

CHAPTER 1 ADMINISTRATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the *Zoning Code* of the City of Hill City, South Dakota, hereinafter referred to as “this code.”

101.2 Intent. The purpose of this code is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within this jurisdiction.

101.3 Scope. The provisions of this code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles and public utilities unless specifically mentioned in this code.

Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

In fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort. If any portion of this code is held invalid for any reason, the remaining herein shall not be affected.

SECTION 102 FEES

102.1 Fees. A fee for services shall be charged. All fees shall be set by the legislative body and schedules shall be available at the office of the code official.

SECTION 103 EXISTING BUILDINGS AND USES

103.1 General. Lawfully established buildings and uses in existence at the time of the adoption of this code shall be permitted to have their existing use or occupancy continued, provided such continued use is not dangerous to life.

103.2 Additions, alterations or repairs. Additions, alterations or repairs shall be permitted to be made to any

building or use without requiring the existing building or use to comply with the requirements of this code, provided the addition, alteration or repair conforms to that required for a new building or use.

103.3 Maintenance. All buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or designated agent shall be responsible for the maintenance of buildings and parcels of land. To determine compliance with this section, the code official shall be permitted to cause any structure or use to be inspected.

103.4 Moved and temporary buildings, structures and uses. Buildings or structures moved into or within the jurisdictions shall comply with the provisions of this code for new buildings and structures. Temporary buildings, structures and uses such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public shall be permitted to be erected, provided a special approval is received from the code official for a limited period of time. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

103.5 Illegal uses. Uses that were illegally established prior to the adoption of this code shall remain illegal.

SECTION 104 DUTIES AND POWERS OF THE ZONING CODE OFFICIAL

104.1 General. This section establishes the duties and responsibilities for the zoning code official and other officials and agencies, with respect to the administration of this code. The zoning code official and/or designee shall be referred to hereafter as “the code official.”

104.2 Deputies. The code official may appoint such number of technical officers and other employees as shall be authorized from time to time. The code official shall be permitted to deputize such employees as may be necessary to carry out the functions of this code.

104.3 Reviews and approvals. The code official shall be authorized to review applications, make recommendations, interpret, and enforce all zoning codes.

104.4 Comprehensive plan. The code official shall assist the planning & zoning commission in the development and implementation of the comprehensive plan.

104.5 Administrative reviews and permits. Administrative reviews and permits shall be in accordance with Sections

104.5.1 through 104.5.4.

104.5.1 Review of building permits. All applications for building permits and amendments thereto shall be submitted to the code official for review and approved by the planning

& zoning commission prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of this code are met.

104.5.2 Site plan reviews. The code official shall receive all applications for site plan review and review for completeness and prepare submittals for review by the appropriate body.

104.5.3 Conditional-use permits and variances. The code official shall receive all applications for conditional uses and variances or other plans as shall be permitted or approved as required by this code, review for completeness and prepare submittals for review by the appropriate body.

104.5.4 Amendments. All requests for amendments or changes to the comprehensive plan or this code or map shall be submitted to the code official for processing.

104.6 Interpretations. The interpretation and application of the provisions of this code shall be by the code official. An appeal of an interpretation by the code official shall be submitted to the planning & zoning commission, who, unless otherwise provided, is authorized to interpret the code. Uses are permitted within the various zones as described in this code and as otherwise provided herein. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as a permitted/non-permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the hearing body in public hearing as an amendment to this code pursuant to Section 109.3.

104.7 Liability. The code official, or designee, charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties described in this code, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the code official or employee because such act or omission performed by the code official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the enforcement agency shall be defended by the jurisdiction until final termination of such proceedings, and any judgment resulting there from shall be assumed by the jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming

any such liability by reason of the reviews or permits issued under this code.

104.8 Cooperation of other officials and officers. The code official shall be authorized to request, and shall receive so far as is required in the discharge of the duties described in this code, the assistance and cooperation of other officials of the jurisdiction.

SECTION 105 PLANNING & ZONING COMMISSION

105.1 General. This section addresses the duties and responsibilities of the planning & zoning commission, hereafter referred to as "the commission," and other officials and agencies, with respect to the administration of this code. The regulations and authorities established within this section shall follow the regulations and authorities of South Dakota Codified Law 11-4: Municipal Planning and Zoning. If there exists a discrepancy in regulation requirements, the most restrictive regulation and/or requirement shall be followed.

105.2 Establishment of the commission. The establishment of the commission shall be in accordance with the policies and procedures as set forth in state and local law. The commission shall consist of five (5) members. Additionally, one member of the legislative body shall be permitted to be appointed as liaison to the commission. Such member shall have the right to attend all meetings and take part in all discussions, but shall not vote on commission decisions.

105.3 Terms for members. The terms of office for the members of the commission shall be five (5) years. Members shall be permitted to be removed for cause upon written charges and after a public hearing before the legislative body of the jurisdiction, if such a hearing is requested.

105.4 Selection of members. All members shall be appointed and approved by the legislative body of the jurisdiction served. The terms of office for the commission members shall be staggered at intervals so as to provide continuity in policy and personnel. Members of the commission shall be residents of the jurisdiction served. Compensation of members shall be set by the legislative body of the jurisdiction. Any vacancy for the unexpired term of any member whose term is not completed shall be filled. A member shall continue to serve until a successor has been appointed and approved by the legislative body of the jurisdiction.

105.5 Chairperson election and rules adoption. The commission shall elect from its membership a chairperson, vice chairperson, and secretary from among its members for a term of one year. It shall also establish and adopt rules for its organization and transaction of business and shall keep a public record of its proceedings.

105.6 Commission secretary. A secretary to assist the commission shall be appointed by the code official. The secretary shall keep minutes of the commission meetings for

public record and conduct all correspondence, including the notification of decisions. The secretary shall also certify records. The secretary shall prepare and submit the minutes of commission meetings to the chairperson and the commission.

105.7 Duties and powers. The duties and powers of the planning commission shall be in accordance with Sections 105.7.1 through 105.7.5.

105.7.1 Comprehensive plan. It shall be the duty of the commission, after holding public hearings, to create and recommend to the legislative body a comprehensive plan for the physical development of the jurisdiction, which shall be permitted to include areas outside its boundaries that bear consideration to the planning of the jurisdiction. The comprehensive plan shall include at least the following elements:

1. Official maps.
2. Growth and land use.
3. Commercial/industrial uses.
4. Transportation and utilities.
5. Community facilities.
6. Housing.
7. Environmental.
8. Geologic/natural hazards.

The commission shall be permitted also to recommend amendments to the comprehensive plan regarding the administration or maintenance of this code.

105.7.2 Zoning code. It shall be the duty of the commission to develop and recommend to the legislative body a zoning code, in accordance with the guidelines of the comprehensive plan, establishing zones within the jurisdiction. Such a code shall be made in regards to the character of each district and the most appropriate use of land within the jurisdiction. The commission shall make periodic reports and recommendations to the legislative body.

105.7.3 Division of land regulations. It shall be the duty of the commission to develop and certify regulations governing the division of land. All divisions of land shall be in accordance with the adopted regulations.

105.7.4 Conditional-use permits. It shall be the duty of the commission to review and recommend to the legislative body the approval or denial of conditional-use permit applications. The application shall be accompanied by maps, drawings or other documentation in support of the request. The granting of a conditional-use permit shall not exempt the applicant from compliance with other relevant provisions of related ordinances.

105.7.5 Official zoning map. The legislative body shall adopt an official zoning map for all areas included within the jurisdiction.

105.8 Appeals and hearings. Any person with standing aggrieved by any decision of the commission shall have the right to make such appeals as shall be permitted to be provided by this code or state law (South Dakota Codified Law, Chapter 11-4). Such appeals shall be based on the record.

SECTION 106 COMPLIANCE WITH THE CODE

106.1 General. Upon adoption of this code by the legislative body, no use, building or structure, whether publicly or privately owned, shall be constructed or authorized until the location and extent thereof conform to said plan.

SECTION 107 BOARD OF ADJUSTMENT

107.1 General. This section addresses the duties and responsibilities of a board of adjustment, hereafter referred to as “the board,” and other officials and agencies, with respect to the administration of this code.

107.2 Establishment of the board. The establishment of the board shall be in accordance with the procedures and policies set forth in state law (South Dakota Codified Law, Chapter 11-4). The board shall consist of the number of members as specified in state law (South Dakota Codified Law, Chapter 11-4). The legislative body of Hill City shall serve as the board of adjustment. Additionally, one member of the commission shall be appointed as liaison to the board. Such member shall have the right to attend all meetings and take part in all discussions, but shall not vote on board decisions.

107.3 (Empty)

107.4 (Empty)

107.5 (Empty)

107.6 Board secretary. A secretary to assist the board shall be appointed by the code official. The secretary shall keep minutes of the board meetings for public record and conduct all correspondence, including the notification of decisions. The secretary shall also certify records. The secretary shall prepare and submit the minutes of board meetings to the chairperson and the board.

107.7 Duties and powers. The duties and powers of the board of adjustment shall be in accordance with Sections 107.7.1 through 107.7.3.

107.7.1 Errors. The board shall have the power to hear and decide on appeals where it is alleged that there is an error in

any order, requirement, decision, determination or interpretation by the planning & zoning commission.

107.7.2 Variances. The board shall have the power to hear and decide on appeals wherein a variance to the terms of this code is proposed. Limitations as to the board’s authorization shall be as set forth in this code. Variance procedures shall follow those established by Section 109 of this code.

107.7.3 Variance review criteria. The board of adjustment shall be permitted to approve, approve with conditions or deny a request for a variance. Each request for a variance shall be consistent with the following criteria:

1. Limitations on the use of the property due to physical, topographical and geologic features.
2. The grant of the variance will not grant any special privilege to the property owner.
3. The applicant can demonstrate that without a variance there can be no reasonable use of the property.
4. The grant of the variance is not based solely on economic reasons.
5. The necessity for the variance was not created by the property owner.
6. The variance requested is the minimum variance necessary to allow reasonable use of the property.
7. The grant of the variance will not be injurious to the public health, safety or welfare.
8. The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.

107.8 Use variance. The board of adjustment shall not grant a variance to allow the establishment of a use in a zoning district when such use is prohibited by the provisions of this code.

107.9 Decisions. The board shall be permitted to decide in any manner it sees fit; however, it shall not have the authority to alter or change this code or zoning map or allow as a use that which would be inconsistent with the requirements of this code, provided, however, that in interpreting and applying the provisions of this code, the requirements shall be deemed to be the spirit and intent of the code and do not constitute the granting of a special privilege.

**SECTION 109
SECTION OMITTED**

**SECTION 109
HEARINGS, APPEALS AND AMENDMENTS**

109.1 Hearings. Upon receipt of an application in proper form and with approval of the board, the code official shall arrange to advertise the time and place of public hearing. Such advertisement shall be given by at least one publication in a newspaper of general circulation within the jurisdiction, a minimum of ten (10) calendar days prior to the public hearing being conducted. Such notice shall state the nature of the request, the location of the property, and the time and place of hearing. Surrounding property owners within one hundred fifty (150) feet shall also be given notice, a minimum of ten (10) calendar days prior to the public hearing being conducted, by registered mail with return receipt requested of the time and place of hearing. A notice of such hearing shall be posted in a conspicuous manner on the subject property.

109.2 Appeals. Appeals shall be in accordance with Sections 109.2.1 through 109.2.3.

109.2.1 Filing. Any person with standing, aggrieved or affected by any decision of the code official or planning & zoning commission shall be permitted to appeal to the commission or board by written request with the code official. Upon furnishing the proper information, the code official shall transmit to the commission or board all papers and pertinent data related to the appeal.

109.2.2 Time limit. An appeal shall only be considered if filed within 10 working days after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the code official or planning & zoning commission shall be considered final.

109.2.3 Stays of proceedings. An appeal stays all proceedings from further action unless there is immediate danger to public health and safety.

109.3 Amendments. This code shall be permitted to be amended, but all proposed amendments shall be submitted to the code official for review and recommendation to the commission.

109.4 Voting and notice of decision. There shall be a vote of a majority of the board and commission present in order to decide any matter under consideration. Each decision shall be entered in the minutes by the secretary. All appeals shall be kept in accordance with state regulations and such appeals shall be open to the public.

Notice in writing of the decision and the disposition of each appeal shall be given to the code official and each appellant by mail or otherwise.

**SECTION 110
VIOLATIONS**

110.1 Unlawful acts. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this code. When any building or

parcel of land regulated by this code is being used contrary to this code, the code official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the code official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with the requirements of this code.

**SECTION 111
PERMITS AND APPROVALS**

111.1 General. All departments, officials and employees which are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would be in conflict with this code. Any permit or approval, if issued in conflict with this code, shall be null and void.

111.2 Expiration or cancellation. Each license, permit or approval issued shall expire after 180 days if no work is undertaken or such use or activity is not established, unless

a different time of issuance of the license or permit is allowed in this code, or unless an extension is granted by the issuing agency prior to expiration.

Failure to comply fully with the terms of any permit, license or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license, permit or approval shall be permitted to be taken on proper grounds by the code official. Cancellation of a permit or approval by the commission or board shall be permitted to be appealed in the same manner as its original action.

111.3 Validity of licenses, permits and approvals. For the issuance of any license, permit or approval for which the commission or board is responsible, the code official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including any requirements or conditions established as a condition of issuance. Except as specifically provided for in this code and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code* or the *International Mechanical Code*, such terms shall have the meanings ascribed to them as in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 202 GENERAL DEFINITIONS

ABANDONED SIGN. See Section 1002.1.

ACCESSORY BUILDING. An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

ACCESSORY LIVING QUARTERS. An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate sleeping unit.

ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

AGRICULTURE. The tilling of the soil, raising of crops, farm animals, livestock, horticulture, gardening, beekeeping and aquaculture.

ALLEY. Any public way or thoroughfare more than 10 feet (3048 mm), but less than 16 feet (4877 mm), in width, which has been dedicated to the public for public use.

ALTERATION. Any change, addition or modification in construction, occupancy or use.

AMUSEMENT CENTER. An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

ANIMATED SIGN. See Section 1002.1.

Electrically activated. See Section 1002.1.

Environmentally activated. See Section 1002.1.

Mechanically activated. See Section 1002.1.

APARTMENT HOUSE. A residential building designed or used for three or more dwelling units.

ARCHITECTURAL PROJECTION. See Section 1002.1.

AUTOMOTIVE REPAIR, MAJOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, which is conducted within a completely enclosed building.

AUTOMOTIVE REPAIR, MINOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, which is conducted within a completely enclosed building.

AUTOMOTIVE SELF-SERVICE MOTOR FUEL DISPENSING FACILITY. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

AUTOMOTIVE SERVICE MOTOR FUEL DISPENSING FACILITY. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include automotive repair and maintenance, car wash service, and food sales.

AWNING. See Section 1002.1.

AWNING SIGN. See Section 1002.1.

BACKLIT AWNING. See Section 1002.1.

BANNER. See Section 1002.1.

BANNER SIGN. See Section 1002.1.

BASEMENT. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

BILLBOARD. See Section 1002.1.

BOARD / BOARD OF ADJUSTMENT. The board of adjustment of the adopting jurisdiction. The legislative body of Hill City is the board of adjustment.

BOARDING HOUSE. A dwelling containing a single dwelling unit and not more than 10 sleeping units, where lodging is provided with or without meals, for compensation for more than one week.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING, MAIN. A building in which the principal use of the site is conducted.

BUILDING, TEMPORARY. A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

BUILDING CODE. The *International Building Code* promulgated by the International Code Council, as adopted by the jurisdiction.

BUILDING ELEVATION. See Section 1002.1.

BUILDING HEIGHT. The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

BUILDING LINE. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

BUSINESS OR FINANCIAL SERVICES. An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

CAMPING FACILITIES. A parcel of land offered to the traveling public for the purpose of overnight parking spaces for recreational vehicles, trailer campers, and/or tent sites.

CANOPY. A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.

CANOPY (Attached). See Section 1002.1.

CANOPY (Free-standing). See Section 1002.1.

CANOPY SIGN. See Section 1002.1.

CHANGEABLE SIGN. See Section 1002.1.

Electrically activated. See Section 1002.1.

Manually activated. See Section 1002.1.

COMBINATION SIGN. See Section 1002.1.

COMMERCIAL, HEAVY. An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

COMMERCIAL, LIGHT. An establishment or business that generally has retail or wholesale sales, office uses, or services, which do not generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are retail stores, offices, catering services or restaurants.

COMMERCIAL CENTER, COMMUNITY. A completely planned and designed commercial development providing for

the sale of general merchandise and/or convenience goods and services. A community commercial center shall provide for the sale of general merchandise, and may include a variety store, discount store or supermarket.

COMMERCIAL CENTER, CONVENIENCE. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A convenience commercial center shall provide a small cluster of convenience shops or services.

COMMERCIAL CENTER, NEIGHBORHOOD. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A neighborhood commercial center shall provide for the sales of convenience goods and services, with a supermarket as the principal tenant.

COMMERCIAL CENTER, REGIONAL. A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings, and other retail sales and services, in full depth and variety.

COMMERCIAL RETAIL SALES AND SERVICES.

Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor "sidewalk" promotions); businesses specializing in the sale of either general merchandise or convenience goods.

COMPREHENSIVE PLAN. The declaration of purposes, policies and programs for the development of the jurisdiction.

CONDITIONAL USE. A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

CONDOMINIUM. A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

CONGREGATE RESIDENCE. Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking for occupancy by other than a family. A congregate residence shall be permitted to be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

COPY. See Section 1002.1.

COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

DAY CARE, FAMILY. The keeping for part-time care and/or instruction, whether or not for compensation, of six or less children at any one time within a dwelling, not including members of the family residing on the premises.

DAY CARE, GROUP. An establishment for the care and/or instruction, whether or not for compensation, of seven or more

persons at any one time. Child nurseries, preschools and adult care facilities are included in this definition.

DENSITY. The number of dwelling units that are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.

DETACHED BUILDING. A building having no structural connection with another building.

DEVELOPMENT COMPLEX SIGN. See Section 1002.1.

DIRECTIONAL SIGN. See Section 1002.1.

DISTRICT. See Use District

DOUBLE-FACED SIGN. See Section 1002.1.

DRIVEWAY. A private access road, the use of that is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

DWELLING, MULTIPLE UNIT. A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

DWELLING, SINGLE FAMILY. A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

DWELLING, TWO FAMILY. A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

[B] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

ELECTRIC SIGN. See Section 1002.1.

ELECTRONIC MESSAGE SIGN OR CENTER. See Section 1002.1.

EXTERIOR SIGN. See Section 1002.1.

FACE OF BUILDING, PRIMARY. The wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

FARM ANIMALS. Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or

family food production, education or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

FASCIA SIGN. See “Wall or fascia sign,” Section 1002.1.

FLASHING SIGN. See “Animated sign, electrically activated,” Section 1002.1.

FLOOD PLAIN. A geographic area susceptible to periodic flooding from overflow of natural waterways.

FLOOR AREA, GROSS. The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

FLOOR AREA, NET. The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

FREE-STANDING SIGN. See Section 1002.1.

FRONTAGE. The width of a lot or parcel abutting a public right-of-way measured at the front property line.

FRONTAGE (Building). See Section 1002.1.

FRONTAGE (Property). See Section 1002.1.

GARAGE, PRIVATE. A building or a portion of a building not more than 1,000 square feet (92.9 m²) in area, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

GARAGE, PUBLIC. An enclosed building for the storage of cars which is open and available to the general public and meant to support businesses.

GRADE (Adjacent Ground Elevation). The lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet (1524 mm) from the building.

GROUND SIGN. See “Free-standing sign,” Section 1002.1.

GROUP CARE FACILITY. A facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.

HABITABLE SPACE (Room). Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

HOME OCCUPATION. The partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

HOSPITAL. An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and

including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

HOUSEHOLD PETS. Dogs, cats, rabbits, birds, etc., for family use only (noncommercial) with cages, pens, etc.

ILLUMINATED SIGN. See Section 1002.1.

INDUSTRIAL OR RESEARCH PARK. A tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

INTERIOR SIGN. See Section 1002.1.

JURISDICTION. As used in this code, jurisdiction is any political subdivision that adopts this code for administrative regulations within its sphere of authority.

KITCHEN. Any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

LANDSCAPING. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

LEGISLATIVE BODY. The political entity of the adopting jurisdiction.

LIVESTOCK. Includes, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hooved animals.

LOT. A single parcel of land.

MANSARD. See Section 1002.1.

MANUFACTURING, HEAVY. All other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.

MANUFACTURING, LIGHT. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

MANUFACTURING, MEDIUM. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

MARQUEE. See "Canopy (attached)," Section 1002.1.

MARQUEE SIGN. See "Canopy sign," Section 1002.1.

MEDICAL FACILITIES. Convalescent, rest, or nursing home, or any health facility where persons are housed, provided with meals and continued nursing care for compensation.

MENU BOARD. See Section 1002.1.

MOBILE & MANUFACTURED HOMES. A movable dwelling unit designed for year round occupancy which is

capable of being towed on its own chassis. Manufactured homes are constructed according to a code administered by the U.S. Department of Housing and Urban Development (HUD Code), which requires manufactured homes to be constructed on a permanent chassis.

MOBILE/MANUFACTURED HOME PARK. A tract of land where multiple mobile/manufactured homes are placed and maintained for the purpose of year round occupancy.

MODULAR HOME. A dwelling unit constructed off-site and adheres to the same state and local building codes and any applicable zoning regulations as would a site-built dwelling unit.

MORTUARY, FUNERAL HOME. An establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings, and/or display of funeral equipment.

MOTEL, HOTEL. Any building containing six or more sleeping units intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

MULTIPLE-FACED SIGN. See Section 1002.1.

NONCONFORMING LOT. A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

NONCONFORMING SIGN. A sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not now conform.

NONCONFORMING STRUCTURE. A building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally

altered for a use that does not conform to the zoning regulations of the zone in which it is located.

NONCONFORMING USE. See "Use, nonconforming."

OFF-PREMISE SIGN. See "Outdoor advertising sign," Section 1002.1.

ON-PREMISE SIGN. See Section 1002.1.

OPEN SPACE. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

OUTDOOR ADVERTISING SIGN. See Section 1002.1.

PARAPET. See Section 1002.1.

PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING LOT. An open area, other than a street, used for the parking of automobiles.

PARKING SPACE, AUTOMOBILE. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

PERSON. A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PLANNED UNIT DEVELOPMENT (PUD). A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

PLOT PLAN. A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

POLE SIGN. See “Free-standing sign,” Section 1002.1.

POLITICAL SIGN. See Section 1002.1.

POOLS (SWIMMING), HOT TUBS AND SPAS.

Above-ground/on-ground pool. See “Private swimming pool.”

Barrier. A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

Hot tub. See “Private swimming pool.”

In-ground pool. See “Private swimming pool.”

Power safety cover. A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

Private swimming pool. Any structure that contains water over 24 inches (610 mm) in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in Use Group R-4 and which is available only to the family and guests of the householder. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas.

Private swimming pool, indoor. Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

Private swimming pool, outdoor. Any private swimming pool that is not an indoor pool.

Public swimming pool. Any swimming pool other than a private swimming pool.

Spa. See “Private swimming pool.”

PORTABLE SIGN. See Section 1002.1.

PROJECTING SIGN. See Section 1002.1.

PUBLIC IMPROVEMENT. Any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the

responsibility for maintenance and operation, or for which the local government responsibility is established.

PUBLIC SERVICES. Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board duly authorized to furnish and maintain installations for the supply of electricity, oil, gas, communications, transportation, water, and wastewater.

PUBLIC UTILITY STATION. A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

QUASI-PUBLIC. Essentially a public use, although under private ownership or control.

QUORUM. A majority of the authorized members of a board or commission.

REAL ESTATE SIGN. See Section 1002.1.

RECREATION, INDOOR. An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

RECREATION, OUTDOOR. An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

RECYCLING FACILITY. Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

REGISTERED DESIGN PROFESSIONAL. An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state in which the project is to be constructed.

REHABILITATION CENTER (Halfway House). An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY. A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

RENOVATION. Interior or exterior remodeling of a structure, other than ordinary repair.

RESIDENCE CARETAKER. The residence of one who manages or oversees the property of another.

RESTAURANT. An establishment that sells prepared food for consumption. Restaurants shall be classified as follows:

Restaurant, fast food. An establishment that sells food already prepared for consumption, packaged in paper, styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

Restaurant, general. An establishment that sells food for consumption on or off the premises.

Restaurant, take-out. An establishment that sells food only for consumption off the premises.

REVOLVING SIGN. See Section 1002.1.

ROOF LINE. See Section 1002.1.

ROOF SIGN. See Section 1002.1.

SCHOOL, COMMERCIAL. A school establishment to provide for the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school or modeling school).

SETBACK. The minimum required distance between the property line and the building line.

SIGN. An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service, including the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers.

SIGN (Chapter 10). See Section 1002.1.

SIGN AREA. See Section 1002.1.

SIGN COPY. See Section 1002.1.

SIGN FACE. See Section 1002.1.

SIGN STRUCTURE. See Section 1002.1.

SIGNS, COMMUNITY. Temporary, on-or off-premises signs, generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction-based nonprofit organization.

SITE PLAN. A plan that outlines the use and development of any tract of land.

[B] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but

not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STORY. That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1829 mm) above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet (3658 mm) above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

STREET. Any thoroughfare or public way not less than 16 feet (4877 mm) in width which has been dedicated.

STREET, PRIVATE. A right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBDIVISION. The division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.

TEMPORARY SIGN. See Section 1002.1.

THEATER. A building used primarily for the presentation of live stage productions, performances or motion pictures.

UNDER CANOPY SIGN OR UNDER MARQUEE SIGN.

See Section 1002.1.

USE. The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

USE DISTRICT. An area located within the jurisdiction of the City for which uniform regulations govern the use of land with regard to size, use, density, etc.

USE, CHANGE OF. The change within the classified use of a structure or premise.

USE, NONCONFORMING. A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use regulations.

USE, PRINCIPAL. A use that fulfills a primary function of a household, establishment, institution or other entity.

USE, TEMPORARY. A use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

V SIGN. See Section 1002.1.

VACATION HOME. A residence, but not a primary residence, that is occupied for only a portion of the year.

VACATION RENTAL. Any building or premise kept, used, maintained, advertised or held out to the public to be

a place where sleeping accommodations are furnished for a consideration.

VARIANCE. A deviation from the height, bulk, setback, parking or other dimensional requirements established by this code.

WALL OR FASCIA SIGN. See Section 1002.1.

WAREHOUSE, WHOLESALE OR STORAGE. A building or premises in which goods, merchandise or equipment are stored for eventual distribution.

WINDOW SIGN. See Section 1002.1.

YARD. An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by

buildings or structures, except as otherwise provided in this code.

YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

YARD, REAR. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or ordinary high water line and a line parallel thereto.

YARD, SIDE. An open, unoccupied space on the same lot with the building and between the building line and the side lot line, or to the ordinary high water line.

CHAPTER 3 USE DISTRICTS

SECTION 301 DISTRICT CLASSIFICATIONS

301.1 Classification. In order to classify, regulate and restrict the locations of uses and locations of buildings designated for specific areas; and to regulate and determine the areas of yards, courts and other open spaces within or surrounding such buildings, property is hereby classified into districts as prescribed in this chapter.

SECTION 302 MINIMUM AREAS FOR ZONING DISTRICTS

302.1 Minimum areas. The minimum areas that may constitute a separate or detached part of any of the following zoning districts on the zoning map or subsequent amendments to said zoning map shall be as shown in Table 302.1. When a nonresidential district is directly across the street from or abuts the district with the same or less restrictive classification, the area of the land directly across the street or abutting the property may be included in the calculations in meeting the minimum district size requirements.

**TABLE 302.1
MINIMUM AREAS FOR ZONING DISTRICTS**

ZONING	MINIMUM AREA
A, Division 1	20
A, Division 2	10
A, Division 3	5
C Division 1	0.138
C, Division 2	No minimum
C, Division 3	No minimum
C, Division 4	No minimum
CR, Division 1	0.138
CR, Division 2	No minimum
CB, Division 1	No minimum
FI, Division 1	No minimum
FI, Division 2	No minimum
FI, Division 3	No minimum
R, Division 1	0.115

R, Division 2	0.115
R, Division 3	0.115
R, Division 4	0.172

For SI: 1 acre = 4047m². (43,560 square foot)

SECTION 303 ZONING MAP

303.1 General. The boundaries of each zoning district are to be indicated upon the official zoning map as approved by the legislative authority. Said map and subsequent amendments thereto shall be considered as a part of this code.

SECTION 304 ANNEXED TERRITORY

304.1 Classification. Any territory hereafter annexed shall automatically, upon such annexation, be zoned by the governing body and be subject to all conditions and regulations applicable to property in such district.

SECTION 305 CONDITIONAL USES

305.1 General. The principal objective of this zoning code is to provide for an orderly arrangement of compatible buildings and land uses, and for the property location of all types of uses required for the social and economic welfare of the community. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various use districts established by this code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of the unusual characteristics of the service they provide the public. These conditional uses require particular considerations as to their proper location to adjacent, established or intended uses, or to the planned growth of the community. The conditions controlling the locations and operation of such special uses are established by the applicable sections of this code.

CHAPTER 4 AGRICULTURAL ZONES

SECTION 401 AGRICULTURAL ZONES DEFINED

401.1 Agricultural zone. Allowable agricultural (A) zone uses shall be:

Division 1. Any designated open space as set forth in this code.

Division 2. Any agricultural use, including, but not limited to, dwellings, maintenance/storage buildings and other such uses necessary for the principal use.

Division 3. Any public park land or other similar recreational use, including, but not limited to,

amusement rides, office buildings, retail buildings and dwellings necessary for the maintenance of the principal use.

SECTION 402 BULK REGULATIONS

402.1 General. The minimum area, setbacks, density and maximum height shall be as prescribed in Table 402.1.

TABLE 402.1 AGRICULTURAL (A) ZONE BULK REGULATIONS (in feet, unless noted otherwise)^a

ZONE DIVISION	MINIMUM LOT AREA (acres)	MAXIMUM DENSITY (units/acre)	LOT DIMENSIONS		SETBACK REQUIREMENTS			MAXIMUM BUILDING HEIGHT ^b
			Minimum lot width	Minimum lot depth	Minimum front yard	Minimum side yard	Minimum rear yard	
1	20	1 dwelling unit/20 acres	600	600	30	15	60	35
2	10	1 dwelling unit/10 acres	400	400	30	15	60	35
3	5	1 dwelling unit/5 acres	250	250	30	15	60	35

For SI: 1 foot = 304.8 mm, 1 acre = 4047 m².

a. Open spaces and parks can be of a reduced size, if approved.

b. Access storage structures, windmills and similar structures shall be permitted to exceed the maximum height when approved by the legislative body

CHAPTER 5 RESIDENTIAL ZONES

SECTION 501 RESIDENTIAL ZONES DEFINED

501.1 Residential zone. Allowable residential (R) zone uses shall be:

Division 1. The following uses are permitted in an R, Division 1 zone:

Single-family dwellings, public owned and operated parks, recreation centers, swimming pools and playgrounds, police and fire department stations, public and governmental services, public libraries, schools and colleges (excluding colleges or trade schools operated for profit), public parking lots, private garages, buildings accessory to the above permitted uses (including private garages and accessory living quarters), and temporary buildings.

The following uses require conditional use approval in R, Division 1 zone:

Two-Family dwelling, multiple-unit dwellings, condos/townhomes, public utilities, child/daycare, mobile homes, mobile home parks, camping facilities, office buildings, vacation rentals and all other uses not specifically permitted.

Division 2. The following uses are permitted in an R, Division 2 zone: Any use permitted in R, Division 1 zones.

The following uses require conditional use approval in R, Division 2 zone:

Two-Family dwelling, multiple-unit dwellings, condos/townhomes, public utilities, child/daycare, mobile homes, mobile home parks, camping facilities, office buildings, vacation rentals, and all other uses not specifically permitted.

Division 3. The following uses are permitted in an R, Division 3 zone: Any use permitted in R, Division 1 zones and two-family dwellings.

The following uses require conditional use approval in R, Division 3 zone:

Multiple-unit dwellings, condos/townhomes, public utilities, child/daycare, mobile homes, mobile home parks, camping facilities, office

buildings, vacation rentals, and all other uses not specifically permitted.

Division 4. The following uses are permitted in an R, Division 4 zone:

All uses permitted in R, Division 3 zones, multiple-unit dwellings, such as apartment houses, mobile home, mobile home parks, boarding houses, condominiums, townhomes and congregate residences.

The following uses require conditional use approval in R, Division 4 zone:

Public utilities, child/daycare, camping facilities, office buildings, vacation rentals, and all other uses not specifically permitted.

SECTION 502 BULK REGULATIONS

502.1 General. The minimum area, setbacks, density and maximum height shall be as prescribed in Table 502.1.

TABLE 502.1 RESIDENTIAL (R) ZONE BULK REGULATIONS (in feet, unless noted otherwise)

DIVISION	MINIMUM LOT AREA/SITE (square feet)	MAXIMUM DENSITY (dwelling unit/acre)	LOT DIMENSIONS		SETBACK REQUIREMENTS			MAXIMUM BUILDING HEIGHT ^a
			Minimum lot width	Minimum lot depth	Minimum front yard	Minimum side yard	Minimum rear yard	
1a	5,000	1	50	100	25	25	25	35
1a	35,000	1	125	150	25	25	25	35
b	20,000	2	100	125	25	25	25	35
c	10,000	4	75	100	25	25	25	35
d	5,000	6	50	100	25	25	25	35
2 a	35,000	1	125	150	25	10	25	35
b	20,000	2	100	125	25	10	25	35
c	10,000	4	75	100	25	5	25	35
d	5,000	6	50	90	25	5	25	35
3a	10,000	4	50	100	25	5	25	35
b	5,000	6	50	100	25	5	25	35
4 a	10,000	8	75	100	25	5	25	35
b	7,500	12	75	100	25	5	25	35

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 acre = 4047 m².

- a. Accessory towers, satellite dishes and similar structures shall be permitted to exceed the maximum height when approved by the legislative body.

CHAPTER 6 COMMERCIAL, COMMERCIAL/RESIDENTIAL AND CENTRAL BUSINESS ZONES

SECTION 601 COMMERCIAL AND COMMERCIAL/ RESIDENTIAL ZONES DEFINED

601.1 Commercial, commercial/residential and central business zones.

Allowable commercial (C) zone, commercial/residential (CR) zone and central business (CB) uses shall be:

C Zone

Division 1. The following uses are permitted in a C, Division 1 zone:

Minor automotive repair, automotive motor fuel dispensing facilities, automotive self-service motor fuel dispensing facilities, business or financial services, convenience and neighborhood commercial centers (excluding wholesale sales), family and group day care facilities, libraries, mortuary and funeral homes, public and governmental services, police and fire department stations, places of religious worship, public utility stations, and restaurants.

Division 2. The following uses are permitted in a C, Division 2 zone:

Any uses permitted in C, Division 1 zones, and light commercial (excluding wholesale sales), group care facilities, physical fitness centers, religious, cultural and fraternal activities, rehabilitation centers, and schools and colleges operated for profit (including commercial, vocational and trade schools).

Division 3. The following uses are permitted in a C, Division 3 zone:

Any uses permitted in C, Division 2 zones, and amusement centers (including bowling alleys, golf driving ranges, miniature golf courses, ice rinks, pool and billiard halls, and similar recreational uses), automotive sales, building material supply sales (wholesale and retail), cultural institutions (such as museums and art galleries), community commercial centers (including wholesale and retail sales), health and medical institutions (such as hospitals), campgrounds, hotels and motels (excluding other residential occupancies), commercial printing and publishing, taverns and cocktail lounges, indoor theaters, and self-storage warehouses.

Division 4. The following uses are permitted in a C, Division 4 zone:

Any uses permitted in C, Division 3 zones, and major automotive repair, commercial bakeries, regional commercial centers (including wholesale and retail sales), plastic products design, molding and assembly, small metal products design,

casting, fabricating, and processing, manufacture and finishing, storage yards, and wood products manufacture and finishing.

CR Zone

Permitted (commercial/residential) (CR) zone uses shall be:

Division 1. The following uses are permitted in a CR, Division 1 zone:

Any use permitted in a C, Division 1 zone and residential use permitted, except in the story or basement abutting street grade.

Division 2. The following uses are permitted in a CR, Division 2 zone:

Any use permitted in a C, Division 2 zone, and residential use permitted, except in the story or basement abutting street grade.

CB Zone

Central Business Zoning shall only be allowed on Main Street between Elm Street and McGregor Street. Allowable Central Business (CB) zone uses shall be:

Division 1. Any stores, shops, consumer goods and services, professional and general offices and related services, restaurants and eateries, financial institutions, and hotels.

The following uses require conditional use approval in CB, Division 1 zone:

All other uses not specifically permitted.

SECTION 602 BULK REGULATIONS

602.1 General. The minimum area, setbacks, density and maximum height shall be as prescribed in Table 602.1.

602.2 Architecture. All new construction and exterior renovations of existing buildings, requiring a building permit, within the Commercial (C) zones, Commercial/Residential (CR) zone and Central Business District (CB) zone must adhere to the Hill City Design Guidelines established by resolution and adopted by the Common Council.

Ordinance Amendment 2018-03

602.3 Construction Documents. Construction of structures exceeding 2,000 square feet within the commercial (C) zone, commercial/residential (CR) zone and central business (CB) shall have architectural design plans drawn by a licensed architect or design engineer.

**TABLE 602.1 COMMERCIAL (C), COMMERCIAL/RESIDENTIAL (CR) AND CENTAL BUSINESS (CB) ZONES
BULK REGULATIONS (in feet, unless noted otherwise)**

DIVISION	MINIMUM LOT AREA (square feet)	MAXIMUM DENSITY (units/acre)	LOT DIMENSIONS		SETBACK REQUIREMENTS			MAXIMUM BUILDING HEIGHT ^a
			Minimum lot width	Minimum lot depth	Minimum front yard	Minimum side yard	Minimum rear yard	
1	6,000	12	30	70	10	5	30	30
2	NA	NA	30	70	10	5	30	40
3	NA	NA	75	100	10	5	30	50
4	NA	NA	75	100	10	5	30	50
CB1	Not Applicable	Not Applicable	0	0	0	0	30	50

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 acre = 4047 m².

- a. Accessory towers, satellite disks and similar structures shall be permitted to exceed the listed heights when approved by the legislative body.

CHAPTER 7 FACTORY/INDUSTRIAL ZONES

SECTION 701 FACTORY/INDUSTRIAL ZONES DEFINED

701.1 FI zones. Allowable factory/industrial (FI) zone uses shall be:

Division 1. Any light-manufacturing or industrial use, such as warehouses, research or testing laboratories, product distribution centers, woodworking shops, auto body shops, furniture assembly, dry cleaning plants, places of religious worship, public and governmental services, machine shops, and boat building storage yards.

Division 2. Any use permitted in the FI, Division 1 zone and stadiums and arenas, indoor swap meets, breweries, liquid fertilizer manufacturing,

carpet manufacturing, monument works, and a regional recycling center.

Division 3. Any use permitted in the FI, Division 2 zone and auto-dismantling yards, alcohol manufacturing, cotton gins, paper manufacturing, quarries, salt works, petroleum refining, and other similar uses.

SECTION 702 BULK REGULATIONS

702.1 General. The minimum area, setbacks, density and maximum height shall be as prescribed in Table 702.1.

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 acre = 4047 m².

a. Accessory towers, satellite dishes and similar structures shall be permitted to exceed the maximum height when approved by the legislative body.

TABLE 702.1 FACTORY/INDUSTRIAL (FI) ZONE BULK REGULATIONS (in feet, unless noted otherwise)

DIVISION	MINIMUM LOT AREA (square feet)	MAXIMUM DENSITY (units/acre)	LOT DIMENSIONS		SETBACK REQUIREMENTS			MAXIMUM
			Minimum lot width	Minimum lot depth	Minimum front yard	Minimum side yard	Minimum rear yard	BUILDING HEIGHT ^a
1	Not Applicable	Not Applicable	50	75	10	5	30	60
2	Not Applicable	Not Applicable	75	100	10	5	30	80
3	Not Applicable	Not Applicable	100	150	10	5	30	80

CHAPTER 8 GENERAL PROVISIONS

SECTION 801 OFF-STREET PARKING

801.1 General. Off-street parking shall be provided in compliance with this chapter whenever any building is erected, altered, enlarged, converted or increased in size or capacity. On-street parking spaces shall not be considered for the purpose of satisfying the number of parking spaces required by this code.

801.2 Parking space requirements. Parking spaces shall be in accordance with Sections 801.2.1 through 801.2.4.

801.2.1 Required number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 801.2.1, provided that any frac-

TABLE 801.2.1 OFF-STREET PARKING SCHEDULE

USE	NUMBER OF PARKING SPACES REQUIRED
Assembly	1 per 300 gross square feet
Dwelling unit	2 per dwelling unit
Health club	1 per 100 gross square feet
Hotel/motel	1 per sleeping unit plus 1 per 500 square feet of common area
Industry	1 per 500 square feet
Medical office	1 per 200 gross square feet
Office	1 per 300 gross square feet
Restaurant	1 per 100 gross square feet
Retail	1 per 200 gross square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Warehouse	1 per 500 gross square feet

tional parking space is computed as a whole space.

For SI: 1 square foot = 0.0929 m².

801.2.2 Combination of uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

801.2.3 Location of lot. The parking spaces required by this code shall be provided on the same off-street lot as the use or where the exclusive use of such is provided on another off-street lot not more than 500 feet (152 m) radially from the subject lot within the same or less-restrictive zoning district.

801.2.4 Accessible spaces. Accessible parking spaces and passenger loading zones shall be provided in accordance with the building code. Passenger loading zones shall be designed and constructed in accordance with ICC A117.1.

801.3 Parking stall dimension. Parking stall dimensions shall be in accordance with Sections 801.3.1 and 801.3.2.

801.3.1 Width. A minimum width of 9 feet (2743 mm) shall be provided for each parking stall.

Exceptions:

1. Compact parking stalls shall be permitted to be 8 feet (2438 mm) wide.
2. Parallel parking stalls shall be permitted to be 8 feet (2438 mm) wide.
3. The width of a parking stall shall be increased 10 inches (254 mm) for obstructions located on either side of the stall within 14 feet (4267 mm) of the access aisle.
4. Accessible parking spaces shall be designed in accordance with ICC A117.1.

801.3.2 Length. A minimum length of 20 feet (6096 mm) shall be provided for each parking stall.

Exceptions:

1. Compact parking stalls shall be permitted to be 18 feet (5486 mm) in length.
2. Parallel parking stalls shall be a minimum 22 feet (6706 mm) in length.

801.4 Design of parking facilities. The design of parking facilities shall be in accordance with Sections 801.4.1 through 801.4.7.

801.4.1 Driveway width. Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

1. Private driveways at least 9 feet (2743 mm).
2. Commercial driveways:
 - 2.1. Twelve feet (3658 mm) for one-way enter/exit.
 - 2.2. Twenty-four feet (7315 mm) for two-way enter/ exit.

801.4.2 Driveway and ramp slopes. The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the code official and the jurisdiction's engineer.

801.4.3 Stall access. Each required parking stall shall be individually and easily accessed. No automobile shall be

required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

801.4.4 Compact-to-standard stall ratio. The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 2.

801.4.5 Screening. A 3-foot-high (914 mm) buffer at the public way shall be provided for all parking areas of five or more parking spaces.

801.4.6 Striping. All parking stalls shall be striped.

Exception: A private garage or parking area for the exclusive use of a single-family dwelling.

801.4.7 Lighting. All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

For SI: 1 foot = 304.8 mm.

801.4.8 Surfacing. All off-street parking spaces shall be graded and paved with concrete or asphalt, except for single-family homes, which may use compacted gravel or

TABLE 802.1 MAXIMUM FENCE HEIGHTS

YARDS	HEIGHT (feet)
Front	3.5
Rear	6.0
Side	
Lot side	6.0
Street side	3.5

rock to eliminate dust. All off-street parking abutting a sidewalk shall be provided with a wheel guard or curb not less than six (6) inches in height, which shall be securely installed and maintained.

**SECTION 802
FENCE HEIGHTS**

802.1 General. Fence and retaining wall heights in required yards shall not exceed those found in Table 802.1.

**SECTION 803
LOCATION OF ACCESSORY BUILDINGS**

803.1 General. Accessory buildings shall occupy the same lot as the main use or building.

803.2 Separation from main building. All accessory buildings shall be separated from the main building by 10 feet (3048 mm).

803.3 Private garages. An accessory building used as a private garage shall be permitted to be located in the rear yard or side yard provided that setbacks are maintained and the structures do not encroach into any recorded easements.

The building shall be permitted to be located in the front yard of a sloping lot if the lot has more than a 10-foot (3048 mm) difference in elevation from midpoint of the front lot line to a point 50 feet (15 240 mm) away midway between the side lot lines.

803.4 Storage buildings. All accessory buildings used for storage or other similar use shall be permitted to be located in any portion of the rear yard or side yard. No storage building shall be located in the front yard.

**SECTION 804
ALLOWABLE PROJECTIONS INTO YARDS**

804.1 General. Eaves, cornices or other similar architectural features shall be permitted to project into a required yard no more than 12 inches (305 mm). Chimneys shall be permitted to project no more than 2 feet (610 mm), provided the width of any side yard is not reduced to less than 30 inches (762 mm).

804.2 Front yards. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet (1829 mm) into the required front yard, provided such porch does not extend above the first level and is no more than 6 feet (1829 mm) above grade at any point.

804.3 Rear yards. Windows shall be permitted to project into a required rear yard no more than 6 inches (152 mm).

SECTION 805 LANDSCAPING REQUIREMENTS

805.1 General. Landscaping is required for all new buildings and additions over 500 square feet (46.5 m²) as defined in this section. Said landscaping shall be completed within 1 year from the date of occupancy of the building.

805.2 Front yards. Front yards required by this code shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

805.3 Street-side side yards. All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

805.4 Maintenance. All live landscaping required by this code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

**SECTION 806
LOADING SPACES**

806.1 General. Loading spaces shall be provided on the same lot for every building in the C or FI zones. No loading space is required if prevented by an existing lawful building.

806.2 Size. Each loading space shall have a clear height of 14 feet (4267 mm) and shall be directly accessible through

a usable door not less than 3 feet (914 mm) in width and 6 feet, 8 inches (2032 mm) high. The minimum area of a loading space shall be 400 square feet (37.2 m²) and the minimum dimensions shall be 20 feet (6096 mm) long and 10 feet (3048 mm) deep.

SECTION 807 PASSAGEWAYS

807.1 Residential entrances. There shall be a passageway leading from the public way to the exterior entrance of each dwelling unit in every residential building of not less than 10 feet (3048 mm) in width. The passageway shall be increased by 2 feet (610 mm) for each story over two.

807.2 Separation between buildings. There shall be at least 10 feet (3048 mm) of clear space between every main building and accessory building on a lot. There shall be at least 20 feet (6096 mm) of clear space between every residential building and another main building on the same lot.

807.3 Location of passageways. Passageways shall be permitted to be located in that space set aside for required yards. Passageways shall be open and unobstructed to the sky and shall be permitted to have such projections as allowed for yards, provided the users of said passageway have a clear walkway to the public way. Any space between buildings or passageways that has less width than that prescribed herein shall not be further reduced.

SECTION 808 APPROVAL FOR AND AVAILABILITY OF ESSENTIAL SERVICES

808.1 General. All projects that require the additional use of new facilities or essential services, such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting and similar services, shall obtain such approval as required by the agency providing such service prior to project approval. Non-availability of essential services shall be permitted to be grounds for denying permits for additional development until such services are available. The jurisdiction is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the jurisdiction agrees otherwise. All service extensions shall be designed and installed in full compliance with the jurisdiction's standards for such service, and shall be subject to review, permit and inspection as required by other policies or ordinances of the jurisdiction.

SECTION 809 STRUCTURES

809.1 Foundations. All principal structures, except manufactured/mobile homes, must be securely affixed to a permanent foundation. All accessory structures must be securely anchored.

CHAPTER 9 SPECIAL REGULATIONS

SECTION 901 HOME OCCUPATIONS

901.1 General. Home occupations shall be permitted in all zones, provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises.

901.2 Conditions.

1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
4. There shall be no exterior display or storage of goods on said premises.
5. Home occupations involving beauty shops or barber shops shall require a conditional-use permit.
6. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
7. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the parking requirements in Chapter 8.

SECTION 902 ADULT USES

902.1 General. It is the purpose of this ordinance to prohibit sexually oriented businesses and regulate activities to promote the health, safety, morals, and general welfare of the citizens of Hill City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment. Neither is it the intent

nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

902.2 Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meaning shown herein.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devise are maintained to show images to five or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOK OR VIDEO STORE. A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration anyone or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video or DVD, reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas;" or
2. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical area" generate 5% or more of the business's income, or account for 5% or more of inventory, or occupy 5% or more of floor space. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as Adult Bookstore or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

ADULT CABARET. A nightclub, bar, restaurant, cafe, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

1. Persons who appear in a state of nudity or semi-nudity; or
2. Live performances that are distinguished or characterized by the exposure of "specified anatomical area" or by "specified sexual activities"; or
3. Films, motions pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical area"; or
4. Persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual or titillation of an audience or customers.

ADULT HOTEL OR MOTEL. A hotel, motel or similar commercial establishment which:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical area;" and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions;
2. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motions pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of "specified anatomical area" or by "specified sexual activities."

DIRECTOR. Hill City law enforcement personnel or the Hill City code enforcer within the limits of the municipality.

EMPLOYEE. A person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the

person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnished, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT. Includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business; or
5. A sexually oriented business or premises on which the sexually oriented business is located

LIVE THEATRICAL PERFORMANCE. A play, skit, opera, ballet, concert, comedy, or musical drama.

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or displays "specified anatomical area" is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons for consideration.

NUDITY OR STATE OF NUDITY. The appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of a " part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE OR SEMI-NUDITY. The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not

include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

A principal business purpose exists if the services offered are intended to generate business income.

SEXUAL ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or any establishment which incorporates the use of "obscene live conduct" (SDCL 22-24-27 (10) and nudity as established in (14) and (16) of these definitions.

SPECIFIED ANATOMICAL AREAS. Includes:

1. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

902.3 Classification:

Sexually oriented business uses are classified as either non-live entertainment or live entertainment as follows:

1. Non-live entertainment shall include: adult arcades; or adult bookstores or adult video stores; or adult motels; or adult motion picture theaters.
2. Live entertainment shall include: adult theaters; or adult cabarets; or escort agencies; or nude model studios; or sexual encounter centers.

902.4 Sexually Oriented Businesses Prohibited. It shall be unlawful:

1. For any person to operate a sexually oriented business within the city of Hill City pursuant to this ordinance; or
2. For any person to obtain employment with a sexually oriented business within the city of Hill City pursuant to this ordinance; or
3. For any establishment to provide sexually oriented services, pursuant to this ordinance, for a cover charge or any other form of remuneration; or
4. For any land-owner to knowingly rent, lease, or otherwise allow the use of his/her land for the purposes of a sexually oriented business.
5. Violations of any provision within this subsection shall constitute a Class 11 misdemeanor pursuant to Section 8 of this ordinance.

902.5 Non-Conforming Uses. Any business lawfully operating on the effective date of this ordinance that is in violation of the requirements of this ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed six months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

902.6 Exemptions. It is a defense to prosecution under this ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of South Dakota, a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Notwithstanding any other provisions in this ordinance, movies rated G, PG, PG-13, or R by the Motion Picture Association of America (MP AA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this ordinance.

902.7 Notices. Any notice required or permitted to be given by the Director or any other city office, division, department or other agency under this ordinance to an operator or owner of a sexually oriented business may be given either by personal delivery or certified mail.

It shall be the duty of any owner or operator to furnish notice to the Director on writing of any change of residence or mailing address.

902.8 Injunction. A person who operates or causes to be operated a sexually oriented business in violation of this ordinance, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation.

**SECTION 903
MOBILE/MANUFACTURED HOME PARKS**

903.1 Location. Mobile/manufactured home parks shall be permitted only in a Residential, Division 4 zone and shall be in conformance with all rules and regulations of this ordinance.

903.2 Design Standards. Proposed mobile/manufactured home parks shall provide certification of compliance with resolutions, ordinances and regulations regarding mobile/manufactured home park licensing and zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.

1. Mobile/manufactured home parks shall contain no less than forty thousand (40,000) square feet, including roads, playgrounds and service buildings, contiguous except for alleys or access roads.
2. Mobile/manufactured home parks shall be located on a well drained site, properly graded to insure rapid drainage of the site upon which mobile home sites are to be provided and shall be above the regulatory flood protection elevation.
3. No building or structure erected or stationed in the park shall have a height of greater than fifteen (15) feet and no permanent dwelling shall be located within the said mobile/manufactured home parks except the owner or caretakers permanent dwelling.
4. Each mobile/manufactured home park shall be permitted to display on each street frontage, one identifying sign of a maximum size of nine (9) square feet. Said sign shall contain thereon only

the name and address of the mobile home park and may be lighted by indirect lighting only.

5. Each mobile/manufactured home space within said mobile home park shall be at least thirty-five (35) feet wide and each such space shall be clearly defined by permanent markers.
6. Each mobile/manufactured home space shall have a front yard setback of ten (10) feet from all streets or access roads within the park. Mobile/manufactured homes shall be harbored on each space so that there be at least twenty (20) feet clearance between homes or additions, provided, however, with respect to mobile/manufactured homes parked end-to-end clearance shall not be less than ten (10) feet. No mobile/manufactured home shall be parked closer than twenty (20) feet from any building within the mobile home park except a storage building not to exceed one hundred-twenty (120) square feet from the middle to back half of the lot, no closer than five (5) feet to any mobile/manufactured home.
7. There shall be at least one (1) paved off-street parking space for each trailer space.
8. Each mobile/manufactured home space shall abut upon a public street or private access road within the park. All access roads shall have a minimum of six (6) inches of compacted gravel or paving and a driving surface width of twenty-five (25) feet.
9. Each mobile/manufactured home space shall be provided with water and sanitary sewer connections to city water and sewer facilities.
10. Mobile/manufactured homes shall not be used for commercial, industrial or other than residential uses within mobile/manufactured home parks.
11. Every mobile/manufactured home in a mobile home park shall be skirted within sixty (60) days of the date of its siting in a mobile home park.
12. An application for a mobile/manufactured home park permit shall be as regulated hereunder and as in the building code of the City of Hill City. The application for a permit shall be filed with the City of Hill City, and issued upon approval of the City Council. Each application shall be accompanied by two (2) copies of the plot plan drawn to scale. Such copies shall be reviewed and approved by the legislative body and the Planning

Commission. The following information shall be shown:

- a. The location and the legal description of the proposed mobile/manufactured home park,
- b. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile/manufactured home park,
- c. The proposed use of the buildings shown on the site,
- d. The location and size of all mobile/manufactured home spaces,
- e. The location of all points of entry and exit for motor vehicles and internal circulation patterns.
- f. The location of all landscaping to be provided,
- h. The location of all walls and fences and the indications of their height and the materials of their construction,
- i. The name and address of the applicants,
- j. Utility easements as may be necessary,
- k. A time schedule showing the times in which the proposed mobile/manufactured home park shall be completed,
- m. Such other architectural and engineering data as may be required to permit the Planning Commission and the legislative body to determine if the provisions of this ordinance are being complied with.

903.3 General Standards. Mobile/manufactured homes are permitted to be placed upon mobile/manufactured home parks and shall conform to the following standards:

- 1. Shall be a minimum of twelve (12) foot wide.
- 2. The age of the home shall be fifteen (15) years or less, from the date of manufacture.

SECTION 904

MANUFACTURED/MOBILE HOMES

904.1 General Standards. A conditional use is required for the placement of a manufactured/mobile home within any use district. Manufactured/mobile homes placed upon all property types, with the exception of mobile/manufactured home parks, shall conform to the following standards:

- a. Shall be a minimum of twenty four (24) foot wide.
- b. Age of the home shall be less than six (6) years old from the date of manufacture.
- c. Shall be skirted within sixty (60) days of siting.
- d. The use of a mobile/manufactured homes for commercial purposes within a residential use district is prohibited.

SECTION 905 CAMPING FACILITIES

905.1 Location. Camping facilities shall be permitted in Commercial, Division 3 zone, and shall be in conformance with all the rules and regulations of this ordinance.

905.2 Design Standards. Proposed temporary camping facilities shall provide certification of compliance with all resolutions, ordinances and regulations regarding camping facilities licensing and zoning, health plumbing, electrical, building fire prevention and all other applicable ordinances and regulations.

- 1. Every camping facility shall be located on a well drained site in an area free from marshes, swamps or other potential places for insects or rodents.
- 2. Unless every trailer camper parked at a camping facility shall have self-contained toilet and bathing accommodations connected with municipal water and sewer facilities, such camping facility shall provide clean, wholesome communal toilets and bathing accommodations, in continuous working order, connected with municipal water and sewer facilities with separate accommodations for each of the sexes.
- 3. Every structure at a camping facility shall be secured affixed to a permanent foundation.

4. A well defined area shall be provided for every campsite in the camping facility.

5. Every camping space shall abut upon continuous graveled or hard-surfaced driveway maintained in good condition, not less than twenty (20) feet wide, which is connected with a street or alley. No parking of any kind or other obstruction shall be permitted in such driveway.

6. No camping vehicle shall be parked other than in a defined space.

7. Every building site occupied by a camping facility must provide off-street parking facilities for at least one (1) motor vehicle per camper parked thereon. If a portion of a camping space is used for a motor vehicle parking no additional off-street parking facilities need be provided for the camper parked in that space.

CHAPTER 10 SIGN REGULATIONS

**SECTION 1001
PURPOSE**

1001.1 Purpose. The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

**SECTION 1002
DEFINITIONS**

1002.1 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

ABANDONED SIGN. A sign structure that has ceased to be used for the display of sign copy or as otherwise defined by South Dakota state law.

ANIMATED SIGN. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

Electrically activated. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of nonillumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

2. Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

Environmentally activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by

electric motors or other mechanically induced means.

ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also “Awning”; “Backlit awning”; and “Canopy, attached and freestanding.”

AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. See also “Wall or fascia sign.”

BACKLIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.

BANNER. A temporary sign flexible substrate on which copy or graphics may be displayed.

BANNER SIGN. A sign utilizing a banner as its display surface.

BILLBOARD. See “Off-premise sign” and “Outdoor advertising sign.”

BUILDING ELEVATION. The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

CANOPY (Attached). A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also “Marquee.”

CANOPY (Free-standing). A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN. A sign affixed to the visible surface(s) of an attached or free-standing canopy. For reference, see Section 1003.

CHANGEABLE SIGN. A sign with the capability of content change by means of manual or remote input, including signs which are:

Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-

emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “Electronic message sign or center.”

Manually activated. Changeable sign whose message copy or content can be changed manually.

COMBINATION SIGN. A sign that is supported partly by a pole and partly by a building structure.

COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN. A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with Section 1009.2 of this chapter.

DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DOUBLE-FACED SIGN. A sign with two faces, back to back.

ELECTRIC SIGN. Any sign activated or illuminated by means of electrical energy.

ELECTRONIC MESSAGE SIGN OR CENTER. An electrically activated changeable sign whose variable message capability can be electronically programmed.

EXTERIOR SIGN. Any sign placed outside a building.

FASCIA SIGN. See “Wall or fascia sign.”

FLASHING SIGN. See “Animated sign, electrically activated.”

FREE-STANDING SIGN. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference, see Section 1003.

FRONTAGE (Building). The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

FRONTAGE (Property). The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

GROUND SIGN. See “Free-standing sign.”

HOURS OF OPERATION SIGN. A sign which displays hours of operation, including “open” & “closed” signs.

ILLUMINATED SIGN. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

INTERIOR SIGN. Any sign placed within a building, but not including “window signs” as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

MANSARD. An inclined decorative roof-like projection that is attached to an exterior building facade.

MARQUEE. See “Canopy (attached).”

MARQUEE SIGN. See “Canopy sign.”

MENU BOARD. A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.

MULTIPLE-FACED SIGN. A sign containing three or more faces.

NAME PLATE SIGN. A sign which identifies the name, occupation and/or professions of the occupants of the premises.

NONCONFORMING SIGN (LEGAL). Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size.

OFF-PREMISE SIGN. See “Outdoor advertising sign.”

ON-PREMISE SIGN. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

OUTDOOR ADVERTISING SIGN. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

PARAPET. The extension of a building facade above the line of the structural roof.

POLE SIGN. See “Free-standing sign.”

POLITICAL SIGN. A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

PORTABLE SIGN. Any sign not permanently attached to the ground or to a building or building surface.

PROJECTING SIGN. A sign other than a wall sign that is attached to or projects more than 6 inches (152.4 mm) from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see Section 1003.

PUBLIC NECESSITY SIGN. A sign which informs the public of any danger or hazard existing on or adjacent to the premises.

PUBLIC PROPERTY SIGN. A sign which informs the public that a property is owned by the governmental entity.

REAL ESTATE SIGN. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

REVOLVING SIGN. A sign that revolves 360 degrees (6.28 rad) about an axis. See also “Animated sign, mechanically activated.”

ROOF LINE. The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

ROOF SIGN. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections

such as canopies or marquees shall not be considered to be roof signs. For a visual reference, and a comparison of differences between roof and fascia signs, see Section 1003. **SIGN.** Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

SIGN ALTERATION. Changes or rearrangement in structural parts of its design, whether by extending on a side, increasing sign area or height, or in moving from one location or position to another.

SIGN AREA. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or “V” shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE. The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. See Section 1003.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.
2. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.
3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall include the entire area of the sign surface, inclusive of all sign copy elements.
4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting

background, or within the painted or illuminated border.

SIGN HEIGHT. The vertical distance measured from the ground plane to the top of the sign including the air space between the ground and the sign.

SIGN PLAN. A plan designed to show the relationship of signs for any single or cluster of buildings in any arrangement which constitutes a visual entity as a whole.

SIGN STRUCTURE. Any structure supporting a sign.

SOLICITATION SIGN. A sign used to advise solicitors they are not welcome on the property.

TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

UNDER CANOPY SIGN OR UNDER MARQUEE SIGN.

A sign attached to the underside of a canopy or marquee.

V SIGN. Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than 90 (1.57 rad) degrees with the distance between the sign faces not exceeding 5 feet (1524 mm) at their closest point.

WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 6 inches (152.4 mm) from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see Section 1003.

WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

SECTION 1003 GENERAL SIGN TYPES

1003.1 General. Sign types and the computation of sign area shall be as depicted in Figures 1003.1(1) through 1003.1(4).

SECTION 1004 GENERAL PROVISIONS

1004.1 Conformance to codes. Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of the *International Building Code* and of any other ordinance or regulation within this jurisdiction.

1004.2 Signs in rights-of-way. No temporary or permanent sign other than an official traffic sign or similar sign shall be erected within 2 feet (610 mm) of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the code official.

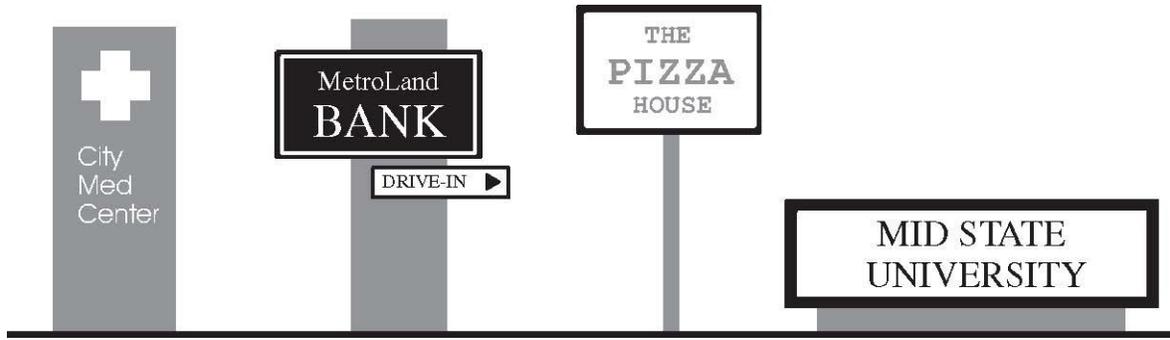
1004.3 Projections over public ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet (2438 mm) from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.

1004.4 Traffic visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as

to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

1004.5 Computation of frontage. If a premises contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

1004.6 Animation and changeable messages. Animated signs, except as prohibited in Section 1006, are permitted in accordance with Table 1010.1 thru 1010.6.

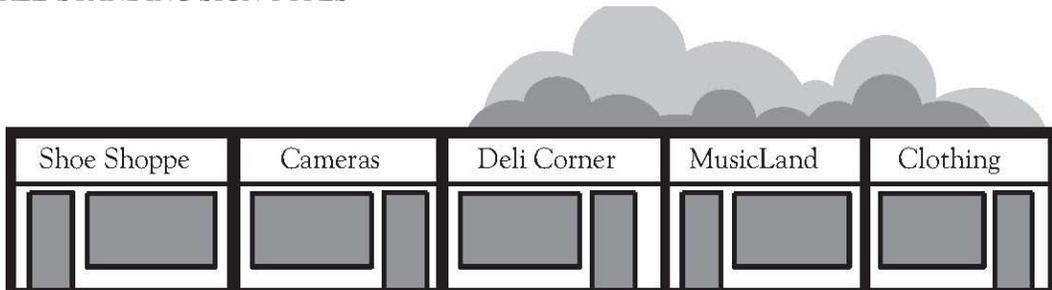


MONUMENT OR BLADE
COMMON FREE-STANDING SIGN TYPES

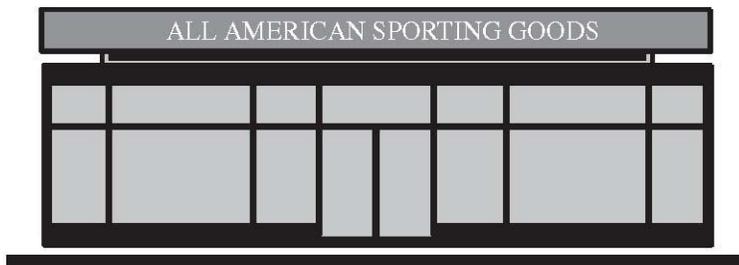
PYLON

POLE

GROUND OR LOW PROFILE



WALL OR FASCIA SIGNS ON STOREFRONTS



ROOF SIGN



CANOPY SIGN

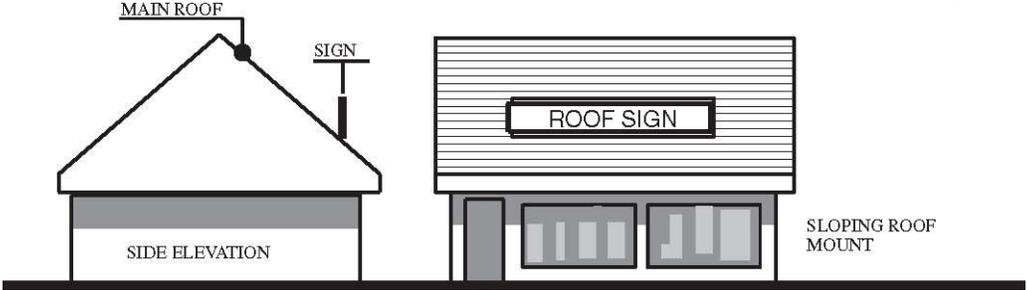
PROJECTING SIGN
ON FREE-STANDING CANOPY



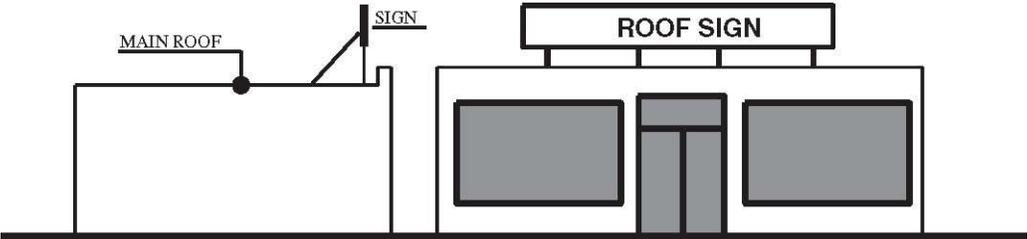
PROJECTING
SIGN

FIGURE 1003.1(1) GENERAL SIGN TYPES

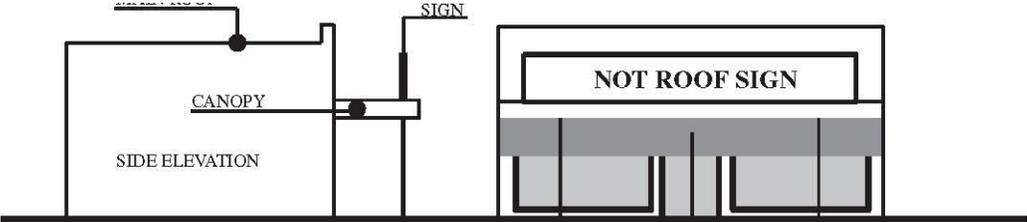
SLOPE ROOF MOUNT



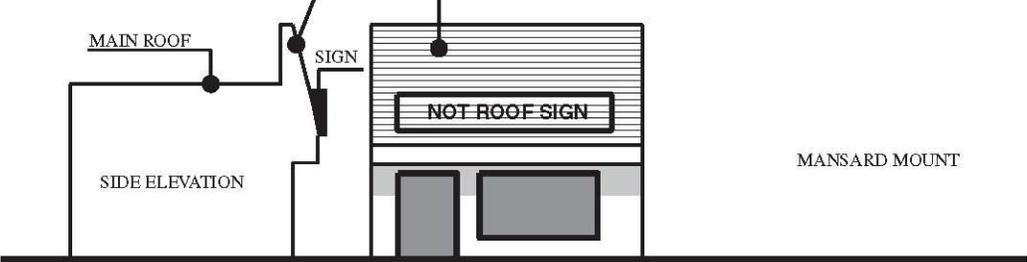
FLAT ROOF MOUNT



CANOPY MOUNT



MANSARD MOUNT



PENT EAVE MOUNT

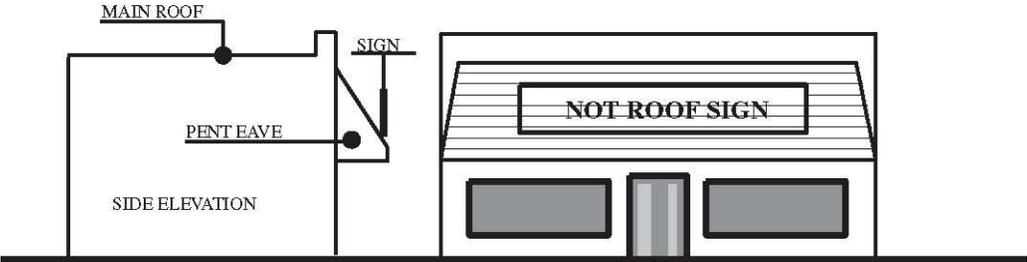
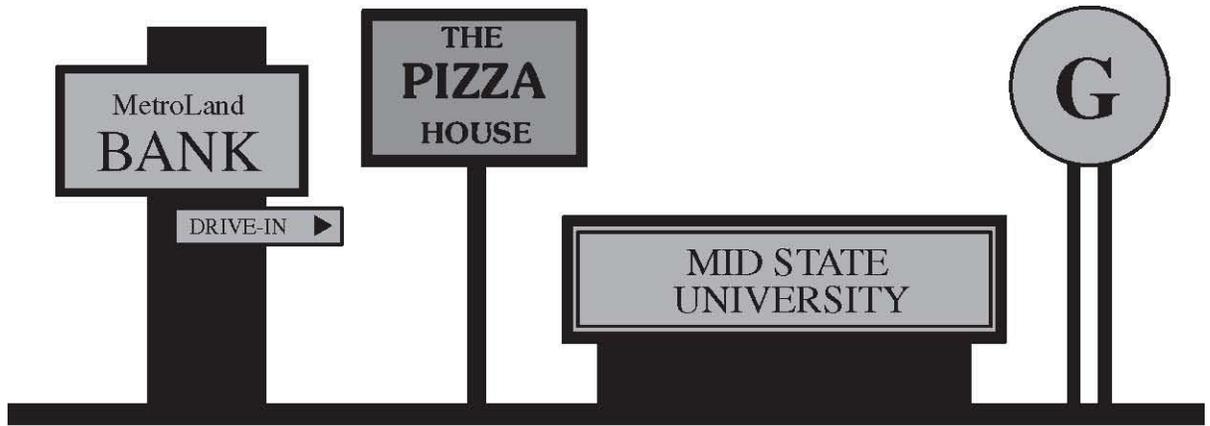
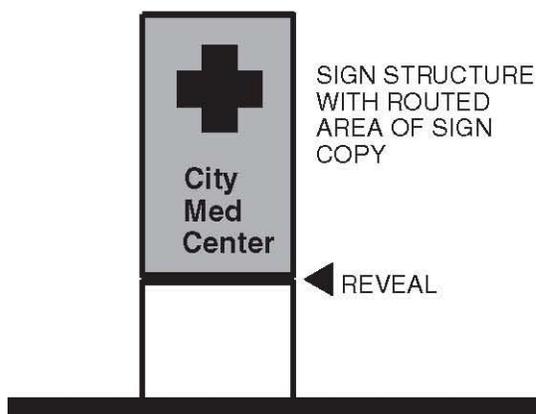


FIGURE 1003.1(2) COMPARISON—ROOF AND WALL OR FASCIA SIGNS



SIGN STRUCTURES



Notes: Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

FIGURE 1003.1(3) SIGN AREA—COMPUTATION METHODOLOGY

COMPUTE AREA
INSIDE DEFINED
BORDER OR
INSIDE
CONTRASTING
COLOR AREA.



Notes: Sum of shaded areas only represents sign area for code compliance purposes.

FIGURE 1003.1(4) SIGN AREA—COMPUTATION METHODOLOGY

1004.7 Maintenance, repair and removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

1004.8 Obsolete sign copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within 30 days after written notification from the code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located.

1004.9 Nonconforming signs. Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming use or structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

1. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.
2. Any legal nonconforming sign shall be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the code official.
3. Signs that comply with either Item 1 or 2 above need not be permitted.

**SECTION 1005
EXEMPT SIGNS**

1005.1 Exempt signs. The following signs shall be exempt from the provisions of this chapter. No sign shall be exempt from Section 1004.4.

1. Official notices authorized by a court, public body or public safety official.
2. Directional, warning or information signs authorized by federal, state or municipal governments.
3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
4. The flag of a government or noncommercial institution, such as a school.
5. Religious symbols and seasonal decorations within the appropriate public holiday season.
6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.
7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet (0.56 m²) in area.
8. Operational signage including: vacancy, solicitation, hours of operation, trespassing signs that contain no advertising copy and which do not exceed 6 square feet (0.56 m²) in area.
9. Interior signs.
10. Special sale signs, real estate signs, restricted to less than nine (9) square feet each side or construction signs, not to exceed thirty-two (32) square feet and shall be removed prior to occupancy.
11. Special events fliers may be displayed from an interior through a window. Posters or fliers may not be affixed to the exterior of any building, pole, and/or structure.

**SECTION 1006
PROHIBITED SIGNS**

1006.1 Prohibited signs. The following devices and locations shall be specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

2. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

3. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

4. Portable signs except as allowed for temporary signs.

5. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

5.1. The primary purpose of such a vehicle or trailer is not the display of signs.

5.2. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

5.3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.

6. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

7. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, "temporarily" means no more than 15 consecutive days.

8. Signs which resemble an official traffic sign or signal.

SECTION 1007 PERMITS

1007.1 Permits required. Unless specifically exempted, a permit must be obtained from the Planning & Zoning

Commission or their designee for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.

1007.2 Construction documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the *International Building Code*.

1007.3 Changes to signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

1007.4 Permit fees. Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.

SECTION 1008 SPECIFIC SIGN REQUIREMENTS

1008.1 Identification signs. Identification signs shall be in accordance with Sections 1008.1.1 through 1008.1.3.

1008.1.1 Wall signs. Every single-family residence, multiple-family residential complex, commercial or industrial building, and every separate nonresidential building in a residential zone may display wall signs subject to the limiting standards set forth in Tables 1010.1 thru 1010.6. For shopping centers, planned industrial parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy.

1008.1.2 Free-standing signs. In addition to any allowable wall signs, every single-family residence, single-family residential subdivision, multiple-family residential complex, commercial or industrial building, and every separate nonresidential building in a residential zone shall be permitted to display free-standing or combination signs per street frontage subject to the limiting standards set forth in Tables 1010.1 thru 1010.6.

1008.1.3 Directional signs. No more than two directional signs shall be permitted per street entrance to any lot. There

shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for each directional sign shall be four (4) square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be thirty-two (32) square feet. Not more than twenty-five (25) percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

1008.2 Temporary signs. Temporary signs shall be in accordance with Sections 1008.2.1 through 1008.2.6 and Tables 1010.1 thru 1010.6.

1008.2.1 Real estate signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

1. Real estate signs located on a single residential lot shall be limited to one sign, not greater than three (3) feet in height and sign surface not greater than nine (9) square feet in area.
2. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than seventy-two (72) square feet in area nor eight (8) feet in height. All signs permitted under this section shall be removed within 10 days after sale of the last original lot.
3. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than twelve (12) square feet in area nor eight (8) feet in height, and shall be limited to one sign per street front and alley.
4. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than eight (8) feet in height, and seventy-two (72) square feet for property of 10 acres (40 470 m²) or less, or 100 square feet (9.3 m²) for property exceeding 10 acres (40 470 m²).
5. Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

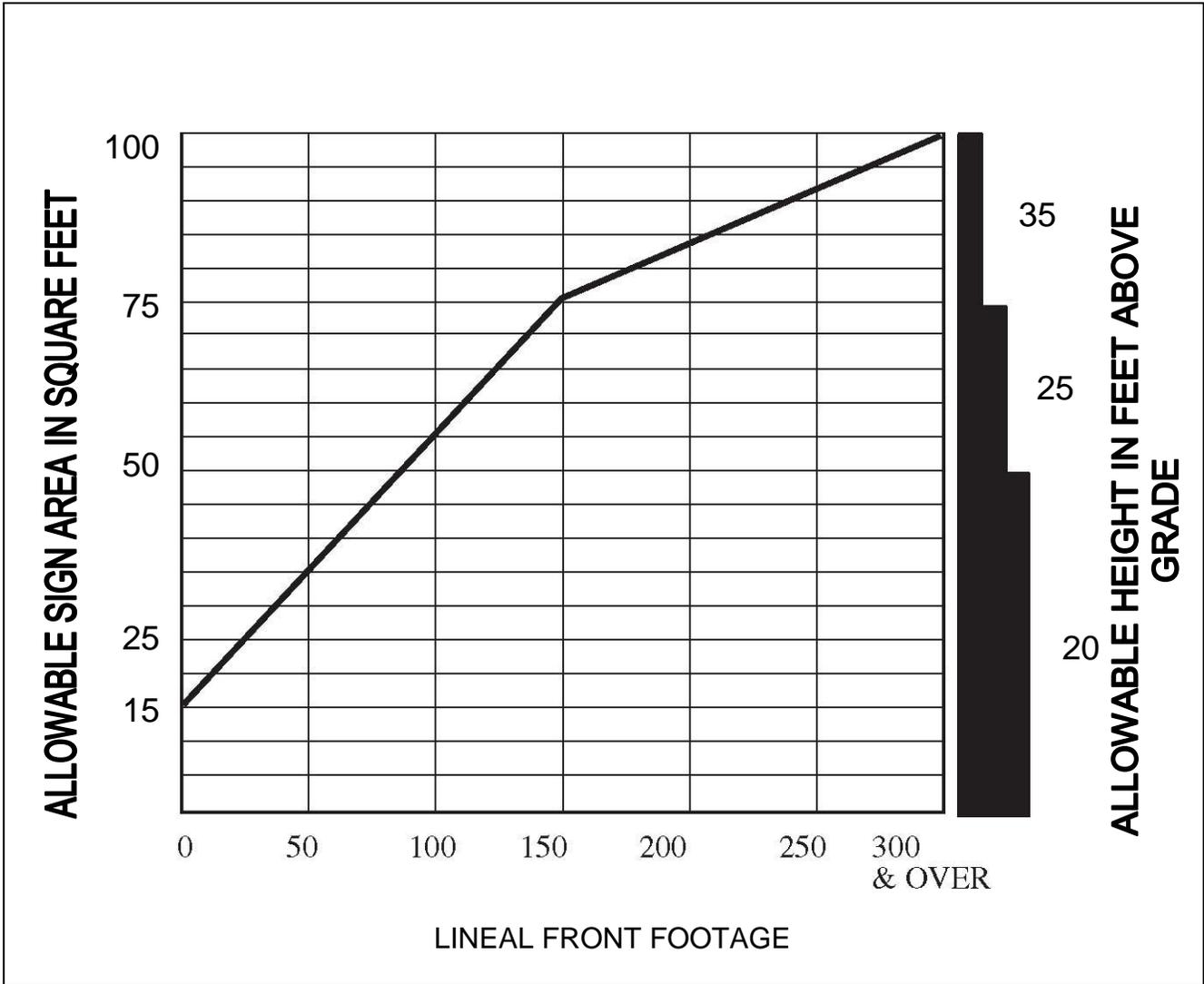
1008.2.2 Development and construction signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall

be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than four (4) feet in height and eight (8) square feet in area.
2. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than eight (8) feet in height and seventy-two (72) square feet in area.
3. Such signs for nonresidential uses in residential districts shall be limited to one sign, and shall be no greater than four (4) feet in height and twelve (12) square feet in area.
4. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed eight (8) feet in height and seventy-two (72) square feet for projects on parcels 5 acres (20 235 m²) or less in size, and not to exceed twelve (12) feet in height and seventy-two (72) square feet for projects on parcels larger than 5 acres (20 235 m²).
5. Development and construction signs may not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 24 hours following issuance of an occupancy permit for any of all portions or the project.

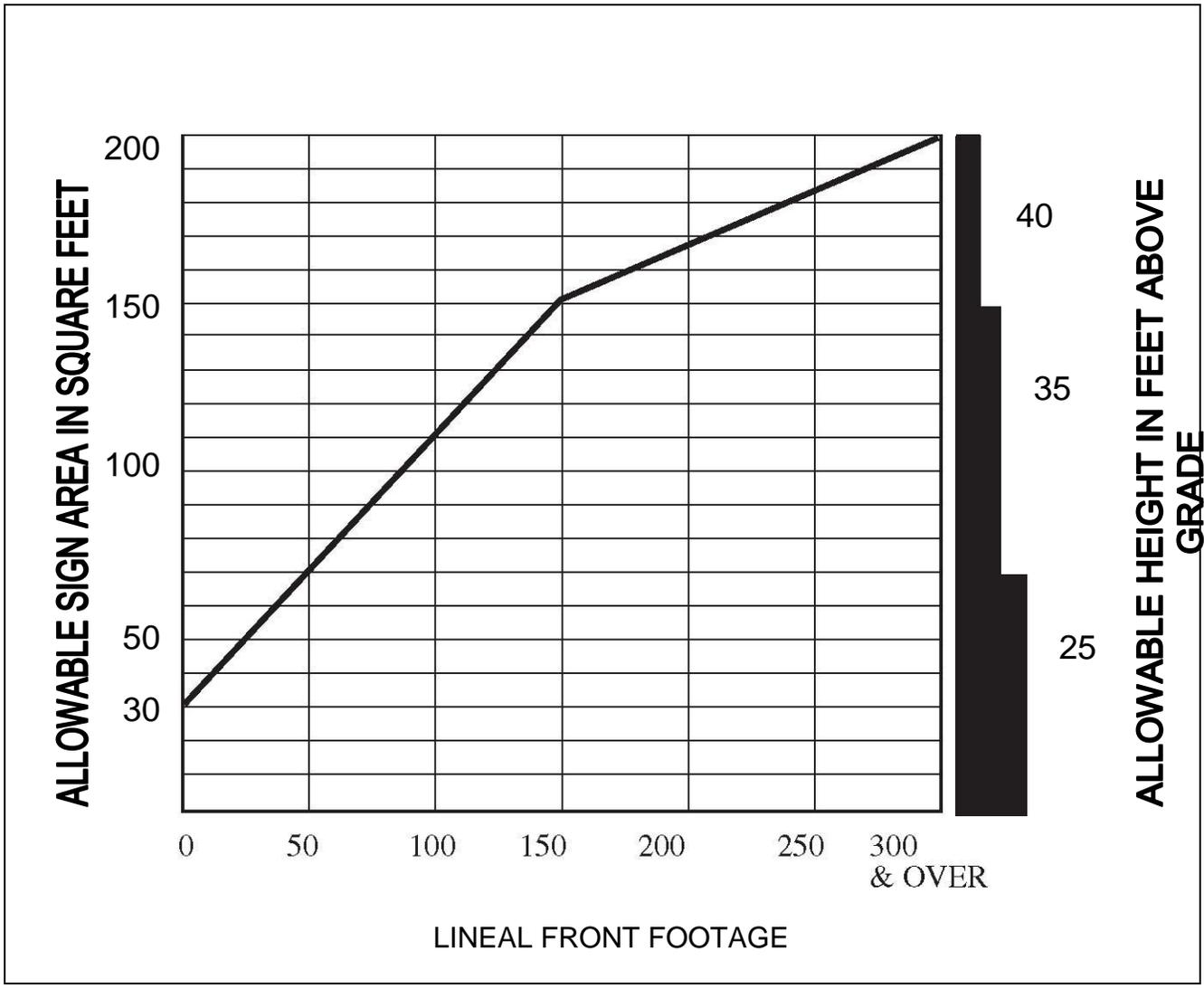
1008.2.3 Special promotion, event and grand opening signs. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and industrial districts subject to the following limitations:

1. Such signs shall be limited to one sign per street front.
2. Such signs may be displayed for not more than 15 consecutive days and not more than 60 days in any calendar year.
3. The total area of all such signs shall not exceed thirty-two (32) square feet in any single-family residential district, thirty-two (32) square feet in any multiple-family residential district and thirty-two (32) square feet in any commercial or industrial district.



For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 mile per hour = 1.609 km/h.

**FIGURE 1008.1.2(1)
ON-PREMISE FREE-STANDING SIGNS/COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED LIMITS UNDER 35 MILES PER HOUR**



For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 mile per hour = 1.609 km/h.

**FIGURE 1008.1.2(2)
ON-PREMISE FREE-STANDING SIGNS/COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED LIMITS 35 AND ABOVE MILES PER
HOUR (INCLUSIVE)**

1008.2.4 Special event signs in public ways. Signs advertising a special community event, approved by the City Council, shall not be prohibited in or over public rights-of-way, subject to approval by the Planning & Zoning Commission or their designee as to the size, location and method of erection. The Planning & Zoning Commission or their designee may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

1008.2.5 Portable signs. Portable signs are considered temporary signage and shall be permitted in accordance with Table 1010.1 through 1010.6.

1008.2.6 Political signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed a height of four (4) feet nor an area of thirty-two (32) square feet.
2. Such signs for election candidates or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than 10 days after the general election.
3. Such signs shall not be placed in any public right-of way or obstruct traffic visibility.

1008.3 Requirements for specific sign types. Signs of specific type shall be in accordance with Sections 1008.3.1 through 1008.3.7.

1008.3.1 Canopy and marquee signs.

1. The permanently-affixed copy area of canopy or marquee signs shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.
2. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

1008.3.2 Awning signs.

1. The copy area of awning signs shall not exceed an area equal to 50 percent of the background area of the awning or awning surface to which such a sign is affixed or applied.
2. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

1008.3.3 Projecting signs.

1. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, and shall be limited in height and area to one (1) square feet per each one (1) lineal feet of building frontage, except that no such sign shall exceed an area of one hundred (100) square feet. The minimum guaranteed sign area shall be thirty-two (32) square feet, regardless of linear street frontage. Signs with an area less than thirty-two (32) square feet may be requested, approved, and installed.

2. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted by more than zero (0) percent of the height of the building facade.

3. Such signs shall not extend over a public sidewalk unless allowed pursuant to Tables 1010.1 thru 1010.6.

4. Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of eight (8) feet.

1008.3.4 Under canopy signs.

1. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed two (2) square feet.

2. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of eight (8) feet.

1008.3.5 Roof signs.

1. Roof signs shall not be permitted in all zoning districts.

1008.3.6 Window signs. Internally placed window advertisements/signs are permissible without the requirement to obtain a permit. Externally placed window advertisements/signs are prohibited.

1008.3.7 Menu boards. Menu board signs, associated with a drive through business application, shall not be permitted to exceed 50 square feet (4.6 m²).

SECTION 1009
SIGNS FOR DEVELOPMENT COMPLEXES

1009.1 Master sign plan required. All landlord or single-owner controlled multiple-occupancy development complexes exceeding 8,000 square feet in size, such as shopping centers or planned industrial parks, shall submit to the code official a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

1. Proposed sign locations.
2. Materials.
3. Type of illumination.
4. Design of free-standing sign structures.
5. Size.

6. Quantity.

7. Uniform standards for nonbusiness signage, including directional and informational signs.

1009.2 Development complex sign. In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

1009.3 Compliance with master sign plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

1009.4 Amendments. Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

Table 1010.1

Agricultural (A)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	No limit on number of on-premise signs per wall elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of wall elevation minus window, door, and awning square footages.	Cannot be placed within 300 ft. linear street distance of any other off-premise sign. Sign must be no more than 25% of wall elevation or equal to largest on-premise wall sign size; whichever is smaller.	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	NA	May not exceed the roof line of the building to which it is attached	Wall sign must be displayed on the wall elevation for which the calculation was made
Freestanding	One per property	See Figure 1008.1.2(1) and 1008.1.2(2)	One off-premise sign allowed. Cannot be placed within 300 ft. linear street distance of any other off-premise sign. See Figure 1008.1.2(1) and 1008.1.2(2)	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	See Figure 1008.1.2(1) and 1008.1.2(2)	May not encroach into the right of way. On corner lots, no sign shall be located less than thirty feet from the ROW intersection	May not have a projecting sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	One per occupancy. Maximum allowable sign area per property is 100 sf.	1 s.f. per 1 linear ft. of property frontage. Minimum guaranteed sign area is 32 s.f.; smaller signs may be requested/installed.	Prohibited	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May not have a free standing sign if projecting/hanging sign is installed
Awning	No limit on number of on-premise signs per awning elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of awning elevation	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Under Canopy	One per occupancy	May not exceed two (2) square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Temporary	One per occupancy	May not exceed 32 square feet in size	May not exceed 32 square feet in size	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

No sign shall violate the terms & conditions of the City of Hill City & SDDOT right of way agreement

Table 1010.2

Central Business (CB)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	No limit on number of signs per wall elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of wall elevation minus window, door, and awning square footage	Prohibited	Prohibited	NA	May not exceed the roof line of the building to which it is attached	Wall sign must be displayed on the wall elevation for which the calculation was made
Freestanding	One per property	See Figure 1008.1.2(1) and 1008.1.2(2)	Prohibited	Prohibited	May not exceed 20 feet in height	May not encroach into the right of way. On corner lots, no sign shall be located less than thirty feet from the ROW intersection	May not have a projecting/hanging sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	One per occupancy. Maximum allowable sign area per property is 100 sf.	1 s.f. per 1 linear ft. of property frontage. Minimum guaranteed sign area is 32 s.f.; smaller signs may be requested/installed.	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May extend up to fifty (50) percent over a public sidewalk.	May not have a free standing sign if projecting/hanging sign is installed
Awning	NA	May not exceed 50% of awning elevation	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Under Canopy	One per occupancy	May not exceed two (2) square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Temporary	One per occupancy	May not exceed 32 square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

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Table 1010.3

Commercial (C) and Commercial/Residential (CR)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	No limit on number of on-premise signs per wall elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of wall elevation minus window, door, and awning square footages.	Cannot be placed within 300 ft. linear street distance of any other off-premise sign. Sign must be no more than 25% of wall elevation or equal to largest on-premise wall sign size; whichever is smaller.	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	NA	May not exceed the roof line of the building to which it is attached	Wall sign must be displayed on the wall elevation for which the calculation was made
Freestanding	One per property	See Figure 1008.1.2(1) and 1008.1.2(2)	One off-premise sign allowed. Cannot be placed within 300 ft. linear street distance of any other off-premise sign. See Figure 1008.1.2(1) and 1008.1.2(2)	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	See Figure 1008.1.2(1) and 1008.1.2(2)	May not encroach into the right of way. On corner lots, no sign shall be located less than thirty feet from the ROW intersection	May not have a projecting sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	One per occupancy. Maximum allowable sign area per property is 100 sf.	1 s.f. per 1 linear ft. of property frontage. Minimum guaranteed sign area is 32 s.f.; smaller signs may be requested/installed.	Prohibited	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May not have a free standing sign if projecting/hanging sign is installed
Awning	No limit on number of on-premise signs per awning elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of awning elevation	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Under Canopy	One per occupancy	May not exceed two (2) square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Temporary	One per occupancy	May not exceed 32 square feet in size	May not exceed 32 square feet in size	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

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Table 1010.4

Factory/Industrial (FI)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	No limit on number of on-premise signs per wall elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of wall elevation minus window, door, and awning square footages.	Cannot be placed within 300 ft. linear street distance of any other off-premise sign. Sign must be no more than 25% of wall elevation or equal to largest on-premise wall sign size; whichever is smaller.	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	NA	May not exceed the roof line of the building to which it is attached	Wall sign must be displayed on the wall elevation for which the calculation was made
Freestanding	One per property	See Figure 1008.1.2(1) and 1008.1.2(2)	One off-premise sign allowed. Cannot be placed within 300 ft. linear street distance of any other off-premise sign. See Figure 1008.1.2(1) and 1008.1.2(2)	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	See Figure 1008.1.2(1) and 1008.1.2(2)	May not encroach into the right of way. On corner lots, no sign shall be located less than thirty feet from the ROW intersection	May not have a projecting sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	One per occupancy. Maximum allowable sign area per property is 100 sf.	1 s.f. per 1 linear ft. of property frontage. Minimum guaranteed sign area is 32 s.f.; smaller signs may be requested/installed.	Prohibited	One per property not to exceed 32 square feet. Overall sign area cannot exceed size allowed.	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May not have a free standing sign if projecting/hanging sign is installed
Awning	No limit on number of on-premise signs per awning elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of awning elevation	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Under Canopy	One per occupancy	May not exceed two (2) square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Temporary	One per occupancy	May not exceed 32 square feet in size	May not exceed 32 square feet in size	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

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Table 1010.5

Residential (R)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	one per property	May not exceed 6 square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	NA	Exempt - No Permit Required
Freestanding	one per property	May not exceed 6 square feet in size	Prohibited	Prohibited	May not exceed 6 feet in height	May not encroach into the right of way	Exempt - No Permit Required. May not have a projecting sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	one per property	May not exceed 6 square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	Exempt - No Permit Required. May not have a free standing sign if projecting/hanging sign is installed
Awning	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Under Canopy	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Temporary	one per property	May not exceed 32 square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

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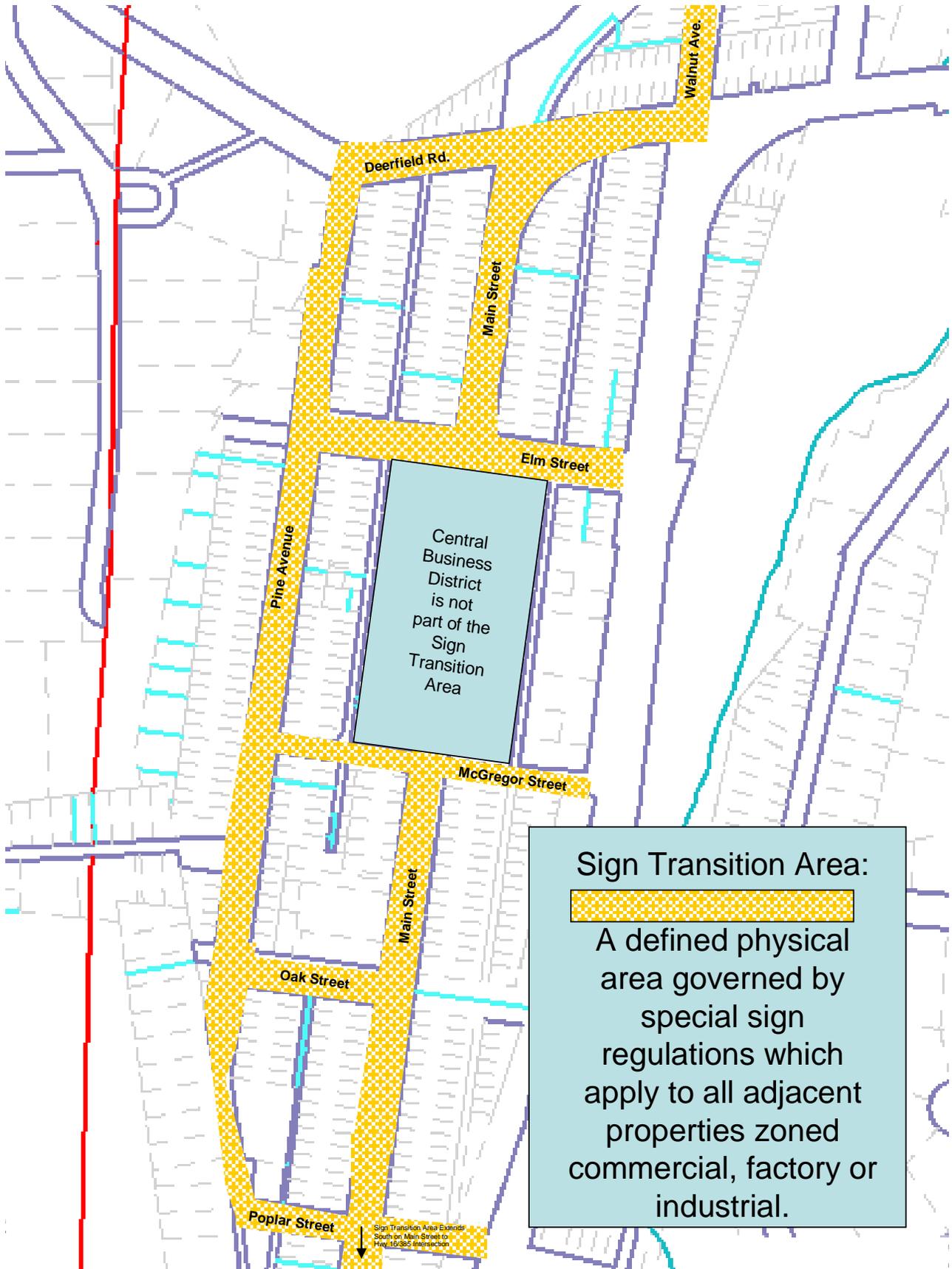
Table 1010.6

Transition (TR) (Sign District Only - See Map)

1/18/2010

Sign Type	Quantity	Size Allowed	Off-Premise	Animated & Electronic	Height	Position	Other
Wall	No limit on number of signs per wall elevation. Overall sign area cannot exceed size allowed.	May not exceed 50% of wall elevation minus window, door, and awning square footage	Prohibited	One per property not to exceed 16 square feet. Overall sign area cannot exceed size allowed.	NA	May not exceed the roof line of the building to which it is attached	Wall sign must be displayed on the wall elevation for which the calculation was made
Freestanding	One per property	See Figure 1008.1.2(1) and 1008.1.2(2)	Prohibited	One per property not to exceed 16 square feet. Overall sign area cannot exceed size allowed.	See Figure 1008.1.2(1) and 1008.1.2(2)	May not encroach into the right of way. On corner lots, no sign shall be located less than thirty feet from the ROW intersection	May not have a projecting sign if freestanding sign is installed
Roof	Prohibited	NA	Prohibited	Prohibited	NA	NA	Prohibited
Projecting & Hanging	One per occupancy. Maximum allowable sign area per property is 100 sf.	1 s.f. per 1 linear ft. of property frontage. Minimum guaranteed sign area is 32 s.f.; smaller signs may be requested/installed.	Prohibited	One per property not to exceed 16 square feet. Overall sign area cannot exceed size allowed.	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May extend up to twenty five (25) percent over a public sidewalk.	May not have a free standing sign if projecting/hanging sign is installed
Awning	NA	May not exceed 50% of awning elevation	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Under Canopy	One per occupancy	May not exceed two (2) square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	
Temporary	One per occupancy	May not exceed 32 square feet in size	Prohibited	Prohibited	May not exceed the roof line of the building to which it is attached and allows a minimum of 8 foot clearance from the ground.	May not encroach into the right of way	May be displayed up to 15 consecutive days and not more than 60 days in any calendar year
Window	External window signs and advertising are prohibited	NA	Internal signs not regulated	Internal signs not regulated	NA	NA	External window signs and advertising are prohibited

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CHAPTER 11
NONCONFORMING STRUCTURES AND USES

SECTION 1101
GENERAL

1101.1 Continuance. Except as otherwise required by law, a structure or use legally established prior to the adoption date of this code may be maintained unchanged. In other than criminal proceedings, the owner, occupant or user shall have the burden to show that the structure, lot or use was lawfully established.

SECTION 1102
DISCONTINUANCE

1102.1 Vacancy. Any lot or structure, or portion thereof, occupied by a nonconforming use, which is or hereafter becomes vacant and remains unoccupied by a nonconforming use for a period of nine (9) consecutive months shall not thereafter be occupied, except by a use that conforms to this code.

1102.2 Damage. If any nonconforming structure or use is, by any cause, damaged to the extent of 50 percent of its value as determined by the code official, it shall not thereafter be reconstructed as such.

SECTION 1103
ENLARGEMENTS AND MODIFICATIONS

1103.1 Maintenance and repair. Maintenance, repairs and structural alterations shall be permitted to be made to nonconforming structures or to a building housing a nonconforming use with valid permits.

1103.2 Changes of nonconforming use. A change of use of a nonconforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.

1103.3 Additions. All additions to nonconforming structures and parking areas shall conform to the requirements of this code. Additions to structures housing nonconforming uses that increase the area of a nonconforming use shall not be made.

CHAPTER 12 CONDITIONAL USES

SECTION 1201 GENERAL

1201.1 Conditional-use permit. A conditional-use permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a zone, but shall not be allowed under the general conditions of the zone as stated in this code.

SECTION 1202 APPLICATIONS

1202.1 Submittal. All conditional-use permit applications shall be submitted to the code official as provided in this code. All applications shall be accompanied by maps, drawings, statements or other documents in accordance with the provisions of Section 105.7.4. An appropriate fee shall be collected at the time of submittal as determined by the jurisdiction.

SECTION 1203 PUBLIC HEARING

1203.1 Hearing and action. Prior to the approval, amending or denial of a conditional-use permit, a public hearing shall be held in accordance with the provisions of Section 109.1. Upon the completion of said public hearing, the board of adjustment shall render a decision within a time limit as required by law.

SECTION 1204 DETERMINATION

1204.1 Authorization. The board of adjustment shall have the authority to impose conditions and safeguards as deemed necessary to protect and enhance the health, safety and welfare of the surrounding area. The authorization of a conditional-use permit shall not be made unless the evidence presented is such to establish:

1. That such use will not, under the specific circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area and that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the surrounding area.
2. That such use will comply with the regulations and conditions specified in this code for such use.

3. The board of adjustment shall itemize, describe or justify, then have recorded and filed in writing, the conditions imposed on the use.

SECTION 1205 EXPIRATION AND REVOCATION

1205.1 General. A conditional-use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the legislative body on appeal. A conditional-use permit shall be revoked when the applicant fails to comply with conditions imposed. A conditional use shall be subject to a one-time mandatory review by the planning & zoning commission. This review shall occur no sooner than twelve (12) months from and no later than eighteen (18) months from the date of authorization. Any recommendation of the planning & zoning commission made as part of this mandatory review shall be forwarded to the legislative body for consideration. All conditional uses are subject to review by the planning & zoning commission and/or the legislative body at anytime.

SECTION 1206 AMENDMENTS

1206.1 General. An amendment to an approved conditional-use permit shall be submitted to the code official accompanied by supporting information. The board of adjustment shall review the amendment and shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary.

SECTION 1207 CONDITIONAL USE REVIEW CRITERIA

1207.1 General. A request for a conditional use shall be permitted to be approved, approved with conditions or denied. Each request for a conditional use approval shall be consistent with the criteria listed below:

1. The request is consistent with all applicable provisions of the comprehensive plan.
2. The request shall not adversely affect adjacent properties.

3. The request is compatible with the existing or allowable uses of adjacent properties.

4. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.

5. The request can demonstrate adequate provision for maintenance of the use and associated structures.

6. The request has minimized, to the degree possible, adverse effects on the natural environment.

7. The request will not create undue traffic congestion.

8. The request will not adversely affect the public health, safety or welfare.

9. The request conforms to all applicable provisions of this code.

CHAPTER 13 PLANNED UNIT DEVELOPMENT

SECTION 1301 GENERAL

1302.3 Ownership. The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

1301.1 Approval. Planned unit developments (PUDs) shall be allowed by planning commission approval in any zoning district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

1301.2 Intent. These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

SECTION 1302 CONDITIONS

1302.1 Area. No planned unit development shall have an area less than that approved by the planning commission as adequate for the proposed development.

1302.2 Uses. A planned unit development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning

amendment, except that any residential use shall be considered a permitted use in a planned unit development, which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

1302.4 Design. The planning commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

1302.4.1 Density. Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.

1302.4.2 Arrangement. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

1302.4.3 Specific regulations. Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

1302.5 Open spaces. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of the land as a public park or parkway system; or
2. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remain perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

1302.6 Landscaping. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall also be submitted to the planning commission with the application.

1302.7 Signs. The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

1302.8 Desirability. The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general well being of the surrounding area. It shall also be shown that

under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

SECTION 1303 PLANNING COMMISSION DETERMINATION

1303.1 Considerations. In carrying out the intent of this section, the planning commission shall consider the following principles:

1. It is the intent of this section that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.

2. It is not the intent of this section that control of the design of a PUD by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this section.

3. The planning commission shall be authorized to approve or disapprove an application for a PUD.

In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a PUD by the planning commission shall be permitted to be appealed to the legislative body of the jurisdiction.

SECTION 1304 REQUIRED CONTRIBUTIONS

1304.1 General. The legislative body, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication of land for public park purposes.
2. Dedication of land for public school purposes.
3. Dedication of land for public road right-of-way purposes.
4. Construction of, or addition to, roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.
5. Installation of required traffic safety devices.

6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

SECTION 1305 PLANNING COMMISSION ACTION

1305.1 Approval. The planning commission shall have the authority to require that the following conditions for a planned unit development (among others it deems appropriate) be met by the applicant:

1. That the proponents intend to start construction within 1 year of either the approval of the project or of any necessary zoning district change, and intend to complete said construction, or approved stages thereof, within 4 years from the date construction begins.

2. That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.

1305.2 Limitations on application.

1. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the planning commission and in compliance with any conditions attached by the jurisdiction as to its approval.

2. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures here outlined for first approval.

3. The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.