

CHAPTER 4: USE REGULATIONS

4.01 Purpose and Organization

4.01.1 Purpose. **Table 4.02-1, Table of Allowable Uses** below lists the uses allowed within all zoning districts.

All uses are defined in **Chapter 9, Definitions**. Approval of a use listed in this article, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in this article and approved under the appropriate process is prohibited.

4.01.2 Organization. The uses permitted in each of the zoning districts established in the Use Table are defined as follows:

- A. Standards Column. The "Standards" column provides a reference to associated standards for certain uses Permitted by Right and for Conditional Uses. Where a blank space is in the column, there is no associated standard. Where "Y" is in the column, there are associated standards.

| Table 4.01-1 Use Table Legend | | |
|-------------------------------|--|---|
| Symbol | Meaning | Description |
| P | Permitted by Right | A " P " in a zoning district column indicates that a use is permitted by right, provided that it meets the supplementary use standards referenced in the far right "Standards" column of the use table, if applicable. These uses are subject to all other applicable regulations of this Land Use Code. |
| C | Conditional Use | A " C " in a zoning district column indicates that a use requires conditional use review and approval by the Planning Commission and Town Board (see Chapter ***). |
| A¹ | Accessory Use | An " A " in a zoning district column indicates that a use is permitted by right as an accessory use, provided that it meets any necessary supplementary accessory use standards. |
| T² | Temporary Use | A " T " in a zoning district column indicates that a use requires temporary use review and approval by the Planning Commission ³ (see Chapter ***). Temporary uses must also follow any necessary supplemental temporary use standards. |
| | Use not Permitted | A "blank cell" in a zoning district column indicates that a use is not permitted as a primary use or conditional use in the zoning district. |
| Use Not Listed | See Section B., <i>Unlisted Uses</i> , below | |

Note: The Use Table only establishes the principal uses allowed in each zoning district. See also Accessory and Temporary Use regulations in Chapter 4.

¹ Please direct the consultant team on if staff wants to see P and C only or to include A and T?

² See comment above.

³ Should this be the PC or TB?

B. Unlisted Uses. If a proposed use is not specifically listed in the **Use Table**, the Planning Director shall determine whether the use is permitted or not permitted. This determination shall be based upon the similarity in nature and character to one or more uses that are listed in the Use Table. In making this determination, the Planning Director may refer to the following factors as guidance:

1. Criteria for Use Determination.

- a. Whether the use has similar visual, traffic, environmental, parking, employment, and other impacts as an expressly listed use. The Planning Director may refer to empirical studies or generally accepted planning or engineering sources in making this determination. The burden is on the applicant to establish that the use is similar to the expressly listed use; or
- b. Whether the use is within the same industry classification as another permitted use. In making this determination, the Planning Director may refer to the most recent edition of the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, 2017)(“NAICS”). If the use is not defined in the NAICS, the Administrator may refer to the American Planning Association, Land-Based Classification Standards LBCS Tables (April 1, 2001).

2. If Not Authorized Then Prohibited. If the Planning Director determines that a proposed use does not fit within a given use type and is not functionally the same as a permitted, accessory, conditional, or temporary use, then the use is a prohibited use.

4.02 Table of Allowable Uses

This chapter shall follow the requirements established in **Table 4.02-1, Table of Allowable Uses**.

| Table 4.02-1 Table of Allowable Uses | | | | | | | | | | | | | |
|--------------------------------------|-----------------|-------------|-----|-----|-----|----|------------|-----|-----|------------|---|-------|------------------------|
| Use | Zoning District | | | | | | | | | | | | |
| | Open | Residential | | | | | Commercial | | | Industrial | | Misc. | Use Specific Standards |
| | A | R-1 | R-2 | R-3 | R-4 | MH | C-1 | C-2 | C-3 | LI | I | P | |
| Residential | | | | | | | | | | | | | |
| Manufactured Home ⁴ | P | P | P | | P | P | | | | | | | Y |
| Mixed-Use Dwelling | | | | | P | | P | P | P | | | | |
| Multi-Family Dwelling | | | | P | C | | | | P | | | | Y |
| Single-Family Attached Dwelling | C | | P | P | P | | | | | | | | Y |
| Single-Family Detached Dwelling | P | P | P | P | P | | | | | | | | |
| Group Living / Lodging | | | | | | | | | | | | | |

⁴ Additional specific use regulations to be proposed in R-2 and R-4

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|--|---|---|---|---|---|---|---|
| Bed and Breakfast | | | | C | C | | C | | | | | | |
| Boarding and Rooming House | | | | C | C | | | | P | | | | Y |
| Group Home | | P | P | P | P | | | | P | | | | |
| Hotel/Motel | | | | | | | P | C | P | P | | | |
| Long-Term Care Facilities | | | | C | | | C | | P | | | | |
| Agriculture | | | | | | | | | | | | | |
| Agriculture | P | P | | | | | | | | | C | | |
| Greenhouse/Nursery | | | | | | | | | P | P | | | |
| Stable | P | P | | | | | | | | | | | Y |
| Commercial / Office | | | | | | | | | | | | | |
| <i>Animal Services</i> | | | | | | | | | | | | | |
| Kennel | C | | | | | | | | P | P | | | Y |
| Veterinary Facilities, Large animals | P | | | | | | | | C | C | P | | Y |
| Veterinary Facilities, Small animals | P | | | | | | P | | P | P | | | Y |
| <i>Food</i> | | | | | | | | | | | | | |
| Brew Pub, Distillery Pub, or Limited Winery | | | | | C | | P | P | P | P | | | Y |
| Food Catering | | | | | | | | | P | P | | | |
| Grocery Store | | | | | | | P | C | P | C | | | Y |
| Open-Air Farmers' Market | | | | | | | | P | P | P | | | |
| Restaurant, Fast Food | | | | | | | P | | P | C | | | Y |
| Restaurant, Fast Food with Drive-Thru | | | | | | | C | | P | C | | | Y |
| Restaurant, Sit-down | | | | | | | P | P | P | P | | | Y |
| <i>Entertainment / Recreation</i> | | | | | | | | | | | | | |
| Adult Entertainment Establishments | | | | | | | | | | | P | | Y |
| Art Studio | | | | | C | | P | P | P | P | P | | |
| Bar/Tavern | | | | | | | P | P | P | P | P | | Y |
| Club/Lodge | | | | | | | P | C | P | | | | |
| Entertainment Facility | | | | | | | P | | P | | | | |
| Golf Course | P | P | P | | | | | | C | | | P | Y |

| | | | | | | | | | | | | | |
|---|---|--|--|--|---|--|---|---|---|---|---|---|---|
| Nightclub | | | | | | | | | P | P | P | | Y |
| Recreational Entertainment, Indoor | | | | | | | P | | P | P | | P | |
| Recreational Entertainment, Outdoor | | | | | | | P | | P | P | | | Y |
| Tourist Facilities | | | | | | | | P | P | | | P | |
| <i>Retail Sales / Personal Services</i> | | | | | | | | | | | | | |
| Building and Landscaping Materials Supply | | | | | | | C | | C | P | P | | |
| Child Care Center | | | | | C | | P | P | P | | | | |
| Convenience Store | | | | | | | P | P | P | P | | | Y |
| Convenience Store with fuel sales | | | | | | | P | | P | P | | | Y |
| Financial Institution | | | | | | | P | C | P | | | | Y |
| Health and Membership Club | | | | | | | P | C | P | P | | | |
| Pawn Shop | | | | | | | P | P | P | | | | Y |
| Personal Services | | | | | C | | P | P | P | C | | | |
| Print Shop | | | | | | | | | P | P | | | |
| Retail Store | | | | | | | P | P | P | | | | Y |
| <i>Office</i> | | | | | | | | | | | | | |
| Professional Office | | | | | C | | P | P | P | P | | | |
| <i>Automotive</i> | | | | | | | | | | | | | |
| Car Wash | | | | | | | P | | P | P | | | Y |
| Heavy Equipment Sales and Rental | C | | | | | | | | | | P | | Y |
| Motor Vehicle Dealership | | | | | | | | | P | P | | | Y |
| Motor Vehicle Repair, Heavy | | | | | | | | | | | P | | Y |
| Motor Vehicle Repair, Light | | | | | | | P | | P | P | P | | Y |
| Motor Vehicle Storage | | | | | | | | | | P | P | | |
| Service Station | | | | | | | C | | P | P | P | | Y |

| <i>Marijuana⁵</i> | | | | | | | | | | | | | | |
|--|---|---|---|---|---|---|--|---|---|---|---|---|---|---|
| Medical Marijuana Store | | | | | | | | | | P | | | Y | |
| Retail Marijuana Store | | | | | | | | | | P | | | Y | |
| Industrial / Natural Resources | | | | | | | | | | | | | | |
| Brewery, Distillery, or Winery | | | | | | | | C | C | P | P | P | Y | |
| Commercial Dry Cleaning Facility | | | | | | | | | | | C | P | | |
| Contractor and Contractor Storage | | | | | | | | | | | C | P | Y | |
| Industrial and Manufacturing, Heavy | | | | | | | | | | | | P | Y | |
| Industrial and Manufacturing, Light | | | | | | | | | | C | P | P | Y | |
| Mini-Storage Facility | | | | | | | | | | C | P | P | Y | |
| Research and Development | | | | | | | | | | C | C | P | | |
| Resource Extraction | C | | | | | | | | | | | P | C | |
| Wholesale Distribution, Warehousing, and Storage | | | | | | | | | | | | P | P | |
| Workshop | | | | | | | | | | C | C | P | P | |
| Institutional / Civic / Public | | | | | | | | | | | | | | |
| <i>Death Care Services</i> | | | | | | | | | | | | | | |
| Cemetery | | P | P | | | | | | | | | | P | Y |
| Funeral Services | | | | | | | | | | C | | P | P | Y |
| <i>Education</i> | | | | | | | | | | | | | | |
| College | | | | | | | | | | P | C | P | P | P |
| School | | | | | | | | | | | | | | P |
| Technical School | | | | | | | | | | P | C | P | P | P |
| <i>Assembly</i> | | | | | | | | | | | | | | |
| Community Facility | | | P | P | P | P | | | | P | | P | P | P |
| Religious Land Use | C | | P | P | P | P | | | | C | | P | | |
| <i>Government / Non-Profit</i> | | | | | | | | | | | | | | |

⁵ Rely on staff to determine the appropriate zoning district allowance.

| | | | | | | | | | | | | | |
|--------------------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Civic Space | P | P | P | P | P | | P | P | P | P | | P | |
| Public Facilities | C | | | | | | C | C | C | C | C | P | |
| <i>Medical</i> | | | | | | | | | | | | | |
| Medical Care Facility | | | | | | | | | P | P | | | |
| Medical Office | | | | | | | P | C | P | | | | Y |
| Infrastructure | | | | | | | | | | | | | |
| <i>Transportation / Parking</i> | | | | | | | | | | | | | |
| Airport | | | | | | | | | | | C | C | Y |
| Off-Street Parking Facility | | | | | | | C | P | C | P | P | P | Y |
| Transit Facilities | | | | | | | | | P | | | P | |
| <i>Communications</i> | | | | | | | | | | | | | |
| Communication Facility | C | | | | | | | | | C | C | C | Y |
| Wireless Telecommunications Facility | C | | | | | | | | | C | C | C | Y |
| <i>Waste-Related</i> | | | | | | | | | | | | | |
| Recycling Facility | | | | | | | | | | | P | | |
| Salvage Yard | | | | | | | | | | | C | | Y |
| Solid Waste Facility | | | | | | | | | | | C | C | Y |
| Accessory Uses | | | | | | | | | | | | | |
| Accessory Building | P | P | P | P | P | P | | | | | | | Y |
| Accessory Dwelling Unit | P | P | P | | P | | | | P | | | | Y |
| Accessory Use | P | P | P | P | P | P | P | P | P | P | P | P | Y |
| Home Occupation | P | P | P | P | P | P | | P | P | | | | Y |

4.03 Use Specific Standards⁶

4.03.1 Adult Entertainment Establishments⁷.

- A. Operation. It shall be unlawful to operate or cause to be operated a sexually oriented business in violation of any of the following restrictions:

⁶ Some Use Specific Standards may change within the next few months as changes in the use table are revised by the staff, stakeholders and the public.

⁷ Carried forward existing regulations. We will review and flesh these uses in the ensuing weeks.

1. Zoning district. Sexually oriented businesses are only allowed in the Industrial District if approved as a conditional use.
 2. Distance restriction. It is unlawful to operate or cause to be operated a sexually oriented business within seven hundred fifty (750) feet, measured in a straight line, without regard to intervening structures, objects or Town limits, from the closest exterior wall of the structure in which the sexually oriented business is located to the property line of any of the following:
 - a. A religious land use;
 - b. A use approved for residential purposes;
 - c. A school or licensed child care facility; or
 - d. A park, recreational center, or community center.
 3. Single building restriction. No sexually oriented business shall be operated in the same building, structure or portion thereof as any other sexually oriented business.
 4. Discontinued operations. A sexually oriented business lawfully operating is not rendered a nonconforming use by the subsequent location of any use outlined in Paragraph (1) above; however, if the sexually oriented business ceases operation for a period of sixty (60) days or more regardless of any intent to resume operation, it may not recommence operation in that location. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- B. Definitions. The following definitions shall apply to this Article.
1. *Adult bookstore, adult novelty store or adult video store* means a commercial establishment which devotes a significant or substantial portion of its stock-in-trade, advertising, floor space, shelf space or storage space to, or receives a significant or substantial portion of its revenues from, any one (1) or more of the following:
 - a. The sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction, description, display or exhibition of specified sexual activities or specified anatomical areas; or
 - b. The sale or rental of instruments, devices or paraphernalia which are designed for use in connection with, or marketed primarily for engaging in, specified sexual activities, excluding condoms and other medically recognized birth control devices and disease-prevention products.
 2. *Child care facility*⁸ means any facility, by whatever name known, licensed by the State and maintained for compensation, for the whole or any part of a day, for the care of five (5) or more

⁸ We will find the statutes and apply the appropriate definitions and cross reference accordingly.

children under the age of sixteen (16) years who are not related to the owner, operator or manager thereof.

3. *Community center* means a building or other structure which is Town-owned or used by the Town that provides services to the community and is open to the general public.
4. *Park* means a park, reservation, playground, recreation area, bikeway, trail, greenbelt or other area in the Town owned or used by the Town or landowner's association and devoted to use as a park, reservation, playground, recreation area, bikeway, trail, greenbelt for members of that association and devoted to active or passive recreation, including developed and undeveloped land.
5. *Residential property* means any area subdivided and approved by the Town for residential land use or any property or lot devoted to full-time residential use.
6. *School* means a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.
7. *Sexually oriented business or adult entertainment establishment* means:
 - a. Any business where individuals appear in a state in such a manner as to intentionally display specified anatomical areas or which encourages specified sexual activities, whether as the primary, or principal, use of the premises or whether as a secondary, or incidental or accessory, use of the premises for the purpose of entertaining the patrons of such establishments (but not including performances in which persons appear in a state of nudity and which, taken as a whole, contain serious literary, artistic, political or scientific value).
 - b. An adult bookstore, adult novelty store or adult video store.
8. *Specified anatomical areas* means:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the areolae; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
9. *Specified sexual activities* means:
 - a. Human genitals in a state of sexual stimulation, tumescence or arousal;
 - b. Acts, actual or simulated, of human masturbation, sexual intercourse, oral copulation, bestiality or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
 - d. Flagellation, mutilation, sadism, sadomasochism or torture for purposes of sexual arousal, gratification or abuse; and
 - e. Excretory functions as part of or in connection with any of the activities set forth in Subparagraphs a through d of this definition. (Ord. 4-2005 §1; Ord. 11-2007 §1)

- C. Hours of Operation. Sexually oriented businesses may only operate from the hours of 7:00 a.m. to 12:00 a.m. each day. Businesses falling within the definition of a sexually oriented business may be open for such additional hours as their owners in their discretion desire, provided that no activities carried on by a sexually oriented business may be available during such additional hours, that is other lawful activity not involving sexually oriented businesses may freely occur. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- D. Premises. Sexually oriented businesses shall only conduct or offer sexually oriented business activities indoors (within an enclosed structure), and no sexually oriented business may permit or cause any sexually oriented business activity from outside the structure in which it is enclosed. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- E. Age Limits. No one under eighteen (18) years of age shall be admitted to or be present in any adult entertainment establishment from the hours of 7:00 a.m. to 12:00 a.m. on any day. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises. Notice of this minimum age limitation shall be posted prominently outside all entrances to any adult entertainment establishment. (Ord. 4-2005 §1; Ord. 11-2007 §1)
- F. Signage and Exterior.
 - 1. In addition to the other requirements of this Code or the Land Use Code, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct or maintain any sign for the sexually oriented business other than one (1) primary sign and one (1) secondary sign, as provided herein.
 - 2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. Be a flat plane, rectangular in shape;
 - b. Not exceed seventy-five (75) square feet in area; and
 - c. Not exceed ten (10) feet in height or ten (10) feet in length. (Ord. 4-2005 §1; Ord. 11-2007 §1)
 - 3. No rope lights, neon lights, flashing lights, search lights are part of the exterior.

4.03.2 Airport.

- A. An Airport shall have a twenty (20) acre minimum property size for the overall site, and buildings and structures directly related to aircraft operations, storage, and/or passenger processing.
- B. The Airport shall comply with all Federal Aviation Administration regulations including but not limited to runway design, noise standards, and height limitations.

4.03.3 Bar/Tavern⁹.

- A. No Bar/Tavern shall be located within five hundred (500) feet of any residential district or use.
- B. 4.03.3.A does not apply to any Bar/Tavern located in C-2 Zone.

⁹ Provided basic distancing requirements
Chapter 4 | Draft | January 31, 2022

4.03.4 Bed and Breakfast¹⁰.

- A. The owner shall always occupy and manage any Bed and Breakfast.
- B. The maximum number of rented bedrooms is five (5).
- C. The maximum length of stay for any guest is fourteen (14) consecutive days in any one calendar month.
- D. The Bed and Breakfast owner is responsible for the collection of all applicable Town and County taxes.
- E. Only breakfast may be served on the premises only for Bed and Breakfast guests and employees.
- F. No other meals shall be provided for guests on the premises.
- G. Guestrooms shall not be equipped with cooking facilities including, but not limited to, stoves, hot plates, or microwave ovens.
- H. No Bed and Breakfast shall be located within one thousand (1,000) feet of any other Bed and Breakfast.

4.03.5 Brewery, Distillery, or Winery¹¹.

- A. No Brewery, Distillery, or Winery shall be located within five hundred (500) feet of any residential district.
- B. A Brewery, Distillery, or Winery shall have a five (5) acre minimum parcel size.
- C. A Brewery, Distillery, or Winery includes on-site consumption as a primary or secondary use, which includes a minimum of twenty-five percent (25%) of the gross floor area.
- D. A Brewery, Distillery, or Winery may include other secondary uses like retail sales or outdoor events.
- E. A Brewery, Distillery, or Winery is limited to three hundred (300) guests.
- F. Outdoor events associated within a Brewery, Distillery, or Winery's operations are limited to Sunday through Thursday 11 am to 8 pm, and Friday through Saturday 10 am to 11 pm.
- G. All Breweries, Distilleries, or Wineries shall utilize best management practices and available technology to minimize potential adverse odors associated with the use.
- H. All waste shall be managed, treated, stored, and/or disposed of in accordance with Local, County, State, and Federal rules, regulations, and ordinances pertaining to waste.

4.03.6 Boarding and Rooming House¹².

- A. No more than ten (10) occupants (including any resident staff and family) shall occupy any boarding house at one time.
- B. The maximum length of stay for any guest is fourteen (14) consecutive days in any one calendar month.

¹⁰ Provided new standards that are simple and on par with the surrounding jurisdictions

¹¹ Needs standards to alleviate the CUP requirement

¹² Provided general standards that are on par with other cities

- C. No meals shall be provided for guests on the premises.
- D. No Boarding and Rooming House shall be located within one thousand (1,000) feet of any other Boarding and Rooming House.

4.03.7 Brew Pub, Distillery Pub, Limited Winery.

- A. No Brew Pub, Distillery Pub, or Limited Winery shall be located within two hundred fifty (250) feet of any residential district or use.
- B. 4.03.7.A does not apply to any Brew Pub, Distillery Pub, or Limited Winery located in C-2 Zone.
- C. No Brew Pub, Distillery Pub, or Limited Winery shall be located within five hundred (500) feet of any other Brew Pub, Distillery Pub, or Limited Winery.
- D. Overhead doors servicing trucks for loading and unloading materials shall not face streets unless they are set back at least one hundred (100) feet from the street.
- E. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.
- F. No outdoor storage is permitted, including parking and storage of vehicles associated with the business.

4.03.8 Building and Landscaping Materials Supply.

- A. C-1 and C-3 Zones.
 - 1. No Building and Landscaping Materials Supply shall be located within five hundred (500) feet of any residential use or district.
 - 2. Outdoor display, storage, sales, or rental of building and landscaping materials shall be screened.
 - 3. Screening for outdoor display, sales, or rental of building and landscaping materials shall be constructed from concrete or masonry and be at least six (6) feet tall.
 - 4. No screening wall shall exceed ten (10) feet tall.
 - 5. Only outdoor storage may exceed the ten (10) foot screening height requirement. Screening for storage may be constructed from concrete, masonry, or an approved alternative by the Director.
 - 6. In no instance shall any outdoor display, storage, sales, or rental of building and landscaping materials be stacked higher than the required concrete or masonry screening wall.
 - 7. No materials for sale shall be displayed between the principal structure and the front property line.

4.03.9 Car Wash¹³.

- A. No Car Wash shall be located within two hundred fifty (250) feet of any residential use or district.
- B. A Car Wash shall not be open for business between the hours of 10:00 PM and 7:00 AM.

4.03.10 Cemetery¹⁴.

¹³ Provided spacing standards.

¹⁴ Proposed standards since they want to allow this use in R1

- A. A Cemetery shall have a two (2) acre minimum property size.
- B. No structure, excluding fences or walls, shall be located within one hundred (100) feet from any residential use.
- C. Graves and monuments shall set back at least twenty feet (20) from any property line.
- D. All cemeteries shall be platted according to **Chapter 6, Subdivision**.

4.03.11 Communication Facility¹⁵.

- A.
- B.

4.03.12 Contractor and Contractor Storage.

- A. All outdoor storage areas shall be located at least one hundred (100) feet from any property line.
- B. All structures shall be located at least fifty (50) feet from any property line.
- C. The minimum property size for a Contractor and Contractor Storage shall be two (2) acres.
- D. Outdoor storage areas shall be screened and comply with Chapter 4.04.5.D.
- E. Maintenance of vehicles or machinery shall be incidental to the Contractor and Contractor Storage and the incidental use shall only include minor repair.
- F. Office space shall be incidental to the Contractor and Contractor Storage and shall comply with Chapter 4.04.5.C.
- G. No retail sales associated with a Contractor and Contractor Storage may occur on the property unless retail sales are approved with a different use that allows retail sales.
- H. No on street parking of vehicles or equipment associated with the use is allowed.
- I. Hours of operation are limited between the hours of 7:00 AM and nine 9:00 PM.

4.03.13 Convenience Store.

- A. C-1 and C-2 Zones.
 - 1. No Convenience Store shall be located within one hundred (100) feet of any residential use or district.
 - 2. No Convenience Store shall exceed two thousand (2,000¹⁶) square feet in building area.
 - 3. No Convenience Store shall be located within two hundred fifty (250) feet of any other Convenience Store.
 - 4. No outdoor display is permitted.
 - 5. Drive-thrus are not permitted.
- B. C-3 and LI Zones.

¹⁵ This use left blank as we will fill this section in with more input from staff and consultant best practices.

¹⁶ U.S. average convenience store size is ~ 2,800 sf. I'd imagine Wellington has smaller convenience store sizes than the US average.

1. No Convenience Store shall be located within fifty (50) feet of any residential use or district.
2. Drive-thrus may be allowed if the following requirements are met:
 - a. The Convenience Store is located two hundred fifty (250) feet from any residential district or use.
 - b. The Convenience Store is less than two thousand (2,000) square feet in building area.
 - c. A drive-thru lane is provided on site.
 - d. The drive-thru lane is at least ten (10) feet wide.
 - e. The drive-thru lane provides at least three (3) vehicle stacking spaces before the drive-thru window.
 - f. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.

4.03.14 Convenience Store, with fuel sales¹⁷.

A. All Zones.

1. Convenience Store, with fuel sales shall not be located within one hundred (100) feet of any residential use or district.
2. Any pump island or other structure shall be setback a minimum of twenty (20) feet from adjacent property lines or street and highway right-of-way lines.
3. Overhead canopies or weather protection structures shall be setback a minimum of ten (10) feet from adjacent property lines or street and highway right-of-way lines.
4. Outdoor display is only limited to ice chests, vending machines, secured propane tank storage, and firewood storage.
5. Drive-thrus are not permitted.

B. C-1 Zone.

1. No Convenience Store, with fuel sales shall exceed two thousand (2,000) square feet in building area.
2. No Convenience Store, with fuel sales shall be located within two hundred fifty (250) feet of any other Convenience Store, with fuel sales.
3. The total fuel pumps shall not exceed four (4).

4.03.15 Financial Institution¹⁸.

A. All Zones.

1. Drive-thrus/ATMs may be allowed if the following requirements are met:
 - a. The Financial Institution is located one hundred fifty (100) feet from any residential district or use.

¹⁷ Do we really need this distinction? Why not just make one category with the specific use standards regulating fuel sales (i.e. fuel are allowed only in C1, C3, and LI)? Also, there's a service station use. What's the difference between the two?

¹⁸ Insert size requirements, drive thru specs (drive thrus may be included in accessory uses though)

- b. A drive-thru/ATM lane is provided on site.
- c. The drive-thru/ATM lane is at least ten (10) feet wide.
- d. The drive-thru/ATM lane provides at least four (4) vehicle stacking spaces before the drive-thru window/ATM.
- e. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.
- f. The Financial Institution shall not exceed three (3) drive-thru/ATM lanes.

B. C-2 Zone.

- 1. No Financial Institution shall exceed two thousand (2,000) square feet in building area.
- 2. No Financial Institution shall be located within two hundred fifty (250) feet of any other Financial Institution.
- 3. Drive-thrus are not permitted.

4.03.16 Funeral Services¹⁹.

- A. Funeral Services including a Cemetery shall follow the requirements established in Chapter 4.03.10.
- B. Funeral Services shall be located at least five hundred (500) feet from any residential district or use.
- C. Funeral Services including cremation or embalming shall follow the additional requirements below.
 - 1. Prior to the issuance of a certificate of occupancy, the Funeral Services operator shall provide documentation of the issuance of all applicable federal, state, and local permits and provide all the equipment manufacturers' specifications for construction, installation, operation, and maintenance.
 - 2. Funeral Services shall be constructed, installed, operated, and maintained in accordance with all manufacturers' specifications and all applicable federal, state, and local permits. Town inspectors shall have the right to enter and inspect the operations to determine compliance with this provision.
 - 3. Each incinerator shall have a modern automated control panel and a dedicated natural gas meter.
 - 4. The height of the exhaust stack shall be a minimum of two (2) feet above the roof line or other nearby obstruction to minimized downdrafts of the exhaust.

4.03.17 Golf Course²⁰.

- A. The designed centerline of each hole shall be a minimum of one hundred (100) feet from adjacent property boundaries to reduce the potential of golf balls exiting the subject property.
- B. Appropriate controls, like netting, shall be installed to prevent golf balls from exiting the subject property.
- C. Total lot coverage with principal and accessory buildings shall not exceed twenty five percent (25%).
- D. Residential uses on the subject property are prohibited.

¹⁹ Regs that mitigate effects in C1.

²⁰ Standards provided for screening, separation, lighting, etc.

- E. No principal or accessory building, swimming pool, or tennis court shall set back less than (50) feet from any property line.
- F. All exterior lighting for the purposes of illuminating the golf course or any accessory use shall terminate at 10:00 PM. Lighting for walls, security measures, sconces, and parking facilities are excluded from this requirement.

4.03.18 Grocery Store²¹.

A. C-1 Zone.

- 1. Any Grocery Store exceeding 15,000 square feet shall require a Conditional Use Permit.

B. C-2 Zone.

- 1. Any Grocery Store exceeding 10,000 square feet shall require a Conditional Use Permit and meet the following standards.
 - a. No drive-thrus are permitted.
 - b. No Grocery Store shall be located within five hundred (500) feet of any other Grocery Store.

C. C-3 and LI Zones.

- 1. Any Grocery Store exceeding 25,000 square feet shall require a Conditional Use Permit.

4.03.19 Heavy Equipment Sales and Rental.

- A. No Heavy Equipment Sales and Rental use shall be located within one thousand (1,000) feet of any residential use or district.
- B. Outdoor display, storage, sales, or rental of heavy equipment shall be screened.
- C. Screening for heavy equipment shall be constructed from concrete or masonry and be at least six (6) feet tall.
- D. No screening wall shall exceed twelve (12) feet tall.
- E. No outdoor display, storage, sales, or rental of heavy equipment shall be taller than the required concrete or masonry screening wall unless located in the rear of the site. If located in the rear, outdoor display, storage, sales, or rental of heavy equipment shall not exceed twenty (20) feet tall.
- F. No materials for sale shall be displayed between the principal structure and the front property line.

4.03.20 Home Occupation²².

A. A Home Occupation shall meet the following requirements.

- 1. The use shall be conducted entirely within a dwelling and carried on by the inhabitants of the dwelling. Except for daycare²³ businesses which shall be allowed to commence operations as of

²¹ Insert size requirements, drive thru specs,

²² Carried forward existing regulations.

²³ We will comb through state statutes to ensure regulations comply with recent amendments.

6:00 a.m. the hours of operation during which clients or customers are allowed to come to the home in connection with the business activity are limited to between 8:00 AM and 9:00 PM.

2. The use shall be clearly incidental and secondary to the use of the dwelling and shall not change the dwelling's character.
3. The total area used for a Home Occupation shall not exceed one-half ($\frac{1}{2}$) the floor area of the user's dwelling unit.
4. There shall be only the incidental sale of stocks, supplies or products conducted on the premises.
5. There shall be no exterior storage on the premises of material or equipment used as a part of the Home Occupation.
6. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
7. A Home Occupation shall provide additional off-street parking areas adequate to accommodate all needs created by the Home Occupation.

B. A Home Occupation shall not include the following:

1. Animal hospital;
2. Long-term care facility;
3. Restaurant;
4. Bed and breakfast;
5. Group home;
6. Pawn shop;
7. Adult-oriented use; or
8. Vehicle repair, servicing, detailing or towing if vehicles are:
 - a. Dispatched from the premises;
 - b. Are brought to the premises; or
 - c. Are parked or stored on the premises or on an adjacent street.

C. Licensing.

1. A Home Occupation shall be permitted only after the owner or inhabitant of the dwelling in which the occupation is conducted has obtained a home occupation license and business license from the Town.
2. The license fee shall be an amount established by resolution by the Board of Trustees to offset the Town's cost.
3. At the time ownership of the property is transferred, or the Home Occupation is discontinued for a period of six (6) months or more, the home occupation license terminates.
4. Following termination, the license may be issued again upon the submission and review of a new application and the payment of an additional fee.

5. If the Town is investigating a violation of this Land Use Code with respect to the particular home occupation at the time the renewal application is made, the license will not be reissued until the investigation is completed and, if necessary, all violations have been corrected.
6. The term of the previous license shall continue during the period of investigation.

4.03.21 Hotel/Motel.

A. C-1 Zone.

1. A Hotel/Motel shall be located at least two hundred fifty (250) feet from any residential district or use.
2. A Hotel/Motel is restricted to one story.
3. A Hotel/Motel shall not exceed 15,000 square feet.

4.03.22 Any Hotel/Motel exceeding 15,000 square feet requires a Conditional Use Permit.

Industrial and Manufacturing, Heavy.

- A. An Industrial and Manufacturing, Heavy use shall be located at least one thousand (1,000) feet from any residential district or use.
- B. Any Industrial and Manufacturing, Heavy use producing and curating toxic chemicals or conducting animal slaughtering shall be located at least:
 1. Two thousand six hundred forty (2,640)²⁴ feet from any residential district, religious land use, medical care facility, or school.
 2. One thousand three hundred twenty (1,320)²⁵ feet from any commercial use.
 3. Six hundred sixty (660)²⁶ feet from any Industrial and Manufacturing, Light use.

4.03.23 Industrial and Manufacturing, Light.

A. Industrial Zones.

1. An Industrial and Manufacturing, Light use shall be located at least two hundred fifty (250) feet from any residential district or use.
2. Overhead doors shall not face streets unless set back at least one hundred (100) feet from the street.

B. Commercial Zones.

1. An Industrial and Manufacturing, Light use shall be located at least five hundred fifty (500) feet from any residential district or use.
2. No Industrial and Manufacturing, Light use shall be located within two hundred fifty (250) feet of any other Industrial and Manufacturing, Light use.
3. Overhead doors shall not face any street.

²⁴ This is a ½ mile

²⁵ This is a ¼ mile

²⁶ This is a 1/8 mile

4. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.
5. Accessory outdoor storage shall be allowed in the rear of the subject property if screened appropriately per Chapter ***.
6. Any Industrial and Manufacturing, Light use over 5,000 square feet of building area shall require conditional use approval.

4.03.24 Kennel.

- A. A two hundred fifty (250) foot separation shall be maintained between the area and structures where animals are housed and any property line.
- B. Outside runs for commercial kennels shall be operated only with an attendant present on the premises twenty four (24) hours a day.
- C. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall to restrain animals from running at large.
- D. Visual screening shall be required to buffer adjacent land uses.
- E. No more than twenty five percent (25%) of the building floor area may be used for related accessory retail sales.
- F. No more than twenty five percent (25%) of the building floor area may be used for related accessory grooming uses.

4.03.25 Manufactured Home²⁷.

- A. Manufactured home design standards/building requirements.
 1. The manufactured home must be partially or entirely manufactured in a factory.
 2. The manufactured home must be not less than twenty-four (24) feet in width and thirty-six (36) feet in length.
 3. The manufactured home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the manufactured home that is totally concealed under the structure.
 4. The manufactured home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls, which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.

²⁷ Carried forward the existing regulations.

5. The manufactured home must have a pitched roof with a pitch of at least a nominal three (3) in twelve (12). The roof must be covered with shingles, shakes or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls.
 6. The manufactured home must have windows that are wood, vinyl-coated or anodized aluminum.
 7. The manufactured home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.
 8. The main entrance to the manufactured home must face or be oriented toward an adjacent street.
 9. The transportation mechanisms, including the wheels, axles and hitch, must be removed.
 10. No manufactured home shall be occupied for dwelling purposes unless it is properly placed in a manufactured home space and connected to water, sewerage, electric and gas utilities, as appropriate.
 11. All manufactured homes shall be certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., or shall be certified by the Colorado Division of Housing pursuant to Section 24-32-701 et seq., C.R.S.
 12. All manufactured homes shall have an enclosed crawlspace underneath the manufactured home and shall not provide a harborage for rodents or create a fire hazard. No enclosed crawlspace shall be used for storage unless the storage area is surfaced with concrete. Adequate access and ventilation shall be provided in accordance with the Guidelines For Manufactured Housing Installation.
 13. All manufactured homes shall meet or exceed equivalent engineering standards for other single-family residences.
 14. Additions to increase the floor area of manufactured home shall not be permitted except for patios, porches, garages, decks or carports. Garages may be detached or attached.
 15. Prior to occupancy, the Building Inspector shall inspect each manufactured home to determine compliance with this Code. No occupancy shall be permitted or certificate of occupancy issued until that inspection and all connections to public utilities have been made. The owner or home builder shall pay to the Town a building permit fee for each residential structure as may be required by this Code. Installation procedures and the building permit fee shall be in accordance with the then current Guidelines for Manufactured Housing Installation, including appendices, published by the International Conference of Building Officials for manufactured homes and as adopted by the Town.
 16. All additions shall comply with minimum yard requirements, and a building permit shall be required in advance for any such addition. (Ord. 11-2007 §1)
- B. Density, dimensional and spacing standards.
1. The minimum area manufactured home space shall be four thousand (4,000) square feet.

2. The minimum lot length shall be eighty (80) feet.
3. The minimum lot width shall be fifty (50) feet.
4. The maximum building height shall be thirty-five (35) feet.
5. The maximum gross density shall be ten (10) units per acre.
6. The distance between any building or manufactured home from a property line of the manufactured home park shall be twenty (20) feet.
7. The front setback of a manufactured home shall be at least fifteen (15) feet from the back of the curb; provided, however, that in order to encourage the enclosed storage of parked vehicles, the setback from the back of the curb to a garage shall be either five (5) feet or fifteen (15) feet or greater.
8. Side spacing shall provide for a minimum distance of twenty (20) feet between manufactured homes.
9. Rear spacing shall provide for a minimum distance of twenty (20) feet between units when units are side-to-end and a minimum distance of ten (10) feet between units when units are end-to-end.
10. There shall be a minimum setback of twenty (20) feet between any service facility or manufactured home park permanent building and any manufactured home.
11. Accessory buildings and structures shall be constructed in accordance with the adopted Building Code. Accessory buildings and structures shall include steps, attached or detached patios that are open on three (3) sides, attached or detached decks that are open on three (3) sides, attached or detached storage units, attached or detached garages and attached or detached carports. Accessory buildings or structures may be located adjacent to a manufactured home space line; provided, however, that a minimum of six (6) feet of separation is provided between a garage and any other structure on an adjoining space. Any other building or structure shall provide a minimum of ten (10) feet between it and any structure on an adjoining space.
12. The limits of each manufactured home lot shall be clearly marked on the ground by permanent monuments set pursuant to Section 38-51-101, C.R.S. (Ord. 11-2007 §1)

C. Parking.

1. Every manufactured home space shall have two (2) off-street parking spaces adjacent to the manufactured home. There shall be one (1) additional parking space for each manufactured home space within one hundred (100) feet for use by occupants and guests.
2. Off-street vehicle parking for recreation facilities. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured home park. One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee at the maximum shift, shall be provided for enclosed recreation facilities. Twenty (20) spaces are to be provided for every

diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One [1] seat is equal to two [2] feet of bench seating length.) Handicapped parking spaces shall be provided in conformance with the Americans With Disabilities Act, as may be amended from time to time. (Ord. 11-2007 §1)

D. Outdoor Living Area.

1. No less than eight percent (8%) of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in locations convenient to all manufactured home spaces.
2. An outdoor living area shall be provided on each space equal to at least ten percent (10%) of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet.
3. Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or landscaped to provide reasonable privacy. (Ord. 11-2007 §1)

E. Tenant Storage.

1. A separate uniform tenant storage structure shall be provided for each space, located on each space.
2. There shall be a minimum of two hundred twenty-four (224) cubic feet of storage area provided for each manufactured home space.
3. Design and location of tenant storage shall enhance the appearance of the park, and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings. (Ord. 11-2007 §1)

4.03.26 Medical Office²⁸.

A. C-2 Zone.

1. No Medical Office shall be located within five hundred (500) feet of any other Medical Office.
2. Any Medical Office over 2,500 square feet of building area shall require conditional use approval.

4.03.27 Mini-Storage Facility.

- A. The Mini-Storage Facility shall be secured so that access is limited to tenants (or owners) and fire, police, or emergency service officials.
- B. Mini-Storage Facilities shall provide adequate drive aisles between all buildings for vehicle circulation and fire and emergency access.
- C. No Mini-Storage unit shall be used for the storage of explosives, ammunition, hazardous, or flammable materials.

²⁸ Provided a distance requirement from other medical uses to prevent from medical office monopolies in downtown.

- D. All buildings in the self-storage warehouse facility shall be architecturally compatible with the surrounding development in terms of architectural style and building materials and color.
- E. Mini-Storage units shall be used solely for the purpose of storage of goods and possessions and shall not be used for operation of a business, hobby, band rehearsal, or any type of activity not related to the storage of personal property of the owner or tenant of the unit.
- F. The Mini-Storage Facility may include an accessory on-site office.
- G. No office shall exceed more than three thousand (1,500) square feet.
- H. No outdoor storage is permitted in the C-3 zone.
- I. Outdoor storage may be allowed within LI and I zones in approved on-site areas for vehicles and recreational equipment if they are covered by an awning or canopy structure.
- J. Hours of public access to a Mini-Storage Facility shall be restricted to 6:00 AM. to 10:00 PM.

4.03.28 Mixed-Use Dwelling²⁹.

- A. A single-story Mixed-Use Dwelling unit shall be permitted if the following standards are met.
 - 1. The nonresidential use shall front the street.
 - 2. The residential use shall be located behind the nonresidential use.
 - 3. The residential use shall not exceed 50%³⁰ of the total Mixed-Use Dwelling.
 - 4. No single-story Mixed-Use Dwelling shall exceed three thousand (3,000) square feet.
- B. A multiple story Mixed-Use Dwelling shall be permitted if the following standards are met.
 - 1. The first floor shall be used for nonresidential uses.
 - 2. No residential uses are allowed on the first floor.
 - 3. All residential parking shall be provided in the rear of the site.

4.03.29 Motor Vehicle Dealership³¹.

- A. A Motor Vehicle Dealership shall be located five hundred (500) feet from any residential district or use.
- B. No Motor Vehicle Dealership shall be located within five hundred (500) feet of any other Motor Vehicle Dealership.
- C. No more than fifty percent (50%) of the total building floor area may be used for related accessory uses such as retail sales, vehicle repair and service, and vehicle washing.
- D. Vehicle inventory spaces shall not count towards the minimum parking requirements.

4.03.30 Motor Vehicle Repair, Heavy³².

²⁹ Implement current standards via the existing definition. How far do we want to go with the standards here?

³⁰ Example (2,000 sf single story Mixed-Use Dwelling): Max residential area – 1,000 sf and Max nonresidential area – 1,000 sf

³¹ Add a requirement about gas and repairs as accessory uses. Needs distancing, screening, and noise requirements.

³² Provided distancing, screening, enclosure, and noise requirements.

- A. All Motor Vehicle Repair, Heavy repair activities shall take place within an enclosed space.
- B. Motor Vehicle Repair, Heavy facilities shall be located five hundred (500) feet from any residential use, religious land use or school.
- C. Motor Vehicle Repair, Heavy facilities shall set back at least fifty (50) feet from the front property line and twenty-five (25) feet from the rear property line.
- D. Disabled or damaged vehicles are not allowed to remain in an exterior location unless screened from public view.
- E. Screened areas for disabled or damaged vehicles are only allowed in areas to the rear or side of the principal structure of the Motor Vehicle Repair, Heavy facility.
- F. Screening for disabled or damaged vehicles shall be constructed from concrete or masonry and be at least six (6) feet tall.

4.03.31 Motor Vehicle Repair, Light³³.

- A. All Motor Vehicle Repair, Light repair activities shall take place within an enclosed space.
- B. Motor Vehicle Repair, Light facilities shall be located two hundred fifty (250) feet from any residential use, religious land use or school.
- C. Disabled or damaged vehicles are not allowed to remain in an exterior location unless screened from public view.
- D. Screened areas for disabled or damaged vehicles are only allowed in areas to the rear of the principal structure of the Motor Vehicle Repair, Light facility.
- E. Screening for disabled or damaged vehicles shall be constructed from concrete or masonry and be at least six (6) feet tall.

4.03.32 Multi-Family Dwelling³⁴.

- A. A Multi-Family Dwelling shall not exceed twelve (12) units.
- B. All Multi-Family Dwelling sites shall provide at least 20% of functional open space.

4.03.33 Nightclub³⁵.

- A. No Nightclub shall be located within five hundred (500) feet of any residential district or use.
- B. No Nightclub shall be located within two hundred fifty (250) feet of any school or religious land use.
- C. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.

³³ Provided distancing, screening, enclosure, and noise requirements.

³⁴ Maybe add specific standards for apartments in the downtown area? Why would this be a conditional use? Are they concerned about size, height, etc.?

³⁵ Can this use be collapsed into the bar category?

4.03.34 Off-Street Parking Facility³⁶.

- A. Off-Street Parking Facilities shall meet the following requirements established in Table 4.03.33-1.

| Zone | Maximum Parking Square Footage Area |
|------|-------------------------------------|
| C-1 | 20,000 |
| C-2 | 15,000 |
| C-3 | 30,000 |

- B. An Off-Street Parking Facility may exceed the limits established if a parking garage is provided; however, no parking floor shall exceed the square footage limits.
- C. Parking garages shall follow the zone height requirements.
- D. Exterior parking garage elevations shall be compatible with the architecture found in the zone in terms of style, material, and other exterior elements.
- E. Parking garages shall include a minimum of two of the following elements on any facade facing a public street or space:
1. Window and door openings comprising a minimum of twenty-five (25) percent of the ground floor facade;
 2. Awnings;
 3. Sill details; or
 4. Columns.

4.03.35 Pawn Shop.

- A. All Zones.
1. A Pawn Shop shall be located five hundred (500) feet from any residential district or use.
 2. No Pawn Shop shall be located within two hundred fifty (250) feet of any school or religious land use.
 3. No Pawn Shop shall be located within one thousand (1,000) feet of any other Pawn Shop.
- B. C-1 and C-2 Zones.
1. No Pawn Shop shall exceed two thousand (2,000) square feet in building area.
 2. No outdoor display is permitted.

4.03.36 Recreational Entertainment, Outdoor³⁷.

- A. Any Recreational Entertainment, Outdoor use shall be located five hundred (500) feet from any residential district or use.

³⁶ Maybe implement a size and parking space requirement to prevent large parking lots in prime areas?

³⁷ Should we add standards for this use (think about ball fields, stadiums, etc.)?

- B. Any Recreational Entertainment, Outdoor use shall close by 10:00 PM.
- C. All exterior lighting for the purposes of illuminating the Recreational Entertainment, Outdoor use or any accessory use shall terminate at 10:00 PM. Lighting for walls, security measures, sconces, and parking facilities are excluded from this requirement.
- D. Noise generated by the use shall not exceed 45 dBA at any residential property line between the hours of 10:00 PM and 8:00 AM.

4.03.37 Religious Land Use³⁸.

- A.
- B.

4.03.38 Research and Development.

- A. All Zones.
 - 1. Research and Development facilities shall not contain or utilize toxic or explosive materials.
 - 2. All facilities shall be completely enclosed.
- B. C-3 Zone.
 - 1. Any Research and Development facility shall be located two hundred fifty (250) feet from any residential district or use.
 - 2. No Research and Development facility shall be located within five hundred (500) feet of any other Research and Development facility.
 - 3. Any Research and Development facility over 5,000 square feet of building area shall require conditional use approval.
- C. LI Zone.
 - 1. Any Research and Development facility shall be located five hundred (500) feet from any residential district or use.
 - 2. Any Research and Development facility over 10,000 square feet of building area shall require conditional use approval.

4.03.39 Resource Extraction³⁹.

- A.
- B.

³⁸ If consultants provide standards, they must comply with RLUIPA. RLUIPA prohibits zoning and landmarking laws that:

- (1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;
- (2) discriminate against any assemblies or institutions on the basis of religion or religious denomination;
- (3) totally exclude religious assemblies from a jurisdiction; or
- (4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

³⁹ Loveland and Durango handle resource extraction through an Extraction Master Plan that is adopted by the jurisdiction. Would Wellington consider this approach?

4.03.40 Restaurant, Fast Food⁴⁰.

- A. Any Restaurant, Fast Food shall be located two hundred fifty (250) feet from any residential district or use.
- B. No Restaurant, Fast Food shall have a drive-thru window.
- C. Any Restaurant, Fast Food shall have a trash management program for the daily removal of on-site trash and litter.
- D. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.41 Restaurant, Fast Food with Drive-Thru.

- A. No Restaurant, Fast Food with Drive-Thru shall exceed five thousand (5,000) square feet in building area.
- B. Any Restaurant, Fast Food with Drive-Thru shall be located two hundred fifty (250) feet from any residential district or use.
- C. All drive-thru interactions shall occur within three (3) feet of a designated “drive-thru lane”.
- D. A drive-thru lane shall be at least ten (10) feet wide.
- E. A drive-thru lane shall originate at the last stacking space from the “point of order”.
- F. A drive-thru lane shall provide at least three (3) vehicle stacking spaces before the “point of order”.
- G. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.
- H. Any Restaurant, Fast Food with Drive-Thru shall designate a “point of order” on site where meal orders are communicated by patrons to staff.
- I. A “point of order” may be established before or at the drive-thru window.
- J. If a “point of order” is established before the drive-thru window, it shall be located at least thirty (30) feet from the first, or only, drive-thru window.
- K. Two (2) drive-thru windows may be allowed on site.
- L. If multiple drive-thrus are proposed, they shall be spaced at least forty (40) feet from one another.
- M. No drive-thru lane shall be closer than five (5) feet from an adjacent property line.
- N. Any Restaurant, Fast Food with Drive-Thru shall have a trash management program for the daily removal of on-site trash and litter.
- O. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.42 Restaurant, Sit Down.

- A. No Restaurant, Sit Down shall have a drive-thru window.
- B. Accessory outdoor customer seating/dining areas are permitted if they meet the applicable district’s dimensional standards.

⁴⁰ Why not have one Restaurant use with the specific standards applying to differentiate?

- C. Any Restaurant, Sit Down shall have a trash management program for the daily removal of on-site trash and litter.
- D. Loading is prohibited between the hours of 10:00 PM and 8:00 AM.

4.03.43 Retail and Medical Marijuana Stores.

- A. All retail and medical marijuana stores shall comply with the regulations established in Ordinance No. ***-2021⁴¹ as approved by the Town of Wellington voters to regulate marijuana within town limits.
- B. After January 1, 2023, the Town may make changes to regulations related to Retail and Medical Marijuana Stores.

4.03.44 Retail Store⁴².

- A. C-1
 - 1. No Retail Store shall exceed ten thousand (10,000) square feet in building area.
 - 2. No outdoor storage or display is permitted.
- B. C-2
 - 1. No Retail Store shall exceed five thousand (5,000) square feet in building area.
 - 2. No outdoor storage or display is permitted.
- C. C-3
 - 1. A Retail Store shall meet the following requirements established in Table 4.03.43-1.

| Table 4.03.43-1 Retail Store | |
|------------------------------|---|
| Property Size | Maximum Building Square Foot Percentage |
| ≤ 1 acre | 20% ⁴³ |
| 1.01 to 10 acres | 25% ⁴⁴ |
| > 10 acres | 30% ⁴⁵ |

- 2. Outdoor storage or display shall be limited to 15% of the total building area.
- 3. Any outdoor storage or display shall be screened.
- 4. Screening shall be constructed from concrete or masonry and be at least six (6) feet tall.
- 5. Screening for storage may be constructed from concrete, masonry, or an approved alternative by the Director.

4.03.45 Salvage Yard.

⁴¹ Added language in the use regulations that links the newly adopted marijuana ordinance. We will provide a hyperlink that will take the reader to the approved marijuana ordinance.

⁴² They want specific regulations for large retail stores. Why not combine grocery stores and retail stores since groceries are a form of retail and offer similar traffic?

⁴³ Sample calculation based on a 1 acre lot (acreage x percentage = max building square footage). **43,560 x 0.2 = 8,172 sf**

⁴⁴ Sample calculation based on a 10 acre lot (acreage x percentage = max building square footage). **435,600 x 0.25 = 108,900 sf**

⁴⁵ Sample calculation based on a 15 acre lot (acreage x percentage = max building square footage). **653,400 x 0.3 = 196,020 sf**

A. Measurements and Setbacks.

1. Any Salvage Yard shall be located one thousand (1,000) feet from any residential use or district.
2. No Salvage Yard shall be located within one thousand three hundred twenty (1,320)⁴⁶ feet from any other Salvage Yard.
3. Any Salvage Yard shall set back at least fifty (50) feet from the front property line and twenty-five (25) feet from the rear property line.
4. Any Salvage Yard shall be at least a minimum property size of five (5) acres.

B. Operation.

1. No hazardous wastes or hazardous materials shall be accepted or deposited at any salvage yard, except as incidental to the salvage operation.
2. Salvage operations shall be conducted to remove hazardous wastes and materials and dispose of them according to state and federal requirements.
3. Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 8:00 AM and 8:00 PM.

C. Screening.

1. Screening shall be provided for all disabled or damaged vehicles, tools, and equipment.
2. Screening for disabled or damaged vehicles, tools, and equipment shall be constructed from concrete or masonry and be at least six (6) feet tall.
3. No screening wall shall exceed twelve (12) feet tall.
4. In no instance shall any disabled or damaged vehicles, tools, or equipment be stacked higher than the required concrete or masonry screening wall.

4.03.46 Service Station⁴⁷.

- A. Service Stations shall not be located within one hundred (100) feet of any residential use or district.
- B. Any pump island or other structure shall not be less than twenty (20) feet from adjacent property lines or street and highway right-of-way lines.
- C. Overhead canopies or weather protection structures shall not be less than ten (10) feet from any right-of-way line or property line.
- D. In the C-1 zone, the total fuel pumps shall not exceed four (4).

4.03.47 Single-Family Attached Dwelling⁴⁸.

- A. No Single-Family Attached Dwelling shall exceed six (6) units.

⁴⁶ This is a ¼ mile

⁴⁷ Combine with convenience store with fuel sales?

⁴⁸ Need a limit on amount of attached units in one row (4, 5, 6, etc.). Design requirements where they need to be rear or side entry.

- B. All Single-Family Attached Dwellings shall provide rear entry parking garages where alley access exists.

4.03.48 Solid Waste Facility⁴⁹.

- A. Any Solid Waste Facility shall comply with all applicable Larimer County, State of Colorado, and Federal regulations and permit requirements prior to approval.
- B. Any Solid Waste Facility shall be:
 1. Located one thousand (1,000) feet from any residential use or district.
 2. At least a minimum property size of ten (10) acres.

4.03.49 Stable.

- A. In addition to the regulations prescribed in B – F below, a Stable shall comply with the regulations established in Chapter 7 – Health, Sanitation, and Animals, Article 4 – Animals of the Wellington Municipal Code.
- B. A Stable is only allowed on a lot that has at least one (1) acre of land.
- C. A person shall keep only the number of horses permitted for the lot area as described in Table 4.03.48-1.

| Table 4.03.48-1 Stable Standards | |
|----------------------------------|--|
| Property Size | Number of Horses |
| 1 to 2 acres | 2 |
| 2.01 to 5 acres | 4 |
| 5.01 to 10 acres | 8 |
| > 10 acres | 8 + 1 for each 0.5 acre after 10 acres |

- D. A Stable shall include a pen, corral, fence, or similar enclosure containing at least eight hundred (800) square feet of land for each animal with a stable under a roof containing at least one hundred (100) square feet for each animal.
- E. A Stable must have proper drainage so as not to create offensive odors, fly breeding, or other nuisances.
- F. A pen, corral, fence, or similar enclosure shall be at least four (4) feet tall and shall maintain a strength to retain the horse(s).

4.03.50 Technical School⁵⁰.

- A. C-2 Zone.
 1. No Technical School shall exceed three thousand (3,000) square feet in building area.

⁴⁹ Basic distancing requirements.

⁵⁰ Why a CUP in C2? What would be the concerns of allowing it there be?

2. No Technical School shall be located within two hundred fifty feet of any other Technical School.
3. Any Technical School exceeding 3,000 square feet shall require a Conditional Use Permit.

4.03.51 Veterinary Facilities, Large Animals⁵¹.

- A. Any Veterinary Facilities, Large Animals shall be located on a property of at least one (1) acre.
- B. Any Veterinary Facilities, Large Animals shall be designed and constructed to:
 1. Eliminate any emission of odor offensive to persons owning, occupying, or patronizing properties adjacent to the subject property.
 2. Reduce the sound coming from any Veterinary Facilities, Large Animals to the level of sixty-five (65) decibels at any given abutting property line.
- C. Exterior areas used to exercise, walk, or keep animals shall set back at least one hundred (100) feet from any lot line.
- D. All exterior exercise areas and runs shall be fenced.
- E. Animals are prohibited from being outdoors between 8:00 PM and 8:00 AM.
- F. Animals shall only be walked or exercised in on-site outdoor areas.
- G. No animal boarding is allowed for any length of time except if boarding is necessary to provide surgical or other medical care to the animals.
- H. All buildings and accessory structures shall set back at least two hundred fifty (250) feet from any residential property line.
- I. All litter and animal waste shall be contained and controlled on the subject property.

4.03.52 Veterinary Facilities, Small Animals.

- A. Any Veterinary Facilities, Small Animals, including all treatment rooms, cages, pens, kennels, and exercise runs, shall be maintained within a completely enclosed, soundproof building.
- B. Any Veterinary Facilities, Small Animals shall be designed and constructed to:
 1. Eliminate any emission of odor offensive to persons owning, occupying, or patronizing properties adjacent to the subject property.
 2. Reduce the sound coming from any Veterinary Facilities, Small Animals to the level of sixty-five (65) decibels at any given abutting property line.
- C. No animal boarding is allowed for any length of time except if boarding is necessary to provide surgical or other medical care to the animals.

4.03.53 Wholesale Distribution, Warehousing, and Storage.

- A. LI Zone.
 1. Any Wholesale Distribution, Warehousing, and Storage use shall be located two hundred fifty (250) feet from any residential use or district.

⁵¹ Why not one vet category with specific regs applying to large and small? Make vets allowable but differentiate large animals in certain zones.

2. No Wholesale Distribution, Warehousing, and Storage use shall exceed 15,000 square feet.

4.03.54 Workshop⁵².

B. All Zones.

1. All permitted repair work, vehicle washing, lubrication, and installation of parts and accessories shall be performed within an enclosed structure.
2. Any Workshop shall be located five hundred (500) feet from any residential use or district.
3. All dismantled vehicles, parts, and repair supplies shall be stored within an enclosed building or totally screened from view by a solid fence or wall. All vehicles awaiting repair or service shall be stored on-site in approved parking spaces and not on a public right-of-way.

C. C-1 and C-2 Zones.

1. No Workshop shall exceed two thousand (2,000) square feet in building area.
2. Any Workshop exceeding two thousand (2,000) square feet shall require a Conditional Use Permit.

4.03.55 Wireless Telecommunications Facility⁵³.

A.

B.

4.04 Accessory Uses and Structures

4.04.1 Purpose. This section authorizes the establishment of accessory uses and buildings that are incidental and customarily subordinate to principal uses. An accessory use is “incidental and customarily subordinate” to a principal use if it complies with the standards established in this section. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, buildings, and activities typically associated with the use, unless specifically prohibited in this section.

4.04.2 Approval Procedure.

- A. Any of the accessory uses identified in this section may be allowed as accessory to an authorized principal use provided that:
 1. The proposed accessory use is allowed as a principal or accessory use in the base district where proposed; and
 2. The proposed accessory use or building is consistent with the general and specific standards for accessory uses in this subsection.

⁵² Create standards that mitigate adverse impacts in lighter intensity areas (i.e., noise, enclosure, setbacks)

⁵³ Regulations to be proposed as we continue to receive more information from staff and stakeholders.

- B. Simultaneously with a Principal Use. Accessory uses or buildings may be reviewed as part of review of an associated principal use. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with an approved Conditional Use Permit.
- C. Subsequent to a Principal Use.
 - 1. Unless exempted, a building permit shall be required in cases where an accessory use or building is proposed subsequent to a principal use.
 - 2. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with the provisions in **Chapter 2, Conditional Use Permits**.

4.04.3 Interpretation of Unidentified Accessory Uses. The Planning Director shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis, based on the following standards:

- A. The definition of "accessory use" in **Chapter 9, Definitions**, and the general accessory use standards and limitations established in Chapter 4.04;
- B. The purpose and intent of the base districts in which the accessory use is located;
- C. Potential adverse effects the accessory use or building may have on other lots, compared with other accessory uses permitted in the district; and
- D. The compatibility of the accessory use with other principal and accessory uses permitted in the district.

4.04.4 General Standards for all Accessory Uses. All accessory uses and buildings shall be subject to the general standards in this section, as well as any applicable supplemental standards in Chapter 4.04.5 and all standards applicable to the associated principal use as set forth in **Chapter 4 Use Standards**.

- A. Size. All accessory uses shall:
 - 1. Be clearly subordinate in area, extent, and purpose to the principal use or structure; and
 - 2. Not violate the bulk, density, parking, landscaping, or open space standards of this Land Use Code when taken together with the principal use or structure.
 - 3. The floor area of any detached accessory building shall not exceed 50 percent of the floor area of the principal structure. The total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which it is located. The Planning Director may authorize a building to exceed this percentage if the building is used as a guest house, or is used for animal production or crop production associated with an agricultural use.
- B. Function. All accessory uses shall directly serve the principal use or building, and be accessory and clearly incidental to the principal use or building.
- C. Timing. Accessory uses shall not be constructed or established prior to the start of construction of the principal use or building. An accessory building shall not be used until the construction of the primary building is complete.

D. Height. Accessory buildings shall be limited to a maximum height of 24 feet unless exempted from the height requirements in this Code.

E. Location.

1. Accessory uses or buildings shall be located on the same lot as the principal use or building.
2. Accessory buildings shall not be located within platted or recorded easements.
3. The Planning Director may authorize an accessory building on a vacant lot if the structure is used for animal production or crop production associated with an agricultural use, or used in conjunction with a park or community garden.

F. Design Compatibility.

1. Except where exempted, all accessory buildings shall be designed to be aesthetically compatible with the principal building. Compatibility shall be measured in terms of building materials, building orientation, building placement, and building mass. Non-enclosed stables, gazebos, greenhouses, and carports ten feet or less in height with a roofed area of 300 square feet or less are exempted from this compatibility requirement.
2. Applicants for accessory buildings not exempted in accordance with this subsection who request exceptions from the design compatibility requirements shall demonstrate screening methods or design features that will be used to minimize any potential adverse effects on neighboring properties.

G. Ownership. Accessory uses or buildings shall be owned or operated by the same person as the principal use or buildings.

4.04.5 Supplemental Accessory Use Standards.

A. Accessory Dwelling Unit⁵⁴.

1. A Detached Accessory Dwelling Unit shall only be located in the rear of a lot.
2. A Detached Accessory Dwelling Unit must comply with the required setbacks by the zoning district in which the unit is located. If the accessory dwelling unit is part of the primary dwelling (attached), it must comply with principal building setbacks for the zoning district in which the unit is located.
3. An Accessory Dwelling Unit must comply with the zoning district's height requirements. An Accessory Dwelling Unit must not exceed the height of the primary dwelling.
4. An Accessory Dwelling Unit must not exceed one thousand (1,000) gross square feet in area.
5. An Accessory Dwelling Unit must connect utilities to those of the primary dwelling.
6. An Accessory Dwelling Unit must maintain the architectural design, style, appearance, and character of the primary dwelling.

⁵⁴ Two types of ADUs – detached and attached.
Chapter 4 | Draft | January 31, 2022

7. The property owner must occupy the principal dwelling as the owner's permanent residence. For purposes of these regulations, "property owner" means the title holder and/ or contract purchaser of the lot, and "owner occupancy" means that a property owner makes their permanent residence at the site.
- B. Drive-Thru Facility⁵⁵. A Drive Through Facility may be permitted as an accessory use subject to the following standards.
1. Setbacks. All Drive-Thru Facilities are set back five feet (5 ft) from any property line.
 2. Stacking.
 - a. All Drive-Thru Facilities accommodate the required stacking standards.
 - b. A drive-thru/ATM lane is provided on site.
 - c. The drive-thru/ATM lane is at least ten (10) feet wide.
 - d. The drive-thru/ATM lane provides at least three (3) vehicle stacking spaces before the drive-thru window/ATM.
 - e. Vehicle stacking spaces shall be ten (10) feet wide by twenty (20) feet long.
- C. Office.
1. An accessory office shall be allowed for an approved use.
 2. The office shall not occupy more than twenty five percent (25%) of the gross floor area of the approved use.
 3. If the approved primary use is not located in a structure, the office structure shall not occupy more than five percent (5%) of the property area on which the primary use is located or five thousand (5,000) square feet, whichever is less.
- D. Outdoor Storage.
1. Outdoor storage areas shall be screened according to **Chapter 5, Development Standards**.
 2. All outdoor storage areas shall be completely fenced and screened from public view.
 3. Screening shall be at least six feet (6') tall, but no more than ten feet (10') tall unless where specifically stated otherwise.
 4. One side of the outdoor storage may be left unenclosed, provided that the materials stored in the area shall not be visible from a public roadway or an abutting property.
 5. Cyclone or chainlink fencing (with or without slats) shall not be deemed a screening material.
 6. Materials shall not be stored within the required setbacks.
 7. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
 8. Outdoor storage for commercial or industrial uses shall be limited to those items owned or used by the business.

⁵⁵ This includes a stand alone ATM
Chapter 4 | Draft | January 31, 2022

9. Outdoor storage for a multi-family development, recreational vehicle park, or manufactured home park, shall be only for recreational vehicles or personal recreation items of the tenants.

4.05 Temporary Uses and Structures

4.05.1 Purpose. This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building.

4.05.2 Approval Procedure. Any use listed in this section may be permitted as a temporary use provided:

- A. Where indicated in Table 4.02-1 Use Table; and
- B. The proposed temporary use is consistent with the general and specific standards for temporary uses and structures in this section.

4.05.3 General Standards for all Temporary Uses. All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Land Use Code:

- A. The temporary use or structure shall not be detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare.
- B. The temporary use shall comply with all applicable general and specific regulations of this Chapter 4.05, unless otherwise expressly stated.
- C. Permanent alterations to the site are prohibited.
- D. All temporary signs associated with the temporary use or structure shall be properly permitted and removed when the activity ends or permit expires, whichever occurs first.
- E. The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
- F. The temporary use regulations of this section do not exempt the applicant or operator from any other required permits, such as health or building permits.
- G. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, river protection setbacks, and required landscaping. At the conclusion of the temporary use or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use.
- H. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.

I. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the Building Official or Fire Marshal, including fire rating.

J. Off-street parking shall be adequate to accommodate the proposed temporary use.

4.05.4 Supplemental Temporary Use Standards⁵⁶.

A.

B.

DRAFT

⁵⁶ Any supplemental temporary use standards that need to be considered? I.e., carnivals, flea markets, holiday festivals, etc.
Chapter 4 | Draft | January 31, 2022