

TITLE 9

Zoning Regulations

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CHAPTER 1

General Provisions

- 9-1-1 Short title
- 9-1-2 Purpose and authority
- 9-1-3 Scope
- 9-1-4 Liability

9-1-1. Short title.

This Title 9 shall be known as the *Hot Sulphur Springs Zoning Code*, portions of which are referred to herein as "Chapters," and the entirety of which is referred to as this "Title" or this "code."

9-1-2. Purpose and authority.

The purpose of the provisions contained within this Title is to conserve the value of property within the Town and to encourage the most appropriate use of land throughout the Town, and, in the interest of the public health, safety, order, comfort, convenience, prosperity and general welfare, to establish general zoning regulations and zone districts which will lessen congestion in the streets; secure safety from fire and other dangers; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; provide for the classification of land uses and development; protect the tax base; and encourage business and industry and the protection of urban and nonurban development. The provisions contained within this Title are authorized by Article 23 of Title 31, C.R.S., as amended; Article 20 of Title 29, C.R.S., as amended; and Article 68 of Title 24, C.R.S., as amended.

9-1-3. Scope.

This Title relates to planning and zoning, and it does not in any way repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other ordinances.

9-1-4. Liability.

This Title shall not be construed to impose liability on the Town for any damage to persons or property by reason of any inspection or reinspection authorized in this Title or failure to inspect or reinspect, or by reason of the issuance of a building permit as provided in this Title.

CHAPTER 2

Interpretation, Enforcement and Penalty

- 9-2-1 Interpretation
- 9-2-2 Enforcement
- 9-2-3 Violation and penalty
- 9-2-4 Other remedies

9-2-1. Interpretation.

The provisions of this Title shall be held to be the minimum requirements for the promotion of the public health, safety, morals, order, convenience, happiness, prosperity and general welfare. This Title is not intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, wherever the provisions hereof impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces than are imposed or required by other provisions of this code, rules, regulations, permits, easements, covenants or agreements, the provisions of this Title shall govern.

9-2-2. Enforcement.

This Title shall be enforced by the Board of Trustees or its authorized agents or representatives. No oversight or dereliction on the part of any official, employee or authorized agent of the Town shall legalize, authorize or excuse the violation of the provisions of this Title.

9-2-3. Violation and penalty.

It shall be unlawful to build or use any building or structure or to use premises in this Town for any purpose or use other than one permitted by the terms of this Title in the area in which the same is located. The Town Attorney, upon request of the Board of Trustees, shall institute injunction, abatement or any other appropriate action to enjoin, abate or remove such violation. A separate and distinct offense shall be deemed committed upon each day that a violation is permitted to exist or continue. Any person, whether as principal, agent, employee or otherwise, who violates any of the provisions of this Title shall be guilty of a violation of this Title and shall be subject to the penalties provided in Section 1-4-1 of this Code.

9-2-4. Other remedies.

The remedies set forth herein are cumulative. The initiation of any action or the imposition of any penalty under this Title shall not preclude the Town from instituting any other appropriate action or proceeding to require compliance with the provisions of this Title.

CHAPTER 3

Definitions

9-3-1 Definitions

9-3-1. Definitions.

All words in this Title, except as specifically defined in this Title, shall carry their customary meanings. Any word or term used in this Title not specifically defined below shall be interpreted as that word is defined elsewhere in this Code or, if not defined elsewhere in this Code, as defined in Colorado Revised Statutes or, if not defined in the statutes, as defined in the most recent edition of Webster's Dictionary. Words used in the present tense include the future tense; the plural includes the singular; the word *shall* is mandatory; the word *may* is permissive; the words *occupied* or *used* shall be considered as though followed by the words *or intended, arranged, or designed to be used or*

occupied. For the purposes of this Title, the words and phrases set forth below shall have the meanings ascribed to them, as follows:

Accessory building or structure. A subordinate building or structure, the use of which is incidental to that of the main building on the same lot (e.g., fences, hedges and walls and garden tool sheds).

Accessory use. A subordinate use which is clearly incidental and related to the principal use of a lot or building located on the same lot (e.g., home occupations, household pets or storage of merchandise in the Business Zone District).

Adjacent lot. A lot sharing a common point with the lot line of the subject lot or a lot that would share such a point were it not for the presence of a street or right-of-way.

Administrative review. Consideration of an application by a reviewing body, e.g., the Planning and Zoning Commission, wherein notice and a public hearing is not required, although public comment during a public meeting may be permitted, at the discretion of the reviewing body.

Adult bookstore, adult novelty store or video store. A commercial establishment which, as one (1) of its principal business purposes, offers for sale, rental or viewing for any form of consideration any one (1) or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are distinguished or characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

Adult business. An adult bookstore, adult novelty store, adult video store or adult cabaret.

Adult cabaret. A nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment which regularly features live adult entertainment.

Adult entertainment. Any exhibition, display or dance which involves the exposure to view of any portion of the female breast below the top of the areola, male genitals, female genitals or the pubic hair, anus or cleft of the buttocks of any person, or male genitals in a discernibly turgid state even if completely and opaquely covered.

Antenna or antennae. Any transmitting or receiving device or equipment mounted on a tower, building or structure that radiates, captures, receives, switches, emits or transmits electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communication signals, including but not limited to paging, enhanced specialized mobile radio service, personal communication services, microwave link antenna, cellular telephone and other related technologies.

Antenna (whip). Any antenna cylindrical in shape and less than eight (8) inches in circumference that emits signals in a three-hundred-sixty-degree horizontal plane for the transmission or reception of wireless telecommunications signals.

Automobile service station. A retail establishment, also referred to as a gas station, at which vehicles are serviced, especially with fuel, oil, air and water, and where ancillary minor repair, maintenance or replacement of electrical or mechanical devices may be obtained.

Bed and breakfast rooms. A subordinate use of a single-family dwelling unit which offers sleeping rooms for overnight transient occupancy, wherein there are no cooking facilities located within the sleeping rooms; where, however, meals may be prepared by the resident owner in the dwelling kitchen and taken in a common dining room.

Boarding or rooming house. A building where meals, lodging or both are provided for compensation for less than six (6) persons, not including members of the owner's or proprietor's immediate family who might be residing in the same building. A boarding or rooming house shall not contain more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended, unless related by blood, marriage or adoption.

Building. A structure which has a roof supported by columns or walls.

Building height. The vertical distance measured from the average finished grade of the four (4) corners of an existing or proposed building or structure to the highest point of the roof ridge, parapet wall, church steeple or attached ceremonial feature. The height of a stepped or terraced building is the maximum height of any segment of the building.

Certificate of notice to mineral estate owners. A signed and notarized certificate from an applicant, pursuant to and in accordance with Section 24-65.5-103, C.R.S., that either: (1) proper notice has been provided to all mineral estate owners; or (2) such notice is not required because the records of the County Clerk and Recorder do not identify any mineral estate owners of any portion of the property subject to the relevant application. This document must be in substantially the same form as the Certificate of Notice to Mineral Estate Owners on file with and available from the Town.

Church. An establishment for the conduct of religious activities, including accessory housing. This term includes the terms *temple*, *seminary*, *retreat*, *monastery* and similar terms.

Commercial use. An activity which is carried out for monetary gain, or the use of real or personal property, including vehicles or animals, in such activity.

Dwelling unit. A housekeeping unit designed and used for occupancy by a single individual or a family and containing cooking, living, sleeping and sanitary facilities, and having a separate entrance. All dwelling units shall contain at least five hundred (500) square feet of floor area measured on the outside walls.

Dwelling unit, multi-family. A structure or portion thereof designed to house two (2) or more families living independently of one another, with each dwelling unit having a separate entrance.

Dwelling unit, single-family. A residential structure, which may be a manufactured home, designed to house a single-family unit from lowest level to roof, with not more than one (1) kitchen, having an outside entrance, but not necessarily occupying a private lot.

Family. Any number of persons related by blood, marriage, adoption or legal custody, plus domestic servants employed for service on the premises, or a group of not more than five (5) persons who need not be so related living together as a single housekeeping unit. The word *family* shall not include paying guests, occupants of boarding houses, hotels, motels, hostels or other commercial lodging facilities, nor shall it include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended, unless related by blood, marriage or adoption.

Fence. A permanent or semi-permanent barrier or structure used to prevent escape or intrusion or to mark a property boundary. The term *fence*, as used in this Title, includes walls.

Floor area. The area included within the surrounding exterior walls of a building or portion thereof.

Frontage. That side of a lot abutting on a street ordinarily regarded as the front of the lot. See definition of *Lot line, front*.

Garage. An accessory building or an accessory portion of a main building designed or used for the shelter or storage of motor vehicles owned or operated by the occupant of the main building.

Group care facility. A residential facility providing custodial care and treatment or social services in a protective living environment for more than five (5) persons who are residing in the facility either voluntarily or by court placement.

Home occupation. Any nonresidential use customarily conducted entirely within a dwelling unit and carried on by the occupants thereof, which use is clearly incidental and secondary to the primary use of the dwelling for dwelling purposes and which does not change the external character thereof except for a sign as permitted herein. See Section 9-7-1.

Hospital. An institution providing health services for patients suffering from illness, disease, injury, deformation and other abnormal physical or mental conditions, including, as an integral part of the institution, such related facilities as inpatient and outpatient care, laboratories, training facilities, central service facilities and staff offices.

Hotel/hostel. A building designed for occupancy of individuals on a temporary basis with or without meals and in which there are six (6) or more guest rooms.

Household pet. Animals or fowl ordinarily permitted in a residential house and kept for company or pleasure, such as dogs, cats, ferrets and canaries.

Kennel. An building or structure used for the permanent or temporary boarding or keeping of more than three (3) dogs of more than six (6) months of age, or more than one (1) litter of pups, or more than three (3) cats of four (4) months of age, or more than one (1) litter of kittens, or more

than a total of six (6) dogs and cats more than three (3) months of age in any combination; or engaging in the commercial business of breeding, buying, selling, trading, training or boarding dogs or cats or both dogs and cats, or other household pet.

Lot. A parcel of land occupied or designed to be occupied by a main building and the accessory buildings or uses as permitted herein. A lot may or may not be the land shown as a lot on a duly recorded plat.

Lot area. The square footage or acreage of a lot as measured within the boundaries of the lot or a horizontal plane upon which the boundaries have been vertically projected, including all easements.

Lot coverage. The percentage of a lot covered by the principal structure and accessory structures.

Lot line, front. The property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered the front line, and the shorter street frontage shall be considered the front line.

Lot line, rear. The line opposite the front lot line.

Lot line, side. Any lot lines other than the front lot line or rear lot line.

Manufacture. The first operation or operations which transform a material from its raw state to a form suitable for fabrication processing. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants or to order for firms or consumers.

Manufactured home. A structure designed primarily for use as a residence which is partially or wholly manufactured in a factory or at a location other than the residential site of the completed home, is not less than twenty-four (24) feet in width or less than thirty-six (36) feet in length, is installed on a permanent foundation, has brick, wood or cosmetically equivalent exterior siding and a pitched roof and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401, et seq., as amended. Nothing in this definition shall be construed to exempt a manufactured home from the minimum floor area requirements for any zoning district.

Marijuana cultivation facilities. Shall have the meaning as set forth in Section 16 of Article XVIII of the Colorado Constitution as the same may, from time to time, be amended.

Marijuana product manufacturing facilities. Shall have the meaning as set forth in Section 16 of Article XVIII of the Colorado Constitution as the same may, from time to time, be amended.

Marijuana testing facilities. Shall have the meaning as set forth in Section 16 of Title XVIII of the Colorado Constitution as the same may, from time to time, be amended.

Marijuana stores (retail). Shall have the meaning assigned to *retail marijuana stores* as set forth in Section 16 of Article XVIII of the Colorado Constitution as the same may, from time to time, be amended.

Mobile home. A movable structure without motor power designed for residential use without a permanent foundation, having plumbing, heating and electrical systems contained therein. *Mobile home* does not include travel or truck campers designed primarily for temporary dwelling or camping, or personnel/equipment shelters not designed primarily for residential use.

Mobile office. A movable structure designed and used for the operation of business or professional activities.

Motel. A building or group of buildings containing guest rooms designed for transient occupancy, which may have eating and drinking facilities as an accessory use, with a garage or parking area near each rental unit.

Nonconforming lot. A lawfully established lot, properly described, depicted and recorded in the records of the County Clerk and Recorder, which does not meet current requirements for area, width, frontage, size or any other requirement for the zoning district in which the lot is located.

Nonconforming structure. A lawfully erected building that does not meet current limitations and restrictions on building size, height, bulk or location on the lot for the zoning district in which the structure is located.

Nonconforming use. A lawful use of land that does not comply with current use restrictions, regulations or provisions applicable to the land on which such use is located, but which fully complied with applicable use restrictions, regulations and provisions at time the use was established.

Outdoor recreation facilities. Any outdoor commercial enterprise primarily devoted to providing rides, recreation, games or other amusements.

Owner. The record owner, whether person, partnership, association or corporation.

Parking, off-street. Any parking area or parking structure not including the right-of-way of a street, road, alley or highway.

Parking space. That part of off-street parking, exclusive of drives, turning area or loading spaces, devoted to parking of one (1) automobile or vehicle. The minimum size of a parking space shall be twenty (20) feet by ten (10) feet unless it is demonstrated that a smaller size can appropriately accommodate an automobile or vehicle.

Pawn shop. A commercial establishment where a pawnbroker, as defined by Colorado Revised Statutes, regularly conducts the business of making contracts for purchase or purchase transactions.

Permitted use. A use allowed in a particular zone subject to applicable restrictions, regulations and provisions and for which no special use review is required.

Person. Any individual, firm, trust, partnership, public or private association, corporation, joint venture or joint stock company.

Principal structure. That structure whose predominant use is permitted in that particular zone.

Principal use. The primary use to which a lot or building is put.

Public building/facility. Any building, facility, park, open space or improvement open to general use, participation or enjoyment of the public and owned or leased by a municipality, county, state or federal government or by a political subdivision thereof or by a public utility corporation.

Public water and/or public sewage facility. Those facilities of a municipality or a sanitation district approved by the Colorado State Health Department which provides for the furnishing of water or the processing of sewage.

Residential group home. A residential facility established as either an owner-occupied or nonprofit group home for the exclusive use of not more than eight (8) persons:

(a) Sixty (60) years of age or older who do not need skilled and intermediate care facilities, plus no more than two (2) live-in staff persons employed in the care and supervision of such elderly persons; or

(b) Handicapped persons as defined in Title II of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by Section 24-34-301, C.R.S., and such additional necessary persons employed in the care and supervision of such handicapped or disabled persons. A group home for the handicapped or disabled shall not include more than one (1) person required to register as a sex offender pursuant to Section 18-3-412.5, C.R.S., as amended.

Self-storage facility or mini-storage. A building or group of buildings consisting of individual, self-contained units leased to individuals only for short-term indoor storage of personal property, including household items, recreational vehicles and equipment and other nonhazardous, nonperishable durable goods. Said facilities may contain a single-family dwelling utilized as a caretaker unit. (Ord. 2009-7:2/368)

Setback. The distance between the property line and the nearest point on the outer wall, at grade, of the principal building or outer edge of any above-grade extension of the principal building that projects beyond the outer wall of the building.

Setback line, front. A line which forms a vertical plane parallel with a front lot line of a lot, tangent to that part of a building or structure situated on such a lot which is closest to such front lot line and intersecting two (2) other lot lines of such lot; or the line concentrically parallel to the right-of-way line of the street on a cul-de-sac (bulb).

Setback line, rear. A line parallel with a rear lot line of a lot, tangent to that part of a building situated on such lot which is closest to such side rear lot line and intersecting two (2) other lot lines of such lot.

Setback line, side. A line parallel with a side lot line of a lot, tangent to that part of the building or structure which is closest to such side lot line, and intersecting two (2) other lot lines of such lot.

Shelter house. A residential dwelling providing temporary care, assistance and supervision of persons who require transitional housing accommodations made necessary due to conflict or threat of personal harm at the person's former living arrangement. The residential dwelling shall not provide refuge for fugitives from justice. (Ord. 2011-6-1-382 §1)

Signs. Any writing (including letter, word or numeral), pictorial presentation (including illustration or decoration), emblem (including device, symbol or trademark), flag (including banner or pennant) or any device, figure or similar character, which:

- (a) Is a structure, or any part thereof, or is attached to, painted on or in any other manner represented on a building or other structure or device, or is in any way attached thereto;
- (b) Is used to announce, direct attention, identify or advertise; and
- (c) Is visible from outside the building or structure.

Special use. A use other than a use by right which is permitted pursuant to the terms and conditions of a special use permit issued in accordance with the provisions of this Chapter. (Ord. 2009-7:1/367)

Special use permit. The written authority for a use other than a use by right issued by the Town Board of Trustees. (Ord. 2009-7:1/367)

Specified anatomical areas means: (a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or (b) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

Specified sexual activities means: (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or (c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

Street. A way for vehicular traffic, including but not limited to a road, highway or other public way.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, columns, posts, beams, girders, floor joists or roof joists.

Structure. Anything constructed or erected upon or in the ground, including swimming pools, tennis courts, hot tubs, etc., excepting utility power lines or poles, earthworks or walls and fences less than six (6) feet high.

Telecommunications facility or facilities. The plant, equipment, buildings, fencing and other real and personal property, including but not limited to cables, wires, conduits, ducts, pedestals,

antennas, towers, structures, electronics and other appurtenances used to transmit, receive, distribute or provide wireless telecommunications services. The term does not include the following:

(a) Amateur radio operators' equipment licensed by the Federal Communications Commission;

(b) Any noncommercial satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned Business; or

(c) Any noncommercial satellite earth station one (1) meter or less in diameter, regardless of zoning classification.

Telecommunications facility (freestanding). A stand-alone structure such as a monopole or lattice tower, attached antennae and associated equipment storage shelters.

Telecommunications facility (structure- or building-mounted). Any commercial mobile radio service facility, antenna or equipment attached to or mounted upon any structure or building. The term does not include a freestanding facility.

Theater. A building or part of a building devoted to showing motion pictures or for dramatic, musical, operatic or live performances for admission to which money is received and no audience participation or meal service is allowed.

Travel trailer. Any vehicle or similar portable structure designed without a foundation, other than wheels, jacks or skirts, and so designed or constructed as to permit the occupancy for living or sleeping purposes; provided, that any such structure over thirty-two (32) feet by eight (8) feet, including hitch and bumper, shall be considered a mobile home for purposes of this Title.

Truck camper. A portable structure designed primarily to be transported on a truck or other similar vehicle and so designed or constructed as to permit occupancy for living or sleeping purposes.

Use. The purpose for which any land, structure or building is designated, maintained or occupied.

Variance. A legal modification of applicable zoning district provisions, such as yard, lot width, yard depth, sign, setback and off-street parking and loading requirements, granted by the Board of Adjustment due to the peculiar conditions existing within a single piece of property.

Veterinary hospital. A place where animals or pets of all types are given medical or surgical treatment. Use as a kennel shall be limited to short-term boarding of no more than _____ (____) consecutive days and shall only be incidental to such hospital use and need not be enclosed within the main building.

Yard, front. That portion of a lot lying between a public street and the nearest parallel front setback line of the lot.

Yard, rear. That portion of a lot lying between the rear lot line and the rear setback line of the lot.

Yard, side. That portion of a lot lying between a side lot line and the nearest parallel side setback line of the lot.

Zoning district. An area of land in which specific uses designated by this Title are permitted, the boundaries of which, unless otherwise specified in this Title, shall be considered to be lot lines, centerlines of streets or extended streets, section lines or Town limit lines. (Ord. 2009-7:1/367; Ord. 2009-7:2/368 Ord. 2011-6-1-382 §1; Ord. 2013-3-1-388 §1)

CHAPTER 4

Land Use/Development Review

- 9-4-1 Review process**
- 9-4-2 Review process chart**
- 9-4-3 Application and review fees**
- 9-4-4 Rezoning petitions**
- 9-4-5 Special use permits**
- 9-4-6 Zone text amendments**
- 9-4-7 Right-of-way vacations**

9-4-1. Review process.

(A) All land use/development applications must be reviewed and approved in accordance with the review process and standards set forth in this Chapter. The chart set forth in Section 9-4-2 establishes the required review steps and notice requirements applicable to different forms of land use review. Applicants seeking land use/development approval should refer to the chart to determine which one (1) or more "Approval Requested" under the left-hand column of the chart apply to the proposed development. The required stages of review and accompanying notice requirements are shown on the lines to the right. Submission requirements and the specific review process and notice requirements are set out in detail in the balance of this Chapter under the appropriate headings.

(B) The Planning and Zoning Commission, Board of Trustees, Town staff or Board of Adjustment may require the submission of any plan, study, survey or other information, in addition to that specified in this Chapter and at the applicant's expense, as such body or individual may determine necessary to enable it to review and act upon the application in order to determine whether the application complies with the requirements of this Chapter.

(C) Protest to changes; supermajority. If a written protest against any proposed change in this Title or in the zoning classification of any property is filed with the Town Clerk at least twenty-four (24) hours before the Board of Trustees votes on the same, and such protest is signed by the owners of twenty percent (20%) or more of the property proposed for rezoning or of the area of land located within one hundred (100) feet of any part of such property, disregarding intervening public streets and alleys, such change shall not become effective except by the favorable vote of two-thirds ($\frac{2}{3}$) of all the members of the Board of Trustees.

9-4-2. Review process chart.

<i>Approval Requested</i>	<i>Planning and Zoning Commission</i>	<i>Board of Trustees</i>	<i>Board of Adjustment</i>
Rezoning petition	A	H, with PO, PU, and L	N/A
Special use permit		H, with C, L and PU	
Zoning text amendment	A	H, with PU	N/A
Right-of-way vacation	A	H, with PO, PU, and L	N/A

Key:

- A = Administrative review
- C = Certificate of notice to mineral estate owners
- H = Public hearing
- PO = Posting notice on the property
- PU = Publication of notice in a newspaper of general circulation
- L = Letter notice to adjacent or other specified property owners
- N/A = Not applicable

(Ord. 2009-7:1/367)

9-4-3. Application and review fees.

(A) At the time of application for any land use/development review and prior to any review, the applicant shall pay to the Town the fee necessary to cover the administrative and review costs for each project requiring review. The fees shall be used by the Town for consulting, legal expenses, public notice and hearing expenses, and administrative and supervisory expenses or other costs incurred in review of any land use application. The amount of the fee for each type of application shall be determined by the Board of Trustees and adopted by resolution, as may be amended from time to time. The Town and its boards, commissions and departments shall be exempt from payment of such review fees.

(B) Review fees shall include the costs of any special reviews by engineering, legal, technical, scientific and other expert personnel not employed by the Town on a full-time regular basis to review land use applications. When the Town utilizes such independent expert review, the expense thereof ("supplemental fees") shall be added to the application fees and billed to the applicant. Such supplemental fees shall be paid within ten (10) days of the date of the Town's invoice to the applicant.

Payment of such supplemental fees shall be a precondition for the granting of all permits or approvals requested by the applicant, and failure to pay review fees and supplemental fees shall be reason for denial of the application or suspension of review of the application until such time as the reviews fees and supplemental fees are paid to and received by the Town.

9-4-4. Rezoning petitions.

(A) Purpose. The Board of Trustees may, from time to time, on its own motion or on petition by any property owner, after notice and public hearings as provided by law and in accordance with the procedures and requirements set forth in this Chapter, amend, supplement or change the Zoning Map; provided that, where land is sought to be rezoned in a proposal other than by the Board of Trustees, the person petitioning for rezoning shall have record title ownership interest in the subject property.

(B) Submittal requirements for rezoning petitions.

(1) Application. Any request to establish or change zoning for specific property shall be filed with the Town Clerk/Treasurer and shall be signed by the owners of one hundred percent (100%) of the property proposed for rezoning, exclusive of public streets and alleys. Such application shall furnish or provide at a minimum the following information:

(a) A certified survey and legal description of the property by a registered land surveyor or professional engineer;

(b) A list of the names and addresses of all owners of property within the area proposed for zoning, together with a legal description of the property within such area owned by each such owner;

(c) Proof of ownership of the property as evidenced by a title insurance policy or commitment issued within six (6) months from the date of application;

(d) A statement of the present zoning of the property proposed for zoning;

(e) A statement of the type of zoning and uses sought by the petition;

(f) A narrative summary of the existing uses within the property proposed for zoning;

(g) A list of the names and addresses of the owners of all properties within two hundred (200) feet of the exterior boundaries of the property proposed for zoning, disregarding intervening public streets and alleys; and

(h) Any additional information as may be required by the Town, by specific requirements set forth in this Title, or necessary to adequately review the application.

(2) Approval criteria. Before a change of zone may be approved, the applicant shall show and the Planning and Zoning Commission and Board of Trustees shall find that the proposed zoning meets all of the following requirements:

(a) That the proposed zoning is in conformity or will bring the property into conformance with the Hot Sulphur Springs Master Plan or reflects conditions that have changed since adoption of the Master Plan;

(b) That there have been material changes in the character of the neighborhood due to installation of public facilities, other zone changes, new growth trends or development transitions that justify a change in the zoning;

(c) That the proposed zoning will tend to preserve and promote property values in the neighborhood;

(d) That development of the property in accordance with the proposed zoning will be in harmony and compatible with surrounding land uses and present development in the area;

(e) That the property cannot be reasonably used and developed as presently zoned;

(f) That the proposed zoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems or seriously reducing light and air to adjacent properties;

(g) That the proposed zoning will otherwise promote the public welfare; and

(h) That denial of the proposed zoning would not preclude any reasonable economic use of property.

(C) Planning and Zoning Commission review. The Town Clerk shall not schedule administrative review at a public meeting before the Planning and Zoning Commission until a rezoning petition is complete and contains all of the information required in Paragraph (B)(1) above. Upon receipt of a complete application, the Town Clerk shall schedule a Planning and Zoning Commission meeting on the application, to be held within sixty (60) days of receipt of the complete application and the Town Clerk shall notify the applicant by certified mail to appear in support of said application. Within sixty (60) days of acceptance of a completed application, or by request for consideration of an amendment by the Board of Trustees, the Planning and Zoning Commission shall consider, by administrative review, the proposed rezoning petition. Upon completion of its consideration of the request, the Planning and Zoning Commission shall prepare and transmit, within thirty (30) days, its written recommendations concerning the same to the Board of Trustees. The Planning and Zoning Commission may recommend approval, approval subject to reasonable conditions or denial. Reasonable conditions of approval necessary to mitigate negative impacts of the proposed zoning may include, but are not limited to, restricting the types of permitted uses.

(D) Board of Trustees review.

(1) Notice of public hearing. Upon receipt of the recommendations of the Planning and Zoning Commission, a public hearing on the proposed petition shall be scheduled before the Board of Trustees. It shall be the responsibility of the applicant, not less than thirty (30) days prior to the date scheduled for the hearing, to publish notice thereof in a paper of general circulation in the Town. The applicant shall mail a written notice of said hearing by certified mail, return receipt requested, at least fifteen (15) days prior to the hearing date, to all the owners of all

properties within two hundred (200) feet of any part of the property proposed for zoning, disregarding intervening public streets and alleys. At least fifteen (15) days prior to the hearing, the applicant shall also post notice of said hearing on the property frontages. Every form of notice shall state the time, date and location of the public hearing, the location of the property and the nature of the zoning request. At least three (3) days before the hearing, the applicant shall also provide the Town with a completed Certificate of Notice to Mineral Estate Owners.

(2) Public hearing. The public hearing before the Board of Trustees shall afford the Town staff and the applicant, as well as all other interested persons, an opportunity to be heard. The applicant bears the burden of establishing that the requested zoning meets all of the criteria set forth in Paragraph 9-4-4(B)(2). The public hearing may be continued to a time and date certain where the Board of Trustees requires additional information or upon request of the applicant as approved by the Board of Trustees.

(3) Decision. Within thirty (30) days of the public hearing on the requested rezoning, the Board of Trustees shall approve, approve with conditions or disapprove the rezoning request, stating its reasons for such action. The Board of Trustees may impose reasonable conditions of approval necessary to mitigate negative impacts of the proposed rezoning, including but not limited to restricting the types of permitted uses. If the Board of Trustees fails to act within thirty (30) days, the requested rezoning shall be deemed granted.

9-4-5. Special use permits.

(A) Purpose. The following provisions establishing the procedure for review and approval of special use permits within the Town shall be for the purpose of permitting discretionary special uses in those zone districts where such uses may be appropriate and compatible with existing uses, if properly designed, developed, operated and maintained, and any adverse or undesirable impacts can be mitigated. There is no presumption that a special use is compatible with other uses in the zone district or that such use will be approved in every instance for the zone district in which it is permitted. All special uses shall conform to the minimum development standards and bulk requirements of the zone district in which the use is located, unless otherwise specified in the conditions of approval imposed by the Board of Trustees.

(B) Procedure for applications for special use permits.

(1) Application requirements. In addition to the general requirements for special use permits set forth in Section 2-1-6 of this Code, in cases involving applications for a special use permit, the owner of property for which a special use permit is sought shall submit an application to the Town Clerk, which application shall contain at a minimum the following information:

(a) Written description of the proposed use in sufficient detail to allow review and analysis of the operation and its potential impact on the existing surrounding neighborhood;

(b) Current evidence of title, including a title insurance policy or commitment, demonstrating that the applicant has a legal interest in the property. Such evidence of title shall include a complete and accurate legal description of the property and a certified survey;

(c) A site plan of the property involved, drawn to scale, showing dimensions and all significant features, including the location of existing and/or proposed buildings and other structures, parking areas, fences, walls, proposed public improvements, means of ingress and egress and landscaping;

(d) A list of the names and addresses of all owners of property within two hundred (200) feet of the exterior boundaries of the property which is the subject of special use review; and

(e) Any additional information as may be required by the Town or by specific requirements set forth in this Title, or necessary to adequately review the application.

(2) Review by Planning and Zoning Commission. The Town Clerk shall not schedule an administrative review at a public meeting before the Planning and Zoning Commission until a special use application is complete and contains all of the information required in Paragraph (B)(1) above. Upon receipt of a complete special use permit application, the Town Clerk shall schedule a Planning and Zoning Commission meeting on the application, to be held within sixty (60) days after receipt of a complete special use application, and the Town Clerk shall notify the applicant by certified mail to appear in support of said application. Within sixty (60) days of acceptance of a completed special use permit application, the Planning and Zoning Commission shall consider, by administrative review, the proposed special use permit application. Upon completion of its request, the Planning and Zoning Commission shall prepare and transmit, within thirty (30) days, its written recommendations concerning the same to the Board of Trustees. The Planning and Zoning Commission may recommend approval, approval subject to reasonable conditions or denial. Reasonable conditions of approval necessary to mitigate impacts of the proposed special use may include, but are not limited to, restricting the types of permitted uses.

(3) Board of Trustees review.

(a) Notice of public hearing. Upon receipt of the recommendations of the Planning and Zoning Commission, a public hearing on the proposed special use permit application shall be scheduled before the Board of Trustees. It shall be the responsibility of the applicant, not less than thirty (30) days prior to the date scheduled for the hearing, to publish notice thereof in a paper of general circulation in the Town. The applicant shall mail a written notice of said hearing by certified mail, return receipt requested, at least fifteen (15) days prior to the hearing date, to all the owners of all properties within two hundred (200) feet of any part of the property proposed for the special use permit, disregarding intervening public streets and alleys. Every form of notice shall state the time, date and location of the public hearing, the location of the property and the nature of the special use permit application. At least three (3) days before the scheduled public hearing, the applicant shall provide the Town with a completed certificate of notice. (Ord. 2010-10:1/377)

(b) Public hearing. The public hearing before the Board of Trustees shall afford the Town staff and the applicant, as well as other interested persons, an opportunity to be heard. The applicant bears the burden of establishing that the requested special use permit meets all the criteria set forth in Subsection 9-4-5(C). The public hearing may be continued to a time and date certain where the Board of Trustees requires additional information or upon request of the applicant as approved by the Board of Trustees.

(c) Decision. Within thirty (30) days of the public hearing on the requested special use permit application, the Board of Trustees shall approve, approve with conditions or disapprove the special use permit, stating its reasons for such action. The Board of Trustees may impose reasonable conditions of approval necessary to mitigate negative impacts of the proposed special use, including but not limited to restricting the types of permitted uses. If the Board of Trustees fails to act within thirty (30) days, the requested special use permit shall be deemed granted.

(C) Criteria for approval. A use may be permitted by special review if the applicant shows and the Planning and Zoning Commission and Board of Trustees find that the proposed use meets all of the following requirements:

- (1) That all existing criteria for minimum lot area, setbacks, maximum building height, permitted signs and parking are met;
- (2) That the proposed use will not change the predominant character of the neighborhood and will be compatible with the surrounding area;
- (3) That the proposed use will not result in an over-intensive use of land;
- (4) That the proposed use will not require a level of community facilities and services greater than what is available;
- (5) That the use will not result in undue traffic congestion or hazard;
- (6) That there will not be significant air, odor, water or noise pollution caused by the proposed use;
- (7) That the use will be adequately landscaped; and
- (8) That the use will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of the Town.

(D) Specific special use regulations. Special uses permitted pursuant to these regulations shall conform to the following requirements:

(1) Self-storage facility or mini-storage in the Business Zone District:

(a) Permitted locations. Self-storage facilities or mini-storage uses are permitted only by special use permit in the Business Zone District.

(b) Conditions. Uses not related to the short-term storage of household items, recreational vehicles and equipment and nonhazardous, nonperishable durable goods are prohibited at self-storage or mini-storage facilities. This includes, but is not limited to, automobiles and heavy equipment storage; storage of volatile, flammable and hazardous items, perishable goods or animals; and use as a residence, office, workshop, studio or place of business. Electrical service to individual units must be for lighting and climate control only. Electrical outlets must not be provided in individual units. Any proposed outdoor storage of automobiles or recreational vehicles must be totally screened from public view or adjacent properties. The

Town reserves the right to send out applications for use by special review to applicable reviewing agencies to determine compliance with the regulations over which such agencies have jurisdiction and to make appropriate recommendations based on such review.

(c) Architectural theme. Architectural details must relate to an overall architectural theme. Facilities shall be designed consistent with the dominant theme of surrounding buildings or any Town design standards. Bright primary colors are prohibited on buildings, regardless of corporate standards or preferences. Earthen-tone colors shall be utilized.

(d) General architectural requirements. Buildings must include design elements such as columns, ribs or pilasters, piers and patterns to prevent a utilitarian, industrial, warehouse-like appearance. Wood, composite or synthetic accents are encouraged. Unit doors must be screened or sited so they are not visible from the street or residential properties. Unit doors must be integrated into the overall design theme of the site through color and texture.

(e) Roof design. Buildings must include pitched roofs with a high quality surface such as architectural shingles or seam metal. Flat roofs are prohibited. Roofs must have overhanging eaves extending past the building wall.

(f) Landscaping. Landscaping and berming must be provided to screen storage buildings and any outside storage areas from the public right-of-way and adjacent residential zoning districts. A landscape and irrigation plan must be provided.

(g) Circulation and stacking. Twenty percent (20%) of the units must be accessible to a full-sized moving truck. Drive aisles must be at least twenty-four (24) feet wide when vehicular access is provided between buildings with opposing storage access. All drive aisles and unit access points must be surfaced in impervious or permeable pavement. Units and drive aisles must be sited so a vehicle parked at a unit cannot trap another vehicle and prevent it from leaving the facility. Parking spaces must not be located in the street yard.

(h) Signs. Signs must comply with Section 9-7-2 of this Title.

(i) Fencing and screening. Perimeter fencing, security fencing and entry gates must be constructed of attractive materials that are compatible with the design and materials used throughout the site. Acceptable fencing types, including wood, masonry, decorative metal and wrought iron, are encouraged. Barbed wire, stockade fencing, cinder block, precast concrete and chain link fencing are prohibited.

(j) Outdoor lighting. Night lighting and security lighting must be sensitively designed and directed downward to ensure that no off-site glare is directed to neighboring parcels and that the overall intensity of the site lighting is not excessive. Excessive night security lighting is discouraged, and other security measures should be considered. Building-mounted lighting must be used instead of freestanding light poles wherever possible. When a self-storage facility is adjacent to a residential use, lights must be turned off between 9:00 p.m. and 6:00 a.m.

(k) Snow storage and drainage. A snow storage and drainage plan shall be provided. The drainage plan must comply with any and all design and construction standards of the Town,

including, but not limited to any drainage standards. All drainage shall not impact adjacent properties. Snow storage areas must be at least twenty-five percent (25%) of all impervious surfaces (driveways, access and parking). (Ord. 2009-7:2/368)

(2) Shelter house in the Business Zone District.

(a) On-street parking is prohibited. All parking shall be provided on site and shall not encroach onto adjacent or neighboring properties.

(b) Snow storage. Adequate snow storage shall be provided on site and shall not encroach onto adjacent or neighboring properties.

(c) Outdoor lighting. Night lighting and/or security lighting must be sensitively designed, shielded and directed downward to minimize off-site glare to adjacent or neighboring properties. All security lighting shall be on a motion detector and/or sensor.

(d) Fencing. Perimeter fencing, security fencing and/or entry gates must be constructed of attractive materials that are compatible with the design and materials used throughout the site. Acceptable fencing types include wood, masonry, decorative metal and wrought iron. Barbed wire, stockade fencing, cinder block, pre-cast concrete and chain link fencing are prohibited.

(e) Property maintenance. The property shall be appropriately maintained in a proper manner, including but not limited to: the exterior of the dwelling, landscaping, driveway and parking.

(f) Management. The use and property shall be properly supervised. A daily record of all occupants, as well as any approved visitors, shall be maintained. The use shall have proper security. An emergency plan shall be provided and made available for all adjacent or neighboring properties, along with twenty-four-hour contact information of each party responsible for the property and use.

(g) Occupancy. The maximum number of persons or occupants housed in the dwelling shall be provided.

(h) Housing duration. The maximum number of days an occupant may be housed in the dwelling (housing duration) shall be provided. (Ord. 2011-6-1-382 §3)

(E) Conditions of approval. The Planning and Zoning Commission may recommend, and the Board of Trustees may require, as a condition of approval of a special use permit, any conditions necessary to improve or modify the site plan; any conditions necessary to ensure that any negative impacts of the proposed use are eliminated or mitigated; any conditions necessary to ensure that the proposed development or use will be commenced and fully completed in a timely fashion; and any other reasonable conditions necessary to mitigate impacts of the use.

(F) Recording special use permits. Upon approval by the Board of Trustees of an application for a special use permit, the Town shall issue the special use permit and the Town Clerk shall file the original special use permit with the County Clerk and Recorder. Before the special use permit is

issued, the applicant shall pay all costs and expenses to be incurred by the Town in recording the permit. (Ord. 2009-7:1/367; Ord. 2009-7:2/368; Ord. 2010-10:1/377; Ord. 2011-6-1-382 §3)

9-4-6. Zoning text amendments.

(A) Amendment proposals. Requests or proposals to amend, modify, supplement or repeal the zoning regulations set forth in this Title may be initiated by the Board of Trustees, Planning and Zoning Commission or Board of Adjustment.

(B) Planning and Zoning Commission. Any proposal to amend the text of this Title shall be in writing and referred to the Planning and Zoning Commission for its consideration by administrative review within thirty (30) days of receipt of such proposal. A recommendation to approve, to modify or to deny the proposal shall be rendered by the Planning and Zoning Commission within thirty (30) days of such referral. Failure to make a recommendation to the Board of Trustees within thirty (30) days shall be deemed a recommendation for approval without comments.

(C) Board of Trustees. Upon receipt of the Planning and Zoning Commission's recommendation, the Board of Trustees shall consider the zoning text amendment at a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to said hearing.

(D) Approval criteria. All amendments to the zoning regulations shall be accomplished by ordinance, following the Town's standard ordinance adoption procedures. The Board of Trustees shall approve, approve with modifications or deny the ordinance based on whether the proposed amendment is consistent with and advances the general health, safety and welfare are of the Town and its residents.

9-4-7. Right-of-way vacations.

(A) Purpose. The purpose of this Section is to establish a uniform procedure for the vacation of interests in right-of-way owned or otherwise held by the Town in accordance with Part 3 of Article 2 of Title 43, C.R.S. Street right-of-way vacations shall be accomplished by ordinance.

(B) Vacation by ordinance. Applications for vacation of right-of-way by ordinance may be initiated by the Board of Trustees or a property owner whose property is contiguous to or served by the right-of-way sought to be vacated. The application shall include the following items:

- (1) Legal description of the proposed right-of-way or portion thereof to be vacated, prepared, signed and sealed by a land surveyor registered in the State;
- (2) Name and mailing address of all property owners adjacent to or otherwise affected by the vacation;
- (3) A copy of the original, recorded conveyance document in which the right-of-way was dedicated and conveyed for public purposes;

(4) The reasons for the request for vacation, a description of the planned use of the right-of-way proposed for vacation and description of the means of access to all properties affected by the proposed vacation.

The Board of Trustees may modify or waive all or any requirement of an application or request additional information deemed necessary by the Town to permit the Town's review of the merits of the right-of-way vacation.

(C) Approval criteria. Before a right-of-way vacation is approved, the applicant shall show and the Planning and Zoning Commission and Board of Trustees shall find:

(1) That the proposed vacation will not leave any adjoining land without access to an established public right-of-way or private access easement connecting such land to another established public right-of-way;

(2) That the proposed vacation is in conformity with the Town's Comprehensive Plan;

(3) That the proposed vacation will not have a negative impact on the infrastructure of the Town; and

(4) That adequate easements have been reserved for use and/or maintenance by the Town or other utility agencies.

(D) Planning and Zoning Commission review. Upon receipt of a complete application, the application shall be scheduled for administrative review by the Planning and Zoning Commission at its next scheduled meeting. The Planning and Zoning Commission shall make a recommendation to the Board of Trustees to approve, approve with conditions or deny the application. The Planning and Zoning Commission may impose conditions of approval when necessary or desirable to protect the public health, safety and welfare.

(E) Board of Trustees review. The Board of Trustees shall review and decide upon all requests for right-of-way vacations. Vacations shall be approved by passage of an ordinance, following the Town's standard ordinance adoption procedures.

(1) Notice of public hearing. It shall be the responsibility of the applicant, not less than fifteen (15) days prior to the date scheduled for the hearing, to publish notice thereof in a paper of general circulation in the Town. The applicant shall mail written notice of said hearing by certified mail, return receipt requested, at least fifteen (15) days prior to the hearing date, to all adjacent property owners. At least fifteen (15) days prior to the hearing, the applicant shall also post notice of said hearing within or near the right-of-way proposed for vacation. Every form of notice shall state the time, date and location of the public hearing, the location of the right-of-way to be vacated and the nature of the vacation request.

(2) Public hearing. The public hearing before the Board of Trustees shall afford the Town staff and the applicant, as well as all other interested persons, an opportunity to be heard. The applicant bears the burden of establishing that the proposed vacation meets the criteria as set forth in Subsection (C) hereof.

(3) Decision. Following the conclusion of the public hearing, the Board of Trustees shall either reject or approve the ordinance as it may be amended by the Board of Trustees. The Board of Trustees may continue the public hearing as necessary to ensure that sufficient information is prepared and made available to the Board of Trustees regarding the proposed vacation and the vacation's impact on the Town. The Board of Trustees shall base its decision upon all the evidence presented, based on the criteria for review as set forth under Subsection (C) hereof.

(F) Vesting of title. When a right-of-way is vacated, title to the vacated right-of-way shall vest with adjacent property owners or the original grantor or its successors-in-interest as provided by Section 43-2-301, et seq., C.R.S., as may be amended from time to time.

CHAPTER 5

Zoning Map and Districts

9-5-1 Establishment of zoning districts

9-5-2 Zoning Map

9-5-3 Zoning of annexed areas

9-5-1. Establishment of zoning districts.

In order to carry out the provisions of this Title, the Town is hereby divided into the following zoning districts with the following abbreviations:

R-1 Low Density Residential

R-2 Medium Density Residential

R-3 High Density Residential

B Business

M Mobile Home

O Open

9-5-2. Zoning Map.

(A) The boundaries and zoning classification of districts hereby established are as shown on a map on file in the office of the Town Clerk, entitled "Zoning District Map of the Town of Hot Sulphur Springs, Colorado" dated April 16, 1981, which map and all notations, references, data and other information shown thereon are by reference hereby made a part of this Title. The Zoning Map shall be kept current at all times. Changes made in district boundaries or other matters portrayed on the Zoning Map shall be in accordance with the provisions of this Title and Article 23 of Title 31, C.R.S., as amended. Changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Board of Trustees, with an entry on the Zoning Map showing general location, effective date and nature of the change. Each map amendment shall contain a legal description of the area to be changed as well as the nature of the change.

(B) In the event uncertainty shall be deemed to exist on the Zoning Map, district boundaries shall be on section lines, lot lines, the centerlines of highways, streets, alleys, railroad rights-of-way, channelized waterways such as streams or other lines to be determined by the use of scales shown on said Map.

(C) Where a lot is divided by a zoning district boundary line at the time of enactment of this Title or by subsequent amendments such that portions of the lot are within two (2) or more zone districts, the regulations of the zone district attributable to the greatest percentage of the lot shall govern and apply to the entire lot, until such time as a rezoning is sought pursuant to Section 9-4-4.

9-5-3. Zoning of annexed areas.

If property being annexed to the Town is not zoned concurrently with the annexation proceedings, the Board of Trustees shall, within ninety (90) days after the effective date of the annexation ordinance, after notice and public hearing as provided in 9-4-4 of this Title, adopt an ordinance zoning the annexed property.

CHAPTER 6

Uses and Requirements in Zoning Districts

- 9-6-1 General**
- 9-6-2 Uses not specifically permitted**
- 9-6-3 Zone district use schedule**
- 9-6-4 R-1 – Residential District**
- 9-6-5 R-2 – Residential District**
- 9-6-6 R-3 – Residential District**
- 9-6-7 Mobile Home District**
- 9-6-8 Business District**
- 9-6-9 Open District**

9-6-1. General.

This Chapter lists the permitted uses and requirements in specific zoning districts. The listing of a use as being permitted in any particular district shall be deemed to be an exclusion of such use from any other district unless the use is specifically permitted in such other district. Uses are permitted only insofar as they are not prohibited or in conflict with other provisions of this Title. Except as otherwise provided herein, the following regulations shall apply to each zoning district:

(A) No building, structure or land shall hereinafter be occupied or used and no building or structure or part thereof shall be erected, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(B) No lots existing at the effective date hereof shall hereafter be reduced below the minimum dimensions of areas required by this Title. Lots which presently do not provide for the minimum dimensions provided for herein shall not be further reduced after the effective date hereof.

(C) No setback or other open space required in this Title provided for any building or structure shall be considered as providing a setback or open space for any other building or structure, and no setback or open space on an adjoining lot shall be considered as providing a setback or open space on a lot whereon a building or structure is to be erected.

(D) The regulations contained herein are not retroactive and apply only to buildings and uses established after the effective date hereof.

(E) All structures used for residential or business purposes shall be served by public water and public sewage facilities.

(F) Not more than one (1) principal building shall be located on a lot unless such building is a lawfully recognized nonconforming structure, expressly permitted by this Title. The division of a lot or parcel by a zone district boundary shall not entitle the owner to more than one (1) principal building or structure for such lot.

9-6-2. Uses not specifically permitted.

Upon application or on its own initiative, the Board of Trustees may, by ordinance, add any other similar use for a zoning district after public hearing and making the following findings:

(A) Such use is appropriate to the general characteristics and environmental character of the uses to which it is being added.

(B) Such use is compatible with the uses existing and permitted in the group to which it is being added.

(C) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influence or more traffic hazards than the minimum amount normally resulting from the other uses listed in the use group to which it is being added.

When any use has been added to any use group in accordance with this Section, such use shall be deemed to be listed in the appropriate zoning district and shall be added thereto in the published text of this Title at the first convenient opportunity.

9-6-3. Zone district use schedule.

The following table indicates which land uses are permitted by right, which are permitted by special review and which are prohibited uses, in each of the zone districts listed in Section 9-5-1.

Permitted, Special Review and Prohibited Uses by Zoning District

	<i>Use</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>M</i>	<i>B</i>	<i>O</i>
.01	Accessory structures and uses	R	R	R	R	R	S
.02	Adult business. See Paragraph 9-6-8(C)(4)	P	P	P	P	S	P
.03	Agricultural equipment sales and service	P	P	P	P	S	P

.04	Agricultural farming of crops, vegetables, plants and flowers	S	S	S	S	S	R
.04b	Shelter house. See Paragraph 9-4-5(D)(2)	P	P	P	P	S	P
.05	Automobile repair garages	P	P	P	P	S	P
.06	Automobile sales, service	P	P	P	P	S	P
.07	Automobile service stations	P	P	P	P	S	P
.08	Banks and financing associations	P	P	P	P	R	P
.09	Bowling alleys	P	P	P	P	R	P
.10	Building material and lumber sales	P	P	P	P	S	P
.11	Cemeteries	P	P	P	P	P	S
.12	Churches	S	S	S	S	S	P
.13	Commercial campgrounds	P	P	P	P	S	S
.14	Commercial riding stables	P	P	P	P	P	S
.15	Eating and drinking places	P	P	P	P	R	P
.16	Equipment rental establishments	P	P	P	P	S	P
.17	Feed yards and fur farms	P	P	P	P	P	P
.18	General administrative and business offices ¹	P	P	P	P	R	P
.19	Group care facilities	S	S	S	S	S	P
.20	Home occupations	R	R	R	R	R	S
.21	Hospitals	S	S	S	S	S	P
.22	Hotels/motels/bed and breakfast/boarding houses	S	S	S	S	R	P
.23	Manufactured home	R	R	R	R	R	S
.24	Manufacturing	P	P	P	P	S	P
.25	Medical, dental and professional offices ¹	S	S	S	S	R	P
.26	Marijuana cultivation facilities	P	P	P	P	P	P
.27	Marijuana product manufacturing facilities	P	P	P	P	P	P
.28	Marijuana testing facilities	P	P	P	P	P	
.29	Marijuana stores (retail)	P	P	P	P	P	P
.30	Mining	P	P	P	P	P	P
.31	Mobile home parks	P	P	P	S	P	P
.32	Mobile homes	P	P	P	R	P	P
.33	Mobile offices	P	P	P	P	S	P
.34	Multiple family dwelling	P	R	R	R	R	P
.35	Off-street parking	R	R	R	R	R	R

¹ Note: These two uses (.18) and (.25) are very similar, yet are not treated the same. Please consider combining or better distinguishing between the two.

.36	Outdoor recreational uses; e.g., golf courses	S	S	S	S	S	S
.37	Pawnshops	P	P	P	P	S	P
.38	Personal service establishments entirely enclosed within a structure (e.g., hair, nail and cosmetic)	P	P	P	P	R	P
.39	Public buildings and facilities	S	S	S	S	S	S
.40	Public utility stations, distribution and transmission lines	S	S	S	S	S	S
.41	Quarries and sand and gravel operations	P	P	P	P	P	P
.42	Residential group home	R	R	R	R	R	S
.43	Retail establishments entirely enclosed within a structure	P	P	P	P	R	P
.44	Schools (public, private and charter)	S	S	S	S	S	P
.45	Self-storage facility or mini-storage (Ord. 2009-7:2/368)	P	P	P	P	S	P
.46	Shelter house. See Paragraph 9-4-5(D)(2). (Ord. 2011-6-1-382 §2)	P	P	P	P	S	P
.47	Single-family dwelling	R	R	R	R	R	S
.48	Telecommunications facilities. See Section 9-7-8.						
	(1) building/structure-mounted	S	S	S	S	S	S
	(2) roof-mounted	S	S	S	S	S	S
	(3) freestanding	P	P	P	P	S	S
.49	Theaters and auditoriums	P	P	P	P	S	P
.50	Travel trailers and truck campers (camping)	P	P	P	P	S	S
.51	Travel trailers and truck campers (interim use during construction of permanent residence) See Paragraph 9-6-4(C)(3), Subsection 9-6-5(C) and Subsection 9-6-6(C)	S	S	S	P	S	P
.52	Veterinary hospitals and kennels	P	P	P	P	S	P
.53	Wholesale distribution	P	P	P	P	R	P

Key:

- A = Administrative review
- C = Certificate of notice to mineral estate owners
- H = Public hearing

(Ord. 2009-7:1/367; Ord. 2011-6-1-382 §2; Ord. 2013-3-1-388 §2)

9-6-4. R-1 Residential District.

(A) Purpose and intent. This zoning district shall be used primarily for single-family dwelling units, one (1) principal building per lot.

(B) Area and height standards. The following minimum and maximum development standards shall apply for all property within the R-1 District:

<i>Description</i>	<i>Standards</i>
Minimum lot area per unit	
Subdivided land	6,250 sq. ft.
Unsubdivided land	2 acres
Minimum lot width	
Subdivided land	50 ft.
Unsubdivided land	200 ft.
Maximum lot coverage	30%
Minimum floor area per unit	500 sq. ft.
Maximum building height	35 ft.
Minimum setbacks	
Front	20 ft.
Side	7 ft.
Rear	10 ft.

(C) Specific district regulations. The following special provisions shall apply to the R-1 Zone District:

(1) Encroachments. Canopies, eaves and roof overhangs may extend into a required yard not more than three (3) feet.

(2) Setbacks for residential infill development. In residential zone districts where lots comprising fifty percent (50%) or more of the frontage on one (1) side of a street between intersecting streets have been improved, with buildings having an average front yard with a variation of not more than ten (10) feet, the average front yard or setback of such existing buildings shall be the minimum front yard or setback required for all new construction in such block.

(3) Travel trailers and truck campers. On any residential zoned lot, use of travel trailers and truck campers for camping and overnight stays shall be prohibited unless such use is by the property owner for the purpose of temporary residency for a period not exceeding three hundred sixty-five (365) calendar days during construction of a residential structure on the lot and written application to and approval by the Planning and Zoning Commission is obtained prior to such temporary occupancy.

9-6-5. R-2 Residential District.

(A) Purpose and intent. This zoning district is intended to be used primarily for single-family and multi-family dwelling units, one (1) per lot, not to exceed four (4) dwelling units within a building or on a lot.

(B) Area and height standards. Single-family dwelling unit requirements are the same as for R-1 Zoning Districts. Multi-family dwelling unit requirements are as follows:

<i>Description</i>	<i>Standards</i>
Minimum lot area per unit	
Subdivided land	6,250 sq. ft or 3 x building area, whichever is greater.
Unsubdivided land	2 acres
Minimum lot width	
Subdivided land	50 ft.
Unsubdivided land	200 ft.
Maximum lot coverage	40%
Minimum floor area per unit	500 sq. ft.
Maximum building height	35 ft.
Minimum setbacks	
Front	20 ft.
Side	7 ft.
Rear	10 ft.

(C) Specific district regulations. The special provisions for R-1 Zone Districts set forth in Subsection 9-6-4(C) shall apply to the R-2 Zone District.

9-6-6. R-3 Residential District.

(A) Purpose and intent. This zoning district is intended to be used primarily for single-family and multi-family dwelling units, one (1) principal building per lot, not to exceed twelve (12) dwelling units per lot.

(B) Area and height standards. Single-family dwelling units are the same as for R-1 Zoning Districts. Multi-family dwelling unit requirements are the same as for R-2 Zoning Districts, except that the minimum lot width for multi-family dwelling units with five (5) units per lot and greater shall be one hundred (100) feet for subdivided land and two hundred (200) feet for unsubdivided land.

<i>Description</i>	<i>Standards</i>
Minimum lot area per unit	
Subdivided land	6,250 sq. ft.
Unsubdivided land	2 acres
Minimum lot width	
Subdivided land	100 ft.
Unsubdivided land	200 ft.
Maximum lot coverage	30%
Minimum floor area per unit	500 sq. ft.

Maximum building height	35 ft.
Minimum setbacks	
Front	20 ft.
Side	7 ft.
Rear	10 ft.

(C) Specific district regulations. The special provisions for R-1 Zone Districts as set forth in Subsection 9-6-4(C) shall apply to the R-3 Zone District.

9-6-7. Mobile Home District.

(A) Purpose and intent. This zoning district is designed to accommodate single-family and multi-family dwelling units, including mobile homes. Mobile home parks shall be allowed subject to review and approval of a special use permit.

(B) Area and height standards. Single-family dwelling unit requirements are the same as for R-1 Zoning Districts. Multi-family dwelling unit requirements are the same as for R-2 Zoning Districts. Mobile homes shall be subject to the following area and height standards:

<i>Description</i>	<i>Standards</i>
Minimum lot area per unit	
Subdivided land	6,250 sq. ft or 3 x the mobile home area, whichever is greater
Unsubdivided land	2 acres
Minimum lot width	
Subdivided land	50 ft.
Unsubdivided land	200 ft.
Maximum lot coverage	30%
Minimum floor area per unit	500 sq. ft.
Maximum building height	35 ft.
Minimum setbacks	
Front	20 ft.
Side	7 ft.
Rear	10 ft.

(C) Specific district regulations.

(1) No portion of a mobile home, including cornices, balconies, open and unenclosed porches, canopies, eaves, tongues and hitches or similar architectural features, may extend into a required front, side or rear yard setback.

(2) Each mobile home shall comply with the following:

(a) Mobile homes must be located on a base made of Class C gravel or some other suitable base material which is the foundation or basement adequate to provide proper support and prevent shifting of the mobile home after location on the site.

(b) Mobile homes shall be skirted within ninety (90) days of being placed on any lot or parcel of land.

(c) Mobile homes must contain a flush toilet and a bath or shower facility and must be served by the Town municipal water and sanitation systems, each with its own water and sewer tap.

9-6-8. Business District.

(A) Purpose and intent. This zoning district is designed to provide for areas with a range of business, residential and commercial land uses which include office, general business and retail sales and service establishments that serve the Hot Sulphur Springs community.

(B) Area and height standards.

<i>Description</i>	<i>Standards</i>
Minimum lot area per unit	
Subdivided land	6,250 sq. ft.
Unsubdivided land	2 acres
Minimum lot width	
Subdivided land	50 ft.
Unsubdivided land	200 ft.
Maximum lot coverage	None
Minimum floor area per unit	None
Maximum building height	35 ft.
Minimum setbacks	
Front	None
Side	None
Rear	None

(C) Special district regulations.

(1) No permitted uses within a business district enumerated in Section 9-6-3 shall present unreasonable or obnoxious amounts of noise, odor, smoke, glare, dust, vibration or other similar causes to be disseminated, and the Town may place reasonable restrictions upon such permitted uses as deemed necessary to confine such impacts to the lot on which the use is located and to diminish said impacts to adjacent uses.

(2) Refuse and trash must be stored in containers approved by the Town and shall be in sufficient number and size to properly store all refuse on site.

(3) Light industrial uses are limited to the following:

(a) Administrative, insurance and research facilities;

(b) Experimental or testing laboratories;

(c) Manufacture of precision or electronic instruments, parts or tools;

(d) Manufacturing, assembly or packaging of products from previously prepared material; and

(e) Any other kind of scientific, utility, manufacturing, compounding, assembling or processing, provided that the conditions in Paragraphs (1) and (2) above are met.

(4) Adult business uses shall be subject to special use review, which review shall be subject to the following additional requirements:

(a) An adult business shall not be located or operated within five hundred (500) feet of:

(i) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(ii) A public or private school, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; *school* includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(iii) A boundary of any residential district (R-1, R-2, R-3, M);

(iv) A public park or outdoor recreational facility which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Town which is under the control, operation or management of the Town; or

(v) The property line of a lot devoted to a residential use as defined in this Title.

9-6-9. Open District.

(A) Purpose and intent. This zoning district is intended to apply in areas primarily in a natural state, which have economic value for agricultural uses and are not yet ready for development into urban usage, or for playgrounds, picnic areas and outdoor recreational uses which are compatible with residential uses.

(B) Special district regulations. The following special provisions shall apply to the Open Zone District as applicable:

(1) Commercial camping areas for transient occupancy shall be subject to the following additional provisions:

(a) A complete engineered site plan of the proposed camping area shall be submitted and approved by the Board of Trustees.

(b) Each camping space shall be at least five hundred (500) square feet, excluding roads and parking area, with a minimum width of twenty (20) feet.

(c) Each camping area shall be serviced by public water and sewer facilities.

(d) Provisions shall be made for adequate all-weather walkways to each camping space.

(e) Camping and parking spaces shall not be constructed in areas subject to flooding unless adequate precautions are made to prevent loss (i.e., dikes to confine flood flow, fill to above flow line or straighten and widen drainage system).

(f) No dependent mobile home, travel trailer, truck camper or tent shall be located more than two hundred (200) feet from a service building.

(g) For every ten (10) camping spaces, there shall be provided two (2) toilets for each sex and a service sink in a service building.

(h) Camping shall be limited to transient occupancy and shall not be used or intended for permanent residency. Occupants of such camping areas shall not reside within the same area for a period exceeding fifteen (15) days.

(i) Such other terms and conditions as may be reasonably required by the Board of Trustees due to special circumstances necessitated by the location of the proposed camping areas, including but not limited to minimum water quality, setbacks and erosion and sediment controls.

(2) Single-family dwellings units are permitted, subject to special use review, provided they are not constructed in floodplain areas or in other unstable areas due to unstable soils or geological problems.

CHAPTER 7

Supplemental Zoning Regulations

- 9-7-1 Home occupations
- 9-7-2 Signs
- 9-7-3 Nonconforming uses and structures
- 9-7-4 Nonconforming lots of record
- 9-7-5 Off-street parking requirements

- 9-7-6 Accessory uses**
- 9-7-7 Flood control**
- 9-7-8 Telecommunications facilities**

9-7-1. Home occupations.

Occupations permitted. A home occupation shall be allowed as a permitted accessory use, provided all of the following conditions are met:

(A) The use shall operate in its entirety within the dwelling unit and only by the person maintaining the dwelling therein.

(B) Specific prohibition. Without limiting the foregoing, no medical marijuana business, marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or marijuana stores (retail) shall be permitted as a home occupation.

(C) The operator of the home occupation shall not have any employees or regular assistants working in the home or frequently making visits to the home who are not residing in the dwelling unit.

(D) The use shall clearly be incidental and secondary to the use of the residential dwelling and shall not change the character thereof.

(E) There shall be no offensive noise, vibration, smoke, dust, odor, heat or glare beyond what normally occurs in any residential zone district. (Ord. 2013-3-1-388 §3)

9-7-2. Signs.

(A) Permitted signs. The following signs are permitted in the zoning districts specified and require no permit for erection:

(1) Signs in the R-1, R-2 and R-3, M and B Districts may include:

(a) One (1) lighted, on-site identification sign per occupied residential lot, provided such sign does not exceed four (4) square feet in area.

(b) One (1) unlighted, on-site "for sale" or "for rent" sign per lot, provided such sign does not exceed six (6) square feet in area per face. Hotels and motels shall be permitted to use lighted "vacancy" and "no vacancy" signs, provided the same shall not exceed six (6) square feet in area.

(c) One (1) indirectly illuminated identification sign per public or semi-public use, provided such sign does not exceed ten (10) square feet in area.

(2) Signs in the B and O Districts may include:

(a) One (1) illuminated, freestanding or projecting on-site sign per principal use, provided such sign does not exceed a total of fifty (50) square feet in area per face.

(b) Not more than two (2) wall signs not extending more than twelve (12) inches from each principal building in any direction and not exceeding fifty (50) square feet in area.

(B) Prohibited signs. The following types of signs are prohibited in all districts:

(1) Any sign not specifically permitted by this Section.

(2) Any signs erected upon, over or adjacent to the public right-of-way of any street, roadway or alley which contain or are in imitation of an official traffic sign or contain the words "stop," "go slow," "caution," "danger," "warning" or similar words.

(3) Signs with visible moving, revolving or rotating parts or visible mechanical movement or any description or other apparent visible movement achieved by electrical, electronic or mechanical means, except for time-temperature-date signs and traditional barber poles and except for gauges and dials which may be animated to the extent necessary to display correct measurement.

(4) Any sign which contains or consists of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similar moving devices.

(5) Any sign that obstructs any window, door, fire escape, stairway, ladder or openings intended to provide light, air, ingress or egress for any building, as required by law.

(6) Any sign which advertises an activity, business, product or service not conducted or offered on the property on which the sign is located.

(C) Regulations. No signs or outdoor advertising devices shall be hereafter erected, altered or improved unless such sign or device shall conform with the following regulations:

(1) Signs shall be set back from the right-of-way a distance equal to the front yard requirement for the zoning district in which they are located.

(2) Signs shall identify or advertise only the business establishment on the lot upon which the sign is located.

(3) No sign shall be located so that it shall interfere with or detract from orderly traffic movements, obscure or impair the vision of the driver of any motor vehicle or which is a hazard to traffic.

(4) All signs, together with supports, braces, guys and anchors, shall be kept in good repair and in a safe state of preservation so as to preserve the initial intent of their design and so as to remain readable.

(D) Nonconforming signs. All signs in all districts that are nonconforming at the effective date hereof may be maintained and kept in a state of good repair so long as such signs are not relocated, replaced or structurally altered. If any such signs are relocated, replaced or structurally altered, such alteration, replacement or relocation shall be made only so long as all provisions of this Section are complied with.

9-7-3. Nonconforming uses and structures.

(A) Intent. There may exist structures and uses of land which were lawful prior to the adoption or amendment of this Title but which are or have become prohibited, restricted or unlawful as a result of current provisions of this Title. It is the intent of this Section to permit these nonconformities to continue until they are removed, discontinued or more than fifty percent (50%) destroyed. It is further intended that nonconforming structures and uses shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the zone district.

(B) Nonconforming uses. Where, at the time of the adoption of this Title or any amendment thereof, a lawful use of land existed which would not be permitted under current provisions of this Title, the use may be continued so long as it remains otherwise lawful, subject, however, to all of the following:

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land or percentage of a structure than was occupied at the effective date of the regulation causing the nonconformity;

(2) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of the regulation causing the nonconformity;

(3) Whenever a nonconforming use has been discontinued for any reason for a period of twelve (12) consecutive months or more, regardless of any intent to resume such use, neither that nor any other nonconforming use shall thereafter be reestablished, and all subsequent uses of such land shall conform to the regulations specified by this Title for the zone district in which such land is located;

(4) No nonconforming use shall be changed other than to a use permitted in the zoning district in which the use is located; and

(5) A nonconforming use operating within a conforming structure shall not be continued if the structure is destroyed by fire, elements or other calamity or means to an extent exceeding fifty percent (50%) of the structure's replacement value at the time of said destruction.

(C) Nonconforming structures. Where a lawful structure which existed at the effective date of adoption or amendment of this Title could not lawfully be built under current provisions of this Title, such structure may continue to exist so long as it remains otherwise lawful, subject, however, to the following:

(1) No such nonconforming structure may be enlarged or altered in a way which increases the area or degree of its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) If a structure is moved or relocated for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone district to which it is moved or relocated.

(3) If a nonconforming structure is destroyed by fire, elements or any other calamity or means to the extent of fifty percent (50%) or less of the nonconforming structure's replacement value at the time of such destruction, the structure may be reconstructed or restored only if the restoration or reconstruction conforms to applicable provisions of the building code and such reconstruction or restoration is completed within one (1) year of such destruction.

(4) A nonconforming structure which has been destroyed by fire, elements or other calamity or means in extent exceeding fifty percent (50%) of the structure's replacement value at the time of such destruction may not be reconstructed or restored except in conformance with all applicable provisions of this Title and all applicable provisions of the building code in effect within the Town.

(D) Repairs and maintenance. Ordinary repairs and maintenance of a nonconforming structure or sign shall be permitted in order to prevent deterioration of the structure or sign.

(E) No cure of existing nonconformity. Nothing in this Section shall be interpreted or construed as authorizing or approving the continuance of a use or structure that is in violation of the zoning regulations in effect at the time of the effective date of this Section.

9-7-4. Nonconforming lots of record.

(A) In any district in which single-family detached dwellings are permitted, one (1) single-family residence may be erected on any single nonconforming lot which existed lawfully at the time of the adoption of the regulations codified in this Title; provided, however, that such lot is not contiguous with other lots under the same ownership which could be merged with such lot for purposes of achieving conformity under Subsection (B) below, and provided further that denial of the building permit would deprive the owner of all reasonable use of the lot.

(B) If two (2) or more contiguous lots are under the same ownership at the time of or subsequent to the adoption of this Title, and one (1) or more of such lots fail to meet the requirements for area, width, frontage, size or any other lot requirements for the zoning district in which the lots are located, the owner of such lots shall be required to combine the same to the extent necessary to achieve conformity with such requirements, and the lots so combined shall be deemed to merge and shall thereafter be considered a single and undivided parcel. The building permit issued for any structure to be erected on such combined or merged parcel shall recite the merger and identify the lots so combined. It shall be unlawful for any person to convey an interest in real property with the intent to avoid the merger provisions of this Section.

9-7-5. Off-street parking requirements.

(A) Intent. Off-street parking requirements lessen congestion upon the public streets of the Town by requiring the owners and operators of land, structures and uses to provide parking on their own premises in accordance with the demand generated by such land, structure or use. This Section shall apply to all uses in all districts.

(B) Application. No land shall be used or occupied, no structure shall be designed or erected and no use shall be operated unless the off-street parking herein required is provided and maintained in the manner herein set forth.

(C) Combined uses. No part of an off-street parking space for any building or use may be included as a part of an off-street space of another building or use unless the uses do not conflict and joint use is made by recorded agreement approved by the Board of Trustees. Where more than one (1) use is conducted on a single lot, parking shall be required for each use, even though one (1) is accessory to the other.

(D) Minimum off-street parking requirements. The following are minimum requirements for parking spaces to be maintained in connection with the buildings and uses indicated:

(1) Banks and financial institutions. One (1) space per two hundred (200) square feet of gross floor area.

(2) Church. One (1) space per three (3) seats, based on seating capacity of the main sanctuary.

(3) Commercial retail sales and service. One (1) space per one hundred (100) square feet of gross floor area.

(4) Dwelling units. One (1) space per dwelling unit.

(5) Motels, hotels/bed and breakfast. One (1) space per rental unit, plus one (1) space per owner or manager unit.

(6) Offices (business, general, professional services). One (1) space per two hundred (200) square feet of gross floor area.

(7) Restaurants, bars, eating establishments. One (1) space per each one hundred (100) square feet of gross floor area.

(8) Uses not mentioned. The requirements shall be the same as for similar uses.

(9) Mixed uses. The total requirements shall be the sum of all uses.

(E) Parking, stall dimensions. Standard parking spaces for automobiles should be ten (10) feet wide and twenty (20) feet long.

(F) Handicap parking. Parking spaces for the physically handicapped should have a stall width of twelve (12) feet unless the space is parallel to a pedestrian walk, and length of twenty (20) feet. Any handicapped parking spaces should be designated as for the handicapped with a raised standard identification tag or sign.

9-7-6. Accessory uses.

(A) Accessory uses in general. A use customarily incidental to a use permitted in any district shall be permitted when located on the same lot. Accessory buildings shall not be erected in the front yard of any lot. Refer to Section 9-6-3, Zone District Use Schedule, for accessory uses and structures.

(B) Outdoor storage of automobiles. Automobiles which cannot meet state inspection standards for travel on public highways, except for collector's vehicles as provided in Section 42-12-103, C.R.S., as amended, shall not be stored outside as an accessory use in any zoning district.

(C) Mobile homes. A mobile home shall not be considered an accessory building; provided, however, that an unoccupied travel trailer or any trailer capable of and licensed for travel on the public streets may be stored on the premises of an occupied residential lot.

9-7-7. Flood control.

Buildings, structures or other development, except flood control dams or irrigation structures, shall not be constructed in areas subject to inundation unless and until the plans for such building or structure are first approved by the Board of Trustees, subject to the following special conditions:

(A) Any building or structure which is approved shall be located so as to offer minimum obstruction to the full flood water and shall not cause lands outside the natural flood channel to be flooded.

(B) No schools, churches or other places of public assembly shall be permitted in the flood channel.

(C) No storage of materials which could be removed by flood waters shall be permitted within a flood channel.

9-7-8. Telecommunications facilities.

(A) Prohibition. No telecommunications facility shall be constructed in any residential zone district, including the Mobile Home Zone District except as follows:

(1) Building- or structure-mounted telecommunications facilities may be located in a residential zone district subject to an approved special use permit.

(2) Roof-mounted telecommunications facilities may be located in a residential zone district subject to an approved special use permit.

(3) Freestanding telecommunications facilities shall not be allowed in any residential zone district.

(B) Review procedure – general. Proposed telecommunications facilities in the Business or Open Zone Districts shall be reviewed pursuant to special use review in accordance with Section 9-4-5, Section 2-1-6 of this Code and the specific requirements set forth in this Section.

(C) Multiple providers. No more than one (1) roof-mounted or freestanding telecommunications facility may be constructed or maintained upon a property in single ownership; provided, however, that additional roof-mounted or freestanding telecommunications facilities may be approved at the same location by special use review, consistent with Subsection (B), provided that all other requirements of this Section are met.

(D) Building- or structure-mounted telecommunications facilities are subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet.

(3) Building- or structure-mounted whip antennas shall extend no more than ten (10) feet above the highest point of the building or structure to which they are attached.

(E) Roof-mounted telecommunications facilities shall be screened or camouflaged as appropriate from view from adjacent property lines. Such facilities are additionally subject to the following requirements:

(1) Such facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached.

(2) Roof-mounted telecommunications whip antennas shall extend no more than ten (10) feet above the parapet of any flat roof or ridge of a sloped roof to which they are attached.

(3) Roof-mounted telecommunications accessory structures shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed and shall not be permitted on a sloped roof.

(F) Freestanding telecommunications facilities shall be visually screened from adjacent residential development and public rights-of-way as follows:

(1) All accessory buildings and equipment cabinets shall be totally screened from view from adjacent property lines.

(2) Screening, landscaping and/or exterior building finishes and colors shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the special use permit review process.

(G) Notwithstanding any other provision of this Title to the contrary, no telecommunications facility shall exceed the height limit applicable to the underlying zone district in which such facility is located.

(H) The construction and use of a telecommunications facility shall not cause interference to other adjacent telecommunications facilities. The Town shall be held harmless if such interference occurs.

(I) Telecommunications facilities which are abandoned by disconnection of power service, equipment removal, non-use or loss of lease for greater than six (6) months shall be removed by the telecommunications facility owner. Should the owner fail to remove the facilities, the Town may do so at its option, and the costs thereof shall be a charge against the owner.

(J) Notwithstanding any provision of this Section to the contrary, any freestanding telecommunications facilities legally existing upon the effective date of these regulations shall be considered legal nonconforming uses. Additional antennas may be permitted to be co-located upon such facilities, provided such facility is certified by a registered, professional engineer that it was originally designed and constructed, without need of structural modifications, including increased

height, to handle the additional load. Any such addition to nonconforming freestanding facilities will be allowed only upon special use review and approval. This provision does not apply to roof- or building-mounted telecommunications facilities.

CHAPTER 8

Reserved

CHAPTER 9

Vested Property Rights

9-9-1 Granby Vested Property Rights Regulations adopted

9-9-2 Amendments to Granby Vested Property Rights Regulations

9-9-1. Granby Vested Property Rights Regulations adopted.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., as amended, there is hereby adopted by reference the Vested Property Rights Regulations of the Town of Granby, Colorado, Article 17-3 of the Code of the Town of Granby, as such article existed on April 1, 1997. The subject matter of the Vested Property Rights Regulations is the implementation of the state statutes granting vested property rights. The purpose of this Chapter and the code adopted herein is to assure that developers in the Town follow the proper procedure to assure statutory vesting of property rights which occurs upon approval of a site specific development plan.

9-9-2. Amendments to Granby Vested Property Rights Regulations.

The Granby Vested Property Rights Regulations adopted by this Chapter are subject to the following additions, modifications and deletions:

(A) Throughout the Vested Property Rights Regulations, "Hot Sulphur Springs" shall be substituted for "Granby."