

ARTICLE 3. DEVELOPMENT REVIEW & ADMINISTRATIVE PROCEDURES

3.1 GENERAL REQUIREMENTS

3.1.1 Pre-Application Conferences

- A. Applicants shall be responsible for scheduling Pre-Application Conferences with Community Development Department Staff when they are required.
- B. The purpose of a Pre-Application Conference is to inform the Applicant of applicable procedures, submittal requirements, development standards, alternatives, and other pertinent matters before the Applicant finalizes the development proposal. Application forms are also made available during Pre-Application Conferences.
- C. Staff opinions presented during Pre-Application Conferences are informational only and do not represent a commitment on behalf of the City regarding the acceptability of the development proposal. Materials submitted for review at a Pre-Application Conference shall not constitute an "application" for development for purposes of C.R.S. §24.68-101 et seq.
- D. If a development application is not submitted within 180 days of the Pre-Application Conference, the Applicant may be required to schedule and attend another Pre-Application Conference before submitting applications.

3.1.2 Authority to File Applications

- A. An application for review or approval under this Code shall be filed by the person having legal authority to take action in accordance with the approval sought. That person is presumed to be the record owner, purchaser under a sale, or the duly authorized agent of the record owner in the absence of satisfactory proof to the contrary.
- B. In the case of variance or conditional use applications, the express authorization of the property owner shall be included with the application if the Applicant is not the owner.
- C. The City Council or Planning Commission may initiate code amendment action under this Code with or without an application from affected property owners.

3.1.3 Application Forms

Applications required under this Article shall be submitted on forms provided by the Community Development Department in such numbers as required by the Department.

3.1.4 Simultaneous Processing of Applications

- A. At the election of the Applicant, and with the concurrence of the Community Development Director, applications for different types of

development approvals may be processed simultaneously to expedite total review and processing time for a project. For example, an application for PUD Preliminary Development Plan approval and Preliminary Subdivision Plat approval may be submitted together for simultaneous review. Other examples would be simultaneous processing of an application for a Conditional Use Permit with an application for Site Plan approval, or an application for a Certificate of Compliance with Design Guidelines (CCDG) with an application for Site Plan or Building Permit approval.

- B. Whenever two or more forms of development approval are being processed simultaneously and this Code provides different time-frames for review or decision-making for the different forms of approval, all related applications and approvals shall be completed within the longest time-frame applicable to any of the simultaneous procedures.
- C. Unless simultaneous processing is approved, applications for PUD Final Development Plans shall not be accepted until final approval of the PUD Preliminary Development Plans.
- D. Unless simultaneous processing is approved, applications for Final Subdivision Plats (except for minor subdivisions) shall not be accepted until final approval of the Preliminary Subdivision Plat application.

3.1.5 Complete Applications Required

- A. An application shall be considered substantially complete if it is submitted in the required form, includes all required submittal information, including all items or exhibits specified by the Community Development Director during a Pre-Application Conference, and is accompanied by the applicable processing fee. Any application that is not accompanied by the required fees shall be found incomplete. Fees shall not be required with applications initiated by the City Council, Planning Commission, or City department heads. All fees shall be non-refundable, unless otherwise expressly stated. Only substantially complete applications, as set forth in this provision, shall be considered an "application" pursuant to C.R.S. §24.68-101 et seq.
- b. The Community Development Director shall review an application for completeness within fourteen (14) days of its filing. If the Community Development Director determines that the application is substantially complete, the application shall then be processed pursuant to this Article.
- C. If the Community Development Director determines that the application is incomplete, the Community Development Director shall notify the applicant of that fact and specify the specific ways in which the application is deficient. No further processing of the incomplete application shall occur until the deficiencies are corrected. If the Applicant does not correct the deficiencies within 30 days, the application shall be considered withdrawn. Any re-submittal of the application by the Applicant will be treated as a new application.

3.1.6 Neighborhood Meetings

- A. Purpose. The purpose of a neighborhood meeting shall be to inform neighboring property owners of the details of a proposed development or subdivision, how the developer intends to meet the standards contained in this Code, and to receive public comment on the proposal at an early time in the review process.
- B. Applicability. A neighborhood meeting shall be required in conjunction with the submittal of any of the following applications, unless the Community Development Director determines that a neighborhood meeting is not necessary because of the nature of the proposal and its potential impacts.
1. Rezoning
 2. Annexations
 3. Major Subdivisions (Preliminary Subdivision Plat Only)
 4. Planned Unit Developments (Preliminary PUD Plans Only)
 5. Height Exceptions
 6. Conditional Use Permits
- C. Determination. The Community Development Director shall make a determination of the applicability of this subsection to a development proposal at the Pre-Application Conference, and a tentative schedule for completion of the neighborhood meetings shall be negotiated with the Applicant at the Pre-Application Conference. For Site Plan Review, Variances, and other applications for which Pre-Application Conferences are not mandatory, the Community Development Director shall make a determination of applicability at the same time that the application is reviewed for completeness pursuant to §3.1.5.B above.
- D. Criteria. A neighborhood meeting shall be required if the Community Development Director determines that a proposed development or subdivision may have significant neighborhood impacts, including without limitation impacts related to traffic; provision of public services such as safety, schools, or parks; compatibility of building design or scale; or operational compatibility such as hours of operation, noise, litter, or glare.
- E. Timing and Number of Neighborhood Meetings.
1. When required, there shall be at least one (1) neighborhood meeting that shall be held after the Pre-Application Conference but before submittal of a formal application to the Community Development Director, unless the latter requirement is waived by the Community Development Director.
 2. When an application has already been submitted at the time that the Community Development Director determines a neighborhood meeting is required, there shall be at least one (1) neighborhood meeting held prior to any administrative action on

the application, or a minimum of twenty-one (21) days prior to the first Planning Commission public hearing on the application, as applicable.

3. The Community Development Director may also require that additional pre-application or post-application neighborhood meetings take place based on consideration of the proposed development's mix of uses, density, complexity, potential for impacts, or the need for off-site public improvements created by the development, or significant changes made in the plans since the time of the initial neighborhood meeting.

F. Notice of Neighborhood Meeting. The Applicant shall give written notice of the neighborhood meeting in accordance with §3.3 below, except that written notice shall be given no later than twelve (12) calendar days in advance of the neighborhood meeting.

G. Attendance at Neighborhood Meeting. If a neighborhood meeting is required, the Applicant or Applicant's representative shall attend the neighborhood meeting. The Applicant shall be responsible for scheduling the neighborhood meeting at a time when a Community Development Staff member can attend, coordinating the neighborhood meeting, and for retaining an independent facilitator if needed. All neighborhood meetings shall be convened at a place in the vicinity of the proposed development.

H. Summary of Neighborhood Meeting. The Applicant shall prepare a written summary of the neighborhood meeting(s), which shall be submitted to the Community Development Director no later than fourteen (14) days before the first public hearing or administrative action. As applicable, the written summary shall be included in the Community Development Director/Staff Report provided to the Decision-Making Body at the time of the first public hearing to consider the application. At a minimum, the written summary shall include the following information:

1. Dates and locations of all meetings where citizens were invited to discuss the Applicant's proposal;
2. Content, dates mailed, and number of mailings, including letters, meeting notices, and any other written material;
3. The number of people that participated in the meetings;
4. A summary of concerns, issues, and problems expressed during the meetings, including:
 - a. The substance of the concerns, issues, and problems;
 - b. How the Applicant has addressed or intends to address concerns, issues, and problems expressed at the meetings; and,
 - c. Concerns, issues, and problems the Applicant is unwilling or unable to address and why.

3.1.7 Community Development Director and Agency Review

In conducting required reviews, the Community Development Director shall be authorized to distribute the application and other submittals to City departments and other agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements. Unless otherwise stated in this Article, all reviewing agencies and departments shall make best efforts to submit their comments to the Community Development Director within thirty (30) days from receipt of the Community Development Director's request. Late comments may, at the Community Development Director's discretion, be included in any required staff report.

3.1.8 Submittal Requirements

- A. General. Submittal requirements for all types of development applications may be established and amended by the Community Development Staff without resolution of the City Council, provided that each such submittal requirement shall be an item reasonably required to evaluate compliance with this Code or with the Comprehensive Plan.
- B. Waivers. Community Development Staff may waive certain submittal requirements in order to reduce the burden on the Applicant and to tailor the requirements to the information necessary to review a particular application. Staff may waive such requirements where it finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such waiver.

3.1.9 Inactive Applications

If, at any point in a development review process, (a) the Community Development Staff has notified the Applicant that additional or corrected materials are required, and the Applicant has not submitted such materials within sixty (60) days after the date of such notification, or (b) the Applicant fails to attend any scheduled neighborhood meeting, meeting with Community Development Staff, or Planning Commission meeting or hearing, the Community Development Director may notify the Applicant that the application will be considered inactive unless corrective action is taken within thirty (30) days. No further processing of such application shall occur until the deficiencies are corrected. If the Applicant does not correct the deficiencies within thirty (30) days, the application shall be considered withdrawn. Any re-submittal of the application by the Applicant will be treated as a new application.

3.1.10 Withdrawal of an Application

Except as set forth in §3.1.9 above, only the Applicant may withdraw an application. After such withdrawal, no further action on the application shall take place. To re-initiate review, the Applicant shall resubmit the application, which in all respects shall be treated as a new application for purposes of review and scheduling.

3.1.11 Burden of Proof or Persuasion

The burden of demonstrating that an application complies with applicable review and approval criteria is on the Applicant. The burden shall not be on the City or other parties to show that the criteria have not been met.

3.1.12 Permitted Scope of Action-Consistent with Notice

- A. A Decision-Making Body may take any action on the application that is consistent with the notice given, including approving the application, approving the application with reasonable conditions, or denying the application.
- B. A review body or Decision-Making Body may not recommend or approve a greater density of development, a more intensive use, or a more intensive zoning classification than what was indicated in the public notice; however, a lower density or less intensive use, or zoning classification may be recommended or approved.

3.1.13 Final Action by Majority Vote of Decision-Making Body

- A. General Rule. A quorum of the Decision-Making Body is required to take final action on an application pursuant to this Article. Except as set forth in paragraph B. below, all decisions by the Planning Commission, City Council, or Board of Adjustment shall be by the affirmative vote of a majority of the members of such bodies present and voting at the hearing or meeting.
- B. Exception to the Rule. For Code Amendment and Rezoning applications, any recommendation or decision of approval shall be by the affirmative vote of a majority of the total membership of the Planning Commission or City Council.

3.1.14 Limitation on Conditions of Approval

- A. A Review Body or Decision-Making Body shall be authorized to impose such conditions upon any site-specific land use approval as may be necessary to carry out the general purpose and intent of this Code, other City codes and regulations, or the Comprehensive Plan.
- B. Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development and shall be based upon duly adopted standards.
- C. Except for annexations, any condition of approval that requires an applicant to dedicate land or pay money or provide services to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

3.1.15 Community Development Director Authority to Refer Applications

- A. Whenever this Article authorizes the Community Development Director to take final action on an application as the Decision-Making Body (see Table 3-1 below), the Community Development Director shall have the authority to instead refer the application to the Planning Commission for the Commission's review and final action. All such referrals shall be based on a determination by the Community Development Director that the proposed development's complexity, projected impacts, or proximity to conflicting land uses merits such action. In lieu of denial, the Community Development Director may also refer the application to the Planning Commission when there is a disagreement with the Applicant over the applicability of, or compliance with, any design or development standards set forth in this Code.
- B. Written notice of such referral shall be sent to the Applicant within seven (7) days of the Community Development Director's decision to refer the application. The application and written notice of the referral shall be sent to the Planning Commission.
- C. Within forty-five (45) days from receipt of the referred application, the Planning Commission shall review the application and take final action to either, approve, approve with conditions, or deny the application, based on the application's compliance with all applicable review criteria. Appeal of the Planning Commission's decision shall be taken to the City Council pursuant to §3.2.4 of this Code.

3.1.16 Nature and Form of Decision

All Decision-Making Body and Appeal Body decisions, except those made by the Community Development Staff or Community Development Director, shall be based on facts and considerations related to the relevant standards or criteria set forth in this Code, and sufficiently expressed so as to reasonably apprise a person of the basis of the decision. Nothing herein shall be deemed to modify requirements relating to the denial of an application for a telecommunication facility. See §5.2.31.

3.1.17 Effect of City Council Denials

If the City Council denies an application, that same request or one substantially the same may not be heard by the City Council for a period of one (1) year from the date of denial, unless the City Council explicitly states that an earlier re-application will be considered. The Applicant may submit a revised application that adequately addresses all of the Council's stated reasons for denial, however, at any time. Such revised application shall be treated as a new application for purposes of review and scheduling.

3.1.18 Times for Review/Extensions

- A. Failure to Act. When a Review or Decision-Making Body fails to take action on an application within the time-frame required by this Code, such inaction shall not be deemed a recommendation of approval or an approval of the application.

- B. Decision-Making Body Authority to Extend Times. Any Review, Decision-Making, or Appeal Body shall have the discretion to extend the time periods set forth in this Article for review and/or final action on an application if the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such extension of time. See §3.3.7 for authority to continue a noticed public hearing.
- C. All Other Extensions of Time. Any other extension of the time periods for review and action specified in this Article may be extended only if the Applicant agrees in writing to an extension of time.

3.1.19 Modifications and Amendments to Approved Plats, Plans, or Permits

- A. Modifications. Minor modifications to an approved final subdivision plat, PUD final development plan, site plan, or permit may be authorized by the Community Development Director as set forth in §3.19, "Minor Modifications."
- B. Amendments.
 - 1. Any change to an approved plat, plan, or permit that does not qualify as a minor modification as set forth in §3.19, "Minor Modifications," including all changes in use, density, or height, shall be considered an amendment.
 - 2. For purposes of review, proposed amendments shall be treated as a new application subject to the applicable procedures and review criteria set forth in this Article and in paragraph B.3 below. In the case of either a preliminary or a final subdivision plat, or preliminary or final PUD development plan, all amendments shall be subject to the applicable review procedures for a preliminary subdivision plat or PUD preliminary development plan application, respectively.
 - 3. Amendments may be approved upon a showing that the plat, plan, or permit, as amended, meets the applicable approval criteria and standards set forth in this Code for the original plat, plan, or permit.
 - 4. The City shall record all approved amendments to a recorded plat in the office of the Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.1.20 Extension of Approvals

- A. Most forms of development approval lapse if the Applicant has not taken action in accordance with this Article within a specific period of time. (See §3.4, Summary Table of Review Procedures, below.) The lapse of approval time-frames established by the procedures of this Article may be extended only when all of the following conditions exist:
 - 1. The provisions of this Article must not expressly prohibit the extension;

2. An extension request must be filed prior to the applicable lapse-of-approval deadline;
3. The extension request must be filed in a form and include all exhibits and fees established by the Community Development Director; and
4. Unless otherwise stated, authority to grant extensions of approval times shall rest with the Decision-Making Body that granted the original approval (the one being extended).
5. An appeal from a determination to extend an approval time-frame shall be made to the Appeal Body who would have heard an appeal of the original approval (the one being extended).

3.2 APPEALS

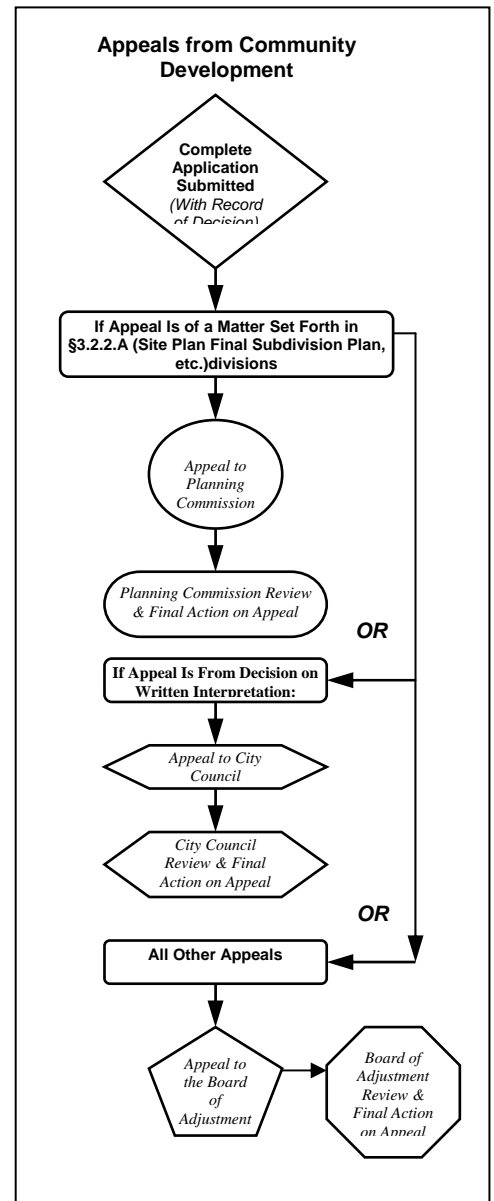
3.2.1 Right to Appeal

Appeals allowed under the procedures of this Section and Article may be filed only by "Parties of Record," who shall be deemed to include only the following parties:

- A. The Applicant;
- B. The property owner or holder of any interest in the subject property; and
- C. Any other person who has standing to appeal under Colorado law.

3.2.2 Appeals from Final Decisions of the Community Development Director

- A. Appeals to Planning Commission.
 1. The Community Development Director's final decision on the following applications may be appealed to the Planning Commission:
 - a. Site Plans
 - b. Final Subdivision Plats
 - c. Final PUD Development Plans
 - d. Minor Subdivisions
 - e. Certificates of Compliance with Design Guidelines



2. Appeals to the Planning Commission shall be filed by a Party of Record within ten (10) days from the date of the Community

Development Director's final decision. All appeals shall be filed with the Community Development Director. The Community Development Director shall transmit to the Planning Commission all materials constituting the record of the action upon which the appeal was taken.

3. The Planning Commission shall hear the appeal within forty-five (45) days from receipt of the appeal application. The Planning Commission shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the application. The requirements for hearings, notices, and Approval Criteria shall be the same as required of the original action by the Community Development Director.

B. Appeals to the City Council-Written Interpretations.

1. The Community Development Director's final decision on an application for Written Interpretation may be appealed to the City Council. All appeals to the City Council shall be filed by a Party of Record with the City Clerk within ten (10) days from the date of the Community Development Director's final decision on the Written Interpretation. The Community Development Director shall transmit to the City Council all materials constituting the record of the action upon which the appeal was taken.
2. The City Council shall hear the appeal within forty-five (45) days from receipt of the appeal application. The City Council shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the application. The requirements for hearings, notices, and Approval Criteria shall be the same as required of the original action by the Community Development Director.

C. Appeals to the Board of Adjustment.

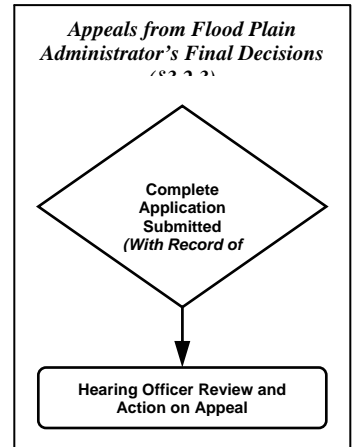
1. Except as set forth in subsection C.2 below, all appeals where it is alleged there is an error in any final order, requirement, decision, or determination made by the Community Development Director in the administration or enforcement of this Land Development Code shall be taken to the Board of Adjustment pursuant to the Administrative Appeal procedure set forth in §3.2.4 below.
2. This provision shall not apply to:
 - a. Appeals from the Community Development Director's final decisions on the land development applications listed in §3.2.2.A above, which are reviewed by the Planning Commission;
 - b. Appeals from the Community Development Director's final decisions on Written Interpretations, which are reviewed by the City Council as a question of policy according to the procedures of §3.2.2.B above; or

- c. Appeals from the administration or enforcement of the floodplain regulations (§6.13), including appeals from decisions on Floodplain Development Permit applications, which are reviewed by the Hearing Officer pursuant to §3.2.3 below.

3.2.3. Appeals from Administrative Decisions Regarding Floodplain Regulations

A. Administrative Appeals.

- 1. Appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Floodplain Administrator in the administration or enforcement of the floodplain regulations (§6.13 of this Code) shall be taken to the Hearing Officer pursuant to §3.2.4 below.
- 2. Appeals from the Hearing Officer's decision may be taken to the Planning Commission in the procedural manner described in §3.2. The requirements for Approval Criteria shall be the same as required of the original action by the Floodplain Administrator. The Planning Commission's decision on the appeal shall be final and appealable only to the courts, as provided by law.

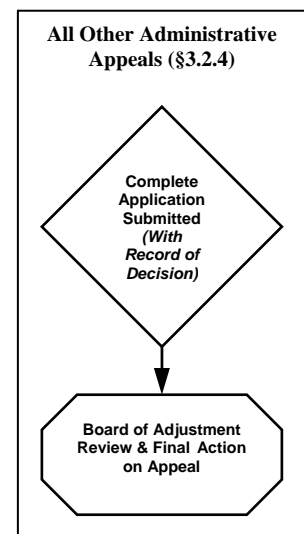


- B. Floodplain Variances. Appeals from the Hearing Officer's decision on a Floodplain Variance may be taken to the Planning Commission in the procedural manner described in §3.2. The requirements for Approval Criteria shall be the same as required of the original action by the Hearing Officer. The Planning Commission's decision on the appeal shall be final and appealable only to the courts, as provided by law.

3.2.4 Appeals of All Other Administrative Decisions

- A. Applicability. The Board of Adjustment shall have the power and duty to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the application or enforcement of this Code, except for the following:

- 1. A Hearing Officer shall have the authority to hear administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the application or enforcement of the flood- plain regulations set forth in §6.13 of this Code.



2. The Planning Commission shall have the authority to hear appeals from the Community Development Director's final decisions on applications listed in §3.2.2 above.
 3. The Community Development Director shall have the authority to render Written Interpretations of this Code as provided in §3.22 below, which are appealable to the City Council pursuant to §3.2.2.B above.
- B. Right to Appeal. In addition to Parties of Record (see §3.2.1), any officer of the City of Arvada affected by an administrative order, requirement, decision, or determination may bring Appeals of Administrative Decisions.
- C. Application Filing/Timing.
1. Filing. Applications for Appeals of Administrative Decisions shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.
 2. Timing. Appeals of Administrative Decisions shall be filed within thirty (30) days of the date of the final decision or action being appealed.
- D. Record of Administrative Decision. At the same time that the application is submitted, the Applicant shall file a copy of all papers constituting the record of the administrative decision being appealed.
- E. Effect of Filing. Once a Complete Application for Appeal has been received by the Community Development Director, no other development approvals or permits shall be issued for the subject property, unless the official whose decision is being appealed certifies that such a "hold" on permits and approvals would cause immediate peril to life or property. If such a certification is made, development approvals and permits may be issued for the subject property, unless a "stop work order" is issued by the City, or a restraining order is issued by a court.
- F. Board of Adjustment (Hearing Officer) Review and Action. Within sixty (60) days of receipt of a Complete Application, the Board of Adjustment (or Hearing Officer) shall take final action on the appeal.
1. Appeal Powers. In exercising the appeal power, the Board of Adjustment (or Hearing Officer) shall have all the powers of the official from whom the appeal is taken, and it may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of Adjustment (or Hearing Officer) determines that it is necessary to obtain additional evidence in order to resolve the matter, it may remand the matter to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.
 2. Consideration of Evidence. The Board of Adjustment (or Hearing Officer) shall consider the submitted evidence and any additional material it deems appropriate. Strict rules of evidence shall not

apply, but all additional oral evidence shall be reduced to writing in summary form.

3. Burden of Proof. In acting on the appeal, the Board of Adjustment (or Hearing Officer) shall grant to the administrative official's decision a presumption of correctness; the burden of proof shall be on the Appellant.
- G. Approval Criteria. An appeal shall be sustained only if the Board of Adjustment (or Hearing Officer) finds that the administrative official erred.
- H. Notice of Decision. Within five (5) days of a decision on an appeal, the Community Development Director shall mail notice of the decision to the Appellant and all other parties who have made a written request for notification.
- I. Effective Date. Decisions of the Board of Adjustment (or Hearing Officer) on Appeals of Administrative Decisions shall become effective upon the date of the decision.
- J. Appeals.
 1. Appeals of decisions of the Board of Adjustment shall be made to the courts, as provided by law.
 2. Appeals of decisions of the Hearing Officer shall be made to the Planning Commission according to the procedures set forth in §3.2.3.A.2 above. Appeals of the Planning Commission's decision on the Hearing Officer's action shall be made to the courts, as provided by law.
- K. Successive Applications. Following denial of an appeal, no new application for the same or substantially the same matter shall be accepted for one (1) year from the date of denial, unless specifically stated that a new application will be accepted.

3.2.5 Appeals from Decisions of the Planning Commission

- A. Appeals from the Planning Commission's decision on an appeal may be taken to the City Council, except as provided in paragraph B. below. All such appeals shall be filed with the City Clerk by a Party of Record within ten (10) days from the date of the Planning Commission's action on the appeal.
- B. The Planning Commission's decision on an appeal from the determination of the Hearing Officer on a Floodplain Development Permit application shall be final and may be appealed only to the courts, as provided by law.
- C. The City Council shall hear the appeal within forty-five (45) days from receipt of the appeal. The City Council shall consider the appeal as a new matter and act to approve, approve with conditions, or deny the application. The requirements for hearings, notices, and Approval Criteria shall be the same as required of the original action by the Community Development Director.

3.2.6 Appeals from Final Decisions of the City Council

- A. The City Council's final decision on an application or appeal may be appealed only to the courts, as provided by law.
- B. The City Council's actions on applications for major subdivision preliminary plats or preliminary PUD plans shall be considered "final decisions" under this Code, for purposes of Rule 106, Colorado Rules of Civil Procedure, and may be taken to the courts, as provided by law. Appeals from the Community Development Director's actions on applications for final subdivision plats or final PUD plans may be taken as set forth in §3.2.2 above.

3.2.7 Appeals from Final Decisions of the Board of Adjustment

Appeals from the BOA's final decision on an application or on an appeal shall be taken to the courts, as provided by law.

3.3. GENERAL NOTICE & PUBLIC HEARING REQUIREMENTS

3.3.1 Content

All notices required by this Section shall:

- A. Indicate the time and place of the public hearing;
- B. Sufficiently describe the property involved; for example, by legal description, general vicinity, street address, size, and/or nearest cross street;
- C. Describe the nature, scope, and purpose of the application or proposal being advertised;
- D. Indicate that interested parties may appear at the public hearing and speak on the matter or may file written comments with Community Development Staff; and
- E. Indicate where additional information can be obtained.

3.3.2 Written (Mailed) Notice

- A. Preparation/Timing of Notice. When the provisions of this Code require that written or mailed notice be provided, the Applicant shall be responsible for preparing the written notice, and for mailing the notice at the Applicant's expense. All written notice shall be mailed at least twelve (12) days prior to the public hearing. Notices shall be prepared pursuant to a written notice form provided by the City.
- B. Area of Notification.
 - 1. For purposes of public hearings before City Council or the Planning Commission, notice shall be mailed to all owners in fee of property that is within 400 feet of the boundary of the property that is the subject of the application, except as otherwise

provided herein. Ownership information shall be obtained from the applicable County Assessor's Office(s). Where an adjacent property is owned by a subdivision or condominium association, notification shall be to the board of directors of such association, and in addition, to the owners of all units immediately adjacent to the subject property.

2. For street and alley right-of-way and public vehicular access easement vacations, mailed (written) notice shall be sent to all owners of property abutting the right-of-way or access easement to be vacated.
3. For purposes of public hearings before the Board of Adjustment, notice shall be mailed to all owners in fee of property that is adjacent to the property that is the subject of the application. Ownership information shall be obtained from the applicable County assessor's Office(s). Where an adjacent property is owned by a subdivision or condominium association, notification shall be to the board of directors of such association, and in addition, to the owners of all units immediately adjacent to the subject property.
4. Written notice shall also be mailed to any Home Owners Associations and other Neighborhood Associations with a known interest in the subject area, or to others who have filed a timely request to receive written notice.
5. The Community Development Director shall have the sole discretion to expand or contract the notification area based on a consideration of the complexity of the project, the geographic reach of potential adverse impacts, the extent of neighborhood compatibility issues, and similar factors.

3.3.3 Posted Notice

- A. General Requirements. When the provisions of this Code require that notice be posted on the subject property, at least fifteen (15) days prior to the public hearing or action the Applicant shall:
 1. Post the notice on signs that have been provided by the City;
 2. Place the signs on the property that is the subject of the application; and
 3. Ensure that the signs remain in place during the period leading up to and including the day of the public hearing.
- B. Placement of Signs.
 1. Except as to Right-of-Way and Access Easement Vacations (§3.11.4), where the property abuts public streets, trails, or other public rights-of-way, signs shall be placed along each abutting street, trail, or right-of-way in a manner that makes them clearly

visible to neighboring residents and passers-by. At least one (1) sign shall be posted along each adjacent street. If the Community Development Director determines that such signs shall not provide adequate notice to neighbors or to others who may be affected by the application, the Community Development Director may require additional signs to be posted, and the Applicant shall post such additional signs.

2. With respect to Right-of-Way and Access Easement Vacations (§3.11.4), at least one (1) sign shall be posted upon, or in the immediate vicinity of, the right-of-way or access easement to be vacated. If the Community Development Director determines that such sign(s) shall not provide adequate notice, the Community Development Director may require additional signs to be posted, and the Applicant shall post such additional signs.
3. In the case of a City-initiated rezoning involving a property in single ownership, the City shall post one (1) sign in the adjacent right-of-way.
4. Applicants shall remove all notification signs within one (1) week after the public hearing.

C. Posting Log/Maintenance of Signs.

1. The Applicant shall be responsible for checking the posted signs each day of the posting period and for keeping a log, to be filed with the City at the time of, or prior to, any public hearing on the matter.
2. If a sign has been removed, destroyed, or has fallen, the sign shall be replaced by the Applicant within 48 hours or by the close of the next business day, whichever period is longer.
3. The Applicant shall sign a statement that the sign(s) were checked daily by the Applicant or the Applicant's representative, and the above-stated procedures were followed.
4. Failure to comply with the required posting procedure may require the public hearing to be rescheduled. Such delays shall not prejudice the City regarding the City's compliance with required times to act set forth in this Code.

D. City-Initiated Rezoning That Affects Multiple Ownership. The posting of signs shall not be required when an amendment to the Official Zoning Map is initiated by the City and affects multiple ownerships. At the City's option, notice of a rezoning that affects multiple ownerships may be "posted" at City Hall.

3.3.4 Published Notice

When the provisions of this Code require that notice be published, the City shall be responsible for preparing the content of the notice, and the City shall ensure that notice is published in a newspaper of general circulation in the City, at the Applicant's expense. Notice shall be published at least fifteen (15) days prior to any public hearing or action by the Planning Commission or Board of Adjustment,

and at least seven (7) days prior to any public hearing or action by the City Council.

3.3.5 Constructive Notice

Minor defects in a notice shall not impair the notice or invalidate proceedings pursuant to the notice, and failure of a party to receive written notice shall not invalidate any subsequent action, if a bona fide attempt has been made to comply with applicable notice requirements. In any case in which a question arises at the public hearing regarding the adequacy of notice, or in which a notice deficiency is otherwise noted, consideration shall be given to the nature and extent of the deficiency, the probability of confusion resulting from the deficiency, and the type and variety of notice successfully accomplished in determining whether substantial compliance with the notice requirements of this Code has been met.

3.3.6 Applicant's Certification

On or before the date on which any Decision-Making Body is scheduled to review or conduct a public hearing on an application, the Applicant shall file a written Affidavit confirming that all notices which are the responsibility of the applicant have been given in accordance with the requirements of this Section. When written notice is required, the Applicant's Affidavit shall indicate the names and addresses of all persons sent such notification, and in addition, the date such notification was mailed.

3.3.7 Continuation of Hearings

A public hearing required by this Code may be continued if the projected size, complexity, anticipated impacts, volume of testimony or evidence to consider, lack of necessary information, or other factors associated with the proposed development clearly support such extension of time. A hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Article, provided that the continued hearing is set for a date within sixty (60) days and the date and time of the continued hearing is announced at the time of continuance.

3.4 TABLE 3-1: SUMMARY OF REVIEW PROCEDURES

The following Table 3-1 summarizes the role of each Review and Decision-Making Body in the review of land use applications submitted pursuant to this Article. In addition, for each type of application or procedure the table notes when a pre-application conference is mandatory versus voluntary, and what kinds of public notice are required. The information in Table 3-1 may be subject to change if the Community Development Director exercises authority to refer the application to the Planning Commission pursuant to §3.1.15.

Table 3-1: Summary of Review Procedures

Procedure/Applicable Section of Code	Mandatory Pre-app. Conf.	Mandatory Neighborhood Meeting	Review and Decision-Making Body					Notices [1]			Lapse of Approval	
			Staff	PC	CC	BOA	HO	Pub	Mail	Post		
Code Amendments (Text)/§3.5	NO	NO	R	R/H	DM/H				✓			
Rezoning (Map) / §3.6	YES	YES	R	R/H	DM/H				✓	✓	✓	2 & 3 years for concept plan
Planned Unit Developments/§3.7												
Optional Sketch Plan	YES	NO	R	R	R						✓	n/a
Optional Outline Dev. Plan	YES	NO	R	R/H	DM/H				✓	✓	✓	10 years
Preliminary Development Plan	YES	YES	R	R/H	DM/H				✓	✓	✓	5 years
Final Development Plan	NO	NO	DM	A	A							5 years
Major Subdivisions / §3.8												
Optional Sketch Plan	YES	NO	R	R	R						✓	n/a
Preliminary Plat	YES	YES	R	R/H	DM/H				✓	✓	✓	5 years
Final Plat	NO	NO	DM	A	A							n/a
Minor Subdivisions / §3.9	NO	NO	DM	A	A							n/a
Vacations / §3.11												
ROW & Access Easements	NO	NO	R	R/H	DM/H				✓	✓	✓	n/a
Other Easements	NO	NO	DM	A	A				✓			n/a
Development Agreements/§3.12 [2]	NO	NO	DM									Tied to Lapse of Land Use Approval
Height Exceptions / §3.13	YES	YES	R	R/H	DM/H				✓	✓	✓	5 years
Conditional Use Approval / §3.14	YES	YES	R	R/H	DM/H				✓	✓	✓	5 years
Site Plan Review / §3.15	YES	NO	DM	A	A							3 years
Floodplain Dev. Permits/ §3.16	NO	NO	DM	A[2]			A					1 year
Temporary Use/Special Event Permits / §3.17	NO	NO	DM				A					30 days
Public Improvement Agreements / §3.18	NO	NO	DM	A[2]			A					n/a
Minor Modifications / §3.19	NO	NO	DM				A					n/a
Variances / §3.20	NO	NO	R				DM/H		✓	✓	✓	2 years
Floodplain Variances / §3.21	NO	NO	R	A			DM		✓	✓		1 year
Written Interpretations / §3.22	NO	NO	DM		A							n/a
Sign Permits / §3.24	NO	NO	DM				A					1 year
Miscellaneous Structure Permits §3.25	NO	NO	DM				A					6 months to complete structure
Revocable Permits / §3.26	NO	NO	R/DM		DM							1 year
Out-of-City Utility Request/§3.27	YES	NO	R	R	DM							n/a
Annexations/§3.28	YES	YES	R	R/H	DM/H				✓	✓	✓	n/a
Building Permits §3.29	NO	NO	DM				A					6 mo. to begin; 2 years to complete

Procedure/Applicable Section of Code	Mandatory Pre-app. Conf.	Mandatory Neighborhood Meeting	Review and Decision-Making Body					Notices [1]			Lapse of Approval	
			Staff	PC	CC	BOA	HO	Pub	Mail	Post		
Appeals of Admin. Decisions (Including Appeals of Floodplain Administrative Decisions) / §3.2.3 & §3.2.4	NO	NO		A[3]		A[3]		A[-3]				n/a
Certificates of Compliance with Design Guidelines/§3.30	NO	NO	DM	A	A							3 years

TABLE 3-1 NOTES:

- R** = Review Body (Responsible for Review and Recommendation)
- DM** = Decision-Making Body (Responsible for Final Decision to Approve or Deny)
- A** = Appeal Body (Responsible for Deciding Appeals from Decision-Making Body's Action)
- H** = Public Hearing Required

General: → In cases where no Appeal Body is shown, appeals shall be taken to the courts, as provided by law
→ Where an "A" appears under both the PC and CC columns, appeals are not required to go to both PC *and* CC. The City Council acts as an Appeal Body *only if* the Planning Commission's decision is appealed.

[1] When a public hearing ("H") is required before both the Planning Commission and the City Council for a particular procedure, e.g., code amendments and rezonings, the notice requirements checked off apply to both public hearings.

[2] Appeals of the Floodplain Administrator's decision on Floodplain Development Permits or of Staff (City Engineer) determination of need for public improvements are taken first to the Hearing Officer. Appeals from the Hearing Officer's decision are taken to the Planning Commission.

[3] Appeals from administration or enforcement of the floodplain regulations (§6.13) are taken to the Hearing Officer. Appeals from the Hearing Officer's decision are taken to the Planning Commission, whose action is final (no appeal to City Council). Except for appeals from certain Community Development Director decisions as shown in this table and described in §3.2.2. (e.g., minor modifications, written interpretations, final plats and PUD plans), all other appeals from staff or administrative decisions go to the BOA, whose appeal decisions are final.

3.5 LAND DEVELOPMENT CODE (TEXT) AMENDMENTS

3.5.1 Initiation

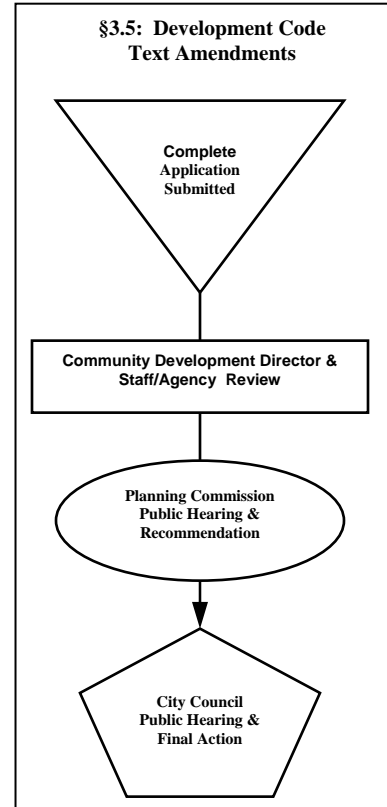
Land Development Code (Text) Amendments may be initiated by the City Council, Planning Commission, Staff, or by application from any person, firm, or corporation.

3.5.2 Application Filing

Except as to Text Amendments initiated by the City Council, Planning Commission, or Staff, applications to amend the text of this Land Development Code shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.5.3 Public Hearing Notice

Notice of Planning Commission and City Council public hearings shall be published in accordance with §3.3.



3.5.4 Community Development Director/Staff Review and Report

The Community Development Director and Staff shall review each proposed Text Amendment in light of the Approval Criteria of §3.5.7 below and, if deemed necessary, distribute the proposed Text Amendment to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

3.5.5 Planning Commission's Review and Recommendation

Should the Planning Commission determine to proceed with further consideration of the proposed Text Amendment, it shall hold a public hearing thereon and, at the close of the public hearing, make a recommendation to the City Council based on the Approval Criteria of §3.5.7. Notwithstanding the foregoing, Planning Commission shall not be compelled to act upon any proposed Text Amendment initiated by application, but may, in open meeting prior to scheduling a public hearing, determine to terminate any further consideration thereof.

3.5.6 City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall consider the proposed Text Amendment ordinance in accordance with the requirements of the City Charter with respect to the adoption of ordinances. At the close of all required public hearings, the City Council shall act to approve, approve with conditions, or deny the proposed Text Amendment, based on the Approval Criteria of §3.5.7.

3.5.7 Approval Criteria

Land Development Code (Text) Amendments may be approved if the City Council finds that all of the following approval criteria have been met:

- A. The proposed amendment is consistent with the Arvada Comprehensive Plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan.
- B. The proposed amendment is consistent with the Purposes of this Code set out in §1.3 above.

3.5.8 Adoption by Ordinance

Land Development Code (Text) Amendments shall be approved in the form of ordinances.

3.6 REZONINGS (OFFICIAL ZONING MAP AMENDMENTS)

3.6.1 Intent

Rezoning shall be consistent with and implement the planning goals, policies, and objectives as contained in this Code and in the Comprehensive Plan. Rezoning should not be used when a minor modification, variance, or conditional use can achieve the same result.

3.6.2 Initiation

Rezoning may be initiated by the property owner or his or her designee, or by the City Council, Planning Commission, or Staff.

3.6.3 Neighborhood Meeting

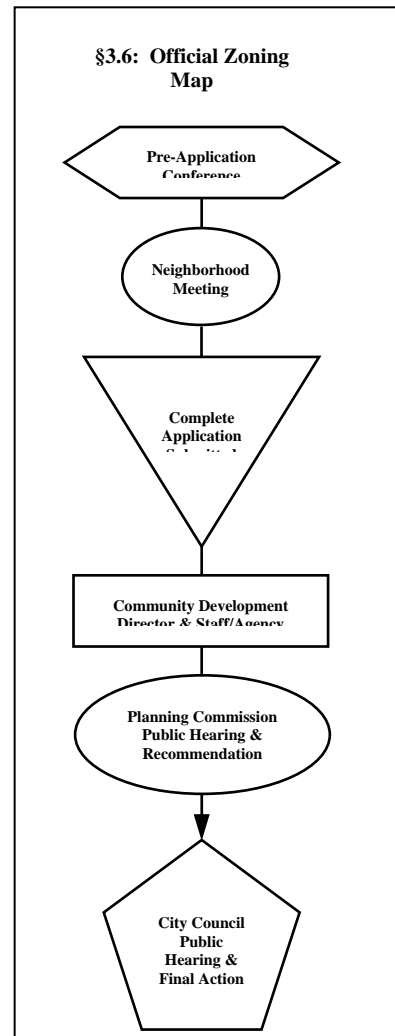
A neighborhood meeting shall be required according to the provisions of §3.1.6.

3.6.4 Pre-Application Conference

Applicants shall schedule and attend a Pre-Application Conference before filing a Rezoning application. (See §3.1.1)

3.6.5 Application Filing

Applications for a Rezoning shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.



3.6.6 Concept Plan Required

- A. Applicability. The following types of rezoning applications shall be accompanied by a concept plan, unless the Community Development Director determines that a concept plan is not necessary because of the nature of the proposal and its potential impacts or because the Applicant submits a preliminary development plan, site plan, or preliminary subdivision plat for simultaneous processing:
1. A request to rezone from a residential zoning district to a non-residential zoning district;
 2. A request to rezone from a non-residential zoning district to a residential zoning district;
 3. A request to rezone an area that is larger than 1 acre in size; or
 4. A request to rezone to multi-family residential.
- B. Exemption for CC Zoning Districts. Notwithstanding section 3.6.6.A above, a concept plan shall not be required with an application for a rezoning to a CC Zoning District (including any of the CC sub-districts). Instead, at the Applicant's option, a concept plan may be included in such rezoning application.
- C. Contents of Concept Plan. At a minimum, a concept plan accompanying a rezoning application shall include the following information:
1. Uses proposed and their location;
 2. Intensity or density of uses proposed;
 3. Location of public and private open space;
 4. Location of existing and proposed buildings on the site;
 5. Road, street, and pedestrian networks proposed;
 6. Existing or proposed utilities and public services for the development.
 7. General drainage and grading intent, and
 8. Conceptual architectural elevations.
- D. Exceptions for Technical Corrections. A concept plan shall not be required for the following types of rezoning requests intended to correct technical mistakes in a specific zoning application:
1. When a parcel held under single and common ownership is classified as falling into two or more different zoning districts as of the effective date of this Code, an application to rezone a portion or portions of that parcel so that the zoning district classification is the same for the entire parcel.

2. Clerical error or mistake on the part of the City in classifying a parcel within a specific zoning district.

3.6.7 PUD Outline Development Plan or Preliminary Plan Required

All applications for rezoning to a PUD Zone District shall be accompanied by a PUD Outline Development Plan or a PUD Preliminary Development Plan. See §§3.7.2 and 3.7.3. All applications for a PUD-R zone district shall designate a density and type of use(s) which shall be determined at the time of the approval of the Outline Development Plan or Preliminary Plan, whichever is first. All zoning classifications of PUD that incorporate a residential component must have either an Outline Development Plan or Preliminary Development Plan stating residential densities and types of uses (i.e., single-family, duplex, townhouse, condominiums, apartment) approved simultaneously with the rezoning request.

3.6.8 Applications for Building Permits During Consideration of Rezoning Applications

- A. Whenever a rezoning that involves a change in zoning from a less restricted zoning district to a more restricted zoning district has been referred to the Planning Commission, applications for building permits shall not be accepted by the Building Division for a period not to exceed 120 days from the date of application or referral, whichever is earlier. This limitation shall only apply if, when approved, such building permit would authorize the construction of a building or the establishment of a use that would become nonconforming under the contemplated Rezoning.
- B. If such ordinance is not adopted within 120 days, the appropriate public entity is authorized to accept applications and issue building permits regardless of the pendency of such Rezoning ordinance.

3.6.9 Public Hearing Notice

- A. Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.
- B. Posted or mailed notice shall not be required when a Rezoning is initiated by the City and affects multiple ownerships.

3.6.10 Community Development Director/Staff Review and Report

The Community Development Director and Staff shall review each proposed Rezoning application in light of the Approval Criteria of §3.6.13 below and, if deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

3.6.11 Planning Commission's Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed Rezoning and, at the close of the public hearing, shall either make a recommendation to the City Council based on the Approval Criteria of §3.6.13, or shall continue its consideration of the application in accordance with §3.3.7 of this Code.

3.6.12 City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall consider the Rezoning application. At the close of all required public hearings, the City Council shall act to approve, approve with conditions, or deny the proposed Rezoning, based on the Approval Criteria of §3.6.13.

3.6.13 Approval Criteria

Rezoning may be approved if the City Council finds that either the rezoning corrects a technical mistake or the rezoning meets all of the following Approval Criteria:

- A. The rezoning is consistent with the Arvada Comprehensive Plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan.
- B. The intended land use is consistent with the stated intent of the proposed zoning district.
- C. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will, prior to development, be available to serve the subject property while maintaining adequate levels of service to existing development.
- D. The intended land use for which the rezoning is sought will not result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- E. The rezoning is compatible with existing and planned development on adjacent properties and in the surrounding area or neighborhood, or measures will be taken to substantially buffer or otherwise substantially mitigate any incompatibility.

3.6.14 Scope of Authority

The Planning Commission may recommend, and the City Council in the ordinance effecting a Rezoning of a parcel of land may impose, reasonable conditions on the Rezoning. Notwithstanding §3.1.14 of this Code, such conditions may include, but shall not be limited to:

- A. Reduction in the number and type of permitted uses.
- B. Reduction or other limits on permitted density or intensity of development.
- C. Required review at the end of a specified period of time to determine if the construction of the allowed uses has commenced, and if not, then whether the rezoning should remain in place.
- D. Consistency with any concept plans, architectural plans, landscape plans, and site plans submitted by the Applicant as part of the Rezoning application.

The City Council may make a rezoning to a PUD zoning district conditional upon the approval of a PUD Final Development Plan as set forth in §3.7.4.

3.6.15 Adoption by Ordinance

Rezoning (Official Zoning Map Amendments) shall be approved in the form of ordinances.

3.6.16 Effect of Approval

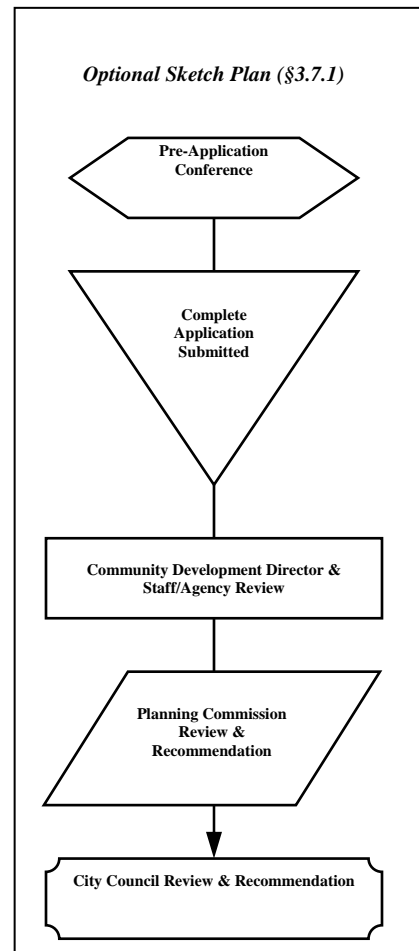
When a concept plan is required by this Section, a building permit shall be obtained and construction substantially initiated consistent with such concept plan within two (2) years from the date of approval of the Rezoning and concept plan, and construction shall be completed within three (3) years from the date of approval, unless another time-frame is stated in the Rezoning approval. If construction has not timely commenced within two (2) years, or completed within three (3) years, the concept plan approval shall automatically lapse and become null and void, unless an extension is granted by City Council prior to expiration. (See §3.1.20 above) If a concept plan required pursuant to §3.6.6.A lapses, no further development or any other land-disturbing activity shall occur until a new concept plan is submitted, reviewed, and approved by the Community Development Director. The Director’s review shall be based upon whether, in light of the new concept plan, the rezoning with which the lapsed concept plan was associated remains consistent with the approval criteria of §3.6.13. Amendments to the concept plan do not affect the original approval period, unless otherwise provided. At its discretion, the City Council may institute rezoning proceedings pursuant to this §3.6 to rezone the affected land areas at the expiration of such time periods or if a new concept plan fails to establish that the existing zoning remains consistent with the approval criteria of §3.6.13.

3.7 PLANNED UNIT DEVELOPMENTS

3.7.1 [Optional] PUD Sketch Plan

A PUD Sketch Plan represents a generalized land use/site plan for the area proposed to be included within a PUD district. It is an optional step that allows early, informal evaluation of a proposed PUD zoning district before detailed planning and engineering work has been undertaken and before substantial expenses have been incurred. Submittal requirements for a PUD Sketch Plan shall not constitute an application for purposes of §3.23.7 below or C.R.S. §24-68-101 et seq.

- A. Pre-Submittal Conference. Applicants shall attend a Pre-Submittal Conference before submitting a PUD Sketch Plan for review. The Pre-Submittal Conference shall be conducted according to §3.1.1 above.
- B. Submittal of PUD Sketch Plan. A PUD Sketch Plan package shall be submitted to



the Community Development Director. At a minimum, the PUD Sketch Plan shall include the following information:

1. Uses proposed;
2. Intensity or density of uses proposed;
3. Location of public and private open space;
4. Location of existing and proposed buildings on the site;
5. Road, street, and pedestrian networks proposed; and
6. Existing or proposed utilities and public services for the development.

C. Community Development Director/Staff Review and Report. The Community Development Director and Staff shall review the PUD Sketch Plan. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

D. Planning Commission's Review.

1. The Planning Commission shall review the PUD Sketch Plan and shall offer its comments regarding the Plan to the Applicant. No comments made by the Planning Commission shall be binding on the City's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.
2. After the Planning Commission's review, the Applicant may submit the original or revised PUD Sketch Plan to the City Council or may withdraw the PUD Sketch Plan from any further consideration.
3. The Planning Commission review may be combined with the City Council review at the discretion of the Community Development Director.

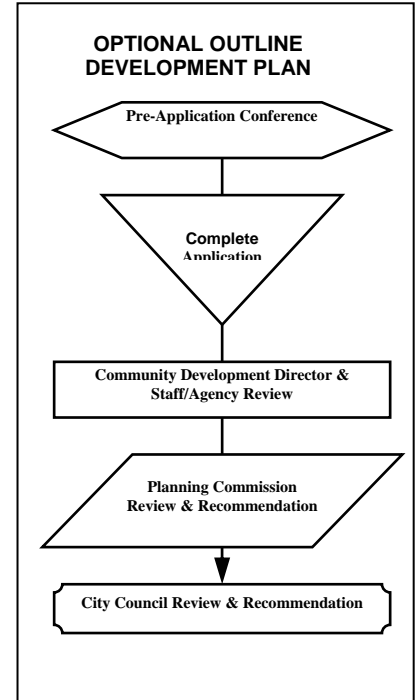
E. City Council Review. After receipt of the PUD Sketch Plan package, including any revisions made by the Applicant, the City Council shall review the PUD Sketch Plan in a meeting attended by the Applicant, taking into account the Planning Commission's comments. No comments made by the City Council shall be binding on the City's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.

F. Effect of Review. The PUD Sketch Plan is not part of a formal application for approval of a PUD and no comments made by the City in reaction to a PUD Sketch Plan shall be binding on the City's consideration of any subsequent PUD application nor result in the vesting of any rights under this Code or state statute. The voluntary submission of a PUD Sketch Plan shall constitute a complete waiver of any and all legal claims that are based on, or arise from, Planning

Commission or City Council review of, or comment upon, such PUD Sketch Plan. Since the PUD Sketch Plan is conceptual only, there are no lapse provisions applicable.

3.7.2 [Optional] PUD Outline Development Plan

An application for an Outline Development Plan is an optional step designed to accommodate the needs of Applicants proposing large, complex, or multi-phased PUD projects for which it is impossible or impractical to prepare all of the detailed materials necessary for the approval of a Preliminary Development Plan. It results in City Council approval of a generalized land use plan for the area, and such approval shall not lapse for a period of ten (10) years. However, approval of an Outline Development Plan does not result in final planning approval for the proposed property, and building permits may not be issued based on an approved Outline Development Plan. All land included in an approved Outline Development Plan shall be subject to the requirements to obtain approval of a Preliminary Development Plan pursuant to §3.7.3 and a Final Development Plan pursuant to §3.7.4 before building permits may be issued. Because it is an optional process that does not require the Applicant to prepare detailed design or engineering documents, submittal requirements for an Outline Development Plan shall not constitute an application for purposes of §3.23.7 below or C.R.S. §24-68-101 et seq.



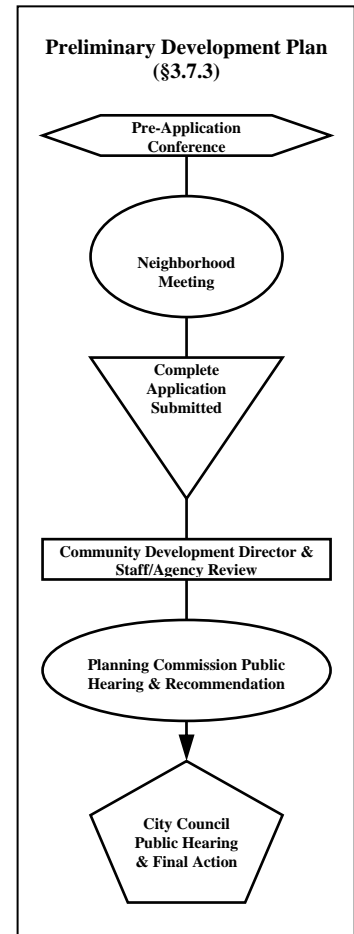
- A. Pre-Submittal Conference. Applicants shall attend a Pre-Submittal Conference before submitting an Outline Development Plan for review. The Pre-Submittal Conference shall be conducted according to §3.1.1 above.
- B. Neighborhood Meeting. A neighborhood meeting may be required according to the provisions of §3.1.6.
- C. Application Filing. An Outline Development Plan package shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5. At a minimum, the Outline Development Plan shall include the following information prepared by qualified professionals with experience in land use, transportation, and utility planning and engineering:
 - 1. Uses proposed;
 - 2. Intensity or density of uses proposed;
 - 3. Location of public and private open space;
 - 4. Location of existing buildings on the site;
 - 5. Road, street, and pedestrian networks proposed; and

6. Existing or proposed utilities and public services for the development.
- D. Public Hearing Notice. Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.
- E. Community Development Director/Staff Review and Report. Within thirty (30) days of receipt of a Complete Application for Outline Development Plan, the Community Development Director and Staff shall review each proposed Outline Development Plan in light of the Approval Criteria of §3.7.3.H below (as applicable) and, if deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.
- F. Planning Commission's Review and Recommendation. Within sixty (60) days of receipt of the Community Development Director's report, the Planning Commission shall hold a public hearing on the proposed application and, at the close of the public hearing, make a recommendation to the City Council based on the Approval Criteria of §3.7.3.H below (as applicable), or shall continue its consideration of the application in accordance with §3.3.7 of this Code.
- G. City Council Review and Decision. After receiving the recommendation of the Planning Commission, the City Council shall consider the Outline Development Plan application. At the close of all required public hearings, the City Council shall act to approve, approve with conditions, or deny the proposed PUD Outline Development Plan, based on the Approval Criteria of §3.7.3.H below (as applicable).
- H. Effect of Approval/Lapse.
 1. Approval of an Outline Development Plan indicates those aspects of the proposed development shown on the Outline Development Plan are generally approved, subject, however, to subsequent consideration and review of a Preliminary Development Plan for all or a portion of the property, in one or more phases. Further provided that the Preliminary Development Plan conforms to all applicable design and development standards adopted by City Council at the time the application for Preliminary Development Plan approval is submitted.
 2. Approved Outline Development Plans shall lapse and be of no further force and effect after 10 years unless otherwise provided authorized by City Council.

3.7.3 Preliminary Development Plan

PUD Preliminary Development Plans are processed and approved concurrently with a rezoning to a PUD zoning district, unless a rezoning was previously approved concurrently with an Outline Development Plan or previous Preliminary Development Plan. A PUD Preliminary Development Plan must cover all of the land area to be included in the PUD, or an identified phase of a PUD, and identify the type and total amount of development to occur within the PUD (dwelling units and nonresidential floor area), as well as the proposed plan for pedestrian and vehicular circulation within and leading to the PUD. For PUD developments that will require subdivision, the Applicant shall submit a Preliminary Subdivision Plat application for simultaneous processing with the PUD Preliminary Development Plan application. The Applicant may also choose to submit a PUD Final Development Plan application for simultaneous processing with a PUD Preliminary Development Plan application, subject to the provisions of §3.1.4.

- A. Pre-Application Conference. Applicants shall schedule and attend a Pre-Application Conference before filing a PUD Preliminary Development Plan application. (See §3.1.1)
- B. Neighborhood Meeting. A neighborhood meeting may be required according to the provisions of §3.1.6.
- C. Application Filing.
 - 1. Applications for a PUD Preliminary Development Plan shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.
 - 2. A request for rezoning is not required if the property was subject to an approved Outline Development Plan.
 - 3. For PUD developments that will require subdivision, the Applicant shall submit a Preliminary Subdivision Plat application for simultaneous processing with the PUD Preliminary Development Plan application in accordance with §3.1.4.
- D. Public Hearing Notice. Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.



- E. Community Development Director/Staff Review and Report. The Community Development Director and Staff shall review each proposed PUD Preliminary Development Plan application in light of the Approval Criteria of §3.7.3.H below and, if deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.
- F. Planning Commission's Review and Recommendation. After receipt of a Complete Application for PUD Preliminary Development Plan, the Planning Commission shall hold a public hearing on the application and, at the close of the public hearing, make a recommendation to the City Council based on the Approval Criteria of §3.7.3.H.
- G. City Council Review and Decision. After receiving the recommendation of the Planning Commission, the City Council shall consider the PUD Preliminary Development Plan application. At the close of all required public hearings, the City Council shall act to approve, approve with conditions, or deny the proposed PUD Preliminary Development Plan, based on the Approval Criteria of §3.7.3.H.
- H. Approval Criteria. A PUD Preliminary Development Plan may be approved only if the City Council finds that all of the following criteria, as applicable, have been met:
1. The PUD Preliminary Development Plan is consistent with the Comprehensive Plan or reflects conditions that have changed since the adoption of the Comprehensive Plan.
 2. The PUD Preliminary Development Plan is consistent with any previously approved Outline Development Plan in effect.
 3. The PUD Preliminary Development Plan addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes set out in §4.10.1 and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.
 4. The PUD Preliminary Development Plan complies with all applicable use, development, and design standards set forth in this Code that are not otherwise modified or waived.
 5. The PUD Preliminary Development Plan is consistent with and implements the intent of the specific PUD district, and shall comply with all applicable threshold standards and PUD development/design standards set forth in §4.10.

6. To the extent reasonably feasible, the PUD Preliminary Development Plan provides for integration and connection with adjacent development through street connections, sidewalks, trails, and similar features.
7. To the extent reasonably feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community.
8. Sufficient public safety, transportation, and utility facilities and services will, prior to development, be available to serve the subject property, while maintaining sufficient levels of service to existing development.
9. The proposed uses are compatible within the PUD and with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

I. Scope of Authority.

The Planning Commission may recommend, and the City Council may impose, reasonable conditions on the Preliminary Development Plan. Notwithstanding §3.1.14 of this Code, such conditions may include, but shall not be limited to:

1. Reduction in the number and type of uses allowed.
2. Reduction in or limitation on the maximum permitted density or intensity of development.
3. Required review at the end of a specified period of time to determine if the construction has commenced, and if not, then whether the rezoning should remain in place.

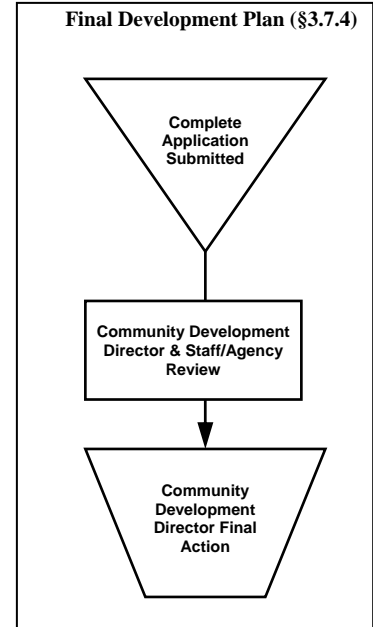
J. Effect of Approval/Lapse.

1. When the PUD property is also subject to Preliminary Subdivision Plat approval, an approved PUD Preliminary Development Plan shall lapse and be of no further force and effect if a complete Final PUD Development Plan and Final Subdivision Plat application for the development, or a phase of the development, has not been submitted within any time-frame established by the City Council at the time of PUD Preliminary Development Plan and Preliminary Plat approval, or, if no time-frame was established by City Council, then within five (5) years.
2. If the subject property is not subject to Preliminary Subdivision Plat approval (i.e., if the land does not need to be subdivided), an approved PUD Preliminary Development Plan shall lapse and be of no further force and effect if a PUD Final Development Plan has not been approved within any time-frame established by the City Council at the time of PUD Preliminary Development Plan approval, or, if no time-frame was established by City Council, then within five (5) years.

3. If a PUD Preliminary Development Plan lapses, no further development or any other land disturbing activity shall occur until a new PUD Preliminary Development Plan application and a Final PUD Development application are submitted, reviewed, and approved in accordance with §3.7.3 and §3.7.4.

3.7.4 Final Development Plan

Approval of a Final Development Plan represents the last stage of planning approval required prior to the issuance of building permits or other permits for improvements or land uses within a PUD Zone District. Final Development Plan approval is only issued when all details of the proposed PUD development (or a portion or phase of that development) have been finalized and have been reviewed for consistency with the terms of the approved Preliminary Development Plan and all design and development standards in this Code that have not been waived or modified by the terms of the approved Preliminary Development Plan.



A. Application Filing.

Applications for a PUD Final Development Plan shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5. The Applicant may submit an application for Final Subdivision Plat approval for simultaneous processing with the PUD Final Development Plan application in accordance with §3.1.4.

B. Community Development Director/Staff Review and Decision.

The Community Development Director shall review each proposed PUD Final Development Plan in light of the Approval Criteria of §3.7.4.C below and, if deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall act to approve, approve with conditions, or deny the proposed PUD Final Development Plan, based on the Approval Criteria of §3.7.4.C.

C. Approval Criteria.

The Community Development Director shall approve a PUD Final Development Plan if it meets the following criteria:

1. The Final Development Plan conforms with the approved PUD Preliminary Development Plan (except as to any variations the Community Development Director determines are minor) and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Development Plan.

2. The Final Development Plan complies in all respects with the applicable dimensional, design and development standards in this Code, except where waived or modified by the terms of the Preliminary Development Plan approval.
- D. Failure to Conform. A proposed PUD Final Development Plan that does not comply with those Approval Criteria listed in §3.7.4.C above shall not be approved unless the Applicant first obtains an amendment to the approved Preliminary Development Plan pursuant to §3.7.3.

3.7.5 Control of PUDs Following Construction

- A. After a PUD has been constructed, the use of the land and the construction, modification, or alteration of any building or structures within the PUD shall be governed by the approved Final Development Plan, unless the Final Development Plan is amended as provided in this Article. (See §3.1.19)
- B. After completion, no changes may be made in the approved Final Development Plan except upon application for modification or amendment made to the appropriate authority. (See §3.1.19)
- C. Any uses not authorized by the approved Final Development Plan, but allowable in the PUD zoning district as a permitted use under the provisions of Article 4, may be added to the Final Development Plan under the procedures provided in §3.6 of this Article for approval of a rezoning.
- D. A building or structure in a PUD that is totally or substantially destroyed may be reconstructed only in compliance with the Final Development Plan, unless an amendment to the Final Development Plan is approved. (See §3.1.19)

3.7.6 Effect of Approval/Lapse

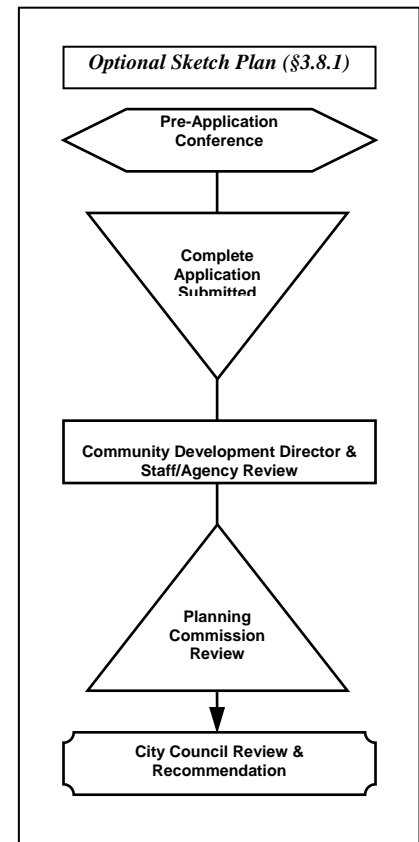
- A. An approved PUD Final Development Plan shall lapse and be of no further force and effect if a building permit application for the development, or for a phase of the development identified in the approved Final Development Plan, has not been submitted within any time-frame established by the City Council at the time of PUD Final Development Plan approval, or, if no time-frame was established by City Council, then within five (5) years.
- B. If a PUD Final Development Plan lapses, then no further development or any other land-disturbing activity shall occur until a new PUD Final Development Plan application is submitted, reviewed, and approved in accordance with this §3.7.4.

3.8 MAJOR SUBDIVISIONS

3.8.1 [Optional] Sketch Plan

A Sketch Plan represents a generalized land use plan and layout for the area proposed to be included within a subdivision. It is an optional step that allows early, informal evaluation of a proposed major subdivision before detailed planning and engineering work has been undertaken, and before substantial expenses have been incurred. Submittal material for a Sketch Plan shall not constitute a Complete Application for a Site Specific Development Plan for the purposes of §3.23.7 below, or C.R.S. §24-68-101 *et seq.*

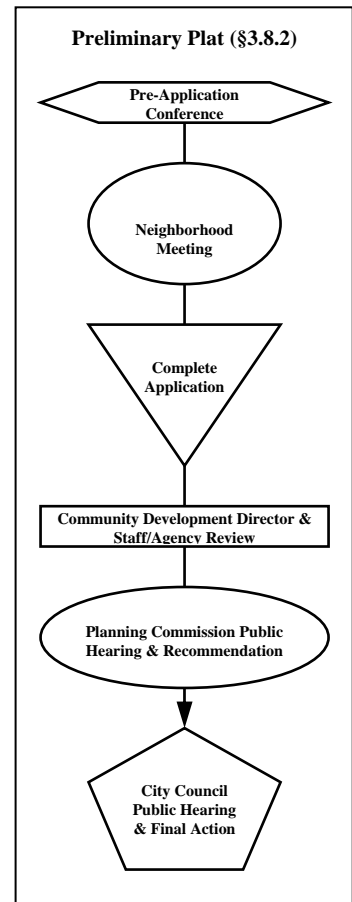
- A. Pre-Submittal Conference. Applicants shall attend a Pre-Submittal Conference before submitting a Sketch Plan. The Pre-Submittal Conference shall be conducted according to §3.1.1 above.
- B. Submittal of Sketch Plan. A Sketch Plan package shall be submitted to the Community Development Director. At a minimum, the Sketch Plan shall include the following information:
1. Uses proposed;
 2. Intensity or density of uses proposed;
 3. Location of public and private open space;
 4. Road, street, and pedestrian networks proposed; and
 5. Existing or proposed utilities and public services for the development.
- C. Community Development Director/Staff Review and Report. The Community Development Director and Staff shall review the Sketch Plan. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.
- D. Planning Commission's Review. Within thirty (30) days of receipt of the Community Development Director's report, the Planning Commission shall review the Sketch Plan at a meeting attended by the Applicant and shall offer its comments regarding the Plan to the Applicant. The Planning Commission shall also convey its comments to the City Council. No comments made by the Planning Commission shall be binding on the City's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project. The Planning Commission review may be combined with the City Council review at the discretion of the Community Development Director.



- E. City Council Review. Within thirty (30) days of receipt of the Planning Commission's comments, the City Council shall review the Sketch Plan in a meeting attended by the Applicant, taking into account the Planning Commission's comments. No comments made by the City Council shall be binding on the City's consideration of any subsequent application, are intended only to provide an informal evaluation of the proposed project, and do not constitute a decision of the City Council.
- F. Effect of Review. The Sketch Plan is not part of a formal application for approval of a major subdivision and no comments made by the City in reaction to a Sketch Plan shall be binding on the City's consideration of any subsequent major subdivision preliminary or final plat application nor result in a Vested Property Right under this Code or state statute. The voluntary submission of a Sketch Plan shall constitute a complete waiver of any and all legal claims that are based on, or arise from, Planning Commission or City Council review of, or comment upon, such Sketch Plan. Since the Sketch Plan is conceptual only, there are no lapse provisions applicable.

3.8.2 Preliminary Subdivision Plat

- A. Pre-Application Conference. Applicants shall schedule and attend a Pre-Application Conference before filing a Preliminary Plat application. (See §3.1.1)
- B. Neighborhood Meeting. A neighborhood meeting may be required according to the provisions of §3.1.6.
- C. Application Filing. Applications for a Preliminary Plat shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.
- D. Public Hearing Notice. Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.
- E. Community Development Director/Staff Review and Report. The Community Development Director and Staff shall review each Preliminary Plat application in light of the Approval Criteria of §3.8.2.H below and distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.
- F. Planning Commission's Review and Recommendation. The Planning Commission shall hold a public hearing on the application and, within



thirty (30) days from the date of the first meeting at which the preliminary plat was submitted to them, make a recommendation to the City Council based on the Approval Criteria of §3.8.2.H.

- G. City Council Review and Decision. After receiving the recommendation of the Planning Commission, the City Council shall consider the Preliminary Plat application at a public hearing, and at the close of the public hearing, the City Council shall act to approve, approve with conditions, or deny the proposed Preliminary Plat, based on the Approval Criteria of §3.8.2.H.
- H. Approval Criteria. A Preliminary Plat may be approved only if the City Council finds that all of the following criteria have been met:
 - 1. The subdivision is consistent with the Comprehensive Plan.
 - 2. The subdivision is consistent with any precedent approved PUD Outline Development Plan or other required plan.
 - 3. The subdivision is consistent with and implements the intent of the specific zoning district in which it is located.
 - 4. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Code.
 - 5. The subdivision complies with all applicable use, development, and design standards set forth in Articles 5, 6, and 7 of this Code that have not otherwise been modified or waived pursuant to this Article. Applicants shall avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
 - 6. The subdivision complies with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
 - 7. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated.
 - 8. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.
 - 9. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools will, prior to development, be available to serve the subject

property, while maintaining sufficient levels of service to existing development.

For residential development proposed at a density greater than that of an adjacent “rural residential area,” a preliminary plat must meet the following additional approval criteria:

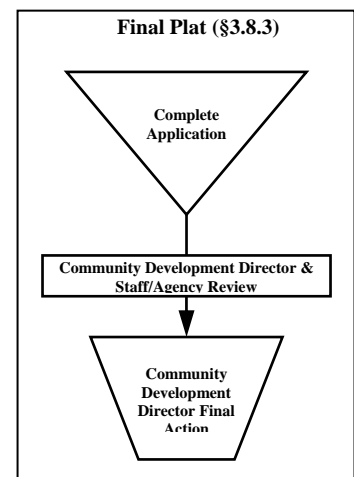
10. The subdivision incorporates a rational and compatible transition in density, design, and use as the new higher-density development approaches the established rural residential area, taking into account the extent to which the existing rural residential area is already adjacent to existing, developed areas other than the proposed new development, and whether the subdivision, if approved, will create a positive precedent for the future cumulative development of the immediate area.
11. The proposed vehicular circulation and access system is adequate to carry the anticipated traffic generated by the new development without adversely affecting the existing rural residential area, taking into account the extent to which the existing rural residential area is already adjacent to existing, developed areas other than the proposed new development, and whether the subdivision, if approved, will create a positive precedent for the future cumulative development of the immediate area.

I. Effect of Approval/Lapse.

1. An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within any time-frame established by City Council at the time of Preliminary Plat approval, or, if no time-frame was established by City Council, then within three (3) years. In the case of partial Final Plat submission, the approval of the remaining portion of the Preliminary Plat shall automatically gain an extension of one (1) year.
2. If the subdivider fails to submit a Final Plat within any applicable time period, all proceedings concerning the subdivision are terminated and a new preliminary plat application shall be required.

3.8.3 Final Subdivision Plat Review

- A. Application Filing. Applications for a Final Plat shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.
- B. Community Development Director/Staff Review and Decision. The Community Development Director and Staff shall review each Final Plat application in light of the



Approval Criteria of §3.8.3.C below and distribute the application to other reviewers in accordance with §3.1.7. All construction plans for subdivision-related public improvements shall be referred to the City Engineer for review and approval. Based on the results of those reviews, the Community Development Director shall act to approve, approve with conditions, or deny the proposed Final Plat, based on the Approval Criteria of §3.8.3.C. The Community Development Director shall make a final decision on the Final Plat application within forty-five (45) days of receipt of a Complete Application.

C. Approval Criteria. The Community Development Director shall approve a Final Plat if it meets the following criteria:

1. The Final Plat conforms with the approved Preliminary Plat (except as to variations the Community Development Director determines are insignificant) and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Plat.
2. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Article 7 of this Code, and any other relevant city, county, state, or federal regulations, except to the extent modifications, variances, or exceptions have been expressly allowed by the terms of the Preliminary Plat approval. All construction plans for improvements shall be approved by the City Engineer prior to the Community Development Director's action on the Final Plat.
3. The Applicant has either installed all required improvements or has executed an agreement which adequately addresses the applicant's obligation to do so.
4. The Applicant has paid or satisfied the following fees and charges, unless the Applicant has had other arrangements approved by the City Council:
 - a. Land Dedication In-Lieu Fee;
 - b. Park Development Fee;
 - c. School Fees;
 - d. Engineering Review Fee; and
 - e. Any other fees or reimbursements due.

D. Recordation; Effect of Approval.

1. Recordation. Following the approval of a Final Plat, or conditional approval of a Final Plat with all conditions being met, the Final Plat, which shall have all permitted exceptions, waivers, or variances expressly noted thereon, shall be signed by the Community Development Director, the City Engineer, and the City Attorney. The City shall record the Final Plat and any signed Public Improvements or Development Agreement in the office of the County Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

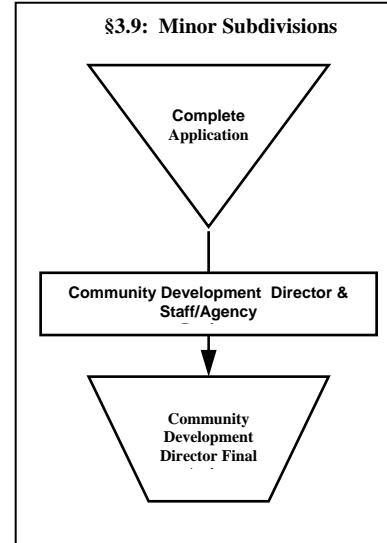
2. Acceptance of Dedications. Execution of the approved Final Plat in accordance with subsection D.1 above shall constitute the City's acceptance of any fee simple dedication or grant of easement to the City as is referenced on the Final Plat.

3.9 MINOR SUBDIVISIONS

3.9.1 Applicability

The procedures set forth in this Section for minor subdivisions shall apply to the following:

- A. Subdivisions consisting of five (5) or fewer lots, provided that lots may not be resubdivided under the minor subdivision process for the purpose of circumventing the major subdivision process.
- B. Boundary/Lot Line Adjustments.
- C. Subdivisions that create individual town home lots, or individual duplex or single-family attached lots in a multi-family development that has already been approved by the City (e.g., a town home structure was approved as part of a final PUD development plan, but the plan did not include the platting of lots for each individual town home unit within the structure).
- D. Utility Easement Vacations which are a part of a minor subdivision.



3.9.2 Pre-Application Conference

- A. Applicants may schedule and attend a Pre-Application Conference before filing a Minor Subdivision application. (See §3.1.1)
- B. When a proposed Minor Subdivision does not involve dedications for streets, easements, or other public uses, the Community Development Director shall make a determination at the Pre-Application Conference whether the procedures of this §3.9 shall apply in lieu of the procedures set forth for major subdivisions in §3.8 above. If approval is granted to follow the procedures in this Section, the Applicant shall consult with all public and private utility companies with services in the area, cable television companies, and with the Community Development Department, and Utility and Engineering Divisions before submitting the Minor Subdivision Plat application according to §3.9.3 below.

3.9.3 Application Filing

Applications for Minor Subdivisions shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.9.4 Community Development Director/Staff Review and Decision

The Community Development Director and Staff shall review each Minor Subdivision application in light of the Approval Criteria of §3.9.5 below and review the plat with the Engineering and Utility Divisions, the City Attorney's office, and other appropriate agencies. Based on the results of those reviews, the Community Development Director shall act to approve, approve with conditions, or deny the proposed Minor Subdivision, based on the Approval Criteria of §3.9.5.

3.9.5 Approval Criteria

- A. Minor Subdivisions Other Than Boundary/Lot Line Adjustments and Utility Easement Vacations. The Community Development Director shall approve a Minor Subdivision application if it meets the following criteria:
1. The minor subdivision is consistent with the Comprehensive Plan.
 2. The minor subdivision is consistent with and implements the intent of the specific zoning district in which it is located.
 3. As applicable, the minor subdivision is consistent with the terms and conditions of any previously approved development plan.
 4. The minor subdivision complies with all applicable use, development, and design standards set forth in this Code, including applicable standards in Articles 5, 6, and 7, that have not otherwise been modified or waived pursuant to this Article.
 5. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
- B. Boundary or Lot Line Adjustments. The Community Development Director shall approve a Boundary/Lot Line Adjustment if it meets the following criteria:
1. The adjustment does not increase the number of lots or parcels or create new lots or parcels.
 2. The adjustment does not affect a recorded easement without the prior approval of the easement holder.
 3. Street locations will not be changed.
 4. The adjustment will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use.
 5. The adjustment complies with all other applicable requirements of this Code and all other applicable regulations and requirements.

- C. Utility Easement Vacations. The Community Development Director may approve a Utility Easement Vacation application if no utility provider objects to the proposal and the Community Development Director determines that the easement is not currently or foreseeably necessary for the public health, safety, or welfare.

3.9.6 Acceptance of Dedications

When a Minor Subdivision application subject to this Section involves a street, easement, or other public use dedication, the Community Development Director's execution of the approved Minor Subdivision shall constitute the City's acceptance of any such dedication.

3.9.7 Recordation

- A. Recordation. The City shall record the approved Minor Subdivision plat, including approved Boundary/Lot Line Adjustments, in the office of the County Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.10 RESUBDIVISION, REVISION, AND VACATION OF PLATS

Any revision to a previously approved Final Plat (or to any plat or plan in place prior to the adoption of this Code that created platted lots) that increases the number of lots or parcels or creates new lots or parcels, including reversion to acreage or vacation of plats, shall constitute a new subdivision and shall comply with the procedures and criteria for a Major Subdivision in accordance with §3.8 above. This provision shall not apply to subdivision applications eligible for processing under the Minor Subdivision procedures of §3.9 above, unless there is clear intent to evade the Major Subdivision regulations.

3.11 STREET AND PUBLIC EASEMENT VACATIONS

3.11.1 Applicability

This Section shall apply to all requests to vacate all rights, interests, or title of the City in and to any street, or alley right-of-way or public easement located within the corporate limits of the City.

3.11.2 Pre-Application Conference

At the Applicant's option, a pre-application conference may be requested in accordance with §3.1.1.

3.11.3 Application Filing

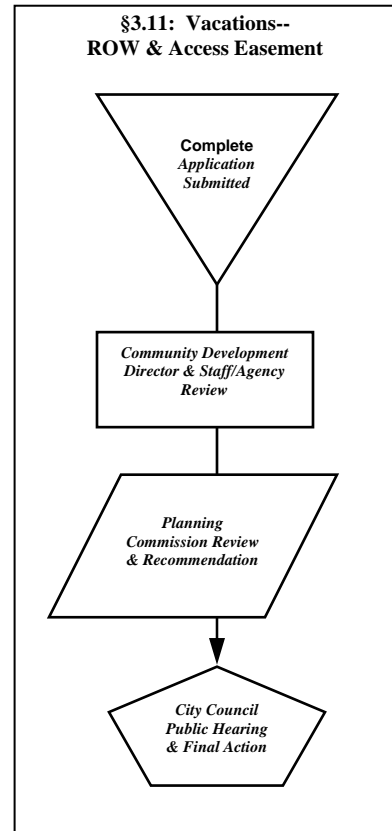
Applications for Vacations shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.11.4 Public Hearing Notice

- A. Street or Alley Right-of-Way and Public Vehicular Access Easement Vacations. Notice of Planning Commission or City Council public hearings on an application to vacate a street or alley right-of-way or an easement intended to provide vehicular access to the general public shall be published and posted in accordance with §3.3. Mailed (written) notice shall be sent to all owners of property abutting the right-of-way or access easement to be vacated.
- B. All Other Easement Vacations. All other easement vacations, including utility easements, fire lane or emergency access easements, and non-vehicular (sidewalk, pedestrian, trail, and similar easements) may be processed in accordance with §3.11.5.C below. If referred to the Planning Commission, notice of Planning Commission public meetings or hearings on such an easement vacation application shall be published in accordance with §3.3.

3.11.5 Community Development Director/Staff Review and Report/Action

- A. Review. The Community Development Director and Staff shall review each Vacation application in light of the Approval Criteria of §3.11.8 below and distribute the application to other reviewers in accordance with §3.1.7.
- B. Street or Alley Right-of-Way or Public Vehicular Access Easement Vacation Applications. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission and City Council. This Community Development Director/Staff Review and Report step, including referral to other



agencies and bodies, shall be completed within sixty (60) days of receipt of a Complete Application, or, if the application has been submitted in conjunction with another development application with a longer decision time-frame, then within that longer time-frame.

- C. All Other Easement Vacation Applications. Based on the results of the reviews, the Community Development Director shall act to approve, approve with conditions, refer to the Planning Commission pursuant to §3.1.15, or deny the proposed easement vacation based on the Approval Criteria of §3.11.8.

3.11.6 Planning Commission Review and Recommendation on Right-of-Way or Public Vehicular Access Easement Vacation Applications

The Planning Commission shall hold a public hearing on the proposed vacation and, within thirty (30) days from the date of the first meeting at which the vacation application was submitted to it, make a recommendation to the City Council based on the Approval Criteria of §3.11.8.

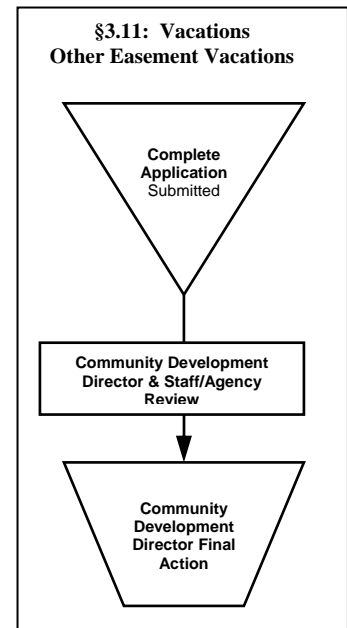
3.11.7 City Council Review and Decision on Right-of-Way or Public Vehicular Access Easement Vacation Applications

- A. Final Decision Authority. After receiving the report of the Community Development Director and the recommendation of the Planning Commission, the City Council shall consider the right-of-way or public vehicular access easement vacation application at a public hearing, and at the close of the public hearing, the City Council shall take final action on the vacation application.

- B. Permitted Scope of Final Decision. The City Council shall act to either, approve, approve with conditions, or deny the proposed Vacation based on the Approval Criteria of §3.11.8. In addition, the City Council shall have the right, in its discretion, to vacate only a portion of the total area requested for vacation.

- C. Reservation of Rights-of-Way or Easements. In the event of a vacation in accordance with this Section, rights-of-way or easements may be reserved for the continued use of existing or future sewer, gas, water or similar pipelines and appurtenances, for overland drainage, drainage facilities or canals and appurtenances, and for electric, cable television, telephone and similar lines and appurtenances, or any other public purpose.

- D. Conditions. The City Council may impose reasonable conditions on an approval of a vacation request in accordance with §3.1.14. Such reasonable conditions may include the payment of money to the City as consideration for a vacation when the vesting of title upon vacation may confer a benefit upon the new owner, or where the City has purchased or will purchase a roadway or easement to replace that being vacated.



3.11.8 Approval Criteria

- A. Right-of-Way or Public Vehicular Access Easement Vacation Applications. The City Council may approve a right-of-way or public vehicular access easement vacation application if it finds that all of the following criteria have been met:
1. The vacation is consistent with the Comprehensive Plan and with any other City-adopted transportation plan or streets/roadway plan.
 2. The land to be vacated is no longer necessary for the public use and convenience.
 3. The vacation will not create any landlocked properties.
 4. The vacation will not restrict access to any parcel so that access is unreasonable or economically prohibitive.
 5. The vacation will not reduce the quality of public services to any parcel of land.
- B. All Other Vacation Requests. The Community Development Director may approve an easement vacation application if the Community Development Director determines that the easement is not currently or foreseeably necessary for the public health, safety, or welfare, or if another easement of equivalent utility is being provided in replacement of that proposed for vacation.

3.11.9 Effect of Approval

- A. Vesting of Title Upon Vacation. Any document effecting a vacation under this Section shall state to whom title to the vacated land shall vest upon vacation, but failure to do so shall not effect the validity of the vacation. Title to the lands included within a street right-of-way or so much thereof as may be vacated shall vest in accordance with the provisions of C.R.S. §43-2-302, and the vacation of any other easement shall, by operation of law, result in the vesting of title in the underlying fee owner of the land previously encumbered.
- B. Recordation. The City shall record all relevant vacation documents, including any vacation ordinance, in the office of the County Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.12 DEVELOPMENT AGREEMENTS

3.12.1 Purpose

Development agreements are voluntary contracts between an Applicant and the City of Arvada that extend beyond the contents of a Public Improvements Agreement required in §3.18 below and/or that grant an Early Vested Right, or extend a Vested Right for longer than three (3) years. In connection with any discretionary development approval, including without limitation Rezoning, Major

Subdivision, or Planned Unit Development approval, a development agreement will normally be required.

3.12.2 Contents

Development Agreements may contain the following:

- A. Descriptions of the acceptable and prohibited uses on the property;
- B. The density of proposed uses, including maximum floor area and height of buildings;
- C. Provisions for the reservation or dedication of land for public purposes;
- D. Provisions for the timing, location and financing of public improvements, and assurances that public improvements (including roads, water, sewer, fire protection and emergency medical services) will be available as needed to serve new development;
- E. Provisions for the timing, location, and maintenance of private on-site improvements, including landscaping and common open space;
- F. Provisions for reimbursement of oversized infrastructure;
- G. Proposed timing and phasing of the development project;
- H. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;
- I. Provisions for public benefits or improvements in excess of what is required by current City policy or law;
- J. Terms relating to applicant financing of facilities and subsequent reimbursement;
- K. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
- L. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;
- M. Provisions for the granting of an Early Vested Right pursuant to § 3.23.11, the extension of a Vested Right created by Site Specific Development Plan (§ 3.23.2) for periods of between three (3) and ten (10) years, or the establishment of sequenced periods of Early Vested Rights or Vested Rights tied to performance obligations;
- N. Termination date for the Development Agreement; and
- O. Any other provisions appropriate to guide the completion of the development as proposed.

3.12.3 Procedure & Approval Criteria

- A. Decision-Making Body. The City Council shall be the Decision-Making Body on Development Agreements which grant Early Vested Rights or extend Vested Rights created by a Site Specific Development Plan, and may, in its discretion, review all other Development Agreements.
- B. Review Considerations. In reviewing proposed Development Agreements, a Decision-Making Body should consider the Approval Criteria for the development application and the following additional factors, as applicable:
 - 1. Whether the benefit of the Development Agreement to the City outweighs its costs;
 - 2. Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable or to ensure that any conditions imposed upon the development application approval will be satisfied;
 - 3. Whether the City has received adequate assurances that the development will go forward as planned in return for any vesting of property rights beyond the three-year vesting period set forth in C.R.S. §24-68-101 et seq.
 - 4. Whether the Development Agreement adequately incorporates conditions imposed as part of a related development approval; and
 - 5. Whether the factors for consideration of an Early Vested Right (§ 3.23.11 B) have been met.

3.12.4 Effect of Approval-Vesting of Rights

When a Development Agreement, executed substantially contemporaneously with the approval of a Site Specific Development Plan, provides for the extension of a Vested Right created by Site Specific Development Plan for longer than the three-year vesting period set forth in C.R.S. §24-68-101 et seq. (see §3.23 below), the following provisions shall govern:

- A. Rules Prevailing at the Time of Execution. Unless otherwise provided by the Development Agreement, the ordinances, rules, regulations, and official policies applicable to development of the subject property and governing the following areas: (1) permitted uses of the land, (2) density, and (3) design, improvement, and construction standards and specifications, shall be those ordinances, rules, regulations, and official policies in force at the time of execution of the Development Agreement notwithstanding the provisions of C.R.S. §24-68-102.5 to the contrary.
- B. Subsequently Enacted Regulations--General Rule and Exceptions.
 - 1. General Rule. Ordinances, rules, regulations, and official policies that govern permitted uses of the land, density, and design, improvement, and construction standards and specifications, and that are enacted subsequent to execution of the Development Agreement, shall not be enforced against the subject property.

2. Exceptions. Notwithstanding paragraph B.1. above, a Development Agreement shall not prevent the City, in subsequent actions, from applying any of the following to the subject property:
 - a. New ordinances, rules, regulations, and policies that do not conflict with those rules, regulations, and policies applicable to the subject property as set forth in the Development Agreement;
 - b. New ordinances, rules, regulations, and policies that are specifically anticipated and provided for in the Development Agreement; or
 - c. New ordinances, rules, regulations, and policies that are necessary for the immediate preservation of the public health and safety.

- C. To the extent that a Development Agreement grants Early Vested Rights, the provisions of this § 3.12.4 shall not apply. (See §3.23.11 for applicable provisions.)

3.12.5 Modification and Termination

A. Modification & Termination

1. Mutual Consent. A Development Agreement may be canceled or modified by the mutual consent of the parties thereto.

2. Noncompliance by Developer. The City Council may take such action as allowed by law to terminate a Development Agreement based upon evidence that the applicable landowner or developer, or successor in interest thereto, has not complied with the terms or conditions of the agreement.

3. Change in Applicable State or Federal Law. In the event that state or federal laws or regulations are enacted after execution of the Development Agreement and prevent or preclude compliance with one or more provisions of the Development Agreement, such provisions of the agreement shall be modified or suspended to the extent necessary to comply with such state or federal laws or regulations.

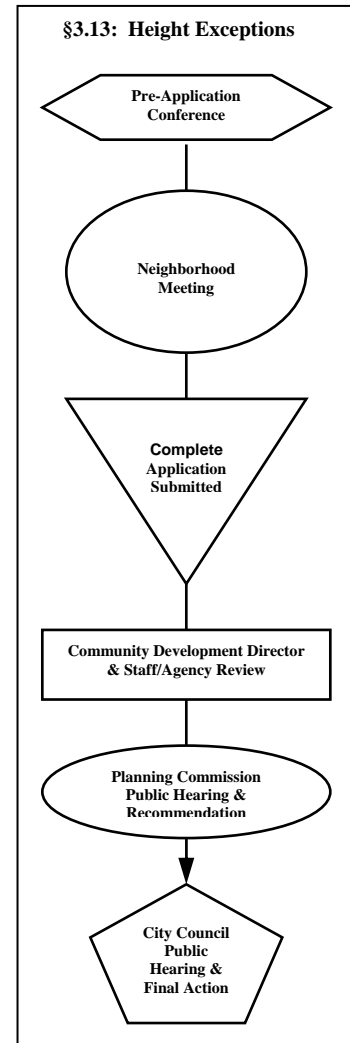
3.12.6 Enforcement

Unless amended or terminated pursuant to this Section, a Development Agreement shall be enforceable by any party thereto.

3.13 HEIGHT EXCEPTIONS

3.13.1 Applicability

- A. General Rule. This Section shall apply to all requests to exceed the uniform 35 foot height limitation for buildings and structures in the City of Arvada, except as specified in subsection 3.13.1.B below.
- B. Exceptions. This section shall not apply to the following:
1. Telecommunications structures regulated by the provisions of §5.2.31 of this Code.
 2. Structures that exceed 35 feet in height on the effective date of this Code. Any such structure shall not be considered a non-conforming structure pursuant to §8.2.2, and the City shall issue written confirmation of the conforming status of any such structure upon request of the owner of such structure.
 3. Development according to the terms and conditions of a final PUD development plan or final subdivision plat that was approved prior to the effective date of this Code and that has not lapsed in any way. Any structure exceeding 35 feet in height, but which is developed in accordance with such approved final plan or plat, shall not be considered a non-conforming structure pursuant to §8.2.2, and the City shall issue written confirmation of the conforming status of any such structure upon request of the owner of such structure.
 4. Development consistent with the intent, terms, and recommendations of an applicable Master Plan or other special plan adopted by the City (e.g., the Ralston Fields Urban Renewal Plan or the Jefferson Center Urban Renewal Area Plan), when such plan specifically recommends and anticipates development of structures exceeding 35 feet in height. Any structure exceeding 35 feet in height, but which is developed in accordance with such approved Master Plan or other sub-area plan, shall not be considered a non-conforming structure pursuant to §8.2.2, and the City shall issue written confirmation of the conforming status of any such structure upon request of the owner of such structure.



3.13.2 Pre-Application Conferences

Applicants shall schedule and attend a Pre-Application Conference before filing a Height Exception application. (See §3.1.1)

3.13.3 Neighborhood Meeting

A neighborhood meeting may be required according to the provisions of §3.1.6.

3.13.4 Application Filing

Applications for a Height Exception shall be submitted to the Community Development Director, and shall include a site plan showing, at a minimum, the proposed structure that will exceed the 35-foot height limitation, such structure's intended uses, and the relationship of such structure to adjacent structures and land uses. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.13.5 Public Hearing Notice

Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.

3.13.6 Community Development Director/Staff Review and Report

The Community Development Director and Staff shall review each Height Exception application in light of the Approval Criteria of §3.13.9 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

3.13.7 Planning Commission's Review and Recommendation

The Planning Commission shall hold a public hearing on the application and, within sixty (60) days from the date of receipt of the Complete Application, make a recommendation to the City Council based on the Approval Criteria of §3.13.9.

3.13.8 City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall consider the Height Exception application at a public hearing, and at the close of the public hearing, the City Council shall act to approve, approve with conditions, or deny the proposed Height Exception, based on the Approval Criteria of §3.13.9.

3.13.9 Approval Criteria

A Height Exception application may be approved only if the City Council finds that all of the following criteria have been met:

- A. There would be demonstrated benefits to the City if the exception is granted.

- B. All other applicable zoning and development regulations have been or will be adhered to by the Applicant, including but not limited to parking, screening, setbacks, bulk, and landscaping.
- C. The proposed structure has minimal effect upon adjacent properties with respect to solar access, visual access, and rights of privacy, light, and air.
- D. The exception will not interfere with the City's ability to provide public services to the site at the level currently enjoyed by the area, or at adequate levels per existing City policies and regulations.
- E. The project complies with all currently adopted fire department regulations and standards.
- F. The architecture and character of the proposed building or structure that will exceed 35 feet in height are or will be compatible with existing development on surrounding or adjacent parcels.

3.13.10 Effect of Approval

A building permit shall be issued and construction substantially initiated within three (3) years from the date of approval of the Height Exception, unless another time frame constitutes an element of the approval of a related application (such as a conditional use permit). If construction has not timely commenced within the three-year time frame, the Height Exception approved shall automatically lapse and become null and void and a new application shall be approved prior to construction, unless an extension is granted in accordance with §3.1.20. Amendments to a related site plan do not affect the original three-year approval period, unless otherwise provided.

3.14 CONDITIONAL USE PERMITS

3.14.1 Purpose/Description

The Conditional Use Permit review and approval procedure provides a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed conditional uses will not have a significant adverse impact on surrounding uses or on the community at-large.

3.14.2 Pre-Application Conferences

Applicants shall schedule and attend a Pre-Application Conference before filing a Conditional Use Permit application. (See §3.1.1) At the Pre-Application Conference, the Community Development Director shall make a determination whether site plan review is required for effective review of the proposed conditional use. If the Community Development Director determines that site plan review is required, then the Applicant shall file a Site Plan Review application that meets the requirements of §3.15 below for simultaneous review with the Conditional Use Permit application. (See §3.1.4)

3.14.3 Neighborhood Meeting

A neighborhood meeting may be required according to the provisions of §3.1.6.

3.14.4 Application Filing

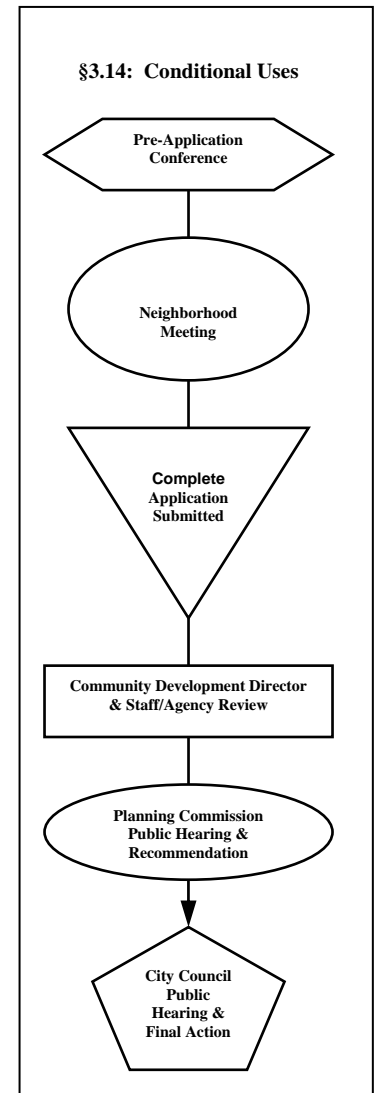
Applications for a Conditional Use Permit shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.14.5 Public Hearing Notice

Notice of Planning Commission and City Council public hearings shall be published, mailed, and posted in accordance with §3.3.

3.14.6 Community Development Director/Staff Review and Report

The Community Development Director and Staff shall review each Conditional Use Permit application in light of the Approval Criteria of §3.14.9 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.



3.14.7 Planning Commission's Review and Recommendation

The Planning Commission shall hold a public hearing on the application and, within sixty (60) days from the date of receipt of the Complete Application, make a recommendation to the City Council based on the Approval Criteria of §3.14.9, or shall continue its consideration of the application in accordance with §3.3.7 of this Code.

3.14.8 City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall consider the Conditional Use Permit application at a public hearing, and at the close of the public hearing, the City Council shall act to approve, approve with conditions, or deny the proposed Conditional Use Permit, based on the Approval Criteria of §3.14.9.

3.14.9 Approval Criteria

A Conditional Use Permit application may be approved only if the City Council finds that all of the following criteria have been met:

- A. The use is consistent with the Comprehensive Plan.
- B. The use is consistent with the purpose and intent of the zoning district in which it is located.
- C. The proposed use complies with all applicable provisions of this Code, including any applicable use-specific standards of §5.2.
- D. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- E. Any significant adverse impacts resulting from the use will be mitigated or offset to the extent reasonably feasible.
- F. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will, prior to development, be available to serve the subject property while maintaining adequate levels of service for existing development.
- G. Any significant adverse impacts on the natural environment will be mitigated to the extent reasonably feasible.
- H. The use complies with all other applicable federal, state, or county laws and regulations.

3.14.10 Conditions of Approval

In approving Conditional Use Permits, the Planning Commission may recommend and the City Council shall be authorized to impose conditions upon the subject property that are necessary to reduce or minimize any potentially significant adverse impacts on other property in the neighborhood, and to carry out the stated purposes of the Comprehensive Plan and this Code. The City

Council shall also be authorized to impose time limits on Conditional Use Permits and to require regularly scheduled reviews of approved Conditional Use Permits.

3.14.11 Adoption by Ordinance

Conditional Use Permits shall be approved in the form of ordinances.

3.14.12 Recordation

The City shall record the Conditional Use Permit, including any conditions or provisions placed upon the permit by City Council, in the office of the Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.14.13 Lapse of Approval

- A. Lapse-General. Failure of an Applicant to begin operation or to apply for a building permit and commence construction with regard to the conditional use within three (3) years of receiving approval of the Conditional Use Permit shall automatically render the approval null and void.
- B. Lapse-Abandonment. If a legally established conditional use is abandoned or discontinued for a period of one (1) consecutive year or more, then the decision originally approving such conditional use shall automatically lapse and be null and void.

3.14.14 Transferability

The status of a Conditional Use Permit is not affected by changes of tenancy, ownership, or management. A Conditional Use Permit shall be attached to, and run with the property for which it is granted.

3.15 SITE PLAN REVIEWS

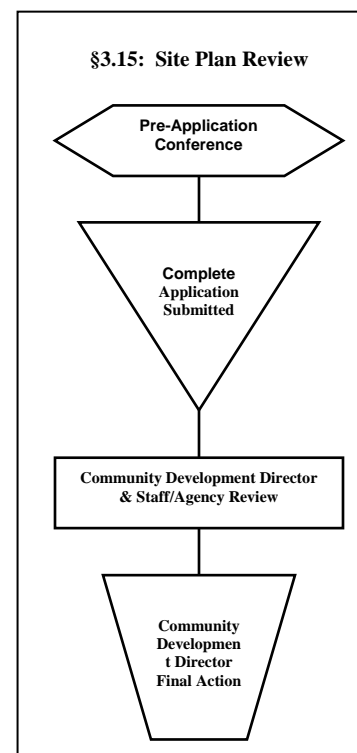
3.15.1 Purpose

The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of this Code, while encouraging quality development in the City of Arvada reflective of the goals, policies, and objectives found in the Comprehensive Plan.

3.15.2 Applicability

Site Plan Review, in accordance with the procedures of this Section, shall be required before issuance of a building permit for the following types of development that are not included in an approved Final PUD Development Plan:

- A. Any commercial or industrial use.



- B. Any group living facility use with more than 5 residents.
- C. Any mobile home park use.
- D. Any multi-family dwelling use.
- E. Any residential use proposed at a density greater than that of an adjacent "rural residential area," as the latter is defined in Article 10 of this Code.
- F. Any development where more than one principal building will be sited on a single lot;
- G. Any development intended for occupancy by a combination of a principal residential use and one or more principal nonresidential uses.
- H. Any civic or institutional use, except for the following uses:
 - 1. Forest or range land;
 - 2. Public lands, parks, and buildings; and
 - 3. Minor public utilities.
- I. Any accessory dwelling unit use.

No development, excavation, site preparation, or construction activity, including tree/vegetation removal or grading, shall occur on property subject to the requirements for Site Plan Review until a site plan has been approved.

3.15.3 Application Filing

Applications for Site Plan Review shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.15.4 Neighborhood Meeting

A neighborhood meeting may be required according to the provisions of §3.1.6.

3.15.5 Community Development Director/Staff Review and Action

- A. The Community Development Director and Staff shall review each Site Plan Review application in light of the Approval Criteria of §3.15.6 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall take final action on the Site Plan application and either approve, approve with conditions, or deny such application. This Community Development Director/Staff Review and Report step, including referral to other agencies and bodies, shall be completed within thirty (30) days of receipt of a Complete Application.
- B. Conditions of Approval. Approval of a Site Plan shall not be final until the Applicant accepts all conditions of approval and submits a corrected Site Plan to the Community Development Director. For purposes of

appeal only, an Applicant may accept conditions of approval under protest in order to satisfy the requirements for a timely appeal of a final decision.

3.15.6 Approval Criteria

A Site Plan Review application shall be approved by the Community Development Director if the Site Plan meets all of the following criteria:

- A. The Site Plan is consistent with the Comprehensive Plan.
- B. The Site Plan is consistent with any previously approved subdivision plat, rezoning concept plan, or other precedent plan or land use approval.
- C. The Site Plan complies with all applicable development and design standards set forth in this Code, including but not limited to the provisions in Article 4, "Zoning Districts," Article 5, "Use Regulations," and Article 6, "Development Standards."
- D. Any significant adverse impacts resulting from the use will be mitigated or offset to the extent reasonably feasible.
- E. For residential development proposed at a density greater than that of an adjacent "rural residential area," the Site Plan is compatible with the character and density of the existing, adjacent rural residential area, as determined by application of the following criteria:
 - 1. The Site Plan incorporates a rational and compatible transition in density, design, and use as the new higher-density development approaches the established rural residential area, taking into account the extent to which the existing rural residential area is already adjacent to existing, developed areas other than the proposed new development, and whether the site plan, if approved, will create a positive precedent for the future cumulative development of the immediate area.
 - 2. The Site Plan's proposed vehicular circulation and access system is adequate to carry the anticipated traffic generated by the new development without adversely affecting the existing rural residential area taking into account the extent to which the existing rural residential area is already adjacent to existing, developed areas other than the proposed new development, and whether the site plan, if approved, will create a positive precedent for the future cumulative development of the immediate area.

3.15.7 Recordation

Following approval of a Site Plan, or conditional approval of a Site Plan with all conditions being met, the applicant shall prepare and submit to the City, as applicable, a separate instrument(s) by which any necessary conveyance(s) to the City is to be accomplished. The Community Development Director shall sign such document, which signature shall constitute acceptance of such dedications, grants, or conveyance(s). The applicant shall pay all required recording fees,

and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.15.8 Lapse of Approval

The right to develop in accordance with an approved Site Plan shall automatically lapse and be null and void if all development shown on the approved Site Plan is not complete within three (3) years of the date of Site Plan approval.

3.16 FLOODPLAIN DEVELOPMENT PERMITS

3.16.1 Applicability

Prior to any construction, development, or storage of materials within the Flood Regulatory District, Floodway District, or Flood Zone District, a Floodplain Development Permit shall be obtained from the Floodplain Administrator.

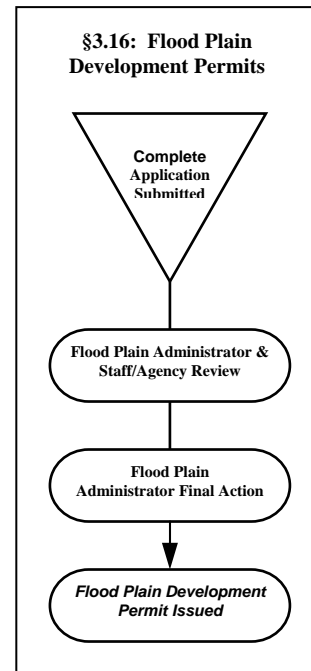
3.16.2 Application Filing

Flood Plain Development Permit applications shall be submitted to the Floodplain Administrator. The Floodplain Administrator shall review the application for completeness in accordance with §3.16.3.

3.16.3 Submittal Requirements

Application for a Flood Plain Development Permit shall be made on forms furnished by the Flood Plain Administrator and may include, but not be limited to:

- A. Plans in duplicate, drawn to scale and certified by a registered Colorado professional engineer, competent in open channel hydraulics, which accurately locates the flood plain proposal with respect to the district limits, channel of stream, existing flood plain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, and flood measures.
- B. The applicant shall also be required to furnish such of the following additional information as is deemed necessary by the Flood Plain Administrator for the evaluation of the effects of the proposal upon flood flows and flood plain storage and to render a decision on the proposed flood plain use:
 1. Valley cross sections showing the channel of the stream, the flood plain adjoining each side of the channel, cross sectional area to be occupied by the proposed development, and high water information.



2. Plan, surface view, showing elevations or contours, of the ground; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply and sanitary facilities, soil types and other pertinent information.
3. A profile showing the slope of the bottom of the channel or thalweg of the stream.
4. Water surface profiles based on backwater analysis.
5. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
6. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.
7. Elevation in relation to mean sea level to which any structure has been flood proofed.
8. Certification by a Colorado registered professional engineer that the flood proofing methods for any non-residential structure meet the flood proofing criteria in §6.13.4.E.
9. Description of the extent to which any water course will be altered or relocated as a result of proposed development.

3.16.4 Floodplain Administrator's Review and Action

The Floodplain Administrator and other relevant review agencies shall review each Floodplain Development Permit application to determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard. Within sixty (60) days from the date of receipt of a Complete Application, and after the conclusion of the review period, the Floodplain Administrator shall act to approve, approve with conditions, or deny the application based on the Approval Criteria of §3.16.4.

3.16.5 Approval Criteria

A Floodplain Development Permit application shall be approved by the Floodplain Administrator if the application meets all of the following criteria:

- A. The proposed development is consistent with the objectives and purposes of the floodplain regulations as stated in §6.13 of this Code, and in particular, the proposed development preserves the efficiency and capacity of the watercourse to transmit and discharge floodwaters, and the capacity of the floodplain area to absorb floodwaters.
- B. The Applicant has obtained all necessary permits from Federal, State, or local governmental agencies for which prior approval is required.
- C. The proposed development satisfies all applicable provisions of the floodplain regulations set forth in §6.13, including without limitation all applicable encroachment provisions if the development is located in a designated Floodway District.

3.16.6 Conditions of Approval

The Floodplain Administrator shall ensure that the proposed development complies with Floodplain Regulations of §6.13. The Floodplain Administrator shall be authorized to impose conditions necessary to ensure compliance with those standards, including those set out in §6.13 and the following:

- A. Modification of waste disposal and water supply facilities to minimize or eliminate infiltration of flood waters.
- B. Limitations on periods of use and operations.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Location and placement of structures and buildings on a site in order to minimize obstruction to flood waters.
- E. Adequate flood-proofing measures. The Floodplain Administrator may require that the Applicant submit a plan or document certified by a registered professional engineer or architect testifying that the flood-proofing measures are consistent with the regulatory flood elevation and associated flood factors for the particular area.

3.16.7 Conditions Attached to Floodplain Development Permits

Upon consideration of the factors listed above and the purposes of this Section, the Flood Plain Administrator may attach such conditions in addition to those required by Flood Plain Development Permit, as he deems necessary in furthering the purposes of this Section. Such conditions may include specifications for, without limitation, modification of waste disposal and water supply facilities, landscaping, periods of operation, operational controls, sureties, deed restrictions, and adequate flood-proofing.

3.16.8 Lapse of Approval

An approved Floodplain Development Permit shall be valid for a period of one (1) year from the date of issuance. If construction has not been commenced and diligently pursued during the one-year period, the permit shall lapse and be of no further effect. An extension of a Floodplain Development Permit shall require review and approval of a new permit, pursuant to the procedures of this Section.

3.17 PERMITS FOR TEMPORARY USES & STRUCTURES/SPECIAL EVENTS

3.17.1 Applicability

All temporary uses and structures, including without limitation special events, transient merchants, temporary outdoor sales or sales trailers or structures, or temporary statutes, as such terms are defined in Section 10.3, shall be subject to the procedures and requirements for a Temporary Use Permit set forth in this Section.

3.17.2 Number of Permits Required

No more than one Temporary Use Permit application shall be required for any organized special event, such as a festival, involving more than one activity or site or held over a period of more than one day, so long as the application is otherwise complete as to each such activity, site, or time period.

3.17.3 Application Filing

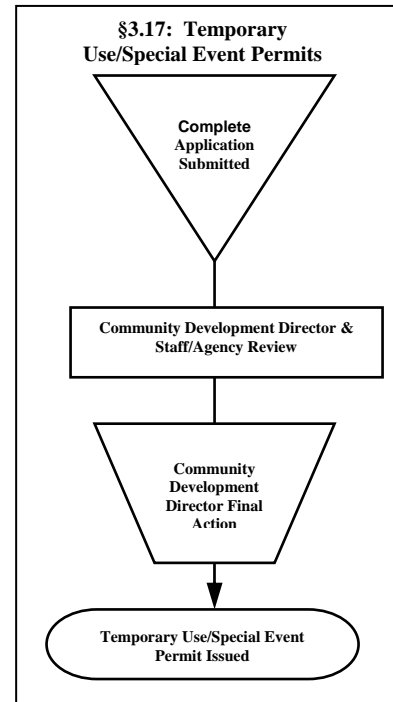
Applications for a Temporary Use Permit shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.17.4 Neighborhood Meeting

A neighborhood meeting may be required according to the provisions of §3.1.6.

3.17.5 Applicable Decision-Making Body

- A. General Rule. The Community Development Director shall be the Decision-Making Body, except where the temporary use application is for a special event proposed to be held in whole or in part within a public park and/or public street right-of-way.
- B. Special Events in Public Parks. Where the temporary special event use is proposed to be held in whole or in part within a public park, the City Parks Superintendent shall be the Decision-Making Body.
- C. Special Events within Public ROWs. Where the temporary special event use is proposed to be held in whole or in part within a public street right-of-way, the City Traffic Engineer shall be the Decision-Making Body.
- D. Special Events in Park and Public ROWs. Where the temporary special event use is proposed to be held within both a public park and public street right-of-way, the Decision-Making Body shall be based upon the primary locale of the event, as between the City Parks Superintendent and City Traffic Engineer.



3.17.6 Decision-Making Body/Staff Review and Action

- A. The Decision-Making Body and Staff shall review each Temporary Use Permit application in light of the Approval Criteria of §3.17.7 below and any additional approval criteria or requirements of § 5.4 and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. In the case of temporary special event use, the Decision-Making Body shall refer the application for comments to the Chief of Police, and may refer such application to other departments or agencies, as appropriate.
- B. Based on the results of those reviews, the Decision-Making Body shall take final action on the Temporary Use Permit application and either approve, approve with conditions, or deny such application.
- C. The Decision-Making Body shall act upon a request for a Temporary Use Permit within thirty (30) days of submittal of a Complete Application.

3.17.7 Approval Criteria

A Temporary Use Permit application shall be approved by the applicable Decision-Making Body if it meets all of the following criteria and any applicable additional approval criteria or requirements of § 5.4:

- A. The proposed temporary use will be located, operated, and maintained in a manner consistent with the policies of the Comprehensive Plan and the provisions of this Code.
- B. The proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
- C. The proposed temporary use complies with all applicable specific regulations of §5.4 (Temporary Uses and Structures), unless otherwise expressly stated.
- D. The particular location requested can reasonably accommodate the proposed temporary use, given the proposed use's nature, size, or duration.
- E. The applicant or operator has received or complies with any other required permits.

If the application is for a temporary special event use, the following additional criteria shall be met:

- F. The proposed event shall not create an unreasonable risk of:
 - 1. Significant damage to public or private property, beyond normal wear and tear;
 - 2. Injury to persons;
 - 3. Public or private nuisances;

4. Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel; or
 5. Additional and impractical or unduly burdensome police, fire, trash removal, maintenance, or other public services demands.
- G. The time and location requested for the proposed special event is not already permitted or reserved for other activities.

The following restrictions shall apply to all Temporary Use Permits issued:

1. Permanent alterations to the site are prohibited.
2. Permanent signs are prohibited. All approved temporary signs associated with the temporary use shall be removed when the activity ends.
3. Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.

3.17.8 Conditions of Approval

In approving Temporary Use Permits, the Decision-Making Body shall be authorized to impose such conditions as may be authorized by § 5.4, and such conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. For example, the Decision-Making Body shall be authorized to require:

- A. Provision of temporary parking facilities, including vehicular access and egress.
- B. Control of nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat.
- C. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- D. Provision of sanitary and medical facilities.
- E. Provision of solid waste collection and disposal.
- F. Provision of security and safety measures.
- G. Use of an alternative location or date for the proposed temporary use.
- H. Modification or elimination of certain proposed activities.
- I. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested or specified in this Section or in §5.4 of this Code.

- J. Submission of a performance bond or other financial guarantee to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

3.17.9 Time Limits on Permits

Temporary Use Permits shall be valid for a specified period of time, not to exceed 30 days, unless otherwise expressly provided for in §5.4 of this Code.

3.18 PUBLIC IMPROVEMENTS AGREEMENTS

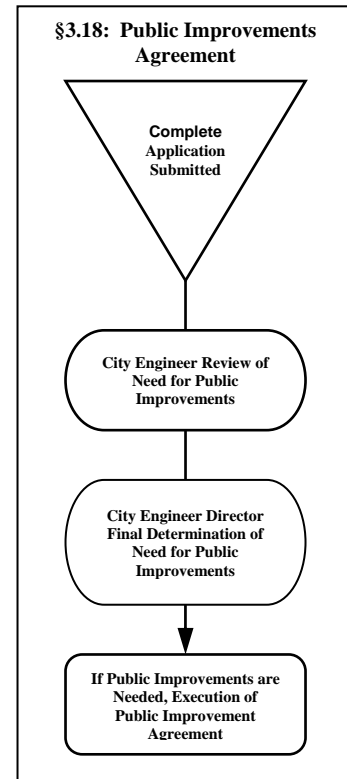
3.18.1 Applicability

Applications for Rezoning, Final Subdivision Plats (see §7.13), PUD Final Development Plans, Conditional Use Permits, Site Plans, Building Permits, and Amendments to approved final plans or plats shall be reviewed by the City Engineer in accordance with the provisions of this Section to determine if the dedication, acquisition, installation, construction, or reconstruction of Public Improvements is required.

3.18.2 City Engineer's Determination of Public Improvements

- A. Review Criteria. The requirement for public improvements shall be based upon the City Engineer's consideration of the following factors:

1. The health, safety, and welfare of the public;
2. Whether the public improvements are required to serve the land on which development is to occur;
3. Whether the public improvements are required to serve the proposed development or to mitigate the impacts of the proposed development;
4. Present or planned use on surrounding land;
5. The zoning of the land;
6. The standards and policies of the City that apply to the application submitted;
7. The provisions of an annexation agreement requiring dedication and construction of public improvements;
8. The public improvement as described in the Comprehensive Plan of the City; and



9. Previous contributions or dedications by the owner computed at present market value.

B. Determination Shall be Based on Need Generated by Development.
The City Engineer shall make a determination on each application as to the required dedication and construction of public improvements. Dedication and construction of public improvements shall be required when a need is generated by a proposed development or anticipated use or when a need is generated both by the development or anticipated use and the needs of the general public. Except as may be required as a condition of annexation, public improvements shall not be required where the need for the public improvement is generated solely by the general public and there is no relationship to the proposed development or the anticipated use. If the dedication and construction of public improvements are required by an annexation agreement between the Applicant and the City, all such requirements are deemed to be contractual obligations of the Applicant and no relief to the Applicant is available to the Applicant under this Section.

3.18.3 Public Improvements Agreement Required

- A. If the City Engineer determines that there is a need for the dedication, acquisition, installation, construction, or reconstruction of public improvements, then, after such determination has been made, the Applicant is required to enter into a Public Improvements Agreement (or other applicable agreement, such as an Annexation Agreement or Development Agreement, pursuant to §3.12, which serves the same purpose) prior to the City's final approval of the Rezoning, Conditional Use Permit, Final Plat, PUD Final Development Plan, Site Plan, Building Permit, or Amendment.
- B. The Public Improvements Agreement shall be in a form determined by the City, and will provide for the dedication and construction of required public improvements by the Applicant. The Public Improvements Agreement may be a contract between the Applicant and the City, or its substance may be incorporated into another agreement, such as an Annexation Agreement or Development Agreement, as deemed appropriate by the City. The City may postpone the execution of the Public Improvements Agreement until further development of the property, in which case the City shall expressly provide by resolution, ordinance, or motion of the City Council that the approval of the Rezoning, Conditional Use Permit, Final Plat, PUD Development Plan, Site Plan, Building Permit, or Amendment is conditioned upon the dedication and construction of the required public improvements.

3.18.4 Special Provisions for Public Improvements Required at Time of Building Permit Application

- A. Every Building Permit application shall be reviewed by the City Engineer pursuant to this Section to determine if the Applicant is subject to any agreement providing for public improvements necessary to serve the land to which the application for a Building Permit applies.
- B. If an Applicant is subject to a Public Improvements Agreement and it is determined that the agreement was executed less than two (2) years prior to the date that the Building Permit application is filed, then the

building official will issue the building permit if all other requirements as set forth in this Code are met, and will incorporate such Public Improvements Agreement into the building permit by reference.

- C. If an Applicant is subject to a Public Improvements Agreement that was executed more than two (2) years prior to the date that the Building Permit application is filed, the application will be reviewed by the City Engineer to determine if additional improvements are necessary to serve the land to which the application for a building permit applies, in which case the Applicant shall enter into a new or amended Public Improvements Agreement prior to the issuance of a building permit.
- D. If the Applicant is not subject to a Public Improvements Agreement and the City Engineer determines that public improvements are necessary as a result of the proposed construction or the anticipated use thereof, the City Engineer will inform the Chief Building Official, and no building permit will be issued until the Applicant has entered into a Public Improvements Agreement for the dedication, acquisition, installation, construction, or reconstruction of said improvements as required by the provisions of this Section.

3.18.5 Owner Agreement Required

Every Public Improvements Agreement must be acknowledged and signed by the owner of the land proposed for development or by his duly authorized agent. An agent signing the Public Improvements Agreement must submit a current power of attorney to the City.

3.18.6 Administrative Review of City Engineer Determinations

- A. Application Filing. Notwithstanding the provisions of §3.2.4 above, an Applicant may request an administrative review of a public improvements requirement imposed by the City Engineer by submitting a written request for an administrative review to the Director of Public Works within ten (10) days from the day that the Applicant is notified of the public improvements requirement by the City Engineer.
- B. Scheduling. Within ten (10) days from the receipt of the written request, the Director of Public Works will set a time, day, and place for the administrative review. The administrative review will be held within 60 days, but not less than 5 days, from the day the Director of Public Works sets the day for administrative review.
- C. Appointment of Hearing Officer/Review. The City Manager shall appoint a Hearing Officer to conduct the administrative review in accordance with the provisions relating to administrative hearings as set forth in §3.2.4.F above. In addition, the Hearing Officer shall consider the Review Criteria set forth in paragraph E. below.
- D. Appeals. The decision of the Hearing Officer is final unless it is appealed to the Planning Commission in accordance with §3.2.4.J.2.
- E. Review Criteria. The Hearing Officer's and the Planning Commission's decision shall be based on consideration of the following factors:

1. Whether the cost of the required public improvements is roughly proportional both in nature and extent to the anticipated impacts of the proposed development;
2. Whether there are comparable public improvements or the potential for such improvements in the adjacent or immediate area;
3. The classification of the street where the public improvements will be located;
4. Whether there has been an erroneous application of the standards of this Section to the development; and
5. Whether the strict application of this Section is in the best interests of the public health, safety, and welfare.

3.18.7 Minor Modifications to Public Improvements Agreement

The City Engineer may make minor modifications to the requirements in a Public Improvements Agreement at the time the public improvement is constructed.

3.18.8 Lapse of Public Improvements Agreement

Unless otherwise provided in the terms of approval of the related land development application or building permit, the construction drawings incorporated by reference into an approved Public Improvements Agreement shall automatically lapse and have no further effect if construction of the improvements is not completed within two (2) years of the effective date of the Public Improvements Agreement.

3.18.9 Standards and Conditions for Construction of Public Improvements

Whenever public improvements are required under this Section, the following provisions apply:

- A. The cost of constructing all public improvements shall be borne by the Applicant, and the construction thereof shall be at the sole cost, risk, and expense of the Applicant, unless City ordinances, the terms of the Public Improvements Agreement or similar agreement, or the conditions of development approval, provide otherwise.
- B. Public improvements are to be constructed in full compliance with the applicable design and construction standards as adopted by the City. The Applicant shall indemnify and hold the City harmless from all claims by any person based upon improper or negligent construction of such public improvements.
- C. No public improvement construction will commence until the City has approved the plans, specifications, and permit application as set forth in this section and Chapter 27 of the Arvada City Code.

3.18.10 Phased Construction of Public Improvements

The Public Improvements Agreement may, if approved by the City Engineer, provide that the installation, construction, or reconstruction of public improvements be in phases. If construction in phases is approved, the provisions of this article apply to each phase as if it were a separate and distinct Public Improvements Agreement. Any such phase must be an integrated, self-contained project consisting of all public improvements necessary to serve the property to be developed as part of said phase, and such phasing cannot be utilized to provide for construction of public improvements on a piecemeal basis. Any Agreement addressing phased construction of public improvements may also contain a schedule governing when building permits shall be issued, in order to ensure that adequate public facilities are in place to support new development as it occurs.

3.18.11 Certificate of Occupancy

- A. No final Certificate of Occupancy shall be issued for any building constructed pursuant to a Building Permit unless a certificate of acceptance for all public improvements required as a condition of issuance of said permit has been issued by the City Engineer. At the discretion of the City, the Applicant may obtain a Temporary Certificate of Occupancy, provided collateral has been posted in lieu of completion and acceptance of public improvements. However, no Certificate of Occupancy, temporary or final, shall be issued under any conditions for any building constructed pursuant to a Building Permit unless the following conditions are met:
 - 1. Public improvements, such as drainage improvements, driveways, parking areas, and the like, have been constructed sufficient to ensure that the health, safety, and welfare of the public is maintained; and
 - 2. All-weather access is provided and maintained.
- B. Public improvements in place prior to building permit issuance that are damaged during construction must be repaired by the Applicant and accepted by the City prior to the issuance by the City of a certificate of occupancy.

3.18.12 Defaults/Noncompliance with Public Improvements Agreement

- A. No Building Permit shall be issued to any Applicant who is either a party to a Public Improvements Agreement or a successor-in-interest of a party to such an agreement if the City Engineer determines that the Applicant or Applicant's predecessor-in-interest is in default or in noncompliance with a Public Improvements Agreement (or similar agreement serving substantially the same purpose) that relates to the same development.
- B. Once a Building Permit has been issued to an Applicant who is a party, or a successor-in-interest to a party to a Public Improvements Agreement, the continued performance of the agreement in accordance with its terms shall be a continuing condition precedent to the validity of said Building Permit, and the building official may immediately suspend

said permit and all work being undertaken thereunder upon any evidence satisfactory to the City Engineer of nonperformance, noncompliance, or breach of said Public Improvements Agreement by the Applicant. Withholding or suspension of Building Permits is not deemed to be an exclusive remedy for any breach of any Public Improvements Agreement. (See Article 9 of this Code.)

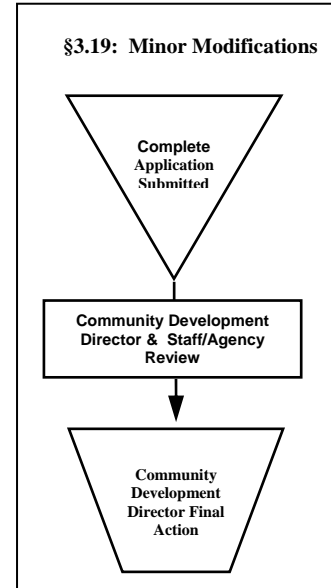
3.19 MINOR MODIFICATIONS

3.19.1 Applicability

A. Minor Modifications from Zoning District and General Development Standards.

1. General Rule. The Community Development Director shall be authorized to grant the following types of minor modifications, subject to the Approval Criteria in §3.19.4 below:
 - a. Minor modifications of twenty percent (20%) or less of any lot size, lot width, building or structure (including signs) or parking area setback, or lot coverage standard as set forth in Articles 4, 5, and 6 of this Code.
 - b. Minor modifications of twenty percent (20%) or less of any numeric requirements set forth in §6.5.2 (General Landscaping Standards) and §6.4.3 (Residential Landscaping Standards).
 - c. Minor modifications of twenty percent (20%) or less of any numeric requirement set forth in §6.6 (Building Design, Materials, Colors, and Lighting).
 - d. Minor modifications to the percentage of Small Lots required by §6.10 (Affordable Housing), provided the modification does not change the required minimum or maximum amount of Small Lots by more than 2 units.
 - e. Minor modifications of twenty percent (20%) or less of any minimum amount requirement for bicycle parking spaces (§6.8.3.D) or off-street parking spaces (§6.16.1.B).
 - f. Minor modifications of twenty percent (20%) or less of any dimensional requirement relating to fences or walls (§6.5.8.)
 - g. Minor modifications of twenty percent (20%) or less of any maximum sign area requirement (§6.17).
 - h. Minor modifications of any non-quantitative or non-numeric requirement or standard set forth in Articles 4, 5, or 6 of this Code.

2. Prohibitions. In no circumstance shall the Community Development Director approve a minor modification of a general development or zoning district standard that is not listed specifically in subsection A.1. above, or that results 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. An increase in building height; or
 - d. A decrease in the amount of common or dedicated open space required.
- B. Minor Modifications to Approved Final Plans/Plats. In addition, the Community Development Director shall have the authority to grant minor modifications to approved Site Plans, Final PUD Development Plans, and Final Subdivision Plats, subject to the Approval Criteria in §3.19.4 below. In no circumstance, however, shall the Community Development Director approve a modification to an approved plan/plat that results in:
- 1. An increase in approved development density or intensity;
 - 2. A change in permitted uses or mix of uses, except where, in the determination of the Community Development Director, the proposed change is substantially consistent in terms of intent, purpose and impact, with the existing approved plan.
 - 3. An increase in building height more than 20% or that exceeds the 35 foot building height;
 - 4. An increase in the size of the total approved building area by more than twenty (20) percent;
 - 5. A change in the size of an accessory building or structure beyond the maximum permitted in §5.3; or
 - 6. An expansion of established limits of disturbance greater than twenty (20) percent.
- C. Minor Modifications for Alternative Compliance. The Community Development Director shall have the authority to grant minor modifications to any design standard or numeric requirement set forth in Article 6 of this Code in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public.

3.19.2 Application Filing/Timing

- A. General. To the extent not incorporated into a plat, plan, or permit which is the subject of a pending review and action pursuant to this Code, applications for a Minor Modification shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.
- B. Timing. Applications pursuant to §3.19.1.A may be filed at any time prior to submittal of the Community Development Director/Staff report to the Planning Commission on the related development application, or Community Development Director/Staff's administrative action on the related development application, as applicable. Applications pursuant to §3.19.1.B may be filed at any time.

3.19.3 Community Development Director/Staff Review and Action

The Community Development Director and Staff shall review each Minor Modification application in light of the Approval Criteria of §3.19.4 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall take final action on the Minor Modification application and either approve, approve with conditions, or deny such application. The Community Development Director shall act upon a request for a Minor Modification within sixty (60) days of submittal of a Complete Application.

3.19.4 Approval Criteria

Minor Modifications may be approved by the Community Development Director only upon a finding that:

- A. The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act; or
- B. All of the following criteria have been met:
 - 1. The requested modification is consistent with the Comprehensive Plan and the stated purpose of this Code;
 - 2. As applicable, the requested modification is consistent with the approved final plan or plat;
 - 3. The requested modification will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public; and
 - 4. Any adverse impacts resulting from the Minor Modification will be mitigated to the extent reasonably feasible.

3.19.5 Effect of Approval

- A. Noted on Pending Application. The Community Development Director shall specify any approved Minor Modifications from general development or zoning district standards and the justifications for such modification on the pending development application for which the modifications were sought.
- B. Minor Modifications to Approved Plans/Plats. Unless the Community Development Director determines that such modifications are insignificant, Minor Modifications to an approved site plan, final PUD development plan, or final subdivision plat shall be noted on a revised plan/plat, which shall be plainly marked as "Amended," and submitted to the Community Development Director. The Community Development Director shall note the terms of the approved modification directly on the amended plan/plat and affix his signature and the date of approval.

- C. Recordation. As applicable, the City shall record the approved Minor Modification in the office of the County Clerk and Recorder. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

3.20 VARIANCES

3.20.1 Applicability

The procedures of this Section shall apply to requests for variances where it is alleged that the provisions of this Code inflict practical difficulties upon the Applicant, except that requests for variances from the floodplain regulations set forth in §6.13 shall be subject to the procedures and criteria set forth in §3.21, "Floodplain Variances."

3.20.2 Use Variances Prohibited

The BOA shall not grant a Variance to allow a use not permitted, or a use expressly or by implication prohibited under the terms of this Code for the zoning district containing the property for which the variance is sought.

3.20.3 Application Filing

Variance applications shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.20.4 Neighborhood Meeting

A neighborhood meeting may be required according to the provisions of §3.1.6.

3.20.5 Public Hearing Notice

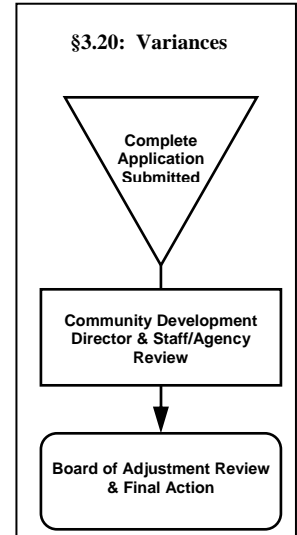
Notice of the Board of Adjustment public hearing on a Variance application shall be published, mailed, and posted in accordance with §3.3.

3.20.6 Community Development Director/Staff Review and Report

The Community Development Director and Staff shall review each Variance application in light of the Approval Criteria of §3.20.8 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Board of Adjustment.

3.20.7 Board of Adjustment Review and Action

Within sixty (60) days from the date of receipt of the Complete Application, the Board of Adjustment shall consider the Variance application at a public hearing, and at the close of the public hearing, the BOA shall act to approve, approve with conditions, or deny the proposed Variance, based on the Approval Criteria of §3.20.8.



3.20.8 Approval Criteria

A Variance application may be approved only if the BOA finds that all of the following criteria have been met:

- A. Special circumstances or conditions exist (e.g., exceptional topographic conditions, narrowness, shallowness, or the shape of the property) that are not common to other areas or buildings similarly situated and practical difficulty may result from strict compliance with this Code's standards, provided that the requested variance will not have the effect of nullifying or impairing the intent and purposes of either the specific standards, this Code, or the Comprehensive Plan.
- B. In determining "practical difficulty," the BOA shall consider the following factors:
 - 1. Whether there can be any beneficial use of the property without the variance;
 - 2. Whether the variance is substantial in relation to the requirement or standard;
 - 3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
 - 4. Whether the variance would adversely affect the delivery of public services such as water and sewer;
 - 5. Whether the variance would adversely affect the risk of property damage or personal injury from flood, fire, or other natural disaster;
 - 6. Whether the Applicant purchased the property with knowledge of the requirement; and
 - 7. Whether the Applicant's predicament can be mitigated through some method other than a variance.
- C. No variance shall be granted if the submitted conditions or circumstances result from the actions or prior actions of the Applicant.
- D. No variance shall be granted reducing the size of lots contained in an existing or proposed subdivision if it will result in an increase in the number of lots beyond the number otherwise permitted for the total subdivision, pursuant to the applicable zoning district regulations.
- E. If authorized, a variance shall represent the least deviation from the regulations that will afford relief.
- F. The existence of nonconforming uses of neighboring lands, structures, or buildings in the same zoning district, or permitted or nonconforming use of lands, structures, or buildings in other zoning districts, shall not be considered grounds for the issuance of a variance.

3.20.9 Conditions on Approvals

In granting such variances, the BOA may require such conditions as will, in its independent judgment, secure substantially the objectives of the standard so varied or modified.

3.20.10 Effect of Approval/Lapse

- A. A Variance shall lapse and have no further effect two (2) years after its effective date or at such alternative time specified in the approval unless:
 - 1. A Building Permit has been issued and construction diligently pursued;
 - 2. A Certificate of Occupancy has been issued; or
 - 3. The structure is established.
- B. A Variance shall automatically lapse and have no further effect if the rights granted by it are discontinued for 180 consecutive days.

3.21 FLOODPLAIN VARIANCES

3.21.1 Applicability

The procedures of this Section shall apply to requests for variances from the floodplain regulations set forth in §6.13 ("Floodplain Variances"), except that Floodplain Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places without compliance with the procedures and criteria set forth in the remainder of this Section.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 3.21.6 have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increase.

Variances shall only be issued upon:

- A. A showing of good and sufficient cause;
- B. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expenses, or create nuisances, cause fraud on or victimization of the public as identified in Section 3.21.6 or conflict with existing local laws or ordinances.

3.21.2 Use and Other Floodplain Variances Prohibited

- A. The Hearing Officer shall not grant a Floodplain Variance to allow a use not permitted, or a use expressly or by implication prohibited under the terms of this Code for the zoning or floodplain district containing the property for which the variance is sought.
- B. The Hearing Officer shall not grant a Floodplain Variance to property located within any designated floodway if any increase in flood levels during the base flood discharge would result.

3.21.3 Application Filing

Floodplain Variance applications shall be submitted to the Floodplain Administrator. The Floodplain Administrator shall review the application for completeness in accordance with §3.1.5.

3.21.4 Floodplain Administrator/Staff Review and Report

The Floodplain Administrator shall review each Floodplain Variance application in light of the Approval Criteria of §3.21.6 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Floodplain Administrator shall provide a report to the Hearing Officer. The Floodplain Administrator shall complete his review and report, including referral to other agencies and bodies, within fifteen (15) days of receipt of a Complete Application.

3.21.5 Hearing Officer Review and Action

Within thirty (30) days from the date of receipt of the Complete Application, the Hearing Officer shall consider the Floodplain Variance application and shall take final action to approve, approve with conditions, or deny the proposed Floodplain Variance, based on the Approval Criteria of §3.21.6.

3.21.6 Approval Criteria

In acting upon applications for Floodplain Variances, the Hearing Officer shall consider the Floodplain Regulations of §6.13; the provisions of §3.21.2 above; all technical evaluations; and the following criteria:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- D. The importance of the services provided by the proposed facility to the community;
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

- F. The compatibility of the proposed use with existing and anticipated development;
- G. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges; and
- K. Whether the Floodplain variance is the minimum necessary, considering the flood hazard, to afford relief.

3.21.7 Conditions on Approvals

In granting such variances, the Hearing Officer may require such conditions as will, in his independent judgment, secure substantially the objectives of the standard so varied or modified.

3.21.8 Effect of Approval

- A. The Floodplain Administrator shall report all grants of Floodplain Variances to the Flood Emergency Management Agency.
- B. A Floodplain Variance shall lapse and have no further effect one (1) year after its effective date or at such alternative time specified in the approval unless:
 - 1. A Building Permit has been issued and construction diligently pursued;
 - 2. Certificate of Occupancy has been issued; or
 - 3. The structure is established.
- C. A Floodplain Variance shall automatically lapse and have no further effect if the rights granted by it are discontinued for 180 consecutive days.

3.22 WRITTEN INTERPRETATIONS

3.22.1 Purpose and Applicability

- A. This section establishes a procedure whereby Code users may seek an interpretation of any of this Code's provisions, including an interpretation whether a specific use is deemed to be within a use classification permitted in a particular zoning district.

- B. This section shall also apply to interpretations regarding Official Floodplain Map boundaries of the Flood Regulatory, Floodway, and Flood Zone Districts and regarding final floodplain boundaries. For this type of interpretation, the provisions contained in this §3.22 shall apply, except that in lieu of the Community Development Director, the Floodplain Administrator shall accept applications for and have decision-making authority on the requested interpretation.
- C. The provisions of this section shall not apply to permit any specific use that is expressly prohibited in a zoning district. If, pursuant to this section, a specific use cannot clearly be determined to be in a use classification permitted in a particular zoning district, such use may be incorporated into the zoning regulations by a Code Amendment, as provided in §3.5 above.

3.22.2 Application Filing

Applications for Written Interpretations of this Development Code shall be submitted to the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.22.3 Community Development Director Review and Action

Within 30 days of receipt of a Complete Application for a Written Interpretation, the Community Development Director shall:

- A. Review and evaluate the application in light of this Code, the Comprehensive Plan, and any other relevant documents;
- B. Consult with the City Attorney and other staff, as necessary; and
- C. Render a written interpretation.

3.22.4 Form

The Written Interpretation shall be provided to the Applicant in writing and shall be filed in the Official Record of Interpretations.

3.22.5 Official Record of Interpretations

An Official Record of Interpretations shall be kept on file in the office of the Community Development Director. The Official Record of Interpretations shall be available for public inspection in the Community Development Department during normal business hours.

3.22.6 Appeals

Appeals of the Community Development Director's written interpretation shall be taken to the City Council in accordance with the appeal procedures of §3.2.2. If the appeal results in a change of interpretation, the new interpretation shall be filed in the Official Record of Interpretations.

3.23 VESTED RIGHTS

3.23.1 Purposes

The purposes of this Section are (1) to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, which establish a Vested Right to undertake and complete development and use of real property under the terms and conditions of an approved Site Specific Development Plan (§§ 3.23.2 – 3.23.10), and 2) to provide procedures independent of the provisions of Article 68 of Title 24, Colorado Revised Statutes, by which, under appropriate circumstances, an Early Vested Right may be granted prior to the approval of a Site Specific Development Plan (§§ 3.23.11).

3.23.2 Applicability

- A. Except as provided for in § 3.23.11 with respect to an Early Vested Right, a Vested Right shall attach only to an approved Site Specific Development Plan. A "Site Specific Development Plan" shall mean final approval, including the Applicant's acceptance of any terms and conditions of approval, of any of the following types of applications where the Applicant has specifically applied for a Vested Right:
 - 1. PUD Final Development Plans;
 - 2. Final Subdivision Plats; and
 - 3. Site Plans
- B. No minor plat or amendment to any plat, where the plat was approved prior to January 1, 1988, shall constitute a Site Specific Development Plan.

3.23.3 Application

An application for a Vested Right shall be made in writing as part of an application for PUD Preliminary and Final Development Plans, Preliminary and Final Subdivision Plats, or a Site Plan, as applicable. An application for a Vested Right shall comply with all other submittal requirements, as applicable, including any required fees.

3.23.4 City Council Notice and Hearing

- A. In the case of PUD Final Development Plans, the notice and public hearing requirements of C.R.S. §24-68-103(1)(b) shall be satisfied by the notice and public hearing before City Council to consider the PUD Preliminary Development Plan pursuant to §3.7.3, and the City Council, upon approval of a request for a Vested Property Right, shall indicate that such vested right shall only be created upon approval of the required PUD Final Development Plan by the Community Development Director pursuant to §3.7.4.
- B. In the case of Final Subdivision Plats, the notice and public hearing requirements of C.R.S. §24-68-103(1)(b) shall be satisfied by the notice

and public hearing before City Council to consider the Preliminary Subdivision Plat pursuant to §3.8.2, and the City Council, upon approval of a request for a Vested Property Right, shall indicate that such vested right shall only be created upon approval of the required Final Subdivision Plat by the Community Development Director pursuant to §3.8.3.

- C. In the case of Site Plans, which are approved by the Community Development Director pursuant to §3.15, the notice and public hearing requirements of C.R.S. §24-68-103(1)(b) shall be satisfied by a separate hearing before City Council following the Community Development Director's decision on the Site Plan. The Applicant shall request a Vested Right hearing within thirty (30) days following the approval of the Site Plan, or the right to request such a hearing shall be waived.
- D. Any decision to approve a request for a Vested Property Right shall be based on a determination that the grant of vested rights is reasonable given the proposed development's benefits to the surrounding properties, surrounding community, or to the city in general.

3.23.5 Effective Date of Approval

- A. The effective date of a Site Specific Development Plan approval shall be the date of publication, in a newspaper of general circulation within the City of Arvada, of a notice advising the general public of the Site Specific Development Plan approval and creation of a Vested Right pursuant to this Section and Colorado law. Such publication shall occur no later than fourteen (14) days following approval of the PUD Final Development Plan or Final Subdivision Plat, or no later than fourteen days following the City Council's decision to grant a Vested Right for a Site Plan, as applicable.
- B. It shall be the responsibility of the applicant to ensure that the requisite notice has been published within the required time-frame. A Vested Right for which the requisite notice was published after the deadline set forth in paragraph A. above shall be deemed effective fourteen (14) days after the approval of the applicable PUD Final Development Plan, Final Subdivision Plat, or Site Plan.

3.23.6 Effect of Approval/Duration

- A. Approval of a Site Specific Development Plan shall create a Vested Right to undertake and complete development and use of real property pursuant to C.R.S. §24-68-103, but only as to those terms and conditions contained in the approved Site Specific Development Plan.
- B. The grant of a Vested Right in an approved Site Specific Development Plan shall not prevent the City, in subsequent actions, from applying any of the following to the subject property:
 - 1. New ordinances, rules, regulations, and policies that do not conflict with those rules, regulations, and policies in effect as of the Site Specific Development Plan's effective date of approval;

2. New ordinances, rules, regulations, and policies that are specifically anticipated and provided for in the terms or conditions of the approved Site Specific Development Plan;
 3. New ordinances, rules, regulations, and policies that are necessary for the immediate preservation of the public health and safety; or
 4. New ordinances, rules, regulations, and policies when the City finds that the Site Specific Development Plan is based on substantially inaccurate information supplied by the Applicant.
- C. A Vested Right shall remain vested for a period of three (3) years from the Site Specific Development Plan's effective date of approval, unless a longer term is agreed to by the City in a Development Agreement (see §3.12). An amendment to any Site Specific Development Plan shall not extend the period of vested rights, unless otherwise authorized by agreement approved by City Council.

3.23.7 Plat or Plan Language Required

Each Site Specific Development Plan shall contain the following language: "Approval of this [plan/plat] creates a vested property right subject to all conditions of approval pursuant to Colorado Revised Statutes §24-68-103. The effective date shall be that date specified in Section 3.23.5 of the Arvada Land Development Code."

3.23.8 Pending Applications for a Site Specific Development Plan - Applicable Rules & Regulations

- A. General Rule. Pursuant to C.R.S. §24-68-102.5, the review, approval, approval with conditions, or denial of a Complete Application for a Site Specific Development Plan shall be governed by the duly adopted laws and regulations in effect at the time a Complete Application for a Site Specific Development Plan is submitted pursuant to this Section and Article.
- B. Exception. Notwithstanding the limitations contained in paragraph A. above, the City may apply to the pending Complete Application for a Site Specific Development Plan any subsequently enacted or amended ordinances, rules, regulations, or policies that are necessary for the immediate preservation of the public health and safety.
- C. Definition of "Complete Application for a Site Specific Development Plan." For purposes of this subsection, a "Complete Application for a Site Specific Development Plan" shall be defined as set forth in Article 10 of this Code and shall refer only to a Complete Application for approval of a Final PUD Development Plan (§3.8), Final Plat (§3.9), or Site Plan (§3.15). For purposes of this subsection, each separately numbered section of this Article (§3.5 through §3.29), sets forth a completely separate approval process for a particular development application. None of the procedures contained in any numbered section (such as PUD rezoning review) shall be interpreted to be the first stage of any other procedure in any other numbered section (such as Major Subdivision review). In addition, no optional step (such as optional PUD Outline Development Plan review) in any numbered section shall be

deemed to be the first stage of any required step (such as PUD Preliminary Development Plan review) in any numbered section.

3.23.9 Waiver

A landowner may waive a Vested Right by separate agreement, which shall be recorded in the county where the property is located. Unless otherwise agreed to by the City, any landowner requesting annexation to the City shall waive in writing any pre-existing Vested Right as a condition of such annexation.

3.23.10 Other Provisions Unaffected

Approval of a Site Specific Development Plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to annexation, development, and use of property.

3.23.11 Early Vested Rights

- A. Under circumstances deemed appropriate by, and at the sole discretion of, the City Council, a landowner may obtain an Early Vested Right prior to the approval of a Site Specific Development Plan. An Early Vested Right is intended to provide a landowner with a reasonable level of certainty with respect to such early matters as zoning, general land-use classifications, or development approvals of a preliminary nature, in reliance upon which substantial expenditures may be made, while minimizing certain potential inflexibilities, risks and liabilities of the City associated with, and more appropriate to, the later approval of a Site Specific Development Plan pursuant to C.R.S. § 24-68-101 et seq.
- B. An Early Vested Right shall be created and granted only by Development Agreement and any action authorizing a Development Agreement which creates an Early Vested Right shall be deemed legislative in nature, and in the form of an ordinance, upon a consideration of the following factors:
 - 1. Whether the benefits to the City of granting an Early Vested Right outweigh the associated costs and risks;
 - 2. Whether the nature of the project, or relevant circumstances including, but not limited to, the size and phasing of the development, financing considerations, economic cycles, market conditions, and benefits to be derived from the project by the City, support the discretionary grant of an Early Vested Right;
 - 3. Whether the City has received adequate assurances that the development will go forward as planned in return for any vesting of property rights prior to the approval of a Site Specific Development Plan; and
 - 4. Whether the Development Agreement creating the Early Vested Right incorporates adequate protections for the benefit of the City against risks associated with the creation of vested property rights prior to the availability of details typically provided by a Site Specific Development Plan.

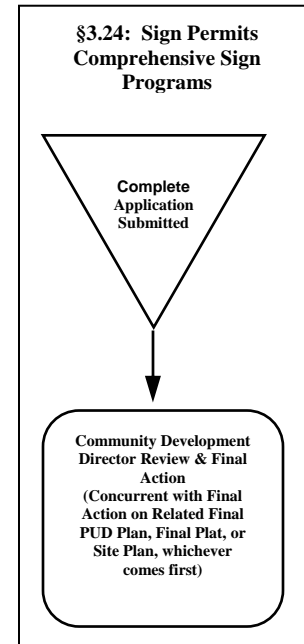
- C. Any grant of an Early Vested Right is pursuant to the home-rule powers of the City and separate and distinct from, and independent of, the provisions of Article 68 of Title 24, Colorado Revised Statutes.
- D. The period of vesting pursuant to the grant of an Early Vested Right may be for any period of time up to ten (10) years, as agreed to between the City and landowner, and as set forth in a Development Agreement.
- E. No formal application for an Early Vested Right shall be required, but a request for an Early Vested Right shall be made in writing and shall include an explanation in justification of the granting of an Early Vesting Right. As a matter within the complete discretion of City Council, and legislative in nature, City Council shall not be compelled to act upon any request for an Early Vested Right. Favorable consideration, however, which results in the execution of a Development Agreement shall result in the requirement that that fee applicable to an Application for Vested Right pursuant to § 3.23.3 be paid.
- F. An Early Vested Right, once granted, shall preclude the City from initiating any of the following actions, except as specifically provided for in subsection 3.23.11 G:
 - 1. Rezoning of the property, to the extent the property's zoning is the subject matter of the Early Vested Right;
 - 2. Rescinding general land-use designations approved as part of an Outline Development Plan, Concept Plan, or similar document, to the extent such designations are the subject matter of the Early Vested Right; or
 - 3. Applying subsequently-enacted standards, such as street standards or architectural standards, if specific standards relating to the same subject matter were an integral and specific part of the matter for which an Early Vested Right was granted.
- G. Notwithstanding the provisions of subsection 3.23.11 F, the City may pursue such actions with the consent of the landowner, or:
 - 1. To the extent that the City reimburses the landowner for all planning, architectural, and engineering costs incurred by the landowner subsequent to the grant of the Early Vested Right which were reasonable and necessary to progress to the next stage of the applicable development approval process; or
 - 2. If such actions are necessary to avoid a specific and substantial threat to the public health, safety, and welfare.
- H. The grant of an Early Vested Right shall not 1) prevent the City, in subsequent actions, from applying new ordinances, rules, regulations, and policies which do not result in those actions set forth in subsection 3.23.11 F; 2) create any liability for the City, or claim against the City, with respect to any initiated or referred measure; or 3) create any entitlement to a subsequent development approval.

- I. The effective date of an Early Vested Right shall be five (5) days after publication following final passage of the ordinance authorizing the Development Agreement granting the Early Vested Right.

3.24 SIGN PERMITS

3.24.1 Applicability

- A. General Rule. Prior to the erection of any sign allowed by §6.17 of this Code, including temporary signs but not including exempt signs under §6.17.2, a Sign Permit shall be obtained pursuant to this Section.
- B. Comprehensive Sign Programs. Sign Permits for Comprehensive Sign Programs for centers, regional centers, or large-scale single users, as allowed by §6.17.3 (Sign Schedule) of this Code, shall be reviewed at the time of Final PUD Development Plan, Final Subdivision Plat, or Site Plan review, whichever process occurs first. A Comprehensive Sign Program shall be approved prior to issuance of any building permits.

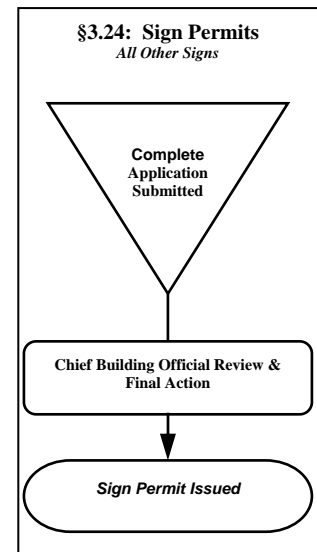


3.24.2 Application Filing

An application for a Sign Permit shall be filed with the Chief Building Official. The Chief Building Official shall review the application for completeness in accordance with §3.1.5.

3.24.3 Chief Building Official/Community Development Director Review and Action

- A. All Signs Except Comprehensive Sign Programs. The Chief Building Official shall review the Sign Permit application in light of the Approval Criteria of §3.24.4 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Chief Building Official shall take final action on the Sign Permit application and either approve, approve with conditions, or deny such application. The Chief Building Official shall act upon a request for a Sign Permit within seven (7) days of submittal of a Complete Application.
- B. Comprehensive Sign Programs. The Community Development Director shall review the Comprehensive Sign Program Permit application in light of the Approval Criteria of §3.24.4 below and take final action on the application concurrent with final action on the Final PUD Development Plan, Final Subdivision Plat, or Site Plan review, as applicable.



3.24.4 Approval Criteria

- A. All Sign Permits. A Sign Permit application shall comply with the following criteria:
1. The proposed sign complies with the applicable standards set forth in §6.15 of this Code and with the Building Code of the City of Arvada, unless a Minor Modification (see §3.19) or a Variance (see §3.20) has been previously granted.
 2. For Residential Subdivision Identification Signs only (See §6.17.4.A.10):
 - a. Signage for the subject subdivision is inadequate given the layout of the subdivision and/or its size; and
 - b. The identification sign requested shall not be located in an area currently congested with signs.
- B. Comprehensive Sign Programs. In addition to the criteria in paragraph A. above, a Comprehensive Sign Program application may be approved only if all of the following criteria have been met:
1. The Comprehensive Sign Program is consistent with the proposed design and architectural character of the proposed development;
 2. The proposed Comprehensive Sign Program is compatible with the surrounding neighborhood and land uses.

3.24.5 Effect of Approval/Lapse

A Sign Permit shall lapse and have no further effect unless a sign has been erected in compliance with the terms and conditions of the permit within one (1) year after the date of the Sign Permit approval.

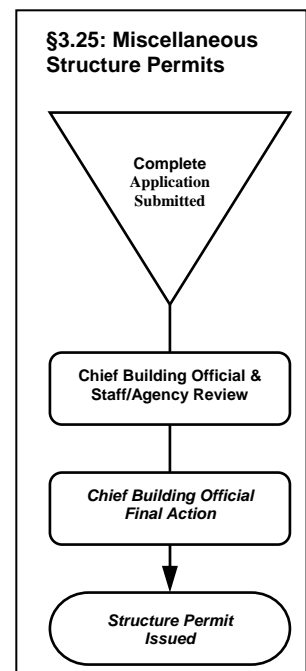
3.25 MISCELLANEOUS STRUCTURE PERMITS (FENCES, WALLS, PATIOS, SHEDS, DECKS)

3.25.1 Applicability

Prior to the erection of any fence, wall, shed, deck, or other miscellaneous structure allowed by this Code, a Miscellaneous Structure Permit shall be obtained pursuant to this Section.

3.25.2 Application Filing

An application for a Miscellaneous Structure Permit shall be filed with the Chief Building Official. The Chief Building Official shall review the application for completeness in accordance with §3.1.5.



3.25.3 Chief Building Official/Staff Review and Action

The Chief Building Official shall review the Miscellaneous Structure Permit application in light of the Approval Criteria of §3.25.4 below and, as deemed necessary, distribute the application to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Chief Building Official shall take final action on the Miscellaneous Structure Permit application and either approve, approve with conditions, or deny such application. The Chief Building Official shall act upon a request for a Miscellaneous Structure Permit within seven (7) days of submittal of a Complete Application.

3.25.4 Approval Criteria

The Chief Building Official shall approve a Miscellaneous Structure Permit application if it complies with the applicable standards set forth in Article 6 of this Code and with the Building Code of the City of Arvada, unless a Minor Modification (see §3.19) or a Variance (see §3.20) has been previously granted.

3.25.5 Effect of Approval/Lapse

A Miscellaneous Structure Permit shall lapse and have no further effect unless the structure has been erected in compliance with the terms and conditions of the permit within six (6) months after the date of the Miscellaneous Structure Permit approval.

3.26 REVOCABLE PERMITS

3.26.1 Applicability

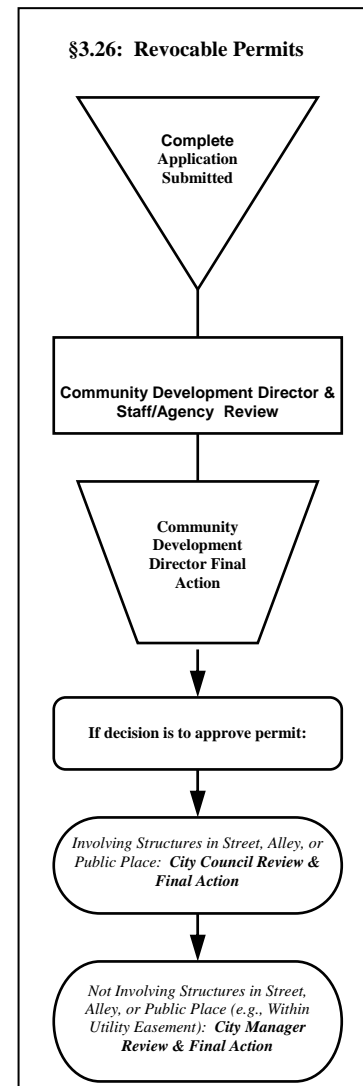
A Revocable Permit shall be required whenever a person seeks to erect a fence, wall, sign, or other structure on public property or within a public right-of-way or easement.

3.26.2 Application Filing

An application for a Revocable Permit shall be filed with the Community Development Director. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.26.3 Community Development Director/Staff Review and Action

- A. The Community Development Director and Staff shall review each Revocable Permit application in light of the Approval Criteria of §3.26.6 below and shall distribute the application to the Public Works Director for his review and, as deemed necessary, other reviewers in accordance with §3.1.7.
- B. Based on the results of those reviews, the Community Development Director shall take



action to approve, approve with conditions, or deny the Revocable Permit application in light of the Approval Criteria of §3.26.6 below. The Community Development Director shall complete his review and action within sixty (60) days of receipt of a Complete Application.

- C. If the Revocable Permit application is approved, the Community Development Director shall forward it to the City Council for its consideration and acceptance in accordance with §3.26.4 below, except as set forth in subsection D. below.
- D. If the Revocable Permit concerns a structure sought to be erected on public property other than a street, alley, or public place (for example, within a utility or drainage easement), the Community Development Director shall forward the permit to the City Manager for his consideration and acceptance in accordance with §3.26.5 below.

3.26.4 City Council Review and Action

Except as provided in §3.26.3.D, the Community Development Director shall forward an approved Revocable Permit application to the City Council, who shall take final action to accept or reject the approved Revocable Permit application.

3.26.5 City Manager Review and Action

As applicable pursuant to §3.26.3.D above, the Community Development Director shall forward an approved Revocable Permit application to the City Manager, who shall take final action to accept or reject the approved Revocable Permit application.

3.26.6 Approval Criteria

An application for a Revocable Permit may be approved if it complies with the following criteria:

- A. The Applicant agrees to the terms of a Revocable Permit Agreement, including any provisions that indemnify the City and hold the City harmless from future damages or liability claims;
- B. The proposed structure complies with all applicable use, development, and design standards set forth in this Code, including applicable standards in Articles 6 and 7, that have not otherwise been modified or waived pursuant to this Article; and
- C. The proposed structure shall not interfere with street intersection visibility, or in any other way, adversely affect the public health, safety, or welfare.

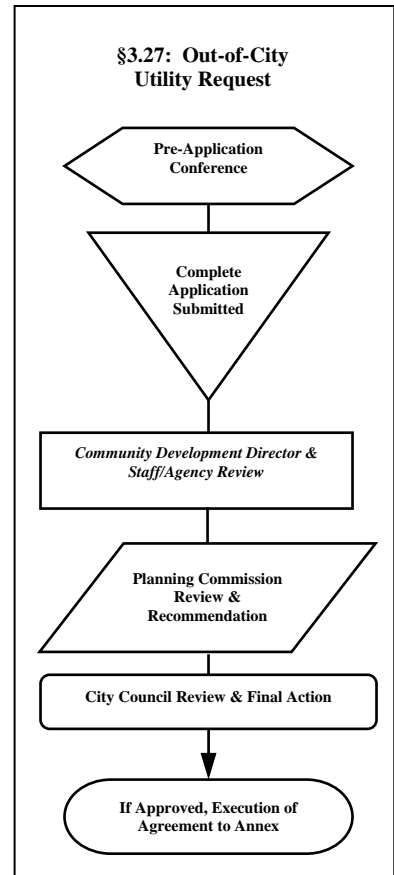
3.26.7 Effect of Approval/Lapse

A Revocable Permit shall lapse and have no further effect unless the permitted structure has been erected in compliance with the terms and conditions of the permit within one (1) year after the date of the Revocable Permit approval.

3.27 OUT-OF-CITY UTILITY SERVICE REQUESTS

3.27.1 General Policy

- A. No property located outside of the City that is eligible for annexation to the City shall be served either water or sewer service by the City until such property is annexed to the City, except that property located in the old Oberon Water District may have one tap per legal parcel in effect as of 1962.
- B. It is the general policy of the City not to provide water or sewer service to property outside of the City that is not eligible for annexation, except as may be allowed by the procedures set forth in this Section.
- C. Exceptions to paragraphs A. and B. above may be granted where prior agreements with areas or previous districts allow utility service.



3.27.2 Request Filing

A Request for Out-of-City Water or Sewer Service shall be submitted to the Community Development Director.

3.27.3 Community Development Director/Staff Review and Recommendation

The Community Development Director shall review the Request in light of the Approval Criteria of §3.27.7 below and shall distribute the application to the Public Works Director and, as deemed necessary, to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

3.27.4 Planning Commission Review and Recommendation

The Planning Commission shall review the Request and make a recommendation to the City Council based on the Approval Criteria of §3.27.7. The Planning Commission shall complete its review and action within thirty (30) days of receipt of the Community Development Director's report.

3.27.5 Payment of Fees Required

All water and sewer fees shall be paid in cash or certified funds prior to the City Council consideration of the Request for Out-of-City Water or Sewer Service. If the City Council denies the Request, the City will refund the fees to the property owner.

3.27.6 City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall consider the Request based on the Approval Criteria of §3.27.7 and shall act to approve, approve with conditions, or deny the Request. The City Council shall complete its review and action within thirty (30) days of receipt of the Planning Commission's recommendation.

3.27.7 Approval Criteria

The City Council may approve a Request for Out-of-City Water or Sewer Service if it complies with the following criteria:

- A. It is within the best interests of the City to provide such service;
- B. All fees required by §3.27.5 have been paid; and
- C. The property owner agrees to enter into an agreement to annex to the City as provided in §3.27.8 below.

3.27.8 Effect of Approval--Agreement to Annex

As provided in C.R.S. §31-12-121, any property owner provided water or sewer service outside of the City shall enter into an agreement to annex to the City. The agreement shall include a legal description of the property provided water or sewer service and shall bind the property owner's legal representatives, successors, heirs, and assigns. The agreement to annex shall include, but not be limited to the following provisions:

- A. An agreement to comply with all applicable ordinances of the City relating to water or sewer services;
- B. An agreement that all water or sewer service lines and all other facilities required to extend the service to the owner's property will be built to City specifications and will be conveyed to the City, and that the owner shall bear the full cost, including cost of inspections, of extending all such water or sewer service lines and facilities;
- C. An agreement not to develop the land without first submitting development plans to the Planning Commission and City Council for approval;
- D. An agreement not to build any streets, or other public improvement facilities or buildings, except in accordance with City building, plumbing, electrical, and fire prevention codes, subdivision regulations, and engineering standards and specifications that would be applicable to similar improvements in the City, and agreement to pay the cost of all inspections required by the City;
- E. An agreement to execute the necessary documents to petition and initiate at the property owner's expense an action to annex to the City;
- F. An agreement that the property owner will consent to annexation if initiated by the City;

- G. An agreement to dedicate all necessary rights-of-way for streets, alleys, highways, and utility easements at no cost to the City at the earlier of the following occurrences: upon annexation, whether initiated by the owner or by the City or at any time upon request of the City to enable the City to proceed with construction of said improvements;
- H. An agreement to comply with the provisions of this Code and of the Arvada City Code relating to annexations and development as provisions are in effect at the time of annexation;
- I. An agreement to comply with all ordinances of the City requiring the dedication of open space prior to the time water or sewer services are connected;
- J. An agreement that includes a description of the tributary water rights, if any, appurtenant to the property to be served, warranting merchantable title, and an agreement to convey such water rights to the City immediately upon connection to City water or sewer services, for a stated price, which price shall represent the agreed present market value of such water. Upon the approval of both parties, such agreement may also provide for the lease-back of such water at a stated annual rental until the property is developed;
- K. In the case of water, an agreement to comply with the City regulations or request to prevent waste or conserve water or both;
- L. An agreement that the City shall have the right to curtail or eliminate service to the area if such is necessary to provide adequate service to customers within the City limits;
- M. An agreement that the owner will not use either property or buildings in any manner that is determined by the City to be detrimental to the health, safety, or welfare of the City;
- N. An agreement that the owner will not participate in the formation of another City or participate in the formation of any special service district, without the consent of the City;
- O. An agreement to comply with City regulations relative to discharging certain materials and infiltration into the City sewer system;
- P. An agreement to indemnify and hold the City harmless from any and all damages or liability arising either directly or indirectly from providing water or sewer services to the owner by the City;
- Q. An agreement to convey groundwater rights to the City pursuant to §3.28.4.B below at the time water or sewer services is provided to the property;
- R. An agreement that the property owner will pay the City all costs, attorneys fees, and related expenses incurred by the City in the event that the property owner breaches any provision of the agreement or if the City is required to enforce an action in specific performance as provided in C.R.S. §31-12-121.

3.28 ANNEXATIONS

3.28.1 Annexation/Disconnection Procedure

All annexation of unincorporated territory to the City shall comply with the requirements and procedures set forth in the Municipal Annexation Act, Colorado Revised Statutes 1973, Title 31, Article 12, Part 1 (§31-12-101 et seq.), as amended. Any disconnection of incorporated territory from the City shall be done in accordance with §31-12-501 to §31-12-503 thereof, as amended, except with respect to the effective date of a disconnection ordinance adopted pursuant thereto, which shall be governed by the provisions of the Arvada Charter, §5.8.

3.28.2 Required Annexation Agreement

Except as to a unilateral annexation or annexation upon election, the requirements of this Section and any additional requirements determined by the City Council shall be contained in a written Annexation Agreement to be executed by the land owner and developer, if applicable, at the time of annexation.

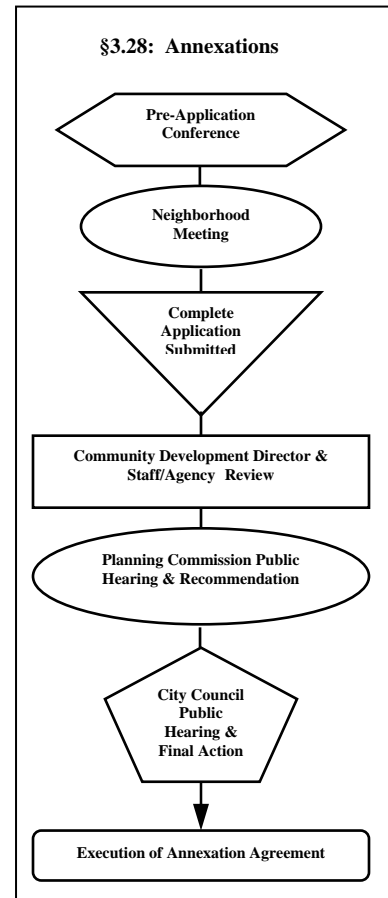
3.28.3 Approval Criteria

All annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary, legislative act. The City shall never be compelled to annex, unless otherwise required by state law, even if all these Approval Criteria have been satisfied.

- A. The annexation is in compliance with the Municipal Annexation Act of 1965 (CRS §31-12-101, et seq., as amended).
- B. The annexation is in accord with the Comprehensive Plan and the best interests of the City would be served by annexation of such property.
- C. The property is capable of being integrated into the City and developed in compliance with all applicable provisions of this Code and the Arvada City Code.
- D. At the time any development of the area proposed to be annexed is completed, there will be capacity to adequately serve residents of such area with all necessary utilities and facilities.

3.28.4 Effects of Approval

- A. Recordation. Following approval of an annexation or conditional approval of an annexation with all conditions being agreed to, the annexation agreement, which shall have all conditions of approval expressly noted therein, shall be signed by the property owners and the Mayor, and shall be attested by the City Clerk. The City shall file for recording with the County Clerk and Recorder three (3) certified copies



of the annexation ordinance and map of the area annexed. The applicant shall pay all required recording fees, and it shall be the applicant's responsibility to ensure that such recording was successfully completed.

- B. Floodplain. Upon annexation, any portion of the area to be annexed situated within the 100-year floodplain for Leyden Creek, Ralston Creek, Van Bibber Creek, Little Dry Creek, Big Dry Creek, or Clear Creek, shall be dedicated to the City unless otherwise provided.
- C. Sale of Water Rights
1. Past Annexations. With respect to all property annexed to the City prior to the effective date of this section, which has or has had at any time after August, 1970, tributary water rights appurtenant thereto, no such property shall be permitted to be connected to public water or sewer service unless and until all such water rights have been conveyed to the City at their current market value, provided, however, that this prohibition shall not apply with respect to any water rights to which the City was given a right of first refusal prior to the effective date of this section which it declined to exercise.
 2. Future Annexations upon Petition or Election. Except for property zoned to a New Community (NC) Zoning District, with respect to all property hereafter annexed to the City upon petition or election, the Annexation Agreement shall contain:
 - a. A description of the water rights appurtenant to said property, warranting merchantable title, and an agreement to convey such water rights to the City immediately upon annexation for a stated price, which price shall represent the agreed present market value of such water. Upon the approval of both parties, such agreement may also provide for the lease-back of such water for a stated annual rental until the property is developed; or
 - b. An agreed statement that the property has had tributary water rights appurtenant after June 1, 1974, but that they were sold without offering the City a right of first refusal and that the property is not eligible to receive City water service; or
 - c. An agreed statement that no tributary water rights have been appurtenant since June 1, 1974, to which the City has not been offered a right of first refusal and the property is, therefore, eligible for public water service.
 3. Future Unilateral Annexations. With respect to all property hereafter annexed to the City by unilateral annexation, no new water taps shall be given to such property until all tributary water rights appurtenant to such land at any time after June 1, 1974, have been conveyed to the City at their current market value; provided, however, this prohibition shall not apply to any water rights sold prior to the effective date of this section as to which the City was given a right of first refusal which it declined to exercise.

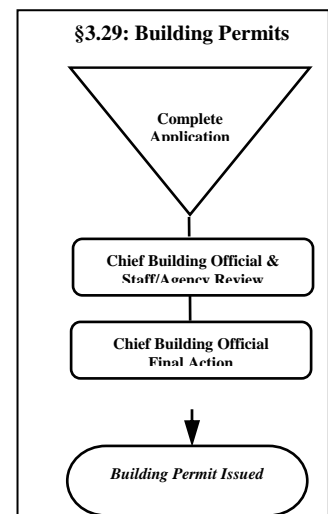
4. Hardship Cases. In cases of extreme hardship that have not been self-imposed by the property owner, the City Council may waive the prohibitions contained in this subsection 3.28.4.C as to property where water rights have previously been sold without honoring the City's rights of first refusal.
5. Determination of Value of Third Party. In the event that the parties are unable to agree upon the current market value, as provided in this article, the parties shall jointly designate a disinterested third party whose determination shall be final. In the event that the City determines it would not be in the best interest of the City to purchase water rights, but it would be in the best interest of the City to annex the property, the City may waive the requirement to convey water rights to the City.
6. Conveyance of Groundwater Rights. Except for property zoned to a New Community (NC) Zoning District, with respect to all property annexed to the City after January 1, 1985, the Annexation Agreement shall contain:
 - a. A description of all water rights and well rights associated with or used on said property which diverts water out of the Denver, Arapahoe, and Laramie-Fox Hills aquifers.
 - b. An agreement to convey to the City immediately upon annexation, at no cost to the City, all water rights associated with or used on said property, including but not limited to rights represented by a well permit, well registration, or judicial decree for the diversion of water out of the Denver, Arapahoe and Laramie-Fox Hills aquifers, all well rights and all rights to other structures associated with the diversion of water out of the Denver, Arapahoe and Laramie-Fox Hills aquifers underlying said property.
 - c. An agreement that immediately upon annexation, the owners of land within the annexed property shall, at no cost to the City, convey to the City, the landowners' consent to the withdrawal by the City of all groundwater in the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying said property.

3.29 BUILDING PERMITS

3.29.1 Applicability

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Chief Building Official. No building permit shall be issued except in conformity with the provisions of this Code, unless the Applicant receives a Minor Modification or Variance as provided by this Code.

No building permit shall be issued for any construction, development, or storage of materials, in the Flood



Regulatory District, Flood Zone District or Floodway District until a Flood Plain Development Permit has been obtained from the Flood Plain Administrator per §3.16.

3.29.2 Application Filing

An application for a Building Permit shall be filed with the Chief Building Official, who shall review the application for completeness in accordance with §3.1.5.

3.29.3 Chief Building Inspector Review and Action

The Chief Building Official shall review each Building Permit application in light of the Approval Criteria of §3.29.4 below and shall distribute the application, as deemed necessary, to other reviewers in accordance with §3.1.7. Based on the results of those reviews, the Chief Building Official shall take final action to approve, approve with conditions, or deny the Building Permit application in light of the Approval Criteria of §3.29.4 below. The Chief Building Official shall complete his review and action within forty-five (45) days of receipt of a Complete Application.

3.29.4 Approval Criteria

The Chief Building Official shall approve a Building Permit application if it complies with the following criteria:

- A. The building plan is consistent with any previously approved Subdivision Plat, PUD Development Plan, Rezoning Concept Plan, Site Plan, or other precedent plan or land use approval.
- B. The proposed development complies with all applicable development and design standards set forth in this Code, and with the Building Code of the City of Arvada, unless a Minor Modification (see §3.19) or a Variance (see §3.20) has been previously granted.
- C. The development complies with all applicable federal, state, or county development regulations, standards, and requirements, or plans, including but not limited to wetlands, water quality, and wastewater regulations.
- D. All applicable development fees have been paid in full.

For land-use activity subject to the provisions of §3.30 of this Code, a Building Permit application must meet the following additional approval criteria:

- E. A Certificate of Compliance with Design Guidelines (CCDG) or Waiver has been approved pursuant to §3.30.

3.29.5 Effect of Approval

- A. Construction and Use to be Provided in Applications, Plans, and Permits. Building Permits issued on the basis of plans and the applications approved by the Chief Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and any other use, arrangement, construction, or variance

with that authorized in the permit shall be deemed a violation of this Code and subject to the enforcement provisions of Article 9 of this Code.

B. Lapse.

1. If the work described in any Building Permit has not begun within six (6) months from the date of the permit's issuance, the Building Permit shall automatically lapse and be null and void and written notice thereof shall be given to the persons affected.
2. If the work described in any Building Permit has not been substantially completed within two (2) years of the date of issuance thereof, the Building Permit shall automatically lapse and be null and void, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled Building Permit shall not proceed unless a new Building Permit is obtained.

3.30 CERTIFICATES OF COMPLIANCE WITH DESIGN GUIDELINES

3.30.1 Applicability

A. General Rule. Within the Arvada Downtown Historic District and the Olde Town Conservation Area, "land-use activity" as defined in Article 10 of this Code shall be prohibited unless the Community Development Director has first issued a Certificate of Compliance with Design Guidelines (CCDG), or otherwise determined pursuant to the provisions of this Code that a Waiver may be issued.

B. Exceptions.

1. This section shall not apply to "ordinary maintenance or repair," as defined in Article 10 of this Code.
2. The above exception, however, specifically excludes the following, which shall remain subject to the Design Guidelines for Olde Town Arvada and the issuance of a CCDG or Waiver:
 - a. installation or replacement of an exterior door;
 - b. painting, other than colors substantially similar to those existing;
 - c. tuckpointing, restoration, or similar repair of brick surfaces;
 - d. installation or replacement of a gutter, downspout, or storm window;
 - e. installation or replacement of an exterior lighting fixture;
 - f. changes to, or replacement of, existing siding material;
 - g. construction or reconstruction of a retaining wall or a divisional or perimeter fence.

3.30.2 Application

An application for a Certificate of Compliance with Design Guidelines (CCDG) or Waiver therefrom, shall be made in writing as part of an application for a site plan, plat, building permit, or similar development application, as applicable.

Where no other development application, including a building permit, is required, a separate application for a CCDG shall be submitted to the Community Development Director. Such application shall include a narrative explanation of how the proposed land-use activity complies with the Design Guidelines for Olde Town Arvada and the provisions of §3.30 et seq. of this Code (or merits a Waiver therefrom), along with any renderings, photographs, plans, specifications, or similar information as the Community Development Director may deem necessary in order to assess the proposed land-use activity's compliance with the Design Guidelines. The Community Development Director shall review the application for completeness in accordance with §3.1.5.

3.30.3 Community Development Director/Staff Review and Transmittal

The Community Development Director and Staff shall review each application for a CCDG or Waiver in light of the Approval Criteria of §3.30.7. Based on the result of that review, the Community Development Director may have prepared such report as, in his discretion, would assist in the assessment of the application and shall thereafter transmit such report, the application, and any accompanying documentation, to the Design Review Committee ("DRC") for a recommendation, unless an Expedited Review pursuant to §3.30.4 is determined appropriate.

3.30.4 Expedited Review

The Community Development Director may, in his discretion, determine that a review and recommendation by the DRC is unnecessary, due to the uncomplicated nature of, or limited scope or impact of, the proposed land-use activity, in which case the Director shall act to approve, approve with conditions, or deny the application for a CCDG or Waiver based upon the Approval Criteria of §3.30.7.

3.30.5 Action by Design Review Committee

The Design Review Committee shall meet to consider any application referred to it by the Community Development Director and make recommendations to the Community Development Director no later than seven (7) days prior to the deadline for final action on any related development application, or within forty-five (45) days of submittal of a Complete Application, whichever is earlier. Such recommendation shall be based upon the Approval Criteria of §3.30.7.

3.30.6 Community Development Director Decision After DRC Recommendation

- A. Permitted Scope of Decision. After receiving the recommendation of the DRC, the Community Development Director shall act to either approve, approve with conditions, or deny the application for a Certificate of Compliance with Design Guidelines or a Waiver therefrom, based upon the Approval Criteria of §3.30.7.
- B. Conditions. The Community Development Director may impose conditions on an approval of a CCDG application or Waiver which are reasonably necessary to ensure compliance with the Design Guidelines for Olde Town Arvada or satisfy the Waiver criteria of §3.30.7.B.

3.30.7 Approval Criteria

- A. Certificate of Compliance with Design Guidelines (CCDG). The Community Development Director shall approve a CCDG application if

the proposed land-use activity complies with all design guidelines set forth in the Design Guidelines for Olde Town Arvada which are specifically applicable to the proposed land-use activity.

- B. Waiver. The Community Development Director may grant a Waiver from the requirement of a CCDG upon a determination of any one of the following:
1. The proposed land-use activity is of a nature that will not substantially alter, or erode the authenticity of, any historically significant exterior feature of an existing structure and is compatible with both the distinctive characteristics of the Arvada Downtown Historic District or Olde Town Conservation Areas, as applicable, and with the intent and purpose of the Design Guidelines; or
 2. The proposed land-use activity is of a nature that will not undermine, impair, or conflict with the intent of the Arvada Downtown Historic District or Olde Town Conservation Area (as applicable), as set forth at §4.11.2 and §4.11.3 of this Code, and is compatible with both the distinctive characteristics of the applicable District or Area and the intent and purpose of the Design Guidelines; or
 3. Strict compliance with the Design Guidelines would create an economic hardship, such that the cost to strictly comply would result in an inability to obtain any reasonable economic return on the property; or
 4. The land-use activity is of comparable architectural and historical value and authenticity to that required by the Design Guidelines and is consistent with the intent and purpose of the Design Guidelines.

3.30.8 Lapse of Approval

The right to engage in such land-use activity as is the subject of a CCDG or Waiver shall automatically lapse and be null and void if all such activity is not complete within three (3) years of the date of the CCDG approval or Waiver.

3.31 OFFICIAL FLOODPLAIN MAP AMENDMENTS

3.31.1 Intent

Amendments to the Official Floodplain Maps shall be made when errors to the Official Flood Plain Maps are found, when development of land occurs which changes the flood plain, or when the City, Urban Drainage and Flood Control District (UDFCD) or Federal Emergency Management Agency (FEMA) perform an update of either the hydrology or hydraulics which changes the floodplain.

3.31.2 Initiation

Either the property owner or his or her designee, the City, UDFCD, or FEMA may initiate amendments.

3.31.3 Submittal Requirements

Applicants shall submit to the City Engineer all information required by FEMA for a Letter of Map Revision or Letter of Map Amendment. The City Engineer shall review and sign the application and then submit the application to FEMA for its review and approval.

3.31.4 Approval Criteria

Map amendments other than to correct errors in the Official Floodplain Maps may be approved by City Council after approval by FEMA of a Letter of Map Revision, Letter of Map Amendment or issuance of new Flood Insurance Rate Maps by FEMA.

3.31.5 Adoption of Ordinance

Official Floodplain Map Amendments shall be approved in the form of an ordinance unless otherwise provided in §1.6.5.