

ZONING ORDINANCE

Fleming, Colorado

1-7, 197<sup>4</sup>

Ordinance No. 1



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## Section 1

### TITLE, AUTHORITY, PURPOSES, AND GENERAL PROVISIONS

#### 1-01. Title

An ordinance establishing zoning districts comprising all the incorporated area within the Town of Fleming, Colorado; adopting maps of said area and zoning districts therein; regulating the location, height, bulk, and size of buildings and other structures, the percentage of a lot which may be occupied, the size of lots, courts, and other open space, the density and distribution of population, and the location and use of land for agriculture, industry, recreation, or other purposes; defining certain terms used herein; prescribing methods for granting variances, and for amendment, enforcement, interpretation, separability, and repeals; and prescribing penalties for the violation of its provisions. Now, therefore, be it ordained by the Board of Trustees of the Town of Fleming:

#### 1-02. Short Title

These regulations shall be known and may be cited as the "Zoning Ordinance of Fleming, Colorado."

#### 1-03. Authority

This ordinance is authorized by Article 60, Chapter 139 of the Colorado Revised Statutes, 1963, as amended, and is hereby declared to be in accordance with all provisions of these statutes.

#### 1-04. Purposes

The purposes of these regulations are:

1. To conserve and stabilize the value of property;
2. To aid in the rendering of police and fire protection;
3. To provide adequate open space for light, air, and aesthetic satisfaction;
4. To preclude congestion on streets, roads, and highways;
5. To facilitate orderly, efficient, and integrated development of the Town;
6. To prevent undue concentration of population;



7. To facilitate the provision of efficient community utilities and facilities, such as water, sewerage, and electrical systems, transportation, schools, parks, and other public requirements; and in general;
8. To promote the public health, safety, and general welfare of the Town.

1-05. Jurisdictional Area

These zoning regulations shall apply to all land and buildings within the incorporated limits of the Town of Fleming, Colorado.

1-06. Application

Except as hereinafter provided in this section, or by a variance granted by the Board of Zoning Adjustment:

- (A) No building, structure, or land shall hereinafter be occupied or used, and no building or structure or part thereof shall be erected, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- (B) No building or structure shall hereinafter be erected or altered:
  - (1) To exceed the height restrictions;
  - (2) To accomodate or house a larger number of families;
  - (3) To occupy a greater percentage of the lot;
  - (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than is herein permitted in the district in which the building or structure is located.
- (C) No part of a yard or loading area, or open space needed by any building or structure to meet the requirements of this ordinance may be included in a whole or in part in meeting the requirements of any other building or structure.
- (D) No yards or lots existing at the time of the adoption of this ordinance shall hereafter be reduced below the minimum dimensions or area required by this ordinance.

1-07. Description of Districts

For the purpose of carrying out the provisions of this ordinance, the Town of Fleming, Colorado is hereby divided into the following zoning districts:

- (A) Low Density Residential (R-LD). This district is for low-density residential subdivisions, not to exceed a gross density of five (5) dwelling units per acre.
- (B) Mobile Home (R-MH). This district is designed to provide quiet, low-density residential areas in which mobile homes will be allowed on individually owned lots, and mobile home parks will be accomodated as conditional uses. The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage a suitable environment for family life.



- (C) Business (B). This zone is to provide for any business uses that would ordinarily be located within a small town such as Fleming.
- (D) Industrial (I). The purpose of this district is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare; operate entirely within enclosed structures and generate little industrial traffic. Research and development activities are included in this district.

1-08. Zoning Map

The location of the zoning districts hereby established are shown on the map entitled "Town of Fleming, Colorado Zoning Map," dated January 1974, and is hereby made, along with explanatory matter thereon, a part of this ordinance. The official map shall be filed at the office of the Town Clerk, and shall be kept current at all times. All amendments to the map made in conformity with this ordinance shall be recorded on the map within one (1) week of its adoption, showing general location, effective date, and nature of the change. Unless otherwise specified on the official zone map, zone boundaries shall be construed to lie on the center line of streets and alleys; on lot lines of platted subdivisions; on railroad right-of-way boundaries; on the boundary lines of zoning districts or incorporated areas; or on section lines.



SEE ATTACHED  
OFFICIAL ZONING MAP



## Section 2

### DISTRICT REGULATIONS

#### 2-01. Uses Permitted Unconditionally

The following uses are permitted unconditionally in the districts in which they are enumerated:

(A) Low Density Residential (R-LD).

- (1) Single-family dwellings, including modular homes.
- (2) Public, parochial, private, or non-commercial schools.
- (3) Churches and Sunday schools.
- (4) Community centers.
- (5) Recreational facilities, extensive.

(B) Mobile Home (R-MH).

- (1) Individual mobile homes.
- (2) Recreational facilities, extensive.

(C) Business (B).

- (1) Any use, other than single-family dwellings or modular homes, permitted unconditionally in the R-LD Residential District.
- (2) Business services.
- (3) Clubs.
- (4) Convenience businesses.
- (5) One single-family dwelling unit or modular home per premise, but only as a custodial function to an unconditionally permitted use.
- (6) General businesses.
- (7) Highway businesses.
- (8) Professional activities.
- (9) Public buildings and uses.
- (10) Mobile home sales.

(D) Industrial (I).

- (1) The manufacture, fabrication and/or processing of any commodity, with the exception, however, of those that usually create excessive amounts of smoke, dust, noise, fumes, vibrations, odors, or any other deleterious effect or effects.
- (2) One single-family dwelling unit or modular home per premise, but only as a custodial function to an unconditionally permitted use.
- (3) Public buildings and uses.
- (4) Railroad spur lines where such lines are used only for delivery or loading of freight to industries or businesses in occupancy of the Industrial Zone but not including main line trackage, switch or repair facilities.



- (5) Trucking terminals.
- (6) Wholesale businesses.
- (7) Convenience businesses, but only as a custodial function to an unconditionally permitted use.
- (8) Highway businesses, but only as a custodial function to an unconditionally permitted use.

2-02. Conditional Uses Permitted

The following uses shall be allowed in the applicable districts subsequent to approval by the Board of Trustees and granting of a conditional use permit, as prescribed in Section 3:

(A) Low Density Residential (R-LD).

- (1) Public utilities.
- (2) Two-family dwellings.
- (3) Multi-family dwellings.
- (4) Convenience businesses.
- (5) Rooming or boarding houses.
- (6) Professional activities.

(B) Mobile Home (R-MH).

- (1) Mobile home parks.
- (2) Public utilities.

(C) Business (B).

- (1) Public utilities.
- (2) Multi-family dwellings.
- (3) Rooming or boarding houses.
- (4) Wholesale businesses.
- (5) Campgrounds.
- (6) Transient mobile home parks.

(D) Industrial (I).

- (1) Automotive wrecking businesses.
- (2) Public utilities.
- (3) Professional activities.
- (4) Junk yards.

2-03. Accessory Uses Permitted

The following accessory uses are permitted in the following districts, provided that they are incidental to and on the same premises as a permitted use.

(A) Low Density Residential (R-LD) and Mobile Home (R-MH).

- (1) Garage only for the storage of automobiles and/or one (1) commercial vehicle.



- (2) Automobile parking and loading space, as required in Section 4-07.
  - (3) Home occupations or professional activities, but conducted only by residents living on the premises and not exceeding one-quarter ( $\frac{1}{4}$ ) of the area of one floor of the principal structure. (See Section 10-03 Definitions.)
  - (4) Any accessory buildings, structures or uses required in addition to and in conjunction with any unconditionally permitted use in the district.
- (B) Business (B). Any building or structure incident to and necessary for the operation of an unconditionally permitted use in the district.
- (C) Industrial (I). Any building or structure incident to and necessary for the operation of an unconditionally permitted use in the district.

#### 2-04. Temporary Uses

Upon application to the Board of Trustees, a temporary use permit may be issued for the following uses, in the following zones, and for the following periods of time. Such permits shall be valid only for the period of time specified, and only two (2) renewals of the temporary permit may be granted. Failure to terminate such temporary use by the specified time shall be considered a misdemeanor and is punishable under Section 7-04 of this ordinance.

- (A) Use: Construction office and/or incidental to construction on the premises;  
Zones: All zones;  
Period: Nine (9) months.
- (B) Use: Carnival, circus, bazaar, or fair;  
Zones: Business and Industrial;  
Period: One (1) week.
- (C) Use: Tent meeting or crusade;  
Zones: Business and Industrial;  
Period: Two (2) weeks.
- (D) Use: Parking for another temporary use;  
Zones: Same as temporary use for which it is required;  
Period: Same as temporary use for which it is required.
- (E) Use: Non-commercial concrete batching plant;  
Zones: Business and Industrial;  
Period: Six (6) months.
- (F) Use: Signs erected only for political campaigns;  
Zones: All zones;  
Period: One (1) month.
- (G) Use: Roadside stand;  
Zones: Business only;  
Period: Two (2) weeks.



## Section 3

### CONDITIONAL USE REVIEW

#### 3-01. Purpose

The purpose of conditional use review is, first, to recognize that some uses may or may not be appropriate in a particular district depending upon the circumstances of the individual case, and, second, to allow review of such cases so that the town is assured that these uses are compatible with their locations and surrounding land uses and will further the purposes of this ordinance.

#### 3-02. Authority

Conditional uses shall be permitted by the Board of Trustees provided that prior to the granting of such permission they refer the application to the planning commission for their review and recommendation. The basis of Planning Commission review and the granting of permission for a conditional use by the Board of Trustees shall be, among other considerations, that such use complies with and meets all the conditions and safeguards indicated for that particular use in this ordinance. Upon satisfactory demonstration that all such conditions have been met, the Board of Trustees shall grant permission for a conditional use, subject to additional conditions as may be imposed by the Board of Trustees in order to comply with the purposes and intent of this ordinance.

#### 3-03. Procedure for Conditional Use Review

- (A) Application for a conditional use permit shall be submitted in writing to the Board of Trustees along with such evidence as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use according to this ordinance.
- (B) The Board of Trustees shall study and review the application and accompanying evidence before taking action on the application. In addition, before ruling on the application, they shall:
  - (1) Submit a copy of the application and accompanying data to the Planning Commission for study and review. As a part of the review and recommendation process by the Planning Commission, the applicant for any conditional use shall post his property with a sign notifying the general public of the time and place of a meeting before the Planning Commission at which said property shall be reviewed for a conditional use. The sign shall be posted on the property at least fifteen (15) days prior to the scheduled meeting date, and shall be of a size three (3) feet by four (4) feet, posted four (4) feet above natural grade, with lettering not less than two (2) inches in size. Said sign shall be placed in a conspicuous location visible from the public rights-of-way.



- (2) Hold a public hearing on the matter, and notice of such hearing shall be published at the expense of the applicant in a newspaper of general circulation within the Town of Fleming at least fifteen (15) days prior to the hearing date. In addition, written notice of the hearing shall be mailed at least fifteen (15) days prior to the hearing date to the applicant and to owners of properties adjacent to the property in question. Failure to mail such a notice shall not affect the validity of any hearing or determination of the Board of Trustees. The applicant shall furnish at least twenty (20) days prior to the anticipated date of the public hearing a list of the owners of properties adjacent to the property in question.
- (C) The Board of Trustees' study of the application shall include consideration of all the following:
- (1) Information submitted by or for the applicant.
  - (2) Information submitted for the public hearing.
  - (3) Comments by the Planning Commission, and any additional qualified opinions.

### 3-04. Standards Governing Conditional Uses

A conditional use shall ordinarily comply with the standards of the district concerned for uses permitted unconditionally, except as specifically modified in granting the conditional use permit, or otherwise as follows:

- (A) Setbacks. In any residential or mobile home district, no yards provided shall be less than two-thirds ( $2/3$ ) the height of the principal structure. In other districts, yards may be increased over those required for uses permitted unconditionally when necessary to meet the general objective of conditional use control.
- (B) Height Exception. The height limitations of any district may be exceeded by a conditional use to a maximum permitted height of sixty (60) feet, provided that total floor area of the conditional use shall not exceed one and one-half ( $1\frac{1}{2}$ ) times the area of the site and provided that yards have a minimum width equal to at least two-thirds ( $2/3$ ) the height of the principal structure.
- (C) Limitations on Access to Lots and on Openings to Buildings. The Board of Trustees may limit or prohibit vehicular access from a conditional use to residential streets not designated as arterial streets on an officially adopted street plan, and it may limit or prohibit openings in sides of a building or structure permitted as a conditional use within fifty (50) feet of a residential district if such openings will cause glare, excessive noise, or other adverse effects on adjacent residential properties.
- (D) Signs Permitted Within a District. Any indirectly illuminated or nonilluminated sign on each side of a conditional use abutting a street may be permitted, provided it does not exceed twenty (20)



square feet in area, pertains to the conditional use, and is located in a permitted yard.

- (E) Automobile Service Stations. In addition to the other standards of this section, automobile service stations, when permitted as conditional uses, shall meet the following requirements:
- (1) The minimum permitted lot size shall be ten thousand (10,000) square feet.
  - (2) No automobile repairs other than incidental minor repairs, battery or tire changing shall be allowed on the property.
  - (3) A sight obscuring fence of not less than five (5) feet nor more than six (6) feet shall be provided between the station site and any abutting residential property.
- (F) Utility Substation or Pumping Station. The minimum lot size of the district in which a public utility facility is to be located may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site in the residential district. Such uses shall be fenced and provided with landscaping as found necessary.
- (G) Dwellings. In no case shall the standards for a dwelling as a conditional use be less than the standards of R-LD or R-MH Districts.

### 3-05. Fees for Conditional Use Permits

Permit fees shall be paid at the time of the granting of the permit and prior to its receipt by the applicant. The fee shall be in the amount of ten (10) dollars. The permit shall be in force for five (5) years. Permits may be renewed for the same period of time or less, without further notice, hearing, or posting of the property involved provided, however, that the operation of the conditional use has complied with all the terms and conditions of the original permit. A renewal of the permit shall be considered to be a new permit with respect to fees.

### 3-06. Recess of the Hearing by the Board of Trustees

The Board of Trustees may recess a hearing on a request for a conditional use permit in order to obtain additional information or to serve further notices upon other property owners or persons whom it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Board of Trustees shall announce the time and date when the hearing will be resumed.

### 3-07. Notification of Action

The Town Clerk shall notify the applicant for a conditional use permit in writing of the Board of Trustees' action within seven (7) days after a decision has been rendered.



## Section 4

### SPACE REQUIREMENTS

#### 4-01. Minimum Lot Area

The minimum lot area in the R-LD Low Density Residential and R-MH Mobile Home districts shall be not less than seven thousand (7,000) square feet per dwelling unit.

#### 4-02. Minimum Lot Width

The minimum lot widths in the R-LD Low Density Residential and R-MH Mobile Home districts shall be not less than fifty (50) feet for one dwelling unit, and fifty (50) feet for each additional dwelling unit.

#### 4-03. Setback Requirements

(A) Front Yard Setbacks. All sides of a lot which abut a street shall be treated as frontage and front setback requirements shall apply. Nothing herein shall preclude construction of buildings in line with existing structures. All buildings and structures shall be set back a minimum of the following distances from the front property line:

- (1) R-LD Low Density Residential and R-MH Mobile Home districts: Twenty-five (25) feet;
- (2) B Business: Eight (8) feet;
- (3) I Industrial: Twenty-five (25) feet.

(B) Side Yard Setbacks. All buildings shall be set back from the side property line a minimum of the following distances in the following zones:

- (1) R-LD Low Density: Five (5) feet for residences and residential accessory uses; ten (10) feet for all other uses;
- (2) R-MH Mobile Home: Five (5) feet for mobile homes and accessory uses;
- (3) B Business: None;
- (4) I Industrial: None, except that when adjacent to a residential or mobile home district the setback shall be equal to two (2) times the height of the building, or twenty-five (25) feet, whichever is greater.

(C) Rear Yard Setbacks. All buildings shall be set back from the rear lot line a distance not to exceed the following, except that where a street abuts to the rear, a distance of not less than one-half ( $\frac{1}{2}$ ) of the front setback requirement may be used:

- (1) R-LD Low Density Residential and R-MH Mobile Home Districts: Twenty (20) feet; except where alley abuts, five (5) feet;



(2) B Business District: Ten (10) feet; except where alley abuts, five (5) feet;

(3) I Industrial District: Ten (10) feet.

#### 4-04. Maximum Building Heights

No building shall hereafter be built or structurally altered to exceed the following heights in the following districts:

(A) R-LD Low Density Residential and R-MH Mobile Home Districts:  
Thirty-five (35) feet for one dwelling unit, eighteen (18) feet in the case of more than one dwelling unit;

(B) B Business District: Fifty (50) feet;

(C) I Industrial District: No restriction.

#### 4-05. Maximum Lot Coverage

The total area of building coverage including main and accessory buildings shall not exceed the following percentages of area of the lot on which the buildings are located in the following zones:

(A) R-LD Low Density Residential and R-MH Mobile Home Districts:  
Thirty per cent (30%);

(B) B Business District: No restriction;

(C) I Industrial District: Sixty-five per cent (65%).

#### 4-06. Exceptions to Height and Setback Requirements

(A) Exceptions to Height Requirements. The following uses may be exempted from the maximum height requirements, provided written approval is granted by the Planning Commission, who shall have determined that the use would not injure the value of, use of, or prevent the proper access of light and air to adjacent properties, nor would be out of harmony with the intent and purposes of this ordinance:

- (1) Radio and television towers and antennae;
- (2) Church towers;
- (3) Water tanks and towers;
- (4) Elevator enclosures;
- (5) Parapets;
- (6) Public utility poles and towers;
- (7) Public Monuments;
- (8) Chimneys.

(B) Yard and Open Space Requirements. In computing yard and open space, the following architectural features shall not be considered:

- (1) Unroofed terraces or patios;
- (2) Cornices;
- (3) Sills;
- (4) Belt courses;
- (5) Chimneys;



- (6) Eaves or similar features up to a distance of three (3) feet from the face of the building;
- (7) Open fire escapes up to a distance of four (4) feet from the face of the building;
- (8) Walls, rails, or fences up to a height of four (4) feet;
- (9) Temporary awnings or shading devices.

#### 4-07. Off-street Parking Requirements

For every building hereafter erected, off-street parking spaces shall be provided. Each space shall measure at least eight (8) feet by eighteen (18) feet and shall be provided with proper ingress and egress. Areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking space requirements. Parking requirements shall apply to all districts. Where more than one use is conducted on a single lot, parking shall be required for each use, even though one is accessory to the other. The following types of use shall require the following off-street parking spaces for both principal and accessory uses. Uses not listed shall require the same parking spaces as the nearest similar use, or may be determined by the Planning Commission.

<u>USE</u>	<u>NO. OF SPACES</u>
Dwelling, each unit .....	1
Motels, hotels, tourist courts, per rental unit .....	1
owner or manager's unit .....	1
Auditoriums, churches, stadiums, theaters, or other places of assembly with fixed seats, per eight (8) seats .....	1
without fixed seats, per 100 square feet .....	1
Offices, per three hundred (300) square feet .....	1
Restaurants, eating or drinking places, per four (4) seats .....	1
Retail sales establishments, including groceries, dry goods, etc., per one hundred (100) square feet of area devoted to sales and display ....	1
Hospitals, nursing homes, sanitariums, per three (3) beds .....	1
per staff member .....	1
Schools: elementary, nursery, junior high, per classroom .....	1
plus per three hundred (300) square feet of office .....	1
Schools: high, university, college, business, per classroom .....	5
plus per three hundred (300) square feet of office .....	1
plus per three (3) dormitory rooms .....	1
plus as required above for auditoriums .....	1
Industries, warehouses, per four hundred (400) square feet of gross floor area .....	1

#### 4-08. Off-street Loading Space Requirements

For the purpose of providing space off the street for loading or unloading goods of any type, one space shall be required in all districts for any use with a gross floor area of ten thousand (10,000) square feet or more, including outside storage of goods, but excluding single- or two-family dwellings. Each loading space shall measure at least ten (10) feet high by thirty-five (35) feet long by fourteen (14) feet wide. Furthermore, each industrial, business or commercial use shall provide an additional space for each fifteen thousand (15,000) square feet or fraction thereof of gross floor area over and above the first ten thousand (10,000) square feet.



## Section 5

### NON-CONFORMING USES

#### 5-01. Intent

Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

#### 5-02. Non-conforming Lots

Non-conforming lots of record at the time of the passage of this ordinance may be built upon or used after the passage of this ordinance, but only with an unconditionally permitted use in the zone district, and by approval of the Board of Adjustment. No lot conforming in size at the time of the passage of this ordinance shall be subdivided or reduced in size in such a way that it would become non-conforming.

#### 5-03. Alterations and/or Extensions

No building or use that is non-conforming as of the effective date of this ordinance shall be structurally altered or expanded in any way that would increase the degree or area of non-conformance. The following changes or alterations may be made to a non-conforming building:

- (A) Repair to a building or structure that is ordered by any public official to make it safe.
- (B) Maintenance repairs that are needed to keep the building in good condition.
- (C) Any structural alteration that would not increase the degree of non-conformance or would change the use to a conforming one.

#### 5-04. Restoration

Any non-conforming building or structure that is destroyed by fire, accident or natural causes to the extent of more than fifty (50) per cent of its valuation, may not be rebuilt except for a conforming use. If less than fifty (50) per cent of the replacement cost at the time of destruction, the building may be rebuilt, but not to allow for any expansion of the non-conforming use.



5-05. Abandonment

If any non-conforming use of land, building or structure is abandoned for a period exceeding one (1) year, no non-conforming use may be re-established upon such land or within such building or structure.

5-06. Previously Approved Uses

Any building, use or structure that had been officially approved by the Board of Trustees or for which a building permit had been issued prior to the passage of this ordinance, may proceed to construct or use such building, structure or land, providing that the structural members of such building or structure are completed within one (1) year of the effective date of this ordinance.

5-07. Removal of Junk Yards

Junk yards located in any district other than an Industrial District shall be removed within three (3) years after the effective date of this ordinance.

5-08. Changes in Non-conforming Uses

No non-conforming use of a building or structure may be changed to another non-conforming use, except when the new non-conforming use is of a more restrictive nature, as may be determined by the Planning Commission.

5-09. Registration of Non-conforming Uses

A certificate of occupancy shall be applied for where any land or building is made non-conforming as to use by the passage of this ordinance. Such certificate shall be applied for and issued within one (1) year after the effective date of the passage of this ordinance. Failure to apply for the certificate within this period constitutes a violation of the ordinance and appropriate action will then be taken under the provisions of this ordinance relating to violations.



## SECTION 6

### SIGNS

#### 6-01. Intent

These regulations shall govern and control the erection, remodeling, enlarging, moving, operation, and maintenance of all signs by permitted uses within all zoning districts established by this ordinance. Nothing herein contained shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances and/or applicable regulations shall comply with all such ordinances and regulations.

#### 6-02. Classification of Signs

##### (A) Functional Types.

- (1) Advertising Sign. A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, or to which it is affixed.
- (2) Bulletin Board Sign. A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution. Such signs may also present a greeting or similar message.
- (3) Business Sign. A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or an entertainment offered, on the premises where the sign is located or to which it is affixed.
- (4) Construction Sign. A temporary sign indicating the names of architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure or project only during the construction period and only on the premises on which the construction is taking place.
- (5) Identification Sign. A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
- (6) Nameplate Sign. A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
- (7) Real Estate Sign. A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

##### (B) Structural Types.

- (1) Awning, Canopy and Marquee Sign. A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by this ordinance. No such sign shall project above, below, or beyond the physical dimensions of the



- awning, canopy or marquee.
- (2) Ground Sign. Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. Signs on accessory structures shall be considered ground signs.
  - (3) Pole Sign. A sign that is mounted on a free-standing pole, the bottom edge of which sign is six (6) feet or more above ground level.
  - (4) Projecting Sign. A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
  - (5) Wall Sign. A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

#### 6-03. General Standards

- (A) Gross Surface Area of Sign. The entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such sign and which does not form an integral part of the display. The gross area of a sign shall be measured on only one side of such sign unless both sides thereof are utilized as a sign. When two or more signs are located on a zoning lot, the gross surface area of all signs on the lot shall not exceed the maximum gross surface area set by the applicable district regulations. For computing the area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.
- (B) Height of Sign. Sign height shall be measured from ground level at the base of or below the sign to the highest element of the sign.
- (C) Building and Electrical Codes Applicable. All signs must conform to the regulations and design standards of applicable building codes. Wiring of all electrical signs must conform to applicable electrical codes.
- (D) Illuminated Signs. Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any illuminated sign located on a lot adjacent to or across the street from any residential district, which sign is visible from such residential district, shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m.
- (E) Flashing or Moving Signs. No flashing signs, rotating or moving signs, signs with moving lights, or signs which create the illusion of movement shall be permitted in any district. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flash-sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every fifteen (15) seconds.
- (F) Accessway or Window. No sign shall block any required accessway or window.



- (G) Signs on Trees or Utility Poles. No sign shall be attached to a tree or utility pole whether on public or private property.
- (H) Metal Signs.
- (1) Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a non-metal frame sign shall maintain a clearance of nine feet to ground.
  - (2) No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires or conductors are insulated or otherwise protected.
- (I) Traffic Safety. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
- (J) Location. No sign, except those exempted in Section 6-04(A), shall be permitted to project over public rights-of-way.

#### 6-04. Signs Not Subject To Permit

- (A) The following signs shall be exempt from the requirements of this Ordinance.
- (1) Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property.
  - (2) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory sign having to do with health, hazards, parking, swimming, dumping, etc.
  - (3) Memorial signs and tablets displayed on private property.
  - (4) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the signs do not exceed the requirements of such law, order, rule or regulation.
  - (5) Small signs, not exceeding five (5) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, rest rooms, freight entrances, and the like.
  - (6) Scoreboards with no advertising in athletic stadiums.
- (B) The following signs are not subject to permit, but shall comply with all of the other regulations imposed by this Ordinance.
- (1) Nameplate signs not exceeding two (2) square feet in gross surface area accessory to a single-family or two-family dwelling.
  - (2) Identification signs not exceeding forty (40) square feet in gross surface area accessory to a multiple-family dwelling.
  - (3) Bulletin board signs not exceeding forty (40) square feet in gross surface area accessory to a church, school or public or non-profit institution.



- (4) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

#### 6-05. Signs Allowed in Enumerated Districts by Permit

Upon application to and issuance by the Zoning Administrator of a permit therefor, the following signs, but no other, may be erected and maintained in the enumerated zoning districts.

##### (A) Residential Districts (R-LD and R-MH).

##### (1) Functional Types Permitted.

- (a) Nameplate signs.
- (b) Identification signs.
- (c) Real estate signs.
- (d) Construction signs.

##### (2) Structural Types Permitted.

- (a) Ground signs.
- (b) Pole signs.
- (c) Wall signs.

##### (3) Number of Signs Permitted. Two (2) for each permitted use.

##### (4) Maximum Gross Surface Area.

- (a) Nameplate signs: two (2) square feet.
- (b) Identification and bulletin board signs: forty (40) square feet.
- (c) Real estate signs: six (6) square feet per lot, provided that one sign not more than one hundred (100) square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed at the end of three (3) years from the date of issuance of permit, or when seventy-five (75) per cent of the lots in the subdivision have been sold, whichever occurs sooner.
- (d) Construction signs: forty (40) square feet.

##### (5) Maximum Height. Fifteen (15) feet.

##### (6) Required Setback. Fifteen (15) feet from the front line.

##### (7) Illumination. No sign shall be illuminated except that bulletin board signs may be indirectly illuminated with incandescent or fluorescent light.

##### (B) Business District (B).

- (1) Functional Types Permitted. Any type listed in Section 6-02(A) except advertising signs.



- (2) Structural Types Permitted. Any type listed in Section 6-02(B) except roof signs.
  - (3) Number of Signs Permitted. Two (2) for each permitted use.
  - (4) Maximum Gross Surface Area. Fifty (50) square feet per business.
  - (5) Maximum Height. Thirty (30) feet.
  - (6) Required Setback. The same setback that is required for principal structures, but in no case shall a sign project over public rights-of-way.
  - (7) Illumination. Indirectly illuminated signs shall be permitted.
- (C) Industrial District (I).
- (1) Functional Types Permitted. Any type listed in Section 6-02(A) except advertising signs.
  - (2) Structural Types Permitted. Any type listed in Section 6-02(B) except roof signs.
  - (3) Number of Signs Permitted. Two (2) for each permitted use.
  - (4) Maximum Gross Surface Area. Two hundred (200) square feet.
  - (5) Maximum Height. Thirty (30) feet.
  - (6) Required Setback. Ten (10) feet.
  - (7) Illumination. Indirectly illuminated signs shall be permitted.

6-06. Non-conforming Signs

- (A) Maintenance. All signs in all districts that become non-conforming at the time of the passage of this ordinance shall be maintained and kept in a state of good repair. Such signs shall not be relocated, replaced or structurally altered. No sign shall be permitted to exist in a condition of disrepair. Should, in the opinion of the Zoning Administrator, a sign exist in a condition of disrepair, the Board of Zoning Adjustment shall have authority to compel the repair or removal of the sign, at the expense of the owner of the sign, within thirty (30) days of their decision.
- (B) Removal. All signs that are non-conforming as to setback, type, number, or illumination shall be made to conform with this ordinance within five (5) years after the passage thereof, or shall be removed.

6-07. Fees For Sign Permits

A fee of one dollar (\$1.00) plus twenty cents (20¢) per square foot of signage shall be charged for issuance of any sign permit.



## Section 7

### ADMINISTRATION AND ENFORCEMENT

#### 7-01. The Zoning Administrator

This ordinance shall be administered and enforced by the Town Zoning Administrator. The Zoning Administrator, or his deputy, shall have authority to issue building permits and certificates of occupancy. He shall have authority to make inspections and to make all decisions necessary for the proper enforcement of this ordinance. No oversight or dereliction on the part of the Zoning Administrator shall legalize, authorize, or excuse the violation of any of the provisions of this ordinance.

#### 7-02. Building Permits

- (A) No building shall be erected, moved or structurally altered unless a permit therefor has been issued by the Zoning Administrator, and no permit shall be issued unless the building or structure proposed is in full conformance with this ordinance, except in those instances where a permit has been granted for a variance by the Board of Zoning Adjustment.
- (B) All applications for building permits must be accompanied by drawings to scale showing plot plan and location, floor plan, height and size of all proposed buildings, and the location and dimensions of fences, signs and parking and loading areas.
- (C) A fee for the examination and administration of this permit shall be payable to the Town of Fleming upon receipt of the application as set by the Board of Trustees.

#### 7-03. Certificates of Occupancy

- (A) No land or building shall hereafter be changed in use, nor shall any new structure, building or land be occupied or used without first having obtained a Certificate of Occupancy from the Zoning Administrator.
- (B) Such Certificate of Occupancy shall be issued within five (5) days of the time of notification that the building is completed and ready for occupancy.
- (C) All Certificates of Occupancy shall be filed with the Zoning Administrator and shall be available for examination by the Public.

#### 7-04. Notification, Violations and Penalties

- (A) Whenever the Zoning Administrator shall find a violation of any of the provisions of this ordinance he shall notify the person responsible



for the violation in writing and shall order the necessary correction within a period of three (3) months.

- (B) Failure to comply with all of the provisions of this ordinance, unless a variance has been authorized by the board, shall constitute a misdemeanor and upon conviction is punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or imprisonment for a period of not more than thirty (30) days, or both. Each day that such a violation continues to exist shall be considered as a separate offense.

7-05. Complaints

Any person aggrieved by a violation or apparent violation of the provisions of this ordinance may file a written complaint with the Zoning Administrator, who shall immediately investigate such complaint and take legal action to have those responsible for the violation penalized and the violation removed, if such a violation is found to exist.



## Section 8

### BOARD OF ZONING ADJUSTMENT

#### 8-01. Creation

A Board of Zoning Adjustment is hereby created which shall consist of five (5) members and which shall be appointed by the Board of Trustees. All further reference to the Board of Zoning Adjustment in this section shall hereafter be made to "the Board."

#### 8-02. Membership and Organization

- (A) Members. The Board shall consist of five (5) members appointed by the Board of Trustees. Members shall be resident taxpayers of the Town.
- (B) Terms of Office. One (1) member shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, and two (2) for a term of three (3) years. Thereafter, all appointments to the Board shall be made for terms of three (3) years each. When vacancies occur prior to the expiration of a regular term they shall be filled in the same manner as regular appointments but shall serve only until the expiration of the term in which the vacancy occurred.
- (C) Chairman. The members of the Board shall elect from among their number a Chairman to serve for a term of one (1) year.
- (D) Expenses. In the performance of its duties, the Board may incur such expenses as shall be authorized by the Board of Trustees, but no member shall receive any compensation for his services.
- (E) Removal of Members. The Board of Trustees shall have the power to remove any member from the Board for cause after public hearings.

#### 8-03. Duties and Powers

- (A) To meet at the call of the chairman, by his request or by the request of the Zoning Administrator, or by any party wishing to appeal the decision of the same.
- (B) To adopt any rules necessary to transact the Board's business or to expedite its functions or powers so long as they are not inconsistent with the provisions of this ordinance.
- (C) To vote upon the granting of an adjustment to requirements of the zoning ordinance, which vote must require the concurrence of more than one-half ( $\frac{1}{2}$ ) the members of the Board in order to revise an order of the Zoning Administrator.
- (D) To keep minutes of the proceedings of each meeting, which shall be filed in the office of the Board, who may designate the Zoning Administrator to keep such files, and which shall be of public record.



- (E) To permit the public to attend and to be heard at all of its meetings;
- (F) To notify in writing the Zoning Administrator, the owner involved, and the Planning Commission of all decisions made, resolutions passed, hearings scheduled or permits authorized.
- (G) To publish notice of or cause to be published, or cause the property to be posted at least fifteen (15) days prior to the date of hearings, where such hearings are deemed necessary by the Board.
- (H) The Board shall have the power to interpret this ordinance, including any uncertainty as to boundary location, or meaning of wording so long as this interpretation is not contrary to the purpose and intent of the ordinance.
- (I) The Board shall have the power to grant variances from the provisions of this ordinance, but only where all of the following conditions are found to exist:
  - (1) The variance would not authorize any use other than uses enumerated as unconditionally permitted uses in the district;
  - (2) That an unnecessary hardship to the owner could be shown to occur if the provisions of the ordinance were literally followed;
  - (3) That the circumstances found to constitute a hardship either were not created by the owner, or were in existence at the time of the passage of this ordinance, are not due to nor are the result of general conditions in the district, and cannot reasonably be corrected;
  - (4) That the variance would not injure the value, use of, or prevent the proper access of light and air to the adjacent properties;
  - (5) That the variance would not be out of harmony with the intent and purpose of this ordinance.
- (J) The Board shall act in strict accordance with all of the other applicable laws of the State of Colorado and Logan County. All appeals to the Board shall be in writing and on such a form as shall be prescribed by the Board. Every appeal shall indicate what provision of this ordinance is involved, what relief from these provisions is being sought, and the grounds upon which such an appeal is being sought, as required in Section 8-03(F). The Chairman of the Board shall then within ten (10) days, call a meeting of the Board for the purpose of the review of the requested appeal. At the same time, a copy of the requested appeal shall be transmitted to the Planning Commission for an opinion, which opinion shall be returned to the Board before the date set for hearing the appeal. Failure of the Planning Commission to return the requested opinion shall be considered as its approval of the Board's granting of the requested appeal. Notification of the decisions of the Board shall then be made in accordance with Section 8-03(F).

#### 8-04. Appeals from the Board

Any further appeal from the decision of the Board may be made to the courts, as provided by law, provided, however, that such appeal is made prior to sixty (60) days following the date of the notification of the Board's decision.



## Section 9

### SUPPLEMENTARY REGULATIONS

#### 9-01. Amendments

- (A) Amendments, supplements, changes or repeal of this ordinance or any section thereof, or to the official zoning map may be initiated by application of:
- (1) Any citizen, group of citizens, firm, or corporation residing on, owning or leasing property in the Town;
  - (2) The Planning Commission; or
  - (3) The Board of Trustees of the Town.
- (B) Application for an amendment to this ordinance shall be made on such a form as the Planning Commission shall prescribe and shall be filed with the Town Clerk. Applications for an amendment to the Official Zoning Map shall contain all of the following information:
- (1) Description of land area to be rezoned, and requested new classification along with a sketch to scale showing boundaries of area requested to be rezoned, along with an indication of the existing zoning on all adjacent sides of the area.
  - (2) A statement of justification for the rezoning, including one of the following conditions:
    - (a) Changing area conditions;
    - (b) Error in original zoning;
    - (c) Conformance to Master Plan for area; or
    - (d) Peculiar suitability of the site to a specific use.
  - (3) Description and sketches, if available, of buildings or uses proposed if rezoning is granted, along with a description of land and building uses within two hundred (200) feet of the boundary of the proposed area of change, in all directions.
  - (4) Time schedule for any contemplated new construction or uses.
  - (5) Justification for any new business or industrial zoning.
  - (6) Effect that the new zoning would have on adjacent uses.
- (C) All applications for changes to the zoning ordinance or map shall be referred by the Town Clerk to the Planning Commission, which commission shall return a recommendation either recommending for or against the proposed change to the Board of Trustees within fifteen (15) days of the receipt thereof.
- (D) Before any amendment to this ordinance or map is enacted, a public hearing shall be held; fifteen (15) days advance notice of the time and place of which shall be published in a newspaper having general circulation within the Town.
- (E) The adoption of any amendment, supplement, change, modification, or repeal shall require the favorable vote of a majority of the Board of Trustees, except that under the following circumstances a favorable vote of not less than three-fourths (3/4) of the voting members shall be required:



- (1) Whenever a protest against such changes is filed with the Town Clerk. The protest shall be signed by the owners of twenty per cent (20%), or more, either of the lots included in such proposed change, or of those immediately adjacent extending one hundred (100) feet in any direction; or
- (2) Whenever the Planning Commission has not recommended approval of such change.

9-02. Minimum Size of New Districts

No amendment to the official Zoning Map shall be made that would create or allow to remain a zoned area of less than the following gross area for the following districts:

- (A) R-LD Low Density Residential: Twenty (20) acres.
- (B) R-MH Mobile Home: Five (5) acres.
- (C) B Business: Two (2) acres.
- (D) I Industrial: Five (5) acres.

9-03. Parking and Storage of Abandoned Automobiles

- (A) Abandoned automobiles without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. However, one boat and one camping unit may be stored in the rear yard if they have a current license.
- (B) The Board of Trustees shall have authority, following an investigation by the Zoning Administrator, to compel the removal of the abandoned automobile(s) at the expense of the owner within thirty (30) days of their decision.



## Section 10

### INTERPRETATION AND DEFINITIONS

#### 10-01. Interpretation

The provisions of this ordinance shall be interpreted and applied to be the minimum required for the proper protection of the public health and morals, and the promotion of safety and general welfare.

#### 10-02. Conflict with Other Laws

Whenever these requirements are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions or ordinances, the one which is the most restrictive or which requires the higher standard shall apply.

#### 10-03. Definitions

(A) For the purposes of this resolution, certain terms or words used herein shall be interpreted as follows:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and plural number includes the singular.
- (3) The word "shall" is a mandatory requirement, the word "may" is a permissive action, and the word "should" is a preferred action.
- (4) The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- (5) The word "lot" includes the words "plot" and "parcel."

(B) The following words and phrases shall be interpreted as having the meaning stated below:

Accessory building or structure. A building or structure on the same lot with the building or structure housing the principal use, but housing a use customarily incidental and subordinate to and customarily associated with the principal use.

Accessory Use. A use customarily associated with, but subordinate to the principal use on the same lot.

Alley. A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.



Apartment House. See Dwelling, Multi-Family.

Automobile, Abandoned. Any motor vehicle, or portion thereof, which when operated on a highway is required to be registered by the State of Colorado, and whose registration has been expired for a period of one month or more. Notwithstanding the foregoing definition, a motor vehicle or portion thereof stored within a permitted building or structure shall not be considered to be an abandoned automobile.

Automotive, Mobile Home, Trailer, and Farm Implement Sales. The sale or rental of new and used motor vehicles, mobile homes, trailers, or farm implements, but not including repair work except incidental warranty repair of same to be displayed and sold on the premises.

Automotive Wrecking Business. The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

Building - Height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Business - Convenience. Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry pickup facilities, and grocery stores, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day to day need in the area.

Business - General. Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day to day needs of the area, to also supply the more durable and permanent needs of the area. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.

Business - Highway. Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations; truck and auto sales and service; restaurants and motels; and commercial recreation.

Business services. Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.



Business - Wholesale. Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. The commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

Campground. Any plot of improved property utilized for camping and parking of camping units as herein defined for a period not to exceed thirty (30) days.

Camping Unit. Any pick-up camper, motor home, travel trailer, tent trailer or similar mobile unit not exceeding either eight (8) feet in body width or thirty-two (32) feet in body length and designed specifically for recreational and vacation purposes.

Cemetery. Land used or intended to be used for the burial of animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

Club. Any membership organization including a lodge catering exclusively to members and their guests and whose facilities are limited to meeting, eating and recreational uses, and further, whose activities are not conducted principally for monetary gain.

Conditional Use. A use permitted within a district other than an unconditionally permitted use, requiring a conditional use permit and approval of the Board of Trustees.

Conditional Use Permit. A permit issued by the Zoning Administrator upon approval by the Board of Trustees to allow a use other than an unconditionally permitted use to be established within a district.

Density. A unit of measurement; the number of dwelling units per acre of land.

- a. Gross Density - the number of dwelling units per acre of total land to be developed.
- b. Net Density - the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

Dwelling, Mobile Home. A structure designed to be transported after fabrication and exceeding either eight (8) feet in body width or thirty-two (32) feet in body length. Such a structure is built on a chassis and retains the chassis on which it was built, whether or not such structure is placed on a permanent foundation. Such a structure is suitable for human habitation on a year-round basis when provided with the required plumbing, heating and electrical facilities.



Dwelling, Modular Home. Any structure, or component thereof, designed primarily for single-family residential occupancy, not including a mobile home, which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on the building site. Each modular home shall be certified by the Colorado Division of Housing, and shall have attached thereto, in a visible location, an insignia of approval containing the following information: (a) Date of manufacture; (b) Insignia serial number beginning with the letters FB.

Dwelling, Multi-family. A building consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized units.

Dwelling, Single-family. A building consisting of a single dwelling unit only; separated from other dwelling units by open space.

Dwelling, Two-family. A building consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

Dwelling Unit. Space, within a building, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities; all used by only one family and its household employees.

Family. One (1) or more persons occupying a common household, but not including boarding or rooming houses, lodges, clubs, hotels, or fraternities.

Gross Floor Area. For the purpose of this ordinance, the sum of all of the roofed-over floor area of a building, measured from its exterior walls, and including all accessory buildings on the same lot.

Home Occupation. Any activity which results in a product or service not used in its entirety by the family group, which is carried on in a residence, meeting all of the following criteria:

- (a) The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- (b) The use is conducted entirely within a dwelling and is carried on by the inhabitants thereof and not more than one employee.
- (c) The use does not substantially change the character of the dwelling or adversely affect the uses permitted in the residential district; and no home occupation shall be permitted which is objectionable, due to noise, dust, smoke, odor or other causes.
- (d) Not more than one-quarter ( $\frac{1}{4}$ ) of the area of one floor of the principal structure is used for such use.
- (e) The entrance to the space devoted to such use is from within the building and there is no external evidence of the home occupation.



- (f) No sign not in conformity with the provisions of the sign regulations is used.
- (g) No commercial type vehicle shall be parked on the property, other than one (1) pick-up or van type truck of not more than one and one-half (1½) ton rated capacity.

Hotel. A building containing sleeping rooms designed to be rented for short term occupancy, and which may or may not have eating or drinking facilities as an accessory use.

Junk Yard. A building, structure or parcel of land, or 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. Any building, structure or open space devoted wholly or partly to the raising, boarding or harboring of six (6) or more animals that are over four (4) months old.

Loading Area. A parking space other than a public street or alley for the parking of commercial vehicles for the purpose of loading or unloading materials or merchandise.

Lot. A parcel of land occupied or designed to be occupied by one (1) or more buildings, structures or uses, arranged so as to meet all of the requirements of this ordinance, and facing upon a public street. A lot may or may not coincide with plots on a subdivision plat.

Lot Area. The number of square feet included within a lot as measured within the boundaries of the lot, measured on a horizontal plane upon which the boundaries have been vertically projected.

Lot Length. The average distance from the street to the rear of the lot, measured perpendicularly from the street line upon which the lot faces.

Lot Width. The average distance between two (2) side lot lines, measured perpendicularly from one of the sides.

Mobile Home Park. Any plot of ground upon which two (2) or more mobile homes, occupied or intended to be occupied for dwelling or sleeping purposes, are located for periods of longer than ninety (90) days, regardless of whether or not a charge is made for such accommodation.

Mobile Home Subdivision. A residential subdivision designed exclusively for and occupied only by mobile homes, in which the homes and the land are owned by the occupants. Such a subdivision shall not be included in the definition of "Mobile Home Park" and shall be regulated under the Mobile Home Ordinance.

Modular Home. See Dwelling, Modular Home.

Motel. A building or groups of buildings containing individual rooms for sleeping or living, designed and used for temporary rental occupancy and with automobile parking space adjacent to or within the proximity of each rental unit.



Non-Conforming Use. A building, structure, or use of land existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

Parking Area. An open space or an enclosed structure or building used exclusively for the temporary storage of registered automobiles.

Parking Space. That part of a parking area, exclusive of drives, turning areas or loading spaces, devoted to parking for one automobile or vehicle.

Parking, Off Street. Any parking area located wholly within the limits of one (1) or more lots.

Planning Commission. The Planning Commission appointed by the Board of Trustees of the Town of Fleming.

Professional Activities. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, and similar professions.

Public Building or Use. Any building open to the general use, participation or enjoyment of the public and owned by the Town, County, State or Federal government or by a public utility corporation.

Public Utility. For the purpose of this ordinance only: an electric substation, a gas regulator station, a telephone exchange, a water or sewer pumping station, or a water reservoir.

Recreational Facilities. Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf course, amusement parks, stadiums, and bowling alleys.

Right-of-way. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

Roadside Stand. A temporary structure designed or used for the display or sale of agricultural and related products.

Rooming or Boarding House. A building, or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.



Seat. An individual chair designed to seat one (1) person, or part of a bench designed to seat one (1) person, but measuring at least 18" in width.

Service Station, Automobile. A facility to supply motor fuel and oil to motor vehicles, and including a grease rack, minor tire and battery servicing, and sales of motor vehicle accessories.

Set back. The distance required by this ordinance between the face of a building and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots, curved streets, etc., exist, the set back shall be taken as an average distance.

Sign. Any structure, poster, banner, insignia, billboard, trademark, or other device used to indicate directions, advertise, announce or attract attention; except that flags and banners of any country, state, city or non-profit organization shall not be included. For a more complete definition of types of signs, see Section 6-02 of this ordinance.

Structural Alteration. Any addition to, or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

Structure. Anything constructed or erected upon the ground, except utility poles, flag poles or walls and fences less than four feet (4') high.

Transient Mobile Home Park. Any plot of ground upon which two or more mobile homes and/or camping units are located and occupied, or intended to be occupied, for dwelling or sleeping purposes for periods of ninety (90) days or less regardless of whether or not a charge is made for such accommodation.

Trucking Terminal. Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other similar equipment over three-fourths (3/4) ton capacity.

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

Unconditionally Permitted Use. Any use listed as an unconditionally permitted use in this ordinance in any given zone district.

Variance. A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Yard. The space on the same lot as a building or structure that is unoccupied and open to the sky.

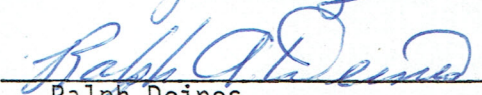


Yard, Front. That portion of a yard between the street line and the building, and between the two (2) side lot lines, the depth of which shall be the least distance between the front lot line and the building.

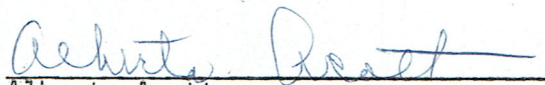
Yard, Rear. That portion of a yard between the rear of a building and a rear lot line, and between two (2) side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

Yard, Side. All the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

THIS ORDINANCE WAS INTRODUCED, READ, PASSED, ADOPTED, AND ACCEPTED  
BY THE BOARD OF TRUSTEES THIS 7th DAY OF January, 1974.

  
\_\_\_\_\_  
Ralph Deines,  
Mayor

Attest:

  
\_\_\_\_\_  
Alberta Acott,  
Town Clerk