

ORDINANCE

AN ORDINANCE AMENDING SECTION 18.60.010 OF THE MANITOU SPRINGS MUNICIPAL CODE REGARDING DEFINITIONS.

WHEREAS, based upon the current City Code, many permitted uses within the Code are undefined and/or unclear; and

WHEREAS, after reviewing the recommendations of the Planning Department and considering public comment, the Manitou Springs Planning Commission recommended approval of the amendments to Section 18.60.010 on September 30, 2015; and

WHEREAS, in the interest of health, safety and welfare of the City's residents, the City Council desires to clarify definitions set forth in the Manitou Springs Municipal Code by amending and adding certain definitions; and

WHEREAS, the City Council finds the proposed amendments clarify and enhance the zoning definitions for ease of public use and to reduce Planning Director interpretation of definitions and uses; and

WHEREAS, the City Council finds the proposed amendments conform to the purposes and goals of the City's Comprehensive Plan and are in the best interests of the City, therefore the City Council desires and directs adoption of the amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Section 18.60.010 is hereby amended to read as follows:

18.60.010 Definitions.

For the purposes of this Chapter, the following definitions shall be used. Words used in the present tense shall include the future; the singular number includes the plural and vice-versa; the word "shall" is to be construed as mandatory; the words "occupied" or "used" shall be construed to mean intended, arranged, or designed to be occupied or used both in the future and present tenses.

“Abandon” means the cessation of an activity, including the use of property for a particular purpose.

“Accessory Structure, Permanent” Permanent accessory structure means a building other than a primary structure or garage, such as a storage shed, studio, greenhouse, etc., which does not contain sanitary or kitchen facilities, and is over twelve feet in height, over one hundred twenty square feet, or on a permanent foundation.

“Accessory Structure, Temporary” Temporary accessory structure means a building other than a primary structure or garage, such as a storage shed, studio, greenhouse etc, which does not contain sanitary or kitchen facilities, which is less than twelve feet in height, less than one hundred twenty square feet and not on a permanent foundation. Temporary accessory structures in commercial zones must meet the same setback as permanent accessory structures and require permit by both the City of Manitou Springs and Regional Building Department

"Accessory use or structure" means a use or detached structure subordinate to the principal use or structure, and located on the same lot or parcel, or an adjacent lot or parcel with easement or deed restriction, serving a purpose that is incidental to the principal use or structure. Accessory uses or structures may include storage sheds, garages and parking areas, children's play equipment, and antennas. Accessory structures shall meet the height requirement for the zone district they are located in. Accessory uses or structures for rental or associated with unlicensed business activity are not permitted.

"Administrative and Safety Services" means services provided by a governmental entity for the health, safety and welfare of the community, such as a public works, police, fire, or other similar services.

"Administrative review" means the Planning Staff generally will review the following types of development, which have no significant visual or topographic impacts. Developments which otherwise qualify for staff review, but do have visual or topographic impacts will be processed as Minor Developments. Administrative Review generally includes:

1. One single-family dwelling;
2. Up to two, multifamily dwellings;
3. Expansion of existing, nonresidential development fifteen percent or less;
4. Regulated accessory structures, such as a garage.

"Agricultural uses" includes community gardens, community supported agriculture (CSA) farms, farmers markets, crop production farms and produce stands for the sale and the distribution of products grown in the City of Manitou Springs.

"Alley" means a public way permanently reserved as a secondary means of access, which is used primarily for vehicular service access to the rear or side property otherwise abutting on a public street.

"Ambulance Service Business" means an establishment whether operated as a governmental service or private business which provides ambulance services to a community, to include administrative functions.

"Animal Hospital, Small" means a facility where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care associated with the hospital.

"Apiculture" means the raising and care of bees for agricultural or commercial purposes.

"Appliance Sales Involving Assembly" means a retail establishment where the sale of appliances occurs and minor assembly of appliance(s) occurs in direct relation to the retail sale.

"Art Gallery" means a room or series of rooms where works of art are exhibited and which may or may not be for sale to the public.

"Art Studio" means a place where artists develop their craft such as a workroom, accessory structure or within an art gallery. Art studios may or may not accommodate retail sales.

“Assisted Living Facility” means residences for the frail or elderly that provide rooms, meals, personal care and supervision of self-administered medication. Often other services are provided, such as recreational activities, financial services and transportation.

“Auto Body and Fender Repair” (see Auto Repair); further means any building, premises, or land in which or upon a business or service or industry involving the reconstruction of automobile frames/bodies is conducted, including extensive sandblasting and reconstructive services.

“Auto Rental” means a facility where cars are rented for short term trips of limited duration.

“Auto Repair” means any building, premises, and land in which or upon a business or service or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

“Auto Sales” means any building, land area, or other premises for the display and sale or long term lease of new or used automobiles generally but may include trucks or vans, trailers or recreational vehicles and including any vehicle preparation or repair work conducted as an accessory use.

“Auto Storage Yard” means any building, premise or land in which automobiles either operable or inoperable are stored for any length of time.

“Bar, Tavern or Nightclub” means an establishment selling and dispensing liquor by the drink for onsite consumption and which may or may not serve food as accessory to the sale of liquor and which does not qualify as a restaurant. Music, dancing, or entertainment may, but need not, occur on the premises.

“Bed and breakfast inn” means a private home, converted multifamily dwelling, or other such similar land use operated on a fee basis as a business by providing overnight lodging and provide any food service for guests only. An innkeeper shall be in residence or immediately adjacent to the Bed and Breakfast. Bed and Breakfasts require approval as a Conditional Use in residential zones.

“Berm” means an earthen mound designed to provide visual interest on a site, screening of undesirable views, noise reduction, etc.

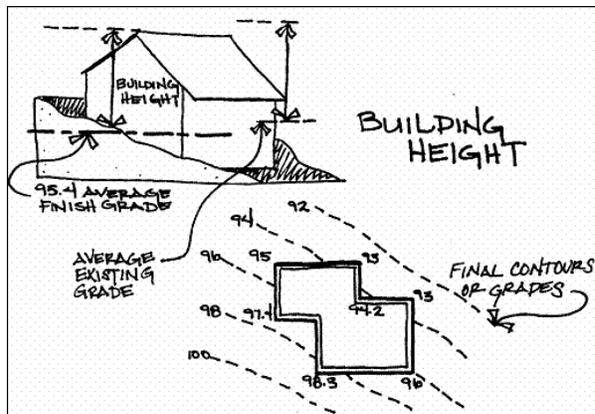
“Boarding house” means a building where meals and long-term (thirty days or more) residential tenancy is regularly furnished for four or more persons, not members of the family, but not exceeding twelve persons, for compensation. This establishment is not open to transient customers.

“Building area” means the total area bounded by the exterior walls of the building to the floor levels, including garages, car parks, porches, breezeways and accessory structures.

“Building Height, Commercial” Commercial building height means the vertical distance measured from the street or sidewalk elevation to the highest point of the roof, not including vents, pipes, chimneys or other such appurtenances.

“Building Height, Residential” Residential building height means the vertical distance measured from the average between the highest to lowest natural/existing or proposed lot grades around the perimeter of the structure to the highest point of the roof. When determining whether to utilize existing or proposed grade, whichever is most restrictive and results in the lowest allowed building

height shall be used. For the purposes of residential height calculation, the points where the main building walls or structural supports connect with grade shall be utilized. Areas of the proposed structure such as decks, covered patios, porches, stoops, stairs or walkways are not used when determining the points of grade around a structure.



Residential Height Graphic

"Buildings" means any structure having a roof supported by columns or walls, used, or intended to be used, for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

"Business" A single enterprise or group of enterprises housed within a single building which utilize the same frontage. For the purposes of outdoor display, outdoor seating and mobile vending, units within a multiple occupancy building that have individual frontage are each considered a separate business.

"Campground" means a plot of ground for rent or lease upon which any campsites are located, established, or maintained for occupancy by camping units such as tents, cabins, lean-to, recreational vehicles or similar structures as temporary living quarters for recreation, education or vacation purposes.

"Child Care Center" means an establishment licensed by the State which provides for the care, supervision and protection of children, enrolling six children or more for whose care, tuition, fees or other forms of compensation are charged. May include nursery schools or other facilities for which the purpose is primarily educational, recreational or medical in nature.

"Club" means any membership organization including a lodge catering exclusively to the members and their guests and whose facilities are limited to meeting, eating and recreational use and whose activities are not conducted principally for monetary gain, but to pursue common goals, interests or activities. "Club" shall not include night clubs, bars, taverns or other institutions operated as a business and open to the general public.

"Cluster development" means a development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

"Community Agriculture" includes community gardens, community supported agriculture (CSA) farms, and market gardens.

“Community Garden” is a parcel of land where plants are grown and harvested by a non-profit organization or by a group of individuals. A community garden grows produce and ornamental plants for use by the nonprofit organization or individuals who operate and maintain the garden.

"Community supported agriculture (CSA)" A CSA consists of a community of individuals who pledge support to a farm operation two acres in size or larger so that the farmland becomes, either legally or in spirit, the community's farm with the growers and consumers providing mutual support and sharing the risks and benefits of food production. Typically, members or "share-holders" of the farm or garden pledge in advance to cover the anticipated costs of the farm operation. In return, they receive shares in the farm's bounty throughout the growing season. CSA's focus is usually on a system of regular pick-up and delivery of vegetables and fruit, or sometimes dairy products or meat.

"Community supported agriculture (CSA) distribution site" A commercial or an accessory residential property utilized in support of community supported agriculture where shareholders pick up periodic deliveries of food products provided directly from the grower, which is generally located within one hundred miles of the city. A CSA distribution site does not provide wholesale food distribution for households or commercial operations.

"Conditional uses" means uses of a special nature as to make impractical their predetermination as a principal use in a district. Uses that may only be included on condition of the City Council.

“Construction Equipment Business” means a retail establishment focused on the rental or sale of construction equipment.

“Construction Equipment Yard” (See Equipment Storage Yard)

“Convenience Store” means any retail establishment offering for sale; gasoline, prepackaged food products, household items, newspapers, magazines, sandwiches and other freshly prepared foods for off-site consumption.

“Crop Production Farm” is a commercial operation, growing field crops, flowers and seeds, fruits, grains, melons, ornamental crops, nuts, trees, sod and/or vegetables which may or may not support a community CSA and is two acres in size or larger..

“Dance Academy” means an establishment either built specifically or equipped for the purpose of providing space in which dancers learn or rehearse.

“Day Care Center” - (see Child Care Center)

“Deck, Permanent” means a roofless, floored structure over one hundred twenty square feet and with a permanent foundation, typically with a railing, that adjoins a house. Must meet the setback requirements for primary structures and requires a Regional Building Permit.

“Deck, Temporary” means a roofless, floored structure under one hundred twenty square feet and not on a permanent foundation. Must meet the setback requirements for accessory structures and does not require a Regional Building Permit.

"Development agreement" is defined as the agreement between the developer and the City in which the developer's obligations concerning the property being developed, and the time for their performance and completion, are set forth. The development agreement shall establish the period of the vesting of the developer's rights, and shall also provide that, in the event of a breach or default of the developer's obligations, such vested rights may, after notice and a hearing before City Council, be divested.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, any mining, excavation, landfill or other land disturbance; and any use or extension of the use of land, to also include the installation, expansion, and construction of driveways, paving of driveways, installation or expansion of retaining walls and expansion or installation of utilities within a single ownership. Easements must be provided if accessory uses or accessory structures occur on adjacent lots of same or different ownership.

"Dry Cleaning Establishment" means an establishment where any cleaning process for clothing and textiles using a chemical solvent other than water is utilized.

"Dual Operation" means a business that operates as both a licensed medical marijuana center and a licensed retail marijuana store in accordance with Section 5.91.100 of city code.

"Dwelling" means a detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

1. Dwelling, Multifamily means a building with three or more separate independent housekeeping dwelling units for permanent occupancy with separate rooms for sleeping, eating and cooking, where such units have habitable living spaces arranged in a stacked configuration. In no event shall the term multifamily be interpreted or deemed to include hotels, motels, or inns, regardless of the length of stay of customers of such motels, hotels, or inns. Two types of multifamily buildings are defined as follows:

- a. Small multifamily buildings shall mean multifamily buildings containing between three and eight dwelling units per building intended for either sale or rent.
- b. Medium multifamily buildings shall mean multifamily buildings containing more than eight dwelling units per building.

2. Dwelling, Single-family attached townhome means three or more dwelling units where each unit is attached to other units by party walls, and where habitable spaces of different units are arranged in side-by-side, rather than in a stacked configuration, with each unit located on its own lot.

3. Dwelling, Multifamily attached townhome means three or more dwelling units where each unit is attached to other units by party walls, and where habitable spaces of different units are arranged side by side, rather than a stacked configuration, where each unit is not located on its own lot.

4. Dwelling, Single-family means a single dwelling unit in a single building not attached to any other buildings other than those accessory to the dwelling.
5. Dwelling, Duplex means a single building on a single lot, designed for occupancy by two separate dwelling units in a side-by-side or stacked configuration, and not attached to any other buildings other than those accessory to the dwellings.
6. Dwellings, Single-family attached duplex means a dwelling unit attached by a party wall to only one other dwelling unit in a side by side configuration, with each unit located on its own lot.
7. Studio/Efficiency Unit. A small owned or rented dwelling unit which combines living and bedroom spaces into one room, and in some cases the kitchen area as well.

“Donation” means a gift or contribution, especially a sum of money, given to a charity.

“Efficiency Dwelling Unit” means a unit containing only one habitable room that meets space and facility requirements of the International Building Code, 2009 ed., as may be amended, or the requirements of any building code subsequently adopted by the City.

"Environmental and fiscal impact report" means the project specific Environmental and Fiscal Impact Report shall comply with the criteria stated in Section 16.06.030(K) of the Manitou Springs Subdivision Regulations and this definition. This report shall analyze the impact of a proposed project on public facilities and environmental quality, as well as the proportional fiscal impact on the City. The fiscal impact analysis and existing infrastructure capacity and service levels are used as a basis for determining impacts attributable to the proposed project and shall be determined for a ten-year time horizon for only the appropriate municipal funds. The cost of on-site and off-site project impacts on public facilities and services is not borne by the general community. In those situations where the project impacts are shown to exceed the capacity of existing public facilities and services, the applicant will demonstrate a means of increasing the capacity of the public facilities and services proportionate to the impact generated by the proposed project. The City has the right to request additional information if the fiscal impact report is not sufficient.

"Essential services" means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include gas, electrical, water, sanitary sewer, storm water drainage, telephone and cable television and communications systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants.

“Equipment Rental and Sales” (See Construction Equipment Business)

“Equipment Repair Services” means maintenance, repair and/or overhaul for large construction equipment when out of order or broken. Includes performing routine actions which keep the machines in working order or to prevent issues from. All actions which have the objective of retaining or restoring an item in or to a state in which the item can perform the required function. The actions include the combination of all technical and corresponding administrative, managerial, and supervision actions.

“Equipment Storage Yard” a parcel, lot or building where construction equipment is stored or parked while not in use.

"Family" means any number of persons all of whom are related by blood, marriage, adoption, guardianship, domestic partnership or other duly-authorized custodial relationship as verified by official public records such as drivers licenses, birth or marriage certificates; or by affidavits evidencing that the individuals are living together as a single nonprofit and noncommercial housekeeping unit and sharing common living, cooking and eating facilities per the Housing Code requirements.

“Farmers Market” means a seasonal open air market where fresh fruits, produce, flowers and value added food products like jams, jellies, pickles, sauces or baked goods, in addition to arts and craft items are sold directly to consumers. Farmers markets are intended to provide a venue for food producers and artisans to sell directly to consumers. The sale of second hand or any commercially produced goods is prohibited.

"Fence" means a structure made of wood or other material, which serves as a barrier intended to prevent escape or intrusion, to mark a boundary, to shield or screen view, or to serve any similar purpose.

“Fitness Center” means a place for exercise: a place with facilities and equipment for people to maintain or improve their physical fitness including gyms, yoga studios, and similar facilities.

"Frontage" means the smallest dimension of a lot abutting a public street measured along the street line of right-of-way.

“Garage, Commercial” means any building or structure where automobiles, trucks, or commercial vehicles are stored, repaired, equipped, or sold for remuneration.

“Garage, Private” means a building used only for the housing of motor vehicles without their equipage for operation, repair, hire, or sale, in conjunction with residential land use.

“Gift” means something that is given in order to provide pleasure or to show gratitude, not given in return for remuneration.

"Gross floor area" means for the purpose of this Code, the sum of all the roofed over floor area of the building measured from within its exterior walls including all accessory buildings on the same lot.

"Gross residential acreage" means the land under planning consideration.

“Health Care Support Facility” means a facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions, such as medical or dental laboratories, blood banks, oxygen and miscellaneous types of medical supply and services facility.

“Home Improvement Center” means a retail store that combines the functions of a hardware store with those of a lumber yard typically selling building supplies, light fixtures, ceiling fans, home appliances, plumbing fixtures, and similar goods.

"Home occupation" means an incidental and secondary use of a dwelling unit for minor business purposes to include types of activity, which are not detrimental to the residential character of the neighborhood.

"Hospice Facility" means a care facility designed to give supportive care to people in the final phase of a terminal illness, which focuses on comfort and quality of life, rather than a cure.

"Hospital" means an institution where people receive medical, surgical, or psychiatric treatment and nursing care to include service limited to special fields such as cardiac, pediatric, orthopedic, dermatology, chronic disease and obstetrics. Ancillary facilities such as laboratories, outpatient facilities, rescue squad and training facilities, pharmacies, cafeterias and emergency facilities shall be considered part of hospital uses as well as a heliport servicing the hospital.

"Hotel" means a permanent building or group of buildings containing sleeping rooms, with the majority of such rooms accessed from an interior hallway. A hotel may offer short-term occupancy, long-term occupancy, or a combination of both subject to the provisions of this Code.

"Indoor Theater" means a building designed for showing movies and/or the live performance of plays, operas, music, and similar events.

"International Fire Code (IFC)" means the International Fire Code is a set of regulations coordinated with the International Building Code, International Mechanical Code and referenced national standards. Topics address fire department access, fire hydrants, automatic sprinkler systems, fire alarm systems, and other fire-safety requirements for new and existing buildings.

"Junk yard" means a building or structure or parcel of land or a portion thereof used for the collecting, storage, or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage, salvaging, or demolition of vehicles, machinery, or other materials and including the sale of whole or parts thereof.

"Kennel" means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

"Launderette" means an establishment providing washing and drying machines on the premises for rental use to the general public.

"Laundry" – (See Dry Cleaning Establishment).

"Lavatory" means a room containing a sink and a toilet.

"Light manufacturing or industry" means any manufacturing or industrial processing which by nature of the materials, equipment and process utilized is to a considerable degree quiet, clean and free from any objectionable or hazardous element.

"Loading area" means a completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to the public street or alley.

"Lot" means a parcel of land having frontage on a public street occupied by a principal structure or use, and sufficient in area to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Code.

"Lot length" is the mean distance from the street to the rear of the lot measured perpendicularly from the street line upon which the lot faces.

"Lot lines and area" means the peripheral boundaries of a parcel of land and the total area lying within said boundaries.

"Lot width" means the width of a parcel of land measured at the rear of the specified street yard.

"Major development" means and includes:

1. All new, nonresidential development or uses;
2. Five or more single-family dwellings (including townhome units);
3. Eight or more multifamily dwellings;
4. Expansion of existing, nonresidential development by thirty percent or more;
5. Two or more single-family dwellings or multifamily dwellings, or nonresidential development with significant visual impacts from public rights-of-way or key public places (i.e., town clock, parks, views to Pikes Peak/Garden of the Gods).

"Manitou Springs Comprehensive Plan" means the document that defines the City's long-range planning policies for the preservation and development of the physical, economic, and human resources of Manitou Springs, as from time to time amended.

"Manitou Springs Forward Vision and Planning Guide (MSFVPG)" means the document created by the citizen lead initiative, Manitou Springs Forward. It is an update of the Rainbow Vision Plan 2000. The MSFVPG was adopted by City Council July of 2012 as the Cities Comprehensive Plan. The document is meant to be used as a practical guide for community decision-making and City government planning tool.

"Manufactured home" means any pre-constructed building unit or combination of pre-constructed building units that:

1. Include electrical, mechanical or plumbing services that are fabricated, formed or assembled at a location other than the site of the completed home;
2. Is designed for residential occupancy in either temporary or permanent locations;
3. Is constructed in compliance with the the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*; and the related regulations and standards;
4. Does not have motor power; and
5. Is not licensed as a recreational vehicle.

"Marijuana Testing Facility" means an entity licensed by the City and the State of Colorado to analyze and certify the safety and potency of marijuana.

"Minor development" means and includes:

1. Four or fewer single-family dwellings;
2. Seven or fewer multifamily dwellings;
3. Expansion of existing, nonresidential development by less than thirty percent;
4. Nonresidential change of use without significant impacts.

"Medical Marijuana Center" means a person or entity licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary caregivers as defined in Article XVIII, § 14 of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to regulate as a matter of law.

"Mixed Use" means a variety of complementary and integrated uses, including but not limited to residential, office, manufacturing, retail, public, entertainment, conference and lodging uses arranged in a compact urban form.

"Mobile food cart" or "mobile vending unit" Any motorized or non-motorized vehicle, trailer, kiosk, pushcart, stand, display, blanket, ground covering or other device designed to be portable and not permanently attached to the ground from which food or other goods are peddled, vended, sold, served, displayed, offered for sale, or given away.

"Mobile home" means a dwelling structure built on a steel chassis and fitted with wheels that is intended to be hauled to a usually permanent site, which was constructed prior to June 15, 1976 (the effective date of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*).

"Mobile or Manufactured home park" means a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for dwelling or sleeping purposes, whether or not a fee is charged for use of the property, and which is operated and maintained by a person holding a mobile home park license (the "licensee").

"Mobile or Manufactured home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

"Mobile vending" Peddling, vending, selling, serving, displaying, offering for sale or giving away services, goods, wares, merchandise, food, or beverages from a location without a fixed structure, regardless of whether the activity occurs on public or private property. "Mobile vending" includes, without limitation, offering services and goods from a mobile vending unit, a mobile food cart, tables, mats, or blankets.

"Modular home" means a pre-constructed building unit or units built in compliance with the City's Building Code.

"Motel" means a permanent building or group of buildings containing sleeping rooms, with the majority of such rooms accessed from an exterior entryway (generally facing a parking lot or street). A motel may offer short-term occupancy, long-term occupancy, or a combination of both, subject to the provisions of this Code.

"Multi-use inns" means a business which is similar to a Bed and Breakfast Inn except that other functions may be accommodated including weddings, receptions, public restaurants, and assorted other social or business gatherings. Multi-use Inns require approval as a Conditional Use in residential zones with specific ancillary uses and their magnitude defined and limited by the conditions of approval. The business must be conducted in compliance with all state regulations.

"Museum" means a building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

"Nonconforming uses or structures" means any structure, or land, lawfully used, occupied, or erected at the time of the effective date of this Code or amendments hereto, which does not conform to its provisions. Any structure conforming in respect to use but not in respect to frontage with area, height, yard, parking, loading, or distance requirements shall be termed a nonconforming structure, not a nonconforming use.

"Nursery" means a place where plants are propagated and grown to usable size. They include retail nurseries which sell to the general public, wholesale nurseries which sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries which supply the needs of institutions or private estates.

"Nursing Home" means an extended or intermediate care facility licensed by the State of Colorado to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity are unable to care for themselves.

"Occupancy, long-term" means the occupancy or right of occupancy lasting more than thirty (30) days or more in any sixty (60) day period.

"Occupancy, short-term" means the occupancy or right of occupancy lasting for thirty (30) days or less in any sixty (60) day period.

"Outdoor display" A product or group of products displayed and offered for sale within the public realm. A display may include but is not necessarily limited to a wide variety of styles such as a cart, clothing rack, specialized display rack, table, shelve, mannequin or freestanding product display such as a piece of art or furniture.

"Outdoor seating area" A group of tables, benches or other seating which may be placed within public right-of-way consistent with the rules found in this section.

"Outdoor Storage" means an unroofed area, or a roofed structure enclosed on not more than three sides, for the keeping of any goods, materials, or merchandise in the same place for more than twenty four hours. All outdoor storage shall be required to be enclosed by a fence, wall, landscaped berm, or other suitable and appropriate method.

"Overhang" means the lower border of a roof that overhangs a floor area or wall, also called an eave.

"Parking area" means an open space or an enclosed structure used exclusively for the temporary storage of automobiles, such space having a graded and surfaced area of nine feet by eighteen feet or meeting the provisions of the Parking Standards in Chapter 18.64, and having adequate ingress or egress to a public street or alley.

"Patio" means an outdoor space at grade for dining or recreation that adjoins a residence and is often paved. Does not need to meet setbacks and does not require a Regional Building Permit.

"Payment" means an amount of money or other form of reward that is given in return for something.

"Pedestrian clear zone" consists of a minimum four-foot space within the public realm that is free of obstructions including signs, outdoor displays, umbrellas and other improvements which may interfere with the flow of pedestrian traffic. Within the Downtown business district no more than one foot of the clear zone may be located within the curbside paver brick amenity area. The access areas in front of all crosswalks are to be kept clear of obstructions at all times.

"Private Stable." Means a building and/or area for the purpose of using, housing, or feeding horses and for the storage of equipment relating to the care, maintenance, and operation of the horses; further, any building and/or area where horses are boarded and owned by the occupants of the premises and are not kept for remuneration, sale, or hire.

"Produce Stand" is a temporary structure where local food producers and artisans sell fresh fruits, produce, flowers and value added food products like jams, jellies, pickles, sauces or baked goods, in addition to arts and craft items; provided that no commercially produced or packaged goods are available for sale. For State rules and regulations regarding the cottage food industry please visit www.rcextention.colstate.edu.

"Public realm" The space located between the face of the building and the curb line. Public realm may include both private property and public right-of-way.

"Public uses" means any building open to the general use, participation or enjoyment of the public and owned by the town, county, state, or federal government, or a public utility corporation.

"Public utility" means for the purposes of this code, a public utility is an electricity substation, a gas regulator station, a telephone exchange, a water or sewer pump station, a water reservoir, and the accessories used to provide the service.

"Recreational Club" (See "Club")

"Religious Use Facility" means a structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

"Research and Development" means an undertaking seeking to discover new knowledge about products, processes, and services, and then applying that knowledge to create new and improved products, processes, and services that fill market needs.

“Restaurant” means a business that is kept or maintained for the purpose of serving food or drink, which contains a commercial kitchen, and which may also serve alcoholic beverages as accessory to the service of food; except that a restaurant does not include:

1. Residential structures;
2. Automated food merchandising enterprises which supply only bottled, canned, cartoned or prepackaged nonperishable food or drink, and those operations dispensing only snacks in their natural protective covering or packaged candies;
3. Grocery stores and similar establishments where food is not prepared or sold routinely for immediate consumption;
4. Food or beverage manufacturing, processing or packaging plants, the primary purpose of which is not to serve food for immediate consumption on the premises;
5. Service stations or convenience stores which include the operation of a food service establishment and which are otherwise regulated by other City Code.

“Retail Marijuana Enterprises” means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

“Retail Marijuana Testing Facility” means an entity licensed by the City and State of Colorado to analyze and certify the safety and potency of marijuana.

"Retaining wall" means a wall designed to resist the lateral displacement of soil or other materials. Retaining walls over four feet in height, or which support a road or other weight surcharge, require Engineer-approved plans and a Regional Building Permit.

“Retirement Home” means any age-restricted development, which may be in any housing form, including detached and attached dwelling units, apartments and residents offering private and semiprivate rooms.

"Sandwich board sign" A temporary freestanding sign utilized for advertisement of a business. Sandwich board signs shall comply with the requirements as stated in Chapter 15.16, Signs, of the Manitou Springs Municipal Code.

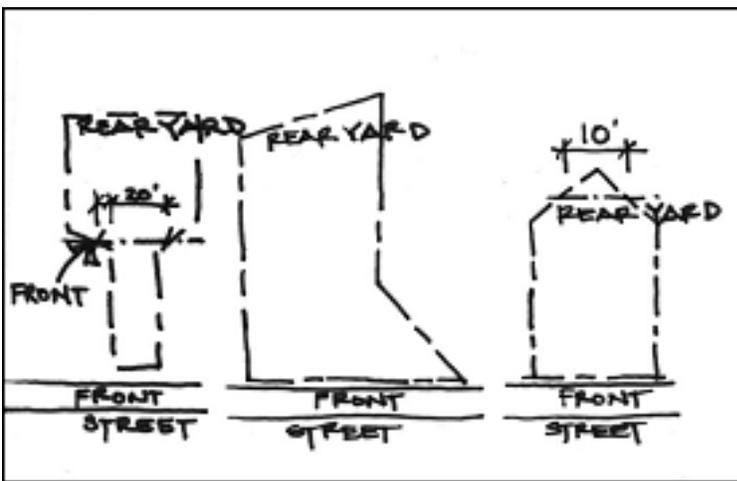
“School, private” means any building or group of buildings the use of which meets state requirements for elementary, secondary or higher education and which does not secure the majority of its funding from any governmental agency.

"Screen" means screening shall provide visual barriers between different land uses, enhance the streetscape, provide privacy, and protect uses from wind, dust, noise, traffic, glare, visual disorder, and harmful or noxious effects. A screen should consist of vegetation that shall be at least six feet in height where required, a required opaque structure (fence or wall) shall be at least six feet in height or as otherwise specified by the development plan.

“Service Station with or without Car Wash” (See Convenience Store)

"Setbacks" (see Yard) means:

1. Rear Yard - Opposite the street yard and extending across the full width of the lot, immediately behind the principal structure wall.
2. Side Yard - Extends from the street yard to the rear yard of a lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure or use.
3. Street Yard - Extends across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto to the nearest point of the principal structure.



"Sign" means any medium or device such as letters, figures, emblems, and/or colors, that advertises a place, product device, or other item available on the premises on which the device is located.

"Solid waste" means unwanted or discarded material with insufficient liquid content to be free flowing. Solid waste may be generated by a variety of land uses including agricultural, commercial, industrial, residential, etc.

“Stable, Commercial” means any building designed, arranged, used, or intended to be used for housing horses for the use of any person, for compensation.

"Stable, Private" means a building and/or area for the purpose of using, housing, or feeding horses and for the storage of equipment relating to the care, maintenance, and operation of the horses; further, any building and/or area where horses are boarded and owned by the occupants of the premises and are not kept for remuneration, sale, or hire.

"Stoop" means a platform or entrance stairway adjacent to a walkway providing pedestrian access to a building. Requires a Regional Building Permit.

"Structural alterations" means any change in the supporting members of a structure such as foundations, bearing walls, columns, beams, or girders.

"Structure" means any erection or construction such as a building, towers, lamps, poles, booms, signs, decorations, carports, machinery and equipment.

"Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided.

"Telecommunications Services and Equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes on ground structures, antennae and software integral to such equipment (including upgrades).

"University Campus (Public or Private)" means an institute of higher education authorized by the State to award associate, baccalaureate or higher degrees, which may include on-site student, faculty, and/or employee housing facilities.

"Vacation Rental" means an establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee.

"Variance" means a legal modification or variation of provision of this Code as applied to a specific piece of property.

"Vision clearance triangle" means no fence, wall, hedge, shrub, structure or other obstruction to view which is over thirty-six inches in height shall be erected, placed or maintained within a triangle formed by the property line immediately adjacent to a street, road, railroad right-of-way, or nonresidential drives as illustrated in the figure below.

The vision requirement is twenty-five feet from the corner, unless a greater requirement has been designated on roadways.



clearance triangle for Manitou Springs' streets feet from the corner, unless requirement has been CDOT controlled

“Water Closet” means a room containing a toilet.

“Yard” (see Setbacks) means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation. The street and rear yard extend the full width of the lot.

“You-Pick Farm” is defined as a commercial operation two acres in size or larger which grows field crops, flowers and seeds, fruits, grains, melons, ornamental crops, nuts, trees and vegetables. A “You-Pick” Crop Production Farm is open to citizens and visitors alike.

“Youth Home” means small, residential facilities located within a community and designed to serve youth under the age of 18 with behavior or chronic disabilities serving six or fewer occupants and staffed 24 hours a day by trained caregivers.

- Section 2:** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
- Section 3:** The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.
- Section 4:** This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.
- Section 5:** This ordinance shall take effect five (5) days after final approval on second reading and publication.

Passed on first reading and ordered published this 24th day of November, 2015.

/s/ Donna Kast
City Clerk

A Public Hearing on this ordinance will be held at the December 15, 2015, City Council meeting. The Council Meeting will be held at 7:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: November 26, 2015 (in full)
City’s Official Website and City Hall

A second public hearing on this ordinance will be held at the January 19, 2016 City Council meeting. The Council Meeting will be held at 7:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: December 17, 2015 (in full)
City's Official Website and City Hall

Passed on Second Reading and Ordered Published this 19th day of January, 2016.

Approved: /s/ Nicole Nicoletta
Mayor

Attest: /s/ Donna Kast
City Clerk

Ordinance Published: January 21, 2016 (in full)
City's Official Website and City Hall