

Article 2. Applications & Procedures

- 2.01 General – All Applications
- 2.02 Platting
- 2.03 Change of Zone
- 2.04 Planned Development
- 2.05 Administrative Site Plan
- 2.06 Site Plan
- 2.07 Alternative Compliance
- 2.08 Special Use Permit
- 2.09 Variance
- 2.10 Appeals of Administrative Decision
- 2.11 Text Amendments
- 2.12 Vested Property Rights
- 2.13 Vacation of Rights-of-Way or Easements

Table 2-1: Procedures Summary

	Eligible Applicants			Pre-application Conference	Neighbor-hood meeting	Notice			Review Body			
	Owner	PC	CC			Post	Publish	Mail	Staff	PC	CC	BoA
Administrative Plat (2.02.C)	■			☑					D		A	
Preliminary Plat (2.02.D)	■			☑	☑	☑	☑	☑	R	R/PH	D/PH	
Final Plat (2.03.E)	■			☑					D		A	
Change of Zone (2.04)	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Planned Development – Regulating Plan (2.04)	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Administrative Site Plan (2.05)	■			☑					D		A	
Site Plan (2.06)	■			☑		☑			R	D	A	
Alternative Compliance (2.07)	■			☑		Based on procedures of related application						
Special Use Permit (2.08)	■			☑	☑	☑	☑	☑	R	R/PH	D	
Variance (2.09)	■			☑		☑	☑	☑				D/PH
Appeal of Administrative Decision (2.10)	■	■	■			--	--	--				D/PH
Text Amendment (2.11)		■	■				☑		R	R/PH	D/PH	
Vacation of ROW or Easement (2.13)	■			☑					R	R	D	

☑ = Required
 ■ = Authorized
 PC = Planning Commission
 CC = City Council
 BoA = Board of Adjustment

R = Review and Recommending Authority
 D = Decision Making Authority
 A = Appeal of Decision
 PH = Public Hearing Required

2.01 General – All Applications

A. Applications and Fees

1. *Forms.* Applications required under this code shall be submitted to the Planning Department on forms supplied by the Department. The Director is authorized to establish application forms and submittal requirements in order to ensure all applications can be evaluated for conformance with this code. The Director may waive the requirement for any information on standard forms at the time of application, due to the routine nature of the application or due to the context of a particular application making the information inapplicable for review against the criteria.
2. *Fees.* Applications shall be accompanied by a non-refundable fee established by the City Council's Annual Fee Resolution. Any application that does not include the required fee shall be returned to the applicant as incomplete. Fees shall not be required with applications initiated by the staff on behalf of the Planning Commission or City Council.
3. *Eligible Applicants.* Table 2-1 indicates applicants eligible for each particular application under this code, which may include the following:
 - a. *Owner.* The record owner of property that is the subject of the application or that owner's agent authorized by written permission of the owner.
 - b. *Planning Commission.* The Planning Commission, acting on its own initiative or through recommendations brought to it by city staff.
 - c. *City Council.* The City Council acting on its own initiative or through recommendations brought to it by city staff.

B. Concurrent Applications.

When a project requires approvals under more than one type of application, the Director may determine that each application may run concurrently based on the following:

1. The similarity of information required for each type of application, or where they require different information, the ability to coordinate information, review criteria and decisions under each application.
2. The similarity of notice, timing, procedures, meetings and review bodies required for each application.
3. The ability of the staff and review bodies to make effective decisions when reviewing the applications concurrently.

In cases where the Director determines applications may run concurrently, the application shall be processed through the highest review level of any of the associated application, and no decision shall be considered final until the last of the related decisions has been made. Staff may request withdrawal of part or all of any application if the application is not progressing according to a coordinated timeline.

C. Pre-application Meeting.

Pre-application meetings may be requested for any application and shall be required as indicated in Table 2-1. A required pre-application meeting may be waived at the Director's discretion and upon the applicant's request, for any application that is routine in nature and where the topics below can be addressed by general correspondence. Where required, the applicant shall confer with the Director and other city staff or officials designated by the Director, to discuss the general nature of the proposal, including:

1. How the proposed project meets the goals of the Comprehensive Plan, or other specific plans or policies applicable to the area.
2. The applicant's vision and understanding of the market for the proposed project.
3. The proposed uses, general site layout, and conceptual or anticipated design of buildings, including how the project relates to surrounding sites and public spaces.
4. How the project will contribute to the area and further the intent of the zoning district.

5. Planning and infrastructure impacts, including timing, phasing, or the need for any technical studies or outside agency review.
 6. Development review processes and review criteria, and in particular whether any special public information and outreach or specific agency or department reviews are necessary.
 7. Opportunities to improve designs or coordinate the preliminary concepts with other private or public investments in the area.
- D. **Neighborhood Meeting.** A neighborhood meeting shall be required as indicated in Table 2-1, and for any application involving oil, gas or mineral extraction as specified in Section 10.02. The Director may require a neighborhood meeting for other projects where the nature of the project is particularly complex or presents potential for significant changes and unanticipated impacts on property in the vicinity. Neighborhood meetings shall meet the following:
1. *Timing.* The meeting shall be held at least 10 days prior to the first official public review meeting of the city, but no sooner than 10 days prior to a formal application.
 2. *Location.* The applicant is responsible for coordinating the meeting location, and the meeting shall be held at a public meeting facility within the City, such as a school, community recreation center, or other convenient and accessible meeting center.
 3. *Notice.* The applicant is responsible for notification of the neighborhood in the manner and format prescribed by the City on the application forms. The notice may be coordinated with any other official notice required by this code for the application. The applicant shall receive confirmation of the time and location of the meeting from the Director prior to scheduling and notice.
 4. *Content.* The applicant is responsible for all content of the meeting, which at a minimum shall include:
 - a. The general nature and scope of the proposed project;
 - b. A summary of the proposed land use, including planned or all potential future uses under the request;
 - c. The most recent plans and submittals available for the project, depicting the scale, location and design of any buildings and the relation of all site improvements to the streets and adjacent property; and
 - d. Identify and explain the subsequent formal review steps with the City, and note that official and formal review by the City may result in changes from the initial concepts.
 5. *Summary.* The applicant shall prepare summary minutes of the meeting including evidence of the notice, attendance, content and presentation, issues and discussion summary, and outcomes of the meeting. These minutes shall be included with or supplement formal application.
- E. **Staff Review.** Upon receipt of an application, the Director shall take the following steps:
1. *Determination of Complete Application.*
 - a. If an application is determined incomplete, the Director shall notify the applicant of the specific ways in which the application is deficient. No further processing of the application shall occur until the deficiencies are corrected. If a deficient application is not corrected within 30 days of the notice, the incomplete application may be considered withdrawn.
 - b. If an application is complete it shall be processed for formal review.
 2. *Design Review Team.*

- a. Specific applications may require review by the Design Review Team (DRT) as established in Section 1.03.A.3, and the Director may determine that any application can be reviewed by the DRT when it affects issues or facilities significant to other departments and outside agencies.
 - b. The Director may determine if other referral agencies are appropriate based on the application and has discretion to add any other relevant or applicable agency to the list. However, in general the following agencies may be required to review and comment:
 - (1) Weld County Planning Department
 - (2) Colorado Department of Transportation
 - (3) Colorado Division of Wildlife
 - (4) Gas and electric utilities;
 - (5) Telecommunications and cable providers;
 - (6) Public safety agencies (police, fire, EMS, health);
 - (7) Respective school district(s) in which the subject property is located;
 - (8) Water and sewer utilities;
 - (9) Ditch companies;
 - (10) Special districts; and
 - (11) Other local, state, or federal government agencies.
 - c. Failure to receive comments from referral agencies may allow the Director to delay the application. However, if the applicant demonstrates sufficient due diligence in attaining comments, the Director may interpret the failure to comment as consent to the application by the agency.
 - d. The applicant shall be responsible for coordinating all subsequent requirements or comments, and for notifying any agency prior to final review of any changes that may affect their comments on initial plans.
3. **Staff Comments.** The Director shall coordinate a staff review after receipt of a complete application and may provide the applicant the following information in writing:
- a. Comments or recommended changes based on the results of any referral agency comments, neighborhood meetings, or staff review.
 - b. Any supplemental information necessary to support the application or address any comments or recommended changes.
 - c. If the applicant chooses not to address any particular comment or recommended change, a written statement shall be included with the resubmittal that demonstrates a good faith effort to address the issue and justify why the comment was not addressed. The applicant may request to schedule the application for official review based on this justification.
 - d. If the applicant fails to submit revisions or otherwise address any comments from the Planning Department in writing for more than 120 days, the Director may determine the application withdrawn and the review terminated. Any further action will require a new application and fees.
4. **Scheduling.** Applications that have completed DRT and staff review, and addressed any comments or recommended changes, shall be scheduled for further review according to these regulations.
5. **Staff Report.** The Director shall prepare a staff report for applications that require review and decisions by other review bodies. The report shall identify the appropriate policies, plans, regulations and review criteria, and identify relevant facts of the application. The Director shall provide a copy of the report to the reviewing body and to the applicant in association with the public meeting agendas and packets.
- F. **Notice.** Notice shall be provided for each application as indicated in Table 2-1, which shall provide the date, time, place of the meeting, and general information on the application including the

location and type of application. Required notice may include the following requirements, in addition to the general agenda publication:

1. *Published.* Where published notice is required, at least 15 days prior to the public hearing or meeting, the Director shall publish the notice.
2. *Posted.* Where posted notice is required, notice shall be posted on the property or near the proposed site, visible to surrounding properties and the general public from adjacent public ways, according to the following:
 - a. The Director shall determine the number, type and specific location of signs based on the context of the property and supply the signs.
 - b. The applicant shall ensure that all signs are posted at least 15 days prior to the public hearing or meeting.
 - c. The notice shall state that a land use proposal is under review and contain the contact information for the Planning Department for specific information about the type of application or nature of the project.
 - d. The applicant shall make a reasonable good faith effort to maintain posted notice throughout the proceedings.
3. *Mailed.* Where mailed notice is required, the City shall mail notice of the date, time, place of the meeting; the general location of the subject property; the type or general nature of the application; and the location and contact where additional details may be found. Notice shall be sent by regular mail to the following, at least 15 days prior to the hearing or review meeting:
 - a. All property owners within 300 feet shown by the records of the county assessor no more than seven days prior to the date of application;
 - b. For oil and gas applications, the distance for property owners shall be increased to 1,000 feet;
 - c. Where notice is not required, or where notice beyond these requirements is determined necessary at the discretion of the Director, mailed notice to all property owners within 1,000 feet may be required in the following situations:
 - (1) Where large parcel sizes on the perimeter of the project result in notification to only immediately adjacent owners;
 - (2) Where a large project is more than 1,000 feet in any dimension; or
 - (3) Other situations where the Director determines that additional notice may be necessary due to the context or nature of the project causing potential impacts beyond the required notice distance.
4. *Surface Development Notification.* Where mailed notice is required by state statutes for any project related to mineral estate owner identified on the county tax assessor's records or who has filed in the office of the county clerk and recorder a request for notification, the applicant shall be responsible for notice. The applicant shall certify that notice has been provided as required by this code and Colorado law prior to a public hearing, public meeting, or administrative decision.
5. *Additional Hearing or Meeting Dates.* For any application where mailed or published notice is required by this code or Colorado law, and the reviewing authority adjourns or continues to the review to a certain date, time and location, no new notice shall be required.
6. *Failure of Notice.* Any failure of published, posted, or mailed notice shall not invalidate any subsequent process or decision in the Director's discretion. In making this decision, the Director shall consider whether:
 - a. Good faith efforts were made to comply with notice, and the failure of notice was beyond the applicant's control;

- b. Technical errors in the notice were made, but constructive and actual notice was available to all interested parties; or
- c. The failure of notice is not otherwise instrumental to the proceedings, criteria, or record established for the decision.

G. **Public Hearings.** Where public hearings are required by Table 2-1, the following procedures apply:

- 1. The hearing shall be conducted and a record of the proceedings shall be preserved.
- 2. Any interested person or party may appear and be heard in person or by agent.
- 3. The review body may request testimony or a report on the application from any government official or agency, or any other person with information pertinent to the application.
- 4. A public hearing for which proper notice was given may be continued to a later date without again requiring notice provided in this section if the specific date, time and place of the continued hearing is announced at the original hearing.
- 5. If the review body is a recommending body, a written summary of the meeting and the recommendation shall be forwarded to the decision-making body.
- 6. A review body is authorized to establish meeting procedures and bylaws regarding specific conduct and management of public hearings, within the parameters of these regulations.

H. **Action by Review Bodies.** Review bodies shall take the actions indicated in Table 2-1. A review body may take any action on the application consistent with notice given or criteria in this Article, or recommend such action when the review body is a recommending body, including the following:

- 1. Approve the application.
- 2. Approve the application, with conditions or modifications that make it more consistent with the standards and approval criteria.
- 3. Deny the application, with specific reasons for the denial.
- 4. Continue the application to allow further analysis. The continuation period shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

I. **Appeals.** Where no appeal is designated in Table 2-1, the decision shall be final and only appealed as authorized by law. Where a review body is designated as the appellate body in Table 2-1, the following appeal procedures apply:

- 1. Appeals shall be filed with the Director within 15 days of the decision by the decision-making review body.
- 2. Appeals shall identify the exact provisions in dispute and whether it is incorrect due to one or more of the following:
 - a. It was against the express standards of this development code;
 - b. It was an unreasonable interpretation or application of the standards or review criteria;
 - c. It was erroneous, based on the record and facts reviewed by the decision-making body; or
 - d. It was otherwise clearly contrary to law.
- 3. The following persons and entities shall have standing to appeal the action of the review body:
 - a. the applicant;
 - b. the City Administrator, on behalf of any public official, department or public body; and
 - c. any person who received mailed notice and who testified or entered a statement at a public hearing.

- 4. The appellate body shall consider the application based on the established record, within 60 days of the date that the appeal was filed. It shall give deference to the previous review body, but may take any action authorized by the decision-making body under this code if it determines that a clear error was made. The procedure and required notice shall be the same as required of the original application.

- J. **Technical Studies.** The Director, on behalf of any public official, department, or agency, the Planning Commission, or the City Council, may require applicants to submit technical studies necessary to evaluate the application. Technical review by outside entities with expertise or jurisdiction over some aspects of the application may be required in place of, in addition to, or in association with any studies. Examples of technical studies that may be required include traffic studies, engineering studies, geologic or hydrologic studies, environmental impact assessments, noise studies, market studies, or fiscal and economic impacts. The persons or firms preparing the studies shall be subject to the approval of the Director. The costs of all studies shall be borne by the applicant. Any application that is determined to require technical studies or review from entities outside of the City may require special schedules based on the reasonable time frames to conduct those studies or additional reviews.

- K. **Permits.** Upon final approval as specified for each application in this section, applicants may apply for all permits necessary to construct buildings, infrastructure and site improvements. Permits necessary to show full compliance with the standards of this code, other applicable City codes, or other agency requirements or laws may be required.

- L. **Successive Applications.** When the review body takes final action to deny an application, the same or a similar application shall not be refiled for one year from date of denial. The Director may permit a refiled application sooner than 1 year when it is determined that significant physical, economic or land use changes have taken place within the immediate vicinity, or where a significant text amendment to this code has been adopted that may affect the outcome of the action on the application. There shall be no time limitation on an application that the Director determines is substantially different from a previously denied application, when considering the proposed use, scale or intensity of development, and potential impacts on adjacent property.

2.02 Platting

- A. **Applicability.** Plat applications are required to design and coordinate streets, open spaces and other civic places with developable lots and buildings; to establish or alter the legal boundaries of property; and to account for public facilities and services, infrastructure, development patterns, or other long-range growth and development considerations prior to potential fracturing of ownership. Plat applications may be initiated by the property owner.

Specifically, plat applications shall apply to:

- 1. Any division of land into more than one lot or parcel;
 - 2. Any adjustment of previously platted lots that alter the legal boundaries or potential ownership patterns, other than those by operation of law, acquisition by a public entity, or by court order; and
 - 3. Any development on previously unplatted property where access or connections to public infrastructure or public streets will be required, where public or private easements will be required to build infrastructure; or where the development is otherwise determined to impact public or community facilities.
- B. **Types of Plats and Applications.** Plat applications are classified and processed as one of two types:

1. *Administrative Plats.* Administrative plats are routine applications such as lot adjustments or land divisions that change legal boundaries but do not significantly alter development patterns or impact public services.
 2. *Major Subdivisions.* Major subdivisions are all other land divisions or development impacting development patterns and intensity, rights-of-way, or infrastructure, which require a comprehensive review through preliminary plat and final plat procedures.
- C. **Administrative Plat.** Administrative plats shall be processed according to the following criteria and procedures.
1. *Eligibility.* The following situations are specifically eligible for administrative plat processes:
 - a. *Lot Line Adjustment.* The alteration of legal boundaries for up to 10 previously platted lots.
 - b. *Lot Consolidation.* The consolidation of up to 4 previously platted lots into 3 or fewer lots, provided no resulting lot is larger than two times the size of the largest existing lot or parcel.
 - c. *Lot Split.* The division of a previously platted lot into no more than 2 additional lots.
 - d. *Plat Correction.* A survey or other legal instrument to correct an error in the legal description or other element of an approved plat; to dedicate, vacate, or alter easements; or to confirm legal boundaries of lots in an approved plat that could only be determined post-construction, such as for duplexes, row houses or condominiums where the units and lots are individually owned.
 - e. *Minor Subdivision.* The division of previously unplatted land or of a platted tract into 4 or fewer lots.
 2. *Review Criteria.* An application may be approved by the Director if the Director determines that all of the following are met.
 - a. No significant increase in service requirements (utilities, schools, traffic control, streets, etc.) or impact on the ability to maintain existing service levels will result.
 - b. The application does not alter any zoning district boundaries due to adjustments to any lots.
 - c. All resulting lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - d. The lot patterns are compatible with the surrounding area and any previously approved final plat for the subject property. In determining compatibility, the size and dimension of lots, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development and the potential impact of this deviation on surrounding property shall be considered.
 - e. No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.

Any application not classified as an administrative plat or not meeting these criteria shall be processed as a major subdivision with a preliminary plat and final plat.
 3. *Review Procedures.* In addition to the general requirements in Table 2-1 and Section 2.01, the requirements in this sub-section apply to administrative plat applications.
 - a. If the Director determines at any point in the process that the application is not eligible for an administrative plat, or is otherwise trying to evade the major subdivision process, the Director may deny the application and require the applicant submit a new application as a major subdivision.

- b. The Director shall make the final decision on administrative plats, and the decision may be appealed to the City Council.
 - c. Any administrative plat that includes right-of-way or other public dedication shall be approved by the Planning Commission and the dedication accepted by City Council.

- 4. *Effect of Decision.* Approval of an administrative plat shall create a vested property right according to Section 2.12. The City Clerk shall cause the approved administrative plat to be recorded with county clerk and recorder. Any administrative plat not recorded within the periods established in Section 2.12 shall expire.

- D. **Major Subdivision – Preliminary Plat.** Any subdivision not eligible as an administrative plat is a major subdivision that shall require approval of a preliminary plat. A preliminary plat shall be processed according to the following specific procedures.
 - 1. *Applicability.* The preliminary plat provides detailed planning review of development patterns, street networks, block and lot layout, and the ability to meet public facility and utility requirements for future development, prior to preparation of detailed construction and engineering plans. The Director may allow a preliminary plat and final plat to be processed simultaneously for more routine applications, provided the submittal requirements and criteria for both applications can be met. For any application that is particularly complex, the Director may require or the applicant may elect to first submit a concept plan for public review by the Planning Commission and City Council prior to official submittal. Review of a concept plan shall not require any approval, but merely provides general consensus and offers the applicant direction for preparing a formal preliminary plat.

 - 2. *Review Criteria.* A preliminary plat shall be reviewed according to the following criteria.
 - a. The application is in accordance with the Comprehensive Plan, and in particular, the physical development patterns and concepts of the plan.
 - b. The development and infrastructure is arranged in a manner to minimize impacts on geologic hazards, environmentally sensitive areas, wildlife habitat, or other natural features of the land.
 - c. The arrangement and proposed design of streets, open spaces, and blocks meet the development and design standards of the subdivision regulations, and are coordinated with existing or potential development on adjacent property.
 - d. The proposed blocks and lots are capable of meeting all development and site design standards of the applicable zoning district.
 - e. The application demonstrates a preliminary likelihood of being able to meet the design, construction, performance, and maintenance requirements for all required improvements.
 - f. Any phasing is clearly indicated and demonstrates a logical and coordinated approach to development, and the timing, location, and construction of amenities is consistent throughout phases.
 - g. Any impacts identified by specific studies or technical reports, including a review of storm water, are mitigated with generally accepted and sound planning, engineering, and urban design solutions that reflect long-term solutions and sound fiscal investments.
 - h. The design does not impede the construction of anticipated or planned future public infrastructure or other development within the area.
 - i. The recommendations of professional staff or any other public entity or review agencies asked to officially review the preliminary plat.

3. *Review Procedure.* In addition to the general requirements in Table 2-1 and Section 2.01, the requirements in this sub-section apply to preliminary plat applications.
 - a. At the pre-application meeting, and based on the size, scope and impact of any future development anticipated or pending with the request, the applicant shall propose how to coordinate the Neighborhood Meeting according to Section 2.01.D., and any additional notice of meetings or hearings necessary for the formal review.
 - b. Any application that is particularly complex or involves significant planning and design issues, may be coordinated with a Change of Zone in Section 2.03 or a Planned Development in Section 2.04 prior to official submittal of a preliminary plat.
 - c. After review by staff, receipt of any comments from referral agencies, and any necessary resubmittal, the Director shall schedule review by the Planning Commission.
 - d. The Planning Commission shall hold a public hearing and make a recommendation to the City Council on the preliminary plat. Any street included in a major street plan approved by the Planning Commission shall not be accepted unless it is first approved by the Planning Commission in a preliminary plat or other capital improvements review.
 - e. After a recommendation by the Planning Commission, the preliminary plat shall be scheduled for a public hearing at the City Council for approval and acceptance of all public lands or proposed facilities. Any street or public improvements in any street not approved by the Planning Commission shall only be accepted by a two-thirds approval of the City Council.
 - f. Provided no substantive changes are made between approval of the preliminary plat and acceptance of public lands and facilities by the City Council and final engineering in association with a final plat, a final plat may be administratively approved by staff according to subsection 2.02.E

4. *Effect of Decision.* The approval of the preliminary plat does not constitute an acceptance of the subdivision but authorizes preparation of the final plat.

5. *Term of Expiration.* The approval of the preliminary plat shall be effective for two years, except that any submittal of final plat for any phases indicated on a preliminary plat shall stay the two-year period, and approval of the final plat shall restart a new one-year period for remaining portions of the preliminary plat. The Director may grant an extension of this period for up to one year, if the applicant demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.

- E. **Final Plat.** After approval of the preliminary plat, the applicant may submit a final plat for all or for portions of the preliminary plat area subject to a phasing plan approved with the preliminary plat. A final plat shall be processed according to the following specific procedures.
 1. *Review Criteria.* A final plat shall be reviewed according to the following criteria, as well as all criteria applicable to the preliminary plat review.
 - a. The layout and design of the final plat is substantially consistent with the approved preliminary plat considering the number and size of lots and out lots; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments. Deviations made necessary due to the further detail in planning, design and engineering, and which meet the standards of this code, are generally considered “substantially consistent” with the preliminary plat.

- b. The construction plans for any utilities, infrastructure or public facilities meet all technical specifications.
 - c. All required improvements, dedications, fees, financial guarantees, and maintenance guarantees are provided.
 - d. The phasing and timing of public improvements ensures construction and performance guarantees. Any phasing that meets an approved preliminary plat is presumed acceptable. Any deviations of the final plats from an approved phasing plan shall not alter the timing or coordination of required improvements or amenities in the approved preliminary plat.
 - e. The recommendations of professional staff or any other public entity asked to officially review the final plat.
 - f. Deviations in the final plat from the approved preliminary plat may be approved if staff determines that the change:
 - (1) Complies with all applicable zoning standards, subdivision design standards, and meets the intent and design objectives of those standards.
 - (2) Does not increase the impact of any development on required improvements beyond the capacity for required improvements identified in the preliminary plat;
 - (3) Does not impact any condition of the Planning Commission or City Council associated with the approval of the preliminary plat;
 - (4) Is generally consistent with development concepts in the preliminary plat in terms of land uses, scale, and intensity of development, and in no case changes the number of lots, dwelling units, buildings, or sizes of blocks and open spaces by more than 10 percent; and
 - (5) If technical studies were required with the preliminary plat, the author of the study shall submit an amendment noting that the change does not impact any findings of the study.
 - g. Any other changes to the preliminary plat, including significant changes in the phasing or dedication of public lands and rights-of-way, may require approval and acceptance of the City Council.
2. *Review Procedure.* In addition to the general requirements in Table 2-1 and Section 2.01, the requirements in this section apply to final plat applications.
- a. The applicant shall identify all improvements to be constructed, either according to the required improvements listed in this code or by a specific agreement for the project. The applicant shall submit final plans and specifications for these improvements, and ensure construction of these improvements of financial guarantees as provided in Section 3.04.
 - b. The staff shall review the final plat for conformance with the planning and design elements, and the engineering specifications, and a final plat that meets these criteria shall be approved.
 - c. A final plat that does not meet these review criteria may require reprocessing as a revised preliminary plat.
 - d. The Director shall make the final decision on final plats, and the decision may be appealed to the City Council. The City Council may make any decision based on these criteria, except that any street or public improvements in any street not approved by the Planning Commission on the preliminary plat shall only be accepted by a two-thirds approval of the City Council.
3. *Effect of Decision.* The approval of the final plat shall create a vested property right according to Section 2.12, and shall complete the City's acceptance of the dedication of land for public purposes indicated in the approved preliminary plat. Approval may be conditioned upon payment of all other applicable fees or execution of all applicable

agreements prior to recording. Once approved and all conditions are satisfied, the City Clerk shall cause the approved final plat to be recorded with the county clerk and recorder. Any final plat not recorded within the periods established in Section 2.12 due to failure of the applicant to meet conditions, shall expire. No building permit shall be issued until the completion, inspection and acceptance of all required improvements.

2.03 Change of Zone

- A. **Applicability.** The change of zone process provides review of changes to the boundary of zoning districts (rezoning) that may be necessary to implement the Comprehensive Plan, to account for changed conditions in the general area, or to reflect a change in policies with respect to future development. Application for a change of zone may be filed by the property owner, the City Council, or the Planning Commission, or by Staff on behalf of these city entities.
- B. **Review Criteria.** Review, recommendations, and decisions for a proposed change of zone shall be based on the following criteria.
1. The proposal is in accordance with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to that plan.
 2. The proposal will enable development in character with existing or anticipated development in the area considering the design of streets, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the compatibility and transition with other complementary uses and development.
 3. Whether the area has changed since the existing zoning has been in place, or is it changing to a degree that it is in the public interest to rezone the property.
 4. The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.
 5. The change will serve a community need, provide an amenity or accommodate development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property, making the proposed zoning more appropriate than the current zoning.
 6. Any reasonably anticipated negative impacts on the area or adjacent property either are mitigated by sound planning, design and engineering practices or are outweighed by broader public benefits to the surrounding community.
 7. The recommendations of any professional staff or advisory review bodies.
- C. **Review Procedure.** In addition to all applicable general procedures in Table 2-1 and Section 2.01, the following specific procedures shall apply to change of zones.
1. Applications may be accompanied by any preliminary plat, site plan, master plan or other development concepts necessary to review conformance with the Comprehensive Plan.
 2. The Director shall coordinate review of the application with the Design Review Team per section 2.01.E.
 3. After receipt of all comments from the Design Review Team or any necessary referral agencies, the applicant shall meet with the Director to review the recommendations of the agencies, and schedule the application for review by the Planning Commission.
 4. The Planning Commission shall hold a public hearing and shall make a recommendation to the City Council. Upon a recommendation from the Planning Commission, the City Council shall hold a public hearing and make the final decision on a change of zone.
 5. The City Council may recommend the application be returned to Planning Commission for further study or additional information at its next regular meeting. Failure by the Planning Commission to consider or revise its recommendation shall be considered a resubmission of its original recommendation.

- 6. The Planning Commission may recommend, or City Council may approve, a lessor change than was proposed in the notice, whether in extent of property or project area, or to a zoning district that permits a lessor scale and intensity of uses or other development standards.
 - 7. Approval of a change of zone shall be by ordinance approved by the City Council.
- D. **Effect of Decision.** Upon approval of a change in the district boundaries, the City Clerk shall record a copy of the ordinance approving the zone change with the county clerk and recorder. The applicant shall pay all required recording fees. The Director shall make the change on the official map by an actual change or other record identifying the ordinance with the associated property. The zoning shall remain in effect unless changed by the City Council according to the procedures in these regulations.

2.04 Planned Development

- A. **Applicability.** The planned development process is intended for development concepts that require a higher degree of specific planning based on the scale and complexity of the project. It is a type of change of zone, but is based on a specific and integrated development plan. The process affords flexibility in the standards to improve the relationship of the project to the context, and to better meet the purpose, intent and objectives of this code. Application for a planned development may be filed by the property owner, the City Council, or the Planning Commission, or by staff on behalf of these city entities.

A development plan shall include sufficient area to implement planning concepts that generate broader public benefits only be gained from flexible application of the standards, and not simply be used to justify deviations for single projects or on a site-specific basis. Smaller additions to previously approved development plans may be considered an amendment to that plan if used to integrate projects into the previous plan.

- B. **Development Plan.** A development plan is a specific plan for coordinated development of the entire area. The purpose of a development plan is to allow preliminary review of a proposed planned development before substantial technical work has been undertaken, but also to grant flexibility and establish expectations for development based on planning and urban design assurances reflected in the plan. A development plan shall generally include:
- 1. *Illustrative Plan.* An illustrative plan presents the vision for the project. It identifies and relationship of general land use categories and distinct areas of the plan; the arrangement and character of streets and open spaces; and the anticipated scale, intensity and character of development through maps, conceptual illustrations, and statements on the intent and objectives for the project. An illustrative plan shall indicate why the flexibility requested is justified by the plan and how it could not be easily achieved by other zoning designations.
 - 2. *Existing Conditions.* Existing conditions provide the current situation on the property. It includes an analysis identifying the general layout of any existing structures, streets or infrastructure; the location of natural features such as watercourses, steep grades, significant stands of trees, specimen trees or other significant or sensitive features; and the presence and relationships to these same conditions on adjacent property.
 - 3. *Development Framework Plan.* A development framework plan is a design plan for the public realm. It outlines the location, design characteristics, and functions of all proposed streets, blocks, and open and civic spaces – whether public, common or private – that will

create the development framework for the plan. A development framework plan that includes all of the elements for a preliminary plat in Section 2.02.D may be proposed as an official application for a preliminary plat.

4. *Regulating Plan.* A regulating plan becomes the zoning map for the specific project. It is a plan indicating the specific land uses and their density/intensity; the block and lot patterns, and where transitions in use or intensity occur; and the building types and scale, design characteristics, and other building and site design elements allowed in each area. The regulating plan shall be based on the most comparable base zoning district(s), but specifically identify where development standards or uses may differ from those that would otherwise be applicable through the zoning district(s) and general development requirements of this code. This plan shall also include the requirements for a change of zone of Section 2.03.
5. *Phasing or Implementation.* Phasing or implementation indicates a strategy and estimated timing of development, and any other administrative details of implementing the plan through future final plats and site plans. Any phasing shall be consistent with, but may be more detailed than, the phasing associated with the preliminary plat or development framework plan.
6. *Detail Plans.* The development plan may include detail plans and specifications such as renderings, elevations or plans of buildings, streetscapes, and public spaces or other urban design and architectural details demonstrating how the plan will be executed according to the vision and proposed development standards.

C. Review Criteria

1. *New Planned Developments.* Review, recommendations and decisions for newly proposed planned development shall be based on the following criteria:
 - a. The plan better implements the Comprehensive Plan, beyond what could be accomplished under application of general zoning districts and development standards.
 - b. The benefits from any flexibility in the proposed plan promote the general public health, safety and welfare of the community and surrounding areas, and the proposed flexibility is not strictly to benefit the applicant or a single project.
 - c. The flexibility in the proposed plan allows the project to better meet or exceed the intent statements of the base zoning district(s).
 - d. The proposed adjustments to the standards do not undermine the intent or design objectives of those standards when applied to the specific project or site.
 - e. The plan reflects generally accepted and sound planning and urban design principles with respect to applying the goals and objectives of the Comprehensive Plan to the area.
 - f. The plan meets all of the review criteria for a change of zone in Section 2.03.B.
2. *Minor Amendment to PUDs.* Minor amendments to existing PUDs, whether approved under this code or the prior code, may be approved by the Director, provided it meets the all of the criteria for the initial approval of the PUD, and is limited to the following:
 - a. Any change in the number of housing units, change in lot sizes or dimensions, or increase in the land of non-residential uses is less than 5%.
 - b. There is no decrease in the amount of open space or other reduction of amenities from the approved plan.
 - c. Any change in a building location is no more than 10% of the approved distance to adjacent property lines.

- d. Any change in the height or square footage of buildings is no more than 10% of the approved measurements.
 - e. Any change in a design standard meets the criteria for alternative compliance in Section 2.07.
 - f. Changes to the boundaries of any planning areas do not change the boundaries of the PUD, do not alter the mix of uses by more than 10% in land area or square footage, and otherwise reflect a similar land use plan.
 - g. The proposed change is consistent with concept plans in the previously approved planned unit development.
 - h. The plan otherwise meets all of the review criteria for administrative site plans in Section 2.05.
3. *Major Amendment to PUDs & Conversions.* Changes to previously approved PUDs that exceed allowances for minor amendments, or conversions of PUDs approved under a prior code to the provisions of this code, may be proposed for a portion of the area under the following criteria:
- (a) The proposed change does not create potential impacts on other property in the PUD that are greater than would typically occur in similar zoning districts or contexts; and
 - (b) The process and criteria for the initial approval of a PUD are met.
- D. **Review Procedure.** The following specific procedures supplement the general procedures in Section 2.01 and Table 2-1 applicable to planned developments:
- 1. The planned development process involves at least two steps: the development plan establishing the zoning and any necessary deviations (Illustrative Plan, Existing Conditions, Development Framework Plan, Regulating Plan, and Phasing); and platting and site plans for specific components of the development plan. However, based on the complexity of projects and degree of advanced planning and urban design necessary for a project, the Director may require, or the applicant may elect, breaking the review of the elements of a development plan in subsection B. into more than two steps to review concepts and preliminary designs prior to approval of the full development plan.
 - 2. The planned development application is a type of Change of zone and shall follow the procedures in section 2.03.C for change of zones.
 - 3. In most cases, land will need to be subdivided in order to carry out a development plan. The platting process is a separate process but may run concurrently with the planned development process, as specified in Section 2.01.B.
- E. **Effect of Decision.** Approval of a planned development shall constitute acceptance of the overall planning concepts and development parameters, and may constitute additional rights as specified below.
- 1. *Illustrative Plan.* Approval of the illustrative plan and existing conditions without any other plans shall only mean that the basic concepts are agreed to in principle as conforming to the intent of the Comprehensive Plan and any other plans or policies created under the guidance of that plan. In association with approval of the other plans, approved illustrative plans serve as a more specific representation of the intent and policy objectives for the area.
 - 2. *Regulating Plan.* Approval of the regulating plan, in association with the other components of the development plan, shall have the same effect as a change of zone specified in Section 2.03.D. Sites governed by an approved regulating plan shall be designated on the Official Zoning Map with the letters of the proposed base zoning district plus "P" (planned). (For example, where a portion of the development plan uses

the R-1A, R-3 and the C-1 base zoning districts, the zoning of each area of an approved regulating plan shall be R-1A-P, R-3-P, and C-1-P respectively.)

3. *Development Framework Plan.* Approval of a development framework plan shall only mean that the basic development patterns and infrastructure concepts are agreed to in principle as conforming to the intent of the Comprehensive Plan and any other plans or policies created under the guidance of that plan. However, approval of a development framework plan may have the same effect as approval of a preliminary plat as specified in Section 2.02.D.3., provided it includes or is accompanied by information required for preliminary plats.
 4. *Final Development.* Prior to applying for permits for final development, any project included as part of a planned development shall first require approval of a final plat and a site plan or administrative site plan as provided in these regulations. In addition to all other information and criteria required for those applications, submittals under an approved planned development shall include all necessary information to demonstrate that all applicable standards, requirements, and conditions of the development plan have been met.
- F. **Duration of Plan.** A development plan shall lapse and be of no further force and effect if a final plan (all of applicable final plat, site plan or administrative site plan) for specified phases has not been approved within three years of the date of approval of the development plan. Approval of final plans for a portion of the plan shall renew this period. The City Council may approve an extension of a development plan for up to two additional years. The City and applicant through a development agreement or approved phasing plan may establish timelines different from this as authorized by state laws.

2.05 Administrative Site Plan

- A. **Applicability.** The administrative site plan ensures that routine development projects meet the development and design standards of this code, and all other standards applicable to the property. Due to the scale or complexity of these projects, or design issues that potentially impacts on adjacent property, review beyond the standards building permit and zoning/design review is needed. Administrative site plans may be initiated by the property owner.

The administrative site plan process specifically applies to any of the following:

1. New detached houses or multi-unit houses where 3 or more buildings are proposed.
2. Expansion or alterations to an existing multi-family or non-residential building that alter the footprint, massing or facade design by less than 20%.
3. A change of use that is potentially more intense than the existing use, or that could otherwise trigger associated site development activity, such as parking, access, landscape, or screening.
4. Any site development activity that expands the existing impervious surface less than 25%.
5. Minor changes to the site access and circulation that do not significantly alter the streetscape design or traffic conditions near the site.
6. Any other changes to existing buildings that significantly alter the exterior appearance, or elements impacted by the design standards in Sections 5.03 or 6.03. This excludes ordinary maintenance but may include things such as re-facing or changing exterior materials, altering the composition of the façade by changing patterns of windows and doors, or altering the form or mass of the buildings.

The Director may determine that any application meeting these eligibility criteria still presents significant change or potential impacts on the area, or presents substantial interpretation questions on the application of development standards or review criteria, and is not eligible for the administrative site plan process. These plans shall be reviewed through the site plan procedures in Section 2.06.

- B. Review Criteria.** In general, any administrative site plan in compliance with all requirements of this code shall be approved. In making a determination of compliance, administrative site plans shall be reviewed according to the following criteria:
1. The application meets all applicable standards of this code or the criteria for any discretionary approvals.
 2. The application is consistent with or meets the intent of all prior approvals and conditions associated with the project.
 3. The plan does not directly conflict with the intent or design objectives of any applicable standard in this code.
 4. The application can reasonably be assumed to meet the criteria for all subsequent permits and reviews needed to build the project as proposed.
- C. Review Procedures.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements apply to administrative site plan applications:
1. The Director shall review the application and determine if the review of any other department or agency is required.
 2. If at any time in the process the Director determines that the application is not eligible for an administrative site plan, the Director may deny the application or process the application for review as a site plan according to Section 2.06.
 3. The Director shall make the final decision on administrative site plans, and the decision may be appealed to the Planning Commission under the procedures and criteria in Section 2.06.
- D. Effect of Decision.** Approval of an administrative site plan creates a vested property right as specified in Section 2.12 and shall authorize the applicant to apply for a building permit and other applicable permits.

2.06 Site Plan

- A. Applicability.** The site plan process provides for review of projects that may present a substantial change to the area for compliance with the standards. It coordinates development projects with the public realm and with adjacent sites, including compatible arrangement of buildings, pedestrian and vehicle access, site design, lighting and landscaping. Site plans may be initiated by the property owner.

The site plan process specifically applies to:

1. Any new building, except detached houses and multi-unit houses.
2. Any expansion or alteration to an existing multi-family or non-residential building that alters the footprint, massing or facade design by 20% or more.
3. Any change or intensification of use that could increase anticipated traffic counts by 20% or more.
4. Any site development activity that expands the existing impervious surface by 25% or more.
5. Any changes to the site access and circulation, or other development requirements that significantly impact streetscape design or existing traffic conditions near the site.

B. **Review Criteria.** In general, any site plan in compliance with all applicable standards of this code shall be approved. In making a determination of compliance with the standards applied to a particular site, the following criteria shall be considered:

1. *Generally.*
 - a. The plan meets all applicable standards or the criteria for any discretionary approvals.
 - b. The plan does not substantially undermine any goals or objectives of the Comprehensive Plan that are applicable to the area or specific project.
 - c. The plan does not present any other apparent risks to the public health, safety or welfare of the community.

2. *Site Design and Engineering.*
 - a. The plan provides safe access and internal circulation considering the site, the block and other surrounding connections, and appropriately balances vehicle, bicycle and pedestrian needs for the context.
 - b. The plan provides or has existing capacity for utilities and other required improvements to serve the proposed development.
 - c. The plan provides adequate management of storm water runoff.
 - d. The plan provides proper grading considering prevailing grades and the relationship to adjacent sites.

3. *Landscape and Open Space Design.*
 - a. The plan creates an attractive aesthetic environment and improves relationships to the streetscape or other nearby public, civic or common spaces.
 - b. The plan enhances the environmental and ecological functions of un-built portions of the site, and makes effective use and conservation of water resources.
 - c. The plan reduces the exposure and adverse impact of more intense activities or components of the site or building on the streetscape and on adjacent properties.

4. *Building Design.*
 - a. The location, orientation, scale and massing of the building creates appropriate relationships to the streetscape and to adjacent properties.
 - b. The selection and application of materials will promote proper maintenance and quality appearances over time.
 - c. The building reinforces the character of the area and reflects a compatible architectural relationship to adjacent buildings. Specifically, if there is any consistency or commonality in the scale, proportion, forms and features, and materials of adjacent buildings, they inform choices on the proposed building.

C. **Review Procedure.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to site plan applications:

1. At the applicant's discretion, and as part of the pre-application steps, the applicant may present a preliminary or conceptual site plan. This may be used to confirm interpretations, test basic concepts and standards, or review options for a proposed project.
2. The Director shall coordinate review of the application with the Design Review Team or any necessary referral agencies, per section 2.01.E.
3. The Director may request revisions or resubmittal of the site plan based on staff or referral agency comments.
4. After review by the Director, and any necessary resubmittal, the Director shall schedule the site plan for review by the Planning Commission. For any application that presents a substantial land use change or is of a scale and intensity that may impact surrounding

properties in a manner different than existing development in the area, the Director may require that notice of the Planning Commission meeting be provided to surrounding property owners.

5. A decision by the Planning Commission may be appealed to the City Council.
- D. **Effect of Decision.** Approval of a site plan creates a vested property right as specified in Section 2.12 and shall authorize the applicant to apply for a building permit and other applicable permits.
- E. **Minor Amendments.** The Director may approve minor amendments to an approved site plan provided the changes do not:
1. Increase the proposed residential density by more than 5%, or the non-residential floor area by more than 10%.
 2. Increase the building footprint by more than 5%.
 3. Increase the building height by more than 20% or 1-story, whichever is less.
 4. Increase the impervious surface by more than 10%.
 5. Change the design of the plan to substantially and negatively alter:
 - a. pedestrian or vehicle access;
 - b. relationships of constructed elements to adjacent property;
 - c. landscape and open space designs; or
 - d. the architectural appearance of buildings.
 6. In all cases the change meets all applicable development standards for the site and does not negatively impact any criteria or conditions of the original approval.

2.07 Alternative Compliance

- A. **Applicability.** The alternative compliance process provides limited flexibility in the application of design standards so that the best design solution may be applied to a particular context or site. It ensures that projects meet the intent and design objectives of the standards of this code, but allows for relief from strict application of the standards where an equal or better design solution is possible. Alternative compliance shall not reduce requirements of this code, but provide equivalent standards applied in a site-specific or creative way. Alternative compliance applications may be initiated by the property owner.

Specifically alternative compliance shall be applicable for any of the following:

1. Street design standards in Section 3.01.
 2. Open space design standards in Section 3.02.
 3. Residential development and design standards in Sections 5.02 and 5.03;
 4. Non-residential design standards in Sections 6.02 and 6.03;
 5. Access and parking standards in Article 7;
 6. Landscape & site design standards in Article 8; and
 7. Sign standards as provided in Section 9.08.
- B. **Review Criteria.** The following criteria apply to any application that is proposing alternative compliance to any of the standards.
1. Specific conditions of the site make compliance with the standard impractical, or meeting the standards would clearly not advance the intent or design objective of the standard.
 2. The proposed alternative equally or better meets the intent or design objective of the standards.
 3. The alternative does not undermine any other standards, or create additional negative impacts on adjacent sites.

4. The alternative shall not alter any use standard in a manner that permits a use that would otherwise be prohibited.
 5. The alternative is not strictly for the convenience of a specific project, but is justified under any of the following broader community benefits:
 - a. Aesthetic considerations that permit better coordination of the lot and building with the established character of the specific area;
 - b. Improved environmental performance;
 - c. Enhanced pedestrian or bicycle accommodations, or better civic space design;
 - d. Adaptive reuse of an existing building or infill on an existing lot that otherwise would not occur.
 - e. Better serves public health and safety considerations.
 6. The deviation is the minimum necessary to address the circumstance. Except where the specific standards establish different limits on alternative compliance, the deviation from any standard is limited to:
 - a. No more than a 15% deviation from the required standard on any application requiring the Administrative Site Plan process in Section 2.05. However, staff may approve deviations up 25% of the required standard where the Director, City Attorney, and Chairperson of the Board of Adjustments approve the variation based on these criteria and a demonstrated hardship unique to the property.
 - b. No more than a 25% deviation from the required standard on any application requiring Planning Commission approval through the Site Plan process in Section 2.06.
 - c. Any other deviation may only be approved through the Variance process and criteria in Section 2.09.
- C. **Review Procedures.** Applications for alternative compliance may be submitted independently in advance of a subsequent required plan, provided there is sufficient information to evaluate the application according to the criteria. Alternatively, an application for a alternative compliance may be submitted with an administrative site plan or site plan, provided that specific standards for which alternative compliance is proposed are clearly called out as a separate issue and decision in the application materials.
- D. **Effect of Decision.** Approval of alternative compliance shall be indicated by a written statement of the Director or Planning Commission, which shall be submitted with and clearly called out on any subsequent submitted plans. It shall authorize deviation from the standards only to the extent demonstrated on the approved plans. The approval shall only be valid for one year from the written statement, or for the time period of any associated or subsequent approved plans. Denial of an alternative compliance request may be appealed as provided in Section 2.10, Appeals of Administrative Decisions.

2.08 Special Use Permit

- A. **Applicability.** A special use permit provides flexibility for different uses within a zoning district and allows the potential for additional uses subject to specific conditions. These uses are not generally appropriate throughout the district, but due to the varying design and operational characteristics of particular application of the use, or due to conditions in the area where the use is proposed, they may be considered appropriate based on a case-specific review. Special use permits may be initiated by the property owner.

This process is specifically applicable to uses identified as special uses in particular districts as indicated by the Use Table in Section 4.02.

- B. **Review Criteria.** A special use permit shall be reviewed according to the following criteria:

1. All criteria for site plan review in Section 2.06.B. are met.
2. The application furthers the intent of the proposed zoning district and is otherwise determined to be consistent with the Comprehensive Plan.
3. Any associated site development or construction complies with requirements of this code, including any conditions or additional requirements identified for the particular use.
4. Compatibility with the area in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns, intensity of use as proposed or foreseeable, and other potential impacts on adjacent property.
5. Whether any additional site-specific conditions are necessary to meet the purposes and intent of this code and the intent or design objectives of any applicable subsections of this code, or to mitigate any other potential impacts that are specific to the proposed use.
6. Whether a limited time period for the permit is reasonably necessary to either limit the duration of the use, assess the use against changing conditions in the area, or ensure periodic reporting and ongoing enforcement of the permit.
7. The long-range plans applicable to the site and surrounding area are not negatively impacted considering the permanence of the proposed use, the permanence of existing uses in the area, and any changes in character occurring in the area.
8. The recommendations of professional staff or other technical reviews associated with the application.

C. **Review Procedure.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to special use permit applications.

1. Applications may be accompanied by site plan where it is necessary to review conformance with standards of this code and any performance criteria for the particular uses.
2. The Director shall coordinate review of the application with the Design Review Team and any necessary referral agencies, per section 2.01.E.
3. The Director may request revisions or resubmittal of any application materials, based on staff and referral agency comments.
4. After review by the Director, and any necessary resubmittal, the Director shall schedule the special use permit for review by the Planning Commission.
5. The Planning Commission shall hold a public hearing and shall make a recommendation to the City Council. Upon a recommendation from the Planning Commission, the City Council shall review the application and make the final decision on the Special Use Permit.
6. The Planning Commission may recommend any additional conditions on the use including the physical site or development conditions, limitations on operations, conditions of ownership and maintenance, time limitations or periodic reviews, or any other limitation it feels necessary to ensure the application meets the criteria in this location. The City Council may accept these recommended conditions, modify the conditions, or approve any other conditions it feels necessary to ensure the application meets the criteria in this location.

D. **Effect of Decision.** Approval of a special use permit shall authorize the applicant to apply for a building permit and other applicable development or construction permits. Except where specific standards of this code or the permit process establish a different period for acting on an approved special use permit, approval shall be valid for one year, and the Planning Commission may grant a one-year extension. Any application not acted upon according to the approval and conditions within this period shall be void. (This period requiring action on an approved special use permit is distinct from any duration that is the condition of an approval, which may limit the duration of the use and require periodic review and renewal of the special use permit.) A special use permit may be revoked by the City through the same procedures granting the use, upon a finding that the

conditions of approval have not been met, or that the use has otherwise violated the provisions of this code.

- E. **Amendments to Existing Special Use Permits.** Any amendment to a special use permit that does not constitute a minor amendment shall require the same process as the original approval. A minor amendment may be approved by staff and may include the following:
1. A change of ownership provided all conditions and criteria of the permit are met, and provided the new owner demonstrates the likelihood to continue to comply with all standards.
 2. Any change to any associated site plan provided it meets the minor amendments in Section 2.06.E, and does not violate any required conditions of the approval.
 3. A change in operations that is otherwise determined by the Director to not have a significant impact on any adjacent property and is otherwise consistent with the criteria and conditions for approval of the original special use permit.

2.09 Variance

- A. **Applicability.** A variance is a process to provide relief from a strict interpretation of the zoning and site design and development standards of this code, which when applied to a particular property and in a specific context would create practical difficulties or unnecessary hardship on all reasonable use of the property. This application shall only apply to the design, dimension and other site development standards of this code and shall not be used to authorize a use that is prohibited by the applicable zoning district. Variances may be initiated by the property owner.
- B. **Review Criteria.** A variance shall be reviewed and approved only on the finding that all of the following conditions are met:
1. The requested variance arises from exceptional physical conditions that are unique to the subject property, that are not ordinarily found in the same zoning district, and that are not created by the property owner or those acting on behalf of the property owner;
 2. The strict application of the provisions of the zoning regulations for which the variance is requested will constitute an unnecessary hardship upon the property owner, hindering the ability to legally use or construct upon the property. Economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the standards of this code;
 3. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 4. The variance desired will not adversely affect the public health, safety, or general welfare;
 5. Granting the variance would not alter the essential character of the surrounding neighborhood, and the general spirit of the ordinance and intent of the standards will be maintained; and
 6. The requested variance is the minimum necessary to relieve the conditions and permit reasonable use of the property.
- C. **Review Procedures.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to variance applications:
1. The concurring vote of four members of the Board of Adjustment shall be necessary to grant a variance.
 2. In granting a variance, the Board of Adjustment may impose conditions and requirements that best assure the criteria for approval are in place and maintained, and any violation of these conditions shall be considered a violation of the ordinance.
 3. The Board shall issue all decisions in writing, including the grounds for its decision based on findings of fact regarding each criteria, within 15 days after the decision has been made at a public hearing.

- D. **Effect of Decision.** No decision shall become effective until it is recorded with the county clerk and recorder. Upon filing with the county, the applicant may proceed with any necessary approvals or permits authorized in the variance. A variance shall run with the land to extent the zoning of the subject property remains in place. Any decision not acted on within one year of the decision by the Board shall expire, except that the Director can allow a one-year extension if the zoning and conditions affecting the variance have not changed since the decision. Any person aggrieved by a final decision of the Board of Adjustment may appeal the decision to the district court of the county with jurisdiction, within 30 days of the final decision.

2.10 Appeal of Administrative Decision

- A. **Applicability.** The appeal of administrative decisions is a process to determine if there was an error in any final decision made by an administrative official of the City in the interpretation, administration, or enforcement of this code. Except for where this Article and Table 2-1 establish a different appeal process and review body, appeals of administrative decisions may be filed with the Board of Adjustments by any person aggrieved and materially affected, by any decision of the officer administering the zoning standards in this ordinance, or by any officer, department, board, or official public body of the City affected by the decision. Appeals of administrative decisions shall be filed in writing with the City Clerk within 30 days of the date of the decision being appealed.
- B. **Effect of Filing.** An appeal stays all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal that a stay could cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- C. **Notice.** Notice of the appeal shall be served upon the person whose decision is being appealed by providing a copy of the appeal. The administrative official whose decision is being appealed shall transmit to the Board of Adjustment all plans, applications and other files directly impacting the decision and constituting the official record upon which the action appealed is taken within 30 days of receipt of such filing of the appeal. If the appeal is based on an application that required any other notice under this code, notice of the appeal shall also occur as required by the original application.
- D. **Action & Review Criteria.** The Board of Adjustment shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. The concurring vote of four members of the Board of Adjustment shall be necessary to sustain an appeal. An appeal shall be sustained only upon written findings that the official was in error. In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed.
- E. **Effect of Decision.** The decision by the Board of Adjustment shall have the same effect as a decision made by the administrative official but shall be limited to the facts and circumstances of that particular case. The Director may use the Board of Adjustment decision on an appeal as a factor when applying the standard appealed from to other similar circumstances. Any person aggrieved by a final decision of the Board of Adjustment may appeal the decision to the district court of the county with jurisdiction, within 30 days of the final decision.

2.11 Text Amendments

- A. **Applicability.** Text amendments to these regulations may be initiated by the City Council or the Planning Commission, or by Staff on behalf of these entities.
- B. **Review Criteria.** A text amendment shall be reviewed according to the following criteria:
1. The amendment furthers the purposes of these regulations in Section 1.01.C.
 2. The amendment is in accordance with the Comprehensive Plan and has been considered for both its long-range affects as well as immediate impacts.
 3. The amendment promotes the public safety, health and general welfare of the community in the City of Fort Lupton.
 4. The amendment improves the effectiveness and efficiency of administering the Land Development Code.
- C. **Review Procedures.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to text amendment applications:
1. Applications may be accompanied by a related Comprehensive Plan amendment, or more specific plan, provided that amendment or plan has met all of the legal and policy requirements for plan approvals independent of the proposed text amendment.
 2. The City Council may recommend the application be returned to Planning Commission for further study or additional information at its next regular meeting. Failure by the Planning Commission to consider or revise its recommendation shall be considered a resubmission of its original recommendation.
 3. The Planning Commission may recommend or City Council may approve a lessor change than was proposed in the notice, when considering the proposed change relative to the currently applicable standards.
- D. **Effect of Decision.** Amendments to the text of these regulations shall be approved by the City Council in the form of an ordinance and be effective after the date specified in the ordinance. The Director shall incorporate approved amendments into this code by reference to the specific amending ordinance, and indicate the newly applicable provisions and the replaced provisions, or by recodification of the official code that incorporates the approved amendment.

2.12 Vested Property Rights

- A. **Applicability.** The following applications are “site-specific development plans” which established a vested property right upon any approval or conditional approval according to the procedures and criteria of this code:
1. Administrative Site Plan
 2. Site Plan
 3. Administrative Plat
 4. Final Plat
 5. Other elective applications at the request of a property owner and subject to the sole discretion of the City Council
- B. **Review Criteria.** The review criteria for a vested property right shall be the same criteria as the applications associated with the proposed development. In addition, when the City Council is considering a request to vest any other property right or development approval, it shall consider the following:

1. The level of planning, urban design, or engineering investment that was necessary for the applicant to reach this point in the application.
2. The extent of details included in the proposal, the certainty associated with future development, and the extent of future reviews that may be necessary to advance the project to construction.
3. The context of the property and the likelihood of future changes in the surrounding area that could impact the project.
4. The potential for policy or regulatory changes at any level of government and to what extent vesting could unreasonably bind future decision makers.
5. Any other aspect of the public health, safety, and welfare.

C. Effect of Decision

1. *Extent of Vesting.* Vesting shall only occur to the extent of the standards of this code that are reflected in an approved application, and specifically the land use, density, lot sizes and site or building designs in the approved application. Vesting does not include other regulations that are general in nature or that apply equally to all property subject to these regulations. Vesting does not exempt applications from any subsequent review and approvals prior to construction. Vesting does not insulate a project from other public health and safety codes, including subsequent changes or updates to these codes associated with subsequent reviews, including construction drawings and specifications, drainage plans and permits, and building permits.
2. *Time Period.* A property right that has been vested shall remain vested for three years from the date of approval. However, the City Council may agree to a shorter or longer time period for any elective vested property right according to this section. If no building permit or other final permit is issued, or if the applicant does not request an extension within this period, the vested property right shall be terminated. The City shall send notice of the termination to the applicant at least 30 days prior to the termination, or the termination shall otherwise become effective after 30 days notice from the City.
3. *Extensions.* Prior to termination, the applicant may request extension of a vested property right. The Director may grant an extension up to two years. However, any extension of an elective vested property right shall only be approved through the same procedure of the original approval. In approving any extension, the Director or City Council shall find:
 - a. There are no changes or alterations that would produce conflicts with the development code, or any changes proposed bring the project more in compliance with the current standards.
 - b. The application remains consistent with any official plans or policies affecting the area, including any plans or policies adopted since the original approval.
 - c. The application is consistent with any conditions of the original approval or the original decision on vesting.
4. *Changes & Adjustments.* A site-specific development approval may be modified or adjusted as provided by this code without affecting the vested property right. However, any change in the plans that would require a new application or a different process than the original approval shall terminate any vested property to the extent it was granted under the prior approval.
5. *Violations & Revocation.* Any violations of the approved plan, or any failure to comply with conditions of approval shall result in forfeiture of the vested property right. The City Council may revoke the vested property right through the same procedures as the

original plan approval, and after providing at least 14 days written notice to the property owner and original applicant.

2.13 Vacation of Rights-of-Way or Easements

- A. **Applicability.** Vacation processes apply to any public rights-of-way or easements dedicated to the City by plat proposed to revert to private ownership. Vacation of other rights-of-way or property of the City shall only occur as otherwise provided in the Colorado Constitution, Colorado Statutes, or municipal code. Eligible applicants for vacation include the City or property owner with rights affected by the easement or right-of-way. For any right-of-way or easement abutting multiple property owners, the City may require that all owners join in the application.
- B. **Review Criteria.** The following criteria apply to vacating rights-of-way or easements:
1. There is no public purpose for the right-of-way or easement, considering the Comprehensive Plan, any specific transportation, open space or other public facilities plans, or other plans or policies under those plans.
 2. The right-of-way or easement is not necessary to meet any of the purposes, intent, design objectives or standards of this code.
 3. Vacating the right-of-way or easement will not leave properties without necessary access or provisions of other public utilities and services, or alternatively private easements, to reserve necessary access or provisions of public utilities and services are maintained,
 4. There are no adverse impacts on property in the vicinity potentially served by the right-of-way or easement.
 5. The vacation meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the municipal code.
- C. **Review Procedures.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to vacating rights-of-way or easements:
1. The applicant shall submit a vacation plat, meeting all of the requirements of a plat for the affected property, and showing the specific property rights to be vacated, and the affect of the vacation with respect to adjacent or abutting property.
 2. The Director shall coordinate review of the application with the Design Review Team per section 2.01.E., and in particular determine whether an referral agencies who may have facilities or other interest in the easement or right-of-way should be notified, or if all potentially affected property owners have been notified.
 3. After a determination of no city or referral agency interest in the easement or right-of-way, the Director shall make a recommendation and schedule the application for review by the Planning Commission.
 4. The Planning Commission shall consider the application subject to the review criteria and make a recommendation to the City Council.
 5. Upon receipt of a recommendation from the Planning Commission, the City Council shall make a final decision, and may condition a decision to vacate the easement or right-of-way on reserving any interest it determines necessary to serve a public purpose or the interests of the affected property.
- D. **Effect of Decision.** Vacations shall be approved by an ordinance of the City Council. Failure to adopt an ordinance or a successful motion to deny a vacation shall terminate the application. The Director shall record the approved ordinance and any associated maps or documents with the county clerk and recorder. Upon recording, property shall revert to the owner or abutting owners as provided by statute, and are subject to any other reservations or specific limits or conditions identified in the ordinance or approved vacation plat.