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## TITLE 9

### Land Use Code

#### Chapter 12 Subdivision<sup>1</sup>

##### 9-12-1. Legislative Intent.

This chapter establishes the minimum requirements to protect public health, safety or welfare in the subdivision of land. The purposes of regulating land subdivision are:

- (a) To assure future buyers of land that the subdivider owns the land proposed to be sold, provides access to each property, and constructs and provides for maintenance of improvements, utilities and amenities;
- (b) To apportion the costs of public services and facilities serving subdivision residents through payment of fees, provision of facilities and dedication of land and rights-of-way to the city in order to assure that new development pays its way and does not burden the city's fiscal resources;
- (c) To insure that proposed sites are appropriate for development; and
- (d) To obtain accurate surveying and permanent public record of the separate interests created and conveyed by subdivision.

##### 9-12-2. Application of Chapter.

- (a) Approval Requirements: The approving agency shall not approve a final plat of a subdivision unless it conforms to the provisions of this chapter.
- (b) Prohibition of Sale Before Plat Approval: No person shall sell or commence construction upon any portion of a proposed subdivision, or advertise or hold out as a subdivided lot any parcel of land, until a plat thereof is recorded under the requirements of this chapter.
- (c) Exceptions: The provisions of this chapter apply to all divisions of land except the following:
  - (1) Any division of a tract of land that creates parcels of land each of which comprises thirty-five or more acres of land;
  - (2) Any division of land to heirs through a judicial estate proceeding;
  - (3) Any division of land pursuant to a judicial partition;
  - (4) Any division of land that creates a cemetery lot;
  - (5) Any division of land occurring from the foreclosure of a deed of trust; or
  - (6) Any adjustment of a lot line that meets the requirements of section 9-12-3, "Adjustment of Lot Lines," B.R.C. 1981.
- (d) Applicable Regulations: Any plat of a subdivision submitted in accordance with subdivision requirements in effect at the time of submitting the final plat may, at the subdivider's request, be processed under such requirements.
- (e) Scope - Generally: The provisions of this chapter apply to all land located within the city and in the process of annexation.

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<sup>1</sup> Adopted by Ordinance No. 7476.

- (f) Scope - Outside The City Limits: The provisions of paragraph 9-12-12(a)(2), B.R.C. 1981, and this title for major arterial and collector streets apply to all unincorporated land located within three miles of the city limits when a major street plan has been filed with the Boulder County Planning Department in accordance with § 31-23-212, C.R.S.

Ordinance Nos. 4803 (1984); 5377 (1991); 5425 (1991); 7211 (2002)

### **9-12-3. Adjustment of Lot Lines.**

- (a) Scope: The city manager is authorized to grant exemptions from the subdivision process for the transfer of part of one lot or parcel for the purpose of enlarging an existing adjacent lot or parcel if such transfer meets the requirements of this section. If an applicant cannot meet the standards of this section, then an adjustment may be approved, if it meets the applicable standards, as part of a minor subdivision or a subdivision.
- (b) Application Requirements: The subdivider shall submit to the city the following items:
- (1) An application for a lot line adjustment on a form provided by the city manager and the fee prescribed in section 4-20-43, "Development Application Fees," B.R.C. 1981.
  - (2) An improvement survey plat, showing the location of the buildings and structures.
  - (3) A subdivision replat meeting all the requirements of paragraphs 9-12-8(b)(1) through (b)(10), B.R.C. 1981, and a legal description of the parcel to be transferred as part of the lot line adjustment and legal descriptions of the lots resulting from the lot line adjustment.
  - (4) Such replat document shall be named with the same name as that of the original subdivision and shall indicate thereon that the replat is for the purpose of adjusting property lines.
  - (5) A title commitment or attorney memorandum based upon an abstract of title, current as of the date of submitting the replat.
  - (6) If the requirements of section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, have not been met on the original plat, the subdivider shall provide the lot line and boundary verification required by section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, and pay the verification fee prescribed by section 4-20-43, "Development Application Fees," B.R.C. 1981.
  - (7) A shadow analysis for any existing building drawn in compliance with section 9-9-17, "Solar Access," B.R.C. 1981, and any other standards as may be required by the city manager.
- (c) Standards: The city manager will approve the lot line adjustment after finding that the following standards have been met:
- (1) The lot line adjustment will not be approved if the part of another lot or parcel being transferred and the lot or parcel to which the former is added will create, immediately after the transfer, two or more potential building sites or lots permitted under this title.
  - (2) The lot line adjustment will not be approved if the transfer reduces a lot or parcel to a size below that required by such title, including any applicable requirement for planned unit developments or site review.
  - (3) The lot line adjustment will not create a nonstandard lot or parcel or create nonstandard setbacks for any existing structures or buildings.
  - (4) The frontage of any of the lots to which the lot line adjustment is applied will not be relocated to another street.
  - (5) The basic shape of any of the lots to which the lot line adjustment is applied is maintained.
  - (6) The lots or parcels, after the lot line adjustment, and existing structures will comply with the lot standards of section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, and the solar access requirements of section 9-9-17, "Solar Access," B.R.C. 1981.

- (d) City Manager Approval: No person shall transfer land under this section until after the city manager reviews the map and legal description of the property and all other information required under this section to verify that the transfer is exempt under this chapter. The city manager shall sign the documents of transfer before they are recorded and will record the approved replat map after the applicant has recorded the documents of transfer.

Ordinance No. 7211 (2002)

**9-12-4. Elimination of Lot Lines.**

- (a) Scope: Notwithstanding any other provisions of this chapter, existing lot lines forming the boundary between two or more conforming platted lots located within the same subdivision or lot lines between lots or parcels that have merged to form one building lot pursuant to subsection 9-9-2(c), B.R.C. 1981, may be removed or eliminated through a replatting process which conforms to the requirements of this section.
- (b) Limitations: The provisions of this section shall not apply to a replat that:
  - (1) Requires the dedication or vacation of easements on the replat; or
  - (2) Changes the location of any remaining lot lines in the subdivision.
- (c) Application Requirements: The subdivider shall submit to the city the following items:
  - (1) An application for lot line elimination on a form provided by the city manager and the fee prescribed by section 4-20-43, "Development Application Fees," B.R.C. 1981.
  - (2) A subdivision replat meeting all the requirements of section 9-12-8, "Final Plat," B.R.C. 1981.
  - (3) Such replat document shall be entitled with the same name as that of the original subdivision and shall indicate thereon that the replat is for the purpose of removing the lot lines between specific lots.
  - (4) A title commitment or attorney memorandum based upon an abstract of title, current as of the date of submitting the replat.
  - (5) If the requirements of section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, have not been met on the original plat, the subdivider shall provide the lot line and boundary verification required by section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, and pay the verification fee prescribed by subsection 4-20-43(a), B.R.C. 1981.
- (d) Standards: If the replat meets the requirements of this code and other ordinances of the city or requirements determined by the city manager to be necessary to protect the public health, safety or welfare, the manager shall issue a Notice of Disposition approving or denying the replat.
- (e) City Manager Decision: The city manager shall notify the planning board pursuant to subsection 9-4-4(b), B.R.C. 1981, of the disposition of the replat application.
- (f) City Manager Approval: The city manager shall sign all approved replats and, upon the payment of the recording fees prescribed by subsection 4-20-43(a), B.R.C. 1981, the city clerk shall record all such replats in the office of the Boulder County Clerk and Recorder. Any such approved replat not recorded within six months after the date it was approved shall automatically expire.

Ordinance Nos. 5230 (1989); 5425 (1991); 5921 (1997); 5971 (1998); 7211 (2002)

**9-12-5. Minor Subdivision.**

- (a) Scope: A minor subdivision is a division of land that is already served by city services, will not require the extension of streets or public improvements, and will not result in more than one additional lot.
- (b) Limitations: The provisions of this section shall not apply to a replat that:

- (1) Requires any variations to section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981;
  - (2) Requires the dedication of public or private access easements or public right-of-way for new streets, alleys or shared access driveways;
  - (3) Requires the extension of a public improvement such as a street, alley, water main, sewer main, or requires any engineering plans, including, but not limited to, drainage reports for any public or private improvement;
  - (4) Is located on lands containing slopes of fifteen percent or greater;
  - (5) Requires the removal of an existing principal building; or
  - (6) Is located in a nonresidential zone district described in section 9-5-2, "Zoning Districts," B.R.C. 1981.
- (c) Application Requirements: The subdivider shall submit to the city the following items:
- (1) An application for a minor subdivision on a form provided by the city manager and the fee prescribed by section 4-20-43, "Development Application Fees," B.R.C. 1981;
  - (2) A preliminary plat meeting all of the requirements of section 9-12-6, "Application Requirements for a Preliminary Plat," B.R.C. 1981;
  - (3) A final plat meeting all of the requirements of section 9-12-8, "Final Plat," B.R.C. 1981;
  - (4) A title commitment or attorney memorandum based upon an abstract of title, current as of the date of submitting the minor subdivision;
  - (5) A lot line and boundary verification required by section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, if the requirements of section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, have not been met on the original plat; and
  - (6) A shadow analysis for any existing buildings that is drawn in compliance with section 9-9-17, "Solar Access," B.R.C. 1981, and any other standards as may be required by the city manager.
- (d) Notice Requirements: The subdivider shall satisfy the notice requirements in section 9-12-7, "Staff Review and Approval of Preliminary Plat," B.R.C. 1981.
- (e) Standards for Minor Subdivisions: The city manager will approve the minor subdivision after finding that the following standards have been met:
- (1) The land is in a residential zoning district described in section 9-5-2, "Zoning Districts," B.R.C. 1981;
  - (2) The division of land will create no more than one additional lot;
  - (3) The division of land will not require the extension of any public improvements, including, without limitation, the extension of roads or utilities to serve the property;
  - (4) If the minor subdivision is a replat of a previously approved subdivision, the document shall be named with the same name as that of the original subdivision and shall indicate thereon that it is a replat of the original subdivision. Newly adjusted or created lots shall be designated to adequately indicate that original lot lines have been adjusted with a similar lot name; and
  - (5) The lots and existing structures will comply with the lot standards of section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, and the solar access requirements of section 9-9-17, "Solar Access," B.R.C. 1981.
- (f) Dedication and Vacation of Easements: Right-of-way necessary to bring an existing street or alley up to a current city standard, or public easements for utilities or sidewalks may be dedicated on a minor subdivision plat. The city may approve the vacation of city utility easements on the replat.

- (g) Minor Subdivision Review Procedure: If the final plat and the required plans, specifications, agreements and guarantees meet the requirements of this code, the City of Boulder Design and Construction Standards and other ordinances of the city or requirements determined by the city manager to be necessary to protect the public health, safety or welfare, the manager shall approve the final plat in accordance with the procedure set forth in section 9-12-10, "Final Plat Procedure," B.R.C. 1981. If there are no public improvements associated with the minor subdivision, the city manager can waive the requirements for a subdivision agreement.

Ordinance Nos. 7211 (2002); 7484 (2006)

**9-12-6. Application Requirements for a Preliminary Plat.**

- (a) Application Requirements: Any preliminary plat submitted for subdivision approval shall be drawn to a scale of no less than one inch equals one hundred feet, and of a scale sufficient to be clearly legible, including streets and lots adjacent to the subdivision. The preliminary plat may be an application under section 9-2-14, "Site Review," B.R.C. 1981, if it meets both the requirements of this section and those of chapter 9-2, "Review Processes," B.R.C. 1981. The applicant shall include on the preliminary plat or in accompanying documents:
- (1) The proposed name of the subdivision;
  - (2) The location and boundaries of the subdivision, names of all abutting subdivisions with lines indicating abutting lots, or, if the abutting land is unplatted, a notation to that effect, and names of all abutting streets;
  - (3) Contours at two-foot intervals if the slope is less than ten percent and five feet where the slope is greater than ten percent;
  - (4) The date of preparation, scale and north sign (designated as true north);
  - (5) A vicinity map showing at least three blocks on all sides of the proposed subdivision, which may be of a different scale than the plat;
  - (6) The location of structures and trees of five-inch caliper or more on the property and approximate location of structures off the property within ten feet of the proposed plat boundary;
  - (7) The name, address and telephone number of the licensed surveyor, licensed engineer or designer of the plat;
  - (8) The name, address and telephone number of owner, verification of ownership of the property and current title report or an attorney memorandum based upon an abstract of title, current as of the date of the submittal;
  - (9) The total acreage;
  - (10) The location and dimensions of all existing public improvements,<sup>1</sup> easements, drainage areas, irrigation ditches and laterals, and other significant features within or adjacent to the proposed subdivision;
  - (11) The location and dimensions of all proposed public improvement,<sup>1</sup> public easements, lot lines, parks and other areas to be dedicated for public use, a dedication thereof to the public use and identification of areas reserved for future public acquisition;
  - (12) Geological stability information upon request of the city manager if the manager determines or the subdivider has any reason to believe that building or other problems may arise from construction in the area proposed for development;
  - (13) Zoning on and adjacent to the proposed subdivision;
  - (14) A designation of areas subject to the one-hundred year flood and the estimated flow rate used in determining that designation, and base flood elevation data and the source used in determining that elevation;
  - (15) The number of lots and each lot size;

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<sup>1</sup> As enumerated in section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981.

- (16) Proposed uses of each lot;
  - (17) Proposed ownership and use of outlots;
  - (18) The location and size of existing utilities within or adjacent to the proposed subdivision including, without limitation, water, sewer, storm sewers and drainage facilities, fire hydrants within three hundred fifty feet of the property, electricity and gas, which shall be placed on separate engineering drawings;
  - (19) A master utility plan showing proposed plans for private and public utility systems including water, sewer, electric, gas, drainage, telephone, telecommunications and any other services that will supply the property;
  - (20) A shadow analysis for any existing buildings that is drawn in compliance with section 9-9-17, "Solar Access," B.R.C. 1981, and any other standards as may be required by the city manager.
- (b) Vacation of Utility Easements: A subdivider may vacate city utility easements on the plat.

Ordinance Nos. 5199 (1989); 5377 (1991); 5391 (1991); 5562 (1993); 7211 (2002)

**9-12-7. Staff Review and Approval of Preliminary Plat.**

- (a) City Manager Review: The city manager shall review all preliminary subdivision plats and approve those that the manager finds meet all requirements of this code and other ordinances of the city or are necessary to protect the public health, safety and welfare. The manager shall process those that include applications for site reviews under chapter 9-2, "Review Processes," B.R.C. 1981, under the requirements of that chapter and shall ensure that the conditions of the site review approval will be met within the future subdivision. The manager shall process preliminary plats that do not include applications for site reviews and provide to the subdivider a list of any deficiencies that may exist.
- (b) Notice of Surface Estate: The city manager shall notify tenants of the property and abutting property owners by first class mail that the subdivision is proposed and that any questions or comments thereon may be directed to the department of planning and community development.
- (c) Notice of Mineral Estate: The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The applicant shall:
  - (1) At least thirty days before a final decision on an application for development, send notice, by first class mail, to the mineral estate owner;
  - (2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority and the name and address of the mineral estate owner;
  - (3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.; and
  - (4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner.
- (d) Preliminary Plat Approval: The city manager upon approval, shall sign and date all approved preliminary plats.
- (e) Preliminary Plat Expiration: Preliminary plat approval expires one year after the date of approval, if no final plat is approved within that time. If a preliminary plat is part of a site review, it expires when the site review expires.

Ordinance No. 7211 (2002)

**9-12-8. Final Plat.**

- (a) A final plat may be submitted at the same time as a preliminary plat.

- (b) In order to obtain city manager review of a final plat, the subdivider shall submit a final plat that conforms to the approved preliminary plat, includes all changes required by the manager or the planning board, and includes the following information:
- (1) A map of the plat drawn at a scale of no less than one inch equals one hundred feet (and of a scale sufficient to be clearly legible) with permanent lines in ink and whose outer dimensions are twenty-four inches by thirty-six inches on a reproducible mylar sheet (maps of two or more sheets shall be referenced to an index placed on the first sheet);
  - (2) A one inch equals one hundred feet reduction of the plat;
  - (3) The title under which the subdivision is to be recorded;
  - (4) Accurate dimensions for all lines, angles and curves used to describe boundaries, public improvements, easements, areas to be reserved for public use and other important features. (All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chord distances. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field that must balance and close within a limit of one in ten thousand. No final plat showing plus or minus dimensions will be approved.);
  - (5) The names of all abutting subdivisions, or, if the abutting land is unplatted, a notation to that effect;
  - (6) An identification system for all lots and blocks and names for streets;
  - (7) An identification of the public improvements, easements, parks and other public facilities shown on the plat, a dedication thereof to the public use and areas reserved for future public acquisition;
  - (8) The total acreage and surveyed description of the area;
  - (9) The number of lots and size of each lot;
  - (10) Proposed ownership and use of outlots;
  - (11) A designation of areas subject to the one hundred-year flood, the estimated flow rate used in determining that designation, and a statement that such designation is subject to change;
  - (12) A description of all monuments, both found and set, that mark the boundaries of the property and a description of all control monuments used in conducting the survey;
  - (13) A statement by the land surveyor that the surveyor performed the survey in accordance with state law;
  - (14) A statement by the land surveyor explaining how bearings, if used, were determined;
  - (15) The signature and seal of the Colorado registered land surveyor;
  - (16) A delineation of the extent of the one hundred year floodplain, the base flood elevation, the source of such delineation and elevation and a statement that they are subject to change;
  - (17) The square footage of each lot;
  - (18) Certification for approval by the following:
    - (A) Director of planning,
    - (B) Director of public works and utilities,
    - (C) Director of parks and recreation, if park land is dedicated on the plat,
    - (D) Director of real estate and open space, if open space land is dedicated on the plat,
    - (E) Qwest Corporation, and

- (F) Public Service Company;
  - (19) Signature blocks for all owners of an interest in the property; and
  - (20) A signature block for the city manager's signature.
- (c) The subdivider shall include with the final plat:
- (1) Engineering drawings, certified by a professional engineer registered in the State of Colorado, for proposed public and private utility systems meeting the requirements of the City of Boulder Design and Construction Standards;
  - (2) An update to the preliminary title report or attorney memorandum based upon an abstract of title current as of the date of submitting the plat;
  - (3) Covenants for maintenance of private utilities or improvements, as prescribed by subsection 9-12-12(c), B.R.C. 1981; and
  - (4) Copies of documents granting any easements required as part of the plat approval, the county clerk and recorder's recording number and proof of ownership of the property underlying the easement satisfactory to the city attorney.

Ordinance Nos. 5199 (1989); 5391 (1991); 5971 (1998); 5986 (1998); 7660 (2009)

**9-12-9. Lot Line and Boundary Verification.**

The subdivider shall provide to the city a computer check to assure that the exterior lines of the subdivision on the final plat close. In the absence of such verification, the city shall obtain such computer check and the subdivider shall pay the fee therefor prescribed by subsection 4-20-43(a), B.R.C. 1981, before recording the plat.

**9-12-10. Final Plat Procedure.**

- (a) When submitting a final plat, the subdivider shall submit to the city manager engineering plans and agreements with ditch companies, if needed.
- (b) If the final plat and the required plans, specifications, agreements and guarantees meet the requirements of this code, the City of Boulder Design and Construction Standards and other ordinances of the city or requirements determined by the city manager to be necessary to protect the public health, safety or welfare, the manager shall approve the final plat (subject to the provisions of subsection (d) of this section) within ninety days of the date of submitting the required documents. The manager shall then execute a subdivision agreement that incorporates the final plat, the undertaking to provide public improvements prescribed by section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, the undertaking of financial guarantees prescribed by section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981, the public improvement warranty prescribed by section 9-12-14, "Public Improvement Warranty," B.R.C. 1981, subdivider's commitment to provide an update of the preliminary title report or attorney memorandum current as of the date of recording the plat and any other terms and conditions to which the parties agree.
- (c) The applicant shall sign the subdivision agreement and the plat, and shall submit these to the city along with the fees prescribed by subsection 4-20-43(a), B.R.C. 1981, and financial guarantees required by section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981.
- (d) The city shall sign the subdivision agreement and the plat, and issue a disposition indicating the date of the plat approval.
- (e) The city manager shall notify the planning board in writing within seven days of the disposition of the final plat application.

- (f) Any person aggrieved by a decision of the city manager to approve or deny an application for a subdivision may appeal such decision to the planning board by filing an appeal with the city manager within fourteen days of the decision. The board shall hear the appeal or call-up of the subdivision application, after giving notice to all interested parties, within thirty days of the notice of appeal or call-up, under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The board shall determine whether the subdivision application meets the requirements of this code and other ordinances of the city or those determined by the city manager to be necessary to protect the public health, safety and welfare and shall grant or deny the application.
- (g) The city manager shall sign the city manager certification on all plats of subdivision following planning board approval, or the expiration of the call-up period, as applicable. Within one week after any conditions of the subdivision agreement required to occur prior to recording have been met, the city clerk shall record all such plats and agreements in the office of the Boulder County Clerk and Recorder.
- (h) A plat expires if not recorded within twenty-four months after the date it was submitted, unless the city manager extends final plat approval for not more than twelve months upon a showing of good cause.

Ordinance Nos. 5391 (1991); 5971 (1998); 5986 (1998); 7699 (2009)

**9-12-11. Application for Building Permits Prior to Plat Recording.**

The subdivider may apply for building permits after the final plat is approved by the city manager or planning board and signed by the city manager and the subdivision agreement is executed, but no permit will be issued until the conditions of the agreement (required in the agreement to be met before recording) are met and the plat and agreement are recorded.

Ordinance No. 5391 (1991)

**9-12-12. Standards for Lots and Public Improvements.**

- (a) Conditions Required: Except as provided in subsection (b) of this section, subdivision plats shall comply with section 9-9-17, "Solar Access," B.R.C. 1981, and meet the following conditions:
  - (1) Standards for Lots: Lots meet the following conditions:
    - (A) Each lot has access to a public street.
    - (B) Each lot has at least thirty feet of frontage on a public street.
    - (C) No portion of a lot is narrower than thirty feet.
    - (D) Lots and existing structures meet all applicable zoning requirements of this title and section 9-9-17, "Solar Access," B.R.C. 1981.
    - (E) Lots with double frontage are avoided, except where necessary to provide separation from major arterials or incompatible land uses or because of the slope of the lot.
    - (F) Side lot lines are substantially at right angles or radial to the centerline of streets, whenever feasible.
    - (G) Corner lots are larger than other lots to accommodate setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981.
    - (H) Residential lots are shaped so as to accommodate a dwelling unit within the setbacks prescribed by the zoning district.
    - (I) Lots shall not be platted on land with a ten percent or greater slope, unstable land or land with inadequate drainage unless each platted lot has at least one thousand square feet of buildable area, with a minimum dimension of twenty-five feet. The city manager may approve the platting of such land upon finding that acceptable measures, submitted by a registered engineer qualified in the particular field, eliminate or control the problems of instability or inadequate drainage.

- (J) Where a subdivision borders an airport, a railroad right-of-way, a freeway, a major street or any other major source of noise, the subdivision is designed to reduce noise in residential lots to a reasonable level and to retain limited access to such facilities by such measures as a parallel street, a landscaped buffer area or lots with increased setbacks.
- (K) Each lot contains at least one deciduous street tree of two-inch caliper in residential subdivisions, and each corner lot contains at least one tree for each street upon which the lot fronts, located so as not to interfere with sight distance at driveways and chosen from the list of acceptable trees established by the city manager, unless the subdivision agreement provides that the subdivider will obtain written commitments from subsequent purchasers to plant the required trees.
- (L) The subdivider provides permanent survey monuments, range points and lot pins placed by a Colorado registered land surveyor.
- (M) Where an irrigation ditch or channel, natural creek, stream or other drainage way crosses a subdivision, the subdivider provides an easement sufficient for drainage and maintenance.
- (N) Lots are assigned street numbers by the city manager under the city's established house numbering system, and before final building inspection the subdivider installs numbers clearly visible and made of durable material.
- (O) For the purpose of ensuring the potential for utilization of solar energy in the city, the subdivider places streets, lots, open spaces and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:
  - (i) Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.
  - (ii) Lot Layout and Building Siting: Lots are oriented and buildings sited in a way which maximizes the solar potential of each principal building. Lots are designed so that it would be easy to site a structure which is unshaded by other nearby structures and so as to allow for owner control of shading. Lots also are designed so that buildings can be sited so as to maximize the solar potential of adjacent properties by minimizing off-site shading.
  - (iii) Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Existing and proposed buildings shall meet the solar access protection and solar siting requirements of section 9-9-17, "Solar Access," B.R.C. 1981.
  - (iv) Landscaping: The shading impact of proposed landscaping on adjacent buildings is addressed by the applicant. When a landscape plan is required, the applicant shall indicate the plant type and whether the plant is coniferous or deciduous.
- (2) Transportation Standards for Streets, Alleys and Sidewalks: Streets, curb and gutters, sidewalks, alleys and the public rights-of-way therefor, are provided in conformity with the standards in the City of Boulder Design and Construction Standards, and meet the following conditions:
  - (A) Streets are aligned to join with planned or existing streets.
  - (B) Streets are designed to bear a relationship to the topography, minimizing grade, slope and fill.
  - (C) There are no dead-end streets without an adequate turnaround and appropriate barriers.
  - (D) Access to freeway, arterial or collector street occurs only at intersections approved by the city manager, if the manager finds that the access provides efficient traffic movement and safety for drivers and pedestrians.

- (E) A street of only one-half width is not dedicated to or accepted by the city.
  - (F) When the plat dedicates a street that ends on the plat or is on the perimeter of the plat, the subdivider conveys that last foot of the street on the terminal end or outside border of the plat to the city in fee simple, and it is designated by using an outlot.
  - (G) Streets are provided as prescribed by the Boulder Valley Comprehensive Plan, adopted subcommunity or area plans, or the Transportation Master Plan.
  - (H) Alleys are encouraged and should be provided. If they are provided, they are paved or otherwise appropriately surfaced with a material approved by the city manager for the specific application and location.
  - (I) Sidewalks are provided in all subdivisions, unless the city manager determines that no public need exists for sidewalks in a certain location.
  - (J) Signs for street names (subject to approval of the city manager), directions and hazards are provided.
  - (K) Traffic control signs are provided, as required by the city manager for control of traffic.
  - (L) Pedestrian crosswalks are provided, as required by the city manager for traffic control and, at a minimum, between streets where the distance between intersecting streets exceeds one thousand feet.
  - (M) Bike paths or lanes are provided in conformity with the City of Boulder Comprehensive Plan for bicycle facilities and are dedicated to the city.
  - (N) Private streets are not permitted.
- (3) Standards for Water and Wastewater Improvements: Water and wastewater utilities are provided in conformity with the construction and design standards in the City of Boulder Design and Construction Standards, and meet the following conditions:
- (A) Water and sanitary sewer mains are provided as necessary to serve the subdivision.
  - (B) Easements are provided for city utilities as prescribed by the City of Boulder Design and Construction Standards.
  - (C) Easements for utilities other than city utilities are provided as required by the applicable private utility.
  - (D) Newly installed telephone, electric and cable television lines and other similar utility service are placed underground. Existing utilities are also placed underground unless the subdivider demonstrates to the manager that the cost substantially outweighs the visual benefit from doing so. But transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, electric transmission and distribution feeder lines, communication long distance trunk and feeder lines and other facilities necessarily appurtenant to such facilities and to underground utilities may be placed above ground within dedicated easements or public rights-of-way.
- (4) Standards for Flood Control and Storm Drainage: Flood control and storm drainage measures are provided as required by the city's master drainage plan and in conformity with the construction and design standards in the City of Boulder Design and Construction Standards, and meet the following conditions:
- (A) The measures retain existing vegetation and natural features of the drainageway where consistent with the master drainage plan.
  - (B) Any land subject to flooding by a one hundred-year flood conforms to the requirements of chapter 11-5, "Storm Water and Flood Management Utility," B.R.C. 1981.
  - (C) Storm drainage improvements and storm sewers are maintained to collect drainage from the subdivision and convey it off-site into a city right-of-way or drainage system without adversely affecting adjacent property.

- (D) Bridges, culverts or open drainage channels are provided when required by the flood control utility master drainage plan.
  - (E) All subdivisions shall be designed to minimize flood damage.
  - (F) All subdivisions shall have public utilities and facilities, including, without limitation, sewer, gas, electrical and water systems, located and constructed to prevent flood damage.
  - (G) All subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
- (5) Standards for Fire Protection: Fire protection measures meet the following conditions:
- (A) Fire hydrants are provided as required by chapter 10-8, "Fire Prevention Code," B.R.C. 1981.
  - (B) Fire lanes are provided where necessary to protect the area; an easement at least sixteen feet wide for fire lanes is dedicated to the city, remains free of obstructions and permits emergency access at all times.
- (b) Waiver of Lot Standards: The planning board may waive the design requirements of paragraph (a)(1) of this section not otherwise required by any other provision of the code:
- (1) If permitted as part of an approval under section 9-7-12, "Two Detached Dwellings on a Single Lot," B.R.C. 1981, or site review under section 9-2-14, "Site Review," B.R.C. 1981; or
  - (2) Upon request of the subdivider if the subdivider provides an alternative means of meeting the purposes of this chapter, which the board finds:
    - (A) Is necessary because of unusual physical circumstances of the subdivision; or
    - (B) Provides an improved design of the subdivision.
- (c) Private Utilities and Improvements: If the subdivider installs private utilities or improvements, including, without limitation, streets or water, wastewater and storm drain utilities, the subdivider shall provide mutual covenants in the deeds of all property owners of the subdivision for the continued and perpetual maintenance of the utilities or improvements.
- (d) Approval of Final Engineering Plans Required: No person shall construct or install any public or private utilities or improvements required by this chapter without first obtaining city manager review and approval of final engineering plans, profiles and specifications therefor.
- (e) Construction Timing: The subdivider shall construct and install on-site improvements and utilities (including, without limitation, streets adjoining the subdivision). If the city manager determines that it is in the best interest of the subdivision residents to postpone construction of an improvement so that the improvement can be constructed in conjunction with other city improvements, the subdivider shall deposit with the city funds sufficient to cover the cost of its construction or installation and promise to pay for any additional costs actually incurred; the city shall thereafter undertake such construction or installation when constructing or installing the related city improvements. If the city does not undertake construction of the related improvements within seven years of receipt of the funds, it shall return the funds to the current property owner(s).
- (f) Installation of Off-Site Improvements: The subdivider shall install off-site improvements and utilities required by this section necessary to serve the development if the subdivider's construction on the subdivision precedes the construction of such improvements by the city under its capital improvements program.
- (1) Public Improvement Extension Agreement: Prior to the extension of any public improvement or facility that is not entirely within the subdivision and for which the subdivider expects to receive reimbursement for part or all of the costs of the extension, the subdivider shall enter into a "public improvement extension agreement" with the city, which contains the legal description of the property to be served, a description of the improvement to be extended, the name of the owner of the property, the terms of the reimbursement to the owner, and an agreement by the subdivider to provide to the city, within sixty days after the date of preliminary construction

acceptance by the city, its costs for such work and to provide to the city a current address during the term of the agreement.

- (2) Forfeiture of Right to Reimbursement: If a subdivider fails to comply with the "public improvement extension agreement," the subdivider forfeits its right to reimbursement under this subsection.
- (3) Collection and Repayment: At the time of annexation of, subdivision of or issuance of a building permit for, whichever occurs first, a property abutting an improvement constructed under a "public improvement extension agreement," the city manager shall collect a charge per adjusted front foot based upon the original construction costs and shall reimburse the original subdivider for its original construction costs, but only to the extent of the collection so made.
- (4) Maximum Amount Collected and Paid: In no event may the actual amount so paid to the subdivider by the city exceed the total original cost of the public improvement so extended. After the expiration of the period of reimbursement prescribed by paragraph (f)(6) of this section, any such monies collected shall be retained by the city.
- (5) City Manager Estimate of Cost of Public Improvement: If the subdivider fails to supply its costs to the city within sixty days of extending a public improvement, the manager may estimate the costs of such extension for purposes of charging persons who thereafter connect thereto.
- (6) Reimbursement Term: The term for which the subdivider is entitled to reimbursement under the "Public Improvement Extension Agreement" entered into between the subdivider and the city is ten years from the date of execution of the contract or until the total original construction cost has been reimbursed, whichever occurs first.
- (g) Oversized Improvements: The subdivider shall construct such oversized improvements and utilities that the city manager determines are necessary. If such oversized improvements are determined by the manager not to be required to serve the development, the city shall reimburse the subdivider for the cost of the oversized portion beyond the cost of the standard size within sixty days after the subdivider supplies its costs for the improvements to the city.
- (h) City Manager Authorized to Require Other Public Improvements: The city manager may require such other public improvements not enumerated in this section as the manager determines are necessary to serve the health, safety and welfare of the public and the prospective residents of the subdivision.
- (i) Street Lights: If street lights are not provided by the subdivider, they will not thereafter be provided by the city, but may be installed through a local assessment district under chapter 8-1, "Local Improvements," B.R.C. 1981, for which benefited property owners will pay one hundred percent. Once street lights are installed, the city will pay for electricity and maintenance thereof.
- (j) Steep Slopes: The city manager may impose additional requirements over and above those required in subsection (a) of this section on lands containing slopes of fifteen percent or greater, if the manager determines such requirements are necessary in order to protect the health, safety and welfare of the occupants and taxpayers of Boulder from the negative impacts of development in hillside areas.

Ordinance Nos. 4969 (1986); 5009 (1986); 5076 (1987); 5199 (1989); 5271 (1990); 5391 (1991); 5476 (1992); 5562 (1993); 5776 (1996); 5986 (1998); 7211 (2002); 7684 (2009); 7699 (2009)

### **9-12-13. Subdivider Financial Guarantees.**

- (a) In order to protect the city and prospective purchasers of and residents in a subdivision, except as provided in subsection (h) of this section, the subdivider shall provide to the city financial security to guarantee the installation of public improvements and other obligations undertaken by the subdivider in the subdivision agreement and the plat and shall record the undertaking to provide the guarantee.
- (b) No building permit shall be issued for any portion of a subdivision for which the required financial guarantee has not been provided.

- (c) The guarantee shall be in an amount to secure the full costs, as determined by the city manager, of constructing or installing the improvements and utilities required in section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981. The subdivider shall complete such improvements and utilities within eighteen months of the issuance of the first building permit and prior to occupancy of any structure abutting the improvements. The manager may extend the required time period for completion to be consistent with phasing of construction of structures, or the manager may reduce the time upon a determination that, under generally accepted engineering principles, any or all of the improvements are required within a shorter time to protect the health, safety and welfare of the residents of the subdivision.
- (d) The city manager shall annually review the guarantee to assure that it meets the full current cost of constructing the improvements whose installation it secures and may require the subdivider to amend the guarantee to meet such current costs.
- (e) If the improvements are not completed according to the subdivision agreement or the plat within the time required by subsection (c) of this section, the city may complete the improvements and collect against the guarantor for their full cost of construction and installation.
- (f) The subdivider's financial guarantee may be any of the following:
  - (1) An escrow of funds with the city;
  - (2) An escrow with a bank or savings and loan association upon which the city can draw as provided in this section;
  - (3) An irrevocable clean sight draft or letter of commitment upon which the city can draw as provided in this section;
  - (4) A performance bond for the benefit of the city upon which the city can collect as provided in this section; and
  - (5) Any other form of guarantee approved by the city manager that will satisfy the objectives of this section.
- (g) Whenever the city receives financial guarantees in the form of the escrow of funds, the city shall take such measures as it deems appropriate to ensure that such funds are maintained in a secure manner. Any interest earned on such funds while they are controlled by the city shall accrue to the sole benefit of the city to be used, in part, to offset administrative costs associated with the management and tracking of such funds. However, the city shall pay interest to existing escrow account holders who provided financial guarantees to the city in the form of escrows of funds prior to July 1, 1998. As to those existing escrow funds, interest shall be paid at a rate of return to be determined by the city manager on an annual basis in light of those rates of interest typically being paid by local financial institutions on regular passbook accounts. Upon request, persons who deposited escrow funds prior to July 1, 1998, shall be permitted to substitute another acceptable form of financial guarantee, as provided by this chapter, for the escrow funds currently on deposit with the city.
- (h) The city manager may allow construction of public improvements without the financial guarantee prescribed by this section if the manager approves the plans for such improvements and if the subdivider does not request building permits or sell the property until after the city's final construction acceptance of the improvements.

Ordinance No. 5984 (1998)

**9-12-14. Public Improvement Warranty.**

- (a) The subdivider shall warrant all public improvements, private improvements in lieu of public improvements and utilities for two years after acceptance by the city and shall secure the two-year warranty by an insurance policy, bond or letter of credit, from a surety or financial institution and in a form acceptable to the city manager, payable to the city as beneficiary, in an amount adequate to replace or repair twenty percent of the total value of all of the improvements if they are damaged or become inoperable during the warranty period.
- (b) If the city manager determines that any such public or other improvements or utilities need repair or replacement, the manager shall so notify the subdivider. The manager shall not approve any other development applications from

or improvements constructed or installed by the subdivider until the subdivider satisfactorily repairs or replaces the defective improvements.

- (c) If the subdivider fails to repair or replace any such public or other improvements or utilities after notice, the city manager may cause the work to be performed and charge the costs against the insurance policy, bond or letter of credit. If the amount of the policy, bond or letter of credit is less than the cost of repair or replacement the difference shall be due and payable to the city by the subdivider. If any letter of credit is due to expire before the end of the warranty period, and is not replaced no less than sixty days before its expiration with another letter of credit which is valid until the end of the warranty period or for an additional year, whichever is less, the city manager shall call the letter of credit and shall hold the funds thereby received in a separate account, and shall return such funds as are not expended or to be expended for warranty work to the subdivider at the end of the warranty period.

Ordinance No. 5264 (1990)

**9-12-15. City Acceptance of Improvements.**

The city manager shall not accept improvements constructed or installed by a subdivider until the subdivider has submitted finished plans of improvements as installed, but the manager's approval of working plans under subsection 9-12-8(b), B.R.C. 1981, meets the requirement of this section if a registered engineer certifies that the previously submitted plans are accurate and accurately reflect the actual construction and installation.

**9-12-16. Dedication of Public Rights-of-Way.**

The subdivider shall dedicate rights-of-way for public streets up to the classification of collector streets, utility easements, drainage and maintenance easements and other rights-of-way required by this chapter.

Ordinance No. 7041 (2000)

**9-12-17. Enforcement Remedies.**

- (a) The city manager may enforce the provisions of this chapter by filing a complaint in the municipal court, by seeking injunctive relief in the District Court in and for Boulder County, or by seeking any other legal or equitable remedy.
- (b) If the subdivider breaches the subdivision agreement in any respect, including failure to construct improvements as indicated in plans and specifications, the city may withhold approval of all building permits and other development applications requested for the area within the subdivision until the breaches have been cured.

**9-12-18. Land in Process of Annexation.**

If land for which a subdivision application is filed is in the process of annexation, the subdivider shall meet all annexation requirements of the annexation agreement and resolutions and ordinances regarding the annexation adopted by the city council, in addition to requirements of this chapter.