

HOTCHKISS ZONING ORDINANCE

ARTICLE I: PURPOSE AND AUTHORITY

A. PURPOSE:

This ordinance shall be based upon the Comprehensive Plan of the Town of Hotchkiss and is intended to alleviate congestion in the streets; to secure safety from fire, panic, flood waters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements. The ordinance is drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town.

B. AUTHORITY:

1. Town Board - see Colorado Revised Statutes (CRS) 31-4-101
2. Planning Commission - see Municipal Code 2-1-5 to 2-1-11; CRS 31-23-203 et seq.
3. Zoning – see Colorado Revised Statutes (CRS) 31-23-211

ARTICLE II: SHORT TITLE

This ordinance shall be known as and may be cited and referred to as the "HOTCHKISS ZONING CODE."

ARTICLE III: INCORPORATION OF MAP

The location and boundaries of the zone districts established by this ordinance are shown upon the "Zone District Map of the Town of Hotchkiss," which is hereby incorporated into this ordinance. Said zoning map, together with all data shown thereon and all amendments thereto is by reference hereby made a part of this ordinance. The zone district map shall be identified by signature of the Mayor, attested by the Town Clerk and bearing the seal of the Town and the date of the adoption. Changes in the boundary of any zone district shall be made only upon amendment to the Zoning Ordinance and shall promptly be entered on the Zone District Map with an entry on the map giving the number of the amending ordinance, the date, and the signature of the Mayor, attested by the Town Clerk. The Zone District Map shall be located in the office of the Town Clerk.

ARTICLE IV: ZONE DISTRICT BOUNDARIES

Except where otherwise indicated, zone district boundaries shall follow municipal corporation limits, section lines, lot lines or right of way lines, center-lines of streets, or extensions thereof. In property that is not subdivided or where a zone district boundary divides a lot or parcel, the scale of the Zone District Map, unless indicated by dimension, shall determine the location of such boundary. Where a zone district boundary coincides with a right of way line and said right of way is abandoned, the zone district boundary shall then follow the centerline of the former right of way. Land not part of a public railroad, or utility right of way which is not indicated as being in any zone district shall be considered to be included in the most restricted adjacent zone district even when such district is separated from the land in question by a public railroad or utility right of way.

ARTICLE V: ZONING OF ANNEXED TERRITORY

All territory annexed to the Town subsequent to the effective date of this ordinance shall be zoned according to district classifications of this ordinance. Such classification shall be determined by the Town Board after a recommendation by the Planning Commission. The proposed zoning shall be established in accordance with applicable state statutes.

ARTICLE VI: APPLICATION OF REGULATION

Except as hereinafter provided:

6.01: No building or structure shall be erected and no existing building or structure shall be moved, altered or extended nor shall any land, building or structure be used, designed to be used or intended to be used for any purpose or in any manner other than as provided for among the uses hereinafter listed in the district regulation for the district in which such land, building, or structure is located.

6.02: No building or structure shall be erected nor shall any existing building or structure be moved, altered or extended nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the setback, building site area, building location and height provision hereinafter provided in the regulations for the district in which such building structure or open space is located.

6.03: No lot area, yard, frontage, open space or parking provided about any building for the purpose of complying with provisions of this ordinance shall be considered as meeting the requirements, for lot area, yard, frontage, open space, parking for any other building on any other lot unless approved as a planned unit development or as specifically permitted in the zoning district.

ARTICLE VII: RULES OF CONSTRUCTION

7.01: The word "lot" includes plot/parcel.

7.02: The phrase "used for" shall be construed to include "arranged for", "designed for", "maintained for" and "occupied for."

7.03: Words used in the singular number include the plural and the words in the plural include the singular, unless the context clearly indicates the contrary.

7.04: The word "shall" is always mandatory. The word "may" is permissive.

ARTICLE VIII: DEFINITIONS

ADULT BUSINESS: "Adult business" shall mean any business which, because minors are excluded by virtue of their age as a prevailing business practice, is not customarily open to the general public, including but not limited to, an adult arcade, adult bookstore, adult theater, cabaret, massage parlor, model studio, nude studio, strip club, sexual encounter shop, sexual novelty store or any other similar use wherein the preponderant business is the offering of services, materials and/or products which have as their dominant theme the sexual arousal, sexual gratification and/or sexual stimulation of a customer.

ALLEY: A public right of way within a block upon which the rear of building lots generally abut. Its use is intended for secondary access to a lot for service purposes, emergency vehicle access and not intended for general travel.

ACCESSORY BUILDING, STRUCTURE OR USE: A building, structure or use located on the same lot as the principal building, structure or use, which is clearly incidental to and subordinate to, and customarily found in connection with the principal building structure or use. Accessory building, structures or uses shall not be used for living or sleeping quarters.

ASSISTED LIVING FACILITY: Facility licensed by the state providing care and assistance to the elderly, infirm or disabled and serving not more than eight persons.

BED AND BREAKFAST ESTABLISHMENT: Bed and Breakfast establishment means a facility of residential character, which provides sleeping accommodations for hire, for two (2) weeks or less, on a day-to-day basis, with one or more meals per day included and a manager residing on the premises.

BOARDING OR ROOMING HOUSE: A building other than a hotel, cafe or restaurant where for compensation, lodging and/or meals are provided for three or more boarders and/or roomers exclusive of the occupant's family. In such facilities, the length of stay is normally thirty days or more.

BUILDABLE AREA: The portion of a lot, parcel or tract of land excluding all required yard area where a building could be located in accordance with provisions of this chapter.

BUILDING ENVELOPE: The two-dimensional space within which a building is

proposed to be located on a lot, parcel or tract of land.

BUILDING HEIGHT: The vertical distance measured from the average finished grade at the setback lines to the highest point of the roof surface exclusive of chimneys, ventilators, pipes and similar apparatus based on adopted building code standards.

DEVELOPABLE LOT AREA: The total area of a lot, tract or parcel less that portion of the lot, tract, or parcel that is located in an area with a high flood hazard and is in the "floodway" as defined by the Federal Emergency Management Agency (FEMA) and less those portions with slopes in excess of twenty-five percent.

DWELLING UNIT: One room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a monthly or longer basis. The dwelling unit shall be physically separated from any other rooms or dwelling units that may be in the same structure and served by no more than one gas meter and one electric meter, one water meter and sewer tap.

DWELLING - SINGLE FAMILY: A detached building used as a dwelling exclusively by one family as an independent living unit. A single-family dwelling does not include a mobile home. See Article IX, R-1.

DWELLING - TWO FAMILY: A single building containing two dwelling units for occupation by two families living independently of each other.

DWELLING - MULTIPLE FAMILY: A single building for use by three or more families living independently of each other in separate dwelling units, but not including motels, hotels, boarding house, tourist homes.

FAMILY - Any individual, or two (2) or more persons related by blood or marriage, or between whom there is a legally recognized relationship or a group of not more than (3) unrelated persons, occupying the same dwelling unit.

FLOOR AREA: The gross area of the building measured along the outside walls of the building including each habitable floor level and interior balconies, but excluding interior courtyards, garages and enclosed parking areas and mechanical areas and one-half the area used exclusively for storage.

GROUP HOMES: Group homes means those facilities licensed by the State, which serve not more than eight persons, providing care or assistance to those persons.

HOME OCCUPATION: A business or profession that is conducted within a dwelling unit, an enclosed garage or accessory building, is secondary to the primary residential use, does not change the residential character and is in conformance with applicable ordinances or enforced covenants. (*See section 13.09 for more information*)

LOT: A parcel of land occupied or intended to be occupied by a building or use and its accessories and arranged to meet all the requirements of this chapter and have at least 25 feet of frontage on a public street. Minimum square footage is required for construction of residential/commercial improvements by the Subdivision Regulations.

LOT, CORNER: A lot abutting two or more streets at their intersection

LOT, DOUBLE FRONTAGE: A lot, which is located between two parallel streets so that the front lot line and the rear lot line abut a street.

LOT LINE, FRONT: The property line dividing a lot from the right of way of a street. On a corner lot the shorter street right of way line shall be considered the front lot line.

LOT LINE, REAR: The property line opposite the front lot line.

LOT LINE, SIDE: Any lot line other than a front or rear lot line.

LOT WIDTH: The lot width shall be determined as follows: (1) If the side lot lines are parallel the lot width is the perpendicular distance between the side lot lines. (2) If the side lot lines are not parallel, the lot width shall be the length of the line measured at right angles to the line or axis connecting the midpoints of the front lot line and the rear lot line. The length of the line shall be measured at the point equal to the front yard setback for the zoning district in which the lot is located.

MANUFACTURED/MODULAR BUILDINGS: Means a building that is (1) mass produced in a factory and (2) designed and constructed for transportation to a site for installation and use when connected to required utilities. (3) It is either an independent individual building or module for construction with other elements to form a building on the site. The term "manufactured" is synonymous with the term "modular." Such a building must be built in accordance with the adopted building code of the Town of Hotchkiss.

MANUFACTURED HOUSING UNIT: A manufactured building or portion of a building designed for long term residential use. Such a building must be built to the adopted building code, and the U.S. Department of Housing and Urban Development Code called "HUD".

MANUFACTURED/MODULAR HOME: A single-family dwelling, which is partially or entirely manufactured in a factory, is not less than twenty-four (24) feet in width and thirty-six (36) feet in length. It must be installed on a manufactured, professionally designed or engineered permanent foundation, have brick, wood or cosmetically equivalent exterior siding and a 3/12 or more pitched roof of asphalt shingle, Pro-panel or cosmetically equivalent material. Such a building must be certified to current HUD Standards and built for Colorado climate and snow loads.

MOBILE HOME: Any wheeled vehicle, exceeding eight (8) feet in width or thirty-two (32) feet in length, including towing gear and bumpers, without motor power, built on a permanent chassis designed for long-term residential occupancy or temporary office use and containing complete electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner without a permanent foundation which is capable of being drawn over public highways by a motor vehicle. Factory built homes and manufactured homes shall not be considered mobile homes. The term mobile home shall not include travel trailers, recreational vehicles, campers, or self-contained motor homes or camper buses. (See Mobile Home Regulation)

MOBILE HOME OR CAMPER SALES LOT: Means a plot of land that is used primarily for the sale of mobile homes or campers. Such uses are permitted only in commercially zoned areas and not as part of mobile home parks or subdivisions. This definition does not apply to any mobile home, which is being sold by the person actually residing in the unit.

MOBILE HOME PARK or COMMUNITY: Any park, trailer park, trailer court, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a rental location or accommodation for any mobile home to be parked and shall include all buildings used or intended for use as part of the equipment where a charge is made. Mobile Home Park or community may include mobile homes, of a restricted and limited number, which are parked, like a “spec” home, for purposes of inspection for sale or rental within the park.

MOBILE HOME SPACE: Means a plot of ground within a mobile home park designated for the accommodation of one mobile home and its accessory structures.

MOBILE HOME SUBDIVISION: A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of single-family mobile homes, manufactured homes. Such a subdivision shall not be included in the definition of a “Mobile Home Park”.

NEIGHBORHOOD COMMERCIAL USES: Commercial or business uses that are low intensity of use, minimal traffic generation and offer convenient shopping for residential areas. Neighborhood commercial uses may include small food stores, artist studios, antique or gift shops, specialty shops, and other similar type uses. Maximum floor area for a neighborhood commercial use shall be 2000 sq. ft.

NEIGHBORHOOD CONVENIENCE CENTERS: Neighborhood convenience centers are small combinations of neighborhood commercial uses located near residential areas, possibly as a part of a planned unit development that offer convenience goods or services. Neighborhood convenience centers should be compatible in scale and materials with surrounding residential areas. The maximum floor area for a neighborhood convenience center shall be 10,000 sq. ft. with no single neighborhood commercial use with a floor area greater than 2000 sq. ft.

NONCONFORMING BUILDING: A building that was legally constructed prior to the effective date of this ordinance which does not comply with the height, floor area, lot coverage or other provisions of this chapter.

NONCONFORMING LOT: A legally recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with the lot requirements of this ordinance concerning minimum area or minimum lot width or minimum frontage upon a public street.

NONCONFORMING USE: A use of land that was legally established prior to the effective date of this ordinance, which is not in conformance with the "use" regulations of this chapter, including but not limited to the land use, minimum lot area per dwelling unit, off-street parking requirements or open space requirements.

OPEN SPACE: Land retained in an open or unimproved condition, except for agricultural use, for the placement of landscape materials, including trees, shrubs and grasses and structures limited to footpaths and bridges, irrigation structures and erosion-protection devices and underground utilities, or improved for park use as defined herein. Ownership of such land may be private with an easement or reservation for "open space" use by deed restriction; it may be deeded or reserved to a property owner's association; or it may be dedicated to the public. Designation of an "open space" does not imply the provision of access by the public. Open Space may include a conservation easement, being a dedicated encumbrance granted to a public or nonprofit entity for limiting usage and/or preserving certain uses.

OPEN SPACE, LANDSCAPED: A lot, tract, or parcel of land that has been designated as open space and improved by the preservation, rearrangement, installation, or planting of different trees, shrubs, grass and decorative materials. Decorative materials means materials, which augment and enhance the botanical landscaping including rocks, gravel, driftwood, bark, ponds, fountains, walls, or other landscape design features approved by the Town. Such land may be used for plazas, walkways, arcades and pedestrian areas.

PRINCIPAL BUILDING OR USE: The main or primary purpose for which a building or parcel of land is designed, arranged or intended, or for which it may be occupied or maintained under this ordinance.

PLANNED UNIT DEVELOPMENT: An area of land, controlled by one (1) or more landowners, to be developed under the unified control or unified plan of development for residential, commercial, educational, recreational or industrial uses, or any combination of the foregoing. A planned unit development is a project designed to provide variety and diversity by allowing greater flexibility than would ordinarily be achieved by strict application of the zoning and subdivision standards. Planned unit developments (PUD's) are permitted in all zoning districts and allow density averaging over the entire parcel. A PUD may include a combination of different

units, buildings or dwelling types, grouping of units, buildings or dwelling units into clusters, or a variety of land uses which complement each other and harmonize with existing and proposed land uses in the vicinity

PUBLIC BUILDING OR USE: Any building or use open to general use, participation or enjoyment of the public and owned by the town, county, state, or federal government or by a public utility corporation. All public buildings shall conform to American Disabilities Act.

ROOMING UNIT: A room providing minimum housing accommodations for a roomer, arranged primarily for sleeping and/or study, and which may include a private bath but shall not include a separate kitchen.

SPECIAL REVIEW USE: Uses that are permitted within a zoning district only with the prior review by the planning commission and approval by the Town Board in accordance with procedures and requirements.

STREET: A right of way reserved for public or private use, which provides vehicular and pedestrian access to adjacent properties, including the designations of road, highway, thoroughfare, avenue, lane, boulevard or alley. Streets shall be further classified as follows:

STREET, ARTERIAL: Those streets whose primary function is to facilitate the flow of traffic through the Town. Limited access is provided to adjoining properties. Arterial streets are designed to accommodate higher volumes of traffic than collector or local streets. Arterial streets may be further classified as major arterial and minor arterial depending on the potential volume of traffic and local conditions. Designation dependent upon traffic count standards by the Colorado Department of Transportation (DOT).

STREET, COLLECTOR: Those streets with moderate traffic volumes that provide access to residential and commercial areas and to channel traffic from the local streets to the arterial streets. Collector streets may be further classified as major collectors and minor collectors depending on the potential volume of traffic and local conditions. Designation dependent upon traffic count standards by the Colorado Department of Transportation (DOT).

STREET, LOCAL: Those streets with low traffic volumes that are intended to provide direct access to adjacent residential or commercial lots. Designation dependent upon traffic count standards by the Colorado Department of Transportation (DOT).

STRUCTURE: Anything constructed or erected with a fixed location on the ground above grade.

TRAVEL TRAILER, CAMPER, RECREATIONAL VEHICLE: A portable structure, mounted on wheels and drawn by a stock passenger automobile or designed to be loaded onto, or affixed to, the bed or chassis of a truck or portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide for temporary living quarters for recreational camping or travel use. The term travel trailer shall include the units designated as "campers" "pop ups", "motor homes", "camper buses" or recreational vehicles.

YARD AREA, REQUIRED: The open space area that is not occupied by a principal building with a depth or distance from a property line specified by the setback regulations for the district in which the lot is located.

ARTICLE IX - ESTABLISHMENT AND INTENT OF ZONING DISTRICTS

R-1	Low Density Residential District
R-2-MU	Residential and Low Impact Commercial Mixed Use
CC-1/MU	Core Commercial Mixed Use (overlay) District (Bridge Street-Oak to 3rd)
C-2-/MU	Community Commercial Mixed Use District
I-1	Light Industrial District
I-2	Industrial District
DR	Developing Resource District

R-1 LOW DENSITY RESIDENTIAL DISTRICT

Zoning District	R-1 Low Density Residential
Definition:	It is the intent of the R-1 Low Density Residential District to provide for the orderly development of single family residential site-built or manufactured built homes, depending on covenants for the area.
Uses Permitted by Right	Single Family Dwellings, Parks and Recreational Areas
Uses Permitted by Special Review if allowed by covenant	Private Schools, Home Occupations (<i>see 13.09</i>), Public or Governmental Uses, Group Homes for the Developmentally Disabled, Churches, Rooming Houses/Bed and Breakfast Establishments, Neighborhood Convenience Centers, Antennae Structures/Towers, livestock pasturing (<i>see livestock ordinance 1999-3</i>).
Prohibited Uses	Two Family Dwellings, Multiple Family Dwellings, Mobile Home Parks and Subdivisions, Nursing Homes/Assisted Living

	Apartments, Professional Offices, Neighborhood Commercial Uses. Uses prohibited in other zones as well as any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Requirements:	1 Dwelling Unit, Minimum Lot Area = 6250 square feet.
Yard Setback Requirements: See Also Subdiv. Reg. 12.06 Maximum Building Height Parking:	Front Yard = 25 feet Side Yard = 7.5 feet Rear Yard = 10 feet Minimum lot size = 6,250 sq. ft. Maximum Building Height = 26 feet built to setback. Maximum up to 35 feet if 3 feet of additional setback on all sides is added for every foot of additional height. (<i>See Appendix B</i>) Depends upon size and use - See appendix A

R-2-MU MIXED USE RESIDENTIAL DISTRICT

Zoning District	R2 -MU Mixed Use Residential
Definition:	It is the intent of the R-MU Mixed Use Residential District to provide for the orderly development of single family residential site-built or manufactured built homes, depending on covenants for the area. It is also the intent of the District to allow mixed uses by right or review including low impact commercial uses such as in-home beauty parlors, home occupations and professional offices incorporated into homes, sharing a neighborhood with single and multiple family residential uses.
Uses Permitted by Right	Single Family Dwellings, Professional offices, Home Occupations, Parks and Recreational Areas
Uses Permitted by Special Review if allowed by covenant	Two Family Dwellings, Multiple Family Dwellings, Auxiliary Apartments, In-home Beauty Parlors, Private Schools, Public or Governmental Uses, Group Homes for the Developmentally Disabled, Churches, Rooming Houses/Bed and Breakfast Establishments, Nursing Homes/Assisted Living Apartments, livestock pasturing (<i>see livestock ordinance</i>), Telephone company switching center and equipment storage, antennae structures/towers
Prohibited Uses	Medium and high impact Commercial and Industrial Uses excluding exceptions listed above, but including Neighborhood Convenience Centers, Adult Businesses, Gas Stations, Antennae Structures/Towers, Mobile Home Parks and Subdivisions, Uses

	prohibited in other zones, except those listed as prohibited in the R-1 Low Density Residential District, as well as any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Requirements:	
Yard Setback Requirements: See Also Subdiv. Reg. 12.06 & Ordinance 2008-4 Maximum Building Height	Front Yard = 25 feet Side Yard = 7.5 feet Rear Yard = 10 feet Minimum lot size = 6,250 sq. ft. Maximum Building Height = 26 feet built to setback. Maximum up to 35 feet if 3 feet of additional setback on all sides is added for every foot of additional height. (<i>See Appendix B</i>) (see solar access 13:08)
Off -Street Parking	Depends upon size and use - See appendix A

Core C-1/MX - CORE COMMERCIAL MIXED USE DISTRICT

Definition:	It is the intent of this district to provide for the orderly development of those commercial, and business uses, government, educational, cultural facilities that are characteristic of downtown areas and promote comparison shopping and pedestrian activity in the core area. This district is intended as an overlay district within the Commercial Mixed Use District allowing flexibility and/or exclusion from off street parking requirement for new uses. (<i>See Appendix A or Ordinance 2008-04</i>) The area is not intended for businesses and commercial uses that are oriented towards the automobile and require extensive ground floor area and extensive off street parking. It is also the intent of the District to allow mixed uses of medium and low impact commercial with selected light industrial uses, and residential uses such as apartments incorporated into commercial structures.
Uses Permitted by Right	Banking, Savings and Loan; Child Care; Dental or Medical Clinics; Farmers Market; Parking Lots; Parks and Recreational Areas; Personal Services, Shops including, but not limited to Barber/Beauty Shops, Shoe Repair, Self-Service Laundromats, and Travel Agencies; Professional and Business Office when part of Permitted Light Industry; Public and Governmental

	Facilities; Restaurants; Retail Business; and Single and Multiple Family Residential Uses
Uses Permitted by Special Review	Bulk large storage of flammable liquid gas facility of 500 gallons or more (; Churches; Commercial recreational including pool halls, bowling alleys, skating rinks and golf courses; Drive-up windows for banks, businesses and restaurants; Dwelling units as part of business use; Fabricating/Manufacturing Industry; Fast Food and Drive-In Restaurants; Fertilizer Manufacturing/Storage; Microbrewery Pubs; Group Homes; Tattoo/Body Piercing Shops; Membership Clubs; Motels, Hotels, and Lodging Facilities including Rooming Houses and Bed & Breakfast Establishments; Multiple Family Dwellings; Nursing Homes; Public or Private Schools; Storage Shed Rental Spaces; Warehouses; Wholesale Business Factory Outlet, Auto Sales and Service Repair, Gas Station; Adult Businesses; Bulk Large Storage of Flammable Liquid Gas Facility over 500 gallons (<i>see State siting standards</i>); Small Animal Clinic;
Prohibited Uses	Automobile Wrecking Yard; Campgrounds, Recreational Vehicle Parks; Fruit Processing/Storage; Grain Warehouse; Livestock Slaughter Facility; Lumber Yard; Explosives Manufacture/Storage; General Manufacturing; Natural Resource Mining; <u>Mobile Home Sales/Service</u> ; Concrete/Asphalt Plants; <u>Heavy Industrial Equipment Service/Storage</u> ; Water Bottling Plants; Utility Substation. Any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Requirements: Parking Requirements	Minimum Lot Area Non-Residential – 3125 sq ft Minimum Lot Area SF Residential – 6250 sq ft Minimum Lot Area Combined Residential/Commercial – 3125 sq ft Minimum Lot Width commercial – 25 ft Parking Requirements - No off street parking required if new use is contained in an existing building. Variance possible for new construction. See Appendix A
Yard Setback Requirements: Maximum Building Height Off Street Parking -	Zero lot line allowed for commercial, except in rear, if built to IBC standards. SF Residential, same as R-1. Side Yard = 0 feet Rear Yard = 10 feet Minimum lot size: 3,125 sq. ft. Maximum Building Height = 35 feet Depends on specific use See Appendix A

C-2 MU - COMMUNITY COMMERCIAL MIXED USE DISTRICT

Zoning District	C-2 MU Community Commercial Mixed Use
Definition:	It is the intent of the Community Commercial District to augment the commercial and business needs of the community by providing for the orderly development of commercial facilities that because of their specific nature require closer access to arterial routes, immediate access to large parking areas, or require generally larger ground level floor areas than the smaller retail shops as encouraged in the core commercial areas. It is also the intent of the District to allow mixed uses of medium and low impact commercial with selected light industrial uses, and residential uses such as apartments incorporated into commercial structures.
Uses Permitted by Right	Banking, Savings and Loan; Child Care; Dental or Medical Clinics; Farmers Market; Single family housing; Motels, Hotels, and Lodging Facilities including Room Houses and Bed & Breakfast Establishments; Nursing Homes; Parking Lots; Parks and Recreational Areas; Personal Services Shops including, but not limited to Barber/Beauty Shops, Shoe Repair, Self-Service Laundromats, and Travel Agencies; Professional and Business Office when part of Permitted Light Industry; Public and Governmental Facilities; Restaurants; Retail Business
Uses Permitted by Special Review	Auto Sales and Service Repair; Campgrounds, Recreational Vehicle Parks; Churches; Commercial recreational including pool halls, bowling alleys, skating rinks and golf courses; Drive-up windows for banks, businesses and restaurants; Dwelling units as part of business use; Fabricating/Manufacturing Industry; Fast Food and Drive-In Restaurants; Fruit Processing/Storage; Gas Station; Microbrewery Pubs; Group Homes; Lumber Yard; Tattoo/Body Piercing Shops; Membership Clubs; Mobile Home Sales/Service; Multiple Family Dwellings; Public or Private Schools; Storage Shed Rental Spaces; Small Animal Clinic; Utility Substation; Warehouses; Wholesale Business Factory Outlet, Bulk Large Storage of Flammable Liquid Gas Facility (<i>see State siting standards</i>); Adult Businesses; livestock pasturing (<i>see livestock ordinance</i>), <u>Heavy Industrial Equipment Service/Storage. Rental Centers.</u>
Prohibited Uses	Asphalt Plant, Automobile Wrecking Yard; Fertilizer Manufacturing/Storage; Grain Warehouse; Livestock Slaughter Facilities; Explosives Manufacture/Storage; General

	Manufacturing; Natural Resource Mining; Concrete/Asphalt Plants; Water Bottling Plants; Any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Requirements:	Minimum Lot Area Non-Residential – 6350 sq ft Minimum Lot Area Residential – 6250 sq ft Minimum Lot Area Combined Residential/Commercial – 6250 sq ft Minimum Lot Width – 50 ft
Off -Street Parking:	Depends on specific use. See Appendix A
Yard Setback Requirements: See Also 00.00.00	SF Residential – same as R-1 Commercial: Front setback = 0 feet built to IBC standard Side Yard = 0 feet – built to IBC standard Rear Yard = 10 feet
Maximum Building Height	35 Feet (see solar access 13:08)

I-1 - INDUSTRIAL - LIGHT

Zoning District	I-1 Light Industrial
Definition:	It is the intent of the Light Industrial District to provide for the development of industrial uses that will enhance the economy of the Town of Hotchkiss and be designed and planned in a manner that will be compatible with the character of the community and not add pollution, or other undesirable effects to the adjoining properties or to community as a whole.
Uses Permitted by Right	Farmers Market; Fruit Processing/Storage; Nursing Homes; Parking Lots; Parks and Recreational Areas; Retail Business; Small Animal Clinic; Warehouses; Water Bottling Plants
Uses Permitted by Special Review	Adult Businesses; Auto Sales and Service Repair; <u>Bulk Storage of Flammable Liquid Gas Facility over 500 gallons (see State siting standards)</u> ; Child Care; Commercial recreational including pool halls, bowling alleys, skating rinks and golf courses; Dental or Medical Clinics; Drive-up windows for banks, businesses and restaurants; Dwelling units as part of business use; Fabricating/ Manufacturing Industry; Fast Food and Drive-In Restaurants; Gas Station; General Manufacturing; Microbrewery Pubs; Lumber Yard; Tattoo/Body Piercing Shops; Membership Clubs; Mobile Home Sales/Service; Personal Services Shops including, but not limited to Barber/Beauty

	Shops, Shoe Repair, Self-Service Laundromats, and Travel Agencies; Professional and Business Office when part of Permitted Light Industry; Public and Governmental Facilities; Public or Private Schools; Restaurants; Storage Shed Rental Spaces; Utility Substation; Wholesale Business Factory Outlet
Prohibited Uses	Automobile Wrecking Yard; Banking, Savings and Loan; Campgrounds, Recreational Vehicle Parks; Churches; Fertilizer Manufacturing/Storage; Grain Warehouse; Group Homes; Livestock Area/Barns; Explosives Manufacture/Storage; Multiple Family Dwellings; Natural Resource Mining; Concrete/Asphalt Plants; Heavy Industrial Equipment Service/Storage; Motels, Hotels, and Lodging Facilities including Rooming Houses and Bed & Breakfast Establishments. Any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Requirements: Off Street Parking Requirements	Minimum Lot Area– 8000 sq ft Minimum Lot Width – 50 ft Maximum Building Height – 35 ft Depends on specific use See Appendix A
Yard Setback Requirements:	If adjacent to an arterial street major/minor = 50 feet If adjacent to a collector street = 35 feet If adjacent to a local street = 25 feet Side Yard = 10 feet Rear Yard = 20 feet

I-2 – INDUSTRIAL DISTRICT

Zoning District	I-2 Industrial
Definition:	The intent of the I-2 Industrial District is for the purpose of allowing basic or primary industries, which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious hazardous and noisy uses will require special permission to locate in this district.
Uses Permitted by Right	Auto Sales and Service Repair; Concrete/Asphalt Plants; Fabricating/Manufacturing Industry; Fruit Processing/Storage; General Manufacturing; Grain Warehouse; Heavy Industrial Equipment Service/Storage; Lumber Yard; Mobile Home Sales/Service; Nursing Homes; Parking Lots; Parks and Recreational Areas; Warehouses; Water Bottling Plants
Uses Permitted by Special Review	Adult Businesses; Automobile Wrecking Yard; Bulk Large Storage of Flammable Liquid Gas Facility (<i>see State siting</i>

	<i>standards for such facilities</i>) Recreational Vehicle Parks; Farmers Market; Fertilizer Manufacturing/Storage; Gas Station; Microbrewery Pubs; Livestock Area/Barns; Tattoo/Body Piercing Shops; Membership Clubs; Natural Resource Mining; Retail Business; Storage Shed Rental Spaces; Utility Substation; Wholesale Business Factory Outlet
Prohibited Uses	Banking, Savings and Loan; Child Care; Churches; Commercial recreational including pool halls, bowling alleys, skating rinks and golf courses; Dental or Medical Clinics; Drive-up windows for banks, businesses and restaurants; Dwelling units as part of business use; Fast Food and Drive-In Restaurants; Group Homes; Explosives Manufacture/Storage; Multiple Family Dwellings; Motels, Hotels, and Lodging Facilities including Room Houses and Bed & Breakfast Establishments; Personal Services Shops including, but not limited to Barber/Beauty Shops, Shoe Repair, Self-Service Laundromats, and Travel Agencies; Professional and Business Office when part of Permitted Light Industry; Public and Governmental Facilities; Public or Private Schools; Restaurants; Small Animal Clinic. Any use that is not specifically permitted shall be deemed to be excluded. If a question arises as to whether a specific use does or does not fall within the expressed use categories, any person may apply to the Planning and Zoning Commission for a determination as to whether a specific use is permitted.
Siteing Requirements:	Minimum Lot Area– 10,000 sq ft Minimum Lot Width – 100 ft Maximum Building Height – 35 ft Off Street Parking Requirements - Depends on specific use See Appendix A
Yard Setback Requirements:	If adjacent to an arterial street major/minor = 75 feet If adjacent to a collector street = 50 feet If adjacent to a local street = 50 feet Side Yard = 20 feet Rear Yard = 30 feet

DR - DEVELOPING RESOURCE DISTRICT

Zoning District	DR - Developing Resource
Definition:	It is the intent of this District to provide for the zoning of those areas to be annexed that are eligible for annexation and are designated in the Comprehensive Plan as potentially suitable for urban development but may or may not be in the immediate future because of lack of utilities or other public services. Developing Resource District zoning should be applied to existing agricultural or open space areas with minimal present

	development.
Uses Permitted by Right	Existing uses at time of annexation including Single Family Residence; Raising of Crops, Ranching and other agricultural uses. No other uses than those existing at time of annexation shall be permitted on the property zoned DR unless the property is rezoned to a district that permits the proposed use.
Uses Permitted by Special Review	New Replacement Dwelling Unit and all other uses not listed as permitted by right.
Park Dedication Requirements and Water Rights	Properties that are annexed and zoned DR shall not be subject to requirements for park dedications or cash payment in lieu of dedicating park land or for water rights fees or requirements, except as to secured uses by right or permitted uses by special review, until the property is rezoned wherein full satisfaction of such ordinance requirements shall then be due.

ARTICLE X: SPECIAL REVIEW APPLICATION REQUIREMENTS AND PROCEDURES.

(Note: for review of Home Occupations in R-1 districts see section 13.09)

10.01 Intent. Each established zoning district is intended for a specific type or category of land use (e.g., single family dwelling in a R-1 district). However, there are certain uses, which may or may not be appropriate in a particular district depending on the situation. For example, the location, nature of the proposed use, character of the surrounding area, traffic capacities of adjacent streets, and potential environmental effects all may dictate that the circumstances of the development should be individually reviewed. The special review process is established to provide for these specific uses without establishing numerous separate zoning classifications. It is the intent of this chapter to provide a review of such uses so that the community is assured that the proposed uses are compatible with the location and surrounding land uses.

10.02: When Allowed. Within each zoning district certain land uses are permitted by right, by special review or prohibited. Special review uses may be permitted in designated districts upon review by the Planning and Zoning Commission and approval by the Town Board.

10.03: Site Plan and Supporting Documents. There shall be filed with each special review application a site plan drawn to scale and an appropriate number of copies as determined by the Town Clerk or Town Manager. The site plan shall be drawn in black ink on white paper. - Following approval by the Town Board the applicant shall submit a reproducible copy of the original site plan to the Town for the Town's permanent records.

The special review application shall include the following:

1. The site plan showing the location of all buildings, structures and other improvements to be placed on the real property. A building envelope may be used in lieu of showing the exact building or structure location to allow for minor variations in the location.
2. A legal description of the property.
3. A list of the names and addresses of the property owner of the subject property and all property owners within 200 ft. of the property.
4. Site plan to include all off-street parking and loading areas.
5. Site plan to include the location of all ways for ingress and egress to all buildings, and parking areas.
6. Site plan to include service and refuse collection areas.
7. Site plan to include major screening proposals.
8. Site plan to include the size, shape, height and character of all signs.
9. Site plan to include the area and location of all open space and recreation areas.
10. Site plan to include the location and type of outdoor lighting.
11. The character and type of landscaping to be provided in the application. The landscaping shall be indicated in tabular form showing the type of plant material, minimum size and quantity. The approximate location of landscaping shall be indicated on the site plan.
12. The anticipated timetable for completion. If the project is to be completed in phases then the data for completion of each phase shall be indicated.
13. All owners and lien-holders of the property shall sign the following agreement that will be placed on the original special review site plan:

Inclusion of the following statement: The undersigned agree that the real property described on the site plan shall be developed only in accordance with the approved special review site plan and other provisions of the zoning regulations of the Town of Hotchkiss.

The signatures of all owners and lien-holders shall be notarized. The agreement shall further designate who is specifically responsible for the proposed improvements.

14. In addition to the site plan, a current title policy shall be provided to the Town indicating that the property is free and clear of all ownership disputes, liens, or encumbrances, whatsoever, which would impair the property to be utilized for the uses approved. The title policy shall provide verification that all owners and lien-holders have signed the special review site plan. An updated title policy, effective within 24 hours after the date of approval by the Town Board, shall be provided within 10 days of the date of approval by the Town Board. If the title policy is not provided to the Town Clerk within 10 days after action by the Town Board, the action by the Town Board shall be automatically voided.
15. Other information as needed by the Town, at its sole determination, to analyze the feasibility and impacts of the special review use, which may include, but not limited to, traffic analyses, soils or geological reports, or drainage and engineering studies.

10.04: Procedures for securing approval of a special review application.

1. Pre-application conference. The applicant shall schedule a conference with the Town Administrator, Town Manager or Public Works Director or designated representative prior to submitting a formal application. This will serve to better acquaint the applicant with the Town's policies, requirements, procedures and the Hotchkiss Master Plan objectives.

The pre-application conference should be held before the applicant has entered into binding commitments or incurs substantial expenses in the preparation of plans, surveys and other studies.

2. Filing Deadline. Applications for special review shall be filed at least 30 (thirty) days in advance of the meeting at which they are to be considered by the Town Planning Commission. The Town may provide the applicant with a list of filing deadlines and meeting dates. Applications that are incomplete at the time of filing will not be scheduled for review by the Planning Commission.
3. Fees. All persons filing a special review application shall be charged a fee to cover the Town's administrative costs, legal fees and the cost of advertising and processing. The amount of the fee shall be established by resolution of the Town Board.

4. Review by the Town Administrator. The Hotchkiss Town Administrator, Town Manager, Town Clerk, or official assigned to fill that role, shall review the application for compliance with the provisions of the Municipal Code, the site plan review criteria and performance standards of this section and for consistency with the Master Plan. The Town Administrator, Town Manager, Town Clerk or assigned official, shall receive comments from all other pertinent Town departments and other agencies and from the Development Review Committee. The Town Administrator, Town Manager, Town Clerk or assigned official, may then submit recommendations and comments to the Town Planning Commission for their consideration at its next regularly scheduled meeting. Copies of staff recommendations shall be available to the applicant prior to the commission meeting.
5. Action by the Town Planning Commission. At a duly noticed public hearing the Town Planning Commission shall consider the special review application and the comments and recommendations of the Town Administrator, Town Manager, Town Clerk or assigned official. As a part of their review of the proposed special review use the Town Planning Commission shall consider the Special Review Site Plan review criteria and performance standards of Section 10.05 below.
6. Action by the Town Board. Within 30 (thirty) days after the action by the Town Planning Commission, the Town Board shall consider the special review request and the recommendations of the staff and the Town Planning Commission. The Town Board shall then make the final decision to (1) approve the application, (2) approve the application with modifications, or (3) deny the application.

10.05: Site Plan Review Criteria and Performance Standards. Review of the Site Plan shall include and consider:

1. Compliance of the application with the Municipal Code in general.
2. The compatibility of the proposed use and site plan with the character of the surrounding area.
3. The desirability and need for the proposed use.
4. The potential for adverse environmental influences that might result from the proposed use.
5. Compatibility of the proposed use and site plan with the policies and guidelines of the Hotchkiss Comprehensive Plan.
6. Lights and signs shall be located in a manner that will not be distracting to adjoining properties or passing motorists.

7. Landscaping shall be provided in areas near the public right of way and located with consideration for energy conservation. An acceptable plan must be provided for the maintenance of the required landscaped areas.
8. Control of storm drainage shall be provided so as to not damage adjoining properties. The plan must meet the requirements of and receive the approval of the Town Engineer.
9. Site design and building plans shall include provisions for the needs of handicapped individuals as required by Town ordinances, the Building Code and State and Federal law and regulations.
10. Approved landscaping or solid fencing capable of screening adjacent properties shall be provided where commercial uses abut residential uses.
11. Commercial and industrial uses shall conform to the following performance standards:
 - a. No dust, odor, gas, fumes, glare or vibration shall extend beyond lot lines. Glare pertains to sunlight reflected from windows or other integral portions of buildings as well as from lighting fixtures and signs.
 - b. Smoke shall not be emitted at a density greater than #1 on the Ringleman's scale.
 - c. No particles of fly ash shall exceed 2 tenths percent grains per cubic foot of the flue gas at a stack temperature of 50 degrees Fahrenheit.
 - d. Noise: No noise shall be emitted which exceeds a maximum of 75 db (decibels) with a maximum increase of 5 db permitted for a maximum of 15 minutes in any one hour. In addition, every activity shall be conducted so that no noise produced is objectionable due to intermittence, beat frequency or shrillness.
 - e. Water pollution: No water pollution shall be emitted by manufacturing or other processing.
 - f. Outside Storage: Storage areas that adjoin R-1 or R-2-MU zones must be screened from view with screening at least eight feet high. It shall be constructed of board fencing, screened metal fencing or shrubs.
 - g. Truck traffic to and from I-1 and I-2 facilities must be restricted to truck routes. The weight of the trucks is limited to standard highway limits unless otherwise posted. (Model Traffic Code)

- h. Industrial activity within the I-1 zone will be restricted to 7:00 A.M. to 9:00 P.M. unless otherwise permitted by action of the Town Board at a public hearing held pursuant to the notice provisions contained in Article XV herein.

10.06: Effect of Special Review Approval. Following approval of a special review application all real property described in the application must be improved, developed and used in accordance with the approved application, the site plan and any written proposals submitted therewith within the completion date or dates set by the Town Board.

Any changes or modifications to the special review application or site plan shall be permitted only in accordance with the procedures stated in Section 11.07 of this zoning ordinance.

It is unlawful for the owner of the property subject to an approved special review application to fail to complete all improvements within the approved completion date or dates set by the Town or to use the property for any use not set forth in an approved special review application. Each day of violation shall be considered as a separate violation of the provisions of this zoning ordinance.

10.07: Changes or modification to approved application and special review site plans.

Changes or modifications to an approved special review application and site plan shall be permitted by following the procedures of this zoning ordinance for rescinding a special review application and securing approval of the original application except as follows:

1. For minor variations in the location of structures, improvements, or open areas caused by engineering or other unforeseen difficulties, the Planning Commission may authorize a modification to an approved site plan without public hearing. Such changes or modifications authorized by this subsection shall not modify use, character or density of an approved special review application or site plan. All site plans so modified shall be amended to show the authorized modifications.
2. The Planning Commission may also grant without a public hearing an extension of the time schedule for a period not to exceed six months. Not more than two such extensions may be granted without a duly noticed public hearing pursuant to Article XV herein.

10.08: Termination of approved special review applications.

Approved special review applications may be terminated as follows:

1. By Town Board action: If construction is not completed and use established on a property subject to an approved special review application in accordance with and within the time schedule set forth in the application, the Town Board may require the property owner to appear before it and present evidence establishing that he has not abandoned the use of the property as approved by the Board and that he has the ability to complete the development of the property. In the event the Town Board finds that the conditions, which existed at the time of the approval of the application, have changed so that reasonable questions regarding the property owner's ability and intention to comply with the application, it may withdraw its approval.

Upon such rescission, all uses permitted by the application shall terminate. In its discretion and for good cause shown, the Town Board may extend the period of time for completion of construction and use of the property as provided in the application.

2. By Owner's Action. The owner of a property subject to a special review application may petition the Town Board to rescind its approval of the special review application pertaining to his property or any part thereof. Such petition shall be signed and filed with the Town Clerk in the number and within the time provided in this zoning ordinance for special review applications. The petition shall be submitted to the planning commission for its consideration. The Planning Commission shall then consider the petition and submit its recommendation to the Town Board. The Town Board shall then consider the petition and determine whether or not to grant the same. If the petition is granted, the Town Board shall rescind its approval of the subject special review application as to the property described in the petition upon such terms and conditions as the Town Board determines, in its sole discretion.

Nonconforming Lots, Buildings or Uses:

Certain uses of land or buildings, sizes of lots or location or size of structures may be found to be in existence at the time of the passage of this chapter, which do not meet the requirements of the chapter. It is the intent of this chapter to allow the continuance of such nonconformance, but not to encourage its enlargement nor to allow its continuance should the use be discontinued for a period of one (1) year, or should the use be destroyed by fire or any other cause. Such nonconformance is declared to be incompatible with other uses in the district. Each situation needs to be considered by the Planning Commission and Town Council on its own merits.

Article XI - Nonconforming lots.

- 11.01 Some existing nonconforming lots of record at the time of the passage of this chapter may be built upon or used after the passage of this zoning ordinance, but only:
- a. With a principal use in the zone district, and
 - b. By approval of the Board of Adjustment.
- 11.02 No lot that is conforming in size at the time of the passage of this zoning ordinance may be subdivided or reduced in size in such a way that it would become nonconforming, nor cause any building, space or use to become nonconforming.

Article XII - Nonconforming Buildings or Uses.

12.01 - Alterations or Expansions

A structure or use within a structure or use of premises which was lawful before the passage of this zoning ordinance, but which is not in conformity with the provisions hereof may be continued without compliance with this zoning ordinance. Such nonconforming uses or nonconforming buildings may be repaired, expanded, or altered only upon compliance with the following conditions.

1. Any nonconforming use of property may be expanded provided that such expansion is approved by the Town Board and provided the owner demonstrates to the satisfaction of the Town Board that the expansion does not increase any incompatibility between the present use or size of the structure with neighboring uses.
2. Any nonconforming structure may be repaired, altered, or enlarged provided the cost of repair, enlargement or alteration does not exceed 50% of the nonconforming structure's market value as existing prior to such enlargement, in the opinion of the Town Building Inspector.
3. The purpose of the alteration or extension is for repairs to a building or structure that is ordered by a public official to make it safe.
4. The purpose of the alteration is to make maintenance repairs that are needed to keep the building in good condition.
5. There is a special hardship created by strict application of the ordinance and a variance is granted by the Board of Adjustment in accordance with the provisions of Article XV hereof.

12.02 - Abandonment

If a nonconforming use of property or nonconforming building is discontinued or vacated for a period of twelve (12) consecutive months, it shall be deemed to be abandoned and any further use of the property or structure shall conform to this zoning ordinance.

12.03 - Restoration

A nonconforming structure, which is damaged or destroyed by any calamity, except flood, may be restored to its original condition if such restoration commences within one year from the date of the calamity. If any nonconforming structure is damaged to the extent of 50% of its actual value by flood, said nonconforming structure shall be restored only in compliance with this zoning ordinance. If such flood damage is less than 50% of the structure's actual value, such structure may be restored without compliance with this zoning ordinance, provided said restoration commences within 90 days from the date of damage.

12.04: Previously approved uses.

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

12.05: Change to another nonconforming use. No nonconforming use of a building or structure may be changed to another nonconforming use except when the new nonconforming use is of a more restrictive nature as may be determined and approved by the Planning Commission.

ARTICLE XIII:

SUPPLEMENTARY REGULATIONS

13.01: **Temporary Uses.** Upon application to the Town Clerk and approval by the Town Board, a temporary use permit may be issued for the following uses for the period of time indicated. Such permits shall be valid only for the period of time specified. Extension of time may be granted by the Town Board.

1. Construction office and yards incidental thereto from construction on the premise--nine months.
2. Carnivals, circuses, bazaars, fairs--1 week
3. Tent meetings and crusades--2 weeks

4. Parking for authorized temporary uses.

13.02: **Exceptions to Maximum Height Requirements.** The following uses may be excepted from the maximum height requirements, provided that written approval is granted by the Town Planning Commission who shall have found that the use would not injure the value of, use of or prevent the proper access of light and air to adjacent properties, nor be out of harmony with the intent and purpose of this zoning ordinance:

1. Radio and television towers and antennae.
2. Church towers.
3. Water tanks.
4. Elevator enclosures.
5. Parapet walls may exceed height limitation by four feet.
6. Public utility poles and towers.
7. Monuments.
8. Chimneys, cupolas, vanes

13.03: **Buildings on the Same Lot.** Only one principal building may be permitted on the same lot unless approved as a part of a planned unit development or through the special review procedures in Article X.
(See Lot definition in Article VIII; minimum lot size for residential/commercial improvements provided.)

13.04: **Building on Slopes Greater than 25%.** Any building proposed for a site with a slope of twenty-five percent or greater shall be subject to the special review requirements of Article X.
(See Subdivision Regulations)

13.05: **Utilities.** Nothing in this ordinance shall be construed to prevent the construction or installation of public utilities transmission facilities including mains or distribution lines in any zone district. Substations for a public utility, storage, maintenance facilities and business offices shall be restricted to their appropriate zone district. Location of power transmission lines with a capacity of 100KV or over shall be subject to review by the Town Planning Commission.

13.06: **Supplementary Yard and Setback Requirements.**

1. On lots extending from one street to another paralleling street, both streets shall be considered as front streets for purposes of calculating front yard setbacks.
2. On lots bordered on two contiguous sides by streets, the required front yard setback shall be observed along both streets.
3. Where a lot in a commercial or industrial zone district shares a common side lot line with a lot in a residential district, the largest of the required side yard setback of the residential district or the required side yard setback of the commercial district shall be observed along the common lot line in the commercial or industrial district.
4. Where the side yard of a lot in a commercial district is an extension of the front yard of a lot in an adjacent residential district, a side yard setback equal to one-half the required front yard setback of the residential district shall be observed by the lot in the commercial district.
5. For purposes of setback calculations, a two-family dwelling or an attached multiple family dwelling shall be construed as one building occupying one lot.
6. For purposes of setback calculations, only those attached dwelling units which do not share a common wall with an adjacent attached dwelling unit need observe the required side yard setback for the district, provided building code requirements for this type of structure are observed.
7. On a vacant lot bordered on two sides by previously constructed buildings, which do not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be established as the average front yard setback of the two adjacent buildings.

Where a vacant lot is bordered on only one side by a previously constructed building which does not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be established as the average front yard setback for the adjacent building and the minimum front yard setback for the district.

13.07: **Projections Into Required Yard Areas.** Every part of a required yard area shall be unobstructed from ground level to the sky except for projections of architectural features as follows:

1. Unroofed terraces or patios, cornices, sills, belt courses, chimneys, eaves or similar features up to a distance of three (3) feet from the face of the building.

2. Open fire escapes up to a distance of four (4) feet.
3. Temporary awnings or shading devices

13.08: **Solar Access Protection**

1. When a solar energy collection system (including active or passive systems) has been constructed or installed on a lot, the principal building, accessory structures or vegetation on abutting lots shall not be located so as to block the solar access to the solar collector between the hours of 9:00 a.m. and 3:00 p.m. This section does not apply to principal buildings, accessory structures and vegetation existing on an abutting lot at the time of installation of the solar energy collection system, or on the effective date of this ordinance, whichever is later. A statement that a solar energy collection system is installed on the lot may be filed and recorded with the Delta County Clerk and the date of installation shall be the date of recording such notice.
2. If application of this provision requires more restrictive height, setback or area requirements than stated in the district requirement, the provisions of this section shall apply.
3. In the event the strict application of this provision results in undue hardship upon an individual property owner the aggrieved party may appeal to the Town Board for an exception to the requirements. The Town Board may approve, approve with conditions or deny the exception after a public hearing is held pursuant to the notice provisions contained in Article XV herein.
4. All determinations of the solar access shall be based upon standard references for sky space and shadow data for Dec. 21 (Winter Solstice) at the latitude for the area.
5. Airspace easements may be purchased reserved, granted or otherwise obtained.

13.09: **Home Occupations.**

A home occupation may be permitted as an accessory use in R-1 zoned neighborhoods provided a home occupation permit is granted by the Town Board and the criteria for home occupations are met. Home occupations meeting the requirement of this section are allowed without review in all other zones. (apartments, etc?)

1. **Permit Required.** A person desiring to establish a home occupation within the Town of Hotchkiss in an R-1 district shall apply as follows:

- a. File a written application with the Town Clerk, who shall notify the property owners within 200 ft. of the applicant's property by certified mail, at the applicant's expense, of the public hearing. (The notification will include the nature of the application and a copy of Article 13.09 and the time and place of a public hearing.) Such notice shall be given according to the provisions of Article XV herein.
 - b. A date of public hearing before the Planning and Zoning Commission will be set that will allow time for publication and notification of adjoining property holders, pursuant to Article XV herein.
2. **Revocation.** A Home Occupation Permit may be revoked by the Town Administrator, Town Manager, Town Clerk or assigned official if at any time the Home Occupation fails to meet the criteria listed below.
3. **Non-Transferability:** Home Occupation Permits are issued to the individual for a specific property and use. Permits are not transferable should the property be occupied, rented or sold to some other person or entity.
4. **Criteria for Home Occupations.** A home occupation may be allowed as a permitted accessory use provided the following conditions are met:
 - a. The use must be conducted entirely within a dwelling or accessory structure and carried on by the occupants of the dwelling and no more than one non-occupant employee.
 - b. The use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
 - c. The total area used for such purposes may not exceed 25% of the first floor area of the user's dwelling unit.
 - d. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, including advertising signs or displays, or advertising that solicits or directs persons to the address, except a wall-mounted identification sign of not more than two square foot shall be permitted.
 - e. There shall not be conducted on the premises the business of selling stock in trade, supplies or products, provided that incidental retail sales may be made in connection with other permitted home occupation.
 - f. There must be no exterior storage on the premises of material or equipment used as a part of the home occupation.

- g. No equipment or process shall be used in such home occupation, which creates any glare, fumes, odors, or other objectionable conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling or outside the dwelling unit if conducted in other than a single-family dwelling.
- h. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of the home occupation shall be met with additional off-street parking spaces that are not located in a required yard adjacent to a street;
- i. Under no circumstances shall any of the following be considered a home occupation: antique shop, barber shop or beauty parlor (with more than one chair), clinic, mortuary, nursing home, restaurant, veterinarian's clinic, or dancing studio. (what type of clinic?)

ARTICLE XIV: Zoning Board Of Adjustment

The Zoning Board of Adjustment, hereinafter referred to as the “Board”, was created by Ordinance No. 2008 - 10.

14.01: **Organization**. The Board shall have five members; one membership shall be filled by a current member of the Town Planning Commission. Appointment to membership shall be by the Town Board for a term of three (3) years. Vacancies on the Board shall be filled for the remaining term in the same manner as the initial appointment. The Board shall elect from its membership a chairman, secretary, and such other officers as it may deem necessary during its first meeting of each calendar year, and adopt such rules as may be necessary for conduct of its business.

14.02: **Meetings**. Meetings of the Board shall be held at the call of the chairman. All meetings shall be open to the public. Membership of the Board shall be notified at least 24 hours prior to the time of the meetings. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

14.03: **Powers and Duties**. Upon appeal, the Board shall have the following powers:

- 1. To hear and decide appeals where it is alleged by the appellant there is error in any order, requirement, decision or refusal by an administrative official or agency based on or made in the enforcement of this zoning ordinance.

2. To hear and decide appeals wherein there is question on the interpretation of the zone district map or similar questions as they may arise in the administration of this zoning ordinance.
3. To hear and decide appeals for special exceptions to the provisions of this zoning ordinance, such exceptions to be known as variances.

14.04: **Procedures.**

1. Appeals to the Board may be taken by any person aggrieved by his inability to obtain a building permit, based upon the decision of any administrative officer or agency made in the course of the administration or enforcement of the provisions of this zoning ordinance. Appeal may be taken by an officer, department, board or bureau of the Town affected by the refusal of a building permit or by other decision of an administrative officer or agency made in the course of the administration or enforcement of this zoning ordinance. Appeals to the Board must be made in writing and filed with the Town Clerk no later than 4:30 o'clock P.M. of the seventh day following the action or decision from which the appeal is taken. In the event the seventh day falls on a Saturday, Sunday or holiday, the next regular business day of the Town shall be deemed the seventh day. The day of the action or decision shall not be included in the seven-day calculation.
2. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay, in his opinion, would cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
3. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this zoning ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this zoning ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship provided, however:
 - a. That the variance granted is the minimum necessary to alleviate such practical difficulties or undue hardship upon the owner of said property.

- b. That such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the general plan or this zoning ordinance.
- c. That the circumstances found to constitute a hardship were not created by the appellant, are not due to or the result of general conditions in the district and cannot be practically corrected.

14.05: **Hearings.** All hearings on the appeals to the Board shall be held within 30 days of filing of the appeal. Hearings held in regard to variance from strict application of the provisions of this zoning ordinance shall be conducted at a public hearing following public notice requirements as provided in Article XV below.

14.06: **Fee.** For all applications for a variance or interpretation of the code a fee shall be charged to cover administrative costs, legal fees and the costs of notice, advertising and processing. The amount of the fee shall be established by resolution of the Town Board.

14.07: **Decisions.** The concurring vote of at least four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or agency or to decide in favor of the appellant.

ARTICLE XV: Public Notice Requirements

15.01: **Required Notice.** For special review requests, variance requests, PUD hearings, rezoning requests, the following public notice requirements shall be met: (PUD?)

1. A public notice shall be published in a newspaper of general circulation within the Town at least 15 days in advance of the hearing.
2. Notice shall be sent to all property owners within two hundred feet of the property in question at least ten (10) days in advance of the hearing.
3. A notice shall be posted on the subject property at least ten days prior to the hearing. The applicant shall be required to post the notice on the property in the manner prescribed by this section and as directed by the Town Administrator, Town Manager, Town Clerk or designated official.
4. In the case of rezoning of a large area, the entire Town or a portion of the Town initiated by the Planning Commission and/or Town Board, public notice shall be as follows:
 - a. A public notice shall be published in a newspaper of general circulation within the Town at least 15 days in advance of the public hearing. Such notice shall include a map of the boundaries of the proposed zone changes.

- b. Notices shall be posted at several places throughout the area(s) to be rezoned and along the perimeter of the area. Such notices shall be posted at least ten (10) days prior to the hearing.
5. In determining the time periods for notice requirements, the day of the action or public hearing is not included in the calculation.

15.02: **Notice Information.** All notices shall include the following information:

1. The name of the applicant or appellant and the description of the property, and
2. A description of the nature of the request, and
3. The time, date and place of the public hearing, and
4. The agency or office and phone number where further information may be obtained.

ARTICLE XVI: Interpretation

In their application and interpretation, the provisions of this zoning ordinance shall be held to be minimum requirements. This zoning ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or with existing provisions of private agreements, except that where this ordinance imposes greater restriction than that imposed by such existing provisions of law, contract, or deed, the provisions of this zoning ordinance shall control.

ARTICLE XVII: Certificate Of Occupancy

No vacant land shall be occupied and used, and no building hereafter erected shall be occupied or used, until a certificate of occupancy has been issued by the building inspector.

17.01: Certificate of occupancy for a new building or the alteration of an existing building shall be applied for coincident with the application for a building permit, and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of these regulations.

17.02: Certificate of occupancy for the use of vacant land or the change in the use of land as herein provided shall be applied for before such land is occupied or used, and a certificate of occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with these requirements. (Fee?)

17.03: An issued certificate of occupancy shall state that the building or land complies with all the building and health laws and ordinances and with the provisions of this zoning ordinance. A record of all certificates shall be kept on file in the office of the building inspector and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application of building permit. For all certificates or for copies of the original certificate, there shall be a charge of \$1.00. (only \$1 for a certificate that might require administrative time, inspection, etc?)

ARTICLE XVIII: Amendment Procedures

The Town may from time to time amend the number, shape or boundaries of any zone district or any regulation of or within such district, or any other provision of this zoning ordinance.

18.01: **Procedures**. Amendments to this zoning ordinance shall be considered by the Town Board only when the following requirements have been observed:

1. Requests for amendment may only be presented by a legal title owner of real property within the area proposed for a change, by the Town Planning Commission or the Town Board. Requests for a change in the boundary of any zone district by a legal title owner of real property within the area proposed for change shall be accompanied by a petition requesting change signed by owners of at least 50 percent of the area of the lots included in such change.
2. Each amendment shall be submitted to the Town Planning Commission for its recommendations; such action by the Town Planning Commission to be filed in a report to the Town Board.

18.02: **Town Council Public Hearing**. Prior to final adoption of any amendment to this zoning ordinance, the Town Board shall hold a public hearing thereon. Notice shall be given as provided in Article XV.

18.03: **Fee**. For all proposed amendments to this ordinance, except for amendment proposed by the Town Board or the Planning Commission, a fee shall be charged to cover administrative costs, legal fees and costs of notice, advertising and processing. The amount of the fee shall be established by resolution of the Town Board.

18.04: **Decisions**. In case of protest against a proposed amendment, signed by the owners of 20 percent or more, either of the area of lots included in such proposed amendment or of those immediately adjacent in the area thereof extending 100 feet therefrom, or from those directly opposite thereto, extending 100 feet therefrom, or from those opposite thereto, extending 100 feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of two-thirds of all the voting members of the Town Board.

ARTICLE XIX: Severability

If a provision of this zoning ordinance is invalidated by decision of a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of the decision shall be limited to the provision which is expressly stated in the decision to be invalid and the decision shall not affect, impair or nullify this zoning ordinance in its entirety.

ARTICLE XX: Violation

It shall be unlawful to erect, construct, reconstruct or use any building or structure, or to use any parcel or tract of land in violation of any provision of this zoning ordinance or amendment thereof. Any person, firm, or corporation, either as owner, lessee, occupant or otherwise, who violates any of the provisions of this zoning ordinance or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this zoning ordinance shall be guilty of a violation of this zoning ordinance.

20.01: **Penalty.** Any person, firm or corporation upon conviction of a violation of this zoning ordinance shall be fined not more than \$1000.00 or be confined in the County jail for not more than one year, or by both such fine and imprisonment for each offense. Each day that a violation exists shall constitute a separate offense.

20.02: **Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this zoning ordinance or other regulation made under authority conferred hereby, the Town, in addition to other remedies may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XXI: Repeal Of Conflicting Ordinances

All sections or parts of the Municipal Code of the Town of Hotchkiss that are in conflict with or inconsistent with this zoning ordinance are hereby repealed.

ARTICLE XXII: Non-Liability For Damages

This zoning ordinance shall not be construed to hold the Town of Hotchkiss, Colorado in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as hereinabove set forth or the forbearance by the Town of Hotchkiss, Colorado to so proceed.

ARTICLE XXIII: Non-Liability Of Officials

Any Town Official or employee, charged with the enforcement of this zoning ordinance, acting in good faith and without malice on behalf of said Town in the discharge of his official duties, shall not thereby render himself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him in the enforcement or attempted enforcement of any provision of this zoning ordinance, shall be defended by attorney(s) provided by the Town until final termination of the proceedings.

Appendix A - Off-Street Parking

1. Space Requirement Chart

(Ordinance 2008 -04 adopted April 10, 2008)

The following number of off-street parking spaces (in addition to any on-street frontage) shall be provided with the construction or addition or change of use:

All residential units

Efficiency or one bedroom	1.5 spaces per unit
Two bedroom-	2.0 spaces per unit
3 bedroom -	2.5 spaces per unit
4 or more bedrooms -	3.0 spaces per unit

Additional Requirements for Multiple-family Residential and Mobile Home parks with 6 or more units (guest Parking)

.25 spaces for each unit

Multiple family housing for the elderly or for the

One space per unit

handicapped

**Motels, Hotels, Lodges,
Bed & Breakfast**

One space per unit plus 2 spaces
for the owner or manager's unit

Nursing Homes, Rest Homes

One space per four beds plus one
space for each employee

Drive-In or Fast Food Restaurants

One space for every two seats or
one space for every 100 sq. ft.;
whichever is greater, plus one
space for every employee on the
largest work shift.

Animal Hospitals

One space for every 300 sq. ft.
of floor space.

Hospitals

One space for every two beds
plus one space for every staff
doctor and employee at the
largest work shift.

Motor Vehicle Sales

One space for every 500 sq. ft.
of floor area.

**Motor Vehicle Service and
Repair**

One space for every 300 sq. ft.
of floor area.

**Business and Professional
Offices**

One space for every 250 sq. ft.
of floor space.

**Medical, Dental Offices and
Clinics**

One space for every 200 sq. ft.
of floor space.

Indoor Restaurants and Bars

One space for every three seats
or one space for every 200 sq.
ft. of floor area, whichever is greater.

**Retail Business except for
furniture stores, appliance
stores**

One space for every 300 sq. ft.
of floor area.

**Furniture stores, appliance
stores**

One space for every 500 sq. ft.
of floor area.

**Wholesale business, and
warehouses**

One space for every 1000 sq. ft.
of floor area or 1 space for every two
employees, whichever is greater.

Industrial Uses

One space for every 500 sq. ft. (excluding
offices) or one space for every two
employees, whichever is greater.

**Places of public assembly such
as churches, auditoriums,
meeting rooms, funeral homes**

One space for every four seats
or benches in the principal
place of assembly (Bench
capacity is determined as one
seat per 30")

Libraries

One space for every 400 sq. ft.
of floor area plus one space
for every two employees

Educational Facilities

Preschool nurseries of child
care centers, kindergarten,
elementary schools and
middle schools

One space per classroom plus
one space per employee.

High Schools

One space per employee plus one
space for every four students
plus one space for every four
seats in the principal place
of assembly. (Bench capacity
is determined as one seat per
30" inches).

Combinations of Uses. When one building is planned to include a combination of different uses, the minimum parking required will be determined by applying the above requirements based upon the floor area for each use. The minimum number of parking spaces required for the building shall be the sum of the requirements for each separate use.

Parking Requirements for Uses Not Listed. For specific uses not listed, the Planning Commission shall determine the appropriate number of parking spaces required based upon the type of activity, intensity, number of employees and similarity to listed uses.

Exemptions:

A. New business uses within the existing, or reasonably altered, but not expanded,

buildings located within the portion of Bridge Street from Oak Street to Third Street are declared exempt from the requirement to provide additional off-street parking for said uses as per the preceding chart.

B. New construction within the portion of Bridge Street from Oak Street to Third Street *may* be exempted from part, or all, of the requirements at the discretion of the Trustees as the result of a public review by the Planning Commission and Board of Trustees. (NOTE: I would prefer not to have it in italics – no need to draw attention)

2. Design Requirements for Parking Areas.

1. All off-street parking areas shall be unobstructed and free of all other uses.
2. All off-street parking spaces shall have unobstructed access to and from a street except that, in single family areas, parking spaces provided on the garage apron or driveway may be counted as a part of meeting off-street parking requirements in addition to parking in a garage or a carport.
3. All off-street parking areas, except those for single family or two family dwellings, shall be surfaced with all weather material (asphalt, concrete or properly based gravel, etc.) approved by the Town Planning Commission and Town Council.
4. Off-street parking areas with six or more spaces shall be adequately landscaped with plan approved by Town Planning Commission special review.
5. Lighting from any parking area shall not be directed toward any adjacent residential area or public street.
6. Off-street parking areas may be located to jointly serve two or more buildings or uses provided the total number of spaces is not less than that required for total combined number of buildings or uses.
7. Bicycle parking spaces may be acceptable in lieu of vehicle spaces in the ratio of six bicycle spaces for one vehicle space provided not more than 10% of the off-street parking requirements are met with bicycle parking. A bicycle parking space shall include secured stanchions and racks that enable the bicycle frame, not just a wheel, to be anchored. At least 2'0" of spacing should be provided between the bicycle racks so that cyclists may place or remove the bikes with minimum risk of damage to other bikes.
8. No more than 12 parking spaces shall be permitted in a contiguous row without being interrupted, with a landscaped area of at least 5 feet wide and **10** feet long, to provide drainage for run off, with additional areas as needed. (missing wording?)
9. In multiple family areas, areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking requirements.

10. Spacing between rows of parking shall be determined based upon the parking angle in accordance with the following schedule:

<u>Parking Angle</u>	<u>Minimum Aisle Space Between Two Rows</u>
30 degrees	12 feet
45 degrees	15 feet
60 degrees	18 feet
90 degrees	22 feet

11. A minimum of one parking space for the handicapped shall be required for each use that requires fifteen parking spaces. For uses requiring more than fifteen spaces, one additional space designated for the handicapped shall be provided for each additional twenty spaces required. Parking spaces for handicapped persons shall be 12 feet wide.

Off-street loading areas. For all business and industrial uses, off-street loading spaces containing 500 sq. ft. with no dimension less than 10 feet shall be required for new construction or major additions involving an increase in floor area as follows:

New floor area between 5000 and 20,000 sq. ft.- one off-street loading space.

New floor area in excess of 20,000 sq. ft. - one off-street loading space for each 20,000 sq. ft. or fraction thereof.

Appendix B - Residential Setback Requirements & Height Restrictions

(Per Ordinance 2008-04)

Residential Setbacks From Property Lines Required

All new residential construction or any new structure, including accessory structures, built in residential neighborhoods shall have a minimum front setback of twenty-five feet, a minimum rear setback of ten feet and minimum side setbacks of seven and one half feet.

Note: these are also setback standards included in the Hotchkiss Subdivision regulations.

Residential Height Restrictions

No residence or multi family residence or accessory or other structure located within a residential (R-1 or R-2-MU) neighborhood may exceed twenty-six feet in height if built to setback line. The structure in question may be built to a maximum of thirty-five feet if the setback is increased on all sides by three (3) feet for each one (1) foot of additional height.

The height shall be determined by vertical measurement from the average elevation

of the lot grade to the top of the roofline, excluding chimneys, vertical vent pipes or by other commonly used methods, acceptable to the Board of Trustees and Town Building Inspector.