

Section 1. Administration

§1.1 TITLE

This document shall be officially known and cited as the *City of Gunnison Land Development Code* and will be referenced herein as “*LDC*”.

§1.2 AUTHORITY

It is the intention of the City Council in adopting this *LDC* to fully exercise all relevant powers conferred on it by the laws of the State of Colorado, including, but not limited to, the following:

- A. Home Rule Municipality.** All of the powers reserved to the City as a home rule municipality under Article XX of the *Colorado Constitution*.

- B. State Enabling Legislation.** All of the powers granted to the City by:
 - 1. Title 29, Article 20, *Colorado Revised Statutes (C.R.S.)*. The provisions of the Local Government Land Use Control Enabling Act of 1974 (Title 29, Article 20, C.R.S.);
 - 2. Title 31, Article 12, *C.R.S.* The provisions of the Colorado Municipal Annexation Act of 1965 (Title 31, Article 12 *C.R.S.*);
 - 3. Title 24, Articles 65, 67, and 68, *C.R.S.* which, respectively, provide for the review of areas and activities of state interest, authorize the Planned Development Overlay approach to land development and provide for the establishment of vested property rights; and
 - 4. Title 31, Article 23, *C.R.S.*, which enables municipalities to adopt zoning regulations and subdivision requirements.

- C. All Other Powers Authorized.** All other powers authorized by statute or by common law for the regulation of land uses, land development and subdivision, including, but not limited to, the power to abate nuisances.

§1.3 PURPOSES

- A. General Purposes. General purposes of this *LDC* include the following.**
 - 1. **Development Standards.** Establish the standards for the review of all proposed development of land within the City of Gunnison.
 - 2. **Quality of Life.** Protect and enhance the quality of life in the city and its environs so as to promote the general health, safety and welfare of the present and future inhabitants of the city and to protect the environment.
 - 3. **Review Processes.** Establish clear, consistent, predictable and efficient land development review processes.
 - 4. **Orderly Development.** Provide for the efficient, well-ordered and safe development of the

- City of Gunnison and to accommodate a variety of desirable residential, commercial, industrial and public land uses in an appropriate, efficient and attractive development pattern.
5. **Adequate Public Facilities.** Ensure that all utilities, public facilities, and services needed to support development are in place and adequately designed and constructed to protect the community's health, safety and welfare.
 6. **Property Values.** Conserve the value of properties and to respect the rights of property owners and the interests of the citizens of the City.
- B. Implement *City of Gunnison Master Plan*.** To promote these general purposes, this *LDC* establishes regulations that implement the *City of Gunnison Master Plan*:
1. **Natural and Visual Resources.** Manage Gunnison's water, air, land, wildlife, and visual resources.
 2. **Cultural and Social Resources.** Encourage the provision and proper location of cultural and social facilities commensurate with the needs of the city's multi-age population.
 3. **Public Facilities and Services.** Ensure that adequate water supply, sewage disposal, storm drainage, solid waste disposal, electrical, road, park/recreation and trail and public safety facilities and services are provided to meet current needs, and that development provides for its fair share of the facilities and services demanded for growth.
 4. **Economic Development.** Encourage continued growth and diversification of Gunnison's economy, while preserving and strengthening the existing economic base, including the Central Business District and Western State Colorado University.
 5. **Safe and Efficient Transportation.** Provide a safe and efficient multi-modal transportation system which provides safe, easy access to parcels while controlling access onto the road network and which offers choices in the method and manner of travel.
 6. **Adequate Housing Supply.** Ensure an adequate housing supply which provides diverse housing types of good quality construction in a wide range of prices to support a wide range of incomes, and implement community housing policies established by the City of Gunnison.
 7. **Energy Resources.** Utilize energy resources in the most efficient manner by encouraging innovations in the form and design of development.

§1.4 APPLICABILITY

- A. **Conformance Provisions.** No building, structure or land shall be used or occupied and no development shall be undertaken within the limits of the City of Gunnison, as now and hereafter established, unless it is in conformity with the provisions of this *LDC*, and other applicable laws and regulations. Structures and uses existing on the effective date of this *LDC* that do not conform to the *LDC* shall be permitted to continue, subject to the provisions of Section 11, Nonconformities. To the extent permitted by state and federal law, this *LDC* shall apply to all units and agencies of the federal, state, county and municipal government.
- B. **Exemption for Essential Services.** Essential Services and their associated facilities, as defined

herein, shall be exempt from this *LDC* with the exception that this *LDC* shall apply to the development, operations, and maintenance facilities used to support related providers.

- C. Approved Existing Development and Pending Applications.** The provisions of this *LDC* shall not abrogate, annul or affect the validity of any approved preexisting development or pending application thereof, including building permit, certificate of occupancy, subdivision, and development approval including conditional use, variance, zoning amendment, or Planned Unit Development (PUD) that was initiated and/or approved prior to the effective date of this *LDC*, notwithstanding specific PUD provisions that may require compliance to future amendments to the *LDC*. Pending permit applications, subdivision applications, or development applications are subject to the provisions of the *LDC* in effect at the time of application. Any applicant of a pending application may request to have the said application reviewed pursuant to the procedures and standards of this *LDC*.

§1.5 REPEAL AND RE-ENACTMENT

Upon the adoption of this *Land Development Code*, the following are hereby repealed in their entirety: *Land Development Code*, Chapter 15 of the *Municipal Code* of the City of Gunnison originally effective on February 27, 1997, which is 30 days following the date of its adoption by the City Council with Ordinance #1, Series 1997; together with all amendments thereto; and any other ordinance, resolution or regulation inconsistent with this *LDC*.

§1.6 WORD USAGE AND CONSTRUCTION OF LANGUAGE

- A. Headings, Illustrations and Text.** In case of any difference of meaning or implication between the text of this *LDC* and any heading, drawing, table, figure, or illustration, the text shall control.
- B. Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as “including,” “such as,” or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.
- C. Computation of Time.** Unless the terms of a specific provision of this *LDC* state otherwise (e.g. some provisions specify working days), the time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday, or a legal holiday observed by the City of Gunnison, that day shall be excluded.
- D. References to Other Regulations, Publications and Documents.** Whenever reference is made to a resolution, code, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such resolution, code, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.
- E. Delegation of Authority.** Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.
- F. Technical and Nontechnical Terms.** Words and phrases shall be construed meaning according to the common and approved usage of the language. However, technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

G. Public Officials and Agencies. All public officials, bodies, and agencies to which references are made are those of the City of Gunnison, unless otherwise expressly provided.

H. Word Usage. For the purpose of this *LDC* certain words shall be interpreted as follows:

1. The word “Commission” means the City of Gunnison Planning and Zoning Commission.
2. The word “person” includes a firm, association, corporation, trust, and company as well as an individual.
3. The word “structure” shall include the word “building.”
4. The word “lot” shall include the words “plot,” “parcel” or “tract.”
5. The words “may” and “should” are advisory and the words “shall” and “will” are always mandatory.
6. Words not specifically defined in the *LDC* shall take their common dictionary meaning, except as modified by use as terms of art in planning or engineering.

I. Conjunctions. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. “and” indicates that all connected items apply, conditions apply, provisions apply, or events apply.
2. “or” indicates that one or more of the connected items, conditions, provisions, or events may apply.

J. Tenses and Plurals. Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

§1.7 MEASUREMENTS AND EXCEPTIONS

A. Lot Reduction. Upon the effective date of this *LDC*, no lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this *LDC* are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

B. Building Coverage. Building coverage shall be the maximum portion of the lot that is covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet. Building coverage is expressed as a percentage of total lot area.

C. Impervious Surface. Impervious surface shall be the maximum portion of the lot that is covered by buildings, including both principal structures and accessory buildings, paved areas such as driveways, or other features that inhibit the percolation of water into the soil. Impervious surface

is expressed as a percentage of total lot area.

- D. Building Width.** Building width shall be measured by the distance along the front wall-plane of any building (as determined by the location of an entrance fronting on a street).
- E. Building Separation.** Building separation shall be the required separation between any two buildings located on the same lot or parcel of land. When building separation is regulated as a function of building height, the height measure shall be calculated as the average height (mean) of the two adjoining buildings in question.
- F. Floor Area.** Floor area of a building shall be a gross calculation measured from the exterior wall plane or the centerline of the common wall (party wall) separating two units in a building, but shall not include mechanical rooms, closet or storage areas and mechanical chases. Those areas are excluded from the floor area calculation. All attic space meeting *International Building Code (IBC)* or *IRC* ceiling height requirements and used for active residential or nonresidential space shall be calculated as floor area.
- G. Height.** Height shall be the vertical distances between the average grade of a structure and the highest point of the structure or to the coping of a flat roof, to the deck line of a mansard roof, or to the highest ridge of a sloping roof. In the case of a building, the measure shall be established by using the four principle elevation views of the building plans.
- H. Lot Area.** Lot area refers to the total gross amount of horizontal land areas within lot lines and shall be measured in units of square feet or acres. Public and private right-of-way and streets shall not be included in the calculating lot area.

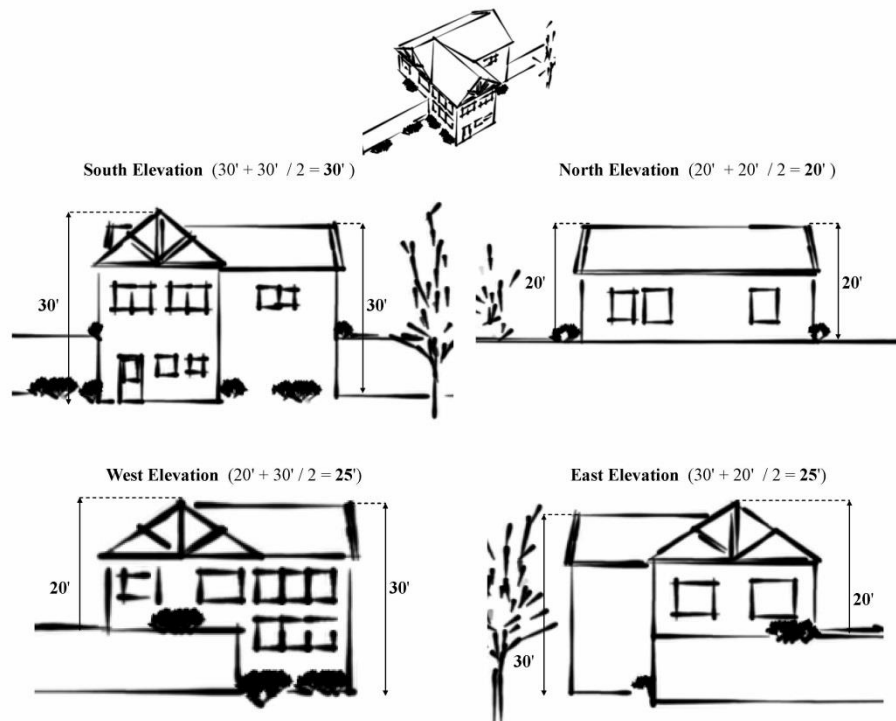


FIGURE 1 MAXIMUM BUILDING HEIGHT

I. Lot Width. Lot width is the horizontal distance between the side lot lines as measured along a straight line parallel to the street right-of-way boundary. For any lot with a curved front lot line, the width is measured at the rear edges of the street yard (front building line), except for lots abutting cul-de-sacs, which shall be measured as the arc length of the street yard at the right-of-way boundary.

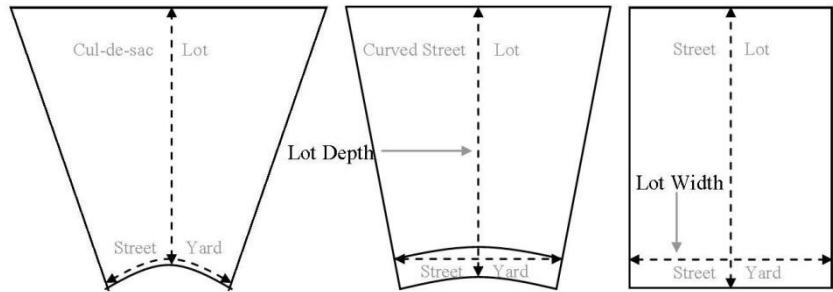


FIGURE 2 LOT DEPTH AND WIDTH

J. Lot Depth. Lot depth shall be the distance of a straight line drawn between the mid-points of the street yard and rear yard.

K. Density

1. **Net Land Area.** Net land area shall be determined by subtracting from the gross land area, the following (as applicable).
 - a. Eighty percent of lands located in the 100-year floodplain;
 - b. All lands within private streets or dedicated public rights-of-way;
 - c. All dedicated open space or public easements dedicated on the plat of record unless exempted;
 - d. All lands subject to a ground lease that, because of the lease terms, would not be available for development of the proposed land use(s) on the subject property;
 - e. Fifty percent of the land located in any resource conservation area, other than steep slopes and floodplains; and
 - f. Net land area on steep slopes shall be determined by the following table;

TABLE 1-1 DENSITY	
AVERAGE SLOPE (PERCENT)	ALLOWABLE DENSITY (PERCENT)
0 to 10	100
>10	80
>15	60
>20	40
>25	20
>30	10

2. **Net Density.** Net density shall be calculated by dividing the net land area by the minimum lot area or land area required for each unit.

3. When applying a density standard to the net land area of a parcel, resulting fractions with 0.65 or lower shall be rounded down to the lower whole number and resulting fractions that are 0.66 or higher shall be rounded up to the higher whole number (Ordinance #8, Series 2016).
4. The density reduction requirements of this Section do not apply to the development of single-family dwellings on lots created as a plat of record prior to the adoption of this *LDC*.
5. The number of dwelling or accommodation units allowed on a site is based on the presumption that all other applicable standards shall be met. The maximum density established for a zoning district is not a guarantee that such densities may be obtained, nor a valid justification for varying other dimensional or development standards.

L. Yard and Building Setbacks

1. Measurement.

Setbacks shall be measured as the distance between the nearest lot line and the furthest projection of the building wall-plane along a line at right angles to setback lines. Yard setbacks shall be unobstructed from the ground to the sky except as otherwise specifically allowed in this Section.

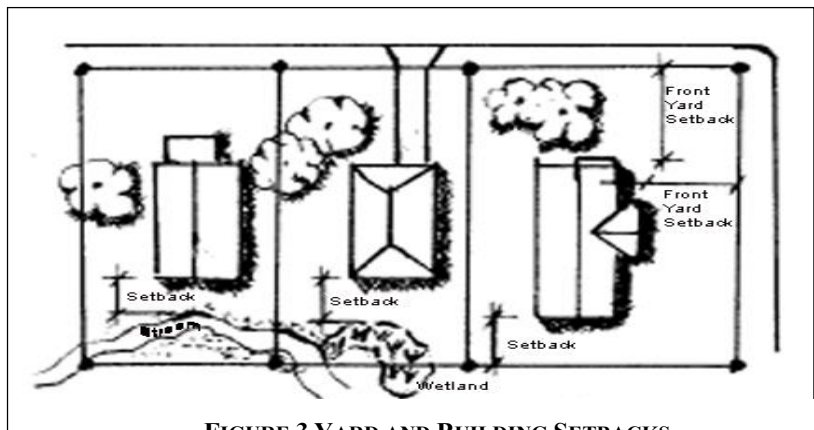


FIGURE 3 YARD AND BUILDING SETBACKS

2. **Front Setbacks on Corner Lots.** All street sides of a corner lot shall maintain a front yard setback.
3. **Features Allowed within Building and Yard Setbacks.**
 - a. Cornices, canopies, eaves or other similar architectural features may project 18 inches into a side or rear yard or setback. These same architectural features may project up to three feet into any setback that is at least 15 feet in dimension.
 - b. Signs may extend into required yards in conformance with standards found in §4.8.
 - c. Uncovered porches, slabs, patios, decks, walks and steps which do not exceed 30 inches above or below grade may project into a yard. Projections may exceed 30 inches below grade if required by the Building Official for window or other building egress.
 - d. Assemblies constituting covered porches which include, landings, steps and handrails that are greater than 30 inches in height may project the furthest extended component five feet into a street yard setback that is at least 15 feet in dimension.
 - e. Bay windows, entrances, balconies, and similar features that are less than 10 feet wide may

extend up to 18 inches into any required yard, but shall remain at least five feet from the property line.

- f. Driveways may extend into any required yard, provided that the edge of the driveway shall be setback at least three feet from an adjacent property line.
- g. Planters, retaining walls, hedges, and other landscaping structures may encroach into any required yard and may be no closer than one foot from the property line subject to visibility restrictions.
- h. Fences may be located in the yards, but are subject to site visibility distance standards found in §4.2 and §4.3.
- i. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

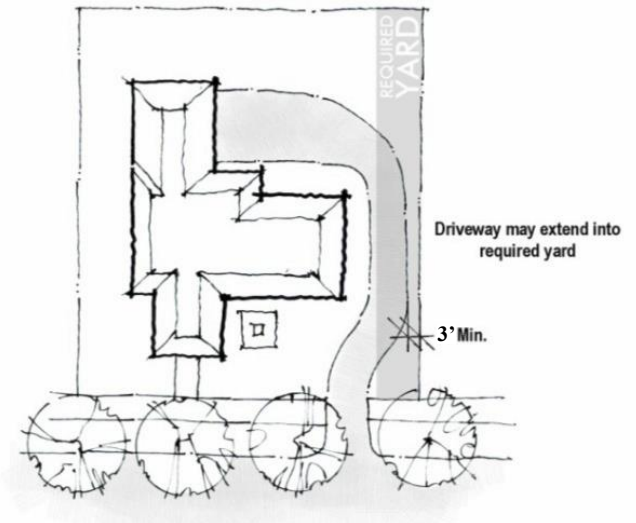


FIGURE 4 DRIVEWAY EXTENDING INTO YARD

§1.8 OFFICIAL ZONING MAP

A. Zone District Boundaries. The boundaries of the zone districts are shown on the *Official Zoning Map of the City of Gunnison, Colorado*. The Official Zoning Map is a part of this *LDC* as fully as if it were set out in this *LDC* in detail. The Official Zoning Map is maintained in the office of the City Clerk and available for inspection during normal business hours. Where uncertainty exists as to the boundaries of zone districts as shown on the Official Zoning Map, the Community Development Director shall apply the following rules for determination.

1. **Omitted Land.** It is the intent of this *LDC* that every part of the incorporated City of Gunnison be included in one of the zone districts established by this *LDC*. Any land located now or in the future in the city not shown to be included in a zoning district shall be deemed to be classified in the R-1 Zone District, pending approval of a rezoning pursuant to the requirements of Section 10 (Amendments to the Land Development Code and Official Zoning Map).
2. **Multiple Zone Districts.** Whenever a lot of record is divided by a boundary, development of the lot shall conform to the standards of the zoning in place on that specific portion of the lot.
3. **Zone District Boundaries.** Unless otherwise specified, zone district boundaries are lot lines, street centerlines, or the center of river channels. The following rules govern interpretations regarding the location of zoning district boundaries.

a. Municipal Boundaries. Zone district boundaries shown as following or approximately

following the limits of the municipal boundary shall be construed as following those limits.

- b. Streets and Highways.** Zone district boundaries shown as following or approximately following streets and/or highways shall be construed to follow the centerlines of those streets and/or highways.
 - c. Property Lines.** Zone district boundary lines shown as following or approximately following property lines shall be construed as following those lines.
 - d. Section Lines.** Zone district boundaries approximately following section lines, one-half section, or one-quarter-section shall be construed as following those lines.
 - e. Watercourses.** Zone district boundaries approximately following the centerlines of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of those watercourses taken at mean low water. In the event of a natural change in the location of those streams, rivers, or other watercourses, the zone district boundary shall be construed as moving with the channel centerline.
- B. Interpretation.** The Director shall be authorized to determine the precise location of any zone district boundaries shown on the Official Zoning Map. The Director shall follow the rules of this Section in determining the location of zone district boundaries.
- C. Amendment.** Map Amendments approved by the City Council shall be entered on the map by the Director promptly following adoption.
- D. Adoption of New Map.** City Council may, by ordinance, adopt a new Official Zoning Map. The new Official Zoning Map shall contain the signatures of the Chairman of the Planning and Zoning Commission and Mayor and be attested by the City Clerk.

§1.9 CONFLICTING REGULATIONS

- A. Conflict with State or Federal Regulations.** If the provisions of this *LDC* are inconsistent with those of the state or federal government, the *LDC* shall control, unless preempted.
- B. Conflict with Other City Regulations.** If the provisions of this *LDC* are inconsistent with one another, or if they conflict with provisions found in other adopted codes or regulations of the City, the more restrictive provision will control.
- C. Conflict with Private Easements, Agreements, Covenants or Restrictions.** This *LDC* is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction, or other private legal relationship. However, private covenants are considered subordinate to this *LDC*. The City is responsible for enforcing this *LDC*; it does not enforce private agreements, easements, covenants, or restrictions except those specifically required for the administration and enforcement of this *LDC*.

§1.10 VIOLATIONS CONTINUE

Any violation of the previous zoning, subdivision or other regulations of the City shall continue to be a violation under this *LDC* and shall be subject to penalties and enforcement under Section 15 (Violations, Penalties and Enforcement), unless the use, development, construction or other activity is consistent with the express terms of this *LDC*.

§1.11 PRESUMPTION OF VALIDITY

All provisions of this *LDC* are presumed to be valid and enforceable. In any challenge to the validity of any provision, the burden of proof shall rest with the person bringing the challenge.

§1.12 SEVERABILITY

If any Court of competent jurisdiction rules any provision of this *LDC* invalid, that ruling shall not affect any *LDC* provision not specifically included in the judgment. If any Court of competent jurisdiction rules invalid the application of any provision of this *LDC* to a particular property, building, or other structure, or use, that ruling shall not affect the application of the *LDC* provisions to any property, building, other structure, or use not specifically included in the judgment. Furthermore, if any requirement(s) of this *LDC* is challenged in a Court of competent jurisdiction, any associated land use approval(s) shall be wholly repealed.