

TITLE X

LAND USE REGULATIONS

CHAPTER 4

ZONING

Section:

- 10-4-1: Purpose, Authority & Title
- 10-4-2: Establishment of Districts
- 10-4-3: Definitions
- 10-4-4: Use Districts
- 10-4-5: Dimensional and Parking Requirements Table
- 10-4-6: Miscellaneous Requirements
- 10-4-7: Administration, Enforcement and Penalties
- 10-4-8: Amendments and Additions to the Official Zoning Map and Zoning Regulations
- 10-4-9: Board of Zoning Adjustment
- 10-4-10: Supplemental Regulations
- 10-4-11: Conditional Uses
- 10-4-12: Planned Development

10-4-1: Purpose, Authority & Title

- A. General Purposes:
This Chapter shall be for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town of Olathe, Colorado.
- B. Authority:
This Zoning Chapter is authorized by Section 31-23-201 of the Colorado Revised Statutes, 1973, as amended, and is hereby declared to be in accordance with all provisions of these Statutes.
- C. Title:
This Chapter, including this text and the Official Zoning District Map, shall be known as the Town of Olathe Zoning Chapter.

10-4-2: Zoning Map (Ord. 98-07)

- A. The 1998 Revised Zoning Map of the Town as adopted by Section 2 of Ordinance 98-07 as such may be amended from time to time, may be known or cited as the “Official Zoning District Map” or “Official Zoning Map” of the Town.

- B. Amendments to the Official Zoning Map may be made by an ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map by specifying the description of the property to be zoned. A copy of the Official Zoning Map as amended from time to time, shall be maintained in Town Hall available for public inspection. Periodically, copies of the Official Zoning Map, as amended, may be reproduced and made available to the public.

- C. The regulations for the zoning districts provided for in this Chapter shall apply within the boundaries of each such district as indicated on the Official Zoning Map and shall be construed to follow the centerlines of streets, private lot lines, the lines of undivided parcels of property, or to follow the Town limits when the boundary as shown is approximately in the vicinity of such lines. Distances may be determined by the scale of the map.
 - 1. Boundaries indicated following highways, roads, streets, water courses or platted property lines shall be constructed to follow the centerline thereof.
 - 2. All interpretation of district boundaries shown on the Official Zoning Map shall be determined by the Zoning Enforcement Officer.

10-4-3: Definitions

- A. For the purpose of this Chapter certain word and phrases used herein shall be defined or interpreted as follows:
 - 1. Words used in the present tense include the future.
 - 2. Singular words include the plural.
 - 3. The word "person" includes a corporation as well as an individual.
 - 4. The word "lot" includes "plot" or "parcel".
 - 5. The term "shall" is mandatory.

- B. For the purpose of this Chapter, the following definitions shall apply:
 - 1. Accessory Use:
A use customarily associated with, but subordinate to and customarily associated with the principal use on the same zone lot.

2. Building:

Anything constructed or erected upon the ground having a roof, and supported by columns and/or walls and intended for shelter, housing or enclosure of persons, animals or property.

3. Building Heights:((Ord. 99-09)

The vertical distance between the average grade of a structure and the highest point of the structure.

4. Building Line:

A line parallel to the property line beyond which no exposed portion of a building may extend.

5. Building Setback:

The minimum permitted horizontal distance between the building line and the property line.

6. Density:

The number of dwelling units divided by the amount of net acreage

7. Dwelling:

A building used for residential purposes and includes mobile homes, modular homes, and conventional built housing.

8. Dwelling Unit:

One or more rooms in a dwelling designed for occupancy and use by one family for living purposes and having its own cooking and sanitary facilities.

9. Family:

One or more individuals occupying a dwelling and living as a single housekeeping unit

10. Flood Prone Area:

That portion of land area adjoining a river, stream, or other water course which has been or may be covered temporarily by flood water

11. Home Occupation:

A use clearly incidental and secondary to the residential use of a building and operating in accordance with Section 10-4-6

12. Lot:

A parcel of land occupied or designed to be occupied by one or more buildings, structures or uses, arranged so as to meet all of the requirements of these regulations and with direct access to a public street.

13. Mobile Home:

Mobile Home shall be defined as provided in Section 3-3-1 of the Olathe Municipal Code, as amended.

14. Modular House:

Modular House shall be defined as a dwelling constructed off the site that meets the requirements of the Uniform Building Code and other applicable Town building codes.

15. Mobile Home Park:

Mobile Home Park shall be defined as provided in Section 3-3-1 of the Olathe Municipal Code, as amended.

16. Net Acre:

The amount of land devoted to housing open space, private roadways and parking space.

17. Nonconforming Use:

Land or a building lawfully occupied prior to the adoption of these regulations by a use, which does not conform with the regulations of the district in which it is located.

18. Parking-Off-Street:

The area on private property designated to accommodate a parked motor vehicle with adequate access to that space from a public street.

19. Public Building or Use:

Any building open to the general use, participation or enjoyment of the public and owned by the municipality, county, state or federal government or any subdivision thereof or by a public utility corporation.

20. Public Utility:

For the purpose of these regulations only; an electric substation, gas regulator stations, telephone exchanges, water or sewage pumping stations or water reservoirs and power transmission lines.

21. Travel Home:

Travel Home shall be defined as provided in Section 3-3-1 of the Olathe Municipal Code, as amended.

22. Travel Home Park:

Travel Home Park shall be defined as provided in Section 3-3-1 of the Olathe Municipal Code, as amended.

23. Uses:

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

24. Yard:

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

25. Conventional Built House:

A residential dwelling, which meets the requirements of all Town building, codes and is substantially constructed on the site

26. Campgrounds

Campgrounds are defined pursuant to provisions in the “Standards and regulations for Campgrounds”.

10-4-4: Use Districts

- A. The following districts are established to encourage the most appropriate use of land within the Town of Olathe.
 - 1. Residential District - "R"
 - 2. Mixed Residential District - "M"
 - 3. Mobile Home Park District - "P"
 - 4. Central Business District - "B"
 - 5. General Commercial District - "C"
 - 6. Industrial District - "I"
 - 7. Rural Residential District – “RR” (Ord. 99-04)
 - 8. Agricultural District – “AA” (Ord. 99-05) (Ord. 2011-04)
 - 9. Agricultural District – “AB” (Ord. 2008-07) (Ord. 2011-04)

- B. For lot size and other dimensional and parking requirements, see Section 10-4-5.

- C. Residential District - "R":
 - 1. The Residential District is intended primarily for conventional built houses, modular houses, and mobile homes, which meet certain performance criteria, and accessory uses. Dimensional and parking requirements are provided in Section 10-4-5.

 - 2. Permitted Uses.
 - a. One, two and multi-family dwellings, including modular houses, mobile homes, and conventional built houses which meet the performance standards of paragraph(3);
 - b. Schools, parks, churches, cemeteries;
 - c. Accessory uses, including home occupations, which comply with the requirements of Subsection 10-4-6(B)

3. Performance Standards.
 - a. Residences shall have a minimum width of 20 feet and length of 20 feet, and a pitched roof.
 - b. No corrugated metal or shiny siding may be used on any residence.
 - c. The requirements of Section 10-4-5 shall be met.
4. Conditional Uses: (Ord. 5-1994)
 - a. Day care facilities for children under the age of fourteen (14).

D. Mixed Residential District - "M":

1. This residential district is intended primarily for residential dwellings and includes conventional built houses, modular houses, and mobile homes located on individual lots. Mobile homes and other houses, however, must be located on a permanent foundation and comply with all other state and local regulations. For lot size, setbacks and other dimensional and parking requirements, see Section 10-4-5.
2. Permitted Uses.
 - a. All uses permitted in the residential - "R" district.
 - b. Mobile Homes are to consist of 1,000 sq. ft. or more. (Ord. 2011-04)
3. Conditional Uses: (Ord. 5-1994)
 - a. Day care facilities for children under the age of 14.

E. Mobile Home Park District - "P":

1. The Mobile Home Park District is intended for mobile homes and related activities and services. Mobile home parks must meet all requirements of this Chapter and of Title 10, Chapter 3 of the Olathe Municipal Code.
2. Permitted Uses.
 - a. Licensed mobile home parks.
 - b. Mobile homes and modular houses.

- c. Coin-operated laundries serving mobile home park residents.
- d. Other uses directly related to licensed mobile home parks.
- e. Accessory uses.

F. Central Business District - "B":

- 1. This business district is intended as a shopping and business center for the Town of Olathe. The best intensive use of buildings and land is encouraged with parking, primarily a public concern. This district is oriented to pedestrian traffic.
- 2. Permitted Uses.
 - a. Retail stores, business offices and service establishments and professional offices.
 - b. Public buildings and uses.
 - c. Private and Fraternal Clubs.
 - d. Restaurants, lounges and liquor stores.
 - e. Movie Theater.
 - f. Laundromats.
 - g. Parking lots.
 - h. Residential dwellings provided they meet the requirements of the residential district.
 - i. Churches (Ord. 05-1996)
 - j. Campgrounds (Ord. 2010-07)

G. General Commercial District - "C":

- 1. This General Commercial District is intended to provide location for business oriented toward servicing the vehicular customer. It also may include certain manufacturing operations provided they are not objectionable because of noise, dust and odor. Off street parking is a requirement for business in the district.
- 2. Permitted Uses.
 - a. Those uses permitted in the Central Business District.
 - b. Motels.

- c. Drive-in restaurants.
- d. Auto repair shops, service stations.
- e. Light manufacturing operations.
- f. Car washes.
- g. Convenience food stores.
- h. Mobile home parks and travel home parks.
- i. All types of outdoor sales and service.
- j. Warehouse and storage provided the outside storage is fenced.
- k. Kennels licensed pursuant to Town ordinance. (Ord. 7-1993)

H. Industrial District - "I":

- 1. Intent: The Industrial District allows most industrial and manufacturing uses, provided that they do not create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration, or other adverse effects which cannot be effectively confined on the premises.
- 2. Uses by Right:
 - a. Agriculture and agricultural related business.
 - b. Warehouses and storage of goods, pipe, equipment, supplies, fuel and petroleum.
 - c. Light manufacturing, such as food processing, electronics, plastics, wood or metal fabricating, power generation and fabric processing.
 - d. Retail sales or services accessory to a use by right or approved conditional use. (Ord. 98-07)
- 3. Conditional Uses: (Ord. 05-94)
 - a. Gravel extraction, gravel crushing and industrial or commercial uses, other than the uses by right listed above, which comply with the performance standards.

- b. Single or multi-family residential dwelling units accessory to a use by right or approved conditional use and used primarily to house employees engaged in work related directly to this use. Such dwelling units shall meet the performance and design standards set forth in Section 10-4-4(C) and 10-4-4(D)(2)(b) regarding mobile homes. (Ord.05-1995; Ord 2008-04)

4. Performance Standards:

- a. No use shall be established or maintained in the "I" District which results in an unreasonable hazard to the community or creates a public or private nuisance, or creates unreasonable smoke, dust, noise, fumes, odors, vibrations or light observable off the premises, except for reasonable security lighting.

I. Rural Residential District – “RR”: (Ord. 99-04)

- 1. The Rural Residential District provides for overall low density by requiring large lots for conventional built houses.

2. Permitted uses:

- a. Single family homes.
- b. Parks, open space and recreation facilities owned or operated by a homeowner’ association or the Town.
- c. Accessory uses, including home occupations, which meet the requirements of subsection 10-4-6(B).
- d. Campgrounds (Ord. 2010-07)

3. Performance Standards.

- a. No livestock is permitted.
- b. Each lot must have 50 feet frontage on a street.
- c. The dwelling must have a minimum floor area of 1000 square feet.
- d. The dwelling must have a minimum length and width of 24 feet each, a minimum eave overhang of 12 inches, and be set on permanent continuous foundation.
- e. Pitched roofs are required with a minimum 1:12 pitch.

J. Agricultural District – “AA” (Ord. 99-05) (Ord. 2011-04)

- 1. The Agricultural District preserves large relatively remote areas, protects habitat values, and provides a rural atmosphere for residential uses and for general farming, ranching, agricultural

uses, and agriculturally related uses while protecting the surrounding land from harmful effects.

2. Permitted Uses.

- a) Single family homes.
- b) Parks, open space and recreation facilities owned or operated by a homeowner's association or the Town.
- c) Farms and ranches.
- d) Accessory uses, including home occupations, which meet the requirements of subsection 10-4-6(B).
- e) Campgrounds (Ord. 2010-07)

3. Performance Standards.

- a) Feed lots, dairies, hog farms, fur farms and similar operations with a high density of animals are prohibited.
- b) No more than one principal single family home is allowed on a lot together with a second accessory dwelling unit or second single family home.
- c) The dwelling must have a minimum length and width of 24 feet each, a minimum eave overhang of 12 inches, and be set on an attached permanent, continuous foundation.
- d) Pitched roofs are required with a minimum 1:12 pitch.
- e) A single dwelling unit may be constructed on a lot which doesn't meet the minimum lot area requirements if the lot was lawfully in existence at the time it was zoned "A". (Ord. 03-02)

4. Conditional Uses.

- a) Bed and Breakfast operations accessory to and within a residence operated by the residents of the residence.
- b) A second accessory dwelling unit or single family home on the lot owned by the owners of the primary residence.
- c) Rodeo grounds.
- d) Kennels and commercial stables.

- e) Sales of produce grown on the premises.
- f) Sales offices for vegetable and sod farms.
- g) Day care operations for children within a single home which do not qualify as an accessory home occupation or involve the presence of more than 6 children on the premises at any one time, limited to no more than 12 children on the premises at one time.

K. Agricultural District – “AB” (Ord. 2008-07) (Ord. 2011-04)

1. The Agricultural District preserves large relatively remote areas, protects habitat values, and provides a rural atmosphere for residential uses and for general farming, ranching, agricultural uses, and agriculturally related uses while protecting the surrounding land from harmful effects.
2. Permitted Uses.
 - a. Single family homes, on a minimum lot size of five acres with subdivision consisting of at least 40 contiguous acres.
 - b. Parks, open space and recreation facilities owned or operated by a homeowner’s association or the Town.
 - c. Farms and ranches.
 - d. Accessory uses, including home occupations, which meet the requirements of subsection 10-4-6(B).
3. Performance Standards.
 - a. Feed lots, dairies, hog farms, fur farms and similar operations with a high density of animals are prohibited.
 - b. No more than one principal single family home is allowed on a lot together with a second accessory dwelling unit or second single family home.
 - c. The dwelling must have a minimum length and width of 24 feet each, a minimum eave overhang of 12 inches, and be set on an attached permanent, continuous foundation.
 - d. Pitched roofs are required with a minimum 1:12 pitch.
 - e. A single dwelling unit may be constructed on a lot which doesn’t meet the minimum lot area requirement if the lot was lawfully in existence at the time it was zoned “B”.

- f. Subdivision within this district must consist of a minimum of 40 contiguous acres, with a minimum lot size of five acres not including easements, rights of way, and irrigation ditches.

4. Conditional Uses.

- a. Bed and Breakfast operations accessory to and within residence operated by the residents of the residence.
- b. A second accessory dwelling unit or single family home on the lot owned by the owners of the primary residence.
- c. Rodeo grounds.
- d. Kennels and commercial stables.
- e. Sales of produce grown on the premises.
- f. Sales offices for vegetable and sod farms.
- g. Day care operations for children within a single home which do not qualify as an accessory home occupation or involve the presence of more than 6 children on the premises at any one time, limited to no more than 12 children on the premises.

10-4-5: Dimension Table

DIMENSIONAL AND PARKING REQUIREMENTS TABLE
(See next page)

District	Minimum Lot Area sq. ft.	Minimum Lot Width at Bldg. Line	Minimum Front Setback	Minimum Side Setback	Minimum Rear Setback	Maximum Bldg. Height	Off Street Parking Regulations	Density & Lot Conformance Coverage
RESIDENTIAL – R								
One Family & Modular Home	6,250	50 ft	25 ft.	5 ft	20 ft	35 ft	2 sp per dwelling unit	NA
Two Family	10,500	75 ft	25 ft	5 ft	20 ft	35 ft	2 sp per dwelling unit	NA
Multi-Family	13,000	100 ft	15 ft	10 ft	10 ft	35 ft	2 sp per dwelling unit	15 dwelling units per acre
MIXED RESIDENTIAL – M								
Conventional Res.	<i>Same as</i>	<i>Residential</i>	<i>District</i>					
Mobile Homes	6,250	50 ft	25 ft	5 ft	20 ft	NA	2 sp. per unit	NA
MOBILE HOME PARK - P	5,000	50 ft	20 ft	5 ft	10 ft	NA	2 sp per unit	NA
CENTRAL BUS. DISTRICT - B	None	None	None	None	5 ft	35 ft	NA	NA
GEN COM. DIST - C								
Motels		100 ft	15 ft	(2) Not required	10 ft	35 ft	1 per unit	NA
Restaurant & Lounges		50 ft	15 ft	(2) Not-required	10 ft	35 ft	1 for each 3 seats	NA
Service Stations		150 ft	10 ft	(2) Not-required	10 ft	35 ft	4 plus 2 for each enc. Sp	NA
Drive In's		200 ft	15 ft	(2) Not-required	10 ft	35 ft	1 for each 50 Sq ft of gross fl. ar.	NA
Beauty & Barber Shop		25 ft	15 ft	(2) Not-required	10 ft	35 ft	2 for each customer ch.	NA
Other Retail Stores and Services		50 ft	15 ft	(2) Not-required	10 ft	35 ft	1 sp for each 300 sq ft	NA
Bus. & Prof. Offices		25 ft	15 ft	(2) Not-required	10 ft	35 ft	1 sp for each 200 sq ft	NA
INDUSTRIAL - I	½ acre	100 ft	25 ft	10 ft	15 ft	35 ft	1 sp for each employee per shift	NA
AGRICULTURAL - AA	35 acres	100 ft	60 ft	40 ft	50 ft	35 ft	4 sp per dwelling unit	2 dwelling units/lot
AGRICULTURAL – AB	5 acres	100 ft	60 ft	40 ft	50 ft	35 ft	4 sp per dwelling unit	2 dwelling units/lot
RURAL RESIDENTIAL – RR	½ acre	90 ft	40 ft	20 ft	20 ft	35 ft	3 sp per dwelling unit	NA

10-4-6: Miscellaneous Requirements

A. Nonconforming Uses

1. Any use, building or structure which at the effective date of this Subsection or at the time of annexation, if annexed subsequent to the effective date of this Subsection, was lawfully existing and maintained in accordance with the previously applicable County or Town regulations and ordinances but which does not conform or comply with all of the regulations provided for in this Chapter, as amended, may continue to be maintained, and used as a lawful, nonconforming use only in compliance with the provisions and limitations imposed by this Section. Uses, structures, or buildings which were unlawful or illegal and not in compliance with previously applicable ordinances or regulations shall remain unlawful, illegal, and subject to abatement or other enforcement action.
2. If a use, building or structure is lawfully nonconforming in that it is not a "permitted use" or approved "conditional use", the following shall apply:
 - a. If the building or structure involved in the use is destroyed or damaged so that repair or reconstruction will cost more than 50% of the fair market value of the building or structure after repair, it shall no longer be lawful to use the building or premises except in compliance with the Use Regulations for the District within which it is located. If a nonconforming mobile home, travel home or other factory manufactured structure is removed, the space or lot vacated may only be used in conformity with applicable use regulations, thereafter.
 - b. If the nonconforming use is abandoned or discontinued for a period of six months, (or nine (9) months for a travel home park), then the premises may only be used in compliance with the Use Regulations for the District within which it is located. Failure to operate or have any mobile homes in a mobile home park or travel homes in a travel home park for the above periods shall constitute abandonment.
 - c. The use may be continued only substantially as it existed at the effective date of this Subsection or at the time of annexation, and no material change in the type of use shall be allowed.

- d. The extent or area of the premises utilized for or by the nonconforming use, building, or structure may not be materially extended, enlarged, or substantially structurally altered.
3. If the use, building or structure is nonconforming with respect to other requirements of these Zoning Regulations than the "permitted use" regulations, the following provisions shall apply:
 - a. If the nonconformity of the building, use, or structure is abandoned, removed, or corrected for any length of time, such nonconformity may not be reestablished.
 - b. If the building or structure is damaged so that the cost of replacing or restoring it is greater than 50% of its fair market value after replacement, the building or structure may be repaired or replaced only in compliance with this Zoning Chapter.
 - c. If the building or structure is damaged in such a way as to remove the nonconformity, the nonconforming feature may not be reestablished by any repair or reconstruction, unless it is unfeasible to repair the building without reestablishing the nonconforming feature.
 - d. No alteration may be made to the use, building, or structure, which would increase the amount or degree of the nonconforming feature. Changes in the use, building, or structure may be made which will decrease the degree or amount of deviation from the requirements of this Chapter.

B. Home Occupations.

1. Home occupations may be permitted in the residential district as an accessory use, provided the following conditions are met:
 - a) No sales of products, supplies or materials shall take place on the premises.
 - b) There shall be no exterior storage on the premises of material or equipment used in the Home Occupation.
 - c) Any home Occupation must provide additional off- street parking adequate to accommodate all needs created by the Home Occupation, as directed by the Planning Commission.

- d) There must be no noise, smoke, dust, odor or other indication of the Home Occupation noticeable at or beyond the property line.
- e) The Home Occupation shall be conducted entirely within the residence and shall not occupy more than twenty percent (20%) of the floor area of any one floor of said residence.
- f) The Home Occupation shall be conducted only by the inhabitants of such residences.

C. Severability.

If any of the provisions of this Chapter or the application thereof to any person or circumstance, is held to be invalid, such ruling shall not affect the other provisions or applications of this Chapter, as a whole or any other part than that portion ruled invalid.

D. Marijuana (Ord. 2013-01)

Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities or Retail Marijuana Stores are prohibited uses in all zoning districts within the Town of Olathe.

E. Government and Public Utility Facilities: (Ord. 99-04)

Any building or facility owned and operated by the United States, the State of Colorado, the Town or any of their agencies or political subdivisions, and transmission and distribution facilities for natural gas, electricity, water, sewer, drainage, telephone and cable television necessary to provide service to customers, such as pipes, lines, mains, wires, conductors, cable, transformers, valves and other related appurtenances, but not including buildings, offices and production facilities, shall be a permitted use in all zoning districts.

F. Medical Marijuana

Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturers, and Optional Cultivation Premises Operations are prohibited uses in all zoning districts within the Town of Olathe.

G. Fence, Hedge, and Wall Regulations (Ordinance 2012-02 adopted 10-08-2012. Effective date 11-07-2012).

- 1. For any property located in the Residential District, Mixed Residential District or Rural Residential District, fences, hedges, and walls may not exceed six (6) feet, except that fences, hedges, and walls located within the required front yard setback may not

exceed four (4) feet in height.

2. For any property in Central Business District, General Commercial District, Agricultural District-AA, or Agricultural District-AB, fences, hedges and walls may not exceed eight (8) feet, except fences, hedges and walls located within the required front yard setback may not exceed four (4) feet in height. An additional two (2) feet shall be allowed for barbed wire where it meets the requirements of Subsection (7) below.
3. For any property in the Industrial District, fences, hedges and walls may not exceed eight (8) feet. An additional two (2) feet shall be allowed for barbed wire where it meets the requirements of Subsection (8) below.
4. For any property in the Mobile Home Park District, fences, hedges and walls may not exceed eight (8) feet, except fences, hedges and walls located within the required front setback may not exceed four (4) feet in height. This Section shall not govern fences, hedges and walls located between mobile home spaces or other buildings located within the boundaries of the mobile home park.
5. No fence or wall shall be constructed without a permit from the Town and payment of a \$50.00 application fee. Application for a permit shall be made on forms provided by the Town.
6. No fence, wall, hedge, or landscape features shall be constructed or maintained in violation of Section 12-1-2.
7. Electrically charged fences are allowed within the Town only if in a location made inaccessible to persons, who would not know the fence is electrified, by virtue of another fence or structure.
8. Barbed wire fences are allowed in General Commercial District and Industrial District only if the barbed wire is a minimum of eight (8) feet above the ground. Barbed wire fences may be maintained in other districts only if necessary to confine livestock lawfully kept within the Town and are subject to the height restrictions for fences in those districts.
9. Arbors located in any zoning district may not exceed a maximum height of ten (10) feet.
10. Construction Materials:
 - a. Permanent fences shall be constructed of materials specifically made for fencing, including but not limited to plastic, PVC, wood, steel, aluminum, and other metals.

- b. Walls shall be constructed of concrete, block, brick, stone or similar permanent construction material
 - c. All construction materials shall be subject to approval of the Town Building Official.
 - d. An applicant may seek a variance pursuant to Section 10-4-9-B-2 for materials not approved by the Town Building Official.
11. The following fences are not subject to the height requirements set forth in (1) and (2) above:
- a. Temporary fences installed to provide security and protection around a construction site.
 - b. Chain-link and similar type fencing of open wire material which does not obstruct views, located at sports facilities and installed for security and safety, sports play, including, but not limited to, tennis courts, baseball outfields, backstops, batting cages, and golf courses.
12. Any fence in existence for 180 consecutive days shall be considered a permanent fence.
13. Any fence, wall or hedge in existence at the time of the adoption of these regulations shall be subject to the provisions of Section 10-4-6-A.

10-4-7: Administration, Enforcement and Penalties

- A. This Section is designed to establish guidelines for the Zoning enforcement Official to follow in the enforcement and administration of the provisions of this Chapter once it has been adopted in accordance with Section 31-23-204 C.R.S.
- B. Administration and Enforcement. Except as otherwise provided, no land or structure, or part thereof, shall, after the effective date of this Chapter be used, erected, altered, or moved unless in conformity with the provisions pertaining to the district in which it is located.
- C. The provisions of this Chapter shall be administered by the Zoning Enforcement Officer and his authorized representatives.
- D. The Zoning Enforcement Officer and his authorized representatives are hereby empowered to conduct inspections as required by this Chapter.

They shall possess the right to enter any premises for the purpose of making such inspections necessary to carry out their authorized duties.

- E. No land or building, or part thereof, hereafter erected, moved or structurally altered shall be used or occupied until the Zoning Enforcement Officer or his authorized representative has issued a Certificate of Occupancy. Such certificate shall state that the land, building, or part thereof, is found to be in conformity with the provisions of this Chapter applicable to the district in which such land or building is located.
- F. The powers of the Zoning Enforcement Officer and his authorized representatives to issue such permits and certificates as necessary shall also include the power to refuse issuance of these documents.
- G. Violation of Chapter: A person shall be guilty of violation of this Chapter in any case where:
 - 1. Any violation of any of the provisions of this Chapter exists in any building or tract of land;
 - 2. An order to remove or correct any such violation has been served upon the owner, general agent, lessee or tenant of the building or tract of land, or any part thereof, or upon the architect, builder, contractor or any other person who commits or assists in any such violation; and such person fails to comply with such order within fifteen (15) days after being served with such an order.
- H. Additional Remedies: In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any land is used in violation of this Section or any other ordinance, the proper Town authorities, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, alteration, repair, conversion, maintenance or use.

10-4-8: Amendments and Additions to the Official Zoning Map and Zoning Regulations

- A. Rezoning:
 - 1. Amendments to the Official Zoning Map involving any change in the boundaries of an existing zoning district, or changing the designation of a district, shall be allowed only upon a determination following public hearing that the following criteria are met:
 - a. The amendment is not adverse to the public health, safety and welfare, and

- b. (i) The amendment is in substantial conformity with the Master Plan, or
 - (ii) The existing zoning is erroneous, or
 - (iii) Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.
2. Rezoning may be requested or initiated by the Town, the Planning Commission, or the owner of any legal or equitable interest in the property or his representative. The area considered for rezoning may be enlarged by the Planning Commission on its own motion over the area requested in the application as part of its recommendation. Any person desiring an amendment to the Zoning Map or Regulations shall submit an application on forms provided by the Town, accompanied by an application fee of \$250.00. The burden shall be on the applicant to show that the criteria of this Subsection have been met. No fee or formal application is required for action initiated by the Town or Planning Commission. (Ord. 2011-04)

B. Zoning of Additions:

1. The Planning Commission may recommend to the Board of Trustees a zoning district designation for all property annexed to the Town not previously subject to Town zoning. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the Annexation Ordinance or thereafter.
2. The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare.

C. Legislative Zoning:

Comprehensive review and reenactment of all or a significant portion of the Official Zoning Map shall be a legislative action, and shall not be required to meet any criteria set out in this Subsection.

D. Amendments to these regulations may be made only by ordinance.

E. All proposals to amend the Official Zoning Map or these Zoning Regulations may be referred to the Planning Commission for recommendation.

F. Prior to adoption of any ordinance amending the Official Zoning Map or these Regulations, a Hearing shall be held before the Board of Trustees, notice of which shall be published at least fifteen (15) days in advance.

- G. In case a protest against such ordinance is filed with the Town Clerk, at least 24 hours prior to Board of Trustees' vote on the ordinance, and is signed by the owners of 20 percent or more of the area of the land which is subject to the proposed change or 20 per cent or more of the area of the land extending a radius of 100 feet from the land which is subject to the proposed change, disregarding intervening public streets and alleys, such changes shall not become effective except by formal vote of 2/3 of all members of the Board of Trustees.

10-4-9: Board of Zoning Adjustment

A. Organization:

1. There is hereby created a Board of Zoning Adjustment to be known as the "Board of Zoning Adjustment of the Town of Olathe, Colorado", and to be referred to in this Section as the "Board".
2. The membership of the Board shall consist of five (5) residents of the Town of Olathe, appointed by the Town Board for terms of four (4) years and thereafter until their successors shall be duly appointed. At least one member may also be a member of the Planning Commission. The Town Board shall appoint all replacements and successors. (Ord. 2011-04)
3. The Board of Adjustment shall elect from its own membership a Chairman, and Vice-Chairman, who shall serve annual terms and may succeed themselves. The Board may make, alter and rescind rules and regulations for its procedures.
4. The Board shall meet on call of the Chairman following legal notice given in accordance with their regulations.

B. Powers and Duties:

The Board shall have the powers prescribed by this Chapter, to include the following:

1. Appeals:

To hear and decide appeals from the ruling of the Zoning Enforcement Official concerning the enforcement of the provisions of this Chapter. Such appeal shall be in the form of a written notice filed with Town Clerk specifying the grounds for the appeal.

2. Variances:

- a. Application for a variance shall be accompanied by an application fee of \$25.00 and by all information necessary to show that the variance is justified in accordance with the criteria of this section. (Ord. 2011-04)
- b. To hear and grant applications for variances from the provisions of this Chapter. However, the Board may not grant variances from the provisions of the Chapter governing the use of land or buildings.
- c. The Board may grant a variance provided it makes findings that all of the following requirements have been satisfied.
 - i. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the affected property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
 - ii. That, because of such physical circumstances or conditions, the property cannot be physically developed in conformity with the provisions of this Chapter, and that the granting of the variance is therefore necessary to permit the reasonable use of the affected property.
 - iii. That such unnecessary hardship has not been created by the applicant.
 - iv. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.
 - v. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provision in question.

3. Procedure:

Prior to a hearing on a ruling by the Zoning Enforcement Official or on a request for a variance from this Chapter, the Board of Zoning Adjustment shall hold a public meeting. At least fifteen (15) days advance notice of the time and place of said hearing shall be mailed

to all property owners within one hundred (100) feet of the property where the variance is requested.

10-4-10: Supplemental Regulations (Ord 99-09)

A. Use and Location of Mobile Homes:

Mobile homes may be used, occupied or located only in the following places upon compliance with all other applicable regulations:

1. Unoccupied upon a lawful mobile homes sales lot.
2. Occupied as a dwelling within a licensed mobile home park.
3. Occupied as a dwelling on a single parcel where allowed by Zoning Regulations.
4. Occupied upon property for which a permit has been issued by the Town for the temporary use of a mobile home pursuant to Subsection 3, below.

B. Use and Location of Travel Homes:

Travel homes may be occupied as temporary dwellings only in the following circumstances:

1. Within a licensed travel home park for a maximum period of 180 days in any one 365-day period.
2. Upon private property for temporary occupancy by out-of-town guests for a period not to exceed 30 days in any three hundred sixty five (365) day period for any tract of property. (Ord. 2008-10)
3. Upon property for which a permit has been issued by the Town pursuant to Subsection (C), below.
4. Travel homes may be parked, if unoccupied, upon private property if in compliance with zoning setbacks, or temporarily upon public streets, if registered under State law and lawfully parked. Provided however, travel homes may not be parked in a manner that creates a traffic hazard. (Ord. 2008-10)

C. Permits for Temporary Location or Occupancy of Mobile or Travel Homes: (Ord. 2008-10)

1. An application for a permit for the temporary location or use of a mobile home or travel home upon private property shall be made upon forms supplied by the Town, accompanied by a fee of \$50.00. (Ord. 2008-10)

2. A permit for a period of up to (1) year may be issued under the following circumstances by the Board of Trustees: (Ord. 2008-10)
 - a. For fire protection or security purposes in Industrial Districts.
 - b. At a construction site during the construction period.
3. A permit for a period of up to six (6) months may be issued by the Board of Trustees to allow the use of a travel home as a temporary dwelling by a person or persons needed to provide care to the aged or infirm who reside in the principal residence upon such property. (Ord. 2008-10)
4. The Town shall not issue any temporary permit, except for a use or location, which complies with the criteria of this Subsection. Such permit may be revoked by the Board of Trustees after a hearing upon reasonable notice to the permittee for a violation of any of the provision of this Section or any other applicable ordinances or regulations of the Town of State. (Ord. 2008-10)

D. Telecommunications antenna and tower regulations:(Ord. 99-09)

1. Telecommunication towers and antennae shall be located and comply with the following provisions:
 - a. Noncommercial television and telecommunications receivers, and amateur radio antennae which qualify as an accessory use to the main use on the premises, may be located on such premises.
 - b. Antenna for “personal wireless services” as defined in 97 USC 332(C)(2) shall be limited to the B,C, and I zoning districts or upon Town owned property in other zoning districts pursuant to leases or permits with the Town, with terms and conditions adequate to insure safety and reasonable compatibility with the neighborhood in which they are located, including requirements for camouflaging where appropriate.
 - c. Commercial radio, television and other telecommunications transmitters and receivers shall be restricted to the B,C, and I zoning districts.
 - d. Additional receivers ort transmitters may be installed on existing telecommunication towers regardless of the zoning district.

2. All telecommunications antennae and towers shall be limited to the maximum building heights set out in Section 10-4-5, with the following exceptions:
 - a. Telecommunications antennas, receivers and transmitters may be located on existing towers and structures or on an extension of an existing tower or structure of no more than 20 feet.
 - b. A variance to the height limitations otherwise applicable may be obtained for an amateur radio antenna for noncommercial use pursuant to the review procedure of Section 10-4-9 (B)(3) if the Board of Adjustment determines that the following criteria are met:
 1. A higher tower is necessary to be reasonably adequate for the domestic communications purpose;
 2. No reasonable alternative exists;
 3. No adverse impacts will be created with respect to other property in the area.
 - c. A variance to the height limitations otherwise applicable may be obtained for personal wireless service antennae if the Board of adjustments determines pursuant to the review procedure of Subsection 10-4-9(B)(3) that the following criteria are met:
 1. Space is not available at a commercially reasonable price on an existing tower or structure located in a technically feasible location, and no other location is available which will provide reasonable adequate service in compliance with the height limitations set out above, and
 2. No adverse effect on property values in the area will be caused, and no safety hazard will be created.
 3. The design and color of the tower and appurtenances shall be reasonably compatible with the site and surrounding area.
3. A final decision to deny a variance shall be in writing and supported by substantial written record.

4. All towers and structures shall be subject to the building setback requirements of Subsection 10-4-5 and applicable provisions of Town building codes and other ordinances and regulations.

10-4-11: Conditional Uses

- A. Uses listed as conditional uses for the various zoning districts provided in this Chapter shall be allowed only if the Board of Trustees determines, following review pursuant to subsection (C), that the following criteria are substantially met with respect to the type of use and its dimensions:
 1. The use will not be contrary to the public health, safety, or welfare.
 2. The use is not materially adverse to the Town's master plan.
 3. Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience.
 4. The use is compatible with existing uses in the area and other allowed uses in the district.
 5. The use will not have an adverse effect upon other property values.(Ord. 99-05)
 6. Adequate off street parking will be provided for the use.
 7. The location of curb cuts and access to the premises will not create traffic hazards.
 8. The use will not generate light, noise, odor, vibration, or other effects, which would unreasonably interfere with the reasonable enjoyment of adjacent property.
 9. Landscaping of the grounds and the architecture of any buildings will be reasonably compatible with that existing in the neighborhood.
- B. The burden shall be upon the applicant to prove that these and other applicable requirements of Town ordinances and regulations are met. (Ord. 99-05)
- C. Review Procedures:
 1. Any person desiring conditional use permit must submit an application on forms provided by the Town accompanied by an application fee of \$25.00.

2. The Clerk will review the submitted application for completeness and shall schedule a hearing date before the Board of Trustees no sooner than fourteen (14) days after receipt of a complete application.
3. Notice of the hearing, before the Board of Trustees shall be given by the applicant by placing a notice on a sign in a form approved by the Town on the premises and by publication of a notice at least (15) days in advance of the hearing.
4. The Town Board may impose conditions as appropriate to insure that the applicable criteria are met as part of decision approving any application.

10-4-12: Planned Development (Ord. 99-04)

- A. The intent of this section is to encourage the development of tracts of land in accordance with an overall development plan by providing flexibility with respect to dimensional requirements and allowing clustering of residential units, and to provide for procedures and requirements for multi-building residential development.
- B. General Provisions:
 1. A planned development must be in substantial conformity with the Town's Master Plans.
 2. No development with more than one building, with one or more dwelling units therein, may be erected on a single lot, tract, parcel or site unless a PD Plan providing therefore is approved pursuant to this Section or unless the property is subdivided pursuant to Town Subdivision Regulations.
 3. A minimum of 20% of the gross area of the Planned Development must be preserved as Parks or Open Space.
 4. The PD Plan must reasonably preserve and protect rural character, open space, scenic views, drainage areas and other valued resources.
 5. Approval of a Planned Development by the Town is purely discretionary. The applicant must submit an application and an application fee of \$150.00. If the Town and the applicant do not agree on all required conditions and the plan, the Town may deny approval, or the Town may unilaterally impose conditions. If the applicant does not accept all conditions, that development must adhere to standard subdivision and zoning requirements. (Ord. 2011-04)

C. Permitted Uses in a PD.

1. Parks, open space, growing of agriculture crops, golf courses; and “uses by right” and “conditional uses” in the zone or zones in which the PD is located shall be permitted when approved as part of the Planned Development.
2. Residences may be clustered, including the use of duplexes and multi-family residences.

D. Dimensional Requirements and Densities.

1. Dimensional requirements, except those relating to overall residential density, which would otherwise be required by the Town zoning regulations, or other Town regulations for the district affected, may be deviated from in accordance with the plan as approved, if the Town Board determines that such deviations will promote the public health, safety and welfare. The Town Board may impose conditions as necessary or appropriate. The total number of residential units shall not exceed the area of the site divided by the minimum lot sizes specified for the zoning districts included.

E. 1. The sketch plan, preliminary plan and final PD plans shall be reviewed pursuant to the procedures and requirements for subdivisions as set out in Chapter 10-5, except that a hearing shall be held before the Town Board, with notice provided by posting and publication at the expense of the applicant prior to approval of any preliminary PD plan or substantial amendment to a PD Plan.

2. Conditions may be imposed as appropriate to assure that the PD Plan is consistent with the Town’s Master Plans and promote the public health, safety and welfare.

3. The Plan shall show the location, size, number of dwelling units, and other uses, and shall further set out the location of all parks, open space, parking areas, streets, sidewalks, trails, bike paths and other improvements and structures. All information necessary to show compliance with the requirements of this Section shall be submitted. Where appropriate, in lieu of exact locations, numbers and sizes, parameters of limits may be set out.

4. The Planned Development Plan as approved shall be recorded.

F. Required Improvements:

1. All PD's shall provide the same improvements as required for subdivisions in Chapter 10-5 and security therefore shall be provided as set out in Chapter 10-5.
2. All improvements shall be constructed in accordance with standard Town design and construction specifications and standards, in substantial conformity with the PD plan, and in accordance with subdivision design standards as set out in Chapter 10-5, except as modified by the plan.
3. An entity shall be established or provided for ownership and maintenance of all facilities and open spaces, which are approved for common ownership or not dedicated to the Town.
4. Flexibility in the scope and design of required improvements and design standards may be allowed to provide for innovation urban design which promotes the public health, safety and welfare.
5. A public street shall be dedicated to the Town and developed at the Developer's cost to provide access to each building with residential units or to the parking lot serving the building.
6. Enforcement and Amendments:
 - a. The PD plan may be enforced in accordance with or in the same manner as the provisions of the Planned Unit Development Act of 1972, as amended, C.R.S. 24-67-101, et seq. as amended, or in any lawful manner. In addition, no occupancy permit shall be issued for any building unless all site improvements to serve that unit and any commonly owned facilities have been completed and approved unless security for completion is provided substantially similar to the security required for subdivision improvements by Chapter 10-5, except that cash must be placed in the escrow account prior to issuance of the occupancy permit.
 - b. Amended PD plans may be submitted for review and approval in the same manner as the initial PD plan.