

TITLE 17

LAND USE REGULATIONS

Chapters:

- 17.04 Zoning Regulations
- 17.68 Sign Regulations
- 17.72 Planned Unit Development

Chapter 17.04

ZONING REGULATIONS

Sections:

- 17.04.010 General provisions.
- 17.04.020 Definitions.
- 17.04.030 Zoning map.
- 17.04.040 A-1 District.
- 17.04.050 R-R District.
- 17.04.060 R-1 District.
- 17.04.070 R-1A District.
- 17.04.080 R-2 District.
- 17.04.090 R-3 District.
- 17.04.100 R-4 District.
- 17.04.110 MHR District.
- 17.04.120 MR District.
- 17.04.130 OR District.
- 17.04.140 B-1 District.
- 17.04.150 B-2 District.
- 17.04.160 B-3 District.
- 17.04.170 B-4 District.
- 17.04.190 I-1 District.
- 17.04.200 I-2 District.
- 17.04.210 I-R District.
- 17.04.220 Tabulated regulations.
- 17.04.230 Off-street parking requirements.
- 17.04.240 Supplemental regulations.
- 17.04.250 Criteria for approval of a conditional use or a change in a nonconforming use.
- 17.04.260 Criteria for approval of a variance.
- 17.04.270 Amendments and additions to the zoning regulations and map.
- 17.04.280 Nonconforming uses.
- 17.04.290 Review procedure.
- 17.04.300 Enforcement and administration.

17.04.010 General provisions.

A. This Chapter, as amended from time to time, and the Official Zoning Map (adopted by Section 2 of Ordinance 4, 1999) as amended from time to time, may be cited as the City's zoning regulations or zoning ordinance.

B. The purpose of these zoning regulations is to promote the public health, safety and welfare, and the convenience, order, prosperity and welfare of the present and future inhabitants of the City by lessening congestion on public rights-of-way; securing safety from fire, floodwaters and other dangers; providing adequate light and air; protecting the tax base of the City; securing economy in governmental expenditures; conserving the value of property; protecting both urban and nonurban development; and encouraging the most appropriate use of land.

C. The City hereby declares that the regulation and development of land, including regulation by these zoning regulations, is exclusively a matter of local and municipal concern, and any provision of any Statute or regulation of the State in conflict with the provisions of these zoning regulations, or any limitation imposed by any Statute or regulation of the State otherwise applicable are hereby superseded; provided, however, the City shall retain any and all powers authorized by State law with respect to land development regulations and zoning even though not specified within this Chapter, and such powers may be exercised in any lawful manner free from any limitations imposed by State Statute or regulation. (Ord. 4 §1, 1999)

17.04.020 Definitions.

A. The following words and terms shall be defined as follows for the purposes of these zoning regulations:

1. ACCESSORY USE: A use which is subordinate to, clearly incidental to, customarily in connection with, and ordinarily located on the same premises as the permitted use. Child care facilities which meet the criteria set out in subsection 17.04.240 (D) and adult care facilities which meet the criteria set forth in subsection 17.04.240(F) shall be considered an accessory use to a residence in all districts. Home occupations which meet the criteria set out in subsection 17.04.240(A) shall be considered an accessory use to a residence in all districts. The provision of services to a use on a site involving the temporary use of vehicles or mobile equipment shall be considered accessory to the use utilizing such services at such site.

2. ADULT CARE FACILITY: A facility which meets all applicable state and federal requirements and is certified by the state to provide adult day care services to eligible persons and which provides care and supervision for adults needing such care and supervision, other than for adults living in the residence.

3. ASSISTED LIVING FACILITY: A facility which provides a place to live for children, elderly, developmentally disabled, or disabled individuals, which also provides a limited staff to provide assistance to the residents, but does not include hospitals or nursing homes.

4. BED AND BREAKFAST OPERATIONS: A residential building where, for compensation, temporary lodging is provided in a "family" atmosphere for thirty days or less, with only the breakfast meal provided and a manager residing on the premises, with not more than four guest rooms (which may not contain food preparation facilities). Such use shall not include accessory uses such as newsstands or gift shops.

5. CHILD CARE FACILITY: Any facility, including a residence, which provides care and supervision for children other than children of the family living in a residence, including foster homes, day care homes and centers, but excluding schools, jails and detention facilities.

6. CONDITIONAL USE: A use which is permitted only after review and approval pursuant to Sections 17.04.250 and 17.04.290.

7. DUPLEX: A residence with two (2) dwelling units in a single building.

8. DWELLING UNIT: An area in a building containing cooking, living and sanitary facilities designed for use, or used, by a single family for residential purposes.

9. FACTORY BUILT HOUSING: Dwelling units which are substantially or entirely manufactured in a factory or other facility and thereafter moved onto property sites, in one or more component parts, including homes commonly known as "mobile homes" and "modular homes," and those which are manufactured and certified pursuant to 42 USC 540 et seq., or manufactured and certified pursuant to other construction standards; excepting, however, all Allowed Modular Housing which is hereby defined as a properly completed and City approved assembly of one or more modular dwelling units, and components thereof, that are manufactured off-site and specially certified by the State of Colorado to meet the architectural and safety standards of the building code, as adopted by the City of Delta under Delta Municipal Code Chapter 15.04, and bear the State's official insignia attesting to such special certification.

10. FAMILY: One or more individuals occupying a single dwelling unit and living as a single housekeeping unit with a maximum of eight (8) adults.

11. GAS STATION: Any building or lot having facilities for the sale of gasoline and other fuels for use by motor vehicles, which may include incidental facilities for service and minor repair of motor vehicles.

12. GOVERNMENT BUILDINGS AND FACILITIES: Any building or facility owned and operated by the United States of America, the State of Colorado, the City of Delta, or any agency or political subdivision thereof.

13. HOME OCCUPATION: Any commercial activity, whether for profit or non-profit, conducted within a dwelling unit or accessory garage.

14. HOMEOWNERS' ASSOCIATION: Any entity, whether a corporation, partnership, unincorporated association, or other entity existing for the purpose of maintaining commonly owned facilities or enforcing private protective covenants whose members or shareholders are the property owners involved.

15. MOBILE HOME AND MOBILE HOME PARK: Mobile home and mobile home park are defined as defined in Chapter 15.52 of this Code.

16. MULTIPLE FAMILY RESIDENCE: Any residence with three (3) or more dwelling units in a single building.

17. NONCONFORMING USE: A use which does not comply with the use regulations, dimensional requirements or other regulations of these zoning regulations.

18. PUBLIC UTILITY SERVICE FACILITIES: Transmission and distribution facilities for natural gas, electricity, telephone, and cable television necessary to provide service to customers located in the various districts of the City, such as pipes, lines, mains, wires, transformers, valves, and other related appurtenances, but not including buildings, offices, and production or generation facilities, antennas, transmitters, receivers, and related structures.

19. RESIDENTIAL DISTRICTS: Residential Districts include the A-1, R-R, R-1, R-1A, R-2, R-3, R-4, MHR, MR, and OR Districts.

20. TRAVEL HOME AND TRAVEL HOME PARK: Travel home and travel home park are defined as defined in Chapter 15.52 of this Code.

21. USE: The activity or purpose for which property, a building or other structure is designed, arranged, intended, occupied or maintained.

22. USE-BY-RIGHT: A use which is permitted or allowed in the district involved, without review by the Planning Commission, and complies with the provisions of these zoning

regulations and other applicable City ordinances and regulations. (Ord. 4, §1, 1999; Ord, 31, §1, 2000; Ord. 9, §11, 2004; Ord. 7, §1 & §2, 2005; Ord. 4, §1, 2008)

17.04.030 Zoning map.

A. The 1999 Revised Zoning Map of the City, (as adopted by Section 2 of Ordinance 4, 1999), as such may be amended from time to time, may be known or cited as the Official Zoning Map of the City.

B. Amendments to the Official Zoning Map may be made by an ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map, by specifying the description of the property to be rezoned. A copy of the Official Zoning Map, as amended from time to time, shall be maintained in City Hall available for public inspection. Periodically, copies of the Official Zoning Map, as amended, may be reproduced and made available to the public.

C. The regulations and limitations on uses for the various districts provided for in this Chapter shall apply within the boundaries of each such district as indicated on the Official Zoning Map. The district boundaries, as shown on the Official Zoning Map, shall be construed to follow the center lines of streets, to follow platted lot lines or the lines of undivided parcels of property, or to follow the City limits when the boundary is shown as approximately in the vicinity of such lines. Distances may be determined by the scale of the map. (Ord. 4, §1, 1999)

17.04.040 A-1 District.

A. INTENT: The intent of this District is to provide a district with a rural atmosphere for residential uses and agriculturally related uses.

B. USES BY RIGHT:

1. Single family homes and duplexes.
2. Farms and ranches, including keeping livestock and poultry.
3. Farming and truck gardening, including sales of produce grown on the premises.
4. Golf courses.
5. Grange halls.
6. Public utility service facilities.
7. Government buildings and facilities.
8. Parks and recreation facilities owned or operated by a homeowners' association.
9. Churches.

10. Rodeo grounds.
11. Accessory uses.
12. Assisted living facilities with no more than 8 residents.
13. Cemeteries.
14. Horse training facilities with adequate offstreet loading and parking areas, and dust control, and no more than one horse per acre on the site at any time.

C. CONDITIONAL USES:

1. Greenhouses, turf and sod farms, nurseries.
2. Fur farms, kennels, commercial poultry farms, and commercial feed yards and lots.
3. Bed and breakfast operations.
4. Child care facilities not allowed as an accessory use.
5. Horse training facilities with more than one horse per acre on the premises at any time.
6. Adult care facilities.

D. PERFORMANCE STANDARDS: Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. Provided, however, if a lawfully existing factory built or site built structure is determined by the City to be unsafe pursuant to §102 of the Uniform Building Code, or substantially substandard with respect to current provisions of the building, plumbing, mechanical, fire, and electrical codes, it may, if removed from the premises, be replaced by a site built or factory built house which meets all of the above minimum criteria other than the width and length and eave overhand requirements. (Ord. 4, §1, 1999; Ord. 31, §5, 2000; Ord. 9, §5, 8 & 9, 2004; Ord. 9, §3, 2005)

17.04.050 R-R District.

A. INTENT: The R-R District is intended to provide an area of large single family residential lots with semi-rural environment for site built homes.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.

4. Parks and recreation facilities owned or operated by a homeowners' association.

5. Accessory uses.

C. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 4, §2, 2008)

17.04.060 R-1 District.

A. INTENT: The R-1 District is intended to provide a quiet, low-density development for site built single family residences.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Assisted living facilities with no more than 8 residents
6. Accessory uses.

C. CONDITIONAL USES:

1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §4, 2005; Ord. 4, §3, 2008)

17.04.070 R-1A District.

A. INTENT: The R-1A District is intended to provide a quiet, low-density development for single family residences, site built or factory built homes.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Assisted living facilities with no more than 8 residents.
6. Accessory uses.

C. CONDITIONAL USES:

1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. (Ord. 4, §1, 1999; Ord. 7, §5, 2005)

17.04.080 R-2 District.

A. INTENT: The R-2 District is intended to provide an area which is suitable for single family homes and duplexes. This District provides for other uses which are compatible with such uses.

B. USES BY RIGHT:

1. Single family homes and duplexes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.
6. Assisted living facility with no more than 8 residents.
7. Accessory uses.

8. Bed and breakfast operations which are limited to no more than two guest rooms.

C. CONDITIONAL USES:

1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 31, §1, 2000; Ord. 7, §6, 2005; Ord. 4 §4, 2008)

17.04.090 R-3 District.

A. INTENT: The R-3 District is intended to provide an area which is suitable for single family homes, duplexes and multi-family residences with intermediate overall density. This District provides for other uses which are compatible with such residential uses.

B. USES BY RIGHT:

1. Single family homes, duplexes, multi-family residences.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.
6. Assisted living facilities.
7. Bed and breakfast operations.
8. Child care facilities.
9. Accessory uses.
10. Adult care facilities.

C. CONDITIONAL USES:

1. Nursing homes for the aged, invalid, ill, or mentally impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular

Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §7, 2005; Ord. 4, §5, 2008)

17.04.100 R-4 District.

A. INTENT: The R-4 District is intended to provide for high density multiple family residences and to allow variable densities. It allows variety in the types of residences and other compatible uses.

B. USES BY RIGHT:

1. Single family homes, duplexes, and multiple family residences.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.
6. Bed and breakfast operations.
7. Assisted living facilities.
8. Child care facilities.
9. Accessory uses.
10. Adult care facilities.

C. CONDITIONAL USES:

1. Nursing homes for the aged, invalid, or mentally ill or impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §8, 2005; Ord. 4, §6, 2008)

17.04.110 MHR District.

A. INTENT: The MHR District is intended to provide a suitable environment for single family site built and factory built homes and is designed to allow a high density of single family residences and related uses.

B. USES BY RIGHT:

1. Single family homes.
2. Mobile home parks, including accessory service buildings, storage areas, recreation facilities, convenience stores, gift shops, offices and child care centers, which are owned and operated by the park owner for the use of the park and its residents.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowner's association.
5. Churches.
6. Public utility service facilities.
7. Assisted living facilities with no more than 8 residents
8. Bed and breakfast operations.
9. Accessory uses.

C. CONDITIONAL USES:

1. Nursing homes for the aged, invalid, ill, or mentally impaired.
2. Child care facilities.
3. Adult care facilities.

D. Mobile home parks shall comply with the requirements of Chapter 15.52 in addition to these zoning regulations. Chapter 15.52 shall control with respect to any conflict with these regulations. (Ord. 4, §1, 1999; Ord. 9, §6, 2004; Ord. 7, §9, 2005)

17.04.120 MR District.

A. INTENT: The MR District provides for a mixture of medically oriented activities, clinics, pharmacies, and hospitals along with residences.

B. USES BY RIGHT:

1. Doctors' and dentists' offices, clinics, and pharmacies.
2. Hospitals (not including animal hospitals).
3. Single family homes, duplexes and multi-family residences.
4. Government buildings and facilities.
5. Churches, including accessory child care facilities and schools.
6. Parks and recreation facilities owned or operated by a homeowners' association.
7. Public utility service facilities.
8. Floral shops.

9. Nursing homes and sanitariums for the aged, invalid, or mentally ill or impaired.
10. Bed and breakfast operations.
11. Child care facilities.
12. Assisted living facilities.
13. Accessory uses.
14. Sales and distribution of medical supplies substantially focused within Western Colorado.
15. Cemeteries.
16. Medically oriented retail or service businesses, excluding manufacturing.
17. Adult care facilities.

C. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A) (9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 44, 2000; Ord. 9, §7, 2004; Ord. 7, §10, 2005; Ord. 4, §7, 2008)

17.04.130 OR District.

A. INTENT: The OR District is intended to allow for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.

- B. USES BY RIGHT:
1. Offices.
 2. Single family homes.
 3. Duplexes.
 4. Multi-family residences.
 5. Government buildings and facilities.
 6. Churches.
 7. Parks and recreation facilities owned or operated by a homeowners' association.
 8. Public utility service facilities.
 9. Child care facilities.
 10. Bed and breakfast operations.
 11. Assisted living facilities.
 12. Accessory uses.
 13. Adult care facilities.

- C. CONDITIONAL USES:
1. Nursing homes for the aged, invalid, or mentally ill or impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §11, 2005; Ord. 4, §8, 2008)

17.04.140 B-1 District.

A. INTENT: The intent of this district is to establish and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for a high volume of pedestrian traffic.

B. USES BY RIGHT:

1. Retail stores, business and professional offices and service establishments which cater to the general shopping public.
2. Libraries and museums.
3. Government buildings and facilities.
4. Public utility service facilities.
5. Private and fraternal clubs.
6. Theaters and places of amusement.
7. Restaurants and taverns.
8. Depots.
9. Churches (off-street parking required).
10. Child care facilities (off-street parking required).
11. Hotels and motels (off-street parking required).
12. Parking lots and garages.
13. Single family homes, duplexes, dwelling units in buildings containing other uses, and multiple family residences (off-street parking required).
14. Schools (off-street parking required).
15. Retail stores, business and service establishments serving the general public but which also involve limited manufacturing of the products supplied.
16. Funeral homes (off-street parking required).
17. Parks and playgrounds.
18. Accessory uses.
19. Adult care facilities (off-street parking required).

C. CONDITIONAL USES:

1. Small manufacturing operations which meet the following criteria in addition to the criteria of Section 17.04.250:

- a. The manufacturing activities shall be totally enclosed within a building.
 - b. All storage of equipment, supplies, materials and inventory shall be within an enclosed building. No exterior storage is allowed.
 - c. Trucks, trailers and other vehicles shall not be parked on the public street. No more than one shipment operation may occur per day.
 - d. The activity shall not result in any public or private nuisance.
 - e. Off street parking is required.
2. Antennae for "personal wireless services" as defined in 97 USC 332(c)(7).

D. The following uses are not to be construed as a "use by right" or a "conditional use" in the B-1 District.

1. Farm implement sales or service establishments.
2. Mobile home sales or service establishments.
3. Feed storage or sales establishments.
4. Veterinary clinics.
5. Construction or contractors' equipment storage facilities.
6. Machine and welding shops.
7. Aboveground storage of hazardous fuels.
8. Manufacturing and industrial uses except as authorized above.
9. Storage facilities.
10. Vehicle sales and service establishments.
11. Gas stations.
12. Car washes.

E. PERFORMANCE STANDARDS:

1. No use shall be established, maintained or conducted in any B-1 District that will result in any public or private nuisance.

2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.

3. Dwelling units shall not be located on the ground floor within 75 feet of Main Street between Second Street and Fifth Street.

4. Antennae for "personal wireless services" shall not stand alone, but shall be incorporated into other existing structures in an unobtrusive fashion and shall be subject to the same setback requirements as buildings. (Ord. 4, §1, 1999; Ord. 7, §12, 2005; Ord. 4, §9, 2008)

17.04.150 B-2 District.

A. INTENT: The B-2 District is intended to provide for businesses oriented toward serving the vehicular customer. This District provides for the convenient exchange of goods and services along the major thoroughfares of the City.

B. USES BY RIGHT:

1. Those listed in the B-1 District as "uses by right."
2. Laundromats.
3. Bowling alleys.
4. Car washes.
5. Rental storage units with a maximum rental unit size of three hundred (300) square feet.
6. Veterinary clinics or hospitals for small animals.
7. Nursing homes, sanatoriums, and hospitals.
8. Retail building material supply businesses.
9. Gas stations and vehicle repair businesses.
10. Farm implement and vehicle sales and service establishments.
11. Wholesale distribution.

C. CONDITIONAL USES:

1. Those "conditional uses" listed for the B-1 District not listed as a use by right in (B) above, except small manufacturing specified in Subsection 17.04.140(C)(1).

2. Travel home parks.

3. Small manufacturing operations which meet the following criteria in addition to the criteria of Section 17.04.250:

a. The manufacturing activities shall be totally enclosed within a building.

b. All storage of equipment, supplies, materials and inventory shall be within an enclosed building. No exterior storage is allowed.

c. Trucks, trailers and other vehicles shall not be parked on the public street.

d. The activity shall not result in any public or private nuisance.

e. Off street parking is required.

D. The following uses are not to be construed as a "use by right" or "conditional use" in the B-2 District:

1. Feed storage and sales establishments.
2. Veterinary clinics or hospitals for large animals.
3. Construction and contractor's equipment storage facilities.
4. Machine and welding shops.
7. Aboveground storage facilities for hazardous fuels.
8. Manufacturing and industrial uses except as specifically allowed above.
9. Storage facilities (small rental storage units are allowed).

E. PERFORMANCE STANDARDS:

1. No use shall be established, maintained or conducted in any B-2 District that will result in any public or private nuisance.

2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.

3. In addition to other applicable requirements, rental storage operations must be constructed and maintained in compliance with the following performance standards:

a. Rental storage buildings must either be located a minimum of 300 feet from any state or federal highway or shall be screened by landscaping or masonry or wood fences so they are not visible from state or federal highways.

b. All driveways and parking spaces shall be paved for a distance of 40 feet from the curb, with a minimum paving width matching the width of the curb cut concrete apron. This requirement may be reduced by 25% if the driveway slopes down towards the property from the City street.

c. The site shall be graded to provide adequate drainage.

d. The site shall be either hard surfaced or graveled with adequate amounts of rock. If a gravel surface is used, it must be maintained from time to time in a manner which

prevents the movement of mud from the site onto the City streets.

e. (1) Storage buildings shall be designed and built with a minimum of one foot (1') of change in the planes of the walls per each hundred feet (100') of building length, and with a minimum of twenty percent (20%) of the wall and door areas of a different color than the rest of the building.

(2) The maximum height for storage buildings shall be 17 feet.

(3) Individual storage units must be no larger than 300 square feet in floor area.

f. The site must have a minimum five foot wide strip abutting adjacent streets landscaped in accordance with a landscape plan approved by the City, which shall include substantial vegetation. The property owner shall be responsible for maintenance of the landscape strip.

g. The operation must be maintained in good safe and sanitary condition in compliance with these standards and shall not create any nuisance by dust, light or other factors to other property in the area.

h. The mini-storage buildings must be located northerly of First Street extended.

4. Antennae for "personal wireless services" shall be incorporated into other existing structures in an unobtrusive fashion and shall be subject to the same setback requirements as buildings. (Ord. 4, §1, 1999; Ord. 3, §11, 2008; Ord. 4, §10, 2008)

17.04.160 B-3 District.

A. INTENT: The B-3 District is intended for a large variety of uses that require large storage areas to conveniently serve customers.

B. USES BY RIGHT:

1. Uses listed as "uses by right" in the B-1 and B-2 Districts.

2. Electronic and telecommunications antennas, receivers and transmitters.

3. Mobile home sales or service establishments.

4. Machine and welding shops.

5. Large equipment rental businesses.

6. Feed storage and sales establishments.

7. Construction and contractors' office and equipment storage facilities.

8. Aboveground fuel storage facilities for hazardous fuels.

9. Warehouses and storage facilities.

10. Veterinary clinics or hospitals for large animals.

C. CONDITIONAL USES:

1. Uses listed as conditional uses in the B-1 and B-2 Districts not listed as a specified Use by Right in (B) above.

2. Manufacturing not allowed as a Use by Right in (B) (1) above.

D. PERFORMANCE STANDARDS:

1. No use shall be established, maintained, or conducted in any B-3 District that will result in any public or private nuisance.

2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A) (9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.

3. Rental storage operations must meet the criteria set out in Subsection 17.04.150(E) (3). (Ord. 4, §1, 1999; Ord. 4, §11, 2008)

17.04.170 B-4 District.

A. INTENT: The B-4 District is intended to provide for retail shopping and services convenient to residential neighborhoods.

B. USES BY RIGHT:

1. Government buildings and facilities.
2. Public utility service facilities.
3. Retail stores, business and professional offices, personal service establishments.
4. Restaurants and taverns.
5. Theaters.
6. Gas stations.
7. Car washes.
8. Self-service laundries.
9. Churches.
10. Child care facilities.
11. Assisted living facilities.
12. Single family homes, duplexes, and multiple family residences.
13. Parks and playgrounds.
14. Accessory uses.
15. Adult care facilities.

C. The following uses are not to be construed as a "use by right" or a "conditional use" in the B-4 District:

1. Automobile or vehicle sales and service establishments.
2. Farm implement sales or service establishments.
3. Trailer home or mobile home sales or service establishments.
4. Feed storage and sales establishments.
5. Veterinary clinics or hospitals.
6. Automobile body shops.
7. Construction and contractors' equipment storage facilities.
8. Machine and welding shops.
9. Aboveground storage facilities for hazardous fuels.
10. Warehouse and storage facilities.
11. Manufacturing and industrial uses.

D. PERFORMANCE STANDARDS:

1. No use shall be established, maintained, or conducted in any B-4 District that will result in any public or private nuisance.
2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §13, 2005; Ord. 4, §12, 2008)

17.04.190 I-1 District.

A. INTENT: The purpose of the I-1 District is to accommodate manufacturing and commercial uses which need adequate space, light, and air, and whose operations are quiet and clean and contained within buildings. This promotes the creation and maintenance of an environment which will serve the mutual interests of the community as a whole, of any adjacent residential areas and of the occupants of the industrial area.

B. USES BY RIGHT:

1. Uses which meet the intent of Subsection (A) and the performance standards of Subsection (C) of this Section, not including residential uses, are uses by right. Typical examples of such manufacturing and nonmanufacturing uses include warehouses, wholesalers, and manufacturing contained within buildings and accessory retail sales.

2. Parks and open spaces.
3. Government buildings and facilities.
4. Public utility service facilities.
5. Electronic and telecommunications antennas, receivers and transmitters.
6. Accessory uses.
7. Sexually oriented business complying with the provisions of Chapter 8.32.

C. PERFORMANCE STANDARDS:

1. No use shall be established, maintained or conducted in any I-1 District that will result in any public or private nuisance.
2. No industrial structure shall be constructed within one hundred feet (100') of any existing Residential District, unless effectively buffered by landscaping, berms, fencing, or screening.
3. No exterior storage of supplies, equipment or inventory other than vehicles is allowed.
4. No noise, dirt smoke, or odor shall be observable off of the premises.

D. CONDITIONAL USES: Any commercial use other than the uses by right which complies with the performance standards of Subsection C and is consistent with the intent of Subsection A above, but involves outside storage of supplies, equipment or inventory. (Ord. 4, §1, 1999; Ord. 8, §4, 2004)

17.04.200 I-2 District.

A. INTENT: The I-2 District allows most industrial and manufacturing uses, provided that they do not create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration or other adverse effects which cannot be effectively confined on the premises.

B. USES BY RIGHT:

1. Those uses which are uses by right in the I-1 District.
2. Industrial uses, including those with accessory retail sales operations such as:
 - a. Manufacturing of any product.
 - b. Wholesaling of any product.
 - c. Warehousing and storage.
 - d. Bulk storage.
 - e. Processing of any manufactured product.
 - f. General service and repair of automobiles, trucks, farm implements and construction equipment.

- g. Parking lots.
- h. Fabrication of any product.
- i. Agricultural products processing.
- j. Offices.
- k. Freight hauling facilities.
- l. Sawmills or planing mills.
- m. Aboveground fuel storage facilities for hazardous fuels.

C. CONDITIONAL USES:

1. Any industrial or commercial use, other than the uses by right listed above, which comply with the performance standards.
2. Automobile wrecking and salvage yards.
3. Junk yards.
4. Animal sales yards.
5. Mineral extraction and processing.
6. Trash disposal and recycling facilities.
7. Quarries and gravel operations

D. PERFORMANCE STANDARDS:

1. No use shall be established in the I-2 District which results in an unreasonable hazard to the community or creates a public or private nuisance.
2. No industrial structure shall be constructed within 100' of any existing Residential District unless effectively buffered by landscaping, berms, fencing, or other screening.
3. Automobile wrecking and salvage yards and junk yards shall have screening. (Ord. 4, §1, 1999)

17.04.210 I-R District.

A. INTENT: It is the intent of this district to create a transition area between industrial districts and residential districts which will allow and encourage use and expansion of residential uses, particularly those providing low cost housing stock, as a use by right, but also allow and encourage the expansion of industrial uses from the adjacent industrial districts.

B. USES BY RIGHT:

1. Those uses which are uses by right in the I-1 District.
2. Industrial uses, including those with accessory retail sales operations such as:
 - a. Manufacturing of any product.
 - b. Wholesaling of any product.

- c. Warehousing and storage.
 - d. Bulk storage.
 - e. Processing of any manufactured product.
 - f. General service and repair of automobiles, trucks, farm implements and construction equipment.
 - g. Parking lots.
 - h. Fabrication of any product.
 - i. Agricultural products processing.
 - j. Offices.
 - k. Freight hauling facilities.
 - l. Sawmills or planing mills.
 - m. Aboveground fuel storage facilities for hazardous fuels.
3. Single family homes and duplexes.

C. CONDITIONAL USES:

- 1. Any industrial or commercial use, other than the uses by right listed above, which comply with the performance standards.
- 2. Automobile wrecking and salvage yards.
- 3. Junk yards.
- 4. Animal sales yards.
- 5. Mineral extraction and processing.
- 6. Trash disposal and recycling facilities.
- 7. Quarries and gravel operations.

D. PERFORMANCE STANDARDS:

- 1. No use shall be established in the I-R District which results in an unreasonable hazard to the community or creates a public or private nuisance.
- 2. No industrial structure shall be constructed within 100' of any existing Residential District unless effectively buffered by landscaping, berms, fencing, or other screening.
- 3. Automobile wrecking and salvage yards and junk yards shall have screening.
- 4. Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. (Ord. 4, §1, 1999)

17.04.220 Tabulated regulations.

A. The standards set forth in the table below are the minimum standards to be used in each designated use district.

B. 1. No part of any building, except for the outer 18 inches of the eaves, may be located, and no travel home may be parked or stored, any closer to a property line than the setback specified in the following table with the following exceptions:

a. A travel home may be parked in the rear setback area if it abuts an alley.

b. An awning supported only by the building may extend into the rear setback in the B-1 zoning district to a point no closer than 18 inches from the property line.

c. Those storage sheds accessory to a single family residence which are exempted from building permit requirements may be located in those setback areas not adjacent to a street as long as the structure is located entirely to the rear of the main residence, is built so that it does not shed rain or snow onto the property of another. Provided, however, lots with streets on opposite sides of the lot may have a shed located along the street to the rear of the residence if it does not create a sight barrier for traffic on adjacent streets, and is not located within the overlap area of two setbacks along streets.

d. Uncovered handicap ramps, with or without railings, but not including porches or decks.

e. Landings and stairs which encroach no more than four feet into the setbacks, not including porches or decks.

2. The rear setback shall be measured from the property line abutting an alley where one exists.

3. The front setback shall normally be measured from a property line abutting an adjacent street accessing the lot.

4. The corner setback shall be measured and applied from all other property lines abutting streets.

5. The property line abutting streets shall be assumed to be no closer than 25 feet from the center line of a local street, or one half the right-of-way width specified for collector or arterial streets as shown on the City's Major Street Plan and defined in City subdivision regulations, for purposes of measuring setbacks. (Ord. 4, §1, 1999; Ord. 13, §1, 1999; Ord. 31, §3, 2000; Ord. 9, §10 & 19, 2004)

17.04.230 Off-street parking requirements.

A. The purpose of off-street parking requirements is to promote the convenient and safe movement of traffic on City streets.

B. In those instances where there are clearly identified multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure, resulting in a total parking requirement when summed.

C. Specific requirements are as follows:

1. Single, two, three and four family dwellings - Two spaces per dwelling unit.
2. Multi-family dwellings with five or more units - One and one-half spaces per dwelling unit plus one additional space per every five spaces.
3. Theaters - One space per each four seats.
4. Bowling alleys - Four spaces per lane.
5. Child care facilities - One and one-half spaces per employee.
6. Adult care facilities - One and one-half spaces per employee.
7. Churches - One space per each three persons of capacity of the main sanctuary.
8. Assisted living facilities - One-half space per apartment unit plus one for each three employees.
9. Hospitals - One space for each three beds plus one for each three employees.
10. Funeral homes and mortuaries - One space for each six seats in the main chapel.
11. Nursing homes - One space for each three beds.
12. Bed and breakfast operations - Two spaces per dwelling unit plus one space per guest room.
13. Hotels and motels - One space per guest room.
14. Bus stations - One space per four hundred square feet of floor area with a minimum of three spaces.
15. Offices, banks, medical-dental clinics, and government offices - One space per three hundred square feet of gross floor area.
16. a. Restaurants - One space per each three seats of seating capacity.
b. Bars and nightclubs - One space per each two persons designed capacity.
17. Drive-in restaurants - One space per fifty square feet of floor area.
18. Beauty shops and barber shops - Two spaces for each chair.

19. Retail sales/service

a. High volume retail sales (consists of supermarkets, clothing and department stores, shopping complexes, hardware, building supplies, and similar uses) - One space per each two hundred square feet sales area.

b. Low volume retail sales (consists of furniture/appliance sales, repair shops, nurseries, greenhouses and similar uses) - One space per each two hundred fifty square feet sales area (includes employee parking).

20. Vehicles sales (such as automobile dealerships, used car sales, recreational vehicle sales, etc.) - An area equal to ten percent of the total display area.

21. Car care establishments such as garages, oil and lube stops, tire sales and mounting - Five spaces per 1,000 feet of gross floor area.

22. Wholesale businesses - 1.1 spaces per employee.

23. Warehousing - One space per employee.

24. Industrial/manufacturing - 1.1 spaces per employee.

25. Conditional use - To be determined in conjunction with the conditional use review procedure.

26. For all uses not specified above, each premise shall provide adequate space to accommodate the anticipated need for parking generated by the use, including at least one space per employee.

D. For all uses except single-family and two-family dwelling units, sufficient off-street space shall be provided to allow an automobile to enter, maneuver and exit without backing onto any public right-of-way, other than an alley.

E. Joint parking facilities

1. Off-street parking may be supplied by other off-street parking facilities for other uses if those other uses are not operated during the same hours, subject to the conditions of these specifications.

2. Off-street parking designated for joint use shall not be more than two hundred feet from the property or use it is intended to serve, except that employee parking may be farther if it is actually used by the employees.

3. Sufficient evidence shall be presented to demonstrate that there will be no substantial conflict in a joint parking arrangement.

4. Shared parking lots are allowed so long as the aggregate spaces required are provided and a recorded covenant or plat restriction on forms approved by the City allows the City to enforce compliance.

F. For each parking area which contains either twenty or more spaces or more than one aisle shall incorporate landscaped islands dispersed throughout the parking area with such islands to occupy a minimum of five percent (5%) of the overall parking area and to be landscaped in accordance with City standards and specifications. A plan shall be submitted at the time of the building permit application and shall be subject to City approval.

G. When six or more spaces are required, the parking and maneuvering areas shall be paved in accordance with City specifications.

H. Required off-street parking shall be contiguous to the use except as provided in Subsection (E), and except for residential users in the B-1 District which may utilize parking spaces owned or leased by the owner of the residential use if located within 450 feet of the residential use, or when a recorded covenant or plat restriction on forms approved by the City allows the City to enforce maintenance of the parking.

I. Parking areas and required landscaping shall be designed pursuant to City Design Standards and Specifications.

J. In the "B-1" District, or premises contiguous to the "B-1" District or directly across a street or alley from the "B-1" District, payment may be made to the City in lieu of providing required off-street parking spaces in the amount of \$2,700 per space. Such amount shall be kept and utilized by the City to provide public parking in said district.

K. Off-street parking is not required for uses conducted within the "B-1" District except for residential and other specified uses which shall provide off-street parking at all locations. (Ord. 4, §1, 1999; Ord. 31, §2, 2000; Ord. 33, §1, 2002; Ord. 9, §18, 2004; Ord. 7, §14, 2005; Ord. 3, §12, 2008)

17.04.240 Supplemental regulations.

A. Home occupations: Home occupations may be conducted accessory to a dwelling unit in any district as an accessory use only if the following criteria are met:

1. City and State sales tax licenses must be obtained if sales taxable by the City or State sales taxes are to be made.

2. The occupational activity and storage of any items used or sold in the occupation must be entirely within the dwelling unit or accessory garage. Neither the occupation nor

any storage may be conducted within or utilize any detached buildings or other place upon the premises other than the residence or accessory garage.

3. Only the residents of the dwelling unit may be engaged in the home occupation.

4. No unreasonable noise, glare, smoke, dust, vibration or odor shall be observable off the premises.

5. The home occupation activity shall not utilize or occupy more than twenty percent (20%) of the floor area of the dwelling unit and accessory garage combined.

6. No exterior sign larger than 10 square feet in size shall be allowed in the A-1, R-R, R-1, R-1A, or MHR Districts. Signs in other districts shall comply with applicable sign regulations.

7. Off-street parking shall be required for both the residential and the commercial activity in accordance with the requirements of Section 17.04.230.

B. The following fence, hedge, and wall regulations shall apply in addition to those requirements set forth in Delta Municipal Code Section 15.04.060:

1. No fence or free-standing wall shall exceed a height of six (6) feet in any residential zoning district of the City, including the present A-1, R-R, R-1, R-1A, R-2, R-3, R-4, MHR, MR and OR zones. No fence or free standing wall shall exceed a height of ten (10) feet in any other zoning district of the City including the present B-1, B-2, B-3, B-4, I-1, I-2 and I-R zones.

2. Barbed wire may be used in fences that are necessary and appurtenant to lawful agricultural use within the City. Up to three strands of barbed wire may be installed at the tops of fences allowed in the business and industrial districts within the City, provided that such wire is located no less than six (6) feet above the ground level along the length of each pertinent fence.

3. Electrically charged fences shall be allowed within the City only if another fence or structure located outside of the electrified fence makes the latter inaccessible to all persons except the fence owners and their authorized lessees, employees, licensees and agents.

C. Temporary use permits:

1. The City Council may issue a permit authorizing a temporary use of premises in a district for a use which is otherwise not allowed in such district for a period of up to six months in accordance with this subsection.

2. The temporary use permit may be issued by the City Council only after it determines that unusual circumstances exist, not created by the applicant, such as damage or destruction of applicant's permanent premises, which results in significant hardship and that the temporary use will not unreasonably interfere with the use of other property or result in any permanent adverse effects to other property or create a safety or health hazard.

3. The City Council shall hold such hearings concerning the application and shall provide such notice thereof as the circumstances merit in its opinion. The permit may be granted subject to conditions appropriate to insure compliance with the criteria of this Section.

D. Child care facilities: Child care facilities may be conducted within a dwelling unit in any zoning district as an accessory use only if they meet the provisions of Paragraphs A or B of Section 7.707.2 of the "Rules Regulating Family Childcare Homes" set forth in the Code of Colorado Regulations (12 CCR 2509).

E. Telecommunication antenna and tower regulations:

1. Telecommunication towers and antennas shall be located, and comply with the following provisions:

a. Noncommercial television and telecommunications receivers, and amateur radio antennae which qualify as an accessory use to the main use on the premises, may be located on such premises.

b. Antennae for "personal wireless services" as defined 97 USC 332(c)(2) shall be limited to the B-1 and B-2 Districts as a conditional use, or the B-3 and the Industrial Districts as a use by right, or upon City-owned property in other zoning districts pursuant to leases or permits with the City, with terms and conditions adequate to insure safety and reasonable compatibility with the neighborhood in which they are located.

c. Commercial radio, television and other telecommunications transmitters and receivers shall be restricted to commercial and industrial zoning districts which specifically allow them as a use by right or a conditional use.

d. Additional receivers or transmitters may be installed on existing telecommunication towers regardless of the zoning district.

2. All telecommunication antennas and towers shall be limited to the maximum height set out in Section 17.04.220, with the following exceptions:

a. Telecommunication antennas, receivers and transmitters may be located on existing towers and structures, or on a one time extension of no more than 20 feet to a tower or structure, in existence on December 7, 1999.

b. A variance to the height limitations otherwise applicable may be obtained for an amateur radio antenna for noncommercial use pursuant to the review procedure of Section 17.04.290, if the City Council determines that the following criteria are met:

(1) A higher tower is necessary to be reasonably adequate for the domestic communications purposes;

(2) No reasonable alternative exists; and

(3) No adverse impacts will be created with respect to other property in the area.

c. A variance to the height limitations otherwise applicable may be obtained for personal wireless service antennae if the City Council determines pursuant to the review procedure of Section 17.04.290 that the following criteria are met:

(1) Space is not available at a commercially reasonable price on an existing tower or structure located in a technically feasible location, and no other location is available which will provide reasonably adequate service in compliance with the height limitations set out above; and

(2) No adverse effect on property values in the area will be caused, and no safety hazard will be created;

(3) The design and color of the tower and appurtenances shall be reasonably compatible with the site and surrounding area.

3. A final decision to deny a variance shall be in writing and supported by a substantial written record.

4. All towers and structures shall be subject to the building setback requirements of Section 17.04.220, the requirements of City building codes and other ordinances and regulations apply in accordance with their terms.

5. The variance criteria specified in paragraphs 2(b) and (c) above shall be in lieu of the variance criteria of Section 17.04.260. Compliance with this Section may be in lieu of obtaining approval of a change in a nonconforming use pursuant to Section 17.04.280.

F. Adult care facilities: Adult care facilities may be conducted within a dwelling unit in any District as an accessory

use only if no more than six adults are present on the premises at any time, in addition to the adults otherwise residing in the dwelling unit. (Ord. 4, §1, 1999; Ord. 26, §1, 1999; Ord. 9, §21, 2004; Ord. 7, §15, 2005; Ord. 38, §2 & §4, 2006)

17.04.250 Criteria for approval of a conditional use or a change in a non-conforming use.

A. No conditional use or change in a non-conforming use will be allowed unless the Planning Commission determines the following criteria are substantially met with respect to the type of use and its dimensional features:

1. The use will not be adverse to the public health, safety or welfare.

2. The use is not inconsistent with the City's Master Plan.

3. Streets, pedestrian facilities, water, sewer and other public improvements in the area are adequate.

4. The use is compatible with existing uses in the area and other allowed uses in the district and the type, bulk, height and location of any buildings or structures is compatible with other buildings, structures and the character of the area.

5. The use will not have an adverse effect upon other property values.

6. Adequate off-street parking will be provided for the use.

7. The location of curb-cuts and access to the premises will not create traffic hazards.

8. The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of other property.

9. Landscaping of the grounds and architecture of any buildings will be reasonably compatible with that existing in the neighborhood.

10. Any other criteria specified by other City ordinances or regulations are met.

B. The burden shall be upon the applicant to prove that these requirements are met.

C. The Planning Commission may impose conditions as necessary to insure that the above criteria are met.

D. A use approved as a "use subject to review" under prior ordinances shall be treated as a previously approved "conditional use" for purposes of this Chapter. (Ord. 4, §1, 1999)

17.04.260 Criteria for approval of a variance.

A. The Planning Commission may approve a variance from the provisions of this Chapter other than the uses specified for any District or restrictions on the location of factory built housing only if it determines following review pursuant to Section 17.04.290 that the following criteria are substantially met:

1. The variance will not adversely affect the public health, safety and welfare.

2. Unusual physical circumstances exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.

3. The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their predecessors in interest.

4. The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.

5. The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.

B. The Planning Commission may impose conditions of approval as necessary to insure that the above criteria are met including limitations on the effective term of the variance.

C. The City Manager or designee may approve *di minimus* variances from the dimensional requirements of Section 17.04.220, fence height requirements, 17.04.240(B)(1), sign height and sign area requirements in Section 17.68 which meet the following criteria:

1. The variance is unnoticeable off the premises or would take a survey or measurements to detect;

2. The variance is not more than 5% of the applicable measurement; and

3. No practical alternative exists.

D. The burden shall be on the applicant to show that the applicable criteria are met. (Ord. 4, §1, 1999)

17.04.270 Amendments and additions to the Zoning Regulations and Map.

A. Rezoning:

1. Amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed only upon findings as follows:

a. The amendment is not adverse to the public health, safety and welfare; and

b. i. The amendment is in substantial conformity with the Master Plan; or

ii. The existing zoning is erroneous; or

iii. Conditions in the area affected or adjacent areas have change materially since the area was last zoned.

2. Rezoning may be requested or initiated by the City Manager, the Planning Commission, or the owner of any legal or equitable interest in the property or the owner's representative. The rezoning shall be reviewed for compliance with the criteria of this Subsection in accordance with the review procedure of Section 17.04.290. The area considered for rezoning may be enlarged by the Planning Commission on its own motion over the area requested in the application with proper notice. The applicant shall provide an adequate legal description of the proposed zoning.

B. Zoning of additions:

1. The Planning Commission shall recommend to the Council a use designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 17.04.290 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter.

2. The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare.

C. Legislative zoning: Comprehensive review and re-enactment of all or a significant portion of the Zoning Map shall be a legislative action, and shall not be subject to the review procedure of Section 17.04.290 or any criteria set out in this Section.

D. No amendment, addition to or re-enactment of the Zoning Map shall become effective until enacted by ordinance approved by at least three Councilmembers.

E. Amendments to these regulations shall be made by an ordinance. (Ord. 4, §1, 1999)

17.04.280 Nonconforming uses.

A. Any use, building, structure or premises which was lawfully existing and maintained in accordance with the previously applicable County or City regulations and ordinances but which does not conform or comply with all of the regulations provided in this Chapter may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by this Section. Uses, structures, buildings or premises which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal and subject to abatement or other enforcement action.

B. If a use, building, structure or premises is lawfully nonconforming in that it is not a use by right or an approved conditional use which has been approved pursuant to the review procedures of Sections 17.04.250 and 17.04.290, the following shall apply:

1. If the building or structure involved in the use is destroyed or damaged, the lawful nonconforming uses of the structure may be re-established if reconstruction is commenced within six (6) months, completed with due diligence and occupied after completion thereafter. This shall not allow replacement with a nonconforming mobile home or factory built housing.

2. If the nonconforming use is abandoned or discontinued for a period of six (6) months, then the premises may only be used in compliance with the use regulations for the district within which it is located.

3. The use may be continued only substantially as it existed at the time it became lawfully nonconforming and no material change in the type of use shall be allowed, unless the Planning Commission determines, following the review procedure provided in Section 17.04.290, that the criteria set out in Section 17.04.250 will be met, and that the new use is a more restrictive use than the existing nonconforming use. Any change in use allowed pursuant to this provision shall not affect the future status of the use as a nonconforming use for all purposes of this Section.

4. The extent or area of the premises utilized for or by the nonconforming use, building or structure may not be materially extended or enlarged, or substantially structurally altered, unless the Planning Commission determines, following the review procedure of Section 17.04.290, that the criteria set out in Section 17.04.250 will be met.

5. Notwithstanding the foregoing paragraphs (1) through (4), if a lawfully existing factory-built or site-built residence located in the I-1 or I-2 District is determined by the City to be unsafe, pursuant to City Building Codes or Regulations, or substantially substandard with respect to current provisions of the Building, Plumbing, Mechanical, Fire, and Electrical Codes, it may, if removed from the premises, be replaced by a site-built or factory-built house which is permanently attached to a permanent foundation which has brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, and which has a minimum length and width of 20 feet each and a minimum eave overhang of 12 inches.

C. If the use, building, structure or premises is in compliance with the use regulations for the district within which it is located and is nonconforming only with respect to other requirements of this Chapter, such as dimensional requirements, parking requirements, or the regulations governing fences, hedges, walls, canopies, or standards or prohibitions for factory built housing, the following will apply:

1. If the nonconformity of the building, use, or structure is abandoned, removed or corrected, such nonconformity may not be re-established.

2. If the building or structure is damaged so that the cost of replacing or restoring it is greater than fifty percent (50%) of its fair market value after replacement, the building or structure may be repaired or replaced only in compliance with this Chapter.

3. If the building or structure is damaged in such a way as to remove the nonconformity, the nonconforming feature may not be re-established by any repair or reconstruction, unless it is not feasible to repair the building or structure without re-establishing the nonconforming feature.

4. No alteration may be made to the use, building, or structure which would increase the amount or degree of the nonconforming feature.

5. If the lot size is lawfully nonconforming in the A-1, RR, R-1, or R-1A zones, a single family residence may be located upon the lot without a variance to lot area so long as the minimum lot area per unit is met.

6. Homes within a lawful nonconforming mobile home park may be replaced by homes which meet requirements for mobile homes located in the MHR District, without regard to performance standards for siding, permanent foundations, length, width, or eaves which may be otherwise applicable in the zone in question.

D. This Section shall not apply to signs. Nonconforming signs shall be governed by the provisions of Chapter 17.68. (Ord. 4, §1, 1999; Ord. 9, §14 & 15, 2004)

17.04.290 Review procedure.

A. All requests for approval of a conditional use, variance, a change in a non-conforming use, or changes to the Zoning Map (rezoning) or other action which is required to be reviewed pursuant to this Section by these regulations or other City ordinances, shall be reviewed by the Planning Commission.

B. The applicant requesting approval of a conditional use, variance, change in a non-conforming use, rezoning or other action shall submit an application upon forms supplied by the City accompanied by any other required information, including a survey when necessary for consideration of the application. A single application may contain a request for more than one action. Application fees shall be set by the City Council as deemed appropriate. No formal application need be submitted or fee paid for an amendment to the Zoning Map initiated by the City Manager, City Council or Planning Commission.

C. A hearing shall be set before the Planning Commission not sooner than fourteen days nor more than fifty days after receipt by the City of a properly completed application form and all required fees and other required information.

D. Notice of the hearing shall be given as follows:

1. The applicant shall be advised of the date set for the hearing and shall be responsible to post a sign or signs supplied by the City upon the property affected, easily legible from abutting streets, which briefly describes the requested action and the time and location of the hearing. Such sign shall be maintained continuously for at least seven (7) days before the hearing and until final action is taken by the Planning Commission.

2. The applicant shall also cause a notice to be published in a legal newspaper at least seven (7) days prior to the hearing, which describes the action or actions requested and the property affected. The property shall be described by street address, or relationship to a street, other property with an address, or other landmarks, and not solely by a legal description.

3. The applicant shall either hand deliver or deposit in the U.S. Mail at least seven (7) days prior to the hearing a copy of the above notice addressed to the owner of record of any property inside the Delta City limits located

within one hundred feet plus the width of any intervening public right-of-way of the property affected.

E. At the hearing scheduled, the applicant and other interested parties may appear and present such evidence or testimony as they may desire. Anyone presenting evidence or testimony shall be subject to cross-examination by other interested parties, although the Planning Commission may limit testimony, evidence, and cross-examination which is merely cumulative. The Planning Commission shall not be required to follow any set procedure during the hearing, nor to strictly follow the rules of evidence as applied by the courts. The chairman of the Planning Commission shall make all rulings on admissibility of testimony or evidence. The hearing shall be tape recorded or otherwise recorded. The applicant or other interested party may, if he desires, have the hearing recorded by a court reporter at his expense. The hearing may be continued from time to time as necessary. The City Manager or designees may appear as a party at the hearing. The burden is upon the applicant in all cases to establish that all applicable criteria for any action are met, including proper notice.

F. The Planning Commission shall announce its decision within thirty-two (32) days of the completion of the hearing. It shall not be necessary for the Planning Commission to provide written findings or conclusions, except upon request of the applicant or other party appearing or participating in the hearing.

G. The Planning Commission may approve the requested action only upon finding that all applicable criteria and requirements of these regulations or other City ordinances have been met. If it determines that such criteria have not been met, the application shall be denied. The application may be granted upon conditions or limitations which the Planning Commission determines are necessary in order to insure that the applicable criteria are met. Such conditions or limitations shall be provided to the applicant and interested parties in writing as part of the decision.

H. 1. The Planning Commission's decision with respect to requests for changes to the Zoning Map shall be submitted to the City Council as a recommendation. The Council may without further review implement such recommended change by adoption of a rezoning ordinance or take no action if no change is recommended, unless an appeal is filed as set out below, or it

may decide in its discretion to hear the matter *de novo* as set out in Subsection (3) below.

2. The Planning Commission's decision with respect to other applications shall be final unless an appeal is filed as set out below.

3. An appeal of any decision of the Planning Commission may be filed with the City Clerk within 5 days of the date of its decision by the City Manager, the applicant or any interested person appearing at the hearing. The Council shall thereafter decide the matter *de novo* by holding a new hearing substantially in conformity with the procedures of this section, or by review of the tape-recording or transcript and record of the hearing before the Planning Commission, as Council determines in its discretion.

I. Upon the filing of an appeal or request for review in the courts, the City shall cause a transcript of the tape recording of the hearing to be made and certified to the court, and the party filing such appeal or such review shall pay the City the reasonable cost incurred in producing such transcript, unless such party has a transcript produced by a court reporter at such party's expense. (Ord. 4, §1, 1999)

17.04.300 Enforcement and administration.

A. The City Manager shall be responsible for the interpretation, administration and enforcement of the provisions of the Chapter, as amended, the Official Zoning Map, as amended, and of any decisions entered by the Planning Commission or the City Council pursuant to the Chapter.

B. No building permit, occupancy permit, or other permit or license shall be issued, nor shall any action be taken or allowed by the City which is not in compliance with the provisions of these zoning regulations, and any decision issued by the Planning Commission or City Council pursuant to this Chapter.

C. Whenever convenient to make an inspection to enforce any of the provisions of these zoning regulations, or any provision of a decision entered by the Planning Commission or the City Council pursuant to this Chapter, or whenever there is reasonable cause to believe that a violation of any provision of these zoning regulations, or any decision issued by the Planning Commission or City Council pursuant to this Chapter, exists, the City Manager or an authorized representative shall have the right to enter upon such building or premises at all reasonable times for purposes of inspection or to perform any other duty

imposed by this Chapter. Prior to entry they shall identify themselves and request permission to enter from the occupant or person in charge of the premises if they can be found by reasonable efforts. If entry is refused, the City Manager or an authorized representative shall have recourse to any remedy provided by law to secure entry.

D. The City may maintain an action in a court of competent jurisdiction to enjoin any violation of these zoning regulations or of any decision entered by the Planning Commission or City Council pursuant to this Chapter.

E. It shall be unlawful to violate any of the provisions of these zoning regulations, or the terms of any decision entered by the City Council or Planning Commission pursuant to this Chapter. Any person convicted of such a violation may be punished by a fine of up to \$1,000, or a jail sentence of up to one year, or by both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subject to any term of imprisonment in excess of 10 days. Each day an offense continues shall be deemed a separate offense.

F. Violations of this Chapter are hereby declared to be a nuisance which may be abated by the City in any lawful manner. (Ord. 4, §1, 1999)