

CHAPTER 17

Subdivisions

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ARTICLE 1

Applicability of Regulations

Sec. 17-1. Minimum requirements – Conformance required.

(a) The regulations set forth in this chapter shall be held to be minimum requirements for the subdivision of any lot, tract or parcel of land. Any and all such subdivisions shall be submitted in the form of plats or plans to the planning commission and city council for their approval or disapproval. The dedication to public use of any street, utility system or site shall also be governed by these regulations. No final plat on a subdivision shall be approved and accepted by the city council unless it conforms to the provisions of this chapter.

(b) Any transfer of a part of another lot or parcel for the purpose of enlarging an existing lot or parcel which does not create an additional lot shall be done in compliance with Article 13 of this chapter. Other provisions of this chapter regarding the subdivision of land shall not apply. (Prior code 16.04.010; Ord. 490 §1, 1997; Ord. 544 §1, 2000)

Sec. 17-2. Territory.

The territory within which these regulations are applicable shall include all land located within the legal boundaries of the city, and all land located within three (3) miles of the corporate limits of the city and not located in any other municipality for purposes of control with reference to the plan for major streets only. (Prior code 16.04.020)

Sec. 17-3. Subdivision or development of property fees.

Each person proposing to subdivide or develop property in the city shall pay fees in the amounts established from time to time by resolution of the city council. Such fees shall be in amounts sufficient to defray the city's administrative, planning, engineering, legal and other costs associated with the subdivider's or developer's proposal. (Ord. 409 §24, 1991; Ord. 468 §1, 1995; Ord. 480 §3, 1996)

Sec. 17-4. Design standards and specifications.

The city council shall have the authority to adopt by resolution, and amend from time to time, such design standards and specifications as it deems necessary to provide for the design and installation of public improvements and facilities, including but not limited to, streets and roadways, water and sewer lines and other utility lines and drainage facilities. (Ord. 468 §1, 1995)

Sec. 17-5. Marketing or sale of land before plat approval prohibited – Penalty.

(a) Unless prior written approval is granted by the city to market lots in an unapproved subdivision, no person, being the owner or the agent of the owner of any land located within the legal boundaries of the city, shall advertise or hold out to an individual buyer as a subdivided lot any parcel of land not subdivided under the requirements of this chapter, nor shall any land be advertised or otherwise held out or offered for sale to an individual buyer with reference to a plat until such plat has been approved in writing as provided in this chapter.

(b) No person shall sell, exchange or offer for recordation land required to be subdivided under this article, or offer for recordation any deed conveying a parcel of land, unless a subdivision plat has been recorded in accordance with the provisions of this chapter.

(c) Violation of any provision of this chapter shall be subject to the general penalty outlined in Section 1-70 of this code. Each day that a violation of this chapter continues shall constitute a separate and distinct offense.

(d) In addition to any other remedy available pursuant to statute, ordinance or other law, the city may enjoin the transfer, sale or agreement to sell by action for injunction brought in any court of competent jurisdiction.

(e) The provisions of this section shall not apply to transactions where all parties to transaction are business entities registered with the secretary of state of the state of Colorado. (Ord. 526 §1, 1999)

Secs. 17-6—17-19. Reserved.

ARTICLE 2

Definitions

Sec. 17-20. Block.

Block means a parcel of land bounded on all sides by a street or streets. (Prior code 16.08.010)

Sec. 17-21. Comprehensive plan.

Comprehensive plan means a plan for guiding and controlling the physical development of land use and circulation facilities in the city and any amendment or extension of such a plan. (Prior code 16.08.020)

Sec. 17-22. Consumer.

Consumer means any person contacted as a potential purchaser, lessee or renter as well as one (1) who actually purchases, leases or rents property in the subdivision. (Prior code 16.08.030)

Sec. 17-23. Dedication.

Dedication means a grant by the owner of a right to use land to the public in general, involving a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency. (Prior code 16.08.040)

Sec. 17-24. Easement.

Easement means a dedication of land for a specified use, such as providing access for maintenance of utilities. (Prior code 16.08.050)

Sec. 17-25. Lot.

Lot means a parcel of land intended for transfer of ownership or building development, having its full frontage on a public street. (Prior code 16.08.060)

Sec. 17-26. Person.

Person means an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity including a joint venture or affiliated ownership. *Person* also means a county or state agency and other governmental entities, however, excludes the city. (Prior code 16.08.070; Ord. 374 §1, 1990)

Sec. 17-27. Plat.

Plat means a map, drawing or chart upon which the subdivider presents proposals for the physical development of a subdivision, and which the subdivider submits for approval and intends to record in final form. (Prior code 16.08.080)

Sec. 17-28. Reservation.

Reservation means a legal obligation to keep property free from development for a stated period of time, not involving any transfer of property rights. (Prior code 16.08.090)

Sec. 17-29. Right-of-way.

Right-of-way means the width between property lines of a street. (Prior code 16.08.100)

Sec. 17-30. Street.

Street means a way for vehicular traffic, further classified and defined as follows:

(1) *Arterial streets* are those which permit the relatively rapid and unimpeded movement of large volumes of traffic from one (1) part of the community to the other.

(2) *Collector streets* are those which collect traffic from minor streets and carry it to arterial streets or to local traffic generators such as neighborhood shopping centers and schools. Collector streets include the principal entrance streets to a residential development, those linking such adjacent developments, and those streets providing circulation within such developments.

(3) *Minor streets* are those used primarily for direct access to properties abutting the right-of-way. Minor streets carry traffic having an origin or destination within the development and do not carry through traffic. (Prior code 16.08.110)

Sec. 17-31. Subdivider or developer.

Subdivider or developer means any person, individual, firm, partnership, association, corporation, estate, trust or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined in this article, including any agent of the subdivider. (Prior code 16.08.120)

Sec. 17-32. Subdivision.

(a) *Subdivision* is a division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes redivision and where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

(b) The definition of *subdivision* shall not include the following:

(1) Any division of a tract of land which creates parcels of land each of which comprise thirty-five (35) or more acres of land, none of which is intended for use by multiple owners, where such subdivision does not involve the creation of any new streets or easements of access as may be determined by the city council;

(2) Any division of land to heirs through an estate proceeding;

(3) Unless for the purpose of sale or building development, any transfer of a part of another lot or parcel for the purpose of enlarging an existing lot or parcel which does not create an additional lot;

(4) Any division of land by the foreclosure of a deed of trust; or

(5) Any division of land for the purpose of providing to the city, whether by sale and purchase, dedication or any other method of conveyance, right-of-way for the widening or other improvement of the city streets.

(c) Included in the definition of *subdivision* are mobile home parks and subdivisions where applicable. (Prior code 16.08.130; Ord. 224 §1, 1980; Ord. 490 §2, 1997)

Sec. 17-33. Minor subdivision.

Minor subdivision means a subdivision of four (4) or fewer lots which does not require waivers of the subdivision regulations. (Ord. 425 §1, 1993)

Secs. 17-34—17-49. Reserved.

ARTICLE 3

Procedure

Sec. 17-50. Pre-application procedure.

(a) Prior to the filing of application for approval of a preliminary plat, the subdivider may, at its option, submit to the planning commission an outline development plan as specified in Section 17-70. This procedure shall not require formal application, fee or filing of plat with the planning commission.

(b) The planning commission shall review the outline development plan to determine its general acceptability and compliance with the objectives and standards of these regulations, and shall hold conference with the subdivider to discuss desirable modifications of the plan. (Prior code 16.12.010)

Sec. 17-51. Preliminary plat.

(a) Upon formal application, the subdivider shall submit to the planning commission ten (10) copies of a preliminary plat, together with supplementary material as specified in Section 17-71. The preliminary plat shall be submitted together with a written application at least thirty (30) days prior to the planning commission meeting at which it is to be considered.

(b) Upon receipt of the preliminary plat, the planning commission shall transmit copies to public agencies having jurisdiction and utility companies, who shall examine the plan and report their recommendations thereon to the planning commission.

(c) The planning commission shall review the preliminary plat for compliance with the regulations set forth in this chapter and negotiate with the subdivider on the type and extent of improvements to be installed and on modifications deemed advisable.

(d) Within forty-five (45) days following submittal, the planning commission shall hold a public hearing for the review of the preliminary plat and supporting documents and shall inform the subdivider of its approval or disapproval stating the conditions of approval, if any, or if disapproved, stating the reasons therefor. Any conditions must be met before submittal of a final plat.

(e) Conditional approval of the preliminary plat shall be deemed a tentative expression of approval of the general layout as submitted or modified pending approval of the final plat. (Prior code 16.12.020; Ord. 468 §1, 1995)

Sec. 17-52. Final plat.

(a) A final plat, containing the information specified in Section 17-72, shall be submitted together with a written application for approval at least thirty (30) days prior to the planning commission meeting at which it is to be considered. Said final plat shall be submitted within twelve (12) months after approval of the preliminary plat; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the planning commission.

(b) The final plat as submitted shall conform substantially with the preliminary plat as approved, and may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. In the case of partial submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of twelve (12) months before another phase of the plat must be submitted in final form.

(c) Following review, the planning commission shall act to approve or disapprove the final plat, and send its recommendations to the city council for its approval or disapproval of the final plat. If the plat is disapproved, the reasons therefor shall be stated in writing and a copy furnished to the subdivider. Upon approval and recording of the final plat with the county clerk and recorder, the appropriate municipal agencies shall issue building permits for structures within the subdivision.

(d) In the event of the phased development of a subdivision, the subdivider shall identify on the final plat all improvements proposed to be constructed with each proposed phase of the subdivision. Such improvements for each phase shall provide a proportionate share of all public improvements for

the subdivision and shall provide for the adequate access and service to each individual phase. (Prior code 16.12.030; Ord. 468 §1, 1995)

Sec. 17-53. Amendments to and modifications of a final plat.

(a) Insignificant deviations from the approved plat are permissible and the city planner may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on the conditions of a permit, plans, the approved use, the neighboring properties, the general public or those intended to occupy or use the proposed development, and it does not exceed the applicable zoning limits. Major modifications requiring formal amendments to the plat are any changes that exceed the limits of the zoning district, increase or decrease the density of the development or increase the number of platted lots. The city planner will notify the planning commission and the city council of insignificant deviations authorized. A determination by the city planner of insignificance may be called up by the planning commission and the city council.

(b) All other requests for changes to an approved plat will be processed as formal amendments. If such requests are required to be acted upon by the planning commission or city council, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his or her request for an amendment.

(c) The city planner shall determine whether amendments to and modifications of the final plat fall within the categories set forth above and shall advise the planning commission and city council. Both the planning commission and the city council reserve the right to call any amendment up for review.

(d) An applicant requesting approval of changes shall submit a written request for such approval to the city planner, and that request shall identify the changes. Approval of all changes must be given in writing. (Ord. 614 §1, 2003)

Sec. 17-54—17-69. Reserved.

ARTICLE 4

Plats and Data

Sec. 17-70. Outline development plan and data.

The outline development plan and data shall contain the following information presented in generalized and schematic form:

(1) Location map. The location map shall be prepared on a published sheet map or zoning map and shall indicate clearly the relationship of the proposed subdivision to the surrounding area within one-quarter (1/4) mile of the subdivision's boundaries. The map shall show existing development including major streets, existing public sewers, public water supply and storm drainage systems; major land use concentration; principal places of employment; and community facilities such as schools and parks. The location map shall include a title, scale, north arrow and date. Scale shall not be less than one (1) inch equals six hundred (600) feet.

(2) Sketch plan. The sketch plan may be a freehand drawing at suitable scale, not less than one (1) inch equals two hundred (200) feet, in a legible medium, and shall clearly show the following: the proposed layout of streets and lots in relation to topographic conditions and natural landscape features on the site; the proposed location and extent of major open spaces and public sites; general locations of utilities easements and installations; proposed land uses; and, if construction of buildings is proposed, indication of building types, with approximate location of major buildings exclusive of single-family residential dwellings.

(3) General development information. This information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required in subsections (1) and (2) of this section, and shall include information on existing covenants and land characteristics, and information describing the development proposal, such as number of residential lots or dwelling units, typical lot width and depth, price ranges of lots and dwelling units, proposed protective covenants, and proposed utilities and street improvements. (Prior code 16.16.010)

Sec. 17-71. Preliminary plats and data.

Preliminary plats and data shall include the following information:

(1) Preliminary plat. The preliminary plat shall be drawn to scale, using a scale of not less than one (1) inch equals one hundred (100) feet. Ten (10) copies of the plat containing the following information shall be submitted:

- a. Name of subdivision.
- b. Legal description of the subdivision.
- c. Names and addresses of subdivider, engineer, surveyor and owners.
- d. Date of preparation, scale and north arrow.
- e. Total acreage of subdivision.
- f. Location and dimensions of all existing streets, alleys, easements and watercourses within and adjacent to the subdivision and the names of such streets.
- g. Location and dimensions of all proposed streets, alleys, easements, lot lines and other areas to be reserved or dedicated for parks, schools or other public uses.
- h. Existing and proposed topography at two-foot intervals.
- i. Designation of areas subject to flooding, including floodplain, floodway and base flood elevations.
- j. Land use breakdown, including number of lots and lot sizes.
- k. Proposed sites for multifamily, commercial, industrial, open space or other nonpublic areas.

1. Vicinity map of the surrounding area within one (1) mile, showing streets and location of existing municipal boundary lines.

m. Such additional information as may be required by the city in order to adequately describe proposed utility systems, surface improvements or other construction projects within the area to be subdivided, including proposed construction phasing plans.

(2) In addition to the preliminary plat, three (3) copies of each of the following supporting documents, designed to meet all applicable standards contained in Article 5 of this chapter and contained in the city "Standards and Specifications for the Design and Construction of Public Improvements," as may be amended from time to time, shall be submitted:

- a. Existing and proposed utility systems and drainage and grading plans.
- b. Phase II drainage report.
- c. Preliminary construction plans.
- d. Geologic and mining hazards report.
- e. Traffic impact analysis (if determined necessary by the city engineer).
- f. Soils and pavement design report.

(3) Draft of proposed covenants, whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.

(4) Application for rezoning, if required, for the development of the subdivision;

(5) Such additional information as may be required by the planning commission in order to conduct a full and complete review and to determine that the subdivision is capable of being constructed without an adverse effect on the surrounding area. (Prior code 16.16.020; Ord. 468 §1, 1995)

Sec. 17-72. Final plat and data.

The final plat and supplementary data shall contain the following information:

(1) Final Plat. The final plat shall be an engineering drawing prepared to normal engineering tolerances of accuracy with calculated rather than scale dimensions. The exterior lines of the final plat shall join or close. The plat shall be drawn in permanent ink on a reproducible linen or Mylar with outer dimensions of twenty-four (24) inches by thirty-six (36) inches and shall be at a scale of one (1) inch equals one hundred (100) feet. The final plat may constitute the entire approved preliminary plat or any logical portion of the approved preliminary plat proposed for immediate recording. The final plat shall conform to the approved preliminary plat, shall include all changes and additions as required by the planning commission, and shall show the following:

- a. Primary control points, or descriptions, and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred;

b. Tract boundary lines, right-of-way lines of streets, easements and other right-of-way and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field which must balance and close within a limit of one (1) in ten thousand (10,000). No final plat showing plus or minus dimensions will be approved;

c. Total acreage and surveyed description of the subdivision;

d. Name and right-of-way width of each street or other right-of-way;

e. Location, dimensions and purpose of any easements;

f. Numbers to identify each block, lot and/or site;

g. Purpose for which sites, other than residential lots, are dedicated or reserved;

h. Location and description of all monuments, both found and set;

i. Names of record owners of adjoining unplatted land;

j. Reference to recorded subdivision plats of adjoining platted land by record name, date and number;

k. Signature and seal of registered land surveyor certifying to the accuracy of the survey and plat, including a statement explaining how bearings, if used, were determined;

l. Signature block for certification of approval by the planning commission and city council, with signatures by the chairman of the planning commission and the mayor;

m. Certification of title showing that the applicant is the land owner;

n. Statement by the subdivider dedicating streets, rights-of-way, easements and public sites;

o. Chapter under which the subdivision is to be recorded, scale, north arrow and date.

(2) Other documents required at the time of submission of the final plat shall be as follows:

a. Complete engineering plans and specifications for all public facilities to be installed, including water and sewer utilities, streets and related improvements, bridges and storm drainage, shall be designed to meet the city "Standards and Specifications for the Design and Construction of Public Improvements," as may be amended from time to time;

b. Agreements made with ditch companies when needed;

c. Clearance record showing approval by the health department and utility companies (form supplied by the city);

d. A consumer full-disclosure statement which shall include:

1. Name and address of each person having an interest in the subdivision or development and the extent of such interest,
2. A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances and deed restrictions and covenants applicable thereto,
3. A statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of lots, dwellings or structures,
4. In the case of a subdivision, development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality,
5. Copies of all forms of conveyance to be used in selling or leasing lots, dwellings or structures,
6. Such certified and uncertified financial statements of the developer as the planning commission and City Council may require, and such other information, documents and certifications as the commission and City Council may require as being reasonably necessary or appropriate for the protection of consumers.

After acceptance of the final plat by the City, the subdivider shall give and explain a copy of the consumer at least forty-eight (48) hours prior to the signing of any agreement or contract concerning property in the subdivision. Failure to so use the consumer full-disclosure statement shall result in revocation of final plat approval; and, additionally, such agreement or contract shall be voidable at the option of the consumer within the period allowed by the statute of limitations of the state if based on fraudulent representation, material omission, less than forty-eight-hour disclosure, or failure to give and explain;

- e. A performance bond drawn and posted in favor of the City, which bond shall be of sufficient amount to assure completion of all required improvements;
- f. Protective covenants in form for recording;
- g. Such other certificates, affidavits, endorsements or deductions as may be required by the planning commission or City Council in the enforcement of these regulations. (Prior code 16.16.030; Ord. 468 §1, 1995)

Secs. 17-73—17-89. Reserved.

ARTICLE 5

Design Standards

Sec. 17-90. General site considerations.

(a) A proposed subdivision shall dedicate adequate street rights-of-way, utility easements and open spaces for schools and recreation areas.

(b) A proposed subdivision shall not, by reason of its location or design, cast an undue burden on public utility systems and community facilities on or adjacent to the tract. Where extension and enlargement of public utility systems and community facilities is necessary, the subdivider shall make provision to offset higher net public cost or earlier incursion of public cost necessitated by the subdivision. Due consideration shall be given to the difference between anticipated public costs of installation, operation and maintenance and anticipated public revenue derived from the fully developed subdivision in determining added net public cost.

(c) No land shall be subdivided in areas where soil, subsoil or flooding conditions are a potential danger to health and safety.

(d) Drainage areas wherever possible shall be left in a natural state, and no encroachment shall be made on the natural channel. A plan to prevent water pollution shall be submitted and adhered to wherever any modification of topography is required during construction.

(e) Provision shall be made to preserve groves of trees, streams, unusually attractive topography and other desirable natural landscape features. Provision shall be made for the perpetual maintenance of such features through private covenants or other means acceptable to the Planning Commission and City Council.

(f) A proposed subdivision shall be designed in such a manner as to be coordinated with adjoining subdivisions with respect to the alignment of street rights-of-way and utility and drainage easements and open spaces.

(g) Where a subdivision borders a railroad right-of-way, freeway, arterial or collector street, a landscaped buffer area shall be provided for adequate reduction of noise. (Ord. 748 §1, 2010)

Sec. 17-91. Streets.

(a) Design. The City Standards and Specifications for the Design and Construction of Public Improvements, as may be amended from time to time, shall be used for the design of all streets and other public improvements within the municipal limits.

(b) Street names. Names of new streets shall not duplicate names of existing streets, provided that new streets that are extensions of or are in alignment with existing streets shall bear the names of such existing streets. (Ord. 748 §1, 2010)

Sec. 17-92. Utility easements.

(a) Where necessary for installation and maintenance of utility systems, easements of at least ten (10) feet in width shall be reserved along rear lot lines, or at other locations which will not interfere with the location of buildings.

(b) Where a subdivision is traversed by a watercourse, drainageway or stream, there shall be provided a perpetual drainage easement conforming substantially with the lines of such watercourse, and of such width as necessary and adequate to carry off the predictable volume of stormwater drainage from a one-hundred-year frequency storm.

(c) In general, utility systems shall be arranged and located in such manner as to avoid cross-connections, minimize trenching and adequately separate incompatible systems. (Ord. 748 §1, 2010)

Sec. 17-93. Blocks.

(a) The lengths, widths and shapes of blocks shall be determined with due regard to the following:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Requirements of the zoning ordinance as to lot sizes and dimensions;

(3) Needs for convenient access and control and safety of vehicular and pedestrian traffic circulation;

(4) Limitations and opportunities of topography.

(b) Maximum block length between intersecting streets shall be one thousand five hundred (1,500) feet. (Ord. 748 §1, 2010)

Sec. 17-94. Lots.

(a) Lot size, width, depth, shape and orientation and minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.

(b) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.

(c) Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.

(d) Each lot shall be provided with satisfactory access to an existing public street.

(e) Double frontage and reverse frontage lots shall not be permitted except where essential to provide separation of residential properties from arterial streets or commercial uses or to overcome specific disadvantages of topography and orientation.

(f) A planting screen easement, across which there shall be no right of access, shall be provided along the property line of lots abutting an arterial street. A statement restricting access from individual lots to the arterial street shall be included with the final plat.

(g) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets. (Ord. 748 §1, 2010)

Sec. 17-95. Setbacks to oil and gas operations.

Each subdivision plat shall provide for the following setbacks from existing oil and gas facilities, including oil and gas facilities for which City approval has been granted pursuant to Chapter 16, Article 22 of this Code but which have not yet been constructed:

(1) Lots shall not be platted within one hundred fifty (150) feet of an existing oil or gas well or its production facilities unless a building envelope meeting all setback requirements is shown on the plat, and which building envelope is more than one hundred fifty (150) feet from the well and its production facilities.

(2) Lots intended for use for a school, educational facility, hospital, nursing home or congregate care facility, or any assembly building (as defined in COGCC regulations) shall not be platted within three hundred fifty (350) feet of an existing oil or gas well or its production facilities unless a building envelope meeting all setback requirements is shown on the plat, and which building envelope is more than three hundred fifty (350) feet from the well and its production facilities.

(3) Streets shall not be platted within one hundred fifty (150) feet of an existing oil or gas well or its production facilities. The foregoing shall not apply to flowlines, which shall be subject to Paragraph (4) below.

(4) Any flowlines within or traversing an area proposed for platting shall be placed in a separate tract and shall not be placed within public rights-of-way, other public lands or lots intended for residential use. Streets may cross flowlines at right angles, or substantially at right angles as determined and approved by the City Engineer. Lots shall not be platted to allow any building site within ten (10) feet of a flowline. Building envelopes for habitable structures shall not be platted within twenty-five (25) feet of a flowline.

(5) Lots and streets may be platted over well and production sites that have been abandoned and reclaimed in accordance with state law, COGCC regulations and Section 16-531 of this Code. Such platting shall occur only after the completion of the abandonment and reclamation process. Such platting may not be accomplished by a lot boundary adjustment. (Ord. 748 §1, 2010)

Secs. 17-96—17-109. Reserved.

ARTICLE 6

Required Improvements

Sec. 17-110. General regulations.

(a) The subdivider shall enter into an agreement with the City to guarantee construction of all required improvements, including streets, curbs and gutters, driveways, sidewalks, storm drainage system, potable water system, streetlights and landscaping.

(b) Under such agreement, the subdivider shall post an improvement guarantee in favor of the City in accordance with the requirements of Article 15 of this Chapter.

(c) The improvements required by this Article shall be provided in each subdivision or development proposed and to the extent determined by the Planning Commission and City Council. Required improvements shall be designed in accordance with the detailed design standards and specifications deemed necessary by the City and shall be constructed in accordance with the approved plans and profiles and the construction requirements and specifications of the City.

(d) No improvements shall be made until all plans, profiles and specifications have been reviewed and approved by the City. (Prior code 16.24.010; Ord. 468 §1, 1995; Ord. 732 §2, 2009)

Sec. 17-111. Street improvements.

(a) Grading. Street rights-of-way shall be graded as necessary to provide adequate surface drainage and convenient access to lots or sites.

(b) Pavement base. The pavement base shall be properly drained and constructed of suitable materials so as to support the contemplated traffic load.

(c) Pavement. Pavement shall be constructed of asphalt or concrete of sufficient thickness to support the contemplated traffic load. Streets shall be paved to the widths required under Paragraph 17-71(4).

(d) Alleys. If alleys are provided, they shall be paved.

(e) Curbs and gutters. All streets shall be provided with concrete curbs and gutters for the pavement edging. Such curbs and gutters shall be designed as an integral part of the pavements.

(f) Driveways and accessways. Where appropriate to the type of development proposed, driveways or accessways shall be provided for vehicular access to each structure or parking or loading area. Driveways and accessways provided shall be of adequate width and constructed with suitable subgrade, base, drainage and surfacing to be durable under the use contemplated.

(g) Sidewalks and walkways. Sidewalks and walkways shall be provided where necessary or appropriate for the safety and convenience of pedestrians. Width of sidewalks shall be as specified in Subsection 17-71(d). Sidewalks and walkways shall be durably constructed, with all-weather surfacing, and shall be adequately lighted and maintained for the use contemplated.

(h) Street name signs. Easily legible street name signs shall be installed at street intersections or as necessary for convenient identification of streets. (Prior code 16.24.020)

Sec. 17-112. Utilities.

(a) Storm drainage system.

(1) The storm drainage system shall consist of surface drainage structures, and, where appropriate to the type of development proposed, catchbasins and other underground drainage structures. The storm drainage system shall be of sufficient size and design to carry off all predictable surface water runoff within the subdivision or development, and stormwater drainage which enters the development from adjacent areas.

(2) Where deemed necessary by the Planning Commission and the City Council, catchbasins shall be provided at all low points, at street intersections and at intermediate locations as necessary to prevent overloading of the street gutters. Catchbasins provided shall be connected to collection mains of adequate size with outfalls approved by the Planning Commission.

(3) Storm drainage shall not be permitted to empty into any sanitary sewerage system.

(b) Sanitary sewerage system. The sanitary sewerage system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. The sanitary sewerage system shall be of sufficient size and design to collect all sewage from all proposed or probable structures within the subdivision or development.

(c) Potable water system. The potable water system provided shall connect to an existing public water system and shall consist of water mains directly connected to using structures by means of lateral branches. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

(d) Fire hydrants. Fire hydrants shall be installed at street intersections and at other points as necessary to assure that no building is located more than five hundred (500) feet from the nearest fire hydrants.

(e) Underground electric power and telephone distribution systems.

(1) Electric power and telephone connections and wire shall be placed below the surface of the ground in raceways and conduits. Transformers, switching bases, terminal boxes, meters, cabinets, pedestal ducts and other facilities necessarily appurtenant to such underground connections shall not be located on power poles, but shall be placed on or under the surface of the ground, and where placed on the surface shall be adequately screened and fenced as necessary for safety and concealment.

(2) Electrical transmission and distribution feeder lines and communication trunk and feeder lines may be placed aboveground.

(f) Street lights. Ornamental street lighting and associated underground street lighting supply circuits shall be installed. The maximum requirement shall be seven thousand (7,000) lumen lamps at a maximum spacing of four hundred (400) feet. The street lighting plan specifying the number, kind and approximate location of street lights must be included on the final plat.

(g) Street trees. One (1) street tree of one and one-half (1 ½) inch caliper shall be provided for each lot of seventy (70) foot frontage. For corner lots, at least one (1) tree shall be required for each street. The trees shall be located so as not to interfere with sight distance at driveways. The planning commission shall furnish a list of acceptable trees. (Prior code 16.24.030)

Sec. 17-113. Reference monuments.

Permanent reference monuments of stone or concrete, at least thirty-six (36) inches in length and six (6) inches square or round with suitable centerpoint, shall be located and placed within the subdivision or development as required by the city council. Iron pin monuments at least twenty-four (24) inches long and flush with the surface shall be placed at all points on boundary lines where there is a change in direction, at all block and lot corners, and at other points as required by the city council. (Prior code 16.24.040)

Sec. 17-114. Maintenance.

Adequate provisions for the satisfactory maintenance of streets and utilities improvements, including easements, shall be made by dedication of such improvements to the city. Prior to acceptance by the city, the improvements to be dedicated shall be inspected and approved by the city council. (Prior code 16.24.050)

Secs. 17-115—17-129. Reserved.

ARTICLE 7

Dedication and Reservation of Land

Sec. 17-130. Dedication required.

(a) A party, person, firm, corporation or other association submitting a request to subdivide land located within the city, which land has been annexed prior to enactment of this ordinance, shall meet land or water dedication requirements as determined by the City Council at the time of subdivision. The petitioner shall reserve all land necessary to provide streets and roads to assure adequate circulation of vehicles and pedestrians within the land subdivided and to assure conformance with the existing street and road system of the City. The petitioner shall participate in improvement of streets which abut his or her property when a majority of the landowners fronting on said streets requests improvements or when a street improvement is required by the City.

(b) At the option of the City, the subdivider shall, in lieu of such conveyance of land, pay to the City in cash an amount equal to the value of the gross land area to be dedicated. The equivalent cash valuation, when acceptable, shall be based upon an appraisal by a competent, independent appraiser selected by the City and the subdivider. The proceeds of an equivalent payment shall be placed in a

separate City account and shall be used only for the acquisition and improvement of land for public and civic use. (Prior code 16.28.010; Ord. 224 §1, 1980)

Sec. 17-131. Reservation permitted when.

(a) Reservation by covenant, in lieu of dedication, may be permitted in some cases such as a planned unit development where land is to be used for recreational or amenity purposes by the property owners.

(b) Reservation of land within a subdivision may be required for the duration of the preliminary plat approval in order to afford the appropriate public agency the opportunity to coordinate its acquisition of public land with the development of the subdivision. An agreement shall be entered into between the subdivider and the public agency regarding the timing and method of acquisition. (Prior code 16.28.020)

Sec. 17-132. Fair contributions for public school sites.

(a) For all subdivisions of land, the subdivider shall dedicate land for a public school site to the school district in which the property being subdivided is located (the "school district"), or in the event the dedication of land is not deemed feasible or in the best interest of the school district, as determined by the superintendent or designee of the school district, the subdivider shall make a payment in lieu of land dedication. The amount of such contribution of either land or payment in lieu of land (the "fair contribution for public school sites") shall be determined pursuant to the tables set forth in Subsection (e) below.

(b) The following uses shall be excepted from the fair contributions for public school sites requirements:

(1) Construction of any nonresidential building or structure;

(2) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;

(3) Construction of any building or structure for a limited term stay or for long-term assisted living, including but not limited to bed and breakfast establishments, boarding or rooming houses, family-care homes, group-care homes, halfway houses, hotels, motels, nursing homes or hospices; and

(4) Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act, as amended.

(c) In the event the fair contribution for public school sites includes the dedication of land, the subdivider shall provide to the City, prior to recording of the final plat, proof that such dedication has been made to the School District in accordance with the following requirements:

(1) The subdivider has conveyed to the School District by general warranty deed title to the land slated for dedication, which title is free and clear of all liens, encumbrances and exceptions (except

those approved in writing by the School District), including without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. The subdivider shall also enter into a contract with the School District for the sale and purchase of real property containing customary terms for the land which is being conveyed to or purchased by the School District; and

(2) At the time of conveyance, the subdivider has provided a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property; and

(3) Arrangements have been made such that at the appropriate time, and not later than the issuance of the first building permit for the subdivision, the subdivider shall pay or provide for the payment of one-half (½) of street development costs, and shall either provide or pay or make provision for payment of the costs associated with making improvements for water, sewer and utilities stubbed to the dedicated land, and for overlot grading of the dedicated land. The subdivider shall also have furnished any off-site easements that the School District needs to develop the site.

(4) The land being dedicated or conveyed to the School District shall be located and configured as directed by the School District.

(5) The person or entity conveying the land to the School District shall deposit with the City the amount of money necessary to satisfy the City's water rights requirement for the estimated potable water demand for the property to be conveyed, which money shall be held by the City in an interest-bearing account until such time as the School District is prepared to expend such funds for purchase of the water rights necessary to develop a school site. The water rights requirement shall be calculated by the City based on the School District's proposed uses, and shall be satisfied prior to issuance of any building permits for the residential land development; provided, however, that the City shall at all times and as a condition of water service have the right to require the School District or its successors to dedicate additional water rights or, at the City's option, pay cash in lieu thereof, in the event actual water use on the property exceeds the estimated potable water demand, as was calculated by the City, or the actual use of the property differs from the School District's proposed use for which the water demand was initially calculated.

(6) In addition to the land dedicated or conveyed, the subdivider shall provide to the school district the right to purchase lands adjacent at their fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel which meets the school district's land area requirements as listed in the applicable Intergovernmental Agreement Concerning Fair Contributions for Public School Sites between the City and the school district, as the same may be from time to time amended. The school district shall have such first right to purchase adjacent lands for a period of three (3) years from the date of recording of the final plat, and for such additional period of time as may be agreed upon within any contract entered into between the school district and owner within such three-year period.

(d) If the fair contribution for public school sites includes payment in lieu of the dedication of land, then prior to the issuance of any building permit for any residential dwelling unit in the subdivision not otherwise exempt under Subsection 17-132(b), the City shall be provided with proof that, for the lot for which the permit is sought, the required payment in lieu of dedication of land has been made to the School District.

(e) The school planning standards and calculations of in lieu fees used to determine the fair contribution for public school sites required by this Section shall be as set forth in the Intergovernmental Agreement Concerning Fair Contributions for Public Schools between the City and school district in which the property being subdivided is located or as set forth in a schedule adopted by resolution of the City Council. (Ord. 505 §1, 1998; Ord. 584 §1, 2001; Ord. 701 §2, 2007; Ord. 741 §1, 2010)

Secs. 17-133—17-149. Reserved.

ARTICLE 8

Reserved

Secs. 17-150—17-169. Reserved.

ARTICLE 9

Variances and Modifications

Sec. 17-170. Procedure.

Application for variances or modifications of the regulations set forth in this Chapter shall be submitted to the planning commission. Such application shall include a statement setting forth the nature and extent of the requested variance or modification, together with evidence supporting need for such variance. (Prior code 16.36.010)

Sec. 17-171. Criteria.

Where the planning commission and the city council find that extraordinary hardships may result from strict compliance with the regulations set forth in this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the subdivider made such variance necessary; and that the granting thereof will not have the effect of nullifying the intent and purpose of the regulations set forth in this chapter. (Prior code 16.36.020)

Sec. 17-172. Conditions.

In granting variances and modifications, the planning commission and the city council may require such conditions as will, in its judgment, secure substantially the objectives of the requirements and standards so varied or modified. (Prior code 16.36.030)

Secs. 17-173—17-189. Reserved.

ARTICLE 10

Administration

Sec. 17-190. Interpretation.

On the interpretation and application of the provisions of this chapter, the following shall govern:

(1) The provisions contained in this chapter shall be regarded as minimum requirements for the protection of the public health, safety and welfare.

(2) Whenever a provision of this chapter and any provision in any other law of the city cover the same subject matter, whichever is the most restrictive or imposes the higher standard or requirement shall govern. (Prior code 16.40.010)

Secs. 17-191—17-200. Reserved.

ARTICLE 11

Minor Subdivision Regulations

Sec. 17-201. Pre-application procedure.

(a) Prior to the filing of application for approval of a minor subdivision, the subdivider may, at its option, submit to the planning commission an outline development plan as specified in Section 17-70. This procedure shall not require formal application or fee.

(b) The planning commission shall review the outline development plan to determine its general acceptability and compliance with the objectives and standards of these regulations, and shall discuss desirable modifications of the plan. (Ord. 425 §2, 1993)

Sec. 17-202. Submittal requirements.

(a) Plat: Final plat as required by Section 17-72 required to be drafted by a registered land surveyor.

(b) Title insurance commitment policy issued by a title insurance company or an attorney's opinion of title, certified to a date not more than thirty (30) days prior to the submittal date, showing the name of the owner of the land and all other persons who have an interest in, or an encumbrance on, the property described on the plat.

(c) Closure sheets: One (1) copy of the computed closure for each of the subdivisions, computed on centerline data. One (1) copy of the computed square footage or acreage for each lot and tract within (prepared by a registered land surveyor).

(d) Letter of intent describing the proposed subdivision.

(e) Development report and evidence: A development report and other evidence for the following items shall be submitted with the analysis of each of the particular factors and its impact on the surrounding area.

(1) Reports concerning:

- a. Streams, lakes, topography and vegetation, where applicable.
- b. Geographic characteristics of the area and a determination of the impact of such characteristics upon the proposed subdivision.
- c. Suitability of types of soil in the proposed subdivision including, where appropriate, maps and tables in accordance with any standard soil classification.
- d. Facilities, where applicable, to prevent stormwater in excess of historic runoff, caused by the proposed subdivision, from entering or damaging conduits, water supply ditches and appurtenant structures, and other storm drainage facilities.

(2) Evidence and evaluation of the following:

- a. Potential radiation hazards, where applicable.
- b. That a public water supply sufficient in terms of quality, quantity and dependability will be available to supply water for the subdivision proposed.
- c. If a private sewage disposal system is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with the state and local laws and regulations which are in effect at the time of submission of the plat.
- d. When the lines of a public sewage system capable of serving the needs of the property come within four hundred (400) feet of the boundaries of any lot within the plat within one (1) year, steps will be taken to connect the property to the public system, and concurrently the individual septic system will be abandoned. (Ord. 425 §2, 1993)

Sec. 17-203. Hearing procedures.

(a) The planning commission shall review the minor subdivision plat and report its findings and recommendations to the city council for action.

(b) If the city council elects to approve the minor subdivision plat, the plat shall be deemed in conformity with the standards set forth in these regulations.

(c) If the city council elects to disapprove the minor subdivision plat, the plat shall be deemed not in conformity with the standards or the intent as set forth in these regulations.

(d) Whenever a minor subdivision plat has been denied by the city council, the planning commission shall not reconsider the minor subdivision plat for a period of one (1) year from city council action to disapprove. (Ord. 425 §2, 1993)

Sec. 17-204. Signatures.

Upon approval of the minor subdivision plat by the city council, the signatures of the chairman of the planning commission and mayor shall be affixed to the document. (Ord. 425 §2, 1993)

Sec. 17-205. Recording procedures.

(a) Within one (1) year after approval of the minor subdivision by the city council, the plat and related documents shall be recorded by the city clerk in the office of the county clerk and recorder. If the minor subdivision plat is not recorded within one (1) year, the applicant shall cause the plat to be submitted to the city council for reconsideration of its previous action.

(b) No plat shall be recorded prior to satisfaction of all requirements and conditions. (Ord. 425 §2, 1993)

Sec. 17-206. Filing and recording fees.

For city filing/processing fees, see Resolution No. 92-18. The subdivider shall pay all publishing and recording fees. Any request for reconsideration of a plat must include a twenty-five-dollar processing fee, letter of intent/ explanation and copies of the minor subdivision plat adequate for distribution to affected agencies. (Ord. 425 §2, 1993)

Secs. 17-207—17-219. Reserved.

ARTICLE 12

Vested Property Rights

Sec. 17-220. Purpose.

The purpose of this chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended. (Ord. 536 §1, 1999)

Sec. 17-221. Definitions.

As used in this article, the following words and phrases shall have the meanings set forth in this section, unless the context otherwise requires:

Landowner means any owner of a legal or equitable interest in real property, and includes the heirs, successors and assigns of such ownership interests.

Site specific development plan means and is limited to a planned unit development (PUD) final development plan submitted pursuant to Article 8 of this chapter or a site plan submitted pursuant to Article 24 of Chapter 16 of this code. No other type of land use application shall be considered a *site specific development plan*.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. 536 §1, 1999; Ord. 594 §2, 2002)

Sec. 17-222. Creation – Notice and hearing.

(a) A vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, is created only upon city council approval or conditional approval of a site specific development plan which has been processed in accordance with the provisions of this chapter. No administrative or other type of land use approval shall create such a vested property right.

(b) Any landowner seeking the creation of a vested property right through approval of the site specific development plan shall invoke the procedures of this chapter by specific written request to the city. The request shall be made to the city clerk at least thirty (30) days prior to the date the city council is to consider approval of the site specific development plan. The failure of the landowner to make such a request renders the PUD final development plan not a site specific development plan, and no vested rights shall be deemed to be created by its approval or conditional approval.

(c) No site specific development plan shall be approved until after a city council public hearing, preceded by notice of the hearing published at least once in a newspaper designated by the city for the publication of notices. The notice shall be published by the city at least seven (7) days prior to the city council hearing date and may, at the city's option, be combined with any notice required for the PUD final development plan or with any other required notice, or may be given separately. Interested persons shall have the opportunity to be heard at the hearing.

(d) The city council's intention to create a vested property right shall be set forth in the resolution granting approval or conditional approval of the site specific development plan. (Ord. 536 §1, 1999)

Sec. 17-223. Notice of approval.

(a) Not more than fourteen (14) days after city council approval or conditional approval of a site specific development plan, there shall be published in a newspaper designated by the city for the publication of notices, a public notice. The notice shall contain the following:

(1) A statement that a site specific development plan has been approved and a vested property right created.

(2) A statement generally describing the type and intensity of use approved in the site specific development plan, and a reference to the specific city council resolution of approval.

(3) A description of the subject property which shall include a vicinity description by reference to an adjacent or nearby road intersection and which may include a legal description.

(b) Each map, plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to include this statement shall prevent the creation of a vested property right. (Ord. 536 §1, 1999)

Sec. 17-224. Effective date.

A site specific development plan shall be deemed approved upon the effective date of city council's final action granting approval or conditional approval of such plan, if such approval is otherwise granted in compliance with the procedures of this chapter. Failure to comply with the procedures set forth in this chapter shall prevent the creation of a vested property right. (Ord. 536 §1, 1999)

Sec. 17-225. Duration and amendment.

(a) A vested property right which has been created pursuant to this chapter shall remain vested for a period of three (3) years, unless a longer period is expressly authorized by city council resolution.

(b) The three-year vesting period shall not be extended by any amendments to a site specific development plan. Therefore, in the event the city council approves amendments to a site specific development plan, the effective date of such amendments, for purposes of duration of any vested property right, shall be the date of the city council's approval of the original site specific development plan, unless the city council by resolution expressly finds and determines otherwise. Vested property rights shall not attach to any administrative amendment and may attach to amendments to the site specific development plan only if approved in compliance with the procedures set forth in this chapter. (Ord. 536 §1, 1999)

Sec. 17-226. Payment of costs.

The applicant for approval of a site specific development plan shall pay a fee in an amount as may from time to time be set by the city council. (Ord. 536 §1, 1999)

Sec. 17-227. Other provisions unaffected.

(a) Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this code pertaining to the development or use of property.

(b) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the city, including but not limited to building, fire, plumbing, electrical and mechanical codes. Further, the establishment of a vested property right shall not preclude the application of ordinances or regulations otherwise permitted by Article 68 of Title 24, C.R.S., as amended.

(c) A site specific development plan for which a vested right has been created shall not be exempt from subsequent reviews and approvals to ensure compliance with the terms and conditions of the plan's approval. (Ord. 536 §1, 1999)

Sec. 17-228. Rights by agreement.

The city council may enter into agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, economic cycles and market conditions. Such agreements shall be adopted as legislative acts subject to referendum. (Ord. 536 §1, 1999)

Sec. 17-229. Limitations.

Nothing in this chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event that said article is repealed or deemed by a court to be invalid or unconstitutional, this chapter shall be deemed to be repealed and the provisions hereof shall no longer be effective. (Ord. 536 §1, 1999)

Secs. 17-230—17-239. Reserved.

ARTICLE 13

Lot Boundary Adjustments

Sec. 17-240. Applicability.

(a) Except as specifically provided herein, boundaries between contiguous lots may be modified, adjusted or otherwise amended by deed, without the submission and approval of a subdivision plat, so long as no additional lots would be created by the adjustment of the boundary. Any boundary adjustment shall be subject to the review and approval of the city according to the procedures set forth in this article.

(b) An application for a boundary adjustment must be submitted pursuant to the procedures for minor subdivisions set forth in Article 11 of this chapter if any of the following circumstances exist:

(1) The boundary adjustment impacts more than two (2) contiguous lots;

(2) The boundary adjustment would result in a lot or lots that would not be developable under the regulations set forth in this code; or

(3) The boundary adjustment would result in any additional lot or lots capable of separate ownership and development under the regulations set forth in this code. (Ord. 544 §2, 2000)

Sec. 17-241. Procedure.

(a) Prior to the recording of any deed effecting the adjustment, property owners seeking the adjustment shall apply to the city for written approval of the boundary adjustment. Such application shall contain the following:

(1) A copy of the proposed deed, which shall contain language suitable to the city evidencing the conveyance is being made solely for the purpose of adjusting a lot line;

(2) A freehand sketch drawing of the proposed adjustment, depicting existing and proposed lot boundaries and dimensions, existing structures on the subject properties and existing easements;

(3) Proof of ownership of the subject properties.

(b) Within two (2) weeks from receipt of the complete application, the city shall in writing approve or deny the boundary adjustment. The city's decision shall be based on a finding that the boundary

adjustment and the resulting lot configuration would comply with the requirements of this code. Anyone aggrieved by the decision of the city may appeal to the Planning and Zoning Commission.

(c) If the boundary adjustment would result in a lot or lots that would require a zoning variance, or a lot or lots the development of which by necessity would require a zoning variance, the applicant must first obtain approval for the variance pursuant to Article 17 of Chapter 16 of this code. (Ord. 544 §2, 2000)

Sec. 17-242. Fees.

The fee for processing a lot boundary adjustment pursuant to this article shall be as set by resolution of the city council. The applicant shall pay all fees for recording of the deed effecting the adjustment to the lot boundary. (Ord. 544 §2, 2000)

Secs. 17-243—17-249. Reserved.

ARTICLE 14

Open Space Requirements

Sec. 17-250. Purpose, applicability and mandatory pre-application review.

(a) The purpose of this article is to set forth criteria for provision of open space in new residential developments within the city for park, school, open space or other public purpose, as determined by the city council. This article shall apply to all residential development applications or mixed use development applications that have a residential component filed pursuant to this chapter on or after the effective date of the ordinance codified herein that contain more than four (4) dwelling units or lots.

(b) All developments that are required to provide usable open space shall begin the City's development review process with a mandatory pre-application, as defined in Section 17.50 of this Code. (Ord. 550 §1, 2000)

Sec. 17-251. Definitions.

As used in this Chapter, the following words and phrases shall have the meanings set forth in this Section, unless the context otherwise requires:

Density means the number of residential dwelling units per acre (DU/acre).

Detention pond means an area designed and constructed for the temporary storage of stormwater runoff.

Natural area means aquatic or terrestrial habitats or areas that exist in their natural condition and that have not been significantly altered by human activity.

Open space, usable means area that is unoccupied by principal or accessory buildings, and that is available and suitable for public use. In multi-family developments, usable open space designated

for recreational and other leisure or outdoor activities may be solely for the use and enjoyment of residents and their guests.

Total residential area means the entire acreage of area of a single cohesive residential development, excluding area designated for multi-family residential use, irrespective of construction phasing.

Trail means a designated route or path for nonmotorized use, such as for walking or bicycling. (Ord. 550 §1, 2000; Ord. 616 §1, 2003)

Sec. 17-252. Usable open space requirement.

(a) All one-family and two-family residential developments subject to this Article shall, as a condition of approval, provide for land dedications in the following amounts for usable open space. The calculated density shall be rounded to the closest whole number shown in this Section. All multiple-family residential developments of any density shall, as a condition of site plan approval, provide thirty percent (30%) usable open space.

<i>Type of Development</i>	<i>Density (DU/acre)</i>	<i>Open Space Required (% of Total Residential Area)</i>
One-family dwelling, two-family dwelling or pre-manufactured housing structure	0—2	5%
One-family dwelling, two-family dwelling or pre-manufactured housing structure	3	10%
One-family dwelling, two-family dwelling or pre-manufactured housing structure	4	15%
One-family dwelling, two-family dwelling or pre-manufactured housing structure	5	20%
One-family dwelling, two-family dwelling or pre-manufactured housing structure	6	25%

(b) Usable open space area shall be unobstructed to the sky, and for one-family and two-family residential developments shall have a minimum dimension of fifty (50) feet and a minimum area of seven thousand (7,000) square feet. Lands within required oil and gas facility setbacks are generally not suitable for public use and will not be considered as part of the land dedication required under this section. The requirement for providing usable open space may be met by providing one (1) recreational amenity, not otherwise required, per two thousand (2,000) square feet of required usable open space, based on the following:

(1) Playgrounds with equipment, picnic/ barbeque areas or court games (tennis, volleyball or basketball) at least one thousand (1,000) square feet in size shall count as one (1) recreational amenity.

(2) A system of pedestrian trails shall count as one-half (½) recreational amenity.

(3) In-the-ground swimming pools and community buildings at least two thousand (2,000) square feet in size shall count as two (2) recreational amenities.

(4) Fifty percent (50%) of a human-made detention pond area may be counted as usable open space, at the discretion of the city council, if the pond is designed to provide for usable area, with side slopes not exceeding a slope of 4:1, all minimum dimensions are at least fifty (50) feet, the minimum area of the pond is at least ten thousand (10,000) square feet, and the pond is designed to detain water and dry out on a normal basis. A maximum of twenty-five percent (25%) of the required amount of usable open space area may be met by detention pond area.

(5) Site characteristics of natural significance, such as natural or human-made water bodies (i.e., lakes, streams, creeks), natural areas offering aesthetic or ecological value, or adjacent or off-site facilities or areas may, at the discretion of the city council, qualify toward meeting the usable open space requirement. (Ord. 550 §1, 2000; Ord. 616 §§2, 3, 2003)

Sec. 17-253. Cash in lieu of open space.

(a) At the sole option of the city council, the city may allow a cash contribution payable to the city in lieu of the land dedications required by this article. A maximum of forty percent (40%) of an applicant's usable open space requirement may be satisfied by this section.

(b) The formula to be used to determine the cash-in-lieu amount shall be as follows:

$$\text{Total Land Value} \times \text{Required Open Space} = \text{Cash-in-Lieu Amount.}$$

For the purposes of this formula, total land value shall be determined by a certified general appraisal of the subdivided land prepared at the expense of the subdivider. The appraisal shall be prepared after approval of the final subdivision plat but prior to the recording of the final plat, and shall be dated no earlier than sixty (60) days prior to the date payment is presented to the city. The appraisal shall be based on the value of all improvements to and approvals for the subdivided land existing at the time the appraisal is prepared. Any cash-in-lieu payment pursuant to this section shall be paid to the city prior to the recording of the final plat. (Ord. 550 §1, 2000; Ord. 616 §4, 2003)

Secs. 17-254—17-259. Reserved.

ARTICLE 15

Guarantee and Warranty of Public Improvements

Sec. 17-260. Improvement guarantee required.

(a) To ensure the construction of required public improvements, prior to recording any final plat or site plan, a subdivision agreement shall be executed by the subdivider, which requires the subdivider to guarantee the completion of all such public improvements by one (1) of the forms specified in Section 17-261 below. The means of a guarantee may be changed during the guarantee period only by a written amendment to the subdivision agreement approved by the City Council. The guarantee shall remain in effect until final acceptance of improvements.

(b) The improvement guarantee shall be a minimum of one hundred fifteen percent (115%) of the entire estimated cost, including labor and materials, of all required public improvements. The subdivider shall submit to the City for its review and approval detailed cost estimates for public improvements from qualified estimators to support the amount of the improvement guarantee. The amount of the improvement guarantee shall be proposed by the applicant and is subject to approval by the City Council, which shall consider increasing costs over the time period.

(c) No public improvement may be constructed without an executed subdivision agreement and until the City has reviewed and accepted an improvement guarantee meeting the requirements of this Article. (Ord. 732 §3, 2009)

Sec. 17-261. Form of improvement guarantee.

(a) The subdivider may elect to deposit a cash sum or certified check, which funds shall be held by the City in trust until released by the City upon completion of the public improvements. Such funds may not be used or pledged by the subdivider as security in any matter during such period.

(b) The subdivider may elect to provide from a Colorado bank an irrevocable letter of credit in a form approved by the City Council. Such letter of credit shall not expire during the winter season (November 1 to March 1). (Ord. 732 §3, 2009)

Sec. 17-262. Probationary acceptance.

(a) No later than thirty (30) days, weather permitting, after all required public improvements have been completed, the subdivider shall request from the City a probationary acceptance inspection of the public improvements. If deficiencies are noted as a result of the inspection, the subdivider shall complete all repairs, replacements, construction or other work required and request a follow-up inspection within thirty (30) calendar days of receipt of the deficiency notice. The City Planner, City Engineer or designee may recommend probationary acceptance only when all public improvements are complete and upon receipt of as-built drawings in document and electronic format. Probationary acceptance shall not be granted during the winter season (November 1 to March 1).

(b) The City Council shall by resolution grant probationary acceptance, at which time the warranty period shall begin. Upon probationary acceptance, the City Council may authorize the release of eighty percent (80%) of the improvement guarantee. No partial releases of the improvement guarantee shall be permitted. (Ord. 732 §3, 2009)

Sec. 17-263. Warranty of public improvements.

The subdivider shall warrant and guarantee that required public improvements constructed under the agreement will remain in good condition and meet operating specifications for two (2) years, commencing with probationary acceptance of such public improvements or until such improvements have been granted final acceptance by the City Council. Such warranty includes defects in design, workmanship, materials and any damage to improvements caused by the subdivider, its agents or others engaged in work to be performed under the subdivision agreement. (Ord. 732 §3, 2009)

Sec. 17-264. Final acceptance.

(a) At least forty-five (45) days, weather permitting, before two (2) years have elapsed from the date of probationary acceptance, the subdivider shall schedule a final acceptance inspection with the City. After all deficiencies are cured and any necessary follow-up inspections are completed, the City Engineer, the City Planner or their designees may recommend to the City Council final acceptance of the public improvements and release of the remaining improvement guarantee. If extensive repairs or replacements of public improvements were required during the warranty period, the City Engineer or City Planner may recommend that the City Council extend the warranty period for a period of time not to exceed one (1) additional year before the improvements will be considered for final acceptance.

(b) The City Council shall by resolution grant final acceptance and accept for ownership and maintenance all public improvements to be owned and maintained by the City.

(c) Prior to the release of the remaining improvement guarantee, the subdivider shall provide to the City a stamped statement from an engineer licensed in Colorado certifying that the project has been completed in substantial compliance with the approved plans and specifications of the site plan and related documents. (Ord. 732 §3, 2009)

Sec. 17-265. Correction of deficiencies during warranty period.

Within thirty (30) days, or such period as may be extended by the City in its sole discretion, after notification by the City of the need for repair or replacement of any public improvement, the subdivider shall correct the deficiencies to the City's satisfaction. Such notification shall be made by certified mail. If the subdivider fails to repair or replace the deficiency within the time specified in this Section, the City may make the repair or replacement at the subdivider's sole expense and either bill the subdivider for the cost of the repair or draw upon all or a portion of the improvement guarantee. (Ord. 732 §3, 2009)

Sec. 17-266. Default.

(a) If the subdivider defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the City may draw upon the improvement guarantee to complete or repair the public improvements to ensure that:

(1) All required public improvements are built to specifications necessary to receive final acceptance; and

(2) The improvements remain in good condition for the completion of the warranty period.

(b) The City may use improvement guarantee funds for the completion of required public improvements or may hold such guarantee funds until the improvements have been completed. Upon final acceptance of the public improvements, the City shall return to the subdivider any funds remaining after payment of all costs and fees incurred by the City. (Ord. 732 §3, 2009)

Sec. 17-267. Inspections.

The subdivider shall schedule with the City inspections required by this Article at least forty-eight (48) hours in advance. Prior to the City's acceptance of the public improvements, utility companies and other service providers shall inspect and approve installations that will become their respective responsibility. (Ord. 732 §3, 2009)

Sec. 17-268. Standards may not be altered; enforcement of Article.

All provisions of this Article are mandatory and may not be altered by the subdivision agreement. (Ord. 732 §3, 2009)