



PLANNING COMMISSION WORK SESSION

May 20, 2020 // 5:00 p.m. // See virtual meeting information below

NOTE: Windsor Town Hall is closed due to COVID-19

Register in advance for this meeting:

https://windsorgov.zoom.us/webinar/register/WN_IDsYw5dRTdiUUYIITET3Zw

After registering, you will receive a confirmation email containing information about joining the webinar.

GOAL of this Work Session is to have the Planning Commission receive information on topics of Town business from the Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the public joining this meeting are asked to be recognized by the Chairman before participating in any discussions of the Planning Commission.

AGENDA

1. Municipal Code Update – Land Use Procedures – Presentation by P. Hornbeck, Senior Planner



MEMORANDUM

Date: May 20, 2020
To: Planning Commission
From: Paul Hornbeck, Senior Planner
Re: Land Use Code Update

BACKGROUND

Chapters 14 through 18 of the municipal code collectively make up the Town's Land Use Code (hereafter referred to as the code). The Town is updating the code with the intent of:

- implementing the goals of the Comprehensive Plan;
- better reflecting contemporary development trends;
- adding flexibility, clarity, and ease of use; and
- streamlining reviews where feasible.

This memo summarizes high level changes proposed to procedures and subdivision sections and provides a comparison with the existing code. The draft code sections are attached for review as well. Future updates will address other code sections.

PROCEDURES

Review Body (Sec. 14-2-10(a)(1))

Changes are proposed to streamline reviews by reducing the number of hearings/meetings required with land use applications by shifting more review authority to staff. The shift to more administrative approvals was a concept raised during review of The Brands project and was discussed in the context of "leveling the playing field" with City of Loveland review processes. Proposed changes are outlined below and Town Board specifically asked Planning Commission to provide input on these proposed changes:

- Final major subdivisions would be reviewed by staff rather than Planning Commission and Town Board for conformance with the preliminary major subdivision. Preliminary subdivision plats would continue to be reviewed by Planning Commission, but would be done so as public hearings to allow for public input at the preliminary stage. Any appeal on preliminary and final subdivision plats would be heard by Town Board.
- Multifamily site plans would be reviewed by staff rather than Planning Commission and Town Board, consistent with how commercial/ industrial site plans are currently reviewed (commercial and industrial review deadlines would continue to be prioritized over residential). Any appeal on site plans would be heard by Town Board.

Public Notice Requirements (Sec. 14-2-10(h))

All proposed changes to public notice requirements are shown in **Exhibit A**. Changes include:

- Preliminary plats and master plans will require a Public Hearing
- Variances will require notification of surrounding property owners
- Add requirement for public notification for variances to property owners within 150'
- Add requirement for public notification for right-of-way and easement vacations to abutting properties
- Increase in mailing radius for public notice to 500' for most applications

Scheduling (Various Sections)

The following changes are proposed to scheduling:

- Neighborhood Meetings would be required a minimum of 15 days prior to Planning Commission hearings, rather than the current 30 days.
- The code currently allows only 10 days for referral agency comment. This deadline has proven not to be adequate so it would be changed to 21 days. Since referrals are typically distributed with the first round of project review, this change is not anticipated to add any additional time to the overall review.
- Town Board has traditionally prioritized commercial/industrial projects, as seen in the qualified commercial/industrial site plan process which allowed for administrative review of such applications. Since all site plan applications are proposed to be administratively reviewed, the draft code requires review deadlines for commercial/ industrial projects to be prioritized in order to continue this policy.

Lapse of Approval (Sec. 14-2-10(d))

Proposed changes regarding lapses of approvals are intended to ensure projects are not left partially completed (e.g. missing documents) or that site specific approvals are acted upon within one year (similar to current site plan commencement deadlines). For example, if a subdivision plat has been approved but is not recorded in a timely manner, this may cause unnecessary delays for surrounding developments that rely on connecting roads, easements, etc. The draft code allows the decision maker on a project to approve extensions if good cause is shown.

Lapse of Approval		
Application Type	Current	Proposed
Site Plan	Building Permit required within one year	Building Permit required within one year
Height Review	None	Building Permit required within one year
Conditional Use	None	Building Permit required within one year
Preliminary Subdivision	Lapse occurs if final plat is not submittal within one year of preliminary plat approval	Lapse occurs if final plat is not submitted within one year of preliminary plat approval
Final Subdivision	None	Lapse occurs if applicant fails to submit any necessary documents (signed mylars, development agreements, etc.) or fees within 90 days of approval
Minor Subdivision	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
Annexation	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
Master Plan	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval

Vacations	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
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Substantial Change (Sec. 14-2-30)

If an application is denied, the code does not currently place any limits on reapplying for the same project thereafter. Updates to the code seek to avoid repeated resubmittals of project within a five-year period unless there is a substantial change in the project or related circumstances. Town Board would be the decision maker in determining if substantial change has occurred, based on specific criteria listed in the code.

Review criteria (Various Sections)

The current code generally lacks approval criteria. Approval criteria add certainty to applicants, members of the public, and decision makers by providing clear criteria for review of projects. Proposed criteria are listed in the attached draft code.

Minor Subdivision Eligibility (Sec. 14-2-70(a)(1))

Changes to which projects are eligible for minor subdivision rather than major subdivision are shown below. The intent of the changes is to add clarity to when minor subdivisions are allowed and streamline reviews for simple projects that do not warrant the major subdivision process. Minor subdivisions are more streamlined since they do not require public hearings and separate preliminary and final reviews.

Minor Subdivisions	
Current	Proposed
1. To establish 5 or fewer lots: - in zones SF-1, SF-2, E-1, E-2, RMU - In zones other than SF-1, SF-2, E-1 or E-2 for an area being concurrently site planned when the dedication of new rights-of-way is not required	1. To establish 5 or fewer lots*: - in any zone - with or without concurrent site plan - may dedicate right-of-way

In RMU zones for an area being concurrently site planned for commercial and light industrial uses when the dedication of new rights-of-way is not required.	- To establish any number of commercial or industrial pad sites with concurrent site plan - To consolidate previously platted lots - To adjust previously platted lot lines
To change lot lines in an existing subdivision where no new lots are being created, no utilities are being extended, no new easements or rights-of-way are necessary	Easements may be dedicated or vacated on a minor subdivision plat; right-of-way can be dedicated concurrently with minor subdivision. *Provided the property was not the subject of a minor subdivision plat approval during the prior one year

SUBDIVISION STANDARDS

Street Connectivity (Sec. 17-1-10(d)-(g))

The Comprehensive Plan encourages a more connected network of both roads and pedestrian routes; however, the current code does not contain standards to implement this vision. The proposed standards address this by implementing maximum block lengths, limiting cul-de-sacs, and requiring greater connectivity to adjacent properties.

Street Connectivity Standards				
	Zone Districts	Block Length	Connections to Adjacent Properties	Cul-de-sac Limits
Current	All	1500' max.	Every 1320' or less on average	600' maximum length
Proposed	LI, HI, ER	1320' max	Every 1320' or less	660' maximum
Proposed	RMU-1, SF-1, NC, GC, MF, PUD (non-residential)	880' max	Every 880' or less	600' maximum but should be avoided when feasible. When used the total number of lots on cul-de-sac streets, shall not

				exceed more than 10% of lots in subdivision unless an exception is granted in accordance with Sec. 17-1-10(g).
Proposed	CB, RMU-2, SF-2, PUD (residential)	660' max.	Every 660' or less	Prohibited except for exceptions (listed below) 220' maximum length when exception granted.

Exceptions to the above standards can be approved on the basis of unique physical conditions such as topography, existing buildings or development, conflicts with existing streets, to avoid inefficient street layout or inefficient use of land, or when necessary for unique land uses.

Open Space (Sec. 17-1-40(c))

Open space conservation is a theme throughout the Comprehensive Plan but the current code does not generally require open space with development. The draft code addresses this by requiring 20-30% open space be set aside with most residential subdivisions. Although the code does not currently require open space with subdivisions, open space is generally always provided in order to accommodate stormwater, easements, or amenities

Existing Subdivision Open Space	
Subdivision	Percent Open Space
Village East 1 st Filing	31%
Winter Farm 1 st Filing	15%
The Ridge at Harmony Road	20%

These open spaces would be owned and maintained by an HOA or metro district and would include greenbelts with trails. Most subdivisions would require 15% open space while more intense projects would require additional open space (25%) to help offset the smaller lot sizes.

<i>Proposed Open Space Requirements</i>	
<i>Zone District</i>	<i>Percent Open Space</i>
ER	0%
RMU-1, SF-1	15%
RMU-2, SF-2, MF	25%

Pocket Parks (Sec. 17-1-40(b))

In recent years the Town has implemented a policy that shifts away from constructing new neighborhood parks (typically 3-6 acres in size), with a focus on completing community parks (typically 30+ acres in size). With the shift away from neighborhood parks, pocket parks (typically ½ acre in size) are a way to continue to provide park access in close proximity to residents and encourage walkability within new neighborhoods.

Pocket parks would be built by developers and owned and maintained by an HOA or metro district. Pocket parks would also help to offset the trend toward smaller lots and outdoor living spaces, giving people an opportunity to recreate within a comfortable walking distance from their home.

Pocket parks would be required at the ratio shown in the table below for development with 50 or more units and would have a minimum size of 20,000 square feet.

<i>Zone District</i>	<i>Pocket Park Requirements</i>
ER	50 square feet per dwelling unit Required for conservation subdivisions only
SF-1	50 square feet per dwelling unit
SF-2	100 square feet per dwelling unit
RMU-1	50 square feet per dwelling unit
RMU-2	100 square feet per dwelling unit
MF	100 square feet per dwelling unit

Neighborhood Trails (Sec. 17-1-20)(d)(2)

As with street connectivity, trail connectivity is a theme throughout the comprehensive plan but the current code does not adequately address. The Neighborhood Trail requirement was added in response to Town Board Work Session input desiring greater connectivity. Such trails would be planned to connect to the nearest park sites, schools, and Town trails and be owned and maintained by a metro district or homeowners association.

Double Frontage Lots (Sec. 17-1-30(j))

A double frontage lot is a lot with streets on both the front and rear. These lots can present maintenance challenges, as fencing is often installed in the rear yard with remnant property left between the street and fence. This arrangement can also make for aesthetically unappealing corridors when unmaintained and a mismatch of fencing line the corridor. The current code limits double frontage lots and the draft code expands upon those limits by requiring a landscape tract maintained by a metro district or HOA when they are used.

Significantly encumbered lots (Sec. 17-1-30(k))

The code currently requires single family homes to provide a minimum amount of un-built area on the presumption the land can be enjoyed by the homeowner. However, there is nothing in the code that requires such land actually be usable by the homeowner. While most residential single-family properties include utility easements (typically 8-10 feet in width along the front and rear property lines), there is nothing to prevent a lot from being platted with significant encumbrances, such as an irrigation ditch and access road, which effectively prevents a homeowner from use of their yard. The draft code addresses such situations.

Public Improvement Security (Sec. 17-2-10)

The code currently requires a project applicant to provide security equal to 25% of the cost of all public improvements needed to serve a development (roads, utilities, etc.). The intent of this requirement is to ensure that necessary infrastructure is completed, installed in accordance with Town standards, and not left incomplete such that the Town would have to complete work if an applicant walks away due to financial difficulties or other circumstances. The 25% security is problematic because it does not provide enough of a financial guarantee should the Town have to complete a project. Additionally, the administrative burden of tracking small amounts of security is often not worth the amount being held. The draft code proposes to increase the security amount to 100%, which is

more consistent other regional jurisdictions and will ensure any incomplete work does not become a burden on the Town's finances.

<i>Municipality</i>	<i>Percentage of Public Improvement Security</i>
Fort Collins	100%
Greeley	125%
Longmont	100%
Loveland	15%
Windsor	25% (current) 100% (proposed)

Exhibit A

Application Type		Neighborhood meeting	Notice				Decision Maker			
			Post	Publish	Mail	Mail Radius	Staff	PC	TB	BoA
Annexation	Current	☒	☒	☒	☒	300'	R	R*	D*	
	Proposed	☒	☒	☒	☒	500'	R	R*	D*	
Comprehensive Plan Amendment – Land Use Map	Current						R	D		
	Proposed		☒	☒	☒	300'	R	D*	R*	
Conditional Use Permit	Current		☒	☒	☒	100'	R	R*	D*	
	Proposed		☒	☒	☒	500'	R	R*	D*	
Conditional Use Permit Oil & Gas, Gravel Mining	Current	☒	☒	☒	☒	500'	R	R*	D*	
	Proposed	☒	☒	☒	☒	500'	R	R*	D*	
Height Review	Current		☒	☒	☒	300'	R	D*	A*	
	Proposed		☒	☒	☒	500'	R	D*	A*	
Master Plan	Current					None	R	R	D	
	Proposed		☒	☒	☒	500'	R	R*	D*	
Rezoning	Current	☒	☒	☒	☒	300'	R	R*	D*	
	Proposed	☒	☒	☒	☒	500'	R	R*	D*	
Site Plan - Multifamily	Current						R	R	D	
	Proposed						D	A*		
Site Plan – Commercial/Industrial	Current						D		A	
	Proposed						D	A*		
Subdivision, Major – Final Plat	Current		☒	☒	☒	300'	R	R*	D*	
	Proposed		☒	☒	☒	500'	D	A*		
Subdivision, Major - Preliminary Plat	Current	☒				None	R	D*	A*	
	Proposed	☒	☒	☒	☒	500'	R	D*	A*	
Subdivision – Minor	Current						D			
	Proposed						D	A*		
Vacation of ROW or Easement	Current					None	R	R*	D*	
	Proposed		☒	☒	☒	Abutting	R		D*	
Substantial Change Hearing	Current	<i>Does not currently exist</i>								
	Proposed		☒	☒	☒	500'	R*	R*	D*	
Variance	Current		☒	☒		None	R			D*
	Proposed		☒	☒	☒	150'	R			D*
Variance, Minor	Current		☒	☒	☒	300'	D			
	Proposed		☒	☒	☒	150'	D			



Land Use Code Update

Paul Hornbeck, Senior Planner

Work Session- May 20, 2020

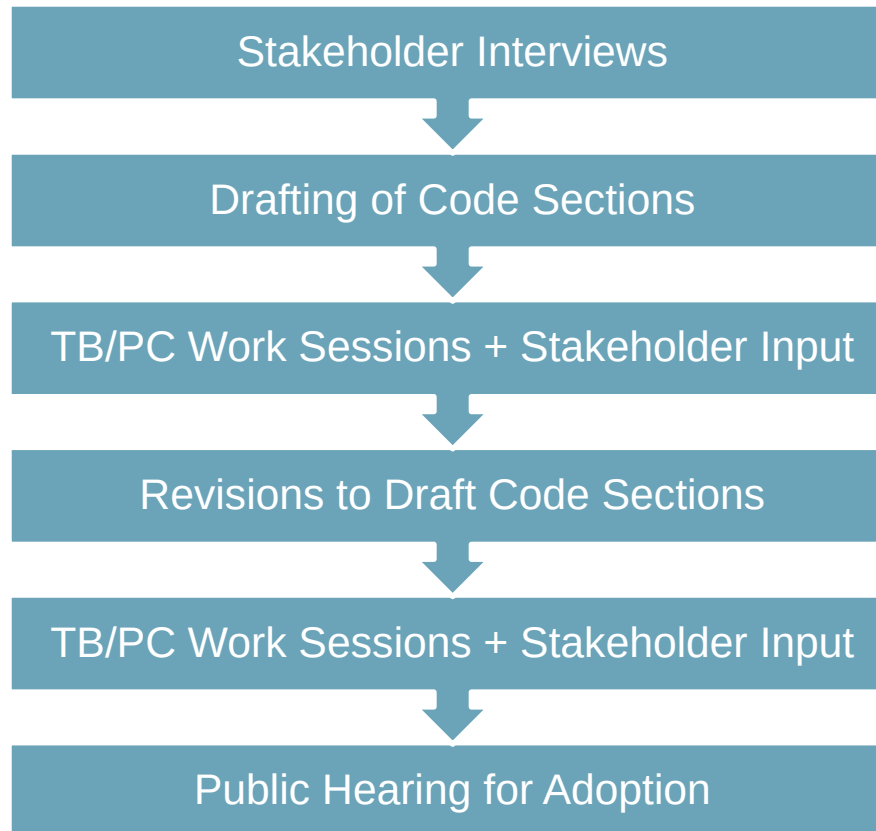


Code Update Goals

1. implementing the goals of the Comprehensive Plan;
2. better reflecting contemporary development trends;
3. adding flexibility, clarity, and ease of use; and
4. streamlining reviews where feasible.



Code Update Process





Procedure & Administration



Review Body of Land Use Applications

Land Use Application Review Bodies						
Project Type	Windsor (Existing)	Windsor (Proposed)	Fort Collins	Greeley	Longmont	Loveland
Preliminary Plat	Planning Commission	Planning Commission	Planning Commission or Planning Director <i>Depends on use/zone</i>	Planning Commission	Planning Commission	Planning Director <i>Neighborhood Meeting scheduled if significant public comment received</i>
Final Plat	Town Board	Planning Director	Planning Commission or Planning Director <i>Depends on use/zone</i>	Planning Director <i>Director provides written report of approvals to PC</i>	Planning Director <i>May be referred to Planning Commission</i>	Planning Director <i>Neighborhood Meeting scheduled if significant public comment received</i>
Multifamily Site Plan	Town Board	Planning Director	Planning Commission or Planning Director <i>Depends on zone</i>	Planning Director	Planning Director <i>May be referred to Planning Commission</i>	Planning Director



	Current			Proposed		
	Recommendation	Decision	Appeal	Recommendation	Decision	Appeal
Site Plan, Multifamily	Staff/PC	TB	None	n/a	Staff	TB
Major Subdivision, Preliminary	Staff	PC	None	Staff	PC	TB
Major Subdivision, Final	Staff/PC	TB	None	n/a	Staff	TB
TB – Town Board	PC- Planning Commission					



Public Hearing Requirements

1. Add requirement for public notification with Master Plans
2. Add requirement for public notification with Preliminary Subdivision Plats
3. Add requirement for public notification for variances to property owners within 150'
4. Add requirement for public notification for right-of-way and easement vacations to abutting properties (no notification currently required)
5. Increase notification radius to 500' all projects other than those noted above



Scheduling

1. Neighborhood Meetings - 15 days prior to Planning Commission rather than the current 30 days.
2. Referral agency comment period – 21 days rather than current 10 days
3. Commercial/industrial projects - review deadlines for commercial/industrial projects to be prioritized



Lapse of Approval

Application Type	Current	Proposed
Site Plan	Building Permit required within one year	Building Permit required within one year
Height Review	None	Building Permit required within one year
Conditional Use	None	Building Permit required within one year
Preliminary Subdivision	Lapse occurs if final plat is not submittal within one year of preliminary plat approval	Lapse occurs if final plat is not submitted within one year of preliminary plat approval
Final Subdivision	None	Lapse occurs if applicant fails to submit any necessary documents (signed mylars, development agreements, etc.) or fees within 90 days of approval
Minor Subdivision	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
Annexation	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
Master Plan	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval
Vacations	None	Lapse occurs if applicant fails to submit any necessary documents or fees within 90 days of approval



Substantial Change

- If an application is denied, the code does not currently place any limits on reapplying
- Updates to the code seek to avoid repeated resubmittals of project within a five-year period unless there is a substantial change in the project or related circumstances
- Town Board would be the decision maker in determining if substantial change has occurred



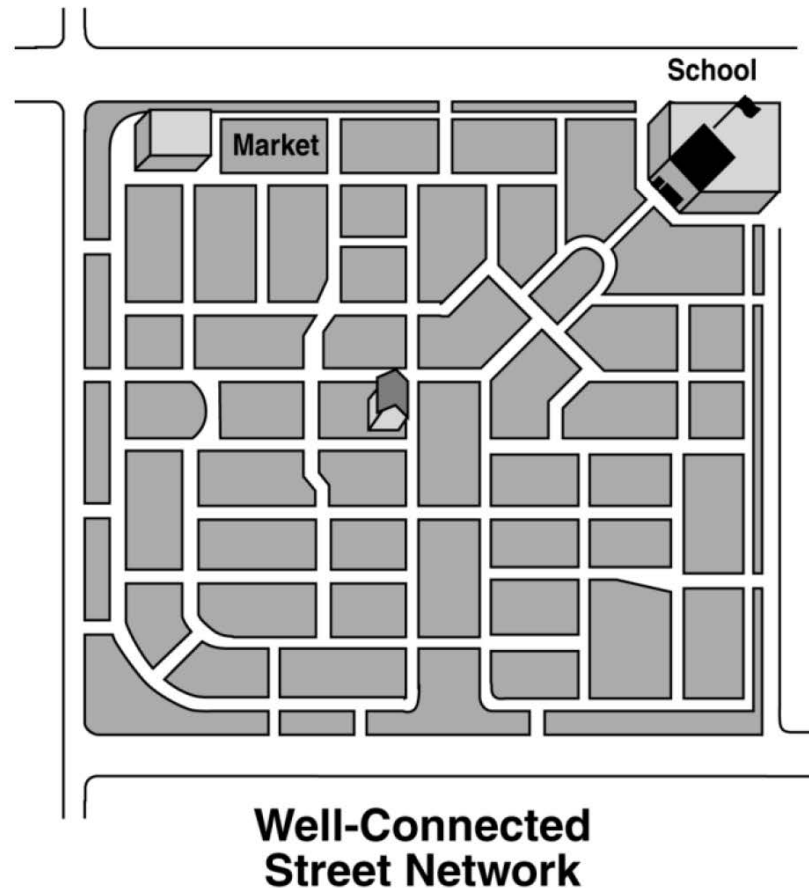
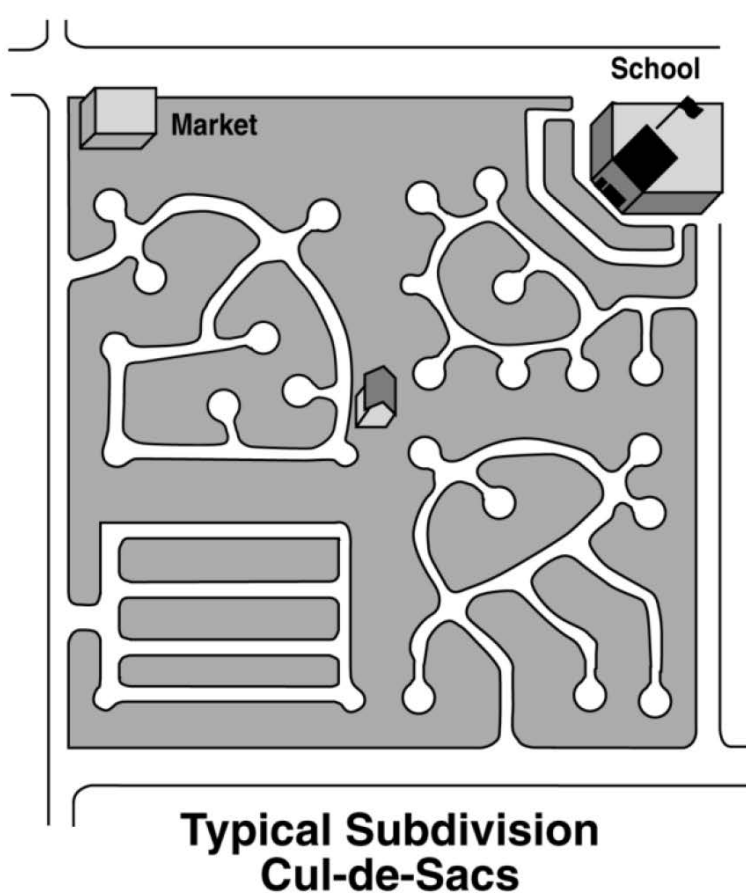
Minor Subdivision Eligibility

Minor Subdivisions	
Current	Proposed
1. To establish 5 or fewer lots: a. in zones SF-1, SF-2, E-1, E-2, RMU b. In zones other than SF-1, SF-2, E-1 or E-2 for an area being concurrently site planned when the dedication of new rights-of-way is not required c. In RMU zones for an area being concurrently site planned for commercial and light industrial uses when the dedication of new rights-of-way is not required. 2. To change lot lines in an existing subdivision where no new lots are being created, no utilities are being extended, no new easements or rights-of-way are necessary	1. To establish 5 or fewer lots*: a. in any zone b. with or without concurrent site plan c. may dedicate right-of-way 2. To establish any number of commercial or industrial pad sites with concurrent site plan 3. To consolidate previously platted lots 4. To adjust previously platted lot lines Easements may be dedicated or vacated on a minor subdivision plat; right-of-way can be dedicated concurrently with minor subdivision. *Provided the property was not the subject of a minor subdivision plat approval during the prior one year



Subdivision Standards

Connectivity





Connectivity

Street Connectivity Standards				
	Zone Districts	Block Length	Connections to Adjacent Properties	Cul-de-sac Limits
Current	All	1500' max.	Every 1320' or less on average	600' maximum length
Proposed	LI, HI, ER	1320' max	Every 1320' or less	660' maximum
Proposed	RMU-1, SF-1, NC, GC, MF, PUD (non-residential)	880' max	Every 880' or less	600' maximum but should be avoided when feasible. When used the total number of lots on cul-de-sac streets, shall not exceed more than 10% of lots in subdivision unless an exception is granted in accordance with Sec. 17-1-10(g).
Proposed	CB, RMU-2, SF-2, PUD (residential)	660' max.	Every 660' or less	Prohibited except for exceptions (listed below) 220' maximum length when exception granted.

Open Space



Greenbelt



Natural Habitat



Stormwater facilities



Other Amenities



Pocket Park



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Town Park



Open Space

<i>Existing Subdivision Open Space</i>	
<i>Subdivision</i>	<i>Percent Open Space</i>
Village East 1 st Filing	31%
Winter Farm 1 st Filing	15%
The Ridge at Harmony Road	20%

<i>Proposed Open Space Requirements</i>	
<i>Zone District</i>	<i>Percent Open Space</i>
ER	0%
RMU-1, SF-1	15%
RMU-2, SF-2, MF	25%

Pocket Parks

Zone District	Pocket Park Requirements
ER	50 square feet per dwelling unit Required for conservation subdivisions only
SF-1	50 square feet per dwelling unit
SF-2	100 square feet per dwelling unit
RMU-1	50 square feet per dwelling unit
RMU-2	100 square feet per dwelling unit
MF	100 square feet per dwelling unit





Pocket Parks





Pocket Parks





Pocket Parks





Neighborhood Trails





2nd Filing – 1.1 miles of trails



CR 13

Park School

Regional Trail

74
Harmony Rd

CR 15

Double Frontage Lots





Significantly Encumbered Lots

1. Code currently requires minimum amount of un-built lot area
2. No requirement land be usable by the homeowner
3. Nothing to prevents lot from being platted with significant encumbrances, (e.g. irrigation ditch and access road)
4. The draft code addresses such situations



Public Improvement Security

<i>Municipality</i>	<i>Percentage of Public Improvement Security</i>
Fort Collins	100%
Greeley	125%
Longmont	100%
Loveland	15%
Windsor	25% (current) 100% (proposed)

Chapter 14 – Land Use Code Administration & Procedures

Article I – General Administration

14-1-10.- Title

Chapters 14, 15, 16, 17, 18, collectively known as the Town of Windsor Land Use Code, establish the regulations and standards governing the use and development of land within the Town of Windsor. Included are provisions for the annexation, subdivision and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are *Town* standards for site design, landscaping, parking and public infrastructure.

14-1-20.- Short Title

Chapters 14, 15, 16, 17, 18 shall be known and may be cited as the *Town of Windsor Land Use Code*. Within these Chapters the *Town Land Use Code* shall simply be referred to as “this Code” or “Land Use Code.”

14-1-30.- Authority

- (a) This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.), and the Colorado Constitution, Article XX, Section 6. Local governments are provided broad authority to plan for and regulate the use of land within their jurisdictions, as authorized in Title 29, Article 20, *et seq.* and Title 31, Article 23, *et seq.* of the C.R.S., as amended. Additional statutory authority may also exist for specific types of land use regulation.
- (b) Whenever a section of the Colorado Revised Statutes that is referred to in this Code is later amended or superseded, this Code is deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

14-1-40 Jurisdiction

- (a) This Code shall be effective throughout the Town’s corporate boundaries. The Town’s planning jurisdiction includes all land within the Town, and where applicable, the land within three miles of the Town’s boundaries with reference to a major street plan. For purposes of zoning and subdivision, this Code only applies to lands within the Town’s corporate boundaries.
- (b) A copy of a map showing the boundaries of the Town and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town offices.

14-1-50 Purpose

The purpose of this Code is to create a vital, cohesive, well-designed community in order to enhance the Town's character and further the citizens' goals as identified in the Town's Comprehensive Plan. This Code is designed to:

- (a) Encourage the most appropriate use of land through the Town;
- (b) Encourage innovative, quality site design, architecture and landscaping;
- (c) Encourage new developments to relate to Town's historic development pattern;
- (d) Promote compact, well-defined, sustainable neighborhoods that enhance Town's character;
- (e) Create livable neighborhoods that foster a sense of community;
- (f) Encourage the proper arrangement of streets in relation to existing and planned streets and ensure that streets facilitate safe, efficient and pleasant walking, biking and driving;
- (g) Provide a variety of lot sizes and housing types;
- (h) Protect sensitive natural and historic areas and Town's environmental quality;
- (i) Integrate a high-quality natural environment into the developed portions of the community;
- (j) Facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks and other public requirements;
- (k) Provide protection from geologic, flood and fire hazards and other dangers; and
- (l) Promote the health, safety, and general welfare of Town residents.

14-1-60 Interpretation

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

14-1-70 Applicability

- (a) The provisions of this Code shall apply to any and all development of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in this Code. No development shall be undertaken without prior and

proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.

- (b) Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.
- (c) Whenever both the provisions of this Code and provisions of any other law cover the same subject matter, whichever rule is more restrictive shall govern.
- (d) This Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Comprehensive Plan and with adopted regulations, policies and other guidelines.

14-1-80 Relationship to Existing Ordinances

All ordinances or resolutions or motions of the Town Board or parts thereof in conflict with this Code are to the extent of such conflict hereby superseded and repealed, provided that no such repealer shall repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby. The adoption of this Code shall not adversely affect the Town's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect.

14-1-90 Relationship to Comprehensive Plan

It is the intention of the Town that this Code implement the planning policies adopted in the Comprehensive Plan for the Town and its extraterritorial planning area. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan.

14-1-100 Severability

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Code. The Town Board hereby declares that it would have passed the Code including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

14-1-110 Effective Date

The provisions of this Code became effective **effective date** and were originally adopted on **date**

of adoption. Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site-specific development plan

Article II – Procedures

14-2-10 General – All Applications

(a) Applications and Fees.

- (1) **General.** Applications shall be processed in accordance with Table 14-2-10(a) and this Chapter.

Application Type	Code Section	Neighbor-hood meeting	Concept Review Meeting	Decision Maker				
				Staff	PC	TB	BoA	Vote
Annexation	14-2-##	☒	☐	R	R*	D*		
Appeal of Staff Decision	14-2-##		☐	Refer to section 14-2-##				
Appeal of Code Interpretation	14-2-##			D			A	
Code Amendment	14-2-##			R	R*	D*		
Comprehensive Plan Amendment – Land Use Map	14-2-##			R	D*			
Conditional Use Permit	14-2-##		☐	R	R*	D*		
Conditional Use Permit Oil & Gas, Gravel Mining	14-2-##	☒	☐	R	R*	D*		
Height Review	14-2-##		☐	R	R*	D*		
Home Occupation Registration	14-2-##			D			A	
Master Plan	14-2-##	☒	☐	R	R*	D*		
Rezoning	14-2-##	☒	☐	R	R*	D*		
Sign Permit	14-2-##			D			A*	
Site Plan – Major	14-2-##		☐	D		A*		
Site Plan – Minor	14-2-##		☐	D		A*		
Subdivision, Major – Final Plat	14-2-##		☐	D		A*		
Subdivision, Major - Preliminary Plat	14-2-##	☒	☐	R	D*	A*		
Subdivision – Minor	14-2-##		☐	D		A*		

Substantial Change Hearing	14-2-##		☐	R	R*	D*		
Vacation of ROW or Town Easement	14-2-##			R		D*		
Variance	14-2-##		☐	R			D*	
Variance, Minor	14-2-##		☐	D			A	
☒ = Required ☐ = May be required by Director PC = Planning Commission TB = Town Board BoA = Board of Adjustment				R = Recommendation D= Decision Maker * = Public hearing required A = Appeal of Decision S = Super Majority Vote Required M = Majority Vote				

- (2) **Required Information.** Applicants shall submit the information required for a subject application or development in accordance with the application and submittal standards maintained by the Director.
- (3) **Modification.** The Director may modify submittal requirements where the director finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such modification.
- (4) **Supplement.** The Director may require further submittals or information, provided that the supplement is reasonably required to evaluate compliance with this code or with the comprehensive plan.
- (5) **Fees.** The initial non-refundable application fee shall be determined by the type of application submitted pursuant to a fee schedule set by Town Board. These fees may be amended from time to time by Town Board by Resolution.

(b) **Withdrawal of an Application**

- (1) The applicant may request a withdrawal of an application in writing. After withdrawal, the town will take no further action on the application.
- (2) If an application is withdrawn, the applicant may resubmit the application, which shall be treated as a new application for purposes of review, scheduling, and payment of application fees.
- (3) A request for withdrawal of an application from a noticed agenda is subject to the discretion of the decision-making body.
- (4) An application will be considered withdrawn if the applicant fails to attend a hearing before the decision-making body. The applicant may petition that body

for reinstatement of the application within seven days of the date of the missed hearing, and the decision-making body may reinstate the application for good cause shown.

- (c) **Inactive Applications.** If the applicant fails to submit requested additional or revised application materials within 180 days of the request, the director may declare the application withdrawn.
- (d) **Lapse of Approval.** Approvals of the following development applications shall automatically lapse, be null and void and have no further force and effect, in the following circumstances:
 - (1) For Site Plans, Height Review, and Conditional Uses: lapse shall occur if the applicant does not apply for a building permit and commence construction to act on the development approval within one year of the approval.
 - (2) For Preliminary Subdivision Plats: lapse shall occur if the applicant does not submit a complete proposed Final Subdivision Plat within one year of the approval. The submittal of a complete Final Subdivision Plat application within that one-year period for a portion of the approved subdivision shall automatically extend the approval period of the remaining portion for one more year from the date of the respective complete proposed Final Plat Application.
 - (3) For Annexations, Final Subdivision Plats, Minor Subdivision Plats, Master Plans, Rezoning, and Vacations: lapse shall occur if the applicant does not submit to the town any necessary documents or fees within 90 days of the approval.
 - (4) For Minor Variances: lapse shall occur if the applicant fails to apply for a building permit within one year of the date of approval, or other period provided by the Director.
 - (5) Major Variance: lapse shall occur if the applicant fails to apply for a building permit within one year of the date of approval, or other period provided by the BOA.
 - (6) For Sign Permits: lapse shall occur if the applicant does not construct the sign within one year of the approval.
- (e) **Extension of Approval Periods**
 - (1) Upon written request and good cause shown (unless otherwise specified in the approval), extensions may be granted by the original decision making body for a period not to exceed the original approval period.

- (2) Applicants shall submit requests for extension of any approval period in writing before the applicable lapse of the approval deadline, and a minimum of 30 days before any meeting where the extension will be considered.
 - (3) No public notice or hearing shall be required for such an extension request.
 - (4) An appeal by the applicant from a determination to extend an approval time frame shall be made to the appeal body which would have heard an appeal of the underlying approval.
- (f) **Concept Review Meeting.** Concept review meetings are pre-application meetings that may be required by the Director for a development proposal. When required, the applicant shall submit the information required for the development in accordance with the application and submittal standards maintained by the Director.
- (g) **Staff Review.** Upon receipt of an application and payment of the required fee, the Director shall take the following steps:
- (1) **Review for Completeness.** The Director shall determine if an application is complete. An application shall be considered complete if it is submitted in the required form, includes all submittal information specified by the director, and is accompanied by the applicable application fee.
 - (A) If an application is determined incomplete, the Director shall notify the applicant in writing of the deficiencies. No further processing of the application shall occur until the deficiencies are corrected.
 - (B) If an application is complete it shall be processed for formal review.
 - (2) **Referral Process.**
 - (A) **Referral Agencies.** As part of the review process, referral agencies may be notified and provided the opportunity to comment on an application. The Director has discretion to remove or add any other relevant or applicable agency to this list:
 - i. Gas and electric utilities.
 - ii. Telecommunications utilities.
 - iii. Windsor-Severance Fire Rescue.
 - iv. Cable television provider.
 - v. Windsor Post Office.
 - vi. School Districts.
 - vii. Water and sewer utilities.
 - viii. Special Districts.
 - ix. Colorado Department of Transportation.

- x. Counties and municipalities.
 - (B) **Referral Agency Review Fees.** The applicant shall be responsible for the payment of agency review fees, if applicable.
 - (C) **Referral Period.**
 - i. The Director shall distribute the application materials to the appropriate referral agencies, and allow up to 21 days for referral agency comment.
 - ii. Failure of an agency to respond within the prescribed time period (or extended period) may be interpreted by the Director as consent to the application by the agency, with the exception of agencies holding legal interests in the property
 - iii. Upon written request by the applicant or referral agency, the Director may extend the referral period or suspend the development review process in order to allow time for the applicant and the referral agency to resolve conflicts.
 - (D) **Subsequent Reviews.** After the initial submittal, the applicant shall coordinate and address review comments with the applicable agencies
- (3) **Staff Comments.** The Director shall coordinate a staff review and provide the applicant the following information in writing:
- (A) Recommended changes based on the results of any referral agency comments, or staff review on the merits of the application requirements and criteria of this code.
 - (B) Any supplemental information required to support the application, address comments, or recommended changes.
 - (C) The applicant shall submit revised plans and/or any additional information.
 - (D) If the applicant chooses not to address any particular comment or recommended change, a written explanation shall be included with the resubmittal. Failure to address any particular comment or recommended change without explanation may be grounds for rejection of the revised plans.

- (E) Resubmittal of the revised plans demonstrating compliance with this Code, shall deem the application ripe for scheduling before the applicable review body.
- (4) **Scheduling.** If required by Table 14-2-10(a), the Director shall schedule applications for further review according to these regulations.
 - (A) Neighborhood Meeting. Applicant shall coordinate, notice and conduct a neighborhood meeting at a public meeting facility within the Town at least 15 days prior to the initial Planning Commission meeting.
 - (B) Public Hearing. Applications requiring a public hearing shall be scheduled for the hearing within 60 days of receipt of all final revised submittal documents.

If the next regular meeting of the review body is beyond these time periods, has a full agenda in the determination of the Director, or the required notice cannot be given within these time periods, the application shall be scheduled for the closest available meeting.

- (7) **Staff Report.** The Director shall prepare a staff report for the application identifying the appropriate policies, plans, regulations and review criteria. The Director shall provide a copy of the report to the review body and to the applicant prior to the scheduled public meeting or hearing.
- (8) **Review Prioritization.** It shall be the policy of the Town to prioritize the review of commercial and industrial projects over residential projects in order. Project reviews shall be scheduled accordingly.
- (h) **Public Notice.** Public notice shall be provided as identified in Table 14-2-10(h) and this section.

Table 14-2-10(h) Notice Requirements					
	Posted	Published	Mailed	Radius	Timing
Annexation	☒	☒	☒	500'	See Sec. ##
Appeal of Staff Decision	☒	☒	☒	500'	10 days
Comprehensive Plan Amendment		☒			10 days
Conditional Use Permit	☒	☒	☒	500'	10 days

Conditional Use Permit Oil & Gas, Gravel Mining	☒	☒	☒	500'	10 days
Height Review	☒	☒	☒	500'	10 days
Land Use Amendment	☒	☒	☒	500'	10 days
Master Plan	☒	☒	☒	500'	10 days
Neighborhood Meeting			☒	500'	10 days
Rezoning	☐	☒	☒	500'	15 days
Subdivision, Major - Preliminary Plat	☒	☒	☒	500'	10 days
Substantial Change Hearing	☒	☒	☒	500'	10 days
Text Amendment		☒			10 days
Vacation of ROW or Easement	☒	☒	☒	Abutting	10 days
Variance	☒	☒	☒	150'	10 days
Variance, Minor	☒	☒	☒	150'	See Sec. ##

(1) **Published Notice Requirements.** Where published notice is required by Table 14-2-10(h), the notice shall be published in a newspaper of general circulation in the Town. The timing of such publication shall occur no less than then number of calendar days prior listed in the Table prior to the meeting date. The published notice shall contain the following information:

- i. A description of the land use proposal in question
- ii. The location of the land which is the subject of the hearing or meeting
- iii. The date, time and location of the hearing or meeting; and;
- iv. A recital that public comment will be taken at the public hearing or neighborhood meeting.

(2) **Posted Notice Requirements.**

- (1) The Applicant shall cause a notice stating that a land use proposal is under review and containing contact information for the Planning Department to be posted in the vicinity of such proposed land use proposal no less than then number of calendar days prior to the date set for the meeting, as listed in table ##. All costs for providing posted notice and publishing notice shall be the direct responsibility of the applicant.
- (2) The specifications for Public Hearing/Neighborhood Meeting Signs are set forth as follows:

[pending code amendment to be inserted here]

- (3) The timing of posting shall occur no less than then number of calendar days prior listed in Table 14-2-10(h) prior to the meeting date.

- (3) **Mailed Notice Requirements.** Except as otherwise specifically provided in this Section, the following written notice requirements shall be met:

- (A) The Director shall provide the proponent with a form of written notice which shall contain the following information:

- i. A description of the land use proposal in question
- ii. The location of the land which is the subject of the hearing or meeting
- iii. The date, time and location of the hearing or meeting; and;
- iv. A recital that public comment will be taken at the public hearing or neighborhood meeting.

- (B) The Director shall provide the proponent with a listing of all property owners within the distances specified in Table ##, according to then-current Assessor's records. The proponent shall mail such notice by first-class mail, postage prepaid, to all such property owners.

- (C) The Mailing shall occur no less than then number of calendar days prior listed in Table ## prior to the meeting date.

- (D) No less than ten (10) calendar days prior to the public hearing or neighborhood meeting, the proponent shall, by affidavit, certify that the proponent has complied with the mailing requirements of this Paragraph

- (4) **Notice for Annexations.** Notice shall completed in accordance with statute; see C.R.S. § ##.

- (5) **Notice for Minor Variances.** Notice of a minor variance request shall be provided in accordance with Table ##, at the time the application is accepted by the Town. The notice shall state that any comments or objections must be received by the Planning Department within ten (10) days of the date of the Notice. If an objection is received by the Town, the applicant shall address the objection within ten (10) days of the Notice of Objection provided to the applicant by the Town. If the objection cannot be resolved within the ten (10)

days, the variance request shall be forwarded to the Board of Adjustment for a decision.

(6) **Surface Development Notification.** Notice shall be mailed to the mineral estate owner no later than required by state statute; see C.R.S. § 24-65.5-103.

(i) **Public Hearings.** Where public hearings are required, the following procedures apply:

- (1) The hearing shall be conducted and a record of the proceedings shall be preserved.
- (2) Applicant or a representative must be present at the public hearing.
- (3) Any interested person or party may appear and be heard in person or by agent.
- (4) 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.
- (5) 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 public hearing is announced at the hearing.
- (6) Failure by the applicant to have a representative at the applicable public meeting(s) will result in the item being withdrawn from the agenda or continued to the next agenda.

(j) **Neighborhood Meetings.**

- (1) **Generally.** The Applicant shall coordinate, notice and conduct the meeting at a public meeting facility within the Town.
- (2) **Timing.** The Neighborhood Meeting must occur at least 15 days prior to the initial Planning Commission meeting;
- (3) **Content.** The meeting content shall include, but not be limited to:
 - (A) The general nature and scope of the proposed project;
 - (B) A summary of the land use, including planned or all potential future uses under the request; and
 - (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.

- (4) **Notification.** Applicant shall provide notice of the neighborhood meeting in the same manner as is required for a public hearing, including published, posted and mailed notice as specified in subsection 14-2-10(h), and notify the Director of the time and location of the meeting.
- (5) **Summary.** Applicant shall prepare a summary of the meeting and provide evidence of the notice, attendance, content, and outcomes of the meeting. The applicant shall provide a written summary of the meeting to the Director at least 10 days prior to the initial Planning Commission meeting, including the general nature of comments, questions and discussion and responses by the applicant.
- (k) **Successive Applications.** Neither an applicant nor his or her successors in interest in property for which a land use application was denied within the preceding five (5) years may submit a land use application or request a rehearing on a previously submitted application for any portion of the property contained in the original application unless the Town Board has determined that, based upon a showing by the applicant, there has been a substantial change in the facts and circumstances in accordance with Sec. ##.
- (l) **Permits.** Upon final approval as specified for each application-type 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 Town codes may be required.

14-2-30 Substantial Change

- (a) **Applicability.** A Substantial Change application must be approved prior to re-submittal of a land use application when the application had been denied within the previous five (5) years.
- (b) **Review Criteria.** A Substantial Change application shall be reviewed according to the following criteria:
 - (1) Based upon a showing by the applicant, there has been a substantial change in the facts and circumstances regarding the application subsequent to the original decision of denial by the Town or that there is newly discovered evidence which would have been likely to affect the outcome of the original decision that the applicant could not have discovered with diligent effort prior to the original decision of denial.
 - (2) Substantial change in facts and circumstances shall mean a substantial change in the land use application, which addresses the issues raised by the Board of County Commissioners in the original decision of denial, in the surrounding land uses, or in applicable provisions of the law.

- (3) No petition for rehearing may be granted where the decision of the Town on a land use application has been appealed or contested in any court of law, during the pendency of the court action.
- (c) **Effect of Decision.** If a Substantial Change application is approved, the applicant may file a new land use application with the Town.

14-2-40 Annexation

- (a) **Applicability.** The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the Colorado Municipal Annexation of 1965, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that act, or any requirements set forth in other portions of the Town Municipal Code. In the event of a conflict between the Act, the provisions of this Article or any requirements set forth in other portions of the Town Municipal Code, it is the expressed intent of the Town Board that the more stringent provision shall control.

(b) Annexation Application Policies

- (1) **Generally.** Annexation is a legislative act of the Town Board, and all applications are considered on a case-by-case basis. The Town is not obligated to annex property, and may negotiate terms for individual annexations.
- (2) **Concurrent Zoning.** The annexation application shall be accompanied by a request for initial zoning.
- (3) **Concurrent Master Plan.** In order to better evaluate potential impacts of a proposed Annexation, the Town may require a Master Plan to be submitted concurrently with an Annexation.
- (4) **Public Facilities.** The annexation application must disclose the present and anticipated future (*i.e.*, post-development) public facility requirements of the property to be annexed, and how such requirements are to be met by the applicant (*e.g.*, commitments of land dedication, payment of cash, construction of public facilities, or other method offered in the annexation petition).
- (5) **Fiscal Impact Analysis.** In its consideration of any proposed annexation, the Director or Town Board may request that an analysis be prepared to measure and assess the fiscal impact of the proposed annexation. The cost of such analysis or

additional information shall be borne solely by the applicant. The Town Board may make any appropriate findings as a result of said fiscal impact analysis.

(c) **Review Criteria** Annexations shall be reviewed in accordance with the following criteria.

- (1) The annexation complies with the Municipal Annexation Act of 1965, as amended (C.R.S. § 31-12-101 et seq.).
- (2) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, and all other applicable adopted plans or policies.
- (3) The proposed zoning complies with the Rezoning Review Criteria in Section ##.
- (4) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
- (5) The applicant shall demonstrate that the proposed annexation of land is in compliance with all pertinent intergovernmental agreements to which the Town is a party.
- (6) All existing and proposed streets in newly annexed territory shall be constructed in compliance with all current Town standards unless the Town determines that the existing streets will provide appropriate access during all seasons of the year to all lots fronting on each street; and that the curbs, gutters, sidewalks, bike lanes, culverts, drains, and other structures necessary to the use of such streets or highways are satisfactory or not necessary to promote public safety.
- (7) The annexation shall comply with the water rights requirements of the Town.
- (8) The property is within the Growth Management Area. No property outside of the Growth Management Area shall be considered for annexation unless the Town Board finds that, consistent with the comprehensive plan, the best interests of the Town would be served by annexation of such property, and a land use plan for the area proposed to be annexed is submitted together with the annexation application.
- (9) The annexation will not limit the ability to integrate surrounding land into the Town or cause variances or exceptions to be granted if the adjacent land is annexed or developed.

- (10) Unless otherwise agreed to by the Town, the landowner has waived in writing any preexisting vested property rights as a condition of such annexation
- (11) Town-initiated annexations shall conform to C.R.S. § 31-12-106 and the annexation ordinance shall include an annexation map meeting the requirements of C.R.S. § 31-12-107(1)(d).

14-2-50 Master Plans

(a) **Applicability.** A Master Plan shall be required in the following situations:

- (1) Concurrently with an Annexation Application if the Town determines the Master Plan is necessary to evaluate potential impacts of a proposed Annexation.
- (2) Prior to or concurrent with the subdivision of any parcel of land unless the Director determines it unnecessary due to existing infrastructure already being in place.
- (3) Prior to or concurrent with a rezoning application of any parcel of land unless the Director approves submittal of a Site Plan in-lieu of a Master Plan or if the site is already fully developed and the Master Plan serves no further purpose regarding future development of the property.
- (4) Any area where the Director determines that the coordination of future roads, utilities, parks, or other public investments requires more specific plans than currently available.
- (5) Any area where the Director determines that the scale of future development, presence of multiple owners with anticipated development plans, or impact on adjacent properties from potential development requires further planning and coordination.

(b) **Review Criteria.** A Master Plan shall be reviewed according to the following criteria:

- (1) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, and all other applicable adopted plans or policies.
- (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.

- (3) Density is consistent with the subject zone district, Comprehensive Plan Land Use Plan, and applicable the utility capacity studies.
 - (4) Transportation improvements are consistent with the Roadway Improvement Plan, Subdivision street standards Sec. ##, Design Criteria & Construction Specifications, Transportation Master Plan, Trails Plan, Complete Streets Policy .
 - (5) Provision of utilities to serve the development shall be in accordance with Design Criteria & Construction Specifications and any other utility provider requirements.
 - (6) The proposal shall demonstrate compatibility with adjacent uses. Compatibility may be achieved through a number of methods, including but not limited to: building placement and orientation, transitions in density or height, screening, and/or landscape buffers.
- (c) **Effect of Decision.** All future development shall be reviewed for conformance with the Master Plan. Approval of the Master Plan does not establish any vested development rights or any other approvals required prior to development.
- (d) **Recording.** Once approved and all conditions are satisfied, the approved Master Plan shall be recorded by the Town, in the office of the applicable county clerk and recorder.

14-2-60 Non-Regulated Land Transfers

Notwithstanding any provision of this Code or state law to the contrary, any parcel of land, whether larger or smaller than thirty-five (35) acres, may be conveyed by metes and bounds description or by other usual and customary method of land description, without being subject to subdivision requirements, subject to the following requirements:

- (a) No such conveyance shall imply or confer any right to develop or create a new lot upon which development can occur unless such development has, prior to the conveyance, been approved in accordance with this Code or prior law.
- (b) Such conveyance shall not be made if it creates nonconformities of any nature whatsoever or circumvents the intent or requirements of this Code.
- (c) Every deed or other instrument conveying or otherwise transferring property pursuant to this Subsection within the Town shall contain the following statement in bold type prominently displayed on the face of said deed or instrument:

"The transfer of real property accomplished pursuant to this instrument does not confer or imply that the conveyed property or the remainder of property may be used for development within the Town of Windsor, Colorado. Any future development of the property described herein shall be subject to all

development requirements of the Town of Windsor, including, without limitation, all zoning and subdivision requirements and associated procedures."

- (d) The grantee/transferee under every deed or other instrument conveying or otherwise transferring property pursuant to this Subsection (b) within the Town shall provide a true and correct copy of such deed or other instrument of conveyance or transfer to the Director of Planning within thirty (30) days of recording, which copy shall bear the date of recording and reception by the Clerk and Recorder.

14-2-70 Subdivision

- (a) **Applicability.** Subdivision plat applications are required to establish or alter the legal boundaries of property and to account for public facilities and services.
 - (1) **Minor Subdivision.** The following situations are specifically eligible for a minor subdivision process:
 - (A) Lot line adjustment – the alteration of legal boundaries without creating any new lots provided the subject lots are either within the same subdivision or contiguous to one another.
 - (B) Lot merger – the consolidation of previously platted lots provided
 - (C) For subdivision of 5 or fewer lots provided the property was not the subject of a minor subdivision plat approval during the prior one year.
 - (D) Platting of commercial or industrial building pad sites in conjunction with a Site Plan.
 - (2) **Major Subdivision.** Any subdivision not eligible for a minor subdivision shall require a major subdivision. Final subdivision plat approval may be sought for all or a portion of the land area included in an approved preliminary subdivision plat. Review of a final subdivision plat may be done concurrently with an application for preliminary subdivision plat approval for commercial or industrial projects.
- (b) **Review Criteria.** Minor and Major Subdivisions shall be reviewed according to the following criteria:
 - (1) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, the applicable Master Plan, and all other applicable adopted plans or policies
 - (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.

- (3) Density is consistent with the subject zone district, Comprehensive Plan Land Use Plan, and applicable the utility capacity studies.
- (4) Transportation improvements are consistent with the Roadway Improvement Plan, street connectivity standards **Sec. ##**, Design Criteria & Construction Specifications, Transportation Master Plan, Trails Plan.
- (5) Provision of utilities to serve the development shall be in accordance with Design Criteria & Construction Specifications and any other utility provider requirements.
- (6) The proposal shall demonstrate compatibility with adjacent uses. Compatibility may be achieved through a number of methods, including but not limited to: lot placement and orientation, transitions in density, screening, and/or landscape buffers.
- (7) A Final Major Subdivision shall be in substantial compliance with the Preliminary Major Subdivision. Substantial compliance means:
 - (A) The general location, layout, and access of streets and lots is consistent with the preliminary subdivision.
 - (B) Any increase in the number of lots or dwellings is limited to no more than 20 percent, provided the proposal remains in compliance with the Master Plan and all supporting documents and studies, such as traffic studies, are updated accordingly.
 - (C) There is no material increase in impacts on adjacent properties by altering the subdivision.
- (c) **Recording.** Approved minor subdivision plats and final major subdivision plats shall be recorded by the Town, in the office of the applicable county clerk and recorder.
- (d) **Effect of Decision.** The approval of the preliminary plat does not constitute an acceptance of the subdivision, but authorizes submittal of a final plat application. The applicant may request that a denied preliminary plat be submitted to the Town Board as an appeal within 15 days of the decision, consistent with Town's appeal procedures.
- (e) **Preconstruction Meeting.** Once a plat has been recorded, the applicant shall provide a request to the Director for a preconstruction meeting prior to construction of required improvements. No building permit shall be issued until the completion, inspection and acceptance of all required improvements have been met.

- (f) **Subdivision Waiver.** Through the preliminary or final subdivision plat process, the Decision Maker may waive certain subdivision requirements in this Code, provided it finds the following:
- (1) Applying the standard to the specific site and application will not meet the intent of the standard.
 - (2) Rather than meeting the standard, the applicant's proposed design and any additional designs proposed to mitigate not meeting the standard, will equally or better meet the intent of the standard.
 - (3) Meeting the standard is not necessary to meet any of the public goals associated with the standard when considering the application in a broader and long-range context.
 - (4) Waiver of the standard will not be detrimental to any adjacent property owners or any future development opportunities on adjacent property.
 - (5) Any waiver shall be specifically requested by the applicant on the application form, and shall be specifically noted on any approved preliminary or final plat.

14-2-80 Rezoning

- (a) **Applicability.** The rezoning process provides review of changes to the boundary of zoning districts that may be necessary to implement the Comprehensive Plan, to account for changed conditions in the general area, or to reflect a change in public policies with respect to future development.
- (b) **Review Criteria.** A Rezoning shall be reviewed according to the following criteria:
- (1) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, the applicable Master Plan, and all other applicable adopted plans or policies
 - (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
 - (3) Density is consistent with the Comprehensive Plan Land Use Plan, and applicable the utility capacity studies.
 - (4) The proposal serves a community need or amenity that was not considered at the time of the initial zoning of the property.

- (5) The proposal shall be accompanied by a Master Plan or Site Plan that demonstrates compatibility with adjacent uses.

(c) **Effect of Decision.** Upon approval of an Ordinance changing the district boundaries of the Official Zoning District map, an entry on the official map shall be made, after the effective date of the ordinance, indicating the change and referencing the ordinance approving the change. The ordinance becomes effective 10 days after publication after the approval of the ordinance on second reading. A zoning map amendment shall not create a vested property right unless it is approved in association with another application in this Section specifically creating a vested property right.

(d) **Protest Petitions.**

- (1) A zoning amendment under this Article shall require an affirmative vote of three-quarters ($\frac{3}{4}$) of the members of the Town Board then in office under the following circumstances:

- (A) A written protest in compliance with sub-sections (B) through (D) below, inclusive, is presented to the Director of Planning no less than seven (7) days prior to the Town Board public hearing, or first of multiple Town Board hearings, on the proposed zoning amendment.
- (B) The written protest shall expressly state objection to the zoning amendment, shall contain original signatures, or authenticated copies thereof, of each person in support of the protest, shall contain the printed name of each such signatory, and shall contain the full address of each such signatory.
- (C) The written protest shall be signed by natural persons consisting of:
 - (i) the owners of no less than twenty percent (20%) of the area of the land within the proposed zoning amendment; or
 - (ii) the owners of no less than twenty percent (20%) of the land area immediately adjacent to the land area within the proposed zoning amendment and extending one hundred (100) feet the property line of the land area within the proposed zoning amendment; and
 - (iii) if a public street abuts any portion of the land area within the proposed zoning amendment, the owners of no less than twenty percent (20%) of the land area opposite any such abutting street and extending one hundred (100) feet deep from the paved portion of the public street along the entire

abutting street frontage of the land area within the proposed zoning amendment.

- (D) Written protests submitted under this Section shall be attested under penalty of perjury by a natural person over the age of 18 years. Such attestation shall affirm that each of the signatures appearing in the written protest are valid and in compliance with the eligibility requirements of sub-section (C) above.
 - (E) Protests in the form of oral statements, online surveys, emails and unsigned documents shall not be considered sufficient under with this Section.
- (2) Any person who has previously signed a written protest may withdraw his or her signature, but may do so only through an unequivocal statement of withdrawal made in-person on the record at the Town Board public hearing where the written protest is presented for the record by Town staff.
- (3) Any written protest that meets the requirements of sub-section (1) (A) through (D) above shall be presented for the record by Town staff at the Town Board public hearing, or first of multiple Town Board hearings, on the proposed zoning amendment.

14-2-90 Planned Unit Development Overlay

- (a) **Applicability.** Applications for a Planned Unit Development Overlay are authorized by Section ##.
- (b) **Review Criteria.** A PUD application shall be reviewed according to the following criteria:
- (1) The proposal complies with the Comprehensive Plan's goals and policies, this Code, and all other applicable adopted plans and policies.
 - (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
 - (3) Density is consistent with the Comprehensive Plan Land Use Plan, and applicable the utility capacity studies.
 - (4) The proposal serves a community need or amenity that was not considered at the time of the initial zoning of the property.
 - (5) The proposal shall be reviewed concurrently with a Master Plan that demonstrates compatibility with adjacent uses.

14-2-100 Site Plan

- (a) **Minor Site Plan Applicability.** A Minor Site Plan is required in the following situations, except in reference to changes to detached single family houses or duplexes:
- (1) **Modifications.** Modifications to an approved Major Site Plan or existing legal conforming site, which shall be limited to any modifications that the Director determines to be minor in nature, including:
 - (A) An increase in building height by no more than 10%.
 - (B) Any expansion to an existing building footprint by no more than 25%
 - (C) Exterior building modifications
 - (D) Expansion of impervious surface
 - (E) Changes to the site access, circulation, or parking
 - (F) The addition of accessory structures less than 500 square feet in size
 - (2) **Changes in use.** Changes in use that require minor structure or site changes to conform to municipal code requirements for the new use.
- (b) **Major Site Plan Applicability.** A Major Site Plan is required in accordance with the following:
- (1) **New Development.** New buildings or site development;
 - (2) **Modifications.**
 - (A) An increase in building height by more than 10%.
 - (B) Any expansion to an existing building footprint by more than 25%
 - (3) **Changes in use.** Changes in use that require substantial structure or site changes to conform to municipal code requirements for the new use.
 - (4) **Other Significant Impacts.** When the Director determines that an application otherwise meeting the Minor Site Plan eligibility criteria still presents significant change or potential impacts on the area and is therefore not eligible for the minor site plan process and shall be reviewed through the major site plan.

(5) **Exceptions.** The following are exempt from major site plans:

- (A) New or alterations to single family detached residential or duplex dwelling units;
- (B) Applications eligible for review as a minor site plan;
- (C) Tenant finishes that do not constitute a change in use;
- (D) Routine building and site repairs or maintenance;
- (E) Landscape maintenance and modification that does not result in noncompliance with a landscape plan approved by the Town; and
- (F) When the Director determines that a site plan would otherwise serve no useful purpose in terms of the determination of the proposal's compliance with the requirements of this Code.

(c) **Review Criteria.** Major and Minor Site Plans shall be reviewed according to the following criteria:

- (1) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, the applicable Master Plan, and all other applicable adopted plans or policies;
- (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts;
- (3) Density is consistent with the subject zone district, Comprehensive Plan Land Use Plan, and applicable the utility capacity studies;
- (4) Transportation improvements are consistent with the Roadway Improvement Plan, street connectivity standards Sec. ##, Design Criteria & Construction Specifications, Transportation Master Plan, Trails Plan;
- (5) Provision of utilities to serve the development shall be in accordance with Design Criteria & Construction Specifications and any other utility provider requirements;
- (6) The proposal shall demonstrate compatibility with adjacent uses. Compatibility may be achieved through a number of methods, including but not limited to:

building placement and orientation, transitions in density or height, screening, and/or landscape buffers;

- (7) The proposed design shall provide for safe and convenient access for service and maintenance personnel performing routine duties related to but not limited to mail delivery and pick-up, utility meter reading, and other services; and
 - (8) Control of nuisance impacts. The proposed development controls nuisance impacts on itself and surrounding land uses including heat and glare, traffic congestion, noise, arrangement of lighting, features to prevent littering and accumulation of trash, and other factors deemed to affect public health, safety and general welfare.
- (d) **Effect of Decision.** Approval of a site plan shall authorize the applicant to apply for a building permit, and other applicable permits.

14-2-110 Accessory Dwelling Unit

- (a) **Eligibility.** Accessory dwelling units shall be permitted as an accessory use in conjunction with all single-family detached dwellings in all zoning districts which permit single-family dwelling units as a permitted use.
- (b) **Review Criteria.** The approval of each accessory dwelling unit shall be governed standards contained in Sec ##.

14-2-120 Telecommunications

- (a) **Eligibility.** A telecommunications application is required for the development or alteration of any Wireless communication facility.
- (b) **Review Criteria.** The approval of a telecommunications application shall be governed standards contained in Sec ##.

14-2-130 Vacation of Right-of-Way/Easement

- (a) **Eligibility.** The vacation of right-of-way or easement application process is used to vacate unnecessary easements and rights-of-way. The vacation of right-of-way or easement shall be in accordance with C.R.S. § 43-2-301, et seq. Only the following types of right-of-way and easements may be vacated by the Town:

- (1) Right of-way-owned by the Town.

- (2) Easements dedicated for the benefit of the Town, including easements dedicated for the benefit of the Town and other parties.

(b) Review Criteria.

- (1) The right-of-way or easement being vacated is not needed in the short or long term.
- (2) If necessary, the right-of-way or easement will be replaced. To replace the right-of-way or easement, the vacation application shall be accompanied by a development application which proposes a new right-of-way or easement.
- (3) The applicant is relocating all public facilities or utilities within the right-of-way or easement.
- (4) The public and surrounding properties will not be negatively impacted by the vacation.

- (c) Recording.** Once approved the vacation shall be recorded by the Town, in the office of the applicable county clerk and recorder.

14-2-140 Conditional Use Permit

- (a) Applicability.** The conditional use classification is intended to allow consideration of uses which are unique in nature or character and, except as otherwise specifically provided in this Code, not specifically included as uses by right in any specific zoning districts. It is the specific intent of this Article, except as otherwise specifically provided in this Code, to prohibit the granting of conditional uses in any zone when such use is allowed as a use by right in any other zone. This process is specifically applicable to uses identified as conditional uses in particular zone districts.

- (b) Site Plan Required.** Applications for a conditional use shall be processed concurrently with an application for site plan review, as applicable, as indicated in Section ###. The director may defer the site plan application until after review of the conditional use permit if sufficient detail is provided with the application.

(c) Review Criteria.

- (1) The proposal complies with the Comprehensive Plan's goals and objectives, this Code, and all other applicable adopted plans or policies;

- (2) The proposed development does not result in undue or unnecessary burdens on the existing public infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
- (3) The proposal shall demonstrate compatibility with adjacent uses. Compatibility may be achieved through a number of methods, including but not limited to: building placement and orientation, transitions in density or height, screening, and/or landscape buffers.
- (d) **Conditions of Approval.** The decision-making body may impose conditions on a proposed conditional use to ensure compatibility and to ensure that potential adverse impacts on surrounding uses, properties, public health or safety, the environment, or the district will be substantially mitigated. Conditions of approval shall be binding on the applicant, the applicant's successors and assigns, and shall run with the land.
- (e) **Conditions for Time Limits/Review.** The decision-making body may impose time limits on conditional uses and require regularly scheduled reviews of approved conditional uses
- (f) **Termination of conditional uses.** Where a permitted conditional use does not continue in conformity with the conditions of the original approval or where a use is no longer compatible with the surrounding area, the conditional use grant may be terminated by the Town Board upon referral to the Planning Commission and public hearing thereon.
- (g) **Discontinuance.** If a conditional use is extinguished, or discontinued for a period of one year, the conditional use permit shall automatically lapse and be null and void.
- (h) **Changes to Approved Conditional Uses.** Building additions or site changes on existing approved conditional uses that do not constitute a substantial change to the use, and that do not create or can adequately mitigate potential adverse impacts on surrounding properties or neighborhoods, as determined by the director, may be reviewed as a site plan amendment according to section 15.02.070.C. However, expansion of a conditional use onto a different lot or parcel, not previously part of the conditional use approval, shall require review under this subsection.

14-2-150 Minor Variance

- (a) **Applicability.** The Director may administratively grant minor variances up to a maximum of ten percent (10%) or as noted from zoning district standards in cases where an unintended deviation therefrom exists relative to existing structures or existing lots in the following situations:
 - (1) Setback or offset: A reduction in distance of ten percent (10%) or one (1) foot, whichever is less.

- (2) Maximum building height: An increase in height of ten percent (10%) or one (1) foot whichever is less.
- (3) Distance between structures: ten percent (10%) or one (1) foot reduction, whichever is less, subject to requirements of the International Building Code.
- (4) Lot area: two percent (2%) reduction in the minimum lot area required.
- (5) Lot Coverage: two percent (2%) increase in the maximum lot coverage.
- (6) A variance is necessary to correct a legally established condition.

(b) **Prohibitions.** Relief under this Section shall not be available for the following:

- (1) Any application for proposed construction.
- (2) A building permit application.
- (3) A plot plan application.
- (4) An improvement location certificate.
- (5) Any minor variance that would result in any of the following:
 - (A) An increase in permitted maximum development density or intensity.
 - (B) A change in permitted uses or mix of uses.
 - (C) A decrease in the amount of required open space or landscaping.
 - (D) A conflict with another requirement.
 - (E) An additional or subsequent minor variance request.
 - (F) A lot line adjustment, minor subdivision or subdivision.

(c) **Appeal.** The zoning officer shall review the application and initially determine whether or not the application is eligible for relief under this Section. In the event the zoning officer determines that the application should be denied, appeal of the zoning officer's decision to the Board of Adjustment shall be in accordance with the provisions of this Code.

- (d) **Notice.** Notice of the variance request shall be provided to adjacent neighboring property owners pursuant to within three hundred (300) feet of any boundary of the subject property, at the time the application is accepted by the Town. The notice shall state that any comments or objections must be received by the Planning Department within ten (10) days of the date of the Notice. If an objection is received by the Town, the applicant shall address the objection within ten (10) days of the Notice of Objection provided to the applicant by the Town. If the objection cannot be resolved within the ten (10) days, the variance request shall be forwarded to the Board of Adjustment for a decision.
- (e) **Review Criteria.** The Director may grant a Minor Variance only when it is demonstrated that:
- (1) The purpose and intent behind the regulation would be maintained by granting the variance;
 - (2) Granting the variance will not be detrimental to any adjacent properties or the area;
 - (3) Granting the variance will not be detrimental to public health, safety, or welfare;
 - (4) Granting the variance will not create a building or fire code violation or other safety hazard; and
 - (5) A variance shall allow only the least deviation from the standard that will afford relief;

14-2-160 Major Variance

- (a) **Applicability.** Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of chapters 16 and 17 of this development code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.
- (b) **Use Variances Prohibited.** A decision-making body shall not grant a Major Variance to allow a use not permitted, or a use expressly or by implication prohibited under the terms of this development code for the applicable zoning district.
- (c) **Review Criteria.** The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:
- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

- (2) The applicant cannot derive beneficial use of the property without the variance;
 - (3) The purpose and intent behind the regulation would be maintained by granting the variance;
 - (4) Granting the variance will not be detrimental to any adjacent properties or the area;
 - (5) Granting the variance will not be detrimental to public health, safety, or welfare;
 - (6) Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable;
 - (7) Granting the variance will not create a building or fire code violation or other safety hazard;
 - (8) The need for the variance is not created by a self-imposed hardship;
 - (9) A variance shall allow only the least deviation from the standard that will afford relief; and
- (d) **Appeal.** Decisions of the Zoning Board of Adjustment shall be subject to review, pursuant to CRS 31-23-307, by certiorari by the district court of the county within which the municipality or any part thereof is located. Such appeal shall be filed not later than thirty days from the final action taken by the board of adjustment. Such appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the municipality.

14-2-170 Appeals

- (a) **Appellate Body.** Appeals shall be heard by the Planning Commission or the Town Board. The Planning Commission shall hear appeals from final decisions of the Director. The Town Board shall hear appeals from final decisions of the Planning Commission, except that the Town Board shall not hear appeals of decisions made in the Planning Commission's role as an appellate body.
- (b) **Further Appeal.** The decision of the Appellate Body is a final quasi-judicial decision of the Town that may be appealed to a court pursuant to the applicable Colorado Rules of Civil Procedure. The date of execution of the written decision shall be considered the date the appeal was adjudicated.

- (c) **Right to Appeal—Party-In-Interest.** Appeals of decisions on major development applications may be filed only by the following:
- (1) The applicant;
 - (2) The owner of the subject property; or
 - (3) The Director or Town Manager.
- (d) **Effects of Appeals.** Upon the filing of an appeal, any application process with the town pertaining to the subject matter being appealed shall be suspended while the appeal is pending. Any action taken in reliance upon any decision of a board, commission, or other town staff decisionmaker that is subject to appeal under the provisions of this chapter shall be totally at the risk of the person(s) taking such action until all appeal rights related to such decision have been exhausted, and by filing an application the applicant agrees that the Town shall not be liable for any damages arising from any such action taken during said period of time.
- (e) **Notice of Appeal Requirements.** In order to appeal a decision, a party-in-interest must file a notice of appeal within the time limits set out in this subsection. Failure of a party-in-interest to timely file a notice of appeal, containing all of the following information, shall result in dismissal of that appeal:
- (1) A description of the final decision being appealed;
 - (2) The date of the final decision being appealed;
 - (3) The name, address, telephone number and relationship of each appellant including a statement for each appellant as to the appellant's qualification for being considered a party-in-interest under this chapter;
 - (4) A description of the grounds for the appeal of the final decision, including specific allegations of error.
- (f) **Appeals from Final Actions on Development Applications**
- (1) All appeals shall be filed in writing with the planning department within 14 days from the date of the decision.
 - (2) The appeal body shall hold noticed public hearing on the appeal within 60 days from the close of the appeal period and may uphold, reverse or modify the final decision being appealed. Public notice
- (g) **Staff Preparation of Appeal Report.** If an appeal is made under this subsection, the director shall prepare an appeal report detailing the decision of the applicable decision-making body, and shall include all appeal letters and minutes of all applicable public meetings or hearings. The appeal report shall be sent to the applicant, appellant, and the appeal body for consideration at least five days before the appeal is heard.



Article III – Enforcement

Reserved [future update]

Article IV – Definitions

[definitions to be relocated here]

CHAPTER 17 - Subdivisions

Article I: Subdivision Design

Sec. 17-1-10. - Streets and Blocks

- (a) **Street Design and Construction Standards.** The Town of Windsor Design Criteria and Construction Specifications are adopted by reference as the development standards of the Town, for the purpose of establishing standards for public streets, street signs, highway, curb and gutters, traffic control devices, sidewalks, multi-use pathways, and other improvements as required to be constructed as public improvements within all developments within the Town. Should any standards in this Article conflict with the Design Criteria and Construction Specifications, the more restrictive standard shall apply.
- (b) **Street names.** New streets shall be named the same as existing streets that are in alignment of those streets, even when those streets may not directly connect. In the case where new street names are needed, the names of new streets shall not duplicate the names of existing streets. All street names shall be consistent with the Larimer County Standardization of Road Naming Criteria. Easily legible street name signs shall be installed at street intersections or as necessary for convenient identification of streets.
- (c) **Private Streets.** Streets held in private ownership, yet used as a public way for provision of public access and services, are prohibited unless determined by the Town that they provide connectivity and public safety equal to or greater than public streets and that adequate provisions for maintenance are in place.
- (d) **Connectivity.**
 - (1) A proposed development shall provide multiple direct connections in its local and collector street system to and between local destinations, such as parks, schools, and shopping, without requiring the use of arterial streets. Each development shall incorporate and continue any existing or approved but unbuilt streets stubbed to the boundary of the development unless an exception is granted based on the criteria in Section 17-1-10(g).
 - (2) To ensure future street connections to adjacent developable parcels, a proposed development shall provide a local street connection spaced at intervals not to exceed the block length specifications of Table ## along each boundary that abuts potentially developable or re-developable land unless an exception is granted based the criteria in Section 17-1-10(g).
 - (3) A proposed development shall provide a potentially signalized, full movement intersection of a collector or a local street with arterial and major collector

streets at an interval of approximately every 2,640 feet (one half-mile), unless in conflict with an approved traffic study or access control plan. A proposed development shall provide additional non-signalized, potentially limited-movement intersections with arterial and major collector streets where feasible.

- (4) The Town may require any limited-movement collector or local street intersections to include an access-control median or other acceptable access-control device.

- (e) **Block Length.** Block length for local streets shall not exceed the standards in Table 17-1-10, unless an exception is granted based the criteria in Section 17-1-10(g).

Table 17-1-10 Block Sizes & Connectivity			
Planning Context	Zone Districts	Block Length	Cul-de-sac Limits
Compact	CB, RMU-2, SF-2, PUD (residential)	660' max.	Prohibited except for exceptions in accordance with Sec. 17-1-10(g). 220' maximum length when exception granted.
General	RMU-1, SF-1, NC, GC, MF, PUD (non-residential)	880' max	600' maximum but should be avoided when feasible. When used the total number of lots on cul-de-sac streets, shall not exceed more than 10% of lots in subdivision unless an exception is granted in accordance with Sec. 17-1-10(g).
Remote/ Campus	LI, HI, ER	1320' max	660' maximum

- (f) **Cul-de-sacs.**

- (1) Permanent cul-de-sac streets and dead-end streets shall be subject to the requirements of the Design Criteria and Construction Specifications and Table 17-1-10. Exceptions to Table 17-1-10 may be granted by the decision maker in accordance with the criteria in Section 17-1-10(g).

- (2) Where cul-de-sacs or dead-end streets are unavoidable:
 - a. The decision maker may require pedestrian walkways at the end of any cul-de-sac.

- b. Developments shall incorporate provisions for future vehicular connections to adjacent, undeveloped properties, and to existing adjacent developments where existing connections are poor.
- (3) No system of multiple branching cul-de-sacs from a single junction with a connected street network is permitted, unless the decision maker deems it allowable due to environmental constraints.
- (g) **Exceptions to Connectivity, Block Length, and Cul-de-sac Standards.** Upon a written request outlining the rationale in accordance with the criteria below, the decision maker may grant exceptions to Connectivity, Block Length, and Cul-de-sac Standards contained in this Section in the following circumstances:
 - (1) To preserve or minimize impact to unique physical conditions such as topography or natural resources;
 - (2) When compliance is impractical due to buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels;
 - (3) When compliance is impractical due to conflicting existing or planned street alignment or layout;
 - (4) When necessary to avoid creating inefficient use of land or streets; or
 - (5) When necessary to accommodate unique land uses which require a campus layout without through traffic.

Sec. 17-1-20. – Sidewalks and Trails

- (a) **Generally.** If required by the Design Criteria and Construction Specifications and not present at the time of development, sidewalks shall be provided along streets that adjoin the subject property. Sidewalks shall be designed in accordance with the Design Criteria and Construction Specifications.
- (b) **Through Block Connections.** Where exceptions for larger blocks apply, or any other area where substantial pedestrian traffic may occur, such as adjacent to schools, the decision maker may require pedestrian walkways through blocks.
- (c) **Sidewalks on Private Streets.** Sidewalks shall be provided along private streets and shall be designed in accordance with the Design Criteria and Construction Specifications.
- (d) **Town Trails.** Town trails are trails owned and maintained by the Town. The applicant shall install a Town trail if required by the Trails Master Plan.

Transportation Master Plan, or similar document and not present at the time of development. Town trails shall be designed in accordance with Table 17-## and to the extent they are consistent with this Section, the most recently published volume of the AASHTO Guide for the Development of Bicycle Facilities, and the Americans with Disabilities Act (ADA).

Trail Design Standards Table 17-##	
Width	12' generally Additional width may be required when immediately adjacent to a retaining wall, hand rail, or roadway.
Surface	6" thick mesh concrete in accordance with the <u>Design Criteria and Construction Specifications</u>
Horizontal Alignment	95' minimum radius generally. 25' minimum radius when substandard radius curves must be used because of right-of-way, topographical, or other considerations and shall include standard curve warning signs and supplemental pavement markings shall be installed in accordance with the MUTCD. The negative effects of substandard curves can also be partially offset by widening the pavement through curves.
Longitudinal Slope	5% maximum except in the following situations: • When trails are contained within a street right-of-way, the grade may exceed 5% but shall not exceed the general grade established for the adjacent street; • Where compliance is not practicable due to existing terrain or infrastructure, right-of-way availability, a notable natural feature, or similar existing physical constraints, compliance is required to the extent practicable; or • Where compliance is precluded by federal, state, or local laws the purpose of which is to preserve

	threatened or endangered species; the environment; or archaeological, cultural, historical, or significant natural features, compliance is required to the extent practicable.
Cross slope	2%
Vertical clearance	8' minimum
Horizontal clearance	2' from retaining walls, railings, signs etc. 15' from buildings except at points of connection to the building, and where no practicable alternative exists.
Separation from roads or parking lots	5' generally. Trails may be located adjacent to roads or parking lots where no practicable alternative exists and additional width may be required.
Hand and Safety Rails	Any railing should be at least 42" in height. Hand and safety rails may be required for the safety of the trail users as determined by the Director in accordance with the Guide for the Development of Bicycle Facilities published by AASHTO.

(e) **Neighborhood Trails.** Neighborhood trails are trails that provide recreation and non-motorized transportation opportunities that are owned and maintained by a metropolitan district, owners association, or similar entity approved by the Town. Neighborhood Trails shall be provided in accordance with the following:

(1) **Residential Subdivisions.** In all residential subdivisions Neighborhood Trails shall create both an internal network and connections to surrounding properties.

(A) Neighborhood Trails shall connect to existing and planned Town trails, school sites, and park sites. If it is not feasible to provide trail access directly to a school or park site, a trail shall be provided as close as feasible and detached sidewalks shall provide the remaining connection.

- (B) Neighborhood Trails shall provide connections to surrounding properties in accordance with the following:
- i. When feasible, development next to an existing residential subdivision, **shopping development**, or Town Park shall provide connections to the property boundary to tie into existing trails or sidewalks. If no existing trails or sidewalks are present, connections shall be made to a nearby trail or sidewalk to facilitate access.
 - ii. Development next to an unbuilt property zoned or planned for residential, **shopping development**, or Town Park shall extend trails to the subdivision boundary to allow for future trail connections.
- (2) **Non-Residential Developments.** When feasible, shopping developments, parks, and schools shall provide trail connections to adjacent residential subdivisions.
- (3) **Waiver.** The requirement for Neighborhood Trails in residential subdivisions may be waived or modified by the decision maker if the subdivision is of an insufficient size to accommodate trails or if natural features make compliance unfeasible.
- (4) **Design Standards.** Neighborhood Trails shall be subject to the following:
- (A) Neighborhood Trails shall be 10' in width paved with 6" thick concrete. Trails surfaced with crusher fines and less than 10' in width may supplement paved trails but shall not be used in-lieu of paved trails.
 - (B) Neighborhood Trails shall be open to all members of the public. Restrictions on types of uses are allowed (e.g. prohibition of motorized uses).
 - (C) Trails shall be located off-street within a Greenbelt in accordance with Sec. ##. When physical constraints make the use of a Greenbelt impractical, the decision maker may approve trails outside of a Greenbelt. In such cases, trails may be located adjacent to but detached from a street.

- (5) **Ownership and Management.** All Neighborhood Trails shall require documentation that outlines the ongoing maintenance plans, as well as administrative and financial management of the trails according to these standards. Trails shall generally be maintained in perpetuity either by the Property Owner's Association, Metropolitan District, or other legal entity approved by the Town.

Sec. 17-1-30. – Lots

- (a) **Generally.** All lots created through the subdivision process shall be developable and conform to the minimum zoning, development, and floodplain standards stated in this development code. No subdivision shall create lots that prohibit development due to configuration of the lots, steepness of terrain, location of watercourses or floodplain, natural physical conditions, or other existing conditions.
- (b) **Lot Dimensions.** The minimum area and dimensions of all lots shall conform to the requirements of the subject zone district established in Chapter 16.
- (c) **Lot Lines.** To the maximum extent practical, the sidelines of all lots shall be at right angles to the street upon which the lot fronts, or approximately radial to the center of curvature if the street is curved. If side lot lines are not radial, it shall be noted as such on the plat.
- (d) **Frontage** All lots shall have frontage that is either adjacent to or directly accessible to a street.
- (e) **Corner Lots.** Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.
- (f) **Division of Lots.** No lot shall be divided by a Town boundary line.
- (g) **Flag (or Flagpole) Lots.** Flag lots shall comply with all lot dimensional, utility, fire, and emergency access standards.
- (h) **Lots Divided by a Zoning District Boundary.** Lots that are divided by a zoning district boundary are prohibited.
- (i) **Tracts.** All land not a part of right-of-way or lot shall be designated a tract on an approved plat. Tracts shall be designated on an approved plat, and shall specify the ownership, use, and maintenance responsibility.
- (j) **Double Frontage.** Double frontage lots for single family dwellings, duplexes, multiplexes, and townhomes shall not be permitted except where essential to provide

separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantage of topography and orientation. Subdivisions platted with double frontage lots shall incorporate Type A bufferyard along the rear frontage in accordance with the landscape standards of this Code. The bufferyard shall be located in a tract owned and maintained by a homeowners association or metropolitan district.

- (k) **Significantly encumbered lots.** Single family residential lots significantly encumbered by easements that render an unusually large portion of the property unusable or highly restrict usage due to features such as irrigation or drainage facilities shall exclude such encumbrances in calculating minimum lot size and lot coverage.
- (l) **Utility Easements.** All subdivisions shall include easements for all required improvements necessary to serve each lot. Easements shall be granted by the owner to the appropriate entity. All easements shall be accessible from the public right-of-way and graded to within six inches of final grade before utilities are installed. Unless otherwise specified through the development review process easements shall be as specified in Table 17-##.

Table 17-##: Easements	
Front lot line	10'
Common rear lot lines	16', 8' on each lot
Perimeter rear lot lines w/o common boundary	10'
Side easements, where necessary	5' utility 2' drainage

In addition to or instead of being placed within an easement, irrigation ditches and associated maintenance ways shall be placed in a tract owned by an owners association or similar entity. Maintenance shall be the responsibility of the ditch company and/or an owners association or similar entity.

- (m) **Drainage.** Where a subdivision is traversed by a watercourse, drainage way or stream, blocks shall be laid out in coordination with these features. A perpetual drainage easement shall conform substantially with the lines of watercourse adequate to carry off the predictable volume of storm water drainage from a one-hundred-year frequency storm. Drainage ways serving more than three lots or a drainage basin larger than 0.25 acres shall be placed in a tract maintained by an owners association or similar entity.

Sec. 17-1-40. - Parks and Open Space.

- (a) **Parkland Dedication.** Parkland shall be dedicated to the Town in accordance with Sec. **##[existing code]**.
- (b) **Pocket Parks.** In order to provide recreational facilities at the neighborhood scale, pocket parks are required for residential subdivisions with 50 or more units and multifamily development with 50 or more units in accordance with Table 17-##.

Zone District	Table 17-## Pocket Park Requirements
ER	10,000 square feet per 200 units required for conservation subdivisions only
SF-1	10,000 square feet per 200 units
SF-2	10,000 square feet per 100 units
RMU-1	10,000 square feet per 200 units
RMU-2	10,000 square feet per 100 units
MF	10,000 square feet per 100 units

- (1) **Exception Near Existing Park.** Pocket parks are not required in the following circumstances:
 - (A) When at least 75 percent of the dwelling units in a proposed development are within a one-third mile radius (1,760 feet) of an existing or planned public park or pocket park open to residents.
 - (B) When a Neighborhood Park is provided in the subdivision.
- (2) **Size.** Pocket parks shall be a minimum size of 20,000 square feet.
- (3) **Location.**
 - (A) Pocket Parks shall be centrally located within the development with pedestrian access to the lots and dwellings they are intended to serve.
 - (B) Large developments shall provide multiple Pocket Parks, generally spaced so that all units are within approximately one-third (1/3) mile of a park.

- (C) Pocket Parks shall have frontage on at least one local or collector street.

(4) Design Standards

- (A) Access corridors shall be provided in Greenbelts to pocket parks shall be a minimum of 20 feet wide with a minimum six foot wide concrete path.
- (B) Pocket parks shall generally include some combination of lawn area, natural or planted areas, and structured play areas (athletic courts, playgrounds, etc.) and shall include seating areas.
- (C) Sidewalks in Pocket Parks shall be a minimum width of 6'.
- (D) Areas used as dog parks shall not count toward the required pocket park area.
- (E) Rear and side yard fences on lots abutting pocket parks shall not exceed five feet in height.

- (5) **Landscaping Standards.** Landscaping shall be provided for pocket parks at a minimum rate of one tree and five shrubs per 2,000 square feet of landscaped area. Additionally, street trees shall be provided in accordance with Sec TBD.

(6) Ownership and Maintenance.

- (A) All pocket parks shall require documentation that outlines the ongoing maintenance plans, as well as administrative and financial management of the park according to these standards. Pocket parks shall generally be maintained in perpetuity either by the Property Owner, a Property Owner's Association, Metropolitan District, or other legal entity approved by the Town.
- (B) The obligation for ongoing maintenance of Subdivider-controlled social and recreational spaces (pocket parks, plazas, green belts, shade groves, etc.) depicted in the approved subdivision plat shall run with the land and shall be binding upon the Subdivider's successors and assigns, including any assignees and transferees such as a metropolitan district, homeowners association and individual lot owners within the subdivision.

- (C) In the event of a failure to maintain Subdivider-controlled social and recreational spaces as required in this Section, the Town may, but shall not be required to, undertake maintenance activity to avoid disrepair, nuisance and threats to public safety. The Town's costs of maintenance activity undertaken under this Section shall be payable by the Subdivider and its successors and assigns, including any assignees and transferees such as a metropolitan district, homeowners association and individual lot owners within the subdivision, jointly and severally. Any such costs of maintenance shall become a lien on each platted lot within the subdivision, and shall be enforceable by the Town as provided by law, including by special assessment, without limitation as to available remedies.

- (c) **Open Space.** In order to preserve natural areas, habitat, and vegetation and to provide appropriate recreational opportunities, residential subdivisions greater than 20 acres in size, shall include a minimum percentage of gross land area as open space in accordance with Table ##. To the maximum extent practicable, open space in each subdivision shall be open and accessible to, and visible to, all residents of the development, and if possible, to other residents of the Town using public streets, trails, and open spaces.

<i>Zone District</i>	<i>Percent Open Space</i>
ER*	In accordance with Sec. ##
RMU-1, SF-1	20%
RMU-2, SF-2, MF	30%

- (1) **Prohibited Open Space.** The following shall not qualify as open space:

- (A) Areas within 100' of oil and gas facilities
- (B) Public or private schools

- (2) **Ownership and Management.** All Open Space shall require documentation that outlines the ongoing maintenance plans, as well as administrative and financial management of the space according to these standards. Open space shall generally be maintained in perpetuity either by the Property Owner, a Property Owner's Association, Metropolitan District, or other legal entity approved by the Town.
- (3) **Permanent Reservation.** Open space set aside to meet the requirements of this code shall be permanently reserved as open space. Development of any kind not directly related to the open space use shall be prohibited unless expressly approved by the Town. All open space shall be designated on the subdivision plat.
- (4) **Open Space Types.** Open Space requirements may be met by the provision of the following types of open space:
- (A). **Greenbelt**
- i. Greenbelts shall generally be minimum width of 50'. The decision maker may approve narrower greenbelts in constrained situations.
 - ii. Greenbelt areas shall include trails and may include amenities like seating and shade structures.
 - iii. Greenbelt areas in each development shall be organized so as to create integrated systems of open space that connect with school lands, park lands, other open spaces, or public lands or trails within the development or on lands adjacent to it.
 - iv. Greenbelt areas shall generally be left in natural condition or restored to a naturalistic appearance with the use of native or adapted plantings.
 - v. When graded, steep slopes that may require erosion control or special treatment should be avoided.
 - vi. Small areas of inaccessible or unusable open space shall be avoided to the greatest degree practicable.
 - vii. Irrigation ditches may be included in Greenbelt areas provided adjacent open land and trails are included.

- (B) **Natural Habitat and Features.** Land protected in accordance with Natural Habitat and Features, Sec TBD.
- (C) **Town Dedicated Park.** Land dedicated as a part of a subdivision to the Town for park land in accordance with section TBD shall be counted towards the requirement. Payment in-lieu of dedication shall not count toward this requirement.
- (D) **Pocket Park.** Pocket parks built in accordance with Sec 17-1-40(b).
- (E) **Recreation Amenities.** Land occupied by active recreational uses such as pools, playgrounds, tennis courts, trails, and clubhouses used primarily for recreational purposes and open to all subdivision residents, may be counted as open space.
- (F) **Stormwater Facilities.** Stormwater Facilities may be counted towards the open space requirement, provided they are designed in accordance the requirements of subsections 1 through 4. In cases where engineering requirements prevent design in accordance with these standards, such area shall be excluded from the Open Space calculation.
 - i. General Design. Stormwater Facilities shall be linked with Natural Areas or other Detention Facilities so as to create integrated systems of open areas connected with dedicated school lands, park lands, or public lands or trails within the development or on lands adjacent to it. Small, isolated detention facilities shall not be counted towards the open space requirement.
 - ii. Grading
 - (a) Detention facilities shall be designed to be naturalized open space should include varied side slopes and an undulating bottom.
 - (b) Side slopes shall vary and range from 4:1 to 20:1.
 - (c) Use of walls shall be minimized. All walls proposed for the pond perimeter are required to have a high quality visual character (such as natural stone or integral color concrete with form liner). Walls should not exceed 30” in height. Fences may be required for safety.

- (d) When feasible use a naturalized drainage channel to slow drainage, promote infiltration and allow for habitat establishment.
 - (e) Naturalized rip-rap or cobble stones partially buried, broken edges, streambed appearance.
- iii. Planting
 - (a) Use shrubs and wetland plants strategically near inlets to soften the visual impact of these man-made structures without impeding storm drainage function. Avoid the use of exposed rip-rap. Rip-rap if used shall be a subtle earth tone color, not pink, and should be buried and integrated with erosion control matting, and planting to soften the visual impact and provide opportunities for habitat establishment. Other types of less intrusive erosion control materials which incorporate planting materials should be considered.
 - (b) Concentrate wetland plantings in areas where erosion is anticipated or where favorable moisture zones are likely to exist. Since planned moisture levels are difficult to predict, plant species in, above, and below their ideal zone to accommodate for both high water and low water seasons.
 - (c) Stockpile and redistribute (or import if necessary) a minimum of four inches of topsoil over areas to be planted.
 - (d) Use non-persistent herbicide prior to planting to curtail weed establishment.
 - (e) Incorporate erosion control blankets and/or appropriate mulch to reduce erosion and improve soil moisture conditions for new plantings.
 - (f) Use wetland species in appropriate areas and pond bottoms likely to be too wet for regular mowing and maintenance.
- iv. Maintenance. Maintenance shall occur in accordance with the following standards:

- (a) Use regular mowing as a primary weed control method during initial establishment period.
- (b) Limit use of chemical herbicides, and only use those appropriate for conditions. Use non persistent herbicides in upland areas, and aquatic approved herbicides near wet, wetland or water areas.
- (c) Suppress cattails for the first three to five growing seasons to allow less aggressive native species to establish.
- (d) Monitor and correct areas of erosion.
- (e) Limit irrigation and fertilization to that needed for plant establishment and specific designed needs. Naturalized areas with native plants are adapted to Colorado soils so should only require irrigation during the initial establishment period, and should not require fertilization. High-use or active recreation areas will require more regular irrigation and standard fertilization practices.

Article II Required Improvements

Sec. 17-2-10. - General regulations for subdivisions.

- (a) The subdivider or developer shall enter into an agreement with the Town to guarantee construction of all required improvements, including streets, curbs and gutters, driveways, sidewalks, storm drainage system, sanitary sewerage and potable water system.
- (b) Under such agreement, the subdivider or developer shall post a performance bond, letter of credit or similar security instrument drawn in favor of the Town in an amount equal to one hundred percent (100%) of the estimated cost of the construction of improvements.
- (c) Ninety percent (90%) of the performance bond, letter of credit or similar security document posted by the subdivider or developer shall be released upon complete construction acceptance of all public improvements by the Town. The balance of the performance bond, letter of credit or similar security instrument shall not be released until final construction of improvements has been completed and the Town has given its final acceptance of maintenance and repair of the improvements.
- (d) Dedication of easements or land within a subdivision shall be required where storm drainage, sanitary sewerage or other public utilities are necessary to permit agencies and utility companies to maintain utilities and render services to the subdivision

- (e) The improvements required by the following sections shall be provided in each subdivision or development as appropriate to the particular type of development proposed and to the extent determined by the Planning Commission. Required improvements shall be constructed in accordance with the detailed design standards and specifications of the Town Engineer and shall be constructed in accordance with approved plans and profiles and the construction requirements and specifications of the Town Engineer.

Sec. 17-2-20. - Utilities Improvements in Subdivisions.

- (a) **Storm Drainage.** The analysis and design of drainage systems within the Town shall be subject to the Storm Drainage Design Criteria maintained by the Director of Engineering. The Director of Engineering shall have the authority to make modifications to the Storm Drainage Design Criteria.
- (b) **Sanitary sewerage system.** The analysis and design of sanitary sewage systems within the Town shall be subject to the Construction Standards & Specifications maintained by the Director of Engineering.
- (c) **Potable water system.** The analysis and design of potable water systems within the Town shall be subject to the Construction Standards & Specifications maintained by the Director of Engineering.
- (d) **Fire hydrants.** Fire hydrants shall be installed in accordance with the adopted Fire Code.
- (e) **Underground electric power and telephone distribution system.** Telephone lines and electric lines and other like utility services shall be placed underground unless not feasible. The subdivider shall be responsible for complying with the requirements of this Subsection, and he or she shall make the necessary arrangements, including any construction or installation of such facilities, and shall be subject to all applicable laws and regulations for the construction of the same. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities may be placed aboveground; electric transmission and distribution feeder lines and communication long-distance trunk and feeder lines and necessary appurtenances thereto may be placed aboveground. Such facilities shall be placed within easements or public rights-of-way provided for particular facilities. Every effort shall be made to place pedestals as close to corner lot lines as possible. The provisions of this Subsection shall not apply to existing facilities or subdivisions platted prior to the adoption of this Chapter.
- (f) **Nonpotable secondary water systems.**
 - (1) **Mandatory construction.** All new residential development within those areas of the Urban Growth Boundary of the Town designated by the Town Board as suitable for the construction of nonpotable secondary water systems, shall be required, as

part of any subdivision process, to construct a nonpotable secondary water system for irrigation of all residential lots and common areas within the subdivision. Likewise, proponents of all new residential development shall provide for adequate nonpotable water in amounts sufficient in both quantities and quality to operate said system so that the system will provide an assured and sufficient amount of water to adequately irrigate all residential lots and common areas.

(2) Private Management.

- (A) As a condition of subdivision approval of any residential development wherein a nonpotable secondary water system shall be required, such system shall be operated, repaired and maintained by a metropolitan district, homeowners' association or other public or private entity. The nature and structure of such entity shall be subject to approval by the Town, and the management entity and the Town shall enter into a written agreement prior to final subdivision approval to provide for the entity's management and operation of the nonpotable secondary water system and specifically providing for such credits as may be appropriate from the Town for the construction of such system, including reduced raw water dedication requirements reflective of the existence of a nonpotable secondary water system, as well as reduced water plant investment fees likewise reflective of the existence of the nonpotable secondary water system.
- (B) Any agreement between the management entity and the Town shall also provide that the nonpotable water resources designated by the management entity for the operation of the nonpotable secondary water system shall be available both physically and legally in perpetuity, thereby assuring to the Town that in the event the management entity fails and the Town is subsequently required to operate the nonpotable secondary water system, adequate water resources will be available to the Town for the operation of the nonpotable secondary water system. Therefore, the agreement must also provide for the transfer of such water resources, as well as the water acquisition and distribution system, to the Town at its option, should the management entity be unable to operate, repair, maintain and replace the system so that it functions to provide a reliable and sufficient supply of nonpotable water for the purposes set forth in the agreement. The adequacy and reliability of the nonpotable water resources shall be determined by the Town in its sole discretion. Any funds held by or for the management entity for the operation, repair, maintenance and replacement of such system shall also be transferred to the Town, with the use of such funds limited to the operation, repair, maintenance and replacement of such system.

(3) Establishment of geographical areas where nonpotable secondary water systems shall be required.

- (B) Upon the adoption of the ordinance codified herein, the Town Board shall, by resolution, designate those areas within the Town's Urban Growth Boundary

wherein the construction of a nonpotable secondary water system shall be required as a condition of development. Such designation by the Town shall include areas within the Urban Growth Boundary of the Town that have historically been irrigated by agricultural wells or ditch and canal systems, as well as other areas wherein, for reasons of topography and access to raw water, the construction of nonpotable secondary water systems is determined by the Town to be feasible.

- (C) The Town may, by a resolution subsequently adopted and after appropriate findings, remove from or add to the original areas wherein nonpotable secondary water systems are required within the Town's Urban Growth Boundary.
- (4) **Annexation.** The construction of a nonpotable secondary water system at the time of development shall be a condition of annexation when annexation is proposed for residential development in an area designated for the construction of nonpotable secondary water systems.
- (5) **Feasibility review and determination.** In the event it can be established to the satisfaction of the Town Board that the construction of a nonpotable secondary water system as part of new residential development in an area designated for the construction of nonpotable secondary water systems is not economically feasible and would work an undue hardship, the Town Board may relieve the developer from the operation of the ordinance codified herein. Any such determination by the Town Board shall be conditioned upon compliance with the following conditions:
 - (A) The developer shall submit an application seeking relief from the operation of the ordinance codified herein on a form prescribed by the Town and containing such information and supporting documentation as may be required by the Town.
 - (B) The developer shall submit an analysis of the economic feasibility of the proposed nonpotable system using a standardized cost benefit analysis approved by the Town.
 - (C) The developer may submit such additional information and documentation as may be deemed relevant in support of its proposition that the construction of a nonpotable system is not economically feasible and would work an undue hardship, including but not limited to, information concerning the availability and cost of raw water and issues of engineering relating to the delivery of raw water to the system in question.
 - (D) Upon receipt of the aforesaid application, cost benefit analysis and additional information and documentation, the Director of Engineering may, in his or her sole discretion, employ such engineers, financial analysts and such

other experts as may be necessary to review and evaluate the data provided and to submit an independent analysis of the developer's application for relief from the operation of the ordinance codified herein. The reasonable and necessary expenses incurred by the Town shall be paid by the developer and shall be advanced by the developer as a condition of this process.

(E) Upon the completion of the independent analysis as aforesaid, the Director of Engineering, upon notice to the developer, shall schedule a hearing before the Town Board. At the time of the hearing, the developer and the Town shall each be afforded a full opportunity to present all relevant evidence in the form of testimony and exhibits. Within ten (10) days of the conclusion of the hearing, the Town Board shall prepare and submit a written decision affirming the requirements of the ordinance codified herein or providing the developer relief therefrom. The decision of the Town Board shall be final upon submission of its written decision.

(6) **Regulations.** The Director of Engineering is hereby authorized to develop regulations for the construction and operation of nonpotable secondary water systems. Such regulations shall include, but shall not be limited to, specifications for transmission lines, connections, pumps and storage requirements for nonpotable water.

(g) **Street lighting.** Street lights shall be provided in accordance with the Construction Standards & Specifications maintained by the Director of Engineering.

Sec. 17-2-40. - Reference monuments in subdivisions.

Permanent reference monuments shall be located and placed within the subdivision or development as required by state law. Iron pin monuments at least twenty-four (24) inches long and flush with the surface shall be placed at all points on boundary lines where there is a change in direction, at all block and lot corners and at other points as required by the Town Engineer.

Sec. 17-2-50. - Maintenance of required improvements.

Adequate provision for the satisfactory maintenance of streets and utilities improvements, including easements, shall be made by dedication of such improvements to the Town. Prior to acceptance by the Town, the improvements to be dedicated shall be inspected and approved by the Town Engineer.