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**CORTEZ CITY COUNCIL
WORKSESSION
TUESDAY, OCTOBER 11, 2022
6:00 p.m.**

CALL TO ORDER

- A. 6:00 p.m., Discussion on amending the City of Cortez Land Use Code, Section 3.05 - Use Regulations regarding Dwelling, Accessory Unit - ADU (Ordinance No. 1303, Series 2022 was tabled at the September 27, 2022 Council meeting)
- B. 7:10 p.m., Council General Discussion
- C. For Your Information
 - a. Minutes for the Board of Commissioners, Montezuma County, Colorado for September 20, 2022.
 - b. Minutes for the Board of Commissioners, Montezuma County, Colorado for September 27, 2022.

ADJOURNMENT of Worksession.



CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

10/11/2022

Agenda Item: 1. A.

MEMO TO: Honorable Mayor and City Council

FROM: Linda Smith, City Clerk

SUBJECT: 6:00 p.m., Discussion on amending the City of Cortez Land Use Code, Section 3.05 - Use Regulations regarding Dwelling, Accessory Unit - ADU (Ordinance No. 1303, Series 2022 was tabled at the September 27, 2022 Council meeting)

Attachments

Ordinance No. 1303
Zoning District Regulations

**ORDINANCE NO. 1303
SERIES 2022**

AN ORDINANCE AMENDING THE CITY OF CORTEZ LAND USE CODE, SECTION 3.05 – USE REGULATIONS REGARDING DWELLING, ACCESSORY UNIT – ADU.

WHEREAS, uses identified in the City of Cortez Land Use Code (the “Code”), Section 3.05, as dwelling, accessory unit - ADU, are classified as Conditional Uses in the RE and R-1 zone districts in the City of Cortez; and

WHEREAS, dwelling, accessory unit – ADU are further subject to the standards in Section 3.05 (22); and

WHEREAS, the City desires to expand the opportunity for ADU’s in additional zone districts; and

WHEREAS, at the September 6, 2022 Cortez Planning and Zoning Commission meeting, the Planning and Zoning Commission reviewed the revisions to the Code as described in this ordinance, as evidenced by the adoption of P&Z Resolution No. 5, Series 2022; and

WHEREAS, based on the evidence and testimony presented at said meeting, the Planning and Zoning Commission recommends that the Cortez Land Use Code, Section 3.05, be amended as set forth in this ordinance.

WHEREAS, the authority and procedure for amending the City Land Use Code is set forth in the Cortez City Charter, and the Code.

NOW THEREFORE, BE IT ORDAINED BY THE CORTEZ CITY COUNCIL THAT THE CITY OF CORTEZ LAND USE CODE, SECTION 3.05, IS AMENDED AS FOLLOWS:

Section 3.05 – Schedule of Use Regulations is amended to require Conditional Use Permits for dwelling, accessory unit - ADU in the R-2, MH, NB and C zone districts.

Section 3.05(22) – Accessory Dwelling Units (ADUs) is deleted in its entirety and replaced with the following:

(22) Accessory Dwelling Units (ADUs). This type of use is intended to provide a mechanism to help meet the need of affordable housing by allowing accessory residential dwelling units under certain circumstances in areas normally restricted to a single unit, while preserving existing single-family character. All accessory single-family dwelling units shall be subject to the following requirements:

a. An ADU shall be permitted within any zone in the City as a conditional use and shall be reviewed by the planning and zoning commission and the city council as per Section 6.10 of this code, Conditional use permits.

- b. The parcel must contain an existing or proposed single-family unit that is or will be occupied by the property owner.
- c. The ADU may be attached or incorporated within the living area of the existing primary dwelling or detached.
- d. The ADU shall not result in an increase of more than fifty (50) percent in the existing living area or 750 sq. ft., whichever is greater.
- e. The ADU may be used for rental purposes and shall be reserved for occupancy of one (1) or two (2) persons.
- f. The ADU must be provided with two off-street parking space, in addition to the two required for the existing single family residence as per Section 5.01 of this code. Spaces may be contained in a garage or protected by a carport. The spaces provided may be in tandem.
- g. Any new construction associated with the ADU shall comply with all setbacks, lot coverage, height, and design standards contained within the base zone and shall not alter the general appearance of the primary dwelling as a single-family residence.
- h. The ADU shall have adequate sewer and water services and additional tap fees may be required for the dwelling.
- i. The ADU shall not adversely impact traffic flow or parking in the neighborhood.
- j. The lot shall meet the minimum lot size in the underlying zoning district.

An ADU that conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use consistent with the existing general plan and zoning designation for the lot.

REPEALER. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

RECORDING AND AUTHENTICATION. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

EFFECTIVE DATE. This ordinance shall be effective upon publication after second reading and final passage.

FIRST READING. This ordinance shall be considered first reading on the 27th day of

September, 2022, at the hour of 7:30 p.m., in the City Council Chambers in City Hall, Cortez, Colorado, at which time this ordinance shall be read and the public hearing for the second or final reading of this ordinance shall be set.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 11th day of October, 2022, at the hour of 7:30 p.m., in the City Council Chambers in City Hall, Cortez, Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 27th DAY OF SEPTEMBER, 2022.

CITY OF CORTEZ

ATTEST:

RACHEL B. MEDINA, MAYOR

LINDA L. SMITH, CITY CLERK

PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING THIS 11th DAY OF OCTOBER, 2022.

CITY OF CORTEZ

ATTEST:

RACHEL B. MEDINA, MAYOR

LINDA L. SMITH, CITY CLERK

APPROVED AS TO FORM:

J. PATRICK COLEMAN, CITY ATTORNEY

Chapter 3

ZONING DISTRICT REGULATIONS

Sections:

- 3.01** **Scope and applicability.**
- 3.02** **Districts established.**
- 3.03** **Official zoning map.**
- 3.04** **Temporary zoning of annexed territory.**
- 3.05** **Use regulations.**
- 3.06** **Area regulations.**
- 3.07** **RE, residential estate district.**
- 3.08** **R-1, residential single-family district.**
- 3.09** **R-2, residential multi-family district.**
- 3.10** **MH, residential manufactured home district.**
- 3.11** **O, open district.**
- 3.12** **CBD, central business district.**
- 3.13** **C, commercial highway district.**
- 3.14** **NB, neighborhood business district.**
- 3.15** **I, industrial district.**
- 3.16** **PUD, planned unit development district.**

3.01 Scope and applicability.

The regulations of this chapter shall apply to all lands located within the corporate limits of the city. All land, buildings, structures or appurtenances thereon located within the city, that are hereafter occupied, used, erected, altered, removed, placed, demolished or converted shall be occupied, used, erected, altered, removed, placed, demolished or converted in conformance with the zoning regula-

tions prescribed for the zoning district in which such land or building is located as provided in this chapter.

3.02 Districts established.

In order to implement the comprehensive plan and the other purposes and provisions of this land use code, the city, is divided into eight (8) zoning districts. The regulations as set out herein are uniform throughout each district.

(a) Purpose for Zone Districts.

(1) Residential Districts. In order to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities and to encourage a diversity of housing options, the following residential districts are established:

Abbreviated Designation	Zoning Districts
RE	Residential estate district
R-1	Residential single-family district
R-2	Residential multi-family district
MH	Residential manufactured home district

(2) Open District. In order to preserve open space areas for active and passive open space and recreational uses, the following open district is established:

Abbreviated Designation	Zoning Districts
O	Open district

(3) Commercial Districts. In order to accommodate a wide variety of commercial ac-

tivities, to make the city's core district a more attractive and energetic place to live, work and shop, to separate pedestrian oriented development from automobile dependent activities and to enhance the economic development of the city, the following commercial districts are established.

Abbreviated Designation	Zoning Districts
CBD	Central business district
C	Commercial highway district
NB	Neighborhood business district

(4) Industrial District. In order to encourage a diverse employment base, provide for the production of goods and services and minimize conflict with other land uses, the following industrial district is established.

Abbreviated Designation	Zoning Districts
I	Industrial district

(Ord. 1024 (part), 2004)

3.03 Official zoning map.

(a) Map Adoption. The boundaries of the zoning districts set out herein are delineated upon the official zoning map of the city, such map being adopted as a part of this code as fully as if the same were set forth herein in detail.

(b) Zoning Map Amendment. No changes or amendments to the district boundaries shown on the official zoning map shall be made except in compliance and conformity with all procedures set forth in Section 6.02 of this code, zoning map and land use code

amendments. If, in accordance with these procedures, changes or amendments are made to district boundaries, such changes or amendments shall be made promptly after official adoption of the change or amendment as provided for herein. The zoning administrator shall be responsible for the physical updating and amendment of the official zoning map.

(c) Interpretation of District Boundaries. The district boundary lines shown on the official zoning map are usually along streets, alleys, property lines or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning maps, the following rules shall apply.

(1) Boundaries indicated, as approximately following streets, highways or alleys shall be construed to follow the centerline of such street, highway or alley.

(2) Boundaries indicated, as approximately following platted lot lines shall be construed as following such lines.

(3) Boundaries indicated, as approximately following city limits shall be construed as following city limits.

(4) Boundaries indicated as approximately following the centerline of irrigation ditches or drainage ways shall be construed to follow such centerline.

(5) Boundaries indicated as parallel to or extensions of features indicated in this subsection shall be so construed. Distances not specifically indicated on the original zoning map shall be determined from the graphic scale on the map.

(6) Whenever any street, alley or other public way is vacated by official action of the city council the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or way, and all area so involved shall then and hence-

forth be subject to all regulations of the extended districts.

(7) Where physical features of the ground are at variance with information shown on the official zoning map, or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections 3.03(c)(1) through (7) of this section, the property shall be considered as classified RE, residential estate district, temporarily, and subject to Section 3.04 of this chapter.

3.04 Temporary zoning of annexed territory.

(a) All territory hereafter annexed to the city shall be temporarily classified as RE, residential estate district, until permanent zoning is established by the city council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by this code for zoning amendments.

(b) In an area temporarily classified as RE, residential estate district, the following regulations shall apply.

(1) No person shall erect, construct or proceed or continue with the erection or construction of any building or structure or add to any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a zoning development permit and a building permit therefor from the building official or the city council as may be required herein.

(2) No permit for the construction of a building or use of land shall be issued by the building official other than a permit that will allow the construction of a building permitted in the RE, residential estate district, unless and until such territory has been classified in a zoning district other

than the RE, residential estate district, by the city council in the manner provided in Section 6.02 of this code.

3.05 Use regulations.

(a) Schedule of Use Regulations. The schedule of use regulations of this section provides a tabular summary of the land use types permitted within each zoning district. The table is intended for reference only and does not necessarily reflect all of the regulations that may apply to particular uses or zoning districts. In the event of conflict between the schedule of use regulations and the text of this code, the text shall control. The schedule of use regulations shall be interpreted as follows:

(1) Permitted Uses. Uses identified in a particular district column with a "P" shall be permitted in such district, subject to compliance with any applicable conditions and all other provisions of this code.

(2) Conditional Uses. Uses identified in a particular district column with a "C" shall be permitted in such district only upon approval of a conditional use permit by the city council in accordance with the procedures and standards of Section 6.10 of this code, conditional use permits.

(3) Temporary Uses. Uses identified in a particular district column with a "T" shall be permitted in such district only upon approval of a temporary use permit in accordance with the procedures and standards of Section 6.20 of this code, temporary use permits.

(4) Not Permitted. Uses not identified in a particular district column with a "P," "C" or "T" are not allowed in such district unless otherwise expressly permitted in this code.

(5) Special Use Conditions. Numbers occurring in parenthesis after the names of selected use categories refer to conditions

applicable to the use in any zone district and set forth in subsection (b) of this section, special use conditions.

SCHEDULE OF USE REGULATIONS

Use Type	RE Zoning District	R-1 Zoning District	R-2 Zoning District	MH Zoning District	O Zoning District	CBD Zoning District	C Zoning District	NB Zoning District	I Zoning District
Residential Uses									
Apartments (1)						P	P	P	
Dwelling, single-family (2)	P	P	P	P	P		C	P	
Dwelling, duplex (2)			P	C				P	
Dwelling, 3-, 4-, 5-, or 6-family			P	C				P	
Dwelling, multi-family 7 or more			C	C				C	
Dwelling, manufactured home				P					
Manufactured home park (3)				P					
Manufactured home subdivision				P					
Dwelling, accessory unit - ADU (22)	C	C							
Trailer or manufactured home sales or rental							P		P
Accessory and Temporary Uses									
Accessory use or structure (4)	P	P	P	P	C	P	P	P	P
Asphalt or concrete batch plant, temporary (5)	T	T	T	T					T
Caretaker or guard residence, accessory	C				C				P
Equipment rental/repair/storage/ wholesaling, accessory						P	P		P
Farm or farming	P				P				
Field office, temporary (6)	T	T	T	T		T	T	T	T
Garage, private	P	P	P	P				P	P
Home occupation (7)	P	P	P	P		P	P	P	P
Radio, television or microwave tower, private (up to thirty feet high)	P	P	P	P				P	P
Sales trailer, temporary (8)	T	T	T	T				T	T
Educational, Institutional and Civic Uses									
Charitable, civic, youth, social and fraternal organization						P	P	P	P
Church or place of worship	C	C	C	C	C	C	C	C	
Child care facility, small home based	P	P	P	P				P	
Child care facility, large home based (9)	C	C	C	C		C	C	C	
Child care facility, commercial (9)	C	C	C	C		C	C	C	
Clinic		C	C			P	P	P	

Use Type	RE Zoning District	R-1 Zoning District	R-2 Zoning District	MH Zoning District	O Zoning District	CBD Zoning District	C Zoning District	NB Zoning District	I Zoning District
Essential services	P	P	P	P	P	P	P	P	P
Group home (10)	C	C	C	C				C	
Hospital			C			P	P	P	
Municipal facilities	P	P	P	P	P	P	P	P	P
Nursing home (19)			C				C	C	
Other public facilities		C	C		C	C	C		P
School (public, private and church)	C	C	C	C	C	C	C	C	
Transportation-Related Uses									
Bus station or terminal						C	P		P
Parking lot, trucks or trailers (transport)							P		P
Storage or hauling company							C		P
Truck freight terminal							C		P
Retail Commercial Uses									
Bank or savings and loan						P	P	P	
Commercial nurseries and greenhouses						C	P	P	P
Flea markets						P	P	P	P
Micro-breweries/micro-wineries/micro-distilleries with on-site consumption						P	P		P
Mobile vendor (11)	P	P	P	P	P		P	P	P
Neighborhood commercial						P		P	
Parking lot or parking garage (12)						P	P		
Retail service establishments						P	P	C	P
Retail, general (indoors)(13)						P	P		
Retail, general (outdoors)							P		P
Secondhand store						P	P	C	
Pawnshop						C	P		
Shopping center or supermarket						C	P		
Convenience store						C	P		
Personal Service Uses									
Animal pound or kennel (public or private)							C		P
Barber and beauty shops						P	P	P	
Bed and breakfast (14)	C		C			P	P	C	
Boarding or rooming house (15)			C	P		P	P	P	
Boat storage and service							P		P
Cleaning shop or laundry pick-up station						P	P	P	P

Use Type	RE Zoning District	R-1 Zoning District	R-2 Zoning District	MH Zoning District	O Zoning District	CBD Zoning District	C Zoning District	NB Zoning District	I Zoning District
Crafts shop (16)						P	P	P	
Crematorium			C				C	C	
Custom personal services						P	P	P	P
Equipment rental, repair, storage and wholesaling							P	C	P
Hotel or motel						P	P		
Household appliance service and repair						P	P	C	P
Laundry, self-service						P	P	C	P
Mortuary or funeral home			C			C	C		
Office, business and professional				C		P	P	P	P
Residential hotel/hostel							P	C	
Recreational and Entertainment Uses									
Fitness clubs or recreation centers, private			C		C	P	P	C	P
Golf course or driving range					P				
Recreational vehicle storage and service							P		P
Recreational vehicle (17)							C		
Restaurant or bar						P	P		P
Studio, television or radio						P	P		P
Theater					P	P	P		
Travel bureau or consultant						P	P	P	
Veterinary clinic							C		P
Automobile and Related Service Uses									
Auto parts and accessory sales (indoors)						P	P		P
Auto repair garage (18)						C	P		P
Car wash						C	C		P
Gasoline service station						P	P		P
Wrecking or auto salvage yard									C
Industrial Uses									
Adult entertainment establishment (21)									C
Asphalt/concrete batching plant, permanent									C
Building material sales and yard							P		P
Cleaning or laundry plant							P		P
Commercial wireless antennas and towers (20)			C			C	C	C	P
Contractor storage or equipment yard							C		P

Use Type	RE Zoning District	R-1 Zoning District	R-2 Zoning District	MH Zoning District	O Zoning District	CBD Zoning District	C Zoning District	NB Zoning District	I Zoning District
Electrical substation, high voltage							C		P
Food processing							C		P
Heating or air conditioning shop							P		P
Lithographic or print shop						P	P		P

C

C

C

Use Type	RE Zoning District	R-1 Zoning District	R-2 Zoning District	MH Zoning District	O Zoning District	CBD Zoning District	C Zoning District	NB Zoning District	I Zoning District
Machinery, heavy - sales and rental							P		P
Maintenance and repair service for buildings							P		P
Manufacturing, general									P
Manufacturing, hazardous/objectionable									C
Manufacturing, light						C	C		P
Manufacturing, wood products							C		P
Plumbing or electrical shop							P		P
Repair services, heavy equipment							C		P
Repair services, limited						P	P		P
Self-storage warehouse							C		P
Trailer or manufactured home sales or rental							P		P
Upholstery shop						P	P		P
Warehouse							C		P
Welding or machine shop							P		P
Medical Marijuana									
Medical marijuana center						P	P		
Patient and caregiver cultivation (24)	P	P	P	P		P	P	P	
Cultivation in excess of square footage limitation (24)						P	P		
Urban Agriculture									
Home garden	P	P	P	P		P	P	P	
Community garden (25)	P	C	P	P	P	P	P	P	P

(b) Special Use Conditions. In addition to applicable site development standards of Chapter 5 of this code, the following conditions apply to the listed uses when referenced in the use regulations of a particular zoning district: Section 3.07, RE, residential estate district through Section 3.16, PUD, planned unit development district.

(1) Apartments. Residential uses may comprise up to one-half the floor area of a single story nonresidential building and shall either be owner-occupied or used for long-term rental purposes. Those structures with multiple floors are allowed unlimited use for additional stories above the ground floor.

(2) Single-family and two-family dwellings. All single-family and two-family dwellings shall be subject to the following requirements:

a. ~~Minimum wall dimensions of the principal structure, excluding garage, shall be twenty-four (24) feet.~~ 576 sq ft.

b. All principal residential structures shall:

1. Be placed on a slab-on-grade or perimeter foundation approved by the building department;

2. Have a wood, brick or stucco exterior, or a material that looks similar to wood, brick or stucco;

3. Have a minimum 4:12 roof pitch and a one (1) foot overhang (structures constructed in the traditional southwest Spanish style are exempt from this requirement), provided, however, that this provision shall not apply to a manufactured home dwelling in the MH, residential manufactured home district.

(3) Manufactured Home Park. Manufactured home parks shall be subject to the following requirements:

a. All manufactured homes within approved manufactured home parks shall be placed in accordance with City Ordinance No. 953, Series 2001, and the manufactured housing installations program adopted by the state housing board of the state of Colorado.

b. Permitting. It shall be the responsibility of the park owner or his/her designee to procure all necessary manufactured home installation permits through the Cortez planning and building department prior to the placing and setting of any manufactured home.

1. An application fee shall be submitted in accordance with the fee schedule adopted by resolution of the city council.

2. No manufactured home shall be occupied until approved by the planning and building department.

c. Park land shall be dedicated in accordance with the provisions of Section 4.05 of this code.

d. Plan Required. Each manufactured home park shall file with the department of planning and building a plan of the park drawn to scale and demonstrating:

1. The boundaries of the park, existing public rights-of-way both within and adjacent to the area, and any unusual topographic or geological features;

2. A drainage plan as described in Section 4.06 of this code, which will permit adequate surface drainage of the area and

which fits with plans for drainage of adjacent property and conforms with any city drainage projects or proposals;

3. A circulation plan showing the location and widths of all streets and roads with exits and entrances to public rights-of-way designated, as well as all pedestrian walkways within the park;

4. The location, size, and other necessary requirements of all sanitary sewer, fire lines, fire hydrants, and water lines and individual connections;

5. The arrangement of land uses within the park including, but not limited to, the location of community facility areas, recreation areas, individual manufactured home lots, and recreational vehicle and park trailer lots;

(a) The number of recreational vehicles and/or park trailers permitted within a manufactured home park shall not exceed ten (10) percent of the total number of lots within the park.

6. The location of privately owned public utility locations including, but not limited to, natural gas supply systems and electrical installations; and

7. The name and address of the owner(s), operator(s), as well as the legal description of the area and the present zoning of the property.

e. Lot Standards.

1. The planning commission and the city council shall approve the overall density within a manufactured home park but in no event shall it be greater than ten (10) units per gross acre.

2. All manufactured homes shall be installed utilizing only non-permanent foundation systems as defined by, and complying with, all provisions of city of Cortez Ordinance No. 953, Series 2001, Manufactured Home Installation Procedures.

3. All recreational vehicles and park trailers shall be set up as required by the manufacturer's specifications or as defined by applicable city ordinances.

4. A minimum distance of twenty (20) feet shall be maintained between any two (2) manufactured homes or other approved dwelling units in any direction.

f. Street and Road Standards.

1. Each manufactured home lot within a manufactured home park shall have direct access to a park street.

2. Park streets shall be of adequate widths to accommodate contemplated parking and traffic load in accordance with the type of street and such street and parking areas shall be a dust-free surface (asphaltic materials or concrete).

3. The park street system shall have direct connection to a public right-of-way. Whenever this access meets an existing public street, the access entrance must meet city street design standards for a distance of forty (40) feet from the property line into the development.

4. Streets and walkways designed for the general use of the manufactured home park residents shall be lighted during the hours of darkness. Such lighting shall not be under the control of the individual manufactured home occupants.

g. Utility Installations. No dwelling unit may connect to utility services other than the lot with which it has been permitted.

h. Removal of Manufactured Home, Recreational Vehicle and Park Trailer Wheels. The removal of wheels, axles, and running gear from manufactured homes located in a manufactured home park shall be permitted. Removal of the same shall not be permitted for other approved dwelling units.

i. Skirting. Each manufactured home placed in a manufactured home park shall be skirted so as to obscure from view the

space beneath the floor of the unit and the stand. Skirting for recreational vehicles and park trailers shall be optional.

j. Permitted Dwelling Units. All units shall meet the requirements of this subsection.

1. Manufactured home dwelling as defined in Land Use Code Section 2.02.

2. Recreational vehicle as defined in Land Use Code Section 2.02.

(a) Units shall be a minimum of twenty (20) feet in length.

3. Park trailer as defined in Land Use Code Section 2.02.

(4) **Accessory Use or Structure.** Accessory uses or structures may be permitted subject to the following conditions:

a. Such accessory uses shall be limited to those customarily associated with and appropriate, incidental and subordinate to the principal use,

b. Such accessory uses shall be located on the same lot or tract as the associated principal use.

c. Such accessory uses, and expressly including detached garages and attached carports located in the front yard setback, shall be controlled in the same manner as the associated principal use, except as otherwise expressly provided in this code. Carports located in the rear one-half of the building lot and all nongarage accessory structures shall be required to have a minimum 2:12 roof pitch.

d. In no event shall an accessory use be construed to authorize a use not otherwise permitted in the zone district in which the principal use is located, and in no event shall an accessory use or structure be established prior to the principal use or structure to which it is accessory.

e. Dimensional requirements in the O, RE, R-1, R-2, MH, and NB zone districts:

1. Each accessory structure shall have a total square footage not to exceed eight

hundred (800) square feet; or, thirty-three (33) percent of the total square footage of the principal structure.

2. The maximum height of accessory structures shall not exceed twenty (20) feet or the height of the principal structure, whichever is less; provided, however, that the height of carports may not exceed sixteen (16) feet or be equal in height of a single-story principal structure if located in the front yard and attached.

f. Accessory structures exceeding the dimensional requirements listed in subsection (b)(4)(e) of this section may be approved through the conditional use process.

g. An accessory carport, whether detached from, or attached to the principal structure, may be allowed to extend into the front yard setback if all of the following standards can be met:

1. The carport roof must be constructed in such a manner to appear as a part of the original construction of the principal structure.

2. The materials used in construction of the accessory use are compatible with the materials used in the principal use.

3. The carport meets side yard setback standards.

4. The carport does not extend into or over any easement or any city right-of-way.

5. The carport roof slope shall comply with the requirements of garages in Section 3.05(b)(4)(c) of this section and have no less than a 4:12 pitch or match the roof pitch of the existing principal structure. A carport in conjunction with a Southwestern style house shall have no less than a 2:12 roof pitch.

6. Staff is authorized to review the proposal for compliance with the above standards and approve the building materials for the project.

7. All attached carports shall meet the requirements for separation of uses as contained in the adopted building codes of the city.

8. Accessory carport structures that are proposed to be placed closer than ten (10) feet to the front property line must go through the conditional use process in accordance with Section 6.10 of this code.

(5) Asphalt or Concrete Batching Plant, Temporary. A temporary asphalt or concrete batching plant permit may be approved by the zoning administrator for producing asphalt or concrete products used in construction activities on the same or nearby sites subject to the following conditions.

a. The batching plant site shall comply with all applicable provisions of city, state and federal laws.

b. The batch plant shall not be located within six-hundred (600) feet of a residence.

c. Hours of operation will be limited to Monday through Friday, 7:00 a.m. to 7:00 p.m.

d. The batch plant permit will be valid for up to six (6) months.

e. No portion of the batch plant or its operation shall be located on a public street.

f. The batch plant shall only furnish concrete, asphalt, or both, to a specific project. The placement of a temporary batching plant for a private project is restricted to the site of the project.

g. The site must be clear of all equipment, material and debris upon completion.

h. All public improvements that are damaged during the operation of the temporary

batching plant must be repaired or replaced within thirty (30) days of completion of the project.

i. At termination and/or removal of plant permit, permittee shall have the person responsible walk the site with the building official or his/her designee to verify the site meets city approval.

(6) Field Office, Temporary. A temporary field office permit may be approved by the zoning administrator for a structure or shelter used in connection with an approved development or building project for housing on the site of temporary administrative and supervisory function for sheltering employees and equipment during the construction phase of a project. Such a structure or shelter shall be promptly removed following the approval of a certificate of occupancy.

★ (7) Home Occupation. A home occupation may be allowed as an accessory use to a dwelling unit. Prior to commencing the home occupation the applicant shall request and receive a home occupation permit from the city. The form of the application shall be as required by the city clerk but at a minimum shall contain the following information: name of applicant, address of home occupation, proposed activity, and a statement of assurance that the applicant shall comply with the requirements of this section. The fee for such application shall be established and modified from time to time by resolution of the city council but shall initially be set at ten dollars (\$10.00). Each home occupation shall be subject to compliance with the following conditions:

a. A home occupation shall be permitted only when it is an accessory use to a dwelling unit.

b. A home occupation shall not involve any structural alteration in the main building or any of its rooms.

c. A home occupation shall not involve the installation of machinery or additional equipment other than that customary to normal household operations.

d. A home occupation shall utilize no more than twenty (20) percent of the total floor area of the dwelling unit.

e. A person who engages in a home occupation shall not use an advertisement, sign, or display on or off the premises; provided, however, that this shall not be construed to regulate signage attached to vehicles.

f. A home occupation shall not operate during hours other than 6:00 a.m. to 8:00 p.m.

g. A home occupation shall not generate more traffic than the typical or average dwelling unit and it shall not involve or result in the presence of more than four (4) patrons on the premises at one time.

h. A home occupation shall not generate loud and raucous noise, or utilize mechanical, electrical or other equipment or items that produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building or operate in any way that substantially and unreasonably interferes with the use and enjoyment of adjacent or nearby property or interferes with public peace and comfort.

i. A home occupation shall not involve the visible storage of equipment or materials, or the presence of highly explosive or combustible equipment or vehicles with more than two (2) axles.

j. Parking spaces shall be provided in accordance with the specification in Section 5.02(d) of this code.

k. A home occupation shall not include any of the following: kennel, mortuary, restaurant, dance studio, nursing home, taxi service, health or medical clinic, veterinary clinic or similar activities.

(8) **Sales Trailer, Temporary.** A temporary use permit may be issued by the zoning administrator for a manufactured office trailer used while model homes are being constructed, subject to the following conditions:

a. A temporary permit allowing sales from a manufactured office trailer may be issued for a period not to exceed one hundred twenty (120) days from approval of a zoning development permit, with no extensions, while permanent model homes are being constructed.

b. The trailer shall not be used for living or sleeping purposes.

c. Skirting shall be installed around the trailer to conceal the undercarriage.

d. The trailer shall be located in a platted subdivision on a lot that is owned by the applicant/builder and shall not be located within a required front yard.

e. A building permit must be issued for the model home at the time of the temporary permit for the trailer.

(9) **Child Care Facility.** Child care facilities that desire to operate other than permitted hours shall apply for a conditional use permit.

(10) **Group Home.** A group home may provide living arrangements for not more than eight (8) residents per home sixty (60) years of age or older; or for persons in alcohol recovery, halfway house or other similar programs; or for the developmentally disabled, limited to cerebral palsy, multiple sclerosis, mental retardation, autism, and epilepsy; and not more than two (2) supervisory personnel; subject to the following conditions:

a. Such homes must be state-licensed.

b. All exterior aspects of a group home, including its scale and off-street parking configuration, shall not disrupt the residential character of the area.

c. In no case shall the total number of persons residing on premises (including staff) be more than one (1) per four hundred (400) square feet of usable floor area twenty (20) percent more than the single family equivalent).

d. Such homes shall provide off-street parking pursuant to Section 5.02(d) of this code.

(11) **Mobile vendors** are not allowed in the central business district (CBD). Mobile vendors shall be regulated as set forth in the Cortez City Code at Chapter 15, Article IX, Mobile Food Vendors Sections 15-66 thru 15-68.8 and all other applicable Cortez City Code sections, now in effect or as may be amended from time to time.

(12) **Parking Lot or Garage.** Automotive repair or maintenance services are neither offered nor provided.

★ (13) **General Retail (Indoors).** Most displays of merchandise or inventory shall be displayed indoors. However, external temporary displays of merchandise are permitted as follows:

a. External temporary displays of merchandise or inventory by the principal business may be displayed on the sidewalk adjoining the front property line, provided the actual sales transaction is conducted from within the building of the principal business. Sales transactions are allowed on the sidewalks only during times when sales events take place which are sponsored by the Chamber of Commerce or other recognized business group. In all such cases, merchandise shall be placed in such a manner as to allow for an uninterrupted walking area on the sidewalk with a minimum width of five (5) feet.

b. External temporary displays of merchandise may also take place within the confines of the property of the principal business or off-site from the principal business within two hundred (200) feet of the

principal building. If such display is off-site, use of the adjoining sidewalks for display purposes is prohibited.

c. In the case of shopping centers or other instances where the principal structure is more than ten (10) feet away from the front property line, external temporary exhibits of merchandise may be placed within the allowed display area.

1. Allowed display area is defined as the thirty (30) percent of the distance between the front of the principal structure and the front curb line or parking lot edge which is closest to the principal structure.

d. In no case shall the external placement of merchandise obstruct fire lanes, reduce the required number of off-street parking places, impede the flow of pedestrian traffic, or in any way cause or create a safety hazard.

(14) Bed and Breakfast. A bed and breakfast establishment may provide lodging and breakfast for temporary overnight occupants in no more than five (5) separate bedrooms for compensation. In addition to residential off-street parking requirements, a bed and breakfast shall provide one (1) off-street parking space per bedroom offered for use for temporary overnight accommodations.

(15) Boarding or Rooming House. A boarding or rooming house may provide no more than four (4) separate bedrooms offered for compensation. In addition to residential off-street parking requirements, a boarding or rooming house shall provide one (1) off-street parking space per bedroom offered for guests.

(16) Craft Shop. At least one-half of the floor area of the principal structure shall be devoted to retail sales.

(17) Recreational Vehicle Park. Development and operational standards shall include:

a. Maximum density of the camping area shall not exceed twenty-five (25) units per gross acre;

b. Minimum lot area per unit shall be no less than one thousand (1000) square feet;

c. Each lot shall have access to a dust-free, public or private street or road (when this access meets an existing public street the access entrance must meet city street design standards for a distance of forty (40) feet from the property line into the development);

d. Sanitary and shower facilities shall comply with the more restrictive minimum standards of either the city or the state of Colorado;

e. There shall be a minimum distance of fifteen (15) feet provided between occupancy units;

f. There shall be one (1) parking space of two hundred (200) square feet provided for each unit no less than fifteen (15) feet distance from the unit;

g. Land shall be provided for common recreational space in the amount of five (5) percent of the gross acreage of the camping area; and

h. The Cortez fire protection district shall specify the number and location of fire hydrants.

(18) Auto Repair Garage or Place. All motor vehicles on the premises must carry a current registration and a work order with a completion date not to exceed 30 days. Motor vehicles without valid registration and or a work order shall be classified as salvage and junk, and may not be kept, stored or worked on in an auto repair shop.

(19) Nursing Home. A nursing home may provide living arrangements for residents sixty (60) years of age or older or for the developmentally disabled, limited to cerebral palsy, multiple sclerosis, mental retardation, autism, and epilepsy, and for necessary care givers and supervisory personnel; subject to the following conditions:

a. Such homes must be state-licensed.

b. All exterior aspects of a nursing home, including its scale and off-street parking configuration, shall not disrupt the character of the area.

c. In no case shall the total number of persons residing on premises (including staff) be more than one (1) per four hundred (400) square feet of usable floor area.

d. Such homes shall provide off-street parking pursuant to Section 5.02(d) of this code.

(20) Commercial Wireless Antennas and Towers. Commercial wireless antennas and towers may be permitted, subject to the following requirements:

a. Co-Location Requirements. A proposal for a new commercial wireless telecommunication service tower shall not be approved

unless the city council finds that the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a two (2) mile search radius for towers over 150 feet, one (1) mile search radius for towers over 120 feet, one-half (1/2) mile search radius for towers under 120 feet in height, and one-quarter (1/4) mile radius for towers under 60 feet in height of the proposed tower, due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;

2. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;

3. All proposed commercial wireless telecommunication service tower shall be designed (structurally, electrically, and in all respects) to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is to be over 60 feet in height, or for four (4) additional users if the tower is over 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights;

4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

b. Tower and Antenna Design. Proposed or modified towers and antennas shall meet the following design requirements:

1. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration; and

2. Commercial wireless telecommunication service towers shall be of monopole design unless the city council determines that an alternative design would better blend in with the surrounding environment.

c. Tower Siting. Towers shall not be located between a principal structure and a public street, except in the I, industrial zone district where towers may be placed within a side yard abutting an internal industrial street;

d. Tower Setbacks. All towers shall conform to the minimum setback requirements of the underlying zoning district, subject to the additional requirements and modifications:

1. The required setback for antenna and tower not rigidly attached to a building shall be equal to the combined height of the antenna and tower. Antennas and towers rigidly attached to a building, whose base is on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.

2. Towers shall be setback from the planned public rights-of-way as shown on the most recently adopted master street plan by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.

3. Towers in the I, industrial zone district may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

4. Notwithstanding other provisions to the contrary, a tower's setback may be reduced or its location in relation to a public street varied at the sole discretion of the city council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard power line support device or similar structure.

e. **Tower Height.** The maximum height of all commercial wireless antennas and supporting towers shall not exceed the minimum that is technically necessary to serve the design purpose; provided, however:

1. The maximum height of all commercial wireless antennas and supporting towers shall not exceed the length of the shortest setback on the subject parcel or 120 feet, whichever is less; and

2. No tower that serves more than one (1) dwelling or place of business shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line, less five (5) feet.

3. Towers in the Industrial (I) Zone shall be allowed to attain a height of one hundred fifty feet (150') including the antenna.

f. **Lights and Other Attachments.**

1. Towers shall not be artificially illuminated or display strobe lights unless the Federal Aviation Administration or other federal or state authority for a particular tower specifically requires such lighting when incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower; and

2. No tower shall have constructed on, or attached to, any additional platform, catwalk, crow's nest, or like structure (other than those required by industry standards or federal regulations), except during periods of construction or repair.

g. **Signs and Advertising.** The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

h. **Accessory Utility Buildings.** All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. All ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

i. **Interference with Public Safety Telecommunications.** No telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least 10 calendar days in advance of such changes and allow the city to monitor interference levels during the testing process. At the city council's discretion, such new service or changes may be required to obtain a new conditional use permit.

j. **Performance Standards.** All towers must conform to the applicable performance standards in Section 5.07 of this code.

k. **Tower Construction Requirements.** All towers erected, constructed or located within the city, and all wiring therefore, shall comply with the requirements of all current construction codes.

l. **Additional Submittal Requirements.** In addition to the information required elsewhere

in this code, development applications for towers shall include a report from a qualified and licensed professional engineer that:

1. Describes the tower height and design including a cross section and elevation;
2. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
3. Describes the tower's capacity, including the number and type of antennas that it can accommodate;
4. Documents what steps the applicant will take to avoid interference with established public safety telecommunication;
5. Includes an engineer's stamp and registration number; and
6. Includes other information necessary to evaluate the request;
7. A letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions of shared use;
8. Before the issuance of a building permit, the following supplemental information shall be submitted;
9. Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and
10. A report from a qualified and licensed professional engineer, which demonstrates the towers compliance with the aforementioned structural and electrical standard.

(21) Adult Entertainment Uses and Establishments and Uses. The purpose and intent of this section is to regulate sexually-oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented busi-

nesses within the city, thereby helping to reduce and eliminate the adverse secondary effects from such sexually oriented businesses. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

a. No adult entertainment establishment shall be located within five hundred (500) feet of the exterior boundary of any residential zone district, church, public or private school, child care center, public community center, park, fairground, recreation center, any alcoholic beverage establishment located in the city at which alcoholic beverages are offered for sale for consumption on the premises, any area designated as an urban renewal project area pursuant to C.R.S. Section 31-25-107. Further, no adult entertainment use shall be located within two hundred (200) feet of any arterial or major collector roadways.

b. No adult entertainment use shall be located within one thousand (1000) feet of any other adult entertainment use whether such adult entertainment uses are within or without the city.

c. The method of measurement for the one thousand (1000) foot restriction shall be computed by direct measurement from the exterior boundary of any area identified in this section, or from the nearest property line of the property upon which an adult entertain-

ment business or establishment, or other adult entertainment use is conducted, to the nearest property line of the property where on the building in which an adult entertainment use is to occur.

d. Any adult entertainment establishment operating at the effective date of this code in violation of any relevant provision of this code or the Cortez City Code shall be deemed a nonconforming use. An adult entertainment establishment that is deemed a nonconforming use shall be permitted to continue operating for an amortization period of six (6) months. Such nonconforming adult entertainment use shall not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use. Notwithstanding the foregoing, any adult entertainment establishment deemed a nonconforming use shall apply for a license provided for by the Cortez City Code Section 4A-5 et seq. within thirty (30) days of the effective date of this code or be subject to the relevant penalty provisions set forth herein and in Cortez City Code Sections 4A-38 and 4A-40 et seq.

e. An adult entertainment establishment lawfully operating as a conforming use pursuant to the receipt of zoning approval and obtaining a license is not rendered a nonconforming use by the location, subsequent to the grant or renewal of an adult entertainment establishment license, of any uses identified in Section 4A of the Cortez City Code or subsection 3.05(b)(21)(a—c) of this section, within the specific distancing requirements noted therein.

f. No licensee, manager, or employee mingling with the patrons of sexually oriented businesses or serving food or drinks shall be nude or in a state of nudity. It is a defense to prosecution for a violation of this section that an employee of a sexually oriented business

exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room that is accessible only to employees. Further, no licensee or employee shall encourage or knowingly permit any person on the premises to engage in specified sexual activities, which conduct involving specified sexual activities is unlawful and shall be subject to criminal penalties as set forth in Section 1.09 of this code, Enforcement and penalties.

g. Advertisements, displays, or other promotional material depicting adult entertainment uses shall not be shown or exhibited to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.

h. Only one (1) adult entertainment establishment use shall be permitted per building or, in other words, no building, premises, structure, or other facility that contains any sexually oriented business shall contain any other kind of sexually oriented business therein.

i. All building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent a viewing to the interior from any public or semi-public area; for new construction the building shall also be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

j. No one under 21 years of age shall be admitted to any adult entertainment establishment where live nude entertainment and performances are featured, which live nude entertainment is characterized by the exposure of specified anatomical areas. Further, no one under 18 years of age shall be admitted to any adult entertainment establishment of any kind and the foregoing minimum age limitations

also apply to any employees, agents, servants, or independent contractors working on the premises during the hours when adult entertainment is being presented.

k. It is unlawful for an adult entertainment establishment and/or a sexually oriented business to be opened for business or for the licensee or any employee of a licensee to allow patrons upon licensed premises, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service between the hours of 9:00 p.m. and 9:00 a.m. of any particular day. Also, such establishments shall not conduct business beginning from 9:00 p.m. on a Saturday to 9:00 a.m. on a following Monday. Further, it is unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether a license has been issued for such business under this code, engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 1:00 a.m. and 9:00 a.m. of any particular day.

l. It is unlawful for an adult entertainment establishment and/or a sexually oriented business or for a licensee or any employee of a licensee thereto, regardless of whether a license has been issued for such business under this code, to knowingly allow any patron upon the premises to engage in a specified sexual activity while on such premises. It is also unlawful for any licensee or employee of an adult entertainment establishment, regardless of whether a license has been issued for such business under this code to engage in a specified sexual activity while on the premises of such adult entertainment establishment. The foregoing conditions contained in this subsection are promulgated pursuant to the terms of the Cortez

City Code contained in Chapter 4A, and C.R.S. Sections 18-7-208 and 18-7-301 and this code.

m. This section shall not apply to those areas of an adult motel that are private rooms.

n. Any person or entity who operates or causes to be operated an adult entertainment establishment who violates any provisions contained in this section or does not have a valid license is subject to a suit for injunction and is subject to civil and criminal penalties as set forth in Section 1.09 of this code.

o. Each day of operation in violation of any provision of this code shall constitute a separate offense.

p. Any adult entertainment establishment that engages in repeated or continuing violations of these regulations shall constitute a public nuisance. For purposes of these regulations, "repeated violations" shall mean three or more violations of any provision set forth herein within one (1) year dating from the time of a new violation, and a "continuing violation" shall mean a violation of any provision set forth herein lasting for three (3) or more consecutive days.

q. Notwithstanding any other remedies at law or equity, the city attorney may bring an action in the district court of Montezuma County for an injunction against the operation of such establishments in a manner that violates any of the provisions set forth herein.

(22) Accessory Dwelling Units (ADUs). This type of use is intended to provide a mechanism to help meet the need of affordable housing by allowing accessory residential dwelling units under certain circumstances in areas normally restricted to a single unit, while preserving existing single-family character. All accessory single-family dwelling units shall be subject to the following requirements:

a. An ADU shall be permitted within the RE and R-1 zones as a conditional use

and shall be reviewed by the planning and zoning commission and the city council as per Section 6.10 of this code, Conditional use permits.

b. The parcel must contain a single-family unit occupied by the property owner.

c. The ADU may be attached or incorporated within the living area of the existing primary dwelling or detached.

d. The ADU shall not result in an increase of more than twenty (20) percent in the existing living area.

e. The ADU may be used for rental purposes and shall be reserved for occupancy of one (1) or two (2) persons.

f. The ADU must be provided with two off-street parking spaces as per Section 5.01 of this code and may be contained in a garage or protected by a carport.

g. Any new construction associated with the ADU shall comply with all setbacks, lot coverage, height, and design standards contained within the base zone and shall not alter the general appearance of the primary dwelling as a single-family residence.

h. The ADU shall have adequate sewer and water services and additional tap fees may be required for the dwelling.

i. The ADU shall not adversely impact traffic flow or parking in the neighborhood.

j. The lot shall consist of twenty (20) percent more area than the minimum lot size in the underlying zoning district.

An ADU that conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use consistent with the existing general plan and zoning designation for the lot.

(23A) Medical Marijuana Dispensaries.

a. Medical marijuana dispensaries are defined as commercial/retail facilities that

grow marijuana for provision to, or provides marijuana to, ill state certified medical marijuana patients. Medical marijuana dispensaries shall only be allowed in the commercial highway (C) and central business district (CBD) zones. Medical marijuana dispensaries shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation.

b. Any medical marijuana center located within the city shall meet the distance requirements as set forth in Cortez City Code section 15-312, distance requirements, now in effect or as may be amended from time to time excepting when an operator/owner has a licensed medical marijuana and retail marijuana establishment at the same physical location whether located within or outside the corporate limits of the city. The suitability of a location for the medical marijuana dispensary shall be determined at the time of the issuance of the first license for such dispensary. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana dispensary under this section shall not be grounds to suspend, revoke, or refuse to renew the license for such dispensary so long as the license for the dispensary remains in effect. Nothing within this section shall preclude the establishment of a public, private, or charter school, licensed day-care facility, licensed pre-school, or dedicated public park within one thousand five hundred (1,500) feet of a preexisting medical marijuana dispensary.

c. All medical marijuana dispensaries shall be required to obtain a city sales tax license and shall collect and remit all applicable state, county and city sales taxes in a timely manner.

d. Any medical marijuana dispensary within the city of Cortez shall be required

to have a fully operational alarm system including fire alarm that must be properly maintained.

e. Medical marijuana dispensaries shall apply for a sign permit through the planning and zoning division of the city. All exterior signage associated with a medical marijuana dispensary will meet the standards established in the city of Cortez Land Use Code. In addition, no exterior signage, including window treatments over eight and one-half (8½) inches by eleven (11) inches in size shall use the word "marijuana," "cannabis," or any other word, phrase, or symbol commonly understood to refer to marijuana.

f. Each medical marijuana dispensary shall be owned and operated according to Colorado State Constitution, Statutes, and Regulations as may be amended from time to time.

(23B) Retail Marijuana Establishments.

a. Retail marijuana establishments are defined those establishments licensed by the state of Colorado and approved by the city of Cortez as a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturer or retail marijuana testing facility. Retail marijuana establishments shall only be allowed in the commercial highway (C) and central business district (CBD) zones. Retail marijuana establishments shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation.

b. Any retail marijuana establishment located within the city shall follow the distance requirements as set forth in section 15-312, distance requirements, now in effect or as may be amended from time to time, excepting when an operator/owner has a licensed medical marijuana dispensary and retail marijuana establishment at the same physical location whether located within or

outside the corporate limits of the city. The suitability of a location for the retail marijuana business shall be determined at the time of the issuance of the first license for such retail marijuana establishment. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana establishment under this section shall not be grounds to suspend, revoke, or refuse to renew the license for such retail marijuana establishment so long as the license for the retail marijuana establishment remains in effect. Nothing within this section shall preclude the establishment of a public, private, or charter school, licensed day-care facility, licensed pre-school, or dedicated public park within one thousand five hundred (1,500) feet of a preexisting retail marijuana establishment.

c. All retail marijuana establishments shall be required to obtain a city sales tax license and shall collect and remit all applicable state, county and city sales taxes in a timely manner.

d. Any retail marijuana establishment within the city of Cortez shall be required to have a fully operational alarm system including fire alarm that must be properly maintained.

e. Retail marijuana establishments shall apply for a sign permit through the planning and zoning division of the city. All exterior signage associated with a retail marijuana establishment will meet the standards established in the city of Cortez Land Use Code. In addition, no exterior signage, including window treatments over eight and one-half (8½) inches by eleven (11) inches in size shall use the word "marijuana," "cannabis," or any other word, phrase, or symbol commonly understood to refer to marijuana.

f. Each retail marijuana establishments shall be owned and operated according to

Colorado State Constitution, statutes, and regulations as may be amended from time to time.

(24) The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential structures subject to the following conditions:

a. Such cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §§ 12-43.3-101 et seq., and the Medical Marijuana Program established by C.R.S. § 25-1.5-106.

b. Such marijuana plants are cultivated, produced, or possessed within a licensed patient's or registered caregiver's primary residence, as defined by paragraph (h) below.

c. The patient or caregiver must reside in the primary residence where the medical marijuana is grown.

d. The cultivation, production, or possession of such marijuana plants must not be perceptible from the exterior of the primary residence, including, but not limited to:

1. Common visual observation, which also prohibits any form of signage;

2. Unusual odors, smells, fragrances, or other olfactory stimulus;

3. Light pollution, glare, or brightness that disturbs the repose of another;

4. Undue vehicular or foot traffic, including excess parking within the residential zone; and

5. Excess noise from the primary residence, which noise is created as a consequence of growing medical marijuana.

e. Such marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.

f. Such marijuana plants are used exclusively by a licensed patient for the patient's personal use and solely to address a debilitating medical condition.

g. Such cultivation, production, or possession of marijuana plants shall be limited to the following space limitations within a primary residence:

1. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 6, Section 6.1 of the Cortez City Code): a secure, defined, contiguous one hundred fifty (150) square-foot area within the primary residence of the licensed patient or registered caregiver;

2. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 6, Section 6.1 of the Cortez City Code): a secure, defined, contiguous one hundred (100) square foot area within the primary residence of the patient or registered caregiver.

h. Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted city of Cortez building, life/safety codes, and other applicable state electrical and other codes.

i. For purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation.

Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, prepa-

ration of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one (1) primary residence. A primary residence shall not include accessory buildings.

j. For purposes of this ordinance, "a secure" area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical marijuana.

k. If a licensed patient or registered caregiver raises quantities of marijuana requiring more than the square footage limitations of paragraph (g) above, such patient or caregiver must be in full compliance with the Colorado medical marijuana program as provided in C.R.S. § 25-1.5-106(14).

1. Such patient or caregiver may grow medical marijuana for personal use and solely to address a debilitating medical condition within the central business district (CBD), or commercial highway (C) zoned districts of the city;

2. Such patient or caregiver must submit plans, obtain a building permit, and pass inspections to ensure that the CBD or C premises are in compliance with the city of Cortez's building code, state electrical code, fire code, and all other relevant life/safety codes in order to obtain a certificate of occupancy from the city of Cortez's building division;

3. Such patient or caregiver must ensure that the premises are secure, as defined in paragraph (j) above; however, within the commercial and central business district settings so that no children, visitors, passersby, vandals, or anyone else not licensed to possess medical marijuana may access the premises; and

4. The patient or caregiver must reside on premises in an apartment or living area constructed in compliance with the city of Cortez building code, state electrical code, and all other relevant life/safety codes.

l. Reserved.

m. Outdoor cultivation of marijuana, for medical marijuana purposes, for retail marijuana purposes or for personal use by private citizens is prohibited.

(25) A community garden is a privately or publicly owned parcel of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one (1) or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.

Community gardens and their users must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the garden premises. Site users may not introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

Community gardens are permitted in the following zoning districts: Residential estate (RE), residential multi-family (R-2), manufactured housing (MH), open (O), central business district (CBD), commercial highway (C), neighborhood business (NB) and industrial (I) zones. A conditional use permit shall be required to establish a community garden in the residential single-family (R-1) zoning district. All community gardens shall be subject to the following requirements:

a. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance, and security requirements.

b. Site users must have a garden coordinator to perform the coordinating role for the management of the community gardens and to liaise with the city. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the city planning and building department.

c. The land shall be served by a water supply sufficient to support the cultivation practices on site.

d. The site must be maintained so that water and fertilizer will not drain onto adjacent property.

e. All seed, fertilizer, and animal feed shall be stored in a sealed, rodent-proof container and housed in an enclosed structure.

f. Fences are permitted as regulated in the underlying zone district.

g. To the extent permitted under federal and state law, site users must use sustainable growing practices.

h. Compost materials from the garden or gardeners shall be stored at least five (5) feet from adjacent property, and in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. If requested by the site users, waste may be collected regularly by the city.

i. The following accessory uses and structures shall be permitted, subject to the requirements of the currently-adopted land use code and building codes:

1. Sheds for storage of tools, greenhouses, hoopouses, and cold frames in which plants are cultivated, benches, bike racks, compost or waste bins, picnic tables, children's play area, etc.

j. Farm stands shall not be permitted on-site, and sale of community garden produce shall not be permitted on-site, without express written authority from city council.

(26) Flea Markets.

a. Definition. Flea market(s) in the city of Cortez Land Use Code shall have the same meaning as stated in Chapter 15, Article XIII, Section 15-109, Definitions. Cortez City Code. Now in effect or as may be amended from time to time.

b. Flea Market Regulations. Flea market owners, operators and participants shall follow the rules and regulations contained in Chapter 15, Article XIII, Flea Markets. Sections 15-109 thru 15-128. Cortez City Code and all other applicable federal, state and local statutes, ordinances, rules and regulations. Now in effect or as may be amended from time to time.

c. Locations. Flea markets shall be allowed in zones, CBD, C, NB, I.

d. Penalty. A violation of this ordinance shall be punishable as set forth in Section 17-16A Cortez City Code now in effect or as may be amended from time to time.

(27) Micro-breweries/micro-wineries/micro-distilleries with on-site consumption shall be subject to the following requirements:

a. The use will not create offensive odors that are perceptible from other properties.

b. The use will include on-site consumption as a primary or secondary use, to include a minimum of fifteen percent (15%) of the gross floor area.

c. The operation may include other uses such as a standard restaurant, bar, or live entertainment as is otherwise permitted in the zoning district. (Ord. 1051, 2005; Ord. 1050 (part), 2005; Ord. 1043 (part), 2005; Ord. 1024 (part), 2004; Ord. 1016, 2004; Ord. 1015 (part), 2004; Ord. 984 (part), 2003; Ord. 982 (part), 2003; Ord. 973 (part), 2002; Ord. 971 (part), 2002) (Ord. No. 1130, 9-8-2009; Ord. No. 1135, 1-12-2010; Ord. No. 1141, 4-13-2010; Ord.

No. 1155, 2-28-2012; Ord. No. 1166, 5-22-2012; Ord. No. 1167, 9-11-2012; Ord. No. 1191, 9-9-2014; Ord. No. 1192, 8-26-2014; Ord. No. 1197, 11-24-2014; Ord. No. 1201, 8-25-2015; Ord. No. 1212, 8-9-2016; Ord. No. 1220, 3-28-2017; Ord. No. 1239, 3-27-2018; Ord. No. 1264, 2-12-2019)

3.06 Area regulations.

(a) Schedule of Residential Area Regulations. The following residential area regulations schedule summarizes the regulations of this code with regard to minimum lot size, minimum yards, maximum lot coverage, minimum floor area per dwelling unit, and maximum building height of residential uses in the various zoning districts. The standards shown in the following schedule may be modified by additional provisions contained in this section or in the individual district regulations. In the event of any conflict between the text of this section and the schedule of residential area regulations, the text shall control.

Abbreviated Designation	
RE	Residential estate district
O	Open district
R-1	Residential single-family district
CBD	Central business district
R-2	Residential multi-family district
C	Commercial highway district
MH	Residential manufactured home district
NB	Neighborhood business district
I	Industrial

C

C

C

RESIDENTIAL AREA REGULATIONS

Development Standard	Zoning District RE	Zoning District R-1	Zoning District R-2	Zoning District MH	Zoning District CBD	Zoning District C	Zoning District NB	Zoning District I	Zoning District O
Single-Family or One-Family Dwelling									
Min. lot area/unit (sq. ft.)	43,560	7,000	6,000	6,000	—	6,000	6,000	—	—
Min. front yard (ft.)	50'	20'	20'	20'	—	10'	20'	—	20'
Min. side yard (ft.)	50'	7'	7'	7'	—	7'	7'	—	20'
Min. rear yard (ft.)	25'	7'	7'	7'	—	7'	7'	—	20'
Max. lot coverage (%)	20%	40%	50%	50%	—	—	50%	—	10%
Min. floor area/manufactured home (sq. ft.)	—	—	—	700	—	—	—	—	—
Max. height (ft.)	35'	35'	35'	35'	—	35'	35'	—	28
Min. lot width (ft.)	80'	50'	50'	50'	—	—	50'	—	—
Duplex or Two-Family Dwelling									
Min. lot area/unit (sq. ft.)	—	—	3,500	3,500	—	—	3,500	—	—
Min. front yard (ft.)	—	—	20'	20'	—	—	20'	—	—
Min. side yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Min. rear yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Max. lot coverage (%)	—	—	50%	50%	—	—	50%	—	—
Min. floor area/ principal unit (sq. ft.)	—	—	800	800	—	—	800	—	—
Max. height (ft.)	—	—	35'	35'	—	—	35'	—	—
Min. lot width (ft.)	—	—	50'	50'	—	—	50'	—	—
Three, Four, Five, or Six-Family Dwelling									
Min. lot area/unit (sq. ft.)	—	—	3,000	3,000	—	—	3,000	—	—
Min. front yard (ft.)	—	—	20'	20'	—	—	20'	—	—
Min. side yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Min. rear yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Max. lot coverage (%)	—	—	50%	50%	—	—	50%	—	—
Min. floor area/ unit (sq. ft.)	—	—	800	800	—	—	800	—	—
Max. height (ft.)	—	—	35'	35'	—	—	35'	—	—
Min. lot width (ft.)	—	—	60'	60'	—	—	60'	—	—
Apartments									
Min. floor area/apartment (sq. ft.)	—	—	—	—	500	500	500	—	—
Min. lot area/unit (sq. ft.)	—	—	3,000	3,000	—	—	3,000	—	—

Development Standard	Zoning District RE	Zoning District R-1	Zoning District R-2	Zoning District MH	Zoning District CBD	Zoning District C	Zoning District NB	Zoning District I	Zoning District O
Min. front yard (ft.)	—	—	20'	20'	—	—	20'	—	—
Min. side yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Min. rear yard (ft.)	—	—	7'	7'	—	—	7'	—	—
Max. lot coverage (%)	—	—	50%	50%	—	—	50%	—	—
Min. floor area/studio unit (sq. ft.)	—	—	450	450	—	—	450	—	—
Min. floor area/1 bedroom unit (sq. ft.)	—	—	500	500	—	—	500	—	—
Min. floor area/2 bedroom unit (sq. ft.)	—	—	700	700	—	—	700	—	—
Min. floor area/3+ bedroom unit (sq. ft.)	—	—	800	800	—	—	800	—	—
Max. height (ft.)	—	—	35'	35'	—	—	35'	—	—
Min. lot width (ft.)	—	—	60'	60'	—	—	60'	—	—
Manufactured Home Dwelling									
Min. lot area/unit (sq. ft.)	—	—	—	6,000	—	—	—	—	—
Min. front yard (ft.)	—	—	—	20'	—	—	—	—	—
Min. side yard (ft.)	—	—	—	7'	—	—	—	—	—
Min. rear yard (ft.)	—	—	—	7'	—	—	—	—	—
Max. lot coverage (%)	—	—	—	50%	—	—	—	—	—
Min. floor area/principal unit (sq. ft.)	—	—	—	700	—	—	—	—	—
Max. height (ft.)	—	—	—	35'	—	—	—	—	—
Min. lot width (ft.)	—	—	—	50'	—	—	—	—	—

(b) Schedule of Nonresidential Area Regulations. The following nonresidential area regulations schedule summarizes the regulations of this code with regard to minimum lot area, minimum yards, maximum lot coverage, minimum floor area per nonresidential use, maximum height, and minimum lot width of nonresidential uses in the various zoning dis-

tricts. The standards shown in the following schedule may be modified by additional provisions contained in this section or in the individual district regulations. In the event of any conflict between the text of this section and the schedule of nonresidential area regulations, the text shall control.

NONRESIDENTIAL AREA REGULATIONS

Development Standard	Zone District CBD	Zone District C	Zone District NB	Zone District I	Zone District O
Min. lot area (sq. ft.)	2,500	3,000	6,000	10,000	-
Min. front yard (ft.)	10'	10'	20'	15'	20'
Min. side yard (ft.)	0'	0'	7' or less by cond. use permit	7'	20'
Min. rear yard (ft.)	7'	7'	20'	7'	20'
Max. lot coverage	—	50%	50%	50%	10%
Minimum floor area per nonresidential use (sq. ft.)	—	—	500'	—	500'
Max. height (ft.)	50'	50'	35'	35'	28'

(c) Minimum Lot Area. Residential uses shall comply with the minimum lot area per dwelling unit standards and summarized in the residential area regulations schedule, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code. Nonresidential uses shall comply with the minimum lot area standards and summarized in the nonresidential area regulations schedule, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(d) Minimum Front Yard Setback. The location of buildings shall comply with the minimum front yard setback standards summarized in the residential and nonresidential area regulations schedules, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) Measurement. The front setback for the purpose of these calculations refers to the open space at grade between a structure and

the property line of the lot on which the structure is located measured by the horizontal distance between the lot line and the closest projection of the principal or accessory building.

(2) Setback Averaging. If the existing front setbacks of lots within the same block and zoning district and fronting on the same side of the street are less than the required front setback of the underlying zoning district, applicants shall be allowed to use the "average" front setback on the block. In such cases, the "average setback" shall represent the mean (average) setback of all lots on the same side of the street within the same block, provided that lots that are not developed with the same type of use that is proposed on the subject property shall not be included in the calculation. When one or more of the lots on the block are vacant the normally required setback for the vacant lot shall be used in calculating the average setback. This provision shall not be interpreted as requiring a greater front setback than imposed by the underlying zone district. Responsibility for demonstrating

eligibility for an "average setback" pursuant to this subsection shall be the sole responsibility of the applicant.

(3) Corner Lots. For lots with frontage on two (2) intersecting streets, such a lot shall have the front of the lot determined by the legal street address for the lot. Corner lots shall comply with the front yard setback for the front of the lot and 75% of the front yard setback for the side of the lot facing the other street. The rear yard setback and the side yard setback for the interior side of the lot shall be as required by the area regulations.

(4) Carports. Carports with three sides open may be constructed in conjunction with an allowed residential structure to within ten (10) feet of the front property line. No carport shall be constructed or encroach over any recorded easement. No portion of the carport overhang shall encroach over any public right-of-way or other private property. If a property owner desires to construct a carport closer than ten feet of the front property line a conditional use permit is required as per Section 6.10 of this code.

(5) Double Frontage Lots. Where lots have double frontage, running through from one street to another, a required front yard shall be provided on both streets unless a building line for accessory buildings has been established along one frontage on the plat or by resolution, in which event only one (1) required front yard need be observed.

(e) Minimum Side Yard Setback. The location of buildings shall comply with the minimum side yard setback standards summarized in the residential and nonresidential area regulations schedules, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) Principal Structures. Principal structures shall have a side yard of not less than seven (7) feet measured from any side lot line; provided however, that principal structures shall not be located within fourteen (14) feet of the adjoining property principal structure.

(2) Accessory Buildings. Detached accessory buildings shall have a side yard of not less than five (5) feet measured from any side lot line, alley right-of-way or easement line (except in the RE, residential estate district); provided, however, that detached accessory buildings shall not be located within ten (10) feet of any other building. No accessory building shall be higher than the principal structure on the lot.

(3) Carports. Carports with three sides open may be constructed in conjunction with an allowed residential structure provided that all setbacks for the principal structure are met. No carport shall be constructed or encroach over any recorded easement. No portion of the carport overhang shall encroach over any public right-of-way or other private property. No free-standing carport shall be higher than sixteen feet.

(f) Minimum Rear Yard Setback. The location of buildings shall comply with the minimum rear yard setback standards summarized in the residential and nonresidential area regulations schedules, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) Carports. Carports with three sides open may be constructed in conjunction with an allowed residential structure up to within five feet of the rear property line. No carport shall be constructed or encroach over any recorded easement. No portion of the carport overhang shall encroach over any public right-of-way or other private property. A minimum

often (10) feet separation is required between the carport and any structure on the adjoining property. No free-standing carport shall be higher than sixteen feet.

(g) **Maximum Lot Coverage.** The size of buildings shall comply with the maximum lot coverage standards summarized in the residential and nonresidential area regulations schedules, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) **Measurement.** Roof eaves extending not more than three (3) feet from the walls of a building shall be excluded from coverage computations.

(h) **Minimum Floor Area.** Residential uses shall comply with the minimum floor area per dwelling unit standards summarized in the residential area regulations schedule, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code. Nonresidential uses shall comply with the minimum floor area per principal use standards summarized in the nonresidential area regulations schedule, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) **Measurement.** The floor area, for the purpose of these minimum floor area requirements, refers to the total of the horizontal area of each floor, measured from the outside face of the building walls and excluding garages, carports, cellars and accessory buildings.

(i) **Maximum Height.** The height of buildings and structures shall comply with the maximum height standards summarized in the residential and nonresidential area regulations schedules, as may be modified by additional provisions in the district regulations, in this subsection or elsewhere in this code.

(1) **Measurement.**

a. **Buildings and Other Structures.** Height refers to the vertical distance between average finished grade along the front of the building and the highest point on the peak of the roof.

b. **Commercial Wireless Antennas and Towers.** The height of commercial antennas and towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments when towers are mounted upon other structures.

(2) **Permitted Exceptions.** The following structures and features shall be exempt from the height requirements of this code:

- a. Chimneys, smokestacks or flues;
- b. Cooling towers and ventilators;
- c. Elevator bulkheads and stairway enclosures;
- d. Tanks and water towers;
- e. Utility poles and support structures;
- f. Belfries, spires and church steeples; and
- g. Monuments, flagpoles and ornamental towers.

(j) **Minimum Lot Width.** Lots used for residential uses shall comply with the minimum lot width standards contained in the district regulations and summarized in the residential area regulations schedule, as may be modified by additional provisions in the district regulations, in this subsection, or elsewhere in this code.

(1) **Measurement.** Lot width shall be the length of the minimum required front yard setback line between the two side lot lines. If the front yard setback line is an arc or a curve, the lot width shall be the length of such arc or curve.

(2) **Cul-de-Sacs.** Notwithstanding any other provisions of this code, lots fronting on a cul-de-sac shall have a minimum front street

line of forty (40) feet and a minimum lot width of fifty (50) feet, provided that this provision shall not apply in the PUD, planned unit development district. (Ord. 1043 (part), 2005; Ord. 1024 (part), 2004)

3.07 RE, residential estate district.

(a) Purpose. See Section 3.02(a) of this chapter, Purpose for Zone Districts.

(b) Permitted Uses. Permitted uses in the RE, residential estate district shall be those established for the RE, residential estate district as outlined in Section 3.05 of this chapter, subject to compliance with any applicable conditions and all other provisions of this code.

(c) Conditional Uses. Conditional uses in the RE, residential estate district shall be those established for the RE, residential estate district as outlined in Section 3.05 of this chapter, subject to approval of a conditional use permit by the city council in accordance with the procedures and standards of Section 6.10 of this code, Conditional use permits.

(d) Temporary Uses. Temporary uses in the RE, residential estate district shall be those established for the RE, residential estate district as outlined in Section 3.05 of this chapter, subject to the approval of a temporary use permit in accordance with the procedures and standards of Section 6.20 of this code, Temporary use permits.

(e) District Regulations. All principal structures shall:

- (1) Be placed on a slab-on-grade or a perimeter foundation approved by the building department.
- (2) Have a wood, brick, or stucco exterior, or a material that looks similar to wood, brick, or stucco; and
- (3) Have a minimum 4:12 roof pitch and a one (1) foot eave overhang; provided, how-

ever, that structures constructed in the traditional southwest Spanish-style are exempt from this requirement.

(f) Minimum Lot Area. The minimum lot area per dwelling unit in the RE, residential estate district shall be forty-three thousand five hundred sixty (43,560) square feet, subject to Section 3.06(c) of this chapter.

(g) Minimum Front Yard. The minimum front yard for all uses in the RE, residential estate district shall be fifty (50) feet, subject to Section 3.06(d) of this chapter.

(h) Minimum Side Yard. The minimum side yard in the RE, residential estate district shall be fifty (50) feet, subject to Section 3.06(e) of this chapter.

(i) Minimum Rear Yard. The minimum rear yard in the RE, residential estate district shall be as twenty-five (25) feet, subject to Section 3.06(f) of this chapter.

(j) Maximum Lot Coverage. The maximum lot coverage in the RE, residential estate district shall be twenty (20) percent, subject to Section 3.06(g) of this chapter.

(k) Maximum Height. The maximum height of buildings and structures in the RE, residential estate district shall be thirty-five (35) feet, subject to Section 3.06(i) of this chapter.

(l) Minimum Lot Width. The minimum lot width for all uses in the RE, residential estate district shall be eighty (80) feet, subject to Section 3.06(j) of this chapter.

3.08 R-1, residential single-family district.

(a) Purpose. See Section 3.02(a), Purpose for Zone Districts.

(b) Permitted Uses. Permitted uses in the R-1, residential single-family district shall be those established for the R-1, residential single-family district as outlined in Section 3.05

Chapter 5

SITE DEVELOPMENT STANDARDS

Sections:

- 5.01 Scope and applicability.
- 5.02 Parking, loading and access.
- 5.03 Sidewalks.
- 5.04 Fences and walls.
- 5.05 Trees, landscaping and screening.
- 5.06 Signs.
- 5.07 Performance standards.

5.01 Scope and applicability.

No building permit or certificate of occupancy shall be issued for any development until all of the applicable standards of this chapter are met.

5.02 Parking, loading and access.

(a) Purpose. The purpose of this section is to require off-street parking and loading facilities in proportion to the parking demand for each use in order to ensure functionally adequate, aesthetically pleasing and secure off-street parking. The regulations and design standards of this section are intended to accomplish the following:

(1) To ensure the usefulness of parking facilities.

(2) To ensure sufficient parking spaces on-site in order to prevent excessive parking on public streets and in residential neighborhoods.

(3) To ensure that access to parking does not impair the function of adjacent roadways or endanger the public safety.

(b) Applicability.

(1) New and Complying Development. New development occurring after the effective date of this section, and development existing on the effective date of this section

and complying with the number of off-street parking spaces required by this section shall be subject to the following provisions.

a. Every use of a building or land hereafter established shall provide the minimum off-street parking spaces as required by this section.

b. The number of parking spaces may be reduced when the land use or floor area of a building is changed or reduced to a use or floor area for which fewer parking spaces are required.

c. When a building is expanded or a land use is changed so as to increase the number of parking spaces required, the number of such spaces shall be increased.

(2) Existing Noncomplying Development. Developments with legally noncomplying parking areas shall be subject to the following provisions.

a. Existing parking spaces shall not be reduced below the minimum required by this section.

b. Building permits and certificates of occupancy may be issued for a change of use or remodeling or structural alterations in developments containing legally noncomplying parking areas, without requiring compliance with this section, provided that such redevelopment does not result in an increase in the number of required parking spaces.

c. Any building expansion or change of use that results in an increase over the number of parking spaces that would be required under this section for the lot shall provide additional parking spaces only for that increment of the expansion, as if it were a separate development. Only the expanded portion of the parking area shall be required to comply with the provisions of this section.

(c) Computing Parking. The minimum number of parking spaces required for a

specific development proposal shall be based on the requirements listed in subsection (d) of this section, Off-Street Parking and Loading Requirements, and the following provisions.

(1) Exception. Permitted uses in the central business district with less than ten thousand (10,000) square feet do not have to provide off-street parking.

(2) Unlisted Uses. Where questions arise concerning the minimum off-street parking and requirements for any use not specifically listed, the requirements may be interpreted as those of a similar use.

(3) Multiple Uses. In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building or development.

(4) Benches, Pews and Similar Seating. When measurements determining the number of required parking spaces are based on the seating capacity of a use and individual seats are not provided, twenty-two (22) inches or portions thereof of undivided seating shall constitute one seat.

(5) Fractions. When measurements determining the number of required parking spaces result in fractions, any fraction less than one-half ($1/2$) shall be disregarded and any fraction of one-half ($1/2$) or more shall be rounded upward to the next highest full number.

(d) Off-Street Parking and Loading Requirements. Off-street parking spaces shall be provided in accordance with the following minimum requirements.

OFF-STREET PARKING AND LOADING REQUIREMENTS

Use Type	Parking Requirement For Usable Floor Area	Off-Street Loading Requirement
Residential Uses		
Residential structure, with 1 to 10 dwelling units	2 spaces per single-family equivalent	None
Residential structure, with 11 to 30 dwelling units	2 spaces per single-family equivalent	1 space
Residential structure, with more than 30 dwelling units	2 spaces per single-family equivalent	1 berths for first 30 dwelling units, plus 2 berths for 31 to 100 dwelling units; or 3 berths for more than 100 dwelling units.
Residential structure, occupied only by the elderly	1.5 spaces per single-family equivalent	1 space for first 30 dwelling units, plus 2 berths for 31 to 100 dwelling units; or 3 berths for more than 100 dwelling units.

Use Type	Parking Requirement For Usable Floor Area	Off-Street Loading Requirement
Accessory and Temporary Uses		
Automobile parking garage	—	None
Home occupations	1 space per 100 sq. ft.	None
Accessory retail/service uses	1 space per 300 sq. ft.	Based on primary use
Temporary uses	None	None
All other accessory uses	1 space per 400 sq. ft.	Based on primary use
Educational, Institutional and Civic Uses		
High schools and colleges	1 space per 4 student capacity, faculty and staff	Schedule A
Elementary, primary and junior high schools	2 spaces per 20 student capacity	Schedule A
Auditoriums, arenas, gymnasiums, exhibition halls, convention centers and other similar gathering places	1 space per 100 sq. ft. or 1 space per 4 seats (whichever is greater), plus 1 space per 2 employees	Schedule A
Group homes and nursing homes	0.6 spaces per resident plus 1 space for each employee (typical peak staff)	None
Churches	1 space per 4 auditorium seats	None
All other educational, institutional and civic uses	1 space per 400 sq. ft.	Schedule A
Hospital or clinic	2 spaces per three beds	Schedule A
Transportation-Related Uses		
Automobile parking garages	—	None
All other transportation-related uses	1 space per 400 sq. ft.	To be determined by city engineer
Automobile and Related Service Uses		
All automobile and related service uses	1 space per 300 sq. ft.	
Retail Uses		
Markets, retail bakeries, grocery stores, delicatessens, and liquor stores	1 space per 100 sq. ft.	Schedule B
Restaurants and bars	1 space per 4 seats	Schedule B
All other retail uses	1 space per 300 sq. ft.	Schedule B

Use Type	Parking Requirement For Usable Floor Area	Off-Street Loading Requirement
Personal Service Uses		
Lodging facilities	1 space per guest unit, plus 1 space per 2 employees	None
Professional offices and clinics	1 space per 300 sq. ft.	Schedule A
Financial institutions	1 space per 300 sq. ft.	Schedule A
All other personal service uses	1 space per 300 sq. ft.	Schedule A
Recreational and Entertainment Uses		
Theaters	1 space per 100 sq. ft. or 1 space per 4 seats (whichever is greater), plus 1 space per 2 employees	None
All other recreational and entertainment uses	1 space per 300 sq. ft.	None
Industrial Uses		
Utility facilities (other than offices)	1 space per 400 sq. ft.	None
All other industrial uses	1 space per 400 sq. ft.	Schedule B

(e) Off-Site Parking. Required off-street parking shall be provided on the same lots as the principal use, provided that all or a portion of the required parking spaces may be located on a separate lot from the lot on which the principal use is located, based on the following provisions.

(1) Contiguous. The off-site parking shall be located on a lot that is immediately adjacent to and contiguous with the lot containing the principal use.

(2) Common Ownership. Any off-site parking area shall be under the same ownership as the principal use to which it is accessory, and all necessary legal instruments shall be executed to ensure that the required number of spaces shall remain available throughout the life of the principal use.

(f) Parking Space Dimensions, Lighting and Design.

(1) Each off-street parking space shall consist of an open area measuring nine (9) feet wide by eighteen (18) feet long and seven (7) feet high and shall have vehicular access to a public street or alley.

(2) Off-street parking shall be properly drained, shall have a durable dust-free, all weather surface and shall be maintained in a usable condition at all times.

a. Acceptable surface materials are those that are resistant to deterioration from weather and/or traffic and shall include, but are not limited to: concrete, asphalt, sealed pavers, cobbles, sealed brick or any other material that would have similar characteristics and uses.

b. Unacceptable materials are those that deteriorate from weather and/or traffic and shall include, but are not limited to: gravel, three-quarters (3/4) road base, volcanic cinders, clinker rock, or any other material that would have similar characteristics.

(3) Security lighting shall be provided in parking lots with a minimum ground level illumination of 0.5 foot-candle at any location in the lot. Lighting shall be so arranged as to reflect the light away from adjoining residential areas.

(4) Off-street parking areas serving commercial or industrial uses shall be landscaped and screened in accordance with requirements of Section 5.05 of this chapter, Trees, landscaping and screening.

(g) Restricted Use of Parking Areas. No automobile trailers, boats, detached campers, junk vehicles or any other object that will render the parking space unusable according to the purpose of this section shall be parked or stored in off-street parking areas. Junk vehicles shall be defined as those that either (1) lack a current license or inspection sticker or (2) are wrecked and/or dismantled.

(h) Off-Street Loading Requirements.

(1) Schedule A Loading Requirements. All uses for which Schedule A loading requirements are indicated in the table to subsection (d) of this section, Off-Street Parking and Loading Requirements, shall provide the following minimum number of loading spaces or berths:

Schedule A

Square Feet of Usable Floor Area	Minimum Required Loading Berths
0 to 10,000	None
10,001 to 40,000	One (1) berth
40,001 to 100,000	Two (2) berths

Square Feet of Usable Floor Area	Minimum Required Loading Berths
Each additional 100,000 or portion thereof	One (1) additional berth

(2) Schedule B Loading Requirements. All uses for which Schedule B loading requirements are indicated in the table to subsection (d) of this section, Off-Street Parking and Loading Requirements, shall provide the following minimum number of loading spaces or berths:

Schedule B

Square Feet of Usable Floor Area	Minimum Required Loading Berths
0 to 10,000	None
10,001 to 25,000	One (1) berth
25,001 to 40,000	Two (2) berths
40,001 to 100,000	Three (3) berths
Each additional 60,000 or portion thereof	One (1) additional berth

a. Exception. Commercial uses in the central business district with less than twenty-five thousand (25,000) square feet with alley access do not have to provide loading berths.

(i) Design of Loading Areas. All loading spaces in the I, industrial district shall comply with the following design requirements.

(1) Location. No loading space shall be located within the right-of-way of a public street. Any loading dock or door shall be set back far enough from the right-of-way so that no portion of the right-of-way is occupied by trucks or other vehicles while loading or unloading. The location of the loading area shall not interfere with the free circulation of vehicles in the off-street park-

ing area. No loading space shall be located so as to block access by emergency vehicles.

(2) **Size of Berths.** The minimum required dimensions of loading spaces, open or enclosed, shall be twelve (12) feet in width by fifty-five (55) feet in length, with a minimum vertical clearance of fifteen (15) feet. Where tractor-trailer units will be using the facility, the minimum length shall be sixty-five (65) feet.

(3) **Paving Standards.** The surface of all open off-street loading spaces shall conform to the requirements for off-street parking areas.

(4) **Loading Areas Design.** The surface of all open off-street loading spaces shall conform to the requirements for off-street parking areas, in accordance with subsection (f)(2) of this section.

(j) **Driveways and Access.**

(1) **Access Required.** All required off-street parking shall be provided with driveway access to a public street or alley.

(2) **Minimum Driveway Width.** Driveways shall be a minimum of ten (10) feet in width when serving one (1) dwelling unit, or fourteen (14) feet wide when serving more than one residence or another use such as a boarding house.

(3) **Corner Visibility.** The following requirements are intended to provide an unobstructed view around the intersections of streets, alleys and driveways, promoting public safety and enhancing the quality of design at these intersections.

a. A line of sight across corner lots must be preserved so as not to impair the view of a motorist at street intersections. Fences cannot exceed four (4) feet in height.

b. Fence materials used within thirty-five (35) feet of the street corner must be at least ninety percent (90%) open and not obstruct the line of sight from a vehicle stopped at the intersection. In addition, the area within the triangle formed by the two

(2) thirty-five-foot street sidelines must be kept free from bushes over two (2) feet high and tree branches lower than six (6) feet. All measurements are based from the adjacent curb elevation.

c. The same requirements at alley intersections apply as at street corners, except the maximum fence height is six (6) feet and the sideline clear zone is fifteen (15) feet for each direction.

d. Fences within fifteen (15) feet of the sides and fifteen (15) feet deep along the sides of a driveway shall not exceed four (4) feet in height and must be constructed with ninety percent (90%) of the fence area open to allow a clear view of traffic on the street.

(4) **Driveway and Access Design.** The surface of each primary driveway and access shall conform to the requirements for off-street parking areas, in accordance with subsection (f)(2) of this section. No structure with a nonconforming driveway surface existing on or prior to July 22, 1997, shall be required to comply with this standard except in the case of reconstruction, substantial remodel, or change in use. (Ord. No. 1130, 9-8-2009)

5.03 Sidewalks.

(a) **Applicability.** This section is intended to ensure pedestrian access is available to serve uses that need and benefit from such access. Builders shall be required to construct sidewalks in accordance with the Cortez thoroughfare plan, on all streets with curb and



CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

10/11/2022

Agenda Item: 1. C. a.

MEMO TO: Honorable Mayor and City Council

FROM: Donna Murphy, Deputy City Clerk

SUBJECT: Minutes for the Board of Commissioners, Montezuma County, Colorado for September 20, 2022.

Attachments

BOCC Minutes 09.20.2022

**PROCEEDINGS OF THE BOARD OF COMMISSIONERS
MONTEZUMA COUNTY, COLORADO
September 20, 2022**

STATE OF COLORADO)
) ss.
COUNTY OF MONTEZUMA)

At a regular meeting of the Board of Commissioners, Montezuma County, Colorado, held on Tuesday September 20, 2022 at the Montezuma County Administration building in Cortez, Colorado, there were present:

Jim Candelaria, Chairman
Kent Lindsay, Vice Chairman
Gerald Koppenhafer, Commissioner of Deeds
Travis Anderson, County Administrator
Ian MacLaren, County Attorney
Kim Percell, County Clerk (Absent)
Malinda Fuller, Chief Deputy

MINUTES: Commissioner Koppenhafer moved to approve the minutes of the Proceedings of the Board of Commissioners Montezuma County, Colorado dated Tuesday, September 13, 2022, as presented. Motion was seconded by Commissioner Lindsay and carried.

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination of a proposed Subdivision Amendment Application of the Swearingen 2 Lot Moderate Subdivision & Boundary Line Adjustment, submitted by **David Posner & Karl Jeffries**, on properties located at 11245 & 11145 Road 20, Cortez, CO, consisting of 3.34 acres, more or less & 3.80 acres, more or less, located south of Road M and west of Road 20, situated in Section 14, T.36N., R.17W., N.M.P.M. The roll was called, the public notice read, and the proceedings were recorded for the record. Agent, David Posner, was present. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Hearing no public comment that portion of the hearing was closed. After hearing all the evidence presented Commissioner Lindsey moved to approve the Boundary Line Adjustment and vacation of the 60' access easement and the lot consolidation submitted by David Posner & Karl Jeffries, on properties located at 11245 & 11145 Road 20, Cortez, CO.

Second by Commissioner Koppenhafer and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination of regarding a proposed Single Lot Development and AR3-9 Rezoning Application, submitted by **Kuenzler Enterprise Family, LLP**; agent: **Keenen Lovett**, on property located at 4406 Road 21, Cortez, CO, consisting of 152.79 acres, more or less, located north of Road D, west of Hwy 160/491, situated in Section 19, Township 35N, Range 16W, N.M.P.M.. The roll was called, the public notice read, and the proceedings were recorded for the record. Agent, Lovett was present. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Hearing no public comment that portion of the hearing was closed. After hearing all the evidence presented Commissioner Lindsay moved to approve the proposed Single Lot Development and AR3-9 Rezoning Application, submitted by Kuenzler Enterprise Family, LLP; agent: Keenen Lovett, located on property at 4406 Road 21, Cortez, CO, Second by Commissioner Koppenhafer and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

Planning: Director, Don Haley along with assistant, **S Jane Duncan**, presented for signatures an After-The-Fact General Planned Unit Development and Rezoning application submitted by **Bright Star Campground, LLC**, agent: **Troy Jaskowski**, on property located at 30261 Road H, Cortez, CO, consisting of 40.14 acres, more or less, located south of Hwy 160, east of Road 27, situated in Section 34, T.36N, R.15W, N.M.P.M., previously approved by the Commissioners. The Commissioner's took no action at this time.

Planning: Director, Don Haley along with assistant, **S Jane Duncan**, presented for signature the Special Use Permit for the GPUD submitted by **Porch Swing Ventures, LLC**, on property located at 32328 Road P #A & B, Mancos, CO, consisting of 3 acres, more or less, located south of Road P, east of Road 32, situated in Section 1, T.36N, R.15W, N.M.P.M.

Planning: Director, Don Haley along with assistant, **S Jane Duncan**, presented the Special Use Permit for the USDA meat processing facility, submitted by **Rocky Mountain Meats**; agent: **Chad Foutz**, on property located at 7429 Hwy 160-491, Cortez, CO, located west of Hwy 160-491, situated in Section 4, T.35N., R.16W., N.M.P.M.

Planning: Director, Don Haley along with assistant, **S Jane Duncan**, presented for signature the mylar for the Single Lot Development and AR3-9 Rezoning Application, submitted by **Don & Sarah Crowley**; agent: **Vernon Hoffman**, on property located at 6310 Road 24.5, Cortez, CO, consisting of 40 acres, more or less, located south of Road G, east of Road 24.5, situated in Section 10, Township 35N, Range 16W, N.M.P.M. The mylar was not signed due to the County Attorney wanting to review the Road 24.5 easement width, questioned by BOCC and County Road Superintendent.

PUBLIC COMMENT: No public comment was made.

COUNTY SHERIFF: Sheriff, Steven Nowlin met with the Commissioners to give his monthly report which included the Calls for Service Report, the Jail Report, the Year to Date Transport Report, the Perdiem and Cost for Travel Report, the Total Monthly Inmate Report, the Monthly Arrests Report, the Dolores County Billing Report, the City of Cortez Billing Report, the DOC Holds Report, the August Operational Expense Report and the Court Security Grant. Commissioner Lindsay moved to approve the Court Security Grant for the 22-23 Budget. Second by Commissioner Koppenhafer and carried. Presented for approval was the Jail Based Behavior Service Grant. Commissioner Koppenhafer moved to approve the Jail Based Behavior Service Grant for 2022-2023 in the amount of \$31,289.00. Second by Commissioner Lindsay and carried. Sheriff Nowlin presented for approval a contract with Southern Health Partners. Commissioner Lindsay moved to go forward with this on the 7 day per week program. Second by Commissioner Koppenhafer and carried. Commissioner Koppenhafer moved to sign the Modification of Grant or Agreement with the U.S. Forest Service 20-LE-11021300-031 Second by Commissioner Lindsey and carried. (See attached)

COUNTY CORONER: Coroner, George Deavers met with the Commissioners to give a monthly report. Topics discussed included; Hospice cases, Coroner cases, Autopsies, Suicides, Overdoses, Motor Vehicle Accident Deaths, and Homicides. (See attached)

DISTRICT ATTORNEY: District Attorney, Matt Margeson met with the Commissioners to give a monthly report. Topics discussed included; Colorado District Attorney Counsel Annual Conference, Employees hiring 2 new Attorneys and a backlog in cases.

UNFINISHED BUSINESS:

DISCUSSION: Cortez Farmer's Market: No decision was made at this time.

DISCUSSION: Fee structure and waivers at the Senior Center: No decision was made at this time.

DISCUSSION: Presentation regarding Southern Health Partners for Jail Services, decision was made earlier in the meeting to move forward.

DISCUSSION: Landfill Compost Turner: Direction was given to the landfill manager to update bids to allow for the larger turner. Commissioner Lindsay moved to withdraw the award for the bid for the proposed landfill compost turner, it was out of spec and out of bid. Second by Commissioner Koppenhafer and carried.

DISCUSSION: A discussion related to the **4H CSU Extension agent** was held. Commissioner Koppenhafer moved to allow Greg Felsen, the county extension agent presently, to move forward with the decision to have the next extension agent take over the 4H from CSU program and the Youth Development part of the program also. Second by Commissioner Lindsay and carried.

DISCUSSION: A discussion relating to the **Annex 3 Project** was held. Commissioner Lindsay moved to approve the Annex 3 Project for Maintenance to proceed with remodeling the Clerk's and Assessor's office. Second by Commissioner Koppenhafer and carried.

COUNTY ATTORNEY REPORT: County Attorney, **Ian MacLaren** gave an update on the Charles Fish Land Use contempt matter and reported on the Ellis Lewis land use trial.

NATURAL RESOURCES, PLANNING & PUBLIC LANDS: Resource Director, **James Dietrich**, no report given.

COUNTY ADMINISTRATOR REPORT: County Administrator, **Travis Anderson** reported that he and Commissioner Candelaria attended a Montezuma Water Commission. Other topics included: New Administrative Assistant hire, Budget, **Farm Bill**, and the **Alkalide Basin Project**.

COUNTY COMMISSIONER REPORT: Topics discussed within the Commissioners reports included: Commissioner Koppenhafer reported on the Mancos Town Meeting and the Southwest Water Conservation District Budget Meeting. Commissioner Lindsay reported on the attended city council meeting, Liquor Licenses, Power Plant at the Water Treatment Plant, Region 9 Middle Mile Fiber Network, Housing Needs Assessment, Veteran's Stand Down and the Fly-In. Commissioner Candelaria discussed the Montezuma Water Board Meeting, the Budget, CSU Research Center, Fly-In, Veteran's Stand Down and the Monday workshop.

CORRESPONDENCE: The following correspondence was read and noted:

Chairman Candelaria announced the meeting would reconvene at 1:30 p.m., as the **E-911 Board Meeting**

E-911 BOARD MEETING: Chief **Vernon Knuckles**, CFO **Kelly Comisky**, I.T. Manager **Shea Allred** and Rick **Spencer:** Topics discussed included: 911 phone system, voice logger radio recorder, battery backup at Menefee Mountain Tower and digital APCO guide card system. (See attached)

MOTION TO ADJOURN: was made by Commissioner Lindsey, seconded by Commissioner Koppenhafer and carried.

MEETING ADJOURNED: 2:18 p.m.

Clerk

September 20, 2022

Chairman



CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

10/11/2022

Agenda Item: 1. C. b.

MEMO TO: Honorable Mayor and City Council

FROM: Donna Murphy, Deputy City Clerk

SUBJECT: Minutes for the Board of Commissioners, Montezuma County, Colorado for September 27, 2022.

Attachments

BOCC Minutes 09.27..2022

**PROCEEDINGS OF THE BOARD OF COMMISSIONERS
MONTEZUMA COUNTY, COLORADO
September 27, 2022**

STATE OF COLORADO)
) ss.
COUNTY OF MONTEZUMA)

At a regular meeting of the Board of Commissioners, Montezuma County, Colorado, held on Tuesday September 27, 2022 at the Montezuma County Administration building in Cortez, Colorado, there were present:

Jim Candelaria, Chairman
Kent Lindsay, Vice Chairman
Gerald Koppenhafer, Commissioner of Deeds
Travis Anderson, County Administrator
Ian MacLaren, County Attorney
Kim Percell, County Clerk

CHAIRMAN, CANDELARIA opened the meeting of September 27, 2022 with the Pledge of Allegiance

MINUTES: Commissioner Koppenhafer moved to approve the minutes of the Proceedings of the Board of Commissioners Montezuma County, Colorado dated Tuesday, September 20, 2022, as presented. Motion was seconded by Commissioner Lindsay and carried.

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination regarding a proposed Subdivision Amendment to the Orchard Acres Subdivision, Lot #'s C & D, submitted by **Jerry & Victoria Schwaderer**, on properties located at 25682 & 25574 Road T.5, Dolores, CO, consisting of 9.30 acres, more or less, located west of Road 26, south of Road T.5, situated in Section 32, T.37N, R.16W, N.M.P.M.. The roll was called, the public notice read, and the proceedings were recorded for the record. Mr. Schwaderer was present. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Hearing no public comment that portion of the hearing was closed. After hearing all the evidence presented Commissioner Koppenhafer moved to approve the proposed subdivision amendment to the Orchard Acres Subdivision, lots C & D, submitted by Jerry and Victoria Schwaderer, on property located at 25682 and 25574 Road

T.5, Dolores, CO, consisting of 9.30 acres, more or less. Second by Commissioner Lindsay and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

Planning: Director, Haley along with **Assistant, Duncan**, presented for signatures of a Mylar for a Single Lot Development and AR3-9 Rezoning, submitted by **Don & Sarah Crowley; agent: Vernon Hoffman**, on property located at 6310 Road 24.5, Cortez, CO, consisting of 40 acres, more or less, located south of Road G, east of Road 24.5, situated in Section 10, Township 35N, Range 16W, N.M.P.M.

Planning: Director, Haley along with **Assistant, Duncan**, presented for signatures of a Mylar for a Subdivision Amendment and Rezoning for Lot #5 of **Roelfs Ranches Subdivision**, submitted by **Judy & Paul Mead**, on property located at 25408 Road S.6, Dolores, CO, consisting of 36.19 acres, more or less, located south of Hwy 184, east of Road 25, situated in Section 23, T.37N, R.16W, N.M.P.M.

Planning: Director, Haley along with **Assistant, Duncan**, presented for signatures of a Mylar for a Subdivision Amendment Application to the Keith Evans 2 Lot Moderate Subdivision, submitted by **Keith Evans** and **Curt & Nancy Mangan**, on properties located at 10659 Road 26, Cortez, CO, consisting of 15.51 acres, more or less and 10869 Road 26, Cortez, CO, consisting 16 acres, more or less, both located west of Road 26, south of Road L, situated in Section 23, T.36N, R.16W, N.M.P.M.

Planning: Director, Haley along with **Assistant, Duncan**, presented for signatures of a Mylar for a Subdivision Amendment to the Highland Terrace Major Subdivision, submitted by **Burt & Debra Ramsey**, on property located at TBD Road K.8, Cortez, CO, consisting of 0.63 acres, more or less, located north of Road K.8, west of Hwy 491, situated in Section 22, T.36N, R.16W, N.M.P.M.

Planning: Director, Haley along with **Assistant, Duncan** reported that the plat for a Boundary Line Adjustment of the Simmons Single Lot Development, submitted by **Patsy Lou Simmons; agent: Dennis Giesler**, on property located at 25409 Road H, Cortez, CO, consisting of 21.16 acres, more or less, situated east of Road 25, north of Road H, situated in Section 35, T.36N, R.16W, N.M.P.M, was not available at this time.

DISCUSSION: A discussion was held regarding the review and determination of a priority list for non-compliant properties. The Commissioner were in agreement to review the list during the October 3, 2022, Monday workshop.

PUBLIC COMMENT: Public comments were made by **Mike Lynch, Carol Stepe** and **Gordon Calliham**.

VETERANS SERVICE: **Veteran Service Officer, Sara Kuhn** met with the Commissioners to give a monthly report. A copy of the **Colorado Department of Military and Veterans Affairs, County Veterans Service Officers Monthly Report and Certification of Pay, August 2022** was presented for the record. Other topics discussed included; the August 2022 financial report,

a review of office activities, statistical data, indirect income to Montezuma County, a certificate of excellence award for Officer Kuhn and the **Honoring Our PACT Act**. (See attached)

MONTEZUMA COUNTY PUBLIC TRANSPORTATION (MCCO): **MCCO Manager, Jennifer Morris** was unavailable to report.

BOARD OF SOCIAL SERVICES MONTHLY REPORT: It being the time set aside, the Board of Social Services was conducted. **Director, Gina Montoya** and **Finance Officer, Lori Higgins** were present. (See attached)

SENIOR SERVICES: **Director Jonathon G. Parker** along with **Lori Thompson** met with the Commissioners to give a monthly report on the Senior Services programs. A discussion was held regarding the Annex rental agreements and the Senior Center fees structure. Director Parker will present the updated language for the proposed rental agreement during a future Commissioner's meeting. Other topics discussed included; miscommunications between the Sheriff's office and the Senior Center, regarding the Commodity giveaway program. (See attached)

EMERGENCY MANAGEMENT: **Emergency Manager, Jim Spratlen** was unavailable to report.

WEATHER & DROUGHT UPDATE: **Jeff Colton**, from the **National Weather Service** met with the Commissioners and discussed the winter outlook.

UNFINISHED BUSINESS:

LIQUOR LICENSE: **Deputy Clerk, Jerri Frizzell** met with the Commissioners to present a liquor license renewal application for the **Maverick Country Stores Inc. #275**, located at 10223 US Hwy. 491, Cortez Co 81321. Upon review of the application it was determined that it was not complete. The discussion was postponed until the next meeting.

LETTER OF SUPPORT: **County Economic Development Coordinator Jessica Thurman** met with the Commissioner to present a letter of support for **Leadership Montezuma Network**. Commissioner Koppenhafer moved to sign the letter of support for the Montezuma County and Montezuma Community Collective for the Montezuma Leadership Network in their proposal for the Laura Jane Masser Fund. Second by Commissioner Lindsay and carried. (See attached)

EXECUTIVE SESSION: Pursuant to Attorney MacLaren's suggestion, Commissioner Lindsay moved to go into executive session for a conference with the attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and to include Commissioners Candelaria, Lindsay and Koppenhafer, Administrator Anderson, Attorney MacLaren, Clerk Percell and GIS Coordinator Doug Roth, seconded by Commissioner Koppenhafer and carried. Topics for the executive session were, specific questions pertaining to County Road Y. Commissioner Lindsay moved to go out of executive session, seconded by Commissioner Koppenhafer and carried. (See attached)

COUNTY ATTORNEY REPORT: County Attorney, **Ian MacLaren** discussed a complaint filed into District Court, by Montezuma County and the (CDPHE) Colorado Department of Public Health and Environment, naming CDPHE as a respondent, regarding the Ironwood consent order, dated July 29, 2022. Attorney MacLaren gave an update on the Charles Fish Land Use contempt matter.

GRANT COORDINATOR: Grant Coordinator, **Nicole Glaser** met with the Commissioners to give a monthly report. Topics discussed included; the **Congressional Directive Spending**, the **Outdoor Recreation Grant**, the **CHAFFA Grant** for the Montezuma County Collaborative Work, grant opportunities for the Senior Services senior meals, a scheduled meeting with the **Fuller Foundation**, grant opportunities for the Noxious Weeds Department, the **Landscape Scale Restoration Competitive Program Grant**, the **Special Highway Committee Off System Bridge Grant** supplemental request, and the **Department of Local Affairs (DOLA) EIAF Grant** for the solar project at the Fairgrounds.

NATURAL RESOURCES, PLANNING & PUBLIC LANDS: Resource Director, **James Dietrich**, no report given.

COUNTY ADMINISTRATOR REPORT: County Administrator, **Travis Anderson** discussed time spent on personnel matters, grant opportunities, the attended Zoom CCI legislative meeting and the scheduled CDOT meeting to discuss the **Alkalide Basin Project**. Administrator Anderson reported that Emergency Manager Spratlen had gone to Florida to help as an incident commander during hurricane Ian.

PUBLIC HEALTH: On behalf of the Public Health Department, **Commissioner Candelaria** presented for signature, the **Amendment to the Contract, Amendment #3 for 2021*0191**. Commissioner Lindsay moved to sign the contract with Colorado Department of Public Health and Environment, for the original contract number 2021*0191, Amendment #3, with a total of \$170,000.00. Second by Commissioner Koppenhafer and carried. (See attached)
Master Task Order Contract for Amendment #1 (#23FAA00035 AMD1) was presented for signature. Commissioner Lindsay moved to sign the Master Task Order Contract #23FAA00035 AMD1, with the State of Colorado Public Health Department and Montezuma County Commissioners. Second by Commissioner Koppenhafer and carried. (See attached)
Task Order Contract #23FAA00035, Task Order #2023*2233, in the amount of \$116,927.00, for cost reimbursement for the WIC Director, was presented for signature. Commissioner Koppenhafer moved to sign the Master Task Order Contract #23FAA00035, Task Order #2023*2233, for \$116,927.00. Second by Commissioner Lindsay and carried. (See attached)

COUNTY COMMISSIONER REPORT: Topics discussed within the Commissioners reports included: **Commissioner Lindsay** discussed the scheduled **Cortez City Council** meeting. **Commissioner Koppenhafer** reported on the attended Zoom CCI County legislative proposals and constituent discussions. **Commissioner Candelaria** discussed the attended monthly US Department of Transportation meeting, the **ClearGov Inc.** demonstration, a Meet and Greet event with candidate **Shelli Shaw**, an overview of the Monday workshop and the earlier public comments.

Chairman Candelaria announced the meeting would reconvene at 1:30 p.m., as the **E-911 Board Meeting**

MOTION TO ADJOURN: was made by Commissioner Lindsey, seconded by Commissioner Koppenhafer and carried.

MEETING ADJOURNED: 11:15 a.m.

CORRESPONDENCE: The following correspondence was read and noted:

1:30 p.m. E-911 Board

E-911 BOARD MEETING: Chief Vernon Knuckles, CFO Kelly Comisky, Manager Shea Allred and Lieutenant Rick Spencer met with the Commissioners to discuss the dispatch equipment. Topics discussed included: the **Vesta** 911 Phone system upgrade, the **Revcore** voice logger, the **Eventide Voice Logger**, the **APCO IntelliComm Guide Card System & EMD Program**, the **eForce** interface for the guide card system and the Menefee EMS repeater battery backup. Commissioner Lindsay moved to expend the funds out of E911, to purchase the backup battery system, the guide card system and the interface for the guide card system, in the amount of \$59,208.83. Second by Commissioner Koppenhafer and carried. It was agreed to continue the discussion until October 18, 2022 for further review and determination.

E911 BOARD, MOTION TO ADJOURN: was made by Commissioner Lindsey, seconded by Commissioner Koppenhafer and carried.

MEETING ADJOURNED: 2:02 p.m.

Clerk

September 27, 2022

Chairman