in which it is installed.

Unless specifically exempted through other provisions of this Title, outdoor displays outdoor vending, and similar commercial activities located outside (not within a building) shall also be included in the calculation of Net Leasable Space. The calculation of such area shall be the maximum footprint of the display or vending apparatus. For vending carts or similar commercial activities requiring an attendant, the calculation shall also include a reasonable amount of space for the attendant. Vending machines shall not be considered net leasable commercial space.

J. Measurement of Net Livable Area. The calculation of Net Livable Area shall include all interior space measured from interior wall to interior wall, including interior partitions and inclusive of, but not limited to, entryways or lobbies dedicated to only one unit, finished or unfinished basements which are or can be made habitable, and storage areas, closets and laundry areas accessible from the interior of a unit. Net livable Area shall not include common circulation areas, common lobbies, common stairwells, common elevator corridors, or similar common spaces not intended or designed to be occupied by an individual tenant. Net Livable Area shall not include uninhabitable basements, mechanical areas, stairs, unconditioned storage accessible only from the exterior, garages, carports, patios, decks, porches or similar spaces.

K. Exceptions for Energy Efficiency. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate the addition of energy production systems or energy efficiency systems or equipment in or on existing buildings when no other practical solution exists. The Community Development Director must first determine that the visual impact of the exemption is minimal and that no other reasonable way to implement energy production or efficiency exists. The Director may require notice be provided to adjacent landowners. Approval shall be in the form of a recordable administrative decision.

L. Exceptions for Building Code Compliance. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate improvements required to achieve compliance with building, fire, or accessibility codes in or on existing buildings when no other practical solution exists. The Community Development Director must first determine that the visual impact of the exemption is minimal and that no other reasonable way to implement code compliance exists. The Director may require notice be provided to adjacent landowners. Approval shall be in the form of a recordable administrative decision.

M. Appeals. An applicant aggrieved by a decision made by the Community Development Director regarding this Calculations and Measurements Section may appeal the decision to the Administrative Hearing Officer, pursuant to Chapter 26.316.

(Ord. No. 44-1999, §7; Ord. No. 55-2000, §14; Ord. No. 56-2000, §§5, 6, 8; Ord. No. 25-2001, §§6, 7; Ord. No. 46-2001, §4; Ord. No. 55, 2003, §§2—4; Ord. No. 12-2006, §19; Ord. No. 12, 2007, §32; Ord. No. 27-2010, §1; Ord. No. 12-2012, §3; Ord. No. 25-2012, §4)

26.575.030 Public amenity

A. Purpose. The City seeks a vital, pleasant downtown public environment. Public amenity contributes to an attractive commercial and lodging district by creating public places and settings conducive to an exciting pedestrian shopping and entertainment atmosphere. Public amenity can take the form of physical or operational improvements to public rights-of-way or private property within these districts. Public amenity provided on the subject development site is referred to as "on-site public amenity" in this Section.

B. Applicability and requirement. The requirements of this Section shall apply to the development of all commercial, lodging and mixed-use development within the CC, C-1, MU, NC, S/C/I, L, CL, LP and LO Zone Districts. This area represents the City's primary pedestrian-oriented downtown, as well as important mixed-use, service and lodging neighborhoods.

Twenty-five percent (25%) of each parcel within the applicable area shall be provided as public amenity right-of-way. For redevelopment of parcels on which less than this twenty-five percent (25%) currently exists, the existing (prior to redevelopment) percentage shall be the effective requirement, provided that no less than ten percent (10%) is required. A reduction in the required public amenity may be allowed as provided in Subsection 26.575.030.D, Reduction of requirement. Exempt from these provisions shall be development consisting entirely of residential uses. Also exempt from these provisions shall be additions to an existing building where no change to the building footprint is proposed. Vacated rights-of-way shall be excluded from public amenity calculations.

C. Provision of public amenity. The Planning and Zoning Commission or Historic Preservation Commission, pursuant to the review procedures and criteria of Chapter 26.412, Commercial Design Review, shall determine the appropriate method or combination of methods for providing this required amenity. One (1) or more of the following methods may be used such that the standard is reached.

1. On-site provision of public amenity. A portion of the parcel designed in a manner meeting Subsection 26.575.030.F., Design and operational standards for on-site public amenity.
2. Off-site provision of public amenity. Proposed public amenities and improvements to the pedestrian environment within proximity of the development site may be approved by the Planning and Zoning Commission, pursuant to Chapter 26.412, Commercial Design Review. These may be improvements to private property, public property or public rights-of-way. An easement providing public access over an existing public amenity space for which no easement exists may be accepted if such easement provides permanent public access and is acceptable to the City Attorney. Off-site improvements shall equal or exceed the value of an

otherwise required cash-in-lieu payment and be consistent with any public infrastructure or capital improvement plan for that area.

3. Cash-in-lieu provision. The City, upon an approval from the Planning and Zoning Commission or the Historic Preservation Commission, as applicable, may accept a cash-in-lieu payment for any portion of required public amenity not otherwise physically provided, according to the procedures and limitations of Subsection 26.575.030.E, Cash-in-Lieu Payment.
4. Alternative method. The Commission, pursuant to Chapter 26.412, Commercial Design Review, may accept any method of providing public amenity not otherwise described herein if the Commission finds that such method equals or exceeds the value, which may be nonmonetary community value, of an otherwise required cash-in-lieu payment.

D. Reduction of requirement. A reduction in the required public amenity may be approved under the following circumstances:

1. The Planning and Zoning Commission or Historic Preservation Commission, pursuant to the procedures and criteria of Chapter 26.412, Commercial Design Review, may reduce the public amenity requirement by any amount, such that no more than one-half the requirement is waived, as an incentive for well-designed projects having a positive contribution to the pedestrian environment. The resulting requirement may not be less than ten percent (10%).
2. The Historic Preservation Commission, pursuant to the procedures and criteria of Chapter 26.412, Commercial Design Review, may reduce by any amount the requirements of this Section for historic landmark properties upon one (1) of the following circumstances:
 - a) When the Historic Preservation Commission approves the on-site relocation of an historic landmark such that the amount of on-site public space is reduced below that required by this Chapter.
 - b) When the manner in which an historic landmark building was originally developed reduces the amount of on-site public amenity required by this Chapter.
 - c) When the redevelopment or expansion of an historic landmark constitutes an exemplary preservation effort deserving of an incentive or reward.

E. Cash-in-lieu payment. When the method of providing public amenity includes a cash-in-lieu payment, the following provisions and limitations shall apply:

Formula for determining cash-in-lieu payment:

Payment = [Land Value] x [Public Amenity Percentage]

Where: *Land Value* = Value of the unimproved land.

Public Amenity Percentage = Percent of the parcel required to be provided as a public amenity, pursuant to Subsection 26.575.030.B lessened by other methods of providing the amenity.

Land value shall be the lesser of one hundred dollars (\$100.00) per square foot multiplied by the number of square feet constituting the parcel or the appraised value of the unimproved property determined by the submission of a current appraisal performed by a qualified professional real estate appraiser and verified by the Community Development Director. An applicant may only waive the current appraisal requirement by accepting the one hundred-dollar-per-square-foot standard.

The payment-in-lieu of public amenity shall be due and payable at the time of issuance of a building permit. The City Manager, upon request, may allow the required payment-in-lieu to be amortized in equal payments over a period of up to five (5) years, with or without interest.

All funds shall be collected by the Community Development Director and transferred to the Finance Director for deposit in a separate interest-bearing account. Monies in the account shall be used solely for the purchase, development, or capital improvement of land or public rights-of-way for open space, pedestrian or bicycle infrastructure, public amenity, or recreational purposes within or adjacent to the applicable area in which this requirement applies. Funds may be used to acquire public use easements.

Fees collected pursuant to this Section may be returned to the then-present owner of property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the City Council shall have earmarked the funds for expenditure on a specific project, in which case the City Council may extend the time period by up to three (3) more years. For the purpose of this Section, payments shall be spent in the order in which they are received. To obtain a refund, the present owner must submit a petition to the Finance Director within one (1) year following the end of the seventh year from the date payment was received. All petitions shall be accompanied by a notarized, sworn statement that the petitioner is the current owner of the property and by a copy of the dated receipt issued for payment of the fee.

F. Design and operational standards for public amenity. Public amenity, on all privately owned land in which public amenity is required, shall comply with the following provisions and limitations:

1. Open to view. Public amenity areas shall be open to view from the street at pedestrian level, which view need not be measured at right angles.
2. Open to sky. Public amenity areas shall be open to the sky. Temporary and seasonal coverings, such as umbrellas and retractable canopies, are permitted. Such nonpermanent structures shall not be considered a reduction in public amenity on the parcel.

Trellis structures shall only be permitted in conjunction with commercial restaurant uses on a designated historic landmark or within Historic Overlay Zones, and must be approved

pursuant to review requirements contained in Chapter 26.415, Development Involving the Aspen Inventory of Historic Landmark Sites and Structures or Development within an Historic Overlay District. Such approved structures shall not be considered a reduction in public amenity on the parcel.

3. No walls/enclosures. Public amenity areas shall not be enclosed. Temporary structures, tents, air exchange entries, plastic canopy walls and similar devices designed to enclose the space are prohibited. Low fences or walls shall only be permitted within or around the perimeter of public space if such structures shall permit views from the street into and throughout the public space.
4. Prohibited uses. Public amenity areas shall not be used as storage areas, utility/trash service areas, delivery areas or parking areas or contain structures of any type, except as specifically provided for herein.
5. Grade limitations. Required public amenity shall not be more than four (4) feet above or two (2) feet below the existing grade of the street or sidewalk which abuts the public space, unless the public amenity space shall follow undisturbed natural grade, in which case there shall be no limit on the extent to which it is above or below the existing grade of the street, or if a second level public amenity space is approved by the Commission.
6. Pedestrian links. In the event that the City shall have adopted a trail plan incorporating mid-block pedestrian links, any required public space must, if the City shall so elect, be applied and dedicated for such use.
7. Landscaping plan. Prior to issuance of a building permit, the Community Development Director shall require site plans and drawings of any required public amenity area, including a landscaping plan and a bond in a satisfactory form and amount to ensure compliance with any public amenity requirements under this Title.
8. Maintenance of landscaping. Whenever the landscaping required herein is not maintained, the Chief Building Official, after thirty (30) days' written notice to the owner or occupant of the property, may revoke the certificate of occupancy until said party complies with the landscaping requirements of this Section.
9. Outdoor Merchandising on Private Property. Private property may be utilized for merchandising purposes by those businesses located adjacent to and on the same parcel as the outdoor space. This shall not grant transient sales from peddlers who are not associated with an adjacent commercial operation; this includes service uses such as massage, tarot card reading, aura analysis, etc. Outdoor merchandising shall be directly associated with the adjacent business and shall not permit stand-alone operations, including, but not limited to, automated bike rental racks, movie rental kiosks, automated dog washes, or automated massage furniture. In addition, outdoor merchandising must meet the following requirements:
 - a) Merchandise must be maintained, orderly and located in front of or proximate to the storefront related to the sales.
 - b) The display of merchandise shall in no way inhibit the movement of pedestrian traffic along the public right-of-way. All merchandising shall be located on private property. A

minimum of six (6) foot ingress/egress shall be maintained for building entrances and exits.

- c) Outdoor clothing displays including, but not limited to, coats, jeans, shirts, athletic apparel, and footwear shall be allowed. Outside clothing displays of two (2) mannequins or one (1) clothing rack of up to six (6) feet in length, but not both, are allowed. Bins, boxes, and containers that sit directly on the ground are allowed for outdoor clothing sales, but cardboard boxes are prohibited. All outdoor merchandise displays must have a minimum height of not less than 27 inches from grade to prevent tripping hazards. For all other types of merchandise, the size and amount allowed shall be under the discretion of the property owner.
- d) Umbrellas, retractable canopies, and similar devices are not permitted for outdoor merchandising. See Section 26.304.070.F.2.
- e) Merchandise shall be displayed for sale with the ability for pedestrians to view the item(s). Outdoor areas shall not be used solely for storage.

The prohibition of storage shall be limited to merchandising on private property and shall not apply to permitted commercial activity on an abutting right-of-way or otherwise permitted by the City.

10. Outdoor Restaurant Seating on Private Property. Private Property may be used for commercial restaurant use if adequate pedestrian and emergency vehicle access is maintained. Umbrellas, retractable canopies, and similar devices are permitted for commercial restaurant uses. For outdoor food vending in the Commercial Core District, also see Paragraph 26.470.040.B.3, Administrative growth management review.

11. Design guideline compliance. The design of the public amenity shall meet the parameters of the Commercial, Lodging and Historic District Design Objectives and Guidelines.

(Ord. No. 55-2000, §15; Ord. No. 1-2002, §16; Ord. No. 23-2004, §3; Ord. No. 2-2005, §2; Ord. No. 5, 2005, §2; Ord. No. 13, 2007, §2, Ord. No. 9A, 2010 §2; Ord. No. 14 - 2013, §2)

26.575.040 RESERVED

(Ord. No. 13-2005, §3; Ord. No. 50-a-2005, §6; Ord. No. 12, 2007, §§33, 34; Ord. No. 27-2010, §2)

26.575.045 Junkyards and service yards

Junkyards (See Definitions, Section 25.104.100) shall be screened from the view of other lots, structures uses and rights-of-way. Service yards (See Definitions, Section 26.104.100) shall be fenced so as not to be visible from the street and such fences shall be a minimum six (6) feet high from grade. All fences shall be of sound construction and shall have not more than ten percent (10%) open area.

26.575.050 Fences

Fences shall be permitted in every zone district, provided that no fence shall exceed six (6) feet above natural grade or as otherwise regulated by the Residential Design Standards or the Commercial Design Standards (see Chapters 26.410 and 26.412). Fences visible from the public right-of-way shall be constructed of wood, stone, wrought iron or masonry. On corner lots, no fence, retaining

wall or similar object shall be erected or maintained which obstructs the traffic vision, nor on corner lots shall any fence, retaining wall or similar obstruction be erected or maintained which exceeds a height of forty-two (42) inches, measured from street grade, within thirty (30) feet from the paved or unpaved roadway. Plans showing proposed construction, material, location and height shall be presented to the Building Inspector before a building permit for a fence is issued. Additionally, foliage shall be placed and maintained so that it will not obstruct vehicular visibility at intersections.

(Ord. No. 55-2000, §16; Ord. No. 12, 2007, §35)

26.575.060 Reserved (formerly Utility/trash/recycle service areas)

Note: Section 26.575.060 repealed via Ordinance No. 13 (Series of 2013). Chapter 12.06, Waste Reduction and Recycling was amended via the above referenced ordinance to address waste and recycling areas.

(Ord. No. 5-2005, §3; Ord. No. 12, 2007, §36; Ord. No. 7-2013, § 4; Ord. No. 13-2013, § 10)

26.575.070 Reserved (formerly Use square footage limitations)

(Ord. No. 7-2013, §2)

26.575.080 Child care center

A. A daycare center shall provide one (1) off-street parking space per employee, a child loading/unloading area of adequate dimensions, preferably off-street and adequately sized indoor and outdoor play areas and shall maintain minimum hours of operation of 7:30 a.m. to 5:30 p.m. from Monday through Friday.

B. A facility which provides regular supervision and care of five (5) or fewer children per day shall be considered a family daycare home and shall be allowed as an accessory use, subject to the following:

1. If the family daycare home is developed in conjunction with a residential use, it shall meet the requirements of a home occupation.
2. If the family daycare home is developed in conjunction with an institution or business, it shall be limited to use by the children of the employees or guests of that institution or business and shall provide one (1) off-street parking space.

26.575.090 Home occupations

Home occupations are permitted in all residential dwellings in the City. To ensure home occupations are clearly incidental and secondary to the residential character of the home, a home occupation must comply with each of the following:

A. Employees. Employs no more than one (1) person who is a nonresident of the dwelling; and

B. Business License. Operates pursuant to a valid Business License for the use held by the resident of the dwelling unit; and

C. Signage. Any signs must comply with Chapter 26.510 SIGNS; and

D. Outdoor Storage. Any outside storage shall be screened or enclosed; and

E. Nuisance. Does not utilize mechanical, electrical or other equipment or items which produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building or accessory structure; and

F. Prohibitions. Does not include any of the following uses as a home occupation: Retail and Restaurant uses, health or medical clinic, mortuary, nursing home, veterinarian's clinic, pharmacy, marijuana dispensary, child care center for 6 or more children (see Section 26.575.080), warehousing, brewery, distillery, coffee roasting facility, liquor store, group home, dancing studio, or for the storage, sale, production, processing of flammable or volatile materials.

A home occupation license may be revoked if the use creates a substantial nuisance or hazard to neighboring residents.

(Ord. No. 7-2013, §3)

26.575.100 Landscape maintenance

Landscaping shown on any approved site development plan shall be maintained in a healthy manner for a minimum three (3) year period from the date of the receipt of the financial assurance referenced below. In the event that plant material dies, the owner of the property shall replace the plant material with similar quality within forty-five (45) days of notification by the Community Development Director. If seasonal constraints do not allow planting of the approved plant material within forty-five (45) days the owner may in writing seek permission from the Community Development Director to:

A. Provide financial assurances equal to one hundred twenty percent (120%) of the amount of the replacement landscaping and installation costs as approved by the Parks Department and in a form satisfactory to the City Attorney. The completion of the landscape replacement shall be accomplished no later than June 15th of the next planting season; otherwise the financial assurances shall be forfeited to the City.

B. Submit for approval a revised landscape plan.

26.575.110 Building envelopes

Approved plantings of landscape materials on natural grade and approved walkways and driveways may occur outside of a building envelope. Otherwise, all areas outside of a building envelope shall remain in pristine and untouched condition unless approved by the Community Development Director.

For purposes of site-specific development plans, building envelopes may be established to restrict development to protect slopes, important vegetation, water courses, privacy or other considerations. Building envelopes shall be described on recorded plats, site-specific development plans ordinances, resolutions and building permit site plans. Building envelopes required or designated as part of a development approval shall be depicted on the applicable plat, site plan, site-specific development plan, map or building permit.

26.575.120 Satellite dish antennas

A. Satellite dish antennas twenty-four (24) inches in diameter or more must receive building permits, if required, prior to installation. Prior to the issuance of appropriate building permits, satellite dish

antennas greater than twenty-four (24) inches in diameter shall be reviewed and approved by the Community Development Director in conformance with the following criteria. Any satellite dishes installed on a property listed on the Aspen Inventory of Historic Landmark Sites and Structures or in an H, Historic Overlay District shall be reviewed according to Subsection 26.415.070.B.

1. Use. The proposed use is consistent and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses or enhances the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development.
2. Location, size and design. The location, size, design and operating characteristics of the proposed use minimizes adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibrations and odor on surrounding properties.
3. Area and bulk requirements. The installation of a satellite dish antenna shall not cause a violation of area and bulk requirements within the zone district in which it is located, unless a variance is granted by the Board of Adjustment.
4. Right-of-way. A satellite dish antenna shall not be placed on an easement or in the City right-of-way, unless an encroachment permit is secured.
5. Increased danger. The installation of a satellite dish antenna shall not cause any increased danger to neighboring property in the event of collapse or other failure of the antenna structure.
6. Visual impact. The visibility of the dish from the public way shall be reduced to the highest degree practical including, but not limited to, sensitive choice in placement of the dish, screening with fencing, landscaping, sub-grade placement or any other effective means that both screen the dish and does not appear to be unnatural on the site.

B. Conditions. The Community Development Director may apply reasonable conditions to the approval deemed necessary to insure conformance with said review criteria. If the Community Development Director determines that the proposed satellite dish antenna does not comply with the review criteria and denies the application or the applicant does not agree to the conditions of approval determined by the Community Development Director, the applicant may apply for conditional use review by the Planning and Zoning Commission.

C. Procedures. Procedures established in Chapter 26.304, Common Development Review Procedures, shall apply to all satellite dish antennas.

(Ord. No. 1-2002 § 17)

26.575.130 Wireless telecommunication services facilities and equipment

A. Intent and purpose: To provide design standards for cellular communication facilities in order to ensure their compatibility with surrounding development. The unique and diverse landscapes of the City are among its most valuable assets. Protecting these assets will require that location and design of wireless communication services facilities and equipment be sensitive to and in scale and harmony with, the character of the community.

The purpose of these regulations is to provide predictable and balanced standards for the siting and screening of wireless telecommunication services facilities and equipment on property within the jurisdiction of the City in order to:

1. Preserve the character and aesthetics of areas which are in close proximity to wireless telecommunication services facilities and equipment by minimizing the visual, aesthetic and safety impacts of such facilities through careful design, siting and screening; placement, construction or modification of such facilities;
2. Protect the health, safety and welfare of persons living or working in the area surrounding such wireless telecommunication services facilities and equipment from possible adverse environmental effects (within the confines of the Federal Telecommunications Act of 1996) related to the placement, construction or modification of such facilities;
3. Provide development which is compatible in appearance with allowed uses of the underlying zone;
4. Facilitate the City's permitting process to encourage fair and meaningful competition and, to the greatest extent possible, extend to all people in all areas of the City high quality wireless telecommunication services at reasonable costs to promote the public welfare; and
5. Encourage the joint use and clustering of antenna sites and structures, when practical, to help reduce the number of such facilities which may be required in the future to service the needs of customers and thus avert unnecessary proliferation of facilities on private and public property.

B. Applicability. All applications for the installation or development of wireless telecommunication services facilities and/or equipment must receive building permits, prior to installation. Prior to the issuance of appropriate building permits, wireless telecommunication services facilities and/or equipment shall be reviewed for approval by the Community Development Director in conformance with the provisions and criteria of this Section. Wireless telecommunication services facilities and equipment subject to the provisions and criteria of this Section include 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. These provisions and criteria do not apply to noncommercial satellite dish antennae, radio and television transmitters and antennae incidental to residential use. All references made throughout this Section, to any of the devices to which this Section is applicable, shall be construed to include all other devices to which this Section 26.575.130 is applicable.

C. Procedure.

1. General. Pursuant to Section 26.304.020, the applicant shall conduct a pre-application conference with staff of the Community Development Department. The planner shall then prepare a pre-application summary describing the submission requirements and any other pertinent land use material, the fees associated with the reviews and the review process in general.

2. Administrative review. After the pre-application summary is received by the applicant, said applicant shall prepare an application for review and approval by staff and the Community Development Director, respectively. In order to proceed with additional land use reviews or obtain a development order, the Community Development Director shall find the submitted development application consistent with the provisions, requirements and standards of this Chapter.
3. Appeal of Director's determination. The Community Development Director may apply reasonable conditions to the approval as deemed necessary to ensure conformance with applicable review criteria in Subsection 26.575.130.F. If the Community Development Director determines that the proposed wireless telecommunication services facilities and equipment do not comply with the review criteria and denies the application or the applicant does not agree to the conditions of approval determined by the Community Development Director, the applicant may apply for special review (Chapter 26.430) by the Planning and Zoning Commission or, if applicable, by the Historic Preservation Commission, and such application must be made within fifteen (15) calendar days of the day on which the Community Development Director's decision is rendered. All appeals shall require public hearings and shall be noticed by the applicant in accordance with Paragraphs 26.304.060.E.3.a, b and c of this Code.
4. Historic Preservation Commission review. Proposals for the location of wireless telecommunication services facilities or equipment on any historic site or structure or within any historic district, shall be reviewed by the Historic Preservation Commission (HPC). Review of applications for wireless telecommunication services facilities and/or equipment by the HPC shall replace the need for review by the Community Development Director. Likewise, if the Historic Preservation Commission determines that the proposed wireless telecommunication services facilities and equipment do not comply with the review criteria and denies the application or the applicant does not agree to the conditions of approval determined by the Historic Preservation Commission, the applicant may appeal the decision to the City Council, and such appeal must be filed within fifteen (15) calendar days of the day on which the Historic Preservation Commission's decision is rendered. All appeals shall require public hearings and shall be noticed by the applicant in accordance with Paragraphs 26.304.060.E.3.a, b and c of this Code.
5. Building permit. A building permit application cannot be filed unless and until final land use approval has been granted and a development order has been issued. When applying for building permits, the applicant shall submit a signed letter acknowledging receipt of the decision granting land use approval and his/her agreement with all conditions of approval, as well as a copy of the signed document granting the land use approval for the subject building permit application.
6. Special review. An application requesting a variance from the review standards for height of wireless telecommunications service facilities and/or equipment or an appeal of a determination made by the Community Development Director, shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304. The special review shall be considered at a public hearing for which notice has been posted and mailed, pursuant to Paragraphs 26.304.060.E.3.b and c.

Review is by the Planning and Zoning Commission. If the property is listed on the Aspen inventory of historic landmark sites and structures or within a Historic Overlay District and the application has been authorized for consolidation pursuant to Chapter 26.304, the Historic Preservation Commission shall consider the special review.

Such special review may be approved, approved with conditions or denied based on conformance with the following criteria:

- a) Conformance with the applicable review standards of Subsection 26.575.130.F.
- b) If the facility or equipment is located on property listed on the Aspen inventory of historic landmark sites and structures or within any historic district, then the applicable standards of Chapter 26.415 (Development involving the Aspen inventory of historic landmark sites and structures or development in an "H," Historic Overlay District) shall apply.

D. Application. An application for approval of new, modified or additional wireless telecommunication services facilities and/or equipment shall comply with the submittal requirements applicable to conditional use reviews pursuant to Chapter 26.304, Common development review procedures and Chapter 26.425, Conditional uses of the Aspen Municipal Code. Also, wireless telecommunication services facilities and equipment applications shall contain at least the following additional information:

1. Site plan or plans drawn to a scale of one (1) inch equals ten (10) feet or one (1) inch equals twenty (20) feet, including "before and after" photographs (simulations) specifying the location of antennas, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within one hundred fifty (150) feet. Such plans and drawings should demonstrate compliance with the review standards of this Section.
2. Site improvement survey including topography and vegetation showing the current status, including all easements and vacated rights of way, of the parcel certified (wet ink signed and stamped and dated within the past twelve (12) months) by a registered land surveyor, licensed in the State.
3. Landscape plan drawn to a scale of one (1) inch equals ten (10) feet or one (1) inch equals twenty (20) feet, including "before and after" photographs (simulations) indicating size, spacing and type of plantings and indicating steps to be taken to provide screening as required by the review standards of this Section. The landscape plans shall also indicate the size, location and species of all existing vegetation and whether each of those indicated are proposed for removal (indicate proposed mitigation), relocation (indicate from and to) or preservation. The planner can determine if a landscape plan is necessary; for instance, when an antenna is to be attached to a building, this requirement may be waived.
4. Elevation drawings or "before and after" photographs/drawings simulating and specifying the location and height of antennas, support structures, transmission buildings and/or other accessory uses, fences and signs.
5. Lighting plan and photometric study indicating the size, height, location and wattage of all proposed outdoor lighting sources. This study must also include a graphic indicating the

spread and degree/intensity of light from each source/fixture. This requirement can be waived by the Community Development Director if little or no outdoor lighting is proposed.

6. Structural integrity report from a professional engineer licensed in the State documenting the following:
 - a) Tower height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design;
 - b) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;
 - c) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris in the event of failure; and
 - d) Specific design and reconstruction plans to allow shared use. This submission is required only in the event that the applicant intends to share use of the facility by subsequent reinforcement and reconstruction of the facility.
7. FAA and FCC coordination. Statements regarding the regulations of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC), respectively, that:
 - a) (Required only if the facility is near an airfield) The application has not been found to be a hazard to air navigation under Part 77, Federal Aviation, Federal Aviation Regulations or a statement that no compliance with Part 77 is required and the reasons therefor. A letter from the Sardy Field Airport Administrator will also be required if the Community Development Director determines that the proposed facility may impact airport operations;
 - b) (Required of all wireless telecommunication services facility or equipment applicants) The application complies with the regulations of the Federal Communications Commission with regard to maximum radio frequency and electromagnetic frequency emissions or a statement from the applicant that no such compliance is necessary and the reasons therefore.
8. Evidence that an effort was made to locate on an existing wireless telecommunication services facility site including coverage/ interference analysis and capacity analysis and a brief statement as to other reasons for success or no success.
9. Written documentation in the form of a signed affidavit demonstrating a good faith effort in locating facilities in accordance with site selection order of preference outline below.
10. All companies and providers of wireless telecommunication service facilities and equipment within the City shall, during their preapplication conference for a new facility, be prepared to verbally outline, to the best of current knowledge, a master or long-term plan for all proposed sites within a three-mile radius of the City. In particular, companies and providers should be prepared to discuss their need for the proposed site and how it fits into their existing and proposed coverage grids.

E. General provisions and requirements. The following provisions apply to all wireless telecommunication services facilities and equipment applications, sites and uses.

1. Prohibitions. Lattice towers (a structure, with three or four steel support legs, used to support a variety of antennae; these towers generally range in height from sixty (60) to two hundred (200) feet and are constructed in areas where great height is needed, microwave antennas are required or where the weather demands a more structurally sound design) are prohibited within the City.

Towers (support structures) shall be prohibited in the following Zone Districts: Medium-Density Residential (R-6); Moderate-Density Residential (R-15, R-15A, R-15B); Low-Density Residential (R-30); Residential Multi-Family (RMF, RMFA); and Affordable Housing/Planned Unit Development (AH-1/PUD).

All wireless telecommunication services facilities and equipment not prohibited by the preceding statements shall be allowed in all other zone districts subject to review and approval by the Community Development Director pursuant to the provisions, requirements and standards of this Chapter, including consistency with the dimensional requirements of the underlying zone district.

2. Site selection. Wireless communication facilities shall be located in the following order of preference:

First: On existing structures such as buildings, communication towers, flagpoles, church steeples, cupolas, ball field lights, nonornamental/antique street lights such as highway lighting, etc.

Second: In locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

Least: On vacant ground or highly visible sites without significant visual mitigation and where screening/buffering is difficult at best.

3. Interference. See Section 15.04.470, Radio Interference Prohibited, of this Code.
4. Airports and flight paths. Wireless telecommunication services facilities and equipment shall not present a hazard to air navigation under Part 77, Federal Aviation, Federal Aviation Regulations.
5. Historic sites and structures. In addition to the applicable standards of Chapter 26.415, all of the foregoing and following provisions and standards of this Chapter shall apply when wireless telecommunication services, facilities and equipment are proposed on any historic site or structure or within any historic district.
6. Public buildings, structures and rights-of-way. Leasing of public buildings, publicly owned structures and/or public rights-of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on City property, specific locations and compensation to the City shall be negotiated in lease agreements between the City and the provider on a case-by-case basis and would be subject to all of the review criteria contained in this Section. Such agreements would not provide exclusive arrangements that could tie up access to the negotiated sites or limit competition and must allow for the possibility of "co-locating" (sharing of facilities) with other providers as described in Subsection E.7, below.

7. Co-location. Co-location or sharing, of facilities with other providers is encouraged. Co-location can be achieved as either building-mounted, roof-mounted or ground-mounted facilities. In designing poles, applicants are strongly encouraged to consider the possibility of present or future co-location of other wireless communication equipment by structurally overbuilding in order to handle the loading capacity of additional antennas, for the use of the company and for other companies to use as well. Applicants shall use good faith efforts to negotiate lease rights to other telecommunications users who desire to use the monopole. Co-location on an existing support structure (tower) shall be permitted as an accessory use. A maximum of two (2), twenty-four (24) inch diameter dish antennas are permitted per monopole. Projections of any type on the monopole, which are not antennas, are strongly discouraged.

Multiple use facilities are encouraged as well. Wireless telecommunication services facilities and equipment may be integrated into existing or newly developed facilities that are functional for other purposes, such as ball field lights, flagpoles, church steeples, highway lighting, etc. All multiple use facilities shall be designed to make the appearance of the antennae relatively inconspicuous.

The co-location requirement may be waived by the Community Development Director upon a showing that either federal or state regulations prohibit the use, the proposed use will interfere with the current use, the proposed use will interfere with surrounding property or uses, the proposed user will not agree to reasonable terms or such co-location is not in the best interest of the public health, safety or welfare. Time needed to review a co-location request shall not greatly exceed that for a single applicant.

8. Maintenance. All towers, antennas, related facilities and equipment and subject sites shall be maintained in a safe and clean manner in accordance with project approvals and building codes. The operator/property owner shall be responsible for maintaining free from graffiti, debris and litter, those areas of the site which are adjacent to the premises over which he or she has control. The applicant shall be responsible for reasonable upkeep of the facility and subject property. All towers, antennas and related facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of approval and requirements of this Section.
9. Abandonment and removal. All required approvals will be in effect only so long as the antennas and other structures are operated at the site. Facilities that are not in use for ninety (90) consecutive days for cellular communication purposes shall be considered abandoned and shall be removed by the facility owner. The site shall be restored to the condition it was in prior to the installation/location of the facility. Such removal shall be carried out in accordance with proper health and safety requirements.

A written notice of the determination of abandonment shall be sent or delivered to the operator of the wireless communication facility. The operator shall have ninety (90) days to remove the facility or provide the Community Development Department with evidence that the use has not been discontinued. The Community Development Director shall review all evidence and shall determine whether or not the facility is abandoned. Upon refusal or failure of an owner and/or operator to timely remove a facility as required under this Section, the

facility shall be deemed an abandoned illegal structure subject to abatement as a public nuisance.

10. Conditions and limitations. The City shall reserve the right to add, modify or delete conditions after the approval of a request in order to advance a legitimate City interest related to health, safety or welfare. Prior to exercising this right, the City shall notify the owner and operator in advance and shall not impose a substantial expense or deprive the affected party of a substantial revenue source in the exercising of such right.

Approval by the Community Development Director for a wireless telecommunication services facility and/or equipment application shall not be construed to waive any applicable zoning or other regulations; and wherein not otherwise specified, all other requirements of this Code shall apply. All requests for modifications of existing facilities or approvals shall be submitted to the Community Development Director for review under all provisions and requirements of this Section. If other than minor changes are proposed, a new, complete application containing all proposed revisions shall be required.

F. Review standards. The following standards are designed to foster the City's safety and aesthetic interests without imposing unreasonable limitations on wireless telecommunication services facilities and equipment:

1. Setbacks. At a minimum, all wireless telecommunication services facilities and equipment shall comply with the minimum setback requirements of the underlying zone district; if the following requirements are more restrictive than those of the underlying zone district, the more restrictive standard shall apply.
 - a) All facilities shall be located at least fifty (50) feet from any property lines, except when roof-mounted (above the eave line of a building). Flat-roof mounted facilities visible from ground level within one-hundred (100) feet of said property shall be concealed to the extent possible within a compatible architectural element, such as a chimney or ventilation pipe or behind architectural skirting of the type generally used to conceal HVAC equipment. Pitched-roof-mounted facilities shall always be concealed within a compatible architectural element, such as chimneys or ventilation pipes.
 - b) Monopole towers shall be set back from any residentially zoned properties a distance of at least three (3) times the monopole's height (i.e., a sixty (60) foot setback would be required for a twenty (20) foot monopole) and the setback from any public road, as measured from the right-of-way line, shall be at least equal to the height of the monopole.
 - c) No wireless communication facility may be established within one-hundred (100) feet of any existing, legally established wireless communication facility except when located on the same building or structure.
 - d) No portion of any antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area, but may be attached to the building.
2. Height. The following restrictions shall apply:

- a) Wireless telecommunication services facilities and/or equipment not attached to a building shall not exceed thirty-five (35) feet in height or the maximum permissible height of the given Zone District, whichever is more restrictive.
 - b) Whenever a wireless telecommunication services antenna is attached to a building roof, the antenna and support system for panel antennas shall not exceed five (5) feet above the highest portion of that roof, including parapet walls and the antenna and support system for whip antennas shall not exceed ten (10) feet above the highest portion of that roof, including parapet walls.
 - c) The Community Development Director may approve a taller antenna height than stipulated in b. above if it is his or her determination that it is suitably camouflaged, in which case an administrative approval may be granted.
 - d) If the Community Development Director determines that an antenna taller than stipulated in b. above cannot be suitably camouflaged, then the additional height of the antenna shall be reviewed pursuant to the process and standards (in addition to the standards of this Section) of Chapter 26.430 (Special review).
 - e) Support and/or switching equipment shall be located inside the building, unless it can be fully screened from view as provided in the "Screening" standards (26.475.130 and 26.575.130.F.5) below.
3. Architectural compatibility. Whether manned or unmanned, wireless telecommunication services facilities shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. In addition:
- a) If such facility is accessory to an existing use, the facility shall be constructed out of materials that are equal to or of better quality than the materials of the principal use.
 - b) Wireless telecommunication services equipment shall be of the same color as the building or structure to which or on which such equipment is mounted or as required by the appropriate decision-making authority (Community Development Director, Historic Preservation Commission, Planning and Zoning Commission or City Council, as applicable).
 - c) Whenever wireless telecommunication services equipment is mounted to the wall of a building or structure, the equipment shall be mounted in a configuration designed to blend with and be architecturally integrated into a building or other concealing structure, be as flush to the wall as technically possible and shall not project above the wall on which it is mounted.
 - d) Monopole support buildings, which house cellular switching devices and/or other equipment related to the use, operation or maintenance of the subject monopole, must be designed to match the architecture of adjacent buildings. If no recent and/or reasonable architectural theme is present, the Community Development Director may require a particular design that is deemed to be suitable to the subject location.
 - e) All utilities associated with wireless communication facilities or equipment shall be underground (also see "Screening" below).

4. Compatibility with the natural environment. Wireless telecommunication services facilities and equipment shall be compatible with the surrounding natural environment considering land forms, topography and other natural features and shall not dominate the landscape or present a dominant silhouette on a ridge line. In addition:
 - a) If a location at or near a mountain ridge line is selected, the applicant shall provide computerized, three-dimensional, visual simulations of the facility or equipment and other appropriate graphics to demonstrate the visual impact on the view of the affected ridges or ridge lines; an 8040 Greenline Review, pursuant to the provisions of Section 26.435.030, may also be required.
 - b) Site disturbances shall be minimized and existing vegetation shall be preserved or improved to the extent possible, unless it can be demonstrated that such disturbance to vegetation and topography results in less visual impact to the surrounding area.
 - c) Surrounding view planes shall be preserved to the extent possible.
 - d) All wireless telecommunication services facilities and equipment shall comply with the Federal Communication Commission's regulations concerning maximum radio frequency and electromagnetic frequency emissions.
5. Screening. Roof-and-ground-mounted wireless telecommunication services facilities and equipment, including accessory equipment, shall be screened from adjacent and nearby public rights-of-way and public or private properties by paint color selection, parapet walls, screen walls, fencing, landscaping and/or berming in a manner compatible with the building's and/or surrounding environment's design, color, materials, texture, land forms and/or topography, as appropriate or applicable. In addition:
 - a) Whenever possible, if monopoles are necessary for the support of antennas, they shall be located near existing utility poles, trees or other similar objects; consist of colors and materials that best blend with their background; and, have no individual antennas or climbing spikes on the pole other than those approved by the appropriate decision-making authority (Community Development Director, Historic Preservation Commission, Planning and Zoning Commission or City Council, as applicable).
 - b) For ground-mounted facilities, landscaping may be required to achieve a total screening effect at the base of such facilities or equipment in order to screen the mechanical characteristics; a heavy emphasis on coniferous plants for year-round screening may be required. Landscaping shall be of a type and variety capable of growing within one (1) year to a landscape screen which satisfactorily obscures the visibility of the facility.
 - c) Unless otherwise expressly approved, all cables for a facility shall be fully concealed from view underground or inside of the screening or monopole structure supporting the antennas; any cables that cannot be buried or otherwise hidden from view shall be painted to match the color of the building or other existing structure.
 - d) Chain link fencing shall be unacceptable to screen facilities, support structures or accessory and related equipment (including HVAC or mechanical equipment present on support buildings); fencing material, if used, shall be six (6) feet in height or less and shall consist of wood, masonry, stucco, stone or other acceptable materials that are opaque.

- e) Notwithstanding the foregoing, the facility shall comply with all additional measures deemed necessary to mitigate the visual impact of the facility. Also, in lieu of these screening standards, the Community Development Director may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls, sign and structural applications, manufactured devices and other features designed to screen, camouflage and buffer antennas, poles and accessory uses. For example, the antenna and supporting structure or monopole may be of such design and treated with an architectural material so that it is camouflaged to resemble a tree with a single trunk and branches on its upper part. The plan should accomplish the same degree of screening achieved by meeting the standards outlined above.
6. Lighting and signage. In addition to other applicable sections of the code regulating signage or outdoor lighting, the following standards shall apply to wireless telecommunication services facilities and equipment:
- a) The light source for security lighting shall feature down-directional, sharp cut-off luminaries to direct, control, screen or shade in such a manner as to ensure that there is no spillage of illumination off-site.
 - b) Light fixtures, whether free standing or tower-mounted, shall not exceed twelve (12) feet in height as measured from finished grade.
 - c) The display of any sign or advertising device other than public safety warnings, certifications or other required seals on any wireless communication device or structure is prohibited.
 - d) The telephone numbers to contact in an emergency shall be posted on each facility in conformance with the provisions of Chapter 26.510, Signs, of this Title.
7. Access ways. In addition to ingress and egress requirements of the Building Code, access to and from wireless telecommunication services facilities and equipment shall be regulated as follows:
- a) No wireless communication device or facility shall be located in a required parking, maneuvering or vehicle/pedestrian circulation area such that it interferes with or in any way impairs, the intent or functionality of the original design.
 - b) The facility must be secured from access by the general public but access for emergency services must be ensured. Access roads must be capable of supporting all potential emergency response vehicles and equipment.
 - c) The proposed easements for ingress and egress and for electrical and telephone shall be recorded at the County Clerk and Recorder's Office prior to the issuance of building permits.

(Ord. No. 1-2002 § 18; Ord. No. 52-2003, §§ 14, 15)

26.575.140 Accessory uses and accessory structures

An accessory use shall not be construed to authorize a use not otherwise permitted in the zone district in which the principal use or structure to which it is accessory. An accessory use or structure may not be established prior to the establishment of the principal use or structure to which it is accessory.

Accessory buildings or structures shall not be provided with kitchen or bath facilities sufficient to render them suitable for permanent residential occupation.

26.575.150 Outdoor lighting

A. Intent and purpose. The City has experienced a significant increase in the use of exterior illumination. City residents value small town character and the qualities associated with this character, including the ability to view the stars against a dark sky. They recognize that inappropriate and poorly designed or installed outdoor lighting causes unsafe and unpleasant conditions, limits their ability to enjoy the nighttime sky and results in unnecessary use of electric power. It is also recognized that some exterior lighting is appropriate and necessary.

This Section is intended to help maintain the health, safety and welfare of the residents of Aspen through regulation of exterior lighting in order to:

- a. Promote safety and security;
- b. Help preserve the small town character;
- c. Eliminate the escalation of nighttime light pollution;
- d. Reduce glaring and offensive light sources;
- e. Provide clear guidance to builders and developers;
- f. Encourage the use of improved technologies for lighting;
- g. Conserve energy; and
- h. Prevent inappropriate and poorly designed or installed outdoor lighting.

B. Applicability. The lighting standards of this Section shall be applicable to all outdoor lighting within the City. Existing outdoor lighting shall be considered legal nonconforming lighting for one (1) year from the adoption date of this ordinance.

C. Definitions.

- a. Fully shielded light: Light fixtures shielded or constructed so that no light rays are directly emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The fixture must also be properly installed to effectively down direct light in order to conform with the definition.
- b. Foot-candles: A unit of illumination of a surface that is equal to one lumen per square foot. For the purposes of these regulations, foot-candles shall be measured at a height of 3 ft. above finished grade.
- c. Fixture height: Height of the fixture shall be the vertical distance from the ground directly below the centerline of the fixture to the lowest direct light emitting part of the fixture.
- d. High intensity discharge light source (HID): Light sources characterized by an arc tube or discharge capsule that produces light, with typical sources being metal halide, high pressure

sodium and other similar types which are developed in accordance with accepted industry standards.

- e. Point light source: The exact place from which illumination is produced (i.e., a light bulb filament or discharge capsule).
- f. Light trespass: The shining of light produced by a light fixture beyond the boundaries of the property on which it is located.

D. Lighting plans.

- a. An outdoor lighting plan shall be submitted in conjunction with applications for subdivision, planned unit development, development within any environmentally sensitive area, special review application and building permit application for a commercial or multi-family building. Such lighting plans shall be subject to establishment and approval through the applicable review processes. Said lighting plan shall show the following:
 - 1) The location and height above grade of light fixtures;
 - 2) The type (such as incandescent, halogen, high-pressure sodium) and luminous intensity of each light source;
 - 3) The type of fixture (such as floodlight, full-cutoff, lantern, coach light);
 - 4) Estimates for site illumination resulting from the lighting, as measured in foot-candles, should include minimum, maximum and average illumination. Comparable examples already in the community that demonstrate technique, specification and/or light level should be provided if available to expedite the review process; and
 - 5) Other information deemed necessary by the Community Development Director to document compliance with the provisions of this Chapter.
- b. Single family and duplex building shall be in compliance with the standards of Section 26.575.090.

E. Nonresidential lighting standards. The following lighting standards shall be applicable to all nonresidential properties including mixed uses:

- a. Outdoor lighting used to illuminate parking spaces, driveways, maneuvering areas or buildings shall conform to the definition for "fully shielded light fixtures" and be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets. No portion of the bulb or direct lamp image may be visible beyond a distance equal to or greater than twice the mounting height of the fixture. For example, for a fixture with a mounting height of twelve (12) feet, no portion of the bulb or direct lamp image may be visible from twenty-four (24) feet away in any direction. The light level shall not exceed ten (10) foot-candles as measured three (3) feet above finished grade. Exemptions may be requested for areas with high commercial, pedestrian or vehicular activity up to a maximum of twenty (20) foot-candles.
- b. Outdoor lighting shall be twelve (12) feet or less in height unless it meets one (1) of the following criteria:
 - 1) The lighting is fully shielded and the point light source is not visible beyond the boundaries of the property in which it is located; or

- 2) The lighting is otherwise approved in Subsection 27.575.150.K, Miscellaneous Supplemental Regulations, review standards.
- c. All light sources which are not fully shielded shall use other than a clear lens material as the primary lens material to enclose the light bulb so as to minimize glare from that point light source. Exceptions may be allowed where there is a demonstrated benefit for the community determined through the exemption process listed in this Section.
- d. High Intensity Discharge (HID) light sources are allowed with a maximum wattage of one-hundred-seventy-five high-pressure sodium (HPS) and one-hundred-seventy-five-watt metal halide (coated lamp – 3,000 degrees Kelvin). Standards for other HID light sources may be established by the City for new technology consistent with the above restrictions.
- e. Spacing for security and parking lot light fixtures that are pole mounted shall be no less than seventy-five (75) feet apart. Decorative fixtures (which are also fully shielded) are allowed to maintain a fifty-foot fixture spacing. Wall mounted fixture spacing for security lighting shall be no less than fifty (50) feet measured horizontally. Decorative fixtures directed back toward a building face shall be exempt from this spacing requirement when shielded and shall not exceed fifty (50) watts. Decorative fixtures that are not shielded shall maintain a minimum spacing of twenty-five (25) feet and shall not exceed fifty (50) watts. Where security lighting is a combination of pole and wall mounted fixtures, there shall be a minimum of seventy-five (75) feet and a maximum of one-hundred-fifty-foot spacing.
- f. Pole mounted fixtures shall be limited to two (2) light sources per pole.
- g. Mixed use areas that include residential occupancies shall comply with the residential standards on those floors or areas that are more than fifty percent (50%) residential based on square footage of uses.
- h. Up-lighting is only permitted if the light distribution from the fixture is effectively contained by an overhanging architectural or landscaping element. Such elements may include awnings, dense shrubs or year-round tree canopies, which can functionally contain or limit illumination of the sky. In these cases the fixture spacing is limited to one (1) fixture per one hundred-fifty (150) sq. ft. of area (as measured in a horizontal plane) and a total lamp wattage within a fixture of thirty-five (35) watts.
- i. Up-lighting of flags is permitted with a limit of two (2) fixtures per flagpole with a maximum of one hundred fifty (150) watts each. The fixtures must be shielded such that the point source is not visible outside of a fifteen-foot radius.
- j. Outdoor vending, such as gas stations, requires approval for lighting. Lighting shall not exceed a maximum of twenty (20) candles under the canopy.

F. Residential lighting standards. The following lighting standards shall be applicable to residential properties:

- a. Outdoor lighting shall be twelve (12) feet or less in height unless it meets one of the following criteria:

- The lighting is used to illuminate above grade decks or balconies, is fully shielded and the point light source is not visible beyond the boundaries of the property in which it is located; or
 - The lighting is fully recessed into a roof soffit, fully shielded and is not visible beyond the boundaries of the property in which it is located; or
 - The lighting is otherwise approved in Section 27.575.150.K, Miscellaneous Supplemental Regulations, review standards.
- b. Outdoor lighting with HID light sources in excess of thirty-five (35) watts (bulb or lamp) shall be prohibited. In addition, incandescent light sources including halogen shall not exceed fifty (50) watts.
 - c. All light sources that are not fully shielded shall use material other than a clear lens material to enclose the light source. The point light source shall not be visible from adjacent properties.
 - d. Landscape lighting is limited to thirty-five (35) watts per fixture per one hundred fifty (150) square feet of landscaped area (as measured in a horizontal plane).
 - e. Security lights shall be restricted as follows:
 - 1) The point light source shall not be visible from adjoining lots or streets.
 - 2) Flood lights must be controlled by a switch or preferably a motion sensor activated only by motion within owners property.
 - 3) Timer controlled floodlights shall be prohibited.
 - 4) Photo cell lights shall be allowed under the following circumstances:
 - (a) At primary points of entrance (e.g., front entries) or in critical common areas for commercial and multi-family properties;
 - (b) Where the light sources are fully shielded by opaque material (i.e., the fixture illuminates the area but is not itself visibly bright); and
 - (c) The light source or fluorescent (or compact fluorescent) to eliminate excess electricity consumption.
 - 5) Lights must be fully shielded, down directed and screened from adjacent properties in a manner that limits light trespass to one-tenth (.1) of a foot candle as measured at the property line.
 - 6) Light intensity shall not exceed ten (10) foot-candles measured three (3) feet above finished grade.
 - 7) No light fixture shall be greater than twelve (12) feet in height. Exceptions are:
 - (a) Tree mounted fully shielded, downward directed lights using a light of twenty-five (25) watts or less and
 - (b) Building mounted flood lights fully shielded, downward directed lights using a light of fifty (50) watts or less.

- (c) Motion sensor lights may be permitted, but only where the sensor is triggered by motion within the owner's property lines.
- (d) Light trespass at property lines should not exceed .1 of a foot-candle as measured at the brightest point.

G. Reserved.

H. Exemptions. The following types of lighting installations shall be exempt from the provisions, requirements and review standards of this Section, including those requirements pertaining to Zoning Officer review.

1. Holiday lighting. Winter holiday lighting which is temporary in nature and which is illuminated only between and including November 15 and March 1 shall be exempt from the provisions of this Section, provided that such lighting does not create dangerous glare on adjacent streets or properties, is maintained in an attractive condition and does not constitute a fire hazard.
2. Municipal lighting. Municipal lighting installed for the benefit of public health, safety and welfare including, but not limited to, traffic control devices, street lights and construction lighting.
3. Temporary lighting. Any person may submit a written request to the Community Development Director for a temporary exemption request. If approved, the exemption shall be valid for not more than fourteen (14) days from the date of issuance of a written and signed statement of approval. An additional fourteen (14) day temporary exemption may be approved by the Director. The Director shall have the authority to refer an application for a temporary exemption to the Planning and Zoning Commission or the Historic Preservation Commission if deemed appropriate. A temporary exemption request shall contain at least the following information:
 - a) Specific exemption or exemptions requested;
 - b) Type, use and purpose of outdoor lighting fixtures involved;
 - c) Duration of time requested for exemption;
 - d) Type of lamp and calculated lumens;
 - e) Total wattage of lamps;
 - f) Proposed location on premises of the outdoor light fixtures;
 - g) Previous temporary exemptions, if any;
 - h) Physical size of outdoor light fixtures and type of shielding provided; and
 - i) Such other information as may be required by the Community Development Department Director.
4. Approved historic lighting fixtures. Nonconforming lighting fixtures which are consistent with the character of the historic structure or district may be exempted with approval from the Historic Preservation Officer or Historic Preservation Commission. Approved fixtures shall

be consistent with the architectural period and design style of the structure or district and shall not exceed fifty (50) watts.

5. Decorative lighting elements, such as shades with perforated patterns and opaque diffusers, may be exempted from the fully-shielded requirement provided they do not exceed fifty (50) watts.
6. If a proposed lighting plan or fixtures are proposed that do not meet this Code but that have demonstrable community benefit, an exemption may be considered. The applicant shall submit additional information to adequately assess the community benefit for approval by the Community Development Director.

I. Prohibitions. The following types of exterior lighting sources, fixtures and installations shall be prohibited in the City of Aspen.

1. Light sources shall not be affixed to the top of a roof or under a roof eave, except where required by Building Code.
2. Lighting for the purpose of illuminating a building facade shall be prohibited when such lighting is mounted to the ground or poles or is mounted on adjoining/adjacent structures.
3. Blinking, flashing, moving, revolving, scintillating, flickering, changing intensity and changing color lights and internally illuminated signs shall be prohibited, except for temporary holiday displays, lighting for public safety or traffic control or lighting required by the FAA for air traffic control and warning purposes.
4. Mercury vapor and low-pressure-sodium lighting shall be prohibited due to their poor color rendering qualities.
5. Linear lighting (including but not limited to neon and fluorescent lighting) primarily intended as an architectural highlight to attract attention or used as a means of identification or advertisement shall be prohibited.
6. Unshielded floodlights and timer controlled flood lights shall be prohibited.
7. Lighting directed toward the Roaring Fork River or its tributaries.
8. No outdoor lighting may be used in any manner that could interfere with the safe movement of motor vehicles on public thoroughfares. The following is prohibited:
 - a) Any fixed light not designed for roadway illumination that produces direct light or glare that could be disturbing to the operator of a motor vehicle.
 - b) Any light that may be confused with or construed as a traffic control device except as authorized by State, Federal or City government.
9. No beacon or search light shall be installed, illuminated or maintained.
10. Up-lighting is prohibited, except as otherwise provided for in this Section.

J. Nonconforming lighting. Unless otherwise specified within this Ordinance, within one (1) year of the effective date of this Ordinance, all outdoor lighting fixtures that do not conform to

requirements of this Ordinance must be replaced with conforming fixtures or existing fixtures must be retrofitted to comply. Violations shall be corrected within sixty (60) days of being cited. Until that time, all existing outdoor lighting fixtures that do not already comply shall be considered legal nonconforming fixtures.

K. Review standards.

1. Height. Outdoor residential and commercial lighting shall be twelve (12) feet or less above grade in height. Special review by the Planning and Zoning Commission may allow lighting of a greater height under the following circumstances:
 - a) A fixture at a greater height is required due to safety, building design or extenuating circumstances in which case the light shall be fully shielded with a nonadjustable mounting; or
 - b) Lighting for commercial parking and vehicle circulation areas may have a maximum height of twenty (20) feet above grade and shall be fully shielded
2. Foot-candles. Outdoor nonresidential (26.575.070), Sign (26.575.080) and Residential (26.575.090) Lighting standards shall not exceed the foot-candles designated in their respective Sections. Special review by the Planning and Zoning Commission may allow lighting of a greater intensity under the following circumstances:
 - a) A fixture of a greater light intensity is required due to safety, building design or extenuating circumstances in which case the light shall be fully shielded with a nonadjustable mounting; or
 - b) An architectural or historical feature requires greater illumination, in which case the light shall be fully shielded with a nonadjustable mounting.

L. Procedures.

1. Administrative review procedures. Lighting plans submitted in conjunction with applications for subdivision, planned unit development, development within any environmentally sensitive area or special review application shall be reviewed by the Planning and Zoning Commission.
2. Lighting plans submitted as a part of a building permit application for a commercial or multi-family structure shall be reviewed administratively by the Community Development Director. The Director shall have the authority to refer an application to the Planning and Zoning Commission or the Historic Preservation Commission if deemed appropriate.
3. Appeals. Any appeals related to decisions regarding outdoor lighting shall be made to the Board of Adjustment compliant with the procedures in the Appeals Chapter 26.316 of this Title.

(Ord. No. 47-1999, § 1; Ord. No. 52-2003, §§ 16—20)

26.575.160 Dormitory

Occupancy of a dormitory unit shall be limited to no more than eight (8) persons. Each unit shall provide a minimum of one hundred fifty (150) square feet per person of net living area, including

sleeping, bathroom, cooking and lounge used in common. Standards for use and design of such facilities shall be established by the City's housing designee.

26.575.170 Fuel storage tanks

All fuel storage tanks shall be completely buried beneath the surface of the ground except that above ground storage tanks may be approved as conditional uses in the Service/Commercial /Industrial and Public Zone Districts.

26.575.180 Reserved (formerly Required delivery area and vestibules for commercial buildings)

Note: Section 26.575.060 repealed via Ordinance No. 13 (Series of 2013).

(Ord. No.7-2013,§ 5; Ord. No.13-2013,§ 11)

26.575.190 Farmers' market

A farmers' market is permitted as a conditional use in the Park (P) and Public (PUB) Zone Districts and in public parks and public rights-of-way, provided a vending agreement is obtained in accordance with Section 15.04.350. The following regulations shall apply to farmers' markets:

A. It shall operate no more than two (2) days per week, unless modified by the Planning and Zoning Commission under its conditional use review;

B. It opens to the public no earlier than 7 a.m. and closes no later than 2 p.m., unless modified by the Planning and Zoning Commission under its conditional use review; and

C. It shall be limited to those weeks that fall between the first Saturday in June and the weekend following the Thanksgiving holiday, inclusive, unless modified by the Planning and Zoning Commission under its conditional use review.

26.575.200 Group homes

Group homes shall not be located closer than seven-hundred-fifty (750) feet from another group home, shall be used exclusively as a residence for no more than eight (8) persons and shall be in compliance with all City, State and Federal Health, Safety and Fire Code Provisions.

Sec. 26.575.210 Lodge occupancy auditing

The Community Development Director shall be authorized to require periodic operational audits of lodge developments to ensure compliance with the Land Use Code and requirements for lodge operations. This audit may include, but is not limited to, an occupancy report of the lodge and individual units therein; rate schedules; the manner in which short-term occupancies are marketed and managed; physical aspects of the operation, such as the number of units and pillows in the lodge, the number of affordable housing units provided on site, other units and amenities on site and the number of parking spaces provided on site; the dimensional characteristics of the lodge; and any additional conditions of approval. The Community Development Director may request that information be provided in a specific time frame, and may request a site inspection as part of the audit. Property owners may request that certain information, such as marketing strategies or rate schedules, be held in confidence by the City.

(Ord. No. 12, 2007, §37)

Sec. 26.575.220 **Vacation rentals**

A. Intent and purpose. The purpose of this section is to establish the procedures and standards by which Vacation Rentals (See § 26.104.100, *Definitions*), of residential units are permitted within the City on a short term basis. It is the City's intent to establish Vacation Rental regulations that promote a mix of lodging options that support the City of Aspen's tourism base and local economy; that uphold the health, safety and welfare of the public; and, that protect long term residential neighborhoods by ensuring that the impacts of Vacation Rentals do not adversely affect the residents and the character of residential areas.

B. Prohibitions.

1. It shall be unlawful for any person, whether a principal or agent, clerk or employee, either for him or herself, or for any other person or for anybody, corporation or otherwise, to lease or operate a Vacation Rental without first obtaining a Vacation Rental Permit in accordance with the provisions of this Section or operating same in violation of the standards set forth herein.
2. This section shall not apply to leases or other rental arrangements in Lodges, Timeshare Lodges, Bed and Breakfasts and Hotels. (See Section 26.104.100, *Definitions*, for definitions of these terms.)
3. A Vacation Rental is not permitted to rent individual rooms within a residential dwelling unit.
4. It shall be unlawful for any person, whether a principal or agent, clerk or employee, either for him or herself, or for any other person or for anybody, corporation or otherwise, to lease or operate a Vacation Rental in a Bandit Unit.

C. Vacation Rental Period. A dwelling unit may be rented or leased for a short term period, which is defined as a length of time that is equal to or less than thirty (30) consecutive days without limitation in the following zone districts: Lodging Zone Districts, Commercial Zone Districts, Mixed Use Zone Districts, and Residential Zone Districts.

D. Vacation Rental Standards. The following standards shall be applicable to Vacation Rentals.

1. Homeowners' Association Notification. In the event that a proposed Vacation Rental is part of a common interest community and there is a Homeowners' Association, a letter shall be submitted to the Homeowners' Association providing notification of an application for a Vacation Rental Permit.
2. Business License. Any person who owns or represents one or more Vacation Rentals shall obtain an annual City of Aspen business license pursuant to Chapter 14.08, *Business Licenses*, of the Municipal Code. If an individual or business entity acts as a designated representative of one or more Vacation Rentals, only one business license shall be required. However, each residential unit shall obtain a Vacation Rental Permit.
3. Local owner representative. The owner of a Vacation Rental, if residing in the Roaring Fork Valley or a designated representative of the owner residing within the Roaring Fork Valley, shall be on call to manage the Vacation Rental during any period within which the Vacation Rental is occupied. The name, phone number and address of the local owner or the local owner representative shall be provided to the Community Development Department at time of

application for a Vacation Rental Permit. It is recommended, but not required, that a sign identifying the representative's name and number be posted on the property pursuant to Section 26.510.030.B.17 *Property Management/Timeshare identification signs*. It is the responsibility of the owner representative to inform Vacation Rental occupants about all relevant City of Aspen ordinances including, but not limited to parking, trash and noise. It is the responsibility of the owner to notify the City if there is a change in local owner representative within a reasonable timeframe.

4. Lodging and sales taxes. Vacation Rentals shall be subject to all taxpayer responsibilities set forth at Chapter 23.08, *Taxpayer's Responsibilities*, particularly the responsibility to collect and to remit all applicable sales and lodging taxes.

E. Vacation Rental Permits.

1. Applications. Applications for a Vacation Rental Permit shall be submitted to the Community Development Department. A Vacation Rental Permit may be obtained by an authorized representative of the property owner. The application for a Vacation Rental Permit shall contain the following:
 - a. If applicable, confirmation that notice was provided to the Home Owner's Association.
 - b. A City of Aspen business license or application.
 - c. The name, phone number and address of the owner or local owner representative.
2. Annual permit renewal. A new application for a Vacation Rental Permit shall be submitted each calendar year in accordance with the application requirements listed in Section 26.575.220(E)(1).
3. Exceptions for Multi-family dwelling units. Multi-family dwelling units within the same complex have the option to submit a consolidated Vacation Rental Permit application for multiple units managed by one local owner representative. If multi-family dwelling units use different owner representatives, separate applications shall be required.

F. Review Standards. The Community Development Department shall review applications for Vacation Rental Permits for conformance with the review standards listed below. A license may issue upon a determination of the following by the Community Development Department:

1. Compliance with the Vacation Rental Standards set forth in Section 26.575.220(D).
2. A completed application containing the information described in Section 26.575.220(E).

G. Enforcement. Any person violating any provision of this Section 26.575.220 shall be subject to the penalty provisions of Section 26.104.040, *Applicability and penalty*. In addition, any Vacation Rental in violation of this Section 26.575.220, *Vacation Rentals*, shall be subject to a revocation of the Vacation Rental Permit as set forth herein.

H. Denial and Revocation. Whenever the Community Development Director has cause to believe that any holder of a Vacation Rental Permit is engaging, or is engaged, in any activity such as to preclude the issuance of a permit applied for or to warrant revocation of any permit presently held, he or she shall conduct a hearing to determine if such action shall be taken. The applicant or licensee

affected shall be given adequate notice of any such hearing and be given a full opportunity to be heard and an opportunity to cure prior to denial or revocation of a Vacation Rental Permit.

I. Appeal. An applicant or licensee aggrieved by a determination made by the Community Development Department denying or revoking a Vacation Rental Permit may appeal to the City's Administrative Hearing Officer in accordance with the procedures established by Chapter 26.316, *Appeal Procedures*.

(Ord. No.34-2011, §2)

Chapter 26.580
ENGINEERING DEPARTMENT REGULATIONS

This Chapter was repealed via Ordinance No. 42 (Series 2013)

Chapter 26.590 TIMESHARE DEVELOPMENT

Sections:

- 26.590.010 Purpose and intent
- 26.590.020 Overview of timeshare development
- 26.590.030 Exempt timesharing
- 26.590.040 Procedure for review of timeshare lodge development application
- 26.590.050 Contents of application
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Editor's note—Ord. No. 21-2002 § 1 repealed former Chapter 26.590, which pertained to similar provisions and enacted a new Chapter 26.590 as herein set out. Former Chapter 26.590 was derived from Ord. No. 5-1988 § 2 as amended by Ord. Nos. 55-2000 § 17 and 51-2001 § 2.

26.590.010 Purpose and intent

The purpose of this Chapter is to establish the procedures and standards by which timeshare development may be permitted within the City. It is the City's intent to establish timeshare regulations that provide for the protection of the character of Aspen as a resort community and that help to promote increased tourism and vitality within the City. Specifically, the City intends that new timeshare projects in Aspen will implement the goals of the Aspen Area Community Plan and will help to achieve the following public purposes:

A. Increased vitality. Timeshare developments can provide the opportunity for increased tourism to Aspen, can add to the level of community vitality and can help to create a more sustainable local economy. This can be accomplished by expanding the number and variety of "hot beds" available to visitors, raising occupancy levels in the accommodations sector and attracting "new trials" to Aspen, from persons who have not previously visited this community.

B. Preserve and enhance lodging inventory. Aspen's tourist accommodations inventory has for some time included a significant percentage of traditional lodges. The community would like to preserve and enhance this lodging inventory, by encouraging timeshare units to be contained in projects that look and operate in a manner similar to Aspen's traditional lodges. These regulations have been designed to accomplish this purpose by establishing standards for the physical and operational features of timeshare lodges, to ensure that new and re-developed timeshare lodges maintain Aspen's lodging traditions.

C. Upgrade quality of accommodations. It is important to Aspen's tourist economy that its accommodations are kept up-to-date. Timeshare development offers the opportunity to infuse capital into the short term accommodations inventory, so facilities can be modernized. It is equally important to ensure that once facilities are upgraded, the facility is managed to provide a quality visitor experience over time. These regulations are intended to ensure that timeshare lodges are properly maintained over the life of the development.

D. Maintain community character. Aspen has a valued reputation as a quality resort community. The City intends to regulate timeshare marketing and sales practices, to ensure that the way timeshare estates are marketed and sold is consistent with the character of this community and to minimize the potential for practices that would create an inappropriate image of Aspen. The City also intends to provide protection for its long term residential neighborhoods, to ensure that the impacts of timeshare development do not adversely affect the character of these residential areas, by limiting this use to the City's lodge and selected commercial zone districts.

(Ord. No. 21-2002 § 1 [part])

26.590.020 Overview of timeshare development

A. Applicability. The requirements of this Chapter shall apply to all timeshare development within the City. These requirements shall be in addition to all other applicable requirements set forth in this Title 26 and those set forth in the Colorado Statutes.

B. Types of timeshare development. There are two types of timeshare development that may be permitted within the City, as follows:

1. Timeshare lodge development is the basic form of timesharing permitted in Aspen. It applies to any application to convert lodge units or residential dwelling units to timesharing or to develop new units for timesharing, except for those applications that are eligible for an exemption, as described below. Timeshare lodge development is a permitted use in the Lodge/Tourist Residential (L/TR), Commercial Lodge (CL), Lodge Preservation Overlay (LP), Commercial Core (CC) and Ski Area Base (SKI) Zone Districts. To obtain approval of a timeshare lodge development, an applicant shall follow the procedures outlined in Section 26.590.040 below and shall comply with the applicable characteristics of Section 26.590.060 below and the applicable standards of Section 26.590.070 below.
2. Exempt timesharing is a more limited type of timesharing permitted in Aspen. The only units eligible for this exemption are single-family dwelling units, condominiumized duplex dwelling units and condominiumized multi-family dwelling units within any individual condominium complex or condominium project that contains no more than six (6) such units. Exempt timesharing is a permitted use in the Lodge/Tourist Residential (L/TR) and the Ski Area Base (SKI) Zone Districts. To obtain approval for exempt timesharing, an applicant shall follow the procedures outlined in Subsection 26.590.030.B below and shall comply with the standards of Subsection 26.590.030.C below.

(Ord. No. 21-2002 § 1 [part])

26.590.030 Exempt timesharing

A. Eligibility for exemption.

1. The following types of dwelling units are eligible to apply for this exemption:
 - a) Single-family dwelling units;
 - b) Condominiumized duplex dwelling units; and
 - c) Condominiumized multi-family dwelling units within any individual condominium complex or condominium project that contains no more than six (6) such units.

2. To be eligible to apply for the exemption, the single-family, duplex or multi-family dwelling units must be located in the Lodge/Tourist Residential (L/TR) Zone District or the Ski Area Base (SKI) Zone District.

B. Minimum requirements to obtain exemption.

1. No more than six (6) estates may be created in any dwelling unit via this exemption. An applicant wishing to create more than six (6) estates in any unit may do so only via an application for a timeshare lodge development.
2. The ownership interests that may be created pursuant to this exemption shall be limited to "time-span estates" as defined in Section 38-33-110, C.R.S., where the annually recurring exclusive right to possession and occupancy is determined by a schedule or formula.
3. Applications for exempt timesharing shall be processed as a subdivision exemption, pursuant to Subsection 26.480.030.A.5 of this Code.
4. The minimum application contents for the subdivision exemption application shall be as follows:
 - a) The applicable portions of the information described in Subsections 26.590.050.A, B, F and G; and
 - b) The general application contents required in Section 26.304.030, Application and fees.

C. Review standards for exemption. An applicant for exempt timesharing shall demonstrate compliance with each of the following standards. These standards are in addition to those standards applicable to the review of the subdivision exemption.

1. The proposal shall not conflict with any applicable deed restrictions or private covenants or with any provisions of the Colorado Statutes. If the proposal is for a condominium, it shall comply with the applicable provisions of Subsection 26.590.070.I of this Code.
2. All units to be converted to timesharing shall comply with the City's adopted Fire, Health and Building Codes. If any unit does not comply with said Codes, then no sale of an interest in that unit shall be closed until a Certificate of Occupancy has been issued that brings the unit into compliance.
3. All dwelling units to be converted to timesharing shall comply with the requirements of the zone district in which they are located and all other applicable standards of this Code or with the requirements of any PUD or other site specific development approval granted to the property.
4. The conversion of any multi-family dwelling unit that meets the definition of residential multi-family housing to timesharing shall comply with the provisions of Section 26.470.070(5), Demolition or redevelopment of multi-family housing, even when there is no demolition of the existing multi-family dwelling unit.
5. The marketing, sales, management and operation of the timeshare estates shall comply with the provisions of Subsection 26.590.070.F and 26.590.070.J, of this Code.

6. A wall sign shall be mounted on each building stating that it has been approved by the City for timesharing and providing the name and phone number of a management entity or local contact person who can be called in the event of an emergency or to respond to neighborhood concerns. The sign shall comply with the requirements of Subsection 26.510.030.B.22 of this Code.
7. Development shall be in compliance with the provisions of the Subdivision requirements in Chapter 26.480 when new lots or units are created.

(Ord. No. 21-2002 § 1 [part]; Ord. No. 36-2013, §13)

26.590.040. Procedure for review of timeshare lodge development application

All timesharing that is not eligible for an exemption shall be processed as follows:

A. PUD Review Required. Timeshare lodge development shall be processed as a Planned Unit Development (PUD), pursuant to Chapter 26.445 of this Code.

B. Detailed Planned Development Review. The Community Development Director may determine that because a timeshare lodge development is a conversion of an existing building or because of the limited extent of the issues involved in the proposal, the project can proceed directly to a Detailed Review. The Community Development Director is also authorized to waive certain submission requirements or review standards of the Planned Development review procedures that are not applicable to a proposed timeshare development.

C. Subdivision review. Timeshare lodge development shall also require subdivision approval. Review of the subdivision application may be combined with Planned Development review, as authorized by Subsection 26.304.060.B, Combined reviews.

D. Growth Management Quota System review. Whenever a proposed timeshare lodge development or exempt timesharing is subject to review under the City's Growth Management Quota System (Chapter 26.470), the development shall be considered to be a "Tourist Accommodation" or a "Lodge" under that system.

E. Authority to grant variations. Variations from the requirements applied to timeshare lodge development may be authorized by the City Council. An applicant requesting a variation shall demonstrate that the provision requested to be varied is not applicable to the proposed development or cannot be met and shall demonstrate that the proposed variation is reasonable, would not be contrary to the public interest and better implements the purpose and intent of these timeshare regulations than the codified requirement.

(Ord. No. 21-2002 § 1 [part]; Ord. No. 36-2013, §14)

26.590.050. Contents of application

In addition to the general application information required in Section 26.304.030, Application and fees and those application contents for Planned Development and subdivision, the application for timeshare lodge development shall include the following information. It is expected that this information will be provided in a preliminary manner during the Project Review and in a precise manner during Detailed Review.

A. Timeshare use plan: A detailed description of the basic elements of the proposed timeshare use plan. The use plan shall describe the number of estates being created in each unit, the total number of estates to be created, the expected price for each estate and whether a purchaser is buying a specific unit for a specific time, a specific unit for a floating time or whether there is no specific unit but just a specific time. It shall also describe whether owners will be able to participate in an exchange program and if so, in which programs they will be eligible to participate. The use plan shall also provide a specific description of how the development will comply with the requirements of Section 26.590.060, Characteristics of a timeshare lodge.

B. Summary of disclosure statement and timeshare instruments. A detailed summary of each of the key points that will be included in the disclosure statement and the timeshare development instruments. (See Section 26.590.090) if the project receives approval from the City.

C. Management plan. A plan for how the timeshare development will be managed, describing whether the applicant will manage the project or if it will be managed by a management company, a branded company or other entity and describing how the project will be operated.

D. Marketing plan. The marketing plan for the timeshare development, including information on proposed sales techniques (including a description of gifts, premiums or promotions to be offered), sales packaging and whether a sales office will be established off-site.

E. Budget. A planned budget for the proposed homeowners/condominium association estimating the proposed costs and expenditures for the management and maintenance of the timeshare development.

F. Upgrading plan. For any existing project that is proposed to be converted to a timeshare lodge development, the applicant shall submit a plan of how the project will be physically upgraded and modernized.

G. Tax collection. A statement indicating the manner in which real estate transfer taxes and sales taxes will be collected.

H. Developer's registration. A copy of the Developer's registration with the Colorado Real Estate Commission. If the Developer has not so registered at the time of submission of the application, then this information shall be submitted at the time the timeshare documents are submitted for recordation, pursuant to Section 26.590.090 of this Code.

(Ord. No. 21-2002 § 1 [part]; Ord. No. 36-2013, §15)

26.590.060. Characteristics of a timeshare lodge development

It is the intent of the City that all timeshare lodge developments incorporate some of the physical and operational features that are typically found in lodges in Aspen. The City recognizes that each timeshare development is unique and that each development should not contain all of these features. In fact, considering the proposed location of the development and the intended method of operating the facility, certain of these features may not be appropriate. The City also recognizes that when owners occupy their units, the development will operate more like a private residential complex than like a lodge. But the City seeks to balance that form of use with opportunities for other guests to use the facility. Therefore, the City has identified a menu of timeshare lodging features, including both mandatory and optional elements. All timeshare lodge developments shall incorporate the mandatory physical and operational features listed herein. However, an applicant may instead propose to substitute optional operational features for one (1) or more of the mandatory features listed herein or may propose its own set of features which ensure that the development operates in a manner similar to a lodge when the owners are not using their timeshare estates, as described further below.

A. Mandatory physical elements.

1. All timeshare lodge developments shall have a staffed on-site front desk, located within a lobby that is sized to meet the needs of the project. If the timeshare lodge is part of a multi-site development, there may be a single front desk for these sites. The staffed front desk shall be open at least during regular business hours and shall be managed to provide full time registration and reservation services, including provision for late check-in and for other off-hours guest needs. The front desk shall accommodate walk-in rentals.
2. A timeshare lodge development shall contain a sufficient level of recreational facilities (such as exercise equipment, a pool or spa or similar facilities) and other amenities (such as a lobby, meeting spaces and similar facilities) to serve the occupants, including facilities that can be used in the winter and the summer seasons. The extent of the facilities provided should be proportional to the size of the timeshare lodge development. The types of facilities should be consistent with the planned method and style of operating the development.
3. A timeshare lodge in the Commercial Core (CC) Zone District shall not have any lodge rooms located on the ground floor. Instead, a timeshare lodge in the CC Zone District shall contain at least one of the following elements: a bar, restaurant or retail facilities. The elements provided shall be located along the street front, shall be accessible from the street and shall be designed to serve the public, not just the occupants of the timeshare lodge.

B. Mandatory operational practices. The City wants to ensure that the units in a timeshare lodge development are available for rental to the public when they are not being occupied by the owner, the owner's guests or persons occupying the unit under an exchange program. The City has identified certain operational practices that will accomplish this intent, which are listed in this Section. An applicant who agrees to include all of the practices listed below in the operation of the timeshare development shall be deemed to have complied with the requirements of this Subsection B and need not address any of the optional operational practices of Subsection C.

The City recognizes, however, that there may be other ways to comply with this intent and will consider these and other operational practices. Applicants may propose to substitute one (1) or more of the optional practices listed in Subsection C, below, for one (1) or more of the mandatory practices

listed in this Subsection B. Applicants may also propose other operational practices not listed in Subsection) as a means of demonstrating compliance with this standard. Acceptance of the proposed optional practices as a substitute for one (1) or more of the mandatory practices shall be at the sole discretion of the City Council.

1. Timeshare estates shall be made available for short-term rental when the estate is not in use by the owner of the unit, the owner's guests or persons occupying the unit under an exchange program. Units that are available for rental shall be listed at competitive rates in a central reservation system. Listing of the unit with a recognized central reservation system in Aspen or through the central reservation system of the company that will manage the timeshare development, is preferred.
2. The covenants of the homeowners association shall permit walk-in rental of units. The association shall not limit rental of units to such arrangements as only weekly rentals or Saturday-to-Saturday rentals; instead the association shall permit shorter stays, split-week rentals and similar flexible arrangements.
3. Owners of timeshare estates shall be required to reserve their unit/time sufficiently far enough in advance to enable the public to obtain access to those units that are not so reserved.
4. The owner of a timeshare estate shall not be permitted to occupy that estate for any period in excess of thirty (30) consecutive calendar days.
5. The units that remain in the developer's inventory shall be made available for rental to the public while the estates are being sold, except for models and other units that are needed for marketing or promotional purposes.

C. Optional operational features.

1. Timeshare lodge developments that subdivide each unit into a larger number of estates (more than ten (10) estates per unit) are preferred to those which subdivide each unit into a smaller number of estates (less than ten (10) estates per unit).
2. Applicants may formulate their timeshare use plan such that the purchaser would not expect to occupy the same unit each visit; instead the purchaser would purchase the right to occupy a certain type of unit for a certain period of time. Applicants may also include provisions in the Homeowners Association documents prohibiting owners from personalizing the unit they have purchased.
3. Applicants may design their development as a mixed project, which includes not only timeshare units, but also some units that would continue to be owned and operated by the applicant and his or her successors or assigns as traditional lodge units. Another type of use plan that is encouraged would be for the applicant to agree not to sell all of the shares in every unit, but to instead keep some time reserved for rental to the public at market rates during both the high seasons and the off-seasons.
4. Applicants may decide to sell on and off-season estates as a package.
5. Applicants may include in their use plan provisions that allow for a wide range of exchange opportunities for owners, which will promote new Aspen trials.

(Ord. No. 21-2002 § 1 [part])

26.590.070 Review standards for timeshare lodge development

An applicant for timeshare lodge development shall demonstrate compliance with each of the following standards, as applicable to the proposed development. These standards are in addition to those standards applicable to the review of the Planned Development and Subdivision applications.

A. Fiscal impact analysis and mitigation. Any applicant proposing to convert an existing lodge to a timeshare lodge development shall be required to demonstrate that the proposed conversion will not have a negative tax consequence for the City. In order to demonstrate the tax consequences of the proposed conversion, the applicant shall prepare a detailed fiscal impact study as part of the Project Review application. The fiscal impact study shall contain at least the following comparisons between the existing lodge operation and the proposed timeshare lodge development:

1. A summary of the sales taxes paid to the City for rental of lodge rooms during the prior five years of its operation. If the lodge has stopped renting rooms prior to the time of submission of the application, then the summary shall reflect the final five (5) years the lodge was in operation. The summary of past taxes paid shall be compared to a projection of the sales taxes the proposed timeshare lodge development will pay to the City over the first five (5) years of its operation. As part of this projection, the applicant shall specify the number of nights the applicant anticipates each timeshare lodge unit will be available for daily rental to visitors (that is, the annual number of nights when the unit will not be occupied by the owner or the owner's guests), the expected visitor occupancy rate for these units, the expected average daily cost to rent the unit and the resulting amount of sales tax that will be paid to the City.
2. An estimation of the real estate transfer taxes that would be paid to the City if the existing lodge were to be sold. If an actual sale of the property has occurred within the last twelve (12) months, then the real estate taxes paid for that sale shall be used. This estimation shall be compared to a projection of the real estate transfer taxes the proposed timeshare lodge development will pay to the City over the first five (5) years of its operation. This projection shall include a statement of the expected sales prices for the timeshare estates and the applicable tax rate that will be applied to each sale.
3. A summary of the City-portion of the property taxes paid for the lodge for the prior five (5) years of its operation and a projection of the property taxes the proposed timeshare lodge development will pay to the City over the first five (5) years of its operation. This projection shall include a statement of the expected value that will be assigned to the property by the Tax Assessor and the applicable tax rate.

The fiscal impact study may also contain such other information that the applicant believes is relevant to understanding the tax consequences of the proposed development. For example, the applicant may provide information demonstrating there will be "secondary" or "indirect" tax benefits to the City from the occupancy of the timeshare units, in terms of increased retail sales and other economic activity in the community as compared to the existing lodge development. The applicant shall be expected to prove definitively why the timeshare units would cause such economic advantages that would not be achieved by a traditional lodge development. Any such additional information provided shall compare the taxes paid during

the prior five (5) years of the lodge's operation to the first five (5) years of the proposed timeshare lodge's operation.

If the fiscal impact study demonstrates there will be an annual tax loss to the City from the conversion of an existing lodge to a timeshare lodge in any of the specific tax categories (property tax, sales tax, lodging tax, RETT tax), then the applicant shall be required to propose a mitigation program that resolves the problem, to the satisfaction of the City Council. Analysis of the fiscal impact study shall compare existing tax revenues for a lodging property with anticipated tax revenues. The accepted mitigation program shall be documented in the PUD agreement for the project that is entered into between the applicant and the City Council.

B. Upgrading of existing projects. Any existing project that is proposed to be converted to a timeshare lodge development shall be physically upgraded and modernized. The extent of the upgrading that is to be accomplished shall be determined as part of the Project Review, considering the condition of the existing facilities, with the intent being to make the development compatible in character with surrounding properties and to extend the useful life of the building.

1. To the extent that it would be practical and reasonable, existing structures shall be brought into compliance with the City's adopted Fire, Health and Building Codes.
2. No sale of any interest in a timeshare lodge development shall be closed until a Certificate of Occupancy has been issued for the upgrading.

C. Preservation of existing lodging inventory. An express purpose of these regulations is to preserve and enhance Aspen's existing lodging inventory. Therefore, any proposal to convert an existing lodge or other property that provides short-term accommodations to a timeshare lodge should, at a minimum, replace the existing number of units on the property in the planned timeshare lodge. If the applicant is unable to replace the existing number of units, then the timeshare lodge development shall replace the existing number of bedrooms on the property or the applicant shall demonstrate how the proposal complies with the purposes of these regulations, even though the planned timeshare lodge will not replace either the existing number of units or bedrooms.

D. Affordable housing requirements.

1. Whenever a timeshare lodge development is required to provide affordable housing, mitigation for the development shall be calculated by applying the standards of the City's housing designee for lodge uses. The affordable housing requirement shall be calculated based on the maximum number of proposed lock out rooms in the development and shall also take into account any retail, restaurant, conference or other functions proposed in the lodge.
2. The conversion of any multi-family dwelling unit that meets the definition of residential multi-family housing to timesharing shall comply with the provisions of Section 26.470.070(5), Demolition or redevelopment of multi-family housing, even when there is no demolition of the existing multi-family dwelling unit.

E. Parking requirements.

1. The parking requirement for timeshare lodge development shall be calculated by applying the parking standard for the underlying zone district for lodge uses. The parking requirement

shall be calculated based on the maximum number of proposed lock out rooms in the development.

2. The timeshare lodge development shall also provide an appropriate level of guest transportation services, such as vans or other shuttle vehicles, to offer an alternative to having owners and guests using their own vehicles in Aspen.
3. The owner of a timeshare estate shall be prohibited from storing a vehicle in a parking space on-site when the owner is not using that estate.

F. Appropriateness of marketing and sales practices. The marketing and sale of timeshare estates shall be governed by the real estate laws set forth in Title 12, Article 61, C.R.S., as may be amended from time to time. The applicant and licensed marketing entity shall present to the City a plan for marketing the timeshare development.

1. The following marketing and sales practices for a timeshare development shall not be permitted:
 - a) The solicitation of prospective purchasers of timeshare units on any street, mall or other public property or facility; and
 - b) Any unethical sales and marketing practices which would tend to mislead potential purchasers.
2. Giving of gifts to encourage potential purchasers to attend a sales presentation or to visit a timeshare development is permitted, provided the gift reflects the local Aspen economy. For example, gifts for travel to or accommodations in Aspen, restaurants in Aspen and local attractions (ski passes, concert tickets, rafting trips, etc.) are permitted. Gifts that have no relationship to the local Aspen economy are not permitted. The following gifts are also not permitted:
 - a) Any gift for which an accurate description is not given;
 - b) Any gift package for which notice is not given to the prospective purchaser that the purchaser will be required to attend a sales presentation as a condition of receiving the gifts; and
 - c) Any gift package for which the printed announcement of the requirement to attend a sales presentation is in smaller type face than the information on the gift being offered.

G. Adequacy of maintenance and management plan. The applicant shall provide documentation and guarantees that the timeshare lodge development will be appropriately managed and maintained in a manner that will be both stable and continuous. This shall include an identification of when and how maintenance will be provided and shall also address the following requirements:

1. A fair procedure shall be established for the estate owners to review and approve any fee increases which may be made throughout the life of the timeshare development, to provide assurance and protection to timeshare owners that management/assessment fees will be applied and used appropriately.
2. The applicant shall also demonstrate that there will be a reserve fund to ensure that the proposed timeshare development will be properly maintained throughout its lifetime.

H. Compliance with State Statutes. The applicant shall demonstrate that the proposed timeshare lodge development will comply with all applicable requirements of Title 12, Article 61, C.R.S.; Title 38, Article 33, C.R.S.; and Title 38, Article 33.3, C.R.S.; including the requirements concerning the five (5) day period for rescission of a sales contract and the procedures for holding deposits or down payments in escrow.

I. Approval by condominium owners. If the development that is proposed to be timeshared is a condominium, the applicant shall submit written proof that the condominium declaration allows timesharing, that one hundred percent (100%) of the owners of the condominium units have approved the timeshare development, including any improvements to the common elements that the applicant may propose, that all mortgagees of the condominium have approved the proposed timeshare development and that all condominium units in the timeshare development will be included in the same sales and marketing program.

J. Prohibited practices and uses. Without in any way limiting any requirement contained in this Chapter, it is unlawful for any person to knowingly engage in any of the following practices:

1. The creation, operation or sale of a right-to-use interest or any other timeshare concept which is not specifically allowed and approved pursuant to the requirements of this Section. Right-to-use timeshare concepts (e.g., lease-holds and vacation clubs) are considered inappropriate in Aspen and are not permitted.
2. Misrepresentation of the facts contained in any application for timeshare approval, timeshare development instruments or disclosure statement.
3. Failure to comply with any representations contained in any application for timesharing or misrepresenting the substance of any such application to another who may be a prospective purchaser of a timeshare interest.
4. Manage, operate, use, offer for sale or sell a timeshare estate or interest therein in violation of any requirement of this Chapter or any approval granted pursuant hereto or cause or aid and abet another to violate any requirement of this Chapter or an approval granted pursuant to this Chapter.

(Ord. No. 21-2002 § 1 (part), 2002; Ord. No. 13-2005, § 5; Ord. No. 36-2013, §16)

26.590.080 Business license and sales tax payments

A. Business license. It shall be unlawful for any timeshare development to operate in the City without first obtaining a business license in accordance with the standard procedures of the City.

B. Sales tax payments. Occupancy of any timeshare unit by anyone who pays a rental fee for the use of the unit (other than the owner thereof) shall be subject to the City's sales tax the same as if such occupancy were of a hotel or lodge unit. Any timeshare development, as a condition of its approval, shall be required to obtain an Aspen sales tax/lodging tax license, which shall establish how this tax shall be collected and paid to the City. The manager of the association shall be responsible for the timely collection of the City sales tax for the City for rentals made through the association or a reservation system. The manager shall notify individual estate owners that they are responsible for the payment of sales tax to the City for units rented on a private basis.

(Ord. No. 21-2002 § 1 (part), 2002)

26.590.090. Timeshare documents

At the same time the applicant submits final development plans and a Development Agreement to the City for recordation, pursuant to Section 26.490, *Approval Documents*, or submits the necessary documents to record the subdivision exemption, the applicant shall also submit the following timeshare documents in a form suitable for recording. The Community Development Director may require the applicant to submit a draft version of these timeshare documents at the time of submission of the Project Review

A. Disclosure statement. The applicant shall submit a disclosure statement that contains the following information:

1. The name and address of the developer of the timeshare development as well as a summary of the developer's business experience, including all background and experience in the development of timeshare development and the present financial condition of the developer.
2. The name and address of the manager/management company for the development, if any and a description of the manager's/management company's responsibilities, powers, duties, authority and business experience. All information on the manager's background and experience specifically related to timeshare development shall be provided.
3. The names and addresses of the marketing entity and the listing broker and a statement of whether there are any lawsuits pending or investigations that have been undertaken against the marketing entity or listing broker and if so, a description of the status or disposition of said lawsuits or investigations. A summary of the marketing entity's business experience including all background and experience related to timeshare development.
4. A description of the timeshare units, including the developer's schedule for completion of all buildings, units and amenities, with dates of availability.
5. If the timeshare plan consists of a condominium or a similar form of ownership, a description of the development and any pertinent provisions of the condominium instruments.
6. Any restraints on the transfer of the purchaser's interest in the timeshare units or plan.
7. The timeshare use plan, which shall include a description of the rights and responsibilities under the plan.
8. Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan and, if there are encumbrances or liens, a statement as to whether, when and how they will be removed.
9. Notice of any pending or anticipated legal actions that are material to the timeshare units or plan of which the applicant has or should have, knowledge.
10. The total financial obligation of the purchaser, which shall include the initial price and any additional charges to which the purchaser may be subject in purchasing the unit.

11. An estimate of the dues, maintenance fees, real property taxes, sales taxes, real estate transfer tax and similar periodic expenses and the method or formula by which they are derived and apportioned, which shall include whether maintenance fees are determined by unit, time of year or prorated share of the overall maintenance costs or any other means utilized to compute maintenance fees.
12. A statement demonstrating the manner in which management/assessment fees will be held, utilized and accounted for.
13. A description of any financing offered by the applicant.
14. The terms and significant limitations of any warranties provided, including statutory warranties and limitations on the enforcement thereof or on damages.
15. A statement that the proposed development will comply with all applicable requirements of Title 12, Article 61, C.R.S. Upon request from the City, the applicant shall provide a copy of the documents submitted to the State for the registration and certification of the timeshare developer.
16. The extent to which a timeshare unit may become subject to a tax or other lien arising out of claims against other timeshare owners of the same timeshare unit.
17. The minimum percentage of units the developer will require be sold before the developer will proceed with the completion of the timeshare development.
18. A description of the maintenance to be supplied to the timeshare development, including how and when such maintenance will be provided.
19. Whether any or all the units in the proposed development will be available for participation in an exchange program. The applicant shall disclose which exchange program(s) the timeshare estate owners will be eligible to utilize.
20. A description of all insurance covering the property.
21. A description of the on-site amenities and recreational facilities which are available for use by the unit owners. All on-site amenities shall be owned by the homeowner's association and the developer shall not be allowed to charge any additional fees for use of the amenities. If there are any off-site facilities that are related to the property, these shall also be described, including a summary of any fees that timeshare owners would have to pay to use those off-site facilities.
22. A statement that any timeshare interest shall be expressly subject to all requirements and representations set forth in the disclosure statement.
23. For any timeshare development that is a conversion of an existing project, a statement shall be provided by the developer, based on a report prepared by an independent architect or engineer, licensed by the State, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the timeshare units. The statement shall also provide a list of any outstanding notices of uncured violations of Building Code or other municipal regulations, together with the estimated cost of curing those violations.

B. Timeshare development instruments. The applicant shall submit the following timeshare development instruments:

1. Instruments for the interval estate or time span estate including:
 - a) The legal description, street address or other description sufficient to identify the property.
 - b) Identification of timeshare time periods by letter, name, number or combination thereof.
 - c) Identification of the timeshare estate and the method whereby additional timeshare estates may be created.
 - d) The formula, fraction or percentage of the common expenses and any voting rights assigned to each timeshare estate.
 - e) Any restrictions on the use, occupancy, alteration or alienation of timeshare units.
 - f) Any other matters that the applicant or the City Council deems reasonably necessary.
2. All timeshare development instruments shall provide for the following:
 - a) That a homeowners association shall be established. Responsibility for maintenance of the development shall reside within the association. The association shall designate a managing agent. The management contract with the managing agent shall allow for either party to terminate, for cause, upon thirty (30) days notice. In the event the manager is terminated, a new managing agent shall be designated as quickly as possible by the association. Any management agreement shall specify the managing agent's duties and responsibilities to maintain the development.
 - b) A stipulation by the owner of the timeshare interest irrevocably designating the homeowners association and/or the managing agent as an agent for the service of legal notices for any legal action, proceeding or hearing pertaining to the timeshare interest or for the service of process (in a manner sufficient to satisfy the requirements of personal service in the state, pursuant to Rule 4 C.R.C.P., as amended).
 - c) Each timeshare interest with a multiple ownership shall be required to designate one managing agent as the spokesperson and voter for all of the owners involved.
 - d) That the association shall have the ability to compel a timeshare owner to pay maintenance fees and if any owner's fees are not paid, his or her interest shall be subject to a lien and foreclosure or other divestment. In the event an owner or his or her guests violate the rules and regulations of the association, the association shall have the right to enjoin the violation and the prevailing party in such suit shall be awarded his or her court costs and reasonable attorney's fees.
 - e) Provisions addressing reconstruction or repair of all or a portion of the timeshare development following its willful or non-willful destruction. Provisions should also be included addressing termination of the association, including the percentage of owners that must agree for the termination to become effective, what happens to the common elements in the event of a termination and how the proceeds shall be distributed in the event the property is taken due to condemnation or eminent domain.
3. Updating and filing.

- a) The developer and his or her successors and assigns (other than individual unit purchasers) shall have a continuing duty to update the disclosure statement and file with the City all amendments to the timeshare development's instruments. Such amendments shall comply with the requirements of this Section. No amendment which shall significantly alter the physical elements or operational practices of a timeshare lodge shall be effective unless approved and accepted by the City. All amendments shall be initially submitted for review to the Community Development Director who shall have authority to either approve a proposed amendment as in compliance with the requirements of this Section or refer the proposed amendment for appropriate subdivision or PUD approval.
 - b) The condominium association and/or the homeowners association or both if there be multiple associations and not individual unit owners shall have the continuing responsibility to submit to the City any amendments to the condominium documents and/or timeshare development instruments that would alter any condition imposed by the City or any prior representation made by the applicant to obtain approval of the timeshare development. Once the condominium association has been formed, the City shall not accept any amendments for review without prior approval thereby.
1. Before transfer of a timeshare unit and no later than the date of execution of any contract of sale, the applicant or any other seller of a timeshare unit shall provide the intended transferee with a copy of the disclosure statement and any amendments thereto, except this requirement shall not apply to the owner of a single timeshare estate in a development who is attempting to sell the estate.
 2. Conveyance of a timeshare interest shall be subject to the condominium declaration which shall include the disclosure statement as an exhibit thereto.

(Ord. No. 21-2002 § 1 (part), 2002; Ord. No. 36 -2013, § 17)