

Article 2. Applications & Procedures

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Table 2-1: Procedures Summary

	Eligible Applicants			Pre-application Conference	Neighborhood meeting	Notice			Review Body			
	Owner	PC	CC			Post	Publish	Mail	Staff	PC	CC	BoA
Administrative Plat	■			☑					D	A		
Subdivision Plan	■			☑	☑	☑	☑	☑	R	D/PH	Ac/PH	
Final Plat	■			☑					D	A		
Zoning Map Amendment	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Planned Development – Regulating Plan	■	■	■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Conditional Use Permit	■			☑	☑	☑	☑	☑	R	D/PH	A	
Site Improvement Permit	■								D	A		
Site Plan	■			☑					D	A		
Variance	■			☑		☑	☑	☑				D/PH
Appeal of Administrative Decision	■	■	■			--	--	--				D/PH
Text Amendment		■	■				☑		R	R/PH	D/PH	
Annexation	■		■	☑		☑	☑	☑	R		D/PH	

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

R = Review and recommending authority
 D = Decision making authority
 Ac= Acceptance of decision
 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 Community Development 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 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 according to its bylaws and rules of procedure or through recommendations brought to it by city staff.
 - c. **City Council.** The City Council acting on its own initiative according to its bylaws and rules of procedure 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.

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. Proposed uses, general site layout, and conceptual designs of buildings and open spaces.
2. Impacts of development to existing conditions on the site and the vicinity.
3. Procedural and submittal requirements.
4. Development review processes and review criteria, and in particular whether any special public information and outreach or specific agency or department reviews are necessary.

5. Planning and infrastructure impacts, including the need for any technical studies or outside agency coordination and review.
 6. Specific plans or policies affecting the application.
 7. Standards and requirements of the development code applicable to the project.
 8. Opportunities to improve 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 10.01. 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. A required neighborhood meeting may be waived only when the Director determines that the application is so routine in nature, and based on the context of the project that the general public notice and review process is sufficient to communicate the purposes of the meeting. Neighborhood meetings shall meet the following:
1. Be held prior to a formal application to the City.
 2. 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. 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.
 4. The applicant is responsible for notification of the neighborhood in the manner and format prescribed by the City on the application forms. The applicant shall receive confirmation of the time and location of the meeting from the Director prior to scheduling and notice.
 5. The applicant shall prepare 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 as part of the formal application.
- E. **Staff Review.** Upon receipt of an application, the Director shall take the following steps:
1. **Notification of Incomplete 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. **Development Review Committee.**
 - a. Specific applications may require review by the Development Review Committee, and the Director may determine that any application can be reviewed by the Development Review Committee 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 applicant shall assume that the following agencies are required to review and comment:
 - (1) Gas and electric utilities;
 - (2) Telecommunications and cable providers;
 - (3) Public safety agencies (police, fire, EMS, health);
 - (4) Respective school district(s) in which the subject property is located;
 - (5) Water and sewer utilities;
 - (6) Ditch companies;
 - (7) Special districts; and
 - (8) 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 receiving 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 of the City or agencies, and notifying agencies of any changes that may affect their comments on initial plans prior to final review.
3. **Staff Comments.** The Director shall coordinate a staff review after receipt of a complete application, and provide the applicant the following information in writing:
- a. Recommended changes based on the results of any referral agency comments, neighborhood meetings, or staff review on the merits of the application requirements and criteria of this code.
 - 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 Community Development 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 DRC and staff review, and addressed any comments 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 that identifies the appropriate policies, plans, regulations and review criteria. 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, type and general nature of the application, the general location of the subject property, a description of the proposal, and the location and contact where additional details may be found. Prior to the hearing or review meeting, the applicant shall verify to the Director that all required notice has been posted, and the City shall be responsible for mailed and published notice. Required notice shall include the following requirements.

1. **Published.** Where published notice is required, at least 15 days prior to the public hearing or meeting, the Director shall publish the notice electronically on the City website in a manner that best advises the public of the application.
 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 the land use proposal is under review and contain the contact information for the Community Development 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. Any failure to maintain posted notice beyond reasonable good faith efforts shall not invalidate any subsequent action.
 3. **Mailed.** Where mailed notice is required, the City shall mail notice of the date, time, place, type and general nature of the application, general location of the subject property, and a description of the proposal and where additional details may be found. When mailed notice has been properly addressed and deposited in the mail, failure of a party to receive notice shall not invalidate any subsequent action. 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 in which the subject property is located a request for notification, the applicant shall be responsible for notification. The applicant shall certify that notice has been provided as required by this code and Colorado law prior to a public hearing.
 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.
- 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 Chapter, or recommend the same 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 not authorized by the discretion and review criteria of this code;
 - c. It was an unreasonable interpretation or application of the standards;
 - d. It was erroneous, based on the record and facts review of the decision-making body; or
 - e. 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 Director, on behalf of any public official, department or public body; and
 - c. any other person given the right of appeal by law.
 4. The review body designated as the appellate body shall consider the application based on the established record, and within 60 days of the date that the appeal was filed may take any action authorized by the decision-making review body 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 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, or other applicable City codes 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 refile of the application no 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 the public realm, including streets, open spaces and other civic places 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, or where public or private easements will be required to build infrastructure.
- 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 line adjustments, lot splits, lot consolidations or land divisions that do not alter development patterns or impact public services.
 2. **Major Subdivisions.** Major subdivisions are all other land divisions or development impacting rights-of-way or infrastructure that require a more comprehensive review through subdivision plan 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 4 previously platted lots.
 - b. Lot Splits or Lot Merger – the consolidation of 4 previously platted lots into 3 or fewer lots, or the splitting of 1 previously platted lot no more than 3 lots.
 - c. Survey Plat - A survey of multiple lots from a previously approved final plat, where the actual legal boundaries could only be determined by a post-construction survey. For example, individually owned town homes may be approved on a final plat, but the actual legal description can only be verified post construction by a legal survey.
 - d. Affidavit of Correction – a survey to correct an error in the legal description of a lot or parcel.
 - e. Minor Subdivision – the division of previously unplatted land into 3 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 new right-of-way, or other public dedication is needed.
 - b. No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or impact on the ability to maintain existing service levels will result.
 - c. The application does not alter any zoning district boundaries due to adjustments to any lots.
 - d. All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - e. 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.
 - f. 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 subdivision plan and final plat. Plats meeting an approved subdivision plan may be approved through the final plat process.

 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. The Director shall review the application, and determine if the review or comment of any other department or agency is required.
 - b. If the Director determines that the application is not eligible for an administrative plat approval for any reason at any point in the process, the Director may deny the application, and require the applicant submit a new application as a major subdivision.
 - c. The Director shall make the final decision on administrative plats, and the decision may be appealed to the Planning Commission.

 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 in the office of the applicable county clerk and recorder. Any administrative plat not recorded within the periods established in Section 2.12 shall expire.

- D. **Major Subdivision – Subdivision Plan.** A subdivision plan shall be processed according to the following specific procedures.
1. **Review Criteria.** A subdivision plan 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, the arrangement of streets, blocks, lots and open spaces, and the public realm design and investments reflect the principles and concepts of the plan.
 - b. Compliance with the requirements of this development code, and in particular the blocks and lots proposed are capable of meeting all development and site design standards under the zoning district.
 - c. The application includes performance, construction and any maintenance assurances for the design, construction and acceptance of the improvements by the City.
 - d. Any phasing proposed in the application is clearly indicated and demonstrates a logical and coordinated approach to development, including coordination with existing and potential development on adjacent property, and that the timing, location and construction of amenities is consistent throughout phases.
 - e. 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.
 - f. The application does not deter any existing or future development on adjacent property from meeting the goals and policies of the Comprehensive Plan.
 - g. The design does not impede the construction of anticipated or planned future public infrastructure within the area.
 - h. The recommendations of professional staff, or any other public entity or review agencies asked to officially review the subdivision plan.
 2. **Review Procedure.** In addition to the general requirements in Table 2-1 and Section 2.01 the requirements in this sub-section apply to subdivision plan applications.
 - a. The applicant shall coordinate review and submit comments from all required referral agencies per Section 2.01.E.2.
 - b. Once the applicant has addressed all staff comments and resubmitted the subdivision plan to the Community Development Department, the Director shall formally schedule the application for review by the Planning Commission.
 - c. The Planning Commission shall hold a public hearing and make a decision on the subdivision plan. Any subdivision plan approved by the Planning Commission that includes public improvements shall be scheduled for a public hearing at the City Council for acceptance of all public lands or proposed facilities. Provided no substantive changes are made between acceptance 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.
 - d. Any street in a major street plan approved by the Planning Commission shall not be accepted unless approved by the Planning Commission in a subdivision plan. If the Planning Commission does not approve the street, the governing body shall only accept the street by a two-thirds vote.

3. **Effect of Decision.** The approval of the subdivision plan does not constitute an acceptance of the subdivision, but authorizes preparation of the final plat.
 4. **Term of Expiration.** The approval of the subdivision plan shall be effective for two years, except that any official submittal of final plat for any phases indicated on a subdivision plan shall stay the two-year period, and approval of the final plat shall restart a new one-year period for remaining portions of the subdivision plan. The Planning Commission 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. Any such extension shall be requested by the applicant in writing prior to the expiration of the subdivision plan.
- E. **Final Plat.** After approval of the subdivision plan, the applicant may submit a final plat for all or for portions of the subdivision plan area subject to a phasing plan approved with the subdivision plan. 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 subdivision plan review:
 - a. The layout and design of the final plat is substantially consistent with the approved subdivision plan considering the number of lots or parcels; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments.
 - b. The construction plans for any utilities, infrastructure or public facilities meet all technical specifications.
 - c. The provision of all required improvements, dedications, fees, financial guarantees, and maintenance guarantees.
 - d. The phasing and timing of public improvements ensures construction and performance guarantees. Any phasing that meets an approved subdivision plan 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 subdivision plan.
 - e. Any deviations in the final plat from the approved subdivision plan, complies with the applicable zoning standards, and the purposes and intent of this code, and does not increase the impact of any development on required improvements beyond the capacity for required improvements identified in the subdivision plan.
 - f. The recommendations of professional staff, or any other public entity asked to officially review the final plat.
 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 staff shall review the final plat for conformance with the planning and design elements, and the engineering specifications, and a final plat meeting these criteria shall be approved.
 - b. A final plat not meeting the review criteria may require reprocessing as a revised subdivision plan.
 - c. The Director shall make the final decision on final plats, and the decision may be appealed to the Planning Commission.
 3. **Effect of Decision.** The approval of the final plat shall create a vested property right according to Section 2.12, and complete the City's acceptance of the dedication of land for public purposes indicated in the approved subdivision plan. 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 in the office of the applicable county clerk. Any final plat not recorded within the periods established in Section 2.12 shall expire. No building permit shall be issued until the completion, inspection and acceptance of all required improvements.

2.03 Zoning Map Amendment

- A. **Applicability.** The zoning map amendment 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 zoning map amendment 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 zoning map amendment 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 support development in character with existing or anticipated development in the area, including the design of streets, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the integration, transitions and compatibility of other uses.
 3. The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.
 4. The change will serve a community need, amenity or development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property.
 5. 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 Zoning Map Amendments.
1. Applications may be accompanied by any subdivision plan, 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 Development Review Committee per section 2.01.E.
 3. After receipt of all comments from the Development Review Committee 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 zoning map amendment.
 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 in the scale, intensity, or other substantive standards for proposed project and zoning change.

7. Approval of a Zoning Map Amendment shall be by ordinance approved by the City Council.

D. Effect of Decision.

1. *Recording and Map Change.* Upon approval of a change in the district boundaries, the Director shall record a copy of the ordinance approving the zone change in the office of the appropriate 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.
2. *Notice.* Within 30 days of a zoning approval, the applicant shall locate a sign on the zoned property identifying the zoning action and any potential development. The sign shall meet the following requirements:
 - a. The size shall be no more than 8 feet high and between 15 and 20 square feet.
 - b. The sign shall be placed on the property and be visible to the public from nearby streets, trails or other adjacent public areas. The Director may require additional signs based on the context and size of a project.
 - c. The sign shall include the following information:
 - (1) Indication that the property is within the municipal boundary of the City;
 - (2) A map, outline or site plan of the zoned property as approved by the City Council in the process;
 - (3) The approved zoning designation of the property;
 - (4) Name of the landowner, developer and point of contact for information about future development of the property; and
 - (5) Contact information for the City and where additional information may be obtained about the application, or official plans and proposals at the city.
 - d. The sign shall remain in place until a final plat has been approved or construction for the property has started.

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, the relationship of the project to the context, and the ability to meet the purpose, intent and objectives of this code with more flexible application of the standards. A planned development application is a type of zoning map amendment based on a specific and integrated development plan, and must follow the procedures and meet the requirements of the rezoning process. 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 that can only be gained from flexible application of the standards, and not simply be used to justify deviations single projects or on a site-specific basis. Smaller additions to previously approved development plans may be considered an amendment to that plan if the flexible application of the standards is used to integrate projects into surrounding context, design characteristics or development patterns.

- 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 to also grant

flexibility and establish expectations for development based on the extent of 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 the area and relationship of general land use categories, the arrangement and character of streets and open spaces, and the anticipated scale, intensity and character of development through maps, illustrations of development concepts, and 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. **Conceptual Development Plan.** A conceptual development 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 public realm for the plan. Any conceptual development plan that includes all of the elements for a subdivision plan in Section 2.02.D, may be proposed as an official application for a subdivision plan.
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, building types and scale, design characteristics, and other building and site design elements that reflect the proposed scale and character of development, and where relationships and transitions between these elements occur within the plan. The regulating plan shall specifically identify where development standards may differ from those that would otherwise be applicable through the most comparable base zoning districts and general development requirements of this code. This plan shall also include the requirements for a zoning map amendment 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 subdivision plan in B.3.
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 applicable 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 in particular that of the areas

- immediately near or within the proposed project, 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 zoning map amendment.
 - 2. **Conversion of PUDs.** Previously approved Planned Unit Developments may propose major amendments to all or a portion of the area through a conversion to the new planned development process under the following criteria:
 - a. The plan proposes the most closely applicable base zoning district(s) for specific portions of the property in terms of land use, development intensity and building form and scale.
 - b. The proposed change is consistent with concepts or plans in the previously approved planned unit development, and does not increase development beyond the capacity or impacts proposed in that plan.
 - c. The proposed plan either meets the standards provided in this code, or where deviations from the base zoning districts or other standards of this code are requested, they bring the project closer to the intent or design objectives of this code than was otherwise anticipated under the approved planned unit development.
 - d. The plan meets all of the review criteria for a zoning map amendment.
- D. **Review Procedure.** The following specific procedures supplement the general procedures in Section 2.01 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, Conceptual Development Plan, Regulating Plan, and Phasing); and platting a 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 elements of a development plan in subsection B. may be broken into two or more steps to review concepts and preliminary designs prior to approval of the full development plan.
 - 2. The planned development application is a type of zoning map amendment and shall follow the procedures in section 2.03.C. for zoning map amendments.
 - 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, these plans serve as intent and policy objectives for interpretation more detailed plans.

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 zoning map amendment 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. **Conceptual Development Plan.** Approval of a conceptual development 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 conceptual development plan may have the same effect as approval of a subdivision plan as specified in Section 2.02.D.3., provided it includes or is accompanied by information required for subdivision plans.
 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 improvement permit or 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 improvement permit or 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 Site Improvement

- A. **Applicability.** The site improvement process ensures that routine development projects meet the development and design standards of this code, and all other standards applicable to the property. Site improvement permits may be initiated by the property owner.
1. **Site Improvement Permit.** The site improvement permit review applies to all buildings and sites, except detached houses and duplexes, subject to the following eligibility criteria:
 - a. Any expansion to an existing building footprint by 10% or less.
 - b. Any change or intensification of use which alters access and parking requirements of this code, or which involve other outdoor activities and site elements which could trigger landscape or screening requirements.
 - c. Any site development activity which expands the existing impervious surface 25% or less.
 - d. Minor changes to the site access and circulation which do not significantly alter the design of the public realm or traffic conditions near the site.
 - e. Significant exterior design or structural alterations to an existing building that do not change the footprint. 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.

- f. Applications for new signs in association with a sign permit.
2. *Residential Design Review.* Residential design review applies to all residential buildings, including detached houses and duplexes, unless they are otherwise subject to Site Plan Review under Section 2.05. Specifically it applies to the following when adjacent to or across the street from two or more lots with existing buildings:
 - a. Any new residential building; and
 - b. Substantial expansion of an existing building equal or greater than 25% of the principal building original gross floor area (including attached garages but excluding detached garages.)

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, and is not eligible for the site improvement permit process and shall be reviewed through the site plan procedures.

- B. **Review Criteria.** In general, any site improvement permit in compliance with all requirements of this code shall be approved. In making a determination of compliance, a site improvement permit 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, and meets any of the site plan review criteria in Section 2.06.B that may be applicable to the particular application.
 3. The application can reasonably be assumed to meet the criteria for all subsequent permits and reviews needed to build the project as proposed.
 4. The Director may use the site improvement permit process to approve minor modifications to a previously approved site plan. Modifications shall be based on a finding that it meets all applicable standards; the modification was not significant to the prior site plan approval; the modification is based on circumstances or situations that were not known at the time of the site plan approval. Minor modifications are limited to the following changes from the approved site plan, but in no case more than required by this code:
 - a. An increase in building height by no more than 10%.
 - b. An increase in building footprints by no more than 5%.
 - c. A change in building location by up to 5 feet.
 - d. An increase in impervious surface by more than 10%.
 - e. A decrease in landscape or open space by no more than 5%.Any other change or any change the Director determines is material to the previously approved site plan shall only be approved through an amended site plan subject to the same criteria and procedures of the original approval.
- C. **Review Procedures.** In addition to the general requirements in Table 2-1 and Section 2.01 the following requirements apply to site improvement permit applications.
 1. The Director shall review the application, and determine if the review of any other department or agency is required.
 2. If the Director determines that the application is not eligible for a site improvement permit for any reason at any time in the process, the Director may deny the application, or process the application for review as a site plan.
 3. The Director shall make the final decision on site improvement permits, and the decision may be appealed to the Planning Commission.

- D. **Effect of Decision.** Approval of a site improvement permit 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 coordinates development projects with the public realm and with adjacent sites, and specifically demonstrates how new projects meet the development and design standards of this code regarding 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 duplexes.
 2. Any expansion to an existing building footprint by more than 10%, except detached houses and duplexes.
 3. Any change or intensification of use that could increase traffic counts by more than 25% or otherwise alter traffic patterns beyond the capacity reasonably anticipated by long-range plans.
 4. Any site development activity that expands the impervious surface by more than 25% of existing impervious surface on the lot.
 5. Any changes to the site access and circulation, or other development requirements that significantly impact the design of the public realm or 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, a site plan shall be reviewed according to the following criteria:
1. *Generally.*
 - a. The plan meets all applicable standards, or the criteria for any discretionary approvals.
 - b. The plan implements any specific 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 the scale, proportion, forms and features, and materials of adjacent buildings inform choices on the proposed building.
 5. **Administrative Adjustments.** Administrative adjustments to the standards of this code may be made in the site plan review process. Adjustments shall be based on a finding that it meets the other site plan review criteria; that there is no greater adverse impact on adjacent property than would occur in meeting the standards; and that meeting the standard was not practical based on the circumstances of the particular site. Administrative adjustments are further limited to the following:
 - a. Adjustments to a building dimension or location standard by up to 5% of the dimension.
 - b. Adjustments to a non-building site dimension or quantity standard by up to 10%.
 - c. Adjustments to a performance or qualitative building or site design standard provided the proposed alternative equally or better meets the intent of that standard.
- 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. Additionally, a preliminary or conceptual site plan may accompany applications for a rezoning or conditional use permits to demonstrate potential compliance with the criteria or standards, in anticipation of a final site plan being submitted after these approvals.
 2. The Director shall coordinate review of the application with the Development Review Committee per section 2.01.E.
 3. After receipt of all comments from the Development Review Committee or any other necessary referral agencies, the applicant shall meet with the Director to review the recommendations of the agencies.
 4. Based on these comments, and any necessary changes or resubmittals, the Director may make the final decision on the site plan, and the decision may be appealed to the Planning Commission.
 5. Any site plan that meets the criteria shall be approved.
- 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. A site plan that does not meet the criteria or involves substantial interpretation of the criteria may be denied, or the Director may forward, or Applicant may request the application be forwarded to the Planning Commission as an appeal.

2.07 Conditional Use Permit

- A. **Applicability.** A conditional 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. Conditional use permits may be initiated by the property owner.

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

- B. **Review Criteria.** A conditional use permit shall be reviewed according to the following criteria:
1. The application furthers the intent of the proposed zoning district and does not conflict with the intent of any abutting districts, and is otherwise determined to be consistent with the Comprehensive Plan.
 2. Any associated site development or construction complies with requirements of this code, including any conditions identified with any particular use.
 3. 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.
 4. The impact on the public realm, including the design and functions of streetscapes and relationships of building and site elements to the streetscape.
 5. The adequacy of drainage, utilities and other public facilities.
 6. Compatibility with the character of the area in terms of building scale, building form, architectural character and quality, landscape and site design.
 7. 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.
 8. 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 on-going enforcement of the permit.
 9. The application will not have negative impacts on development and use of the neighboring property in accordance with the applicable development regulations.
 10. 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.
 11. 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 conditional use applications.
1. Applications may be accompanied by site plan or site improvement permit where they are 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 Development Review Committee per section 2.01.E.
 3. After receipt of all comments from the Development Review Committee or any other 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 final decision on conditional use permits, and the decision may be appealed to the City Council.
 5. The Planning Commission may attach any additional conditions on the use including the physical development, operations, maintenance or any other limitation it feels necessary to ensure the application meets the criteria in this location.
 6. A conditional use permit shall be approved by resolution of the Planning Commission, or where appealed to the City Council approved by a resolution adopted by the City Council.
- D. **Effect of Decision.** Approval of a conditional 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 conditional 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 the permit is distinct from any duration of an approved permit, which may expire and require periodic review and renewal of the conditional use permit.) Any amendment to a conditional use permit shall require the same process as the original approval. A conditional use may be revoked by the Planning Commission through the same procedures granting the use, upon a finding that they conditions of approval have not been met, or the use has otherwise violated the provisions of this code.

2.08 Variance

- A. **Applicability.** Variances are a process to provide relief from a strict interpretation of the 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; and
 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.
- 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 three 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 applicable county clerk. 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 filed within one year of the decision by the Board shall expire, except that the Director can allow a one-year extension of the filing deadline 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.

2.09 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 in the interpretation, administration or enforcement of this code by an administrative official of the City. 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, or by any officer, department, board, or official public body of the City affected by any decision of the officer administering the zoning standards in this ordinance. 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 and 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 three 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.

2.10 Code Amendments

- A. **Applicability.** Code 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 code 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 Brighton.
 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.

2.11 Annexation

- A. **Applicability.** Annexation applies to all lands proposed for incorporation into the City limits. Eligible applicants include the property owner by petition, or the City by election or a determination of an enclave annexation.
- B. **Review Criteria.** In addition to any criteria authorized by state laws, city annexation policies, annexations shall be reviewed according to the following criteria:
1. The annexation complies with the Municipal Annexation Act of 1965, Section 31-12-101 et. seq., CRS.

2. The annexation is in accordance with the Comprehensive Plan and any other plans or policies created under the guidance of that plan.
 3. The property is capable of being integrated into the City and developed according with all applicable provisions of the Brighton Municipal Code and these regulations.
 4. Municipal and governmental services and facilities will be extended to these areas in a timely and fiscally responsible manner, considering initial costs, ongoing maintenance costs, and potential replacement costs with respect to the expected values of proposed development.
 5. At the time any development is completed in the area to be annexed, there will be adequate capacity to serve the residents or occupants of the area with the necessary utilities and facilities.
 6. The annexation will encourage well-ordered development of the City, particularly with regard to the long-range transportation patterns, development patterns, open space systems, and coordination with any specific plans accompanying the proposal.
- C. **Review Procedure.** In addition to the general requirements in Table 2-1 and Section 2.01, the following requirements are specific to annexation petitions:
1. *Pre-petition Conference.* The pre-petition conference shall discuss general eligibility for annexation, compliance with the criteria, potential development and zoning after annexation, and any terms, development agreements or other matters related to annexation.
 - a. The petition may be referred to the Development Review Committee for detailed review and comments from other agencies or departments.
 - b. The Director shall inform the applicants of general comments the Development Review Committee or any other referral agencies.
 2. *Substantial Compliance.* The City Council shall review the annexation petition for substantial compliance with the review criteria. If the petition is in substantial compliance, the City Council shall:
 - a. Adopt a resolution with findings and conclusions of substantial compliance.
 - b. Schedule a public hearing at least 30 days and no more than 60 days compliance.
 - c. Provide all additional notice, reports and other information required by statute prior to the hearing.
 - d. Upon completion of the public hearing, the City Council shall determine by resolution whether the property is eligible for annexation, whether the statutory requirements have been met, and whether an election for annexation is required.
 3. *Land Use, Development and Zoning.* Applications shall be accompanied by a conceptual development plan sufficient to determine conformity to the Comprehensive Plan or any annexation plans or policies.
 - a. At a minimum this shall identify general land uses, intensity and density, proposed development patterns and open / civic spaces.
 - b. The City may require that the annexation proposal be accompanied by a development plan sufficient to meet the requirements of subdivision plans and regulating plans identified in Section 2.04.
 - c. Alternatively, a conceptual development plan with sufficient details may be support an accompanying and proposed zoning map amendment, using base zoning districts as require in Section 2.03.
 - d. Subdivision plans, regulating plans, or zoning map amendments may be approved in association with annexation procedures, provided the petition be found in substantial compliance and provided the procedures and criteria of

sections 2.02, 2.03 and 2.04 are met. In the absence of any of these plans or regulations, the property will be zoned AR.

4. *Annexation Agreements.* The City may require an annexation agreement executed by the landowner and developer, and approved by the City Council prior to the final reading of an annexation ordinance.
- D. **Effect of Decision.** Annexations shall be approved by an ordinance of the City Council. If the annexation is approved, the Director shall record a copy of the annexation ordinance, annexation plat and annexation agreement (if applicable) with the applicable county clerk. The applicant shall pay all required recording fees. Any approved subdivision plans, regulating plans or zoning map amendments shall become effective upon final annexation.

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. Site Improvement Permits
 2. Site Plan; and
 3. Administrative Plat; and
 4. Final Plat.
- 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. *Notice.* Within 14 days from approval of a vested property right application, the City shall publish notice according to Section 2.01.F.1. The notice shall generally describe the nature and extent of the approval, and advise the general public of the site-specific development plan approval and creation of a vested property right pursuant to Article 68, Title 24, C.R.S.
 2. *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 these codes associated with subsequent reviews, including construction drawings and specifications, drainage plans and permits, and building permits.

3. *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.
4. *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.
5. *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 right under previous approvals to the extent the change impacts that right.

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 Brighton Charter. Eligible applicants for vacation include the City, or an abutting property owner. For any property 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, the Transportation Master Plan, 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 requirements of the Colorado Statutes, the Colorado Constitution and the Brighton City Charter.
- C. Effect of Decision.** Vacations shall be approved by an ordinance of the City Council. The Director shall record the approved ordinance and any associate maps or documents with the applicable county clerk. Upon recording, property shall revert to abutting owners as provided by statute, and subject to any other reservations or specific limits or conditions identified in the ordinance.