

# Article 6.0 Review Procedures

## 6.1. Purpose and Organization

This article describes the review and approval procedures for application for land use and development in Larimer County, and is divided into the following sections:

- 6.1.1.** §6.3, *Common Review Procedures* describes the standard procedures that apply to most development application types.
- 6.1.2.** §6.4 through §6.7 contain specific information on each application type within four categories (site development, land division, code amendments, flexibility and relief), including approval criteria and any additions or modifications to the common review procedures.
- 6.1.3.** §6.8, *Review and Decision-Making Bodies*, describes the duties of the County officials in charged with reviewing and deciding development applications and administering this Code.

## 6.2. Summary Table of Review Procedures

Table 6-1: *Development Review Procedures Summary* lists the development applications authorized in this Code. For each type of application, the table indicates whether a pre-application conference is required and the role of county review and decision-making authorities.

**Table 6-1: Development Review Procedures Summary**

Application Type	Section Reference	Sketch Plan Required?	Decision-Making Bodies			
			R = Review & Recommendation D = Review & Decision A = Appeal <D> = Public Hearing			
			Director	Planning Commission	BCC	BOA
<b>Site Development Procedures</b>						
Site plan review	6.4.1	No	D [1]		<A>	
Administrative special review	6.4.3	No	D [1]		<A>	
Special Event	Article 7.0	No	D [1]		<D> if referred	
Special review	6.4.2	Yes	R	<R>	<D>	
Location and extent	6.4.4	No	R	<D>		
1041 review	Article 10.0	Yes	R	<R>	<D>	
<b>Land Division Procedures</b>						
Administrative subdivision	6.5.3	Yes	D [1]		<A>	
Subdivision concept plan	6.5.4	Yes	R	<R>	<D>	
Preliminary plat	6.5.5	Yes	R	<R>[2]	<D>	
Final plat	6.5.6	No	D		<A>	
Property Re-configuration and Plat modifications – Director	6.5.7	No	D [1]		<A>	
Plat modification – BCC	6.5.8	No	R		D	
Condominium map	6.5.9	No	R		D	
Minor land division	6.5.10	No			<D>	
<b>Code Amendments</b>						
Amending Official Zoning Map (rezoning)	6.6.1	Yes	R	<R>	<D>	
Amending Code text	6.6.2	No	R	<R>	<D>	
<b>Flexibility and Relief</b>						
Minor modification	6.7.1	No	<i>Subject to concurrent application associated with minor modification</i>			<A>
Appeal	6.7.2	No	<i>Pursuant to §6.7.2</i>			
Zoning variance	6.7.3	No	R			<D>
Expansion or change in character of nonconformity	1.10.7	No	D		<D> - If referred	

**Notes:**

[1] Director may refer application to Board of County Commissioners for decision. See §6.3.8.B

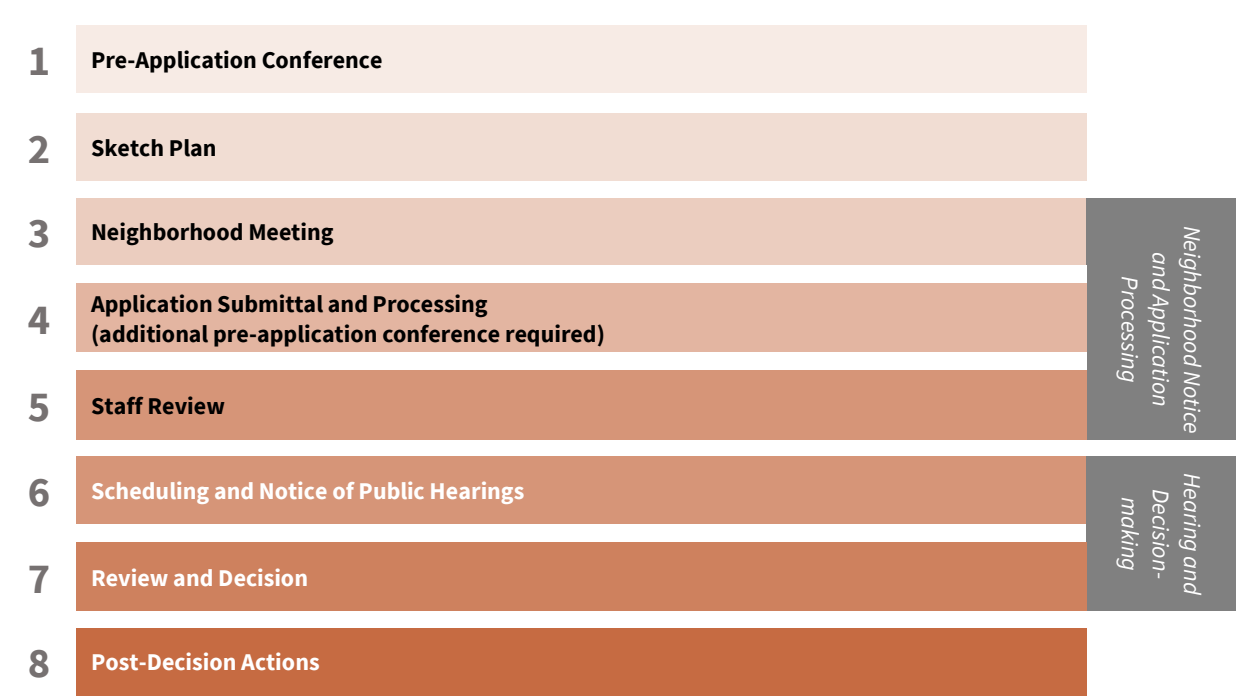
[2] Rural Land Use Board shall review and recommend preliminary plat applications for rural land plans (not the Planning Commission).

6.3. Common Review Procedures

6.3.1. Purpose

This section describes the standard procedures and rules applicable to all development applications unless otherwise stated in this Code. Common review procedures include eight steps, as shown below in Figure 6-1, not all of which are applicable to every development application. Application-specific procedures in §§6.4 through 6.7 identify additional procedures and rules beyond those in this section.

Figure 6-1: Common Review Procedures



6.3.2. Pre-Application Conference

A. Purpose

The pre-application conference is intended to provide an opportunity for the applicant to meet with county staff to review submittal requirements, review procedures, and applicable Code standards associated with the proposed development concept.

B. When Required

A pre-application conference is required for all development applications as set forth in Table 6-1: *Development Review Procedures Summary*.

C. Procedure

1. The applicant shall submit a request for a pre-application conference meeting on a form provided by the Community Development Department.
2. A staff planner shall schedule the pre-application meeting and notify appropriate staff and the applicant of the time and location of the meeting.

3. Depending on the size and scale of the development proposal, the applicant may be asked to bring additional materials to the pre-application conference.
4. If specific questions are raised during the conference, staff will refer the applicant to the appropriate agency to discuss issues that may affect the proposed development.
5. Staff will assist the applicant to identify key issues and concerns regarding the proposed development project so the applicant may address them as part of their formal application submittal.
6. At the pre-application conference, the staff planner will provide an outline of the procedural steps involved with the evaluation of the proposal.
7. The staff planner will inform the applicant that, by signing the application form, the applicant agrees to the applicable development review process.
8. The applicant will be advised if the property is in a designated growth management area (GMA) or cooperative planning area (CPA). These designations may require special procedural requirements, such as filing of annexation application forms, reports or studies as may be outlined in intergovernmental agreements and associated growth management area regulations of Larimer County.

#### **D. Effect**

Any comments or commitments made by staff during the pre-application conference are preliminary in nature and may change significantly as the project is more clearly defined in later stages of the development review process. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition to a development approval.

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### **6.3.3. Sketch Plan Review**

#### **A. Purpose**

The intent of sketch plan review is to:

1. Initiate the exchange of information between the applicant and county staff and referral agencies to raise awareness of potential issues and allow the applicant to decide whether to proceed with the application;
2. Obtain sufficient information to accurately assess the technical aspects of the application and to communicate major issues that would impact a formal submittal. A checklist of submittal requirements is included in the Administrative Manual.

#### **B. When Required**

1. Sketch plan review is required for various development applications as established in Table 6-1: *Development Review Procedures Summary*.
2. The Director may waive the sketch plan review requirement for projects that do not need the additional input that results from sketch plan review.

#### **C. Procedure**

1. A pre-application conference is required prior to submittal of a sketch plan.
2. A sketch plan meeting will be scheduled based upon the submittal date the sketch plan application is made.
3. Upon receipt of a complete sketch plan application, the Community Development Department will initiate the neighbor referral process (§6.3.3.E, *Neighbor Referral*) and

also send notice to the appropriate referral agencies (utilities, fire department, county health, County Engineer, school district, etc.), and schedule the sketch plan review meeting.

4. The staff person assigned to the case will compile the responses from neighbors and referral agencies and will review the sketch plan application for compliance with all provisions of this Code.
5. A written staff report that includes all comments received during the review period will be presented at the sketch plan meeting.

#### **D. Effect**

No formal decision is made during the sketch plan review process. Following the meeting, the Director shall provide details of the meeting to the applicant, including potential impacts and any issues that need to be resolved prior to submitting a formal application.

#### **E. Neighbor Referral**

##### **1. Purpose**

The neighbor referral procedure is intended to:

- a. Provide information about a development application and an opportunity for property owners and residents within 500 feet in close proximity to the property in accordance with §6.3.7.C of the property line for the proposal to comment on a land use application that requires county approval; and
- b. Gather neighbor comments, concerns, and/or suggestions about the development application early in the review process and enable the applicant ample opportunity to address the comments.

##### **2. Applicability**

- a. The neighbor referral procedure is required for all projects that are required to submit a sketch plan, unless waived by the Director for partial applications.
- b. The Director may require a neighborhood referral for a project not listed above upon determining the referral would be beneficial. The Director's decision to require a referral cannot be appealed.
- c. Determine if a neighborhood meeting will be required for the project.

##### **3. Procedure**

- a. Upon receipt of an application for which a neighbor referral is required, property owners ~~and residents~~ within 500 feet of the property line (or as required in §6.3.7.C) for the proposal shall be mailed notice of the application and where to view application materials.
- b. The referral shall provide 14 days for property owners and residents within 500 feet of the property line for the proposal (or as required in §6.3.7.C) to respond with any comments, questions, or concerns about the application. Comments shall be submitted to the Community Development Department and will be included in the staff report prepared for any public hearing on the proposal. The Community Development Department shall provide the applicant with a copy of any comments received.

~~b-c.~~ The applicant shall also be required to post a sign in compliance with §6.3.7.C.2.a.i. The purpose of the sign is to provide adjacent residents or tenants, who many not be directly receiving mailed notice, with information about the application.

~~e-d.~~ The Director will determine if a neighborhood meeting (see §6.3.4, *Neighborhood Meeting*) is required based on land use impact or comments received.

~~d-e.~~ Prior to the neighborhood meeting (if required) or public hearing application, the applicant shall respond to comments received during the neighbor referral. The applicant shall provide a written report detailing comments and the applicant's response to those comments. The written report will be available for review and will also be included in the staff report prepared for any public hearing on the proposal.

#### 4. Effect

Staff shall collect and forward the applicant's written report to boards and commissions describing comments received and any modification(s) made in response to the comments. Comments will be considered by decision makers in determining if applicable review standards have been met.

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### 6.3.4. Neighborhood Meeting

#### A. Purpose

The neighborhood meeting provides an opportunity for the applicant to share the goals of the proposed project and to receive constructive input from the community on how the forthcoming application could be improved. The neighborhood meeting process also provides an opportunity for the residents and property owners of Larimer County to help shape the direction of the development, therefore enhancing the welfare of the community.

#### B. Applicability

A neighborhood meeting shall be required prior to the submittal of applicable projects as identified in Table 6-1: *Development Review Procedures Summary*, unless the Director determines that such a meeting is unnecessary based on the comments received in response to a neighbor referral.

#### C. Procedure

1. Neighborhood meetings shall be conducted by the applicant or the applicant's designee.
2. The staff planner assigned to the project and the applicant shall coordinate meeting time, place, and notice to neighbors.

3. Property owners ~~and residents~~ within 500 feet of the property line (or as required in §6.3.7.C.) for the proposal shall be notified of a neighborhood meeting by mailed notice at least 14 days in advance of the meeting date.

3-4. A sign must also be posted on the subject property, in compliance with §6.3.7.C.2.a.i.

4-5. The staff planner shall attend the neighborhood meeting as a resource for process questions. Staff will not provide information about project specifics or facilitate the meeting.

5-6. The applicant is responsible for all expenses of the neighborhood meeting including but not limited to facility costs and the cost of the meeting notice. The applicant shall provide a meeting notetaker.

**6.7.** The applicant shall prepare a written report of meeting comments and submit the report with the development application. The applicant may elect to make changes to the proposal based on neighborhood comments to improve the project outcome.

**D. Effect**

Staff shall forward the applicant's written report to boards and commissions describing comments received and any modification(s) made in response to the comments. Comments will be considered by decision makers in determining if applicable review standards have been met.

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**6.3.5. Application Submittal and Processing**

**A. Authority to Submit Application**

Unless expressly stated otherwise in this Code, a development application shall be submitted by:

1. The owner, contract purchaser, or any other person having a recognized property interest in the land on which development is proposed;
2. A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by a letter or document signed by the owner, contract purchaser, or other person; or
3. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

**B. Application Content**

1. The application shall be submitted to the Community Development department on a form established by the Director.
2. The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with application requirements.
3. Submittal requirements are specified in the technical supplement to the Code.
4. Any application that results in a change to property boundaries shall include proof that all ad valorem taxes, applicable to the lots for years prior to that year in which approval is granted, have been paid.
5. Application processing will not begin until the Director determines that the application materials submitted are complete and sufficient.

**C. Waivers of Submittal Requirements**

The Director may waive certain submittal requirements and tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements upon finding that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

**D. Application Fees**

Application fees in effect at the time of application submittal shall be submitted with the application.

**E. Submittal and Review Schedule**

1. Applications shall be submitted on or before submittal dates found in the development review calendar provided by the Community Development Department.
2. Applications received after the submittal date will not be processed until the next submittal date, unless otherwise authorized by the Director.
3. Applications submitted prior to the submittal date will not be processed until the submittal date.
4. Applications not subject to a submittal date will be processed within five business days.

**F. Determination of Application Completeness**

1. The Director shall determine whether the application is complete or incomplete. A complete application shall be processed according to the procedures in this Article. An incomplete application shall not be processed or reviewed. Any deficiencies noted by the Director shall be addressed by the applicant prior to resubmitting the application.
2. An application shall be considered complete if it is submitted in the required form, includes all information specified by the Director on the submittal form provided at the pre-application conference and in accordance with the Administrative Manual, and is accompanied by the applicable processing fee.

**G. Incomplete Applications**

1. On determining that a development application is incomplete, the Director shall return the application and associated fees to the applicant. The Director shall notify the applicant of the application deficiencies. The applicant may correct the deficiencies and resubmit the application including associated fees.
2. The applicant may appeal the Director's determination to the County Commissioners pursuant to §6.7.2, *Appeals*.
3. No review of a development application shall occur until it is determined to be complete.

**H. Concurrent Applications**

1. Where possible without creating an undue administrative burden on the County's decision-making bodies and staff, this Code intends to accommodate the simultaneous processing of applications for different permits and approvals that may be required for the same development project in order to expedite the overall review process. Applicants may request, and the Director may permit, the simultaneous submission and review of all necessary development applications for the project. The Director may waive any overlapping application submission requirements in the concurrent review.
2. Building permits shall not be submitted concurrently with associated development applications unless written approval for concurrent submittal is provided by the Director.
3. Review and decision-making bodies considering applications submitted simultaneously shall render separate recommendations and decisions on each application based on the specific standards applicable to each approval.

**I. Neighbor and Agency Referral****1. Applicability**

- a. The neighbor referral procedure is required following submission of a complete application for all applications for which sketch plan was required.



- b. The Director may require a neighbor referral for any project for which sketch plan was not required upon determining the referral would be beneficial.

## **2. Procedure**

Within seven days of the Director's determination that an application is complete, the Community Development Department will send the application materials to appropriate reviewing agencies and initiate the neighbor and agency referral process according to the procedure in §6.3.3.E, *Neighbor Referral*.

## **3. Effect**

Comments received and any modification(s) made in response to neighbor and agency comments will be considered by decision makers in determining if applicable review standards have been met.

## **J. Abandoned Applications**

If a complete application has been reviewed and comments provided to the applicant for correction but a resubmittal addressing staff-noted deficiencies has not been received within six months of staff providing the applicant with the comments, such application shall be deemed abandoned and all fees forfeited. The applicant may request three additional months to address staff-noted deficiencies. Abandoned applications shall require a new pre-application conference and may be subject to additional fees.

## **K. Minor Application Revisions**

An applicant may revise an application that was accepted and deemed complete after receiving notice of code compliance deficiencies following staff review pursuant to §6.3.6, or on requesting and receiving permission from an advisory or decision-making body after that body has reviewed, but not yet taken action on, the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application, as determined by the Director. All other revisions to accepted and complete applications shall be processed as a new application per this subsection.

## **L. Application Withdrawal**

1. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Director.
2. If an application is withdrawn after required notice of any scheduled public hearing, the application shall be subject to limitations on the subsequent submittal of similar applications (see §6.3.9: *Post-Decision Actions and Limitations*).
3. An applicant is not entitled to a refund of application fees for withdrawn applications.

## **M. Examination of Case Files**

Upon reasonable request and during regular business hours of the Community Development Department, any person may examine an application and materials submitted to support or oppose an application. Copies of the materials will be made available at a reasonable cost established by the Director and as time allows the copies to be made.

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**6.3.6. Staff Review****A. Referral to Staff and Review Agencies**

The Director shall distribute the complete application to appropriate staff and review agencies, in accordance with the Administrative Manual. The length of the referral period shall be as set forth in the Administrative Manual.

**B. Staff Review and Application Revisions**

Staff shall review the application and shall consult with applicable county departments and other participating reviewing agencies. Staff shall submit recommendations and comments to the applicant in a form established by the Director. The application shall not move forward for further review until the Director determines that the applicant has adequately responded to the county's recommendations and comments, or the applicant requests that the application move forward without responding to the county's recommendations and comments.

**C. Applications Subject to Staff Recommendation****1. Staff Report**

If an application is subject to staff review and recommendation to the Planning Commission and/or County Commissioners per Table 6-1: *Development Review Procedures Summary*, staff shall prepare a written staff report that summarizes the proposal, findings, and recommendations.

**2. Distribution and Availability of Application and Staff Report**

The Director shall submit a copy of the staff report to the applicant and the advisory and/or decision-making body and shall make the staff report and related materials available for public review prior to the hearing at which the application is scheduled to be heard.

**D. Applications Subject to Staff Decision****1. Decision**

If an application is subject to staff review and a final decision by the Director per Table 6-1: *Development Review Procedures Summary*, the Director shall make a decision based on the review standards applicable to the application type. The decision shall be in writing and shall clearly state reasons for a denial or for conditions of approval.

**2. Appeals**

Appeals of administrative decisions may be made pursuant to §6.7.2, *Appeals*.

**3. Referrals to Board of County Commissioners**

- a. If Table 6-1: *Development Review Procedures Summary*, authorizes the Director to make a decision, and the Director determines that the application is unusually complex or raises potentially unique or serious impacts on the county or the surrounding areas, the Director may refer the application to the Board of County Commissioners for decision pursuant to the same criteria under which the Director would have been required to apply to that application.

- b. In cases where the Director refers the application to the Board of County Commissioners, all applicable noticing requirements per §6.3.7: *Scheduling and Notice of Hearings*, shall apply.

### 6.3.7. Scheduling and Notice of Hearings

#### A. Scheduling

1. If an application is subject to a public hearing per Table 6-1: *Development Review Procedures Summary*, the Director shall schedule the public hearing for either a regularly scheduled meeting or special meeting of the appropriate advisory and/or decision-making body.
2. The public hearing shall be scheduled to allow sufficient time to prepare a staff report per §6.3.6.
3. All public hearing procedures shall be completed as expeditiously as possible. The application materials include a schedule of public hearings, which the Community Development Department will follow if the applicant submits the appropriate materials on the deadline established for each step in the process. Schedules are based on time frames established by state statute for reviewing agency response times and minimum requirements for notice of public hearings.

#### B. Public Hearing Notice

All public hearings required by this Code shall be preceded by the notices identified in Table 6-2: *Public Hearing Notice Requirements*.

<b>Table 6-2: Public Hearing Notice Requirements</b>			
Days indicated are the minimum number of days prior to the scheduled public hearing. The date of publication and the date of the hearing are excluded from the computation of days.			
Type of Hearing	Published Notice	Adjacent Property Owner Notice	Sign Posted
<b>County Commissioners</b>			
Administrative special review (if referred)	14 days	14 days	14 days
Special Event	N/A	14 days	N/A
Special Event (if referred)	N/A	14 days	N/A
Special review	14 days	14 days	14 days
Designation of a Matter of State Interest	30 days but no more than 60 days	N/A [3]	N/A
1041 permit	30 days but no more than 60 days	14 days [3]	N/A
1041 appeal	14 days	14 days	N/A
Subdivision concept plan	14 days	14 days	14 days
Preliminary plat	14 days	14 days	14 days
Final plat (if referred)	14 days	14 days	14 days
Vacation, Lot consolidation, Amended Plat	14 days	10 days	N/A

**Table 6-2: Public Hearing Notice Requirements**

Days indicated are the minimum number of days prior to the scheduled public hearing. The date of publication and the date of the hearing are excluded from the computation of days.

Type of Hearing	Published Notice	Adjacent Property Owner Notice	Sign Posted
Zoning map amendment, quasi-judicial	14 days	14 days	14 days
Zoning map amendment, legislative	14 days	N/A	N/A
Master Plan Adoption	14 days	N/A	N/A
Text amendment	14 days	N/A	N/A
Nonconformity change	14 days	14 days	14 days
Appeals	14 days	14 days	N/A
<b>Planning Commission</b>			
Special review	14 days	14 days	14 days
1041 permit	14 days	14 days	N/A
Designation of a Matter of State Interest	14 days	N/A	N/A
Subdivision concept plan	14 days	14 days	14 days
Preliminary plat	14 days	14 days	14 days
Text amendment	30 days	N/A	N/A
Location and Extent review	14 days	14 days	N/A
Zoning map amendment, quasi-judicial	14 days	14 days	14 days
Zoning map amendment, legislative	30 days [4]	N/A	N/A
Master Plan Adoption	14 days	N/A	N/A
<b>Board of Adjustment</b>	<b>14 days</b>	<b>14 days</b>	<b>14 days</b>
<b>Flood Rev. Board</b>	<b>14 days</b>	<b>14 days</b>	<b>N/A</b>
<b>Neighborhood Meeting</b>	<b>N/A</b>	<b>14 days</b>	<b>N/A 14 days</b>

**Notes:**

[1] Mineral owner/lessee notification required in §6.3.7.B.2 must be sent at least 30 days prior to the initial public hearing.

[2] Administrative subdivisions shall require mineral owner/lessee notification required in §6.3.7.B.2 to be submitted with the initial application to ensure the 30 day notice is achieved before a decision of the Director.

[3] Any interested person may elect to place their name on a list to be notified of ~~all~~ 1041 hearings.

[4] Legislative zoning map amendments shall be available for public viewing as required in §6.3.7.C.1.b.i.1).

**1. Responsibility for Notice**

- The Community Development Department shall be responsible for the accuracy of and proper publication, mailing, and posting of notice of the public hearing.
- The applicant shall be responsible for the installation and maintenance of the posted notice on the site.

## 2. Notification of Mineral Interest Owners and Lessees

- a. C.R.S. §§ 30-28-133(10) and 24-65.5-103(1) require an applicant for development to notify all owners and lessees of a mineral interest on the subject property of the pending application. The applicant shall submit to the Community Development Department a certification of compliance with this notice requirement prior to the initial public hearing on any application for zoning, rezoning, special review, subdivision, conservation development, planned land division, minor land division and rural land use plan. Failure to submit the required certification of notice will result in the public hearing being rescheduled to a later date.
- b. Administrative subdivisions shall require mineral owner/lessee notification required in §6.3.7.B.2 to be submitted with the initial application to ensure the 30 day notice is achieved before a decision of the Director.

## C. Notice Format and Content

### 1. Published and Mailed Notice

- a. All required published and mailed notices shall:
  - i. Identify the application type;
  - ii. Describe the nature and scope of the proposed project;
  - iii. Identify the location subject to the application;
  - iv. Identify where and when the application and associated materials may be inspected; and
  - v. Indicate opportunity to appear at the public hearing, including the public hearing date, time, and location.
- b. Published notice shall appear in a newspaper of general circulation in the area of the proposed project according to the timeframes established in Table 6-2: *Public Hearing Notice Requirements*. The affidavit of publication is evidence of proof of publication.
  - i. Notice of amendments to the text of this Code and legislative amendments to the official zoning map must be published in at least one newspaper of general circulation.
    - 1) Legislative amendments to the official zoning map shall be displayed in a publicly accessible area for at least 30 days prior to the Planning Commission hearing on the proposed changes.
  - ii. Notice of adoption, including amendments, to master plans, comprehensive plans, or sub-area plans must be published in two newspapers of general circulation.
- c. Mailed notices shall be sent via first-class mail to ~~all properties and to~~ all owners of property as listed in the records of the County Tax Assessor's office within a distance of the subject property as determined below unless by county staff during the pre-application conference, as measured from property boundaries.
  - i. The area included in the mailed notice shall be to all property owners who have a property boundary within 500 feet of the subject property boundary unless: not be less than 500 feet surrounding the subject property.

- 1) The project is any of the following applications, in which case the notice shall be increased to all properties with a boundary within 1000 feet: Short Term Rental (STR) including Resort Lodges and Hosted STRs but excluding all STRs in the EV A, EV A-1, and EV CO zoning districts, Location and Extent, 1041 Permit, and new cell towers.
- 2) The project will have any of the following, in which case the notice shall be increased to a minimum of 1500 feet: increased regular, routine, or persistent noise or odor, increased traffic along a privately maintained public road, impacts to air quality that will continue outside of a typical construction timeframe, Major Special Reviews as noted in the current Larimer County Development Review Fee Schedule, and a unique impact to surrounding properties, as determined by staff.
- 3) In any case, if a project is linear in nature, such as a pipeline or roadway, and being undertaken by a public utility provider, it will be noticed from the center line of the project corridor, not the property line, as to more accurately reflect the location of the project.

- d. Depositing the notice in the U.S. mail with postage prepaid is the responsibility of the Community Development Department and satisfies the mailed notice requirement. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure to send a mailed notice does not invalidate any public hearing.

## 2. Posted Notice

- a. Required posted notice shall include:
  - i. At least one sign on the subject property along each street frontage according to the timeframes established in Table 6-2: *Public Hearing Notice Requirements*. The Community Development Department will provide signs, or information on where to acquire a sign including minimum sign materials and font size, when a complete application is made. The applicant is responsible for erecting and maintaining the sign(s) for the time period specified and removing them after the last public hearing and/or neighborhood meeting. Signs must be placed as near the property line as possible and in a manner that is readily visible from the street or road. The applicant must complete a sign affidavit, attesting to the proper posting of the sign. Posting the property is a courtesy to the public and the failure of anyone to observe a sign does not invalidate any public hearing; and
  - ii. Notice posted by the Community Development Department on the County website or at the posting board at a County facility according to the timeframes established in Table 6-2: *Public Hearing Notice Requirements*. Such notice shall:
    - 1) Identify the application type;
    - 2) Describe the nature and scope of the proposed project;
    - 3) Indicate opportunity to appear at the public hearing, including the public hearing date, time, and location; and
    - 4) Identify a telephone number for additional information.

- b. The Director may require additional signs based on access and configuration of the property.

#### **D. Constructive Notice**

##### **1. Minor Defects in Notice Shall Not Invalidate Proceedings**

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.

##### **2. Failure to Receive Notice Shall Not Invalidate County Action**

Failure of a party to receive notice shall not invalidate subsequent action. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Code. Appearance at a public hearing shall automatically waive an individual's claim that public notice was inadequate.

##### **3. Additional Notice**

In addition to notice by the means set forth above, the county may give notice of the hearing in a specific case in such other manner as it deems necessary or appropriate, including online notice on the county website.

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#### **6.3.8. Review and Decision**

##### **A. Hearing, Review, and Decision**

1. The application shall be subject to review, hearings, recommendations, and decisions as indicated in Table 6-1: *Development Review Procedures Summary*.
2. If the application is subject to a public hearing, the applicable advisory and/or decision-making body shall hold a public hearing in accordance with § 6.3.7: *Scheduling and Notice of Hearings*.
3. The applicable advisory and/or decision-making body shall consider the following:
  - a. The written project description and supportive material submitted by the applicant;
  - b. Any conditions of approval attendant to prior approvals;
  - c. The testimony of the applicant;
  - d. The testimony of the public during the public hearing, when applicable;
  - e. The Community Development Department report, including any requirements or conditions of the members of the Development Review Team;
  - f. Materials provided by the public during the public hearing;
  - g. Any referral comments received; and
  - h. Such other additional information as may be required by the advisory and/or decision-making body to evaluate the application.
4. The applicable advisory body shall recommend and the decision-making body shall approve, approve with conditions, or deny the application based on the applicable approval criteria listed in the application-specific procedures in §6.4 through §6.7. The



advisory and/or decision-making body may also continue the hearing in accordance with subsection 6.3.8.E.1.c and the advisory and decision-making body's adopted rules and procedures.

5. If the review involves a quasi-judicial hearing, the recommendation or decision (as applicable) shall be based only on the record of the public hearing; shall be in writing; shall include findings of fact based on competent, material, and substantial evidence presented at the hearing; shall reflect the determination of contested facts; and shall state how the findings support compliance with applicable review standards.
6. The advisory and/or decision-making body may incorporate or require, as part of a condition of approval, a written agreement between the applicant and the county that enforces the conditions. All conditions shall comply with the limitations in §6.3.8.C, *Conditions of Approval*, as applicable.
7. The applicable advisory and/or decision-making body shall base the decision upon the applicable review criteria of this Code and shall clearly state the factors considered in making its recommendation or decision, as well as the basis or rationale for the recommendation or decision.

#### **B. Director Decisions Referred to County Commissioners**

1. If Table 6-1: *Development Review Procedures Summary*, authorizes the Director to make a decision, and the Director determines that the application is unusually complex or raises potentially unique or serious impacts on the county or the surrounding area, the Director may refer the application to the County Commissioners for a decision pursuant to the same criteria that the Director would have been required to apply to that decision.
2. In cases where the Director refers the application for decision to the County Commissioners, all applicable noticing requirements §6.3.7: *Scheduling and Notice of Hearings*, shall apply.

#### **C. Conditions of Approval**

1. Where this Code authorizes a decision-making body to approve or deny an application subject to applicable criteria, the advisory and/or decision-making body may approve or recommend approval of the application with conditions necessary to bring the proposed development into compliance with this Code or other regulations, or to mitigate the impacts of that development on the surrounding properties and streets.
2. All conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the county. Such conditions may include those necessary to carry out the purpose and intent of county policies and this Code.
3. Unless approved by appeal or alternative compliance, no conditions of approval shall be less restrictive than the requirements of this Code, except where the Code expressly allows deviations.
4. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
5. During its consideration, the advisory and/or decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be



deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the advisory and/or decision-making body unless and until the advisory and/or decision-making body takes formal action to attach that condition to a development approval.

6. Unless otherwise provided in this Code, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.
7. Any conditions shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Code.

#### **D. General Review Criteria**

##### **1. Generally**

- a. Unless otherwise specified in this Code, County review and decision-making bodies shall review all development applications submitted pursuant to this article for compliance with the general review criteria stated below.
- b. The application may also be subject to additional review criteria specific to the type of application, as set forth in §6.4 through §6.7.
- c. If there is a conflict between the general review criteria in this section and the specific review criteria in §6.4 through §6.7, the specific review criteria in §6.4 through §6.7 control.

##### **2. Compliance with this Code**

The proposed use and development shall comply with all applicable standards in this Code, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.

##### **3. Compliance with Other Applicable Regulations**

The proposed use and development shall comply with all other county regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant entities with jurisdiction over the property or the current or proposed use of the property.

##### **4. Compliance with Prior Approvals**

The proposed use and development shall be consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This includes consistency with any approved phasing plan for development and installation of public improvements and amenities.

##### **5. Compliance with Zoning District Standards**

The proposed development shall comply with the standards of the zoning district in which it is located and any standards applicable to the particular use, as identified in §3.3, *Use-Specific Standards*.

##### **6. Compliance with Development Standards**

The proposed development shall comply with the applicable standards in Article 4.0, *Development Standards*.

**7. Compliance with Other Code Provisions**

The proposed development shall comply with all other standards imposed on it by all other applicable provisions of this Code, including but not limited to standards relating to establishment and operation of uses, layout of the site, and general development characteristics.

**E. Public Hearing Procedures**

Whenever a public hearing is required by this Code or by state law, the following public hearing procedures shall apply:

**1. Conduct of Public Hearings****a. Generally**

Any person can appear at a public hearing and testify or submit evidence, either individually or as a representative of a person or organization. Each person appearing at a public hearing must be identified by name and, if appearing on behalf of a person or organization, must state the name of the person or organization being represented.

**b. Exclusion of Testimony**

If necessary, the board or commission conducting the public hearing can establish time limits for testimony and may exclude testimony or evidence that is irrelevant, immaterial, or repetitious.

**c. Tabling of Public Hearing**

The board or commission conducting the public hearing can, on its own motion or at the request of any person, table the public hearing to a specified date. Tabling for more than 40 days from the date of commencement without the applicant's consent is not permitted. Every effort must be made to conduct each public hearing expeditiously and without undue delay.

**2. Public Hearing Order of Proceedings**

The order of proceedings at a public hearing will be as follows:

**a. Narrative and Description**

The Director presents a narrative and/or graphic description of the project.

**b. Staff Report**

The Director presents a staff report that includes the comments of all reviewing agencies, a written recommendation addressing standards required by the review criteria contained in this Code, and the recommendations of advisory boards and commissions.

**c. Applicant Presentation**

The applicant presents testimony or evidence in support of the project.

**d. Public Testimony**

The public presents evidence and testimony concerning the proposed project.

**e. Applicant Response**

The applicant responds to any evidence or testimony presented by the public.

**f. County Staff Response**

The Director, County Attorney, or any other county staff responds to the evidence and testimony offered by the applicant and the public and responds to questions from the board or commission.

**g. Decision of Board or Commission**

- i. The board or commission makes its recommendation or decision to approve, approve with conditions, or deny the application. The decision must be in writing. The decision is final as of the date of adoption of the written resolution of recommendation or decision.
- ii. Following the County Commissioners' written decision, there is a 28-day period when appeals to a court may be made; an applicant that proceeds with post-approval activities does so at their own risk during such appeal period.

**h. Notice of Decision**

The Director notifies the applicant in writing of the board or commission's decision within 10 days after the decision.

**i. Official Record**

The complete and official record shall consist of the audio tape of the hearing, minutes of the secretary, all exhibits and papers or other materials submitted by staff or the public during the proceedings, Community Development Department files, staff report, and written decision of the board or commission. The record shall remain in the possession of the Director. A written transcript of the audio tape may be prepared for convenience, but the audio tape, not the written transcript, is the official record and controls.

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**6.3.9. Post-Decision Actions and Limitations**
**A. Notice of Decision**

Within 10 days after the recordation of the Findings and Resolution or written decision on an application, the Director shall provide written notification of the decision via personal delivery, electronic mail, or first-class mail to the applicant, or in the case of a quasi-judicial hearing, the property owners, and residents, and make a copy of the decision available to the public in the Community Development department.

**B. Appeal**

1. A party aggrieved or adversely affected by any quasi-judicial decision by the County Commissioners or Board of Adjustment may seek review of the decision in the courts in accordance with applicable state law.
2. A party aggrieved by other final decisions may appeal the decision in accordance with the procedures and standards in §6.7.2, *Appeals*.

**C. Expiration and Revocation of Approval****1. Expiration of Approval**

- a. Approval under this article may be granted subject to a schedule of development or set time period for development of specific improvements, and/or establishment of a specific use or uses for which the approval is requested.
- b. Approval shall expire at the end of this period or, if a specific time period is not specified, after two years following the date upon which the final approval became effective, if none of the following have occurred:
  - i. Vested rights have been established pursuant to §6.3.9.I, *Vested Rights*; or
  - ii. A building permit has been issued and is being diligently pursued toward completion of the site for which the approval was originally granted; or
  - iii. A Certificate of Occupancy has been issued for structure(s) that were the subject of the application; or
  - iv. The site has been occupied for a permitted use if no building permit or Certificate of Occupancy is required.
- c. Administrative approvals subject to expiration pursuant to this section shall automatically expire. For other approvals, the Director shall initiate a public hearing before the Board to consider expiration.

**2. Revocation of Approval**

Upon expiration, the approval shall be considered revoked, unless a request for a time extension is made by the applicant to the Director at least 90 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. The applicant is responsible for keeping track of the application expiration dates.

**3. Request for Extension of Approval**

The Director may grant extensions of the expiration time period for up to one year, following a written request for such extension prior to the expiration date. The request shall include reasonable cause for an extension. Further extensions shall be subject to the approval of the decision-making body for the original application.

**D. Modification or Amendment of Approval****1. Minor Changes Allowed**

Development authorized by any approval under this article may incorporate minor changes from the approved plan, permit, or conditions of approval, as appropriate, without the need for a new application, subject to the limitations below.

- i. Authorized minor changes are limited to those that appear necessary in light of technical or engineering considerations first discovered during actual development and were not reasonably anticipated during the initial approval process, as long as they comply with the standards of this Code.
- ii. Minor changes may include minor deviations in the building footprint or relocation of infrastructure (roads and water or sewage lines) so long as the relocation complies with the conditions of any approval and this Code.

- iii. Minor changes shall not include reductions in the amount of open space, wildlife habitat protection, or buffering, or increases in building floor area.
- iv. The Director shall determine that the proposed minor changes:
  - 1) Comply with the standards of this Code;
  - 2) Are necessary to meet conditions of approval; and
  - 3) Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as approved.

## **2. Major Changes**

Any modification of an approved plan, permit, or condition of approval that the Director determines does not meet the criteria in paragraph 1 above shall require a new application that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of the original application.

## **E. Limitation on Subsequent Similar Applications**

For one year following the revocation or denial of an application by the decision-making body, the Community Development Department shall not accept a new application for subject property that is the same or substantially similar to the one previously denied. New applications proposed within the year must receive a determination by the Director that changes are sufficiently different to allow a resubmittal. The determination by the Director shall consider the following:

- 1. There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous application review; or
- 2. The new application is materially different from the previous application.

## **F. Development Construction Permit**

Prior to the commencement of any improvements associated with an approved project, the applicant shall obtain a construction permit from the Larimer County Engineer.

## **G. Building Permits**

A building permit will not be accepted for processing on property that has a valid application pending for review of a variance, special review, site plan, rezoning, subdivision, conservation development, planned land division, minor land division, special review, amended plat or rural land plan, unless the Director grants permission because the building permit is unrelated to the pending request.

## **H. Development Agreements**

### **1. Purpose**

Development agreements are intended to specify details of a project approved under this Code and assure the completion and maintenance of all improvements required to serve the project.

### **2. Applicability**

Development agreements are required for all final plats for subdivisions, conservation developments, planned developments, rural land plans, site plans, and for all special review approvals unless waived by the Board of County Commissioners.

**3. Contents**

All development agreements must contain the minimum information as authorized by the Community Development Department within the Administrative Manual.

**4. Guarantee of Public Improvements****a. Purpose**

Guarantees that all public improvements required to serve projects approved under this Code are completed according to approved plans without public expense.

**b. Applicability**

A guarantee of public improvements is required for all development agreements.

**c. Collateral Amount**

Collateral submitted to guarantee the completion of improvements must be in an amount equal to 115 percent of the estimated cost of improvements specified in the development agreement, except that landscaping improvements shall require collateral in the amount of 125 percent.

**d. Types of Collateral**

The county will accept the following types of collateral:

- i. Irrevocable letter of credit from a state or federally licensed financial institution on a form approved by the county that states at least the following:
  - 1) The amount of the letter of credit is equal to at least 115 percent of the estimated cost of the improvements;
  - 2) The letter of credit is payable to the county upon demand if the applicant fails to perform the obligations specified in the development agreement and the county has notified the issuer of the letter of credit of the failure to perform;
  - 3) At all times, the unreleased portion of the letter of credit is equal to at least 115 percent of the estimated costs of the uncompleted portions of the required improvements;
  - 4) Fifteen percent of the total amount will remain available to the county until released by the county; and
  - 5) The date of expiration, which must coincide with the timetable specified in the development agreement but stipulate that in no event can the letter of credit expire until the county has received 60 days' written notice of the pending expiration. The notice must be sent by certified mail to the Director.
- ii. An escrow agreement that provides at least the following:
  - 1) Cash in escrow is equal to at least 115 percent of the estimated cost of the improvements;
  - 2) The escrowed funds will be used only for improvements specified in the development agreement. The escrow agent will not release any portion of the escrowed funds without prior approval;
  - 3) The escrow agent is a federal- or state-licensed financial institution; and

- 4) The escrowed funds will be released to the county upon demand, if the applicant fails to perform the obligations specified in the development agreement and the county has notified the escrow agent of the failure to perform.
  - iii. A cash deposit made with County Commissioners equal to 115 percent of the estimated costs of improvements.
- e. Requests for Release of Collateral**
- i. The applicant may submit a request to the Director to release collateral when obligations specified in the development agreement have been completed. All requests for release of collateral must include inspection logs; test results; letters of acceptance by the appropriate authority; and a letter of substantial compliance from the applicant's engineer or other evidence of successful completion of the improvements as required by the Director.
  - ii. The Director in his/her discretion may grant partial releases but only for complete categories of improvements. (For example, when all water lines are complete and inspected and accepted by the appropriate water utility, the applicant may request release of the collateral designated in the cost estimates for water lines.)
- f. Warranty Collateral**
- After a project is completed, all obligations specified in the development agreement are satisfied and County Commissioners have approved a release of collateral, the applicant must provide warranty collateral for a period of two years. Warranty collateral will apply to all improvements not accepted for maintenance by a public entity other than the county. Generally, warranty collateral applies to roads, drainage facilities, landscaping and any other items specified by the Director. Warranty collateral must be one of the types of acceptable collateral specified in §12.6.2 above. Warranty collateral must be in an amount equal to 15 percent of the estimated costs of the improvements.
- g. Common Areas, Open Space and Residual Land**
- Any parcels, tracts, common areas, open space, or residual land parcels to be owned by a property owners' association or other corporate entity shall be deeded to the association or entity at the time the final plat or site plan is recorded.
- h. Property Owners Association or Equivalent**
- i. Each project approved under this Code that includes parcels, tracts, common areas, open space parcels, residual land, roads, detention facilities, landscaping or other features requiring maintenance (collectively referred to as common facilities) must provide for a property owners' association or an equivalent entity to be responsible for such maintenance. If applicable, each final plat and site plan that is recorded must be accompanied by the appropriate legal documents (covenants, articles of incorporation, bylaws, etc.) necessary to create such an entity.
  - ii. Property owner documents shall include a reference to the development agreement (see §6.3.9.H, *Development Agreements*). Development agreements

shall include a provision for perpetual maintenance of the common facilities by the responsible entity.

- iii. If a use plan for residual land and/or common area (see §5.10, *Residual Land and/or Common Area Use Plans*) is required for the project, provisions for perpetual maintenance of the common facilities must be included in the use plan for residual land and/or common area.
- iv. All documents providing for maintenance must include a provision allowing County Commissioners to take over maintenance of the common facilities and assess the cost of maintenance, including inspection fees, legal fees, and administrative expenses, to the property owners within the development, if the responsible entity fails to maintain the common facilities in a reasonable condition. Any unpaid assessments will become a lien upon the properties payable in the same manner and with the same priority as provided by law for the collection, enforcement, and remittance of general property taxes. The county will file a notice of such lien in the Office of the County Clerk and Recorder upon the properties and will certify such unpaid assessments to the county treasurer for collection, enforcement, and remittance. Before taking over maintenance of any property the County Commissioners will hold a public hearing with at least 14 days' notice to property owners within the development. If the County Commissioners take over maintenance of the common facilities, the Commissioners will continue the maintenance until it is assured that adequate provisions have been made for the maintenance of the common facilities.

## I. Vested Rights

### 1. Purpose

The purpose of this section is to implement the Colorado Vested Property Rights Statute.

### 2. Applicability

A vested right is established under C.R.S. § 24-68-101 et. seq., as amended, upon approval of a site-specific development plan by County Commissioners. Site-specific development plans are defined to be final plats for subdivisions, conservation developments, planned land divisions and rural land plans and site plans for special reviews.

### 3. Approval

A vested right is automatically created upon the approval or conditional approval of a site-specific development plan. Vesting occurs on the date of the hearing when approval or conditional approval is granted. Failure to abide by the terms and conditions of approval will result in a forfeiture of vested rights.

### 4. Notice

The Director must publish a notice of the County Commissioners' approval of a site-specific development plan in a newspaper of general circulation no later than 14 days after approval.



**5. Term**

A vested right created by approval of a site-specific development plan remains in effect for three years from the date of the County Commissioners' approval, unless the County Commissioners determine, as part of the site-specific development plan approval, that a longer period is warranted in light of relevant circumstances. Those circumstances may include, but are not limited to, the size and phasing of the development, economic cycles, and market conditions.

**6. Modification of Plan**

The County Commissioners' approval of any modification to a site-specific development plan does not extend the term of a vested right unless expressly authorized by the County Commissioners.

**7. Exceptions**

- a. A vested right does not preclude any zoning or land use action taken by the county under the following circumstances:
  - i. With the consent of the affected property owner; or
  - ii. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the property, which hazards could not reasonably have been discovered at the time of the site-specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public's health, safety, and welfare; or
  - iii. To the extent that the affected property owner receives just compensation for all costs, expenses and liabilities incurred by the property owner after approval by the county. These include, but are not limited to, costs incurred in preparing the site for development consistent with the site-specific development plan; all fees paid in consideration of financing; and all architectural, planning, marketing, legal and other consultants' fees, together with interest at the legal rate until paid. Just compensation does not include any diminution in the value of the property caused by such action.

A vested right does not preclude the application of regulations that are general in nature and applicable to all property subject to land use regulation by the county, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.

## 6.4. Site Development Procedures

### 6.4.1. Site Plan Review

#### A. Purpose

The site plan review procedure is intended to ensure compliance with the development and design standards of this Code and to encourage quality development reflective of the adopted goals and objectives of the county. The site plan review procedure ensures that the county has an opportunity to mitigate potential impacts of development prior to issuance of a building permit.

**B. Applicability****1. Activities Subject to Site Plan Review**

Site plan review is required for the following types of activities.

**a. Residential**

New construction, including expansion, of a residential building, except for a single-unit detached or duplex dwelling.

**b. Mixed-Use and Nonresidential**

i. New construction, including expansion, of a mixed-use or nonresidential building.

ii. A change in use that involves or requires other site improvements, including but not limited to:

- 1) Parking lots, including material changes to the parking lot surface;
- 2) Landscaping, screening, or buffering;
- 3) Drainage facilities;
- 4) Outdoor storage;
- 5) Outdoor display and sales;
- 6) Accessory outdoor commercial storage;
- 7) Junkyards; and
- 8) Flea markets.

iii. Tenant improvements that involve or require other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this Code.

iv. Reconstruction of a mixed-use or nonresidential building after voluntary demolition.

**2. Activities Exempt from Site Plan Review**

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this Code and building permit review:

- a. Projects that do not fall within any of the categories subject to site plan review in subsection 1, above;
- b. Construction of a single-unit detached or duplex dwelling on a single lot, additions to such dwellings, an accessory dwelling unit, and structures accessory to such dwellings;
- c. Establishment or construction of an agricultural use, building, or structure allowed by right in the underlying zoning district;
- d. A change in use that does not involve or require other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this Code;
- e. Tenant improvements that do not involve or require other site improvements such as parking, landscaping, screening, buffering, drainage facilities, or other changes to the site that may be required by this Code;
- f. Construction or erection of accessory buildings, fences, hedges, or walls; and

- g. Any project where the Director determines that the review criteria for site plan review in §6.4.1.D, *Review Criteria*, have been met or will be satisfied through the building permit process.

**C. Site Plan Procedure**

Figure 6-2 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of site plan applications. Additions or modifications to the common review procedures are noted below.

Figure 6-2: Summary of Site Plan Procedure

1	<b>Pre-Application Conference</b>	<i>Required</i>	
2	<b>Sketch Plan</b>	<i>Not Required</i>	
3	<b>Neighborhood Meeting</b>	<i>Not Required</i>	
4	<b>Application Submittal and Processing</b>	<i>Submit to Director</i>	Neighborhood Notice and Application Processing
5	<b>Staff Review</b>	- Review by Staff - Referral agencies have 21 days to submit comments	
6	<b>Scheduling and Notice of Public Hearings</b>	<i>Not Required</i>	Hearing and Decision- making
7	<b>Review and Decision</b>	<i>Decision by Director</i>	
8	<b>Post-Decision Actions</b>	<i>Site plan approval expires if not commenced within two years of approval</i>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2: *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

- a. Site plan applications may be reviewed concurrently with other land use applications but cannot be approved until all associated land use applications have been approved.

**3. Staff Review**

The staff shall review the application and prepare a staff review comments in accordance with §6.3.6, *Staff Review*, with the following modifications:

**a. Modifications**

Upon the determination of the Director that a site plan review application requires modifications based on referral comments, the applicant shall be required to make a revised submittal, for a subsequent review, that addresses the referral comments. Prior to the revised submittal the applicant may request a meeting to discuss the referral comments.

**b. Referral Timing**

Referral departments and agencies shall have 21 days to review and provide written comments to the Director. Referral departments and agencies may request additional review time in writing.

**4. Review and Decision**

The site plan application shall be reviewed and decided upon in accordance with §6.3.8, *Review and Decision*, with the following modifications:

- a. Within five working days following the 21-day review period, the Director will provide a written determination stating that the site plan review application:
  - i. Is approved, with or without conditions, and complies with this Code and any other approvals imposed by the County Commissioners, the Board of Adjustment, or Flood Review Board.
  - ii. Requires modifications based upon the referral review, to be prepared by applicant for subsequent review to demonstrate compliance with this Code and any other approvals imposed by the County Commissioners, the Board of Adjustment, or Flood Review Board.
  - iii. Is denied based upon an inability to comply with this Code and any other approvals imposed by the County Commissioners, the Board of Adjustment, or Flood Review Board.

**5. Post-Decision Actions and Limitations**

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Vesting and Expiration**

An approved site plan does not create a vested right. Approved site plans are effective for two years. If a building permit and development construction permit are not issued within two years of the site plan approval, the site plan approval will automatically expire.

**b. Permits Required**

- i. Upon approval of a site plan and prior to the commencement of construction, a development construction permit is required.
- ii. Approval of a site plan does not relieve the applicant from complying with the building codes as adopted by the county or the building permit submittal requirements.

**c. Final Site Plan**

If approved, the applicant shall provide final versions of the site plans and supporting documents for approval signature by the Director. The final site plan set and supporting documents for signature shall be in the number and format specified in the Administrative Manual and shall also include:

- i. A signed and executable development agreement and collateral pursuant to the requirements of §6.3.9, *Post-Decision Actions and Limitations*, unless the Director authorizes the use of an agreement (provided by the Director) signed by

the applicant indicating that the applicant is aware that all on-site and off-site improvements required for the development will need to be completed, inspected, and approved prior to the operation of the approved use of the site, or the issuance of a temporary or final certificate of occupancy.

**d. Performance and Maintenance Guarantees**

When public improvements are required, the applicant or authorized representative shall post performance and maintenance guarantees for such improvements. Such financial guarantees shall be submitted, reviewed, and approved per §6.3.9.H.4, *Guarantee of Public Improvements*.

**e. Appeals**

The decision of the Director may be appealed in writing to the County Commissioners pursuant to §6.7.2, *Appeals*.

**D. Review Criteria**

The Director shall review the application in accordance with the approval criteria in §6.3.8.D, *General Review Criteria*.

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**6.4.2. Special Review**

**A. Purpose**

The special review procedure provides a mechanism for the county to evaluate proposed development and land uses that have unique or widely varying operating characteristics or unusual site development features to ensure compatibility with surrounding areas. The procedure considers the location, design, configuration, intensity, density, natural hazards, and other relevant factors pertaining to the proposed use to evaluate the potential impacts of such uses on surrounding properties, including the environment and wildlife, and to ensure that such uses are compatible with surrounding properties and that adequate mitigation is provided to minimize potential impacts on those surrounding properties and/or the county.

**B. Applicability**

Special review is required for certain land uses and zoning districts as specified in §3.2, *Tables of Allowed Uses*. Special review approval is also required for modification or expansion of an existing special review use.

**C. Special Review Procedure**

Figure 6-3 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of special review applications. Additions or modifications to the common review procedures are noted below.

Figure 6-3: Summary of Special Review Procedure

1	<b>Pre-Application Conference</b>	<i>Required</i>	
2	<b>Sketch Plan</b>	<i>Required</i>	
3	<b>Neighborhood Meeting</b>	<i>Director may waive meeting requirement based on response to neighbor referral</i>	Neighborhood Notice and Application Processing
4	<b>Application Submittal and Processing (additional pre-application conference required)</b>	<ul style="list-style-type: none"> <li>– Submit to Director</li> <li>– Neighbor referral required</li> </ul>	
5	<b>Staff Review</b>	<i>Review by Staff</i>	
6	<b>Scheduling and Notice of Public Hearings</b>	<ul style="list-style-type: none"> <li>– Planning Commission hearing</li> <li>– County Commissioners hearing</li> </ul>	Hearing and Decision-making
7	<b>Review and Decision</b>	<ul style="list-style-type: none"> <li>– Planning Commission review and recommendation</li> <li>– County Commissioners review and decision</li> </ul>	
8	<b>Post-Decision Actions</b>	<i>Special review expires if not commenced within 3 years of approval</i>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Sketch Plan**

Sketch plan review pursuant to §6.3.3, *Sketch Plan Review*, shall be required prior to submission of the special review application.

**3. Neighborhood Meeting**

A neighborhood meeting shall be held in accordance with §6.3.4, *Neighborhood Meeting*. The Director may waive the meeting requirement based on responses received to the neighbor referral.

**4. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, and the neighbor referral completed, in accordance with §6.3.5, *Application Submittal and Processing* with the following modifications:

- a. Special review applications may be reviewed in combination with a site plan application. However, each application shall be decided separately based upon the applicable criteria of this Code, and the site plan decision shall be approved only following approval of the special review application.

**5. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

**6. Scheduling and Notice of Public Hearings**

The special review application shall be scheduled for public hearings before the Planning Commission and the County Commissioners and shall be noticed pursuant to §6.3.7, *Scheduling and Notice of Hearings*.

**7. Review and Decision****a. Planning Commission Review and Recommendation**

The Planning Commission shall review the special review application in accordance with the approval criteria in §6.4.2.D, *Review Criteria*, and shall forward its recommendation to the County Commissioners.

**b. County Commissioners Review and Decision**

The County Commissioners may review and approve, approve with conditions, or deny the special review application in accordance with the approval criteria in §6.4.2.D, *Review Criteria*.

**c. Conditions of Approval**

In addition to the allowed conditions of approval in §6.3.8.C, *Conditions of Approval*, the following shall apply:

- i. The Board of County Commissioners may set limits on the length of any special review use to obtain assurances that the ongoing operation of the use will comply with all of the applicant's representations and all conditions of approval, including, but not limited to, requiring an annual compliance review.
- ii. These conditions may be required to be included in a development agreement signed by the applicant and the County Commissioners and recorded with the County Clerk and Recorder. The development agreement shall comply with §6.3.9.H, *Development Agreements*.
- iii. The County Commissioners may require the applicant to post sufficient collateral to ensure the timely completion of any improvements required or needed to address potential impacts of the proposed use. The amount and type of collateral must be detailed in the development agreement and be consistent with §6.3.9, *Post-Decision Actions and Limitations*.

**8. Post-Decision Actions and Limitations**

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Expiration**

- i. Special review approvals approved in conjunction with a site plan review shall expire following a public hearing if the use is not commenced within two years of the date of approval.
- ii. All other special review approvals expire following a public hearing if the use is not commenced within three years of the date of approval.



**b. Permits Required**

A building permit is required for the construction of buildings or structures on the site as required by building code. Development improvements and construction shall be approved and completed prior to commencement of the approved use.

**c. Modifications**

Changes to approved special review plans that the Director determines are not minor deviations require approval through the special review process. This requires a new application and receives full review under the process described below. The Director may, however, waive sketch plan review and a portion of the application fees.

**D. Review Criteria**

In reviewing a proposed special review application, the review bodies shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and also whether:

1. The proposed use has minimal impacts on existing and future development of the area;
2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated;
3. The recommendations of referral agencies have been considered and adequately addressed;
4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, *Use Regulations*.

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**6.4.3. Administrative Special Review****A. Purpose**

The administrative special review procedure provides a mechanism for the county to evaluate proposed development and land uses that have unique or widely varying operating characteristics or unusual site development features to ensure compatibility with surrounding areas. The procedure considers the location, design, configuration, intensity, density, natural hazards, and other relevant factors pertaining to the proposed use to evaluate the potential impacts of such uses on surrounding properties, including the environment and wildlife, and to ensure that such uses are compatible with surrounding properties and that adequate mitigation is provided to minimize potential impacts on those surrounding properties and/or the county.

**B. Applicability**

Administrative special review is required for certain land uses and zoning districts as specified in §3.2, *Tables of Allowed Uses*. Administrative special review approval is also required for modification or expansion of an existing administrative special review use.

**C. Administrative Special Review Procedure**

Figure 6-4 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of administrative special review applications. Additions or modifications to the common review procedures are noted below.

Figure 6-4: Summary of Administrative Special Review Procedure

1	Pre-Application Conference	Required	
2	Sketch Plan	Not required	
3	Neighborhood Meeting	Not required	
4	Application Submittal and Processing	Submit to Director	Neighborhood Notice and Application Processing
5	Staff Review	Review by Staff	
6	Scheduling and Notice of Public Hearings	Not required	Hearing and Decision- making
7	Review and Decision	Decision by Director	
8	Post-Decision Actions	Administrative special review expires if not commenced within 3 years of approval	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

Not required, unless the Director refers the application for hearing and decision by the Board of County Commissioners.

**5. Review and Decision**

**a. Director Review and Recommendation**

The Director shall review and decide upon the administrative special review application in accordance with §6.3.8, *Review and Decision*, or shall refer the application to the Board of County Commissioners; see §6.3.6.D.3, *Referrals to Board of County Commissioners*.

**b. Conditions of Approval**

In addition to the allowed conditions of approval in §6.3.8.C, *Conditions of Approval*, the following shall apply:

- i. The Director may set limits on the length of any special review use to obtain assurances that the ongoing operation of the use will comply with all of the applicant's representations and all conditions of approval, including, but not limited to, requiring an annual compliance review.

**6. Post-Decision Actions and Limitations**

All common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Expiration**

Administrative special review approvals expire following a public hearing if the use is not commenced within three years of the date of approval.

**b. Permits Required**

Development improvements and construction shall be approved and completed prior to commencement of the approved use. A building permit is required for the construction of buildings or structures on the site as required by building code.

**D. Review Criteria**

In reviewing a proposed administrative special review application, the Director shall consider the general approval criteria in §6.3.8.D, *General Review Criteria*, and also whether:

1. The proposed use has minimal impacts on existing and future development of the area;
2. Any impacts associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other adverse impacts have been adequately addressed and/or mitigated;
3. The recommendations of referral agencies have been considered and adequately addressed;
4. Within a GMA district, the proposed use is consistent with the applicable supplementary regulations to the GMA district, or if none, with the Comprehensive Plan; and
5. The applicant has demonstrated that this project can meet applicable additional criteria listed in Article 3.0, *Use Regulations*.

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**6.4.4. Location and Extent****A. Purpose**

The purpose of the location and extent procedure is to determine if a public road, public park, trail or trailhead, public way, public ground or space, public building, or public structure or utility proposed for location in unincorporated Larimer County conforms with the adopted Comprehensive Plan. Certain highway and interchange projects that are required to follow the 1041 process set forth in Article 10.0, *Areas and Activities of State Interest* will not be subject to the location and extent procedure. This procedure is included in the Code pursuant to Colorado law.

**B. Applicability****1. Review Required, Generally**

The following public projects shall be brought before the Larimer County Planning Commission for location and extent review in accordance with C.R.S. §30-28-110, unless otherwise stated below:

- a. School
- b. Prison or Detention Center
- c. Hospital
- d. Parks and Open Lands (all uses in this category)
- e. Campground
- f. Recreational Vehicle Park
- g. Airport
- h. Helipad
- i. Transit Terminal or Station
- j. Landfill
- k. Treatment Plant
- l. Utility Substation
- m. Water Storage Facility

## **2. Review Required for Public Schools**

- a. Prior to acquiring land or contracting for the purchase of land for a school site, the Board of Education shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Comprehensive Plan to the maximum extent feasible.
- b. Prior to construction of any structure or building, the Board of Education shall submit a site development plan for review and comment by the Planning Commission.

## **C. Procedure**

### **1. For Public Schools**

- a. The Planning Commission may request a public hearing before the Board of Education on the proposed site location or site development plan. If the Planning Commission requires a hearing, the Board of Education shall promptly schedule the hearing, publish at least one notice in advance of the hearing, and provide written notice of the hearing to the Planning Commission.
- b. The Planning Commission shall consider all information presented at the hearing. If no hearing is requested, the Planning Commission shall consider all information provided by the Board of Education and provide to the Board of Education its recommendations and conclusions.
- c. The authority to make final determinations regarding the location of public schools and the construction of buildings and structures remains with the Board of Education.

### **2. For All Other Public Projects**

- a. A proposed site location and development plan shall be submitted to the Planning Commission for approval before construction or authorization of any public road, public park, trail or trailhead, public way, ground or space, public building, or structure or utility. This does not include County acquisition of right-of-way for public roads through negotiation and/or eminent domain.

- b. In case of denial of a county-funded project, the Planning Commission shall communicate its reasons to the County Commissioners. County Commissioners are authorized to overrule such denial by a majority vote. Upon overruling, the County may proceed with construction or authorization of the project.
- c. If the project is one that is not required to be authorized or financed by the County Commissioners or other county officials or county board, the Planning Commission's denial may be overruled by the body or official having jurisdiction over the authorization and financing of the project by a majority vote. In the case of a utility owned by an entity other than a political subdivision, the Planning Commission's denial may be overruled by the Public Utilities Commission by a majority of its entire membership.
- d. In the case of county-funded or county-authorized projects, approval is required from the Planning Commission for the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale or lease of or acquisition of land for any public park, trail or trailhead, public ground or space, public property, public structure, or building or public utility. Denial may be overruled as described above.
- e. Failure of the Planning Commission to act within 30 days after the date of official submission to it is deemed approval unless a longer period is granted by the submitting board, body or official.

## 6.5. Land Division Procedures

### 6.5.1. Purpose and Intent

The purpose of this section is to establish the minimum standards for the division of land and improvement of that land in unincorporated Larimer County and to:

#### A. General

Establish reasonable and equitable procedures and standards for the subdivision of land.

#### B. Safe and Convenient Traffic Circulation

Require the provision of safe and convenient vehicular and pedestrian traffic circulation.

#### C. Adequacy of Public Facilities

Ensure that public facilities are available to serve development.

#### D. Conserve and Manage Natural Resources

Conserve and manage natural resources.

#### E. Minimize Air and Water Pollution

Minimize the impacts of air and water pollution and the degradation of land.

#### F. Open Space

Provide for open space and recreational land through efficient and appropriate subdivision design.

**G. Conformance with Land Use Regulations and Adopted County Documents**

Guide future growth and development in substantial conformance with the purposes, intents, goals, and policies of this Code and any applicable ancillary County-adopted documents related to natural resource protection, affordable housing, or infrastructure management, and other applicable provisions of this Code.

**H. Safety from Fire, Flood, and Other Disasters**

Maintain or improve safety from fire, flood, and other potential disasters, including all flooding requirements in accordance with §2.7.1, *Floodplain Overlay (FP-O)*, and Article 12.0, *Floodplain*.

**I. Adequate Light, Air, and Privacy**

Provide adequate light, air, and privacy for land uses.

**J. Recording**

Ensure that the subdivision of lands is recorded with proper legal descriptions and monuments.

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**6.5.2. General Applicability**

Except for those actions eligible to be processed as an administrative subdivision in §6.5.3, or those actions listed as exempt in §6.5.2.A, prior to the division, listing for sale, or transfer of land within unincorporated Larimer County, an applicant shall obtain approval for a subdivision preliminary plat and final plat pursuant to the procedures and standards of this section.

**A. Subdivision Exemptions**

The following development is exempt from the procedures and standards of §6.5, *Land Division Procedures*:

**1. Division of Land into Parcels of 35 Acres or More**

As permitted by Colorado Revised Statutes, provided that the subdivision complies with 38-51-101 et. seq. C.R.S. and county standards regarding:

- a. Access, where a road or access serving two or more lots or a use serving the public shall require the issuance of a private road construction permit; and
- b. Wildfire hazard mitigation;

**2. Division of Lands by Courts**

The division of land created by any court in the State of Colorado pursuant to the law of eminent domain, or by operation of law, or by order of any court of the State of Colorado, if the County Commissioners are given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of subdivision regulations prior to the entry of the court order.

**3. Creation of Lien, Mortgage, Deed of Trust, or Other Security Instrument**

The division of land that creates an interest in land such as a lien, mortgage, deed of trust, or other security instrument.

**4. Creation of Security or Unit of Interest**

The division of land that creates a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

**5. Creation of Cemetery Lots**

The division of land that creates cemetery lots within a cemetery.

**6. Creation of Oil, Gas, Mineral, or Water Interests**

The division of land that creates an interest or interests in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership of real property.

**7. Creation of Joint Tenancy or Tenancy in Common**

The division of land that creates by the acquisition of an interest in land in the name of spouses or other persons in joint tenancy or as tenants in common and any such interest shall be deemed for purposes of this Code as only one interest.

**8. Consolidation**

The division of land that results in the consolidation of contiguous parcels of land into one larger parcel.

**9. Option to Purchase**

The division of land that is created by a contract concerning the sale of land that is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code, the land that is to be acquired pursuant to the contract.

**B. Exemption Procedure**

Nothing contained in this application of this Code shall be construed to prevent the County Commissioners in its sole discretion from granting an exemption from subdivision pursuant to the authority of Section 30-28-101(10)(d), C.R.S., or for land that is otherwise required to be platted pursuant to this Code.

**C. Development of Entire Parcel**

Applicants who do not develop an entire parcel must indicate the intended plans for the remainder of the parcel. Any remaining undeveloped parcel must be at least 35 acres if it is not included in the development.

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**6.5.3. Administrative Subdivision****A. Purpose**

The administrative subdivision procedure provides a streamlined land division process that allows the creation of no more than two new lots (resulting in three lots total) that meet the requirements of this Code.

**B. Eligibility**

To be eligible for the administrative subdivision process, applicants shall demonstrate that:

**1. The subject property:**

- a. Is not situated within an adopted GMA, the LaPorte Plan Area, Red Feather Lakes Plan Area, Estes Valley Planning Area, or any area subject to an adopted sub-area plan;

- b. Is a legal parcel; and
  - c. Is not a lot previously created by an exemption, minor land division (MLD), minor residential development (MRD), subdivision, conservation development (CD), or rural land use plan (RLUP).
2. The proposed subdivision and proposed lots:
- a. Will be consistent with the existing base zoning for the property;
  - b. Will meet the minimum lot dimensional requirements for the base zoning district of this Code in which the property is situated, regardless of any hazard, wildlife, or environmentally sensitive areas on the property, or setbacks resulting from a hazard, wildlife, or environmentally sensitive areas on or adjacent to the property. (For example, if a lot is required to be two acres in area, none of that two acres can be encumbered by a hazard area such as a floodplain. If a lot is encumbered by a hazard area, then the proposed lot area shall be equal to the area of the lot in the hazard area plus two acres of unencumbered area.);
  - c. Will be served by a public water supply;
  - d. Will require no new roads nor any road improvements adjacent to or necessary for access to the development;
  - e. Will include access points serving the proposed lots from the adjacent road(s) that will comply with the current locational and spacing requirements of the LC Access Control and Rural Area Road Standards; and
  - f. Will include dedicated ROW for existing roads adjacent to the development necessary to meet the projected ROW for the existing road classification.

### C. Administrative Subdivision Procedure

Figure 6-5 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of administrative subdivision applications. Additions or modifications to the common review procedures are noted below.



Figure 6-5: Summary of Administration Subdivision Procedure

1	<b>Pre-Application Conference</b>	<i>Required</i>	
2	<b>Sketch Plan</b>	<i>Required</i>	
3	<b>Neighborhood Meeting</b>	<i>Director may waive meeting requirement based on response to neighbor referral</i>	Neighborhood Notice and Application Processing
4	<b>Application Submittal and Processing (additional pre-application conference required)</b>	<ul style="list-style-type: none"> <li>– Submit to Director</li> <li>– Neighbor referral required</li> </ul>	
5	<b>Staff Review</b>	<i>Review by Director</i>	
6	<b>Scheduling and Notice of Public Hearings</b>	<i>Not required unless referred to County Commissioners</i>	Hearing and Decision-making
7	<b>Review and Decision</b>	<i>Decision by Director, unless referred to County Commissioners</i>	
8	<b>Post-Decision Actions</b>	<i>See text below</i>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Sketch Plan**

- Sketch plan review pursuant to §6.3.3, *Sketch Plan Review*, shall be required prior to submission of the administrative subdivision application.
- In the sketch plan process, the applicant shall demonstrate how the proposed administrative subdivision will meet the eligibility criteria set forth above.
- At the conclusion of the sketch plan process, the Director shall inform the applicant if the proposal is eligible for the administrative subdivision process.

**3. Neighborhood Meeting**

A neighborhood meeting shall be held in accordance with §6.3.4, *Neighborhood Meeting*. The Director may waive the meeting requirement based on responses received to the neighbor referral.

**4. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, and the neighbor referral completed, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

- The application shall be prepared as a final plat meeting the requirements in the Administrative Manual.

- b. The application shall include sufficient information to demonstrate that the minimum adequate public facility requirements for water, sewer, drainage, roads, and fire protection will be met.

#### **5. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

#### **6. Scheduling and Notice of Public Hearings**

Not required, unless the Director refers the application for hearing and decision by the Board of County Commissioners.

#### **7. Review and Decision**

##### **a. Director Review and Recommendation**

The Director shall review and decide upon the administrative subdivision application in accordance with §6.3.8, *Review and Decision*, or shall refer the application to the Board of County Commissioners; see §6.3.6.D.3, *Referrals to Board of County Commissioners*.

##### **b. Appeal**

Upon the Director's approval of the administrative subdivision, the applicant or any person may file an appeal of the Director's decision, which appeal shall advance the decision to a hearing with the Board of County Commissioners.

#### **8. Post-Approval Actions and Limitations**

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

##### **a. Recording**

- i. After approval of an administrative subdivision, the Director will obtain the necessary signatures of public officials on the original mylar drawing.
- ii. The Director will then record the original mylar drawing, a mylar copy and all appropriate documents with the County Clerk and Recorder.
- iii. The applicant may request a delay of recording for up to six months from the date the final plat is approved. If the Director approves a delay, the development agreement (if applicable) shall be amended by updating the estimates of the cost of the required improvements and by revising the construction schedule and other date-sensitive items. The amount of collateral required to guarantee installation of the improvements must be adjusted according to updated cost estimates.

##### **b. Final Plat Completion**

The final plat process shall be completed within one year from the date that a complete and sufficient administrative subdivision application is accepted by the Director. Completing the final plat process will require complete execution of the final plat and the development agreement and the recording of these documents in the Office of the Larimer County Clerk and Recorder.

**D. Review Criteria**

In reviewing a proposed administrative subdivision application, the Director, or the Board of County Commissioners if referred, shall consider the general approval criteria in §6.3.8.D, *General Review Criteria*, and if the proposed administrative subdivision meets all requirements in §6.5.3.B, *Eligibility*.

**6.5.4. Subdivision Concept Plan**

**A. Purpose**

The subdivision concept plan procedure is intended to provide an initial, optional step in the land division process and allow the applicant to obtain feedback from the Board of County Commissioners on proposed divisions and development without having to provide detailed engineering drawings and specifications.

**B. Applicability**

A subdivision concept plan is an optional step that may precede any application for subdivision.

**C. Subdivision Concept Plan Procedure**

Figure 6-6 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of subdivision concept plan applications. Additions or modifications to the common review procedures are noted below.

**Figure 6-6: Summary of Subdivision Concept Plan Procedure**

1	Pre-Application Conference	Required	
2	Sketch Plan	Not required	
3	Neighborhood Meeting	Director may waive meeting requirement based on response to neighbor referral	Neighborhood Notice and Application Processing
4	Application Submittal and Processing	<ul style="list-style-type: none"><li>– Submit to Director</li><li>– Neighbor referral required</li></ul>	
5	Staff Review	Review by Director	
6	Scheduling and Notice of Public Hearings	<ul style="list-style-type: none"><li>– Planning Commission hearing</li><li>– County Commissioners hearing</li></ul>	Hearing and Decision-making
7	Review and Decision	<ul style="list-style-type: none"><li>– Planning Commission review and recommendation</li><li>– County Commissioners review and decision</li></ul>	
8	Post-Decision Actions	See text below	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, and the neighbor referral completed, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

- a. Submittal requirements, which are contained in the Administrative Manual, are intended to provide adequate information to determine if the project is appropriate for the location but limit the cost of preparing these materials as much as possible.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

**4. Scheduling and Notice of Public Hearing**

The application shall be scheduled for public hearings before the Planning Commission or Rural Land Use Board, as applicable, and the County Commissioners and noticed in accordance with §6.3.7, *Scheduling and Notice of Hearings*.

**5. Review and Decision**

The subdivision concept plan shall be reviewed and decided upon in accordance with §6.3.8, *Review and Decision*, with the following modifications:

- a. Each subdivision concept plan approval shall include a time limit for completion of the project not to exceed three years.
- b. Concept plan approvals are conditioned on the applicant successfully addressing the following in the preliminary plat application:
  - i. Compatibility with existing and allowed land uses in the area;
  - ii. Compliance with all standards and other requirements of this Code and with all other federal, state and county laws and regulations; and
  - iii. Compliance with the development standards of this Code.

**6. Post-Approval Actions and Limitations**

Approval of a subdivision concept plan does not create a vested right or guarantee preliminary plat approval.

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**6.5.5. Preliminary Plat**

**A. Purpose**

The preliminary plat process provides a mechanism to demonstrate compliance with the requirements of this Code, for applicants to respond to issues identified during the review process, and to formulate detailed solutions and mitigations proposals to those issues.

**B. Applicability**

A preliminary plat is required for any proposed subdivision that is not eligible for processing as under §6.5.3, *Administrative Subdivision*.

### C. Preliminary Plat Procedure

Figure 6-7 identifies the applicable steps from §6.3, *Common Review Procedures*, apply to the review of preliminary plat applications. Additions or modifications to the common review procedures are noted below.

**Figure 6-7: Summary of Preliminary Plat Procedure**

<b>1</b>	<b>Pre-Application Conference</b>	<i>Required</i>	
<b>2</b>	<b>Sketch Plan</b>	<i>Required</i>	
<b>3</b>	<b>Neighborhood Meeting</b>	<i>Director may waive meeting requirement based on response to neighbor referral</i>	Neighborhood Notice and Application Processing
<b>4</b>	<b>Application Submittal and Processing (additional pre-application conference required)</b>	<ul style="list-style-type: none"> <li>– Submit to Director</li> <li>– Neighbor referral required</li> </ul>	
<b>5</b>	<b>Staff Review</b>	<i>Review by Staff</i>	
<b>6</b>	<b>Scheduling and Notice of Public Hearings</b>	<ul style="list-style-type: none"> <li>– Planning Commission hearing</li> <li>– County Commissioners hearing</li> </ul>	Hearing and Decision-making
<b>7</b>	<b>Review and Decision</b>	<ul style="list-style-type: none"> <li>– Planning Commission review and recommendation</li> <li>– County Commissioners review and decision</li> </ul>	
<b>8</b>	<b>Post-Decision Actions</b>	<i>Automatically expires if final plat application is not filed within 1 year of approval</i>	

#### 1. Pre-Application Conference

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

#### 2. Sketch Plan

Sketch plan review pursuant to §6.3.3, *Sketch Plan Review*, shall be required prior to submission of the special review application.

#### 3. Neighborhood Meeting

A neighborhood meeting shall be held in accordance with §6.3.4, *Neighborhood Meeting*. The Director may waive the meeting requirement based on responses received to the neighbor referral.

#### 4. Application Submittal and Processing

The application shall be submitted, accepted, and revised, and may be withdrawn, and the neighbor referral completed, in accordance with §6.3.5, *Application Submittal and Processing*.

## 5. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*, with the following modifications:

### a. Referrals

#### i. General Timing

- 1) Within seven days of the Director's determination that an application is complete, the Community Development Department will send the application materials to appropriate reviewing agencies.
- 2) Reviewing agencies have 21 days from the date the application materials are sent to submit their comments to the Community Development Department.
- 3) A reviewing agency's failure to respond within the initial time limit or within the extended time period will be considered a favorable response for the purpose of the preliminary plat review.
- 4) The Community Development Department will ask each reviewing agency to send a copy of its comments to the applicant. The applicant should contact the staff planner assigned to the project to ensure all comments are received.
- 5) Within 28 days after the deadline for reviewing agency comments, the planner assigned to the project will prepare a written report specifying how the preliminary plat meets or fails to meet the standards and other requirements of this Code. The report must also include comments received from reviewing agencies.
- 6) The applicant may review the report and make revisions to the preliminary plat to address concerns raised by the planning staff and reviewing agencies.

#### ii. Timing Extensions

- 1) If a school district, county, or municipality within two miles of the proposed preliminary plat; utility; local improvement or service district; ditch company; the Colorado State Forest Service; Planning Commission; local soil conservation district board; county, district, regional or state health department; state engineer or the Colorado Geological Survey needs more time to complete the review, the county may extend the time limit for referral agency review.
- 2) Such extension may not exceed 30 days unless the referral agency indicates that additional time is needed to complete its recommendation. Such an extension automatically extends the development review schedule established pursuant to §6.5.5.C.5.a.i, above.
- 3) If another referral agency requests additional time for review the county, the applicant, and the referral agency may agree on an extension of the time limit for review. Such an extension automatically extends the review schedule as stated above.

#### iii. Potential Reviewing Agencies

Following is a list of potential reviewing agencies for preliminary plats:

- 1) The appropriate school district(s);

- 2) Each county and/or municipality within three miles of the boundary of the preliminary plat and each municipality if the preliminary plat is located within the growth management area, cooperative planning area or community influence area of that municipality;
- 3) All utility districts, associations or companies providing service in the immediate vicinity of the preliminary plat;
- 4) The appropriate fire district(s);
- 5) All local improvement and service districts in the immediate vicinity of the preliminary plat;
- 6) All appropriate ditch companies;
- 7) Colorado State Forest Service;
- 8) County Engineer and Colorado Department of Transportation where appropriate;
- 9) Natural Resources Conservation Service (Soil Conservation District Board) for explicit review and recommendations regarding soil suitability, floodwater problems and watershed protection;
- 10) U.S. Forest Service and Rocky Mountain National Park, where appropriate;
- 11) U.S. Army Corps of Engineers;
- 12) Colorado Parks and Wildlife;
- 13) County Parks and Open Lands Department;
- 14) County and state departments of health for review of on-lot sewage disposal reports, review of the adequacy of existing or proposed sewage treatment works to handle estimated effluent and for a report on the water quality of the proposed water supply to serve the proposed development;
- 15) State Board of Land Commissioners when the preliminary plat is adjacent to state school land;
- 16) State Engineer, for an opinion regarding material injury likely to occur to decreed water rights by virtue of the diversion of water necessary to serve the proposed development and adequacy of the proposed water supply to meet the needs of the proposed development;
- 17) Colorado Geologic Survey, for an evaluation of geologic factors that would have a significant impact on the proposed development;
- 18) County Natural Resources Department;
- 19) County Emergency Services Department;
- 20) County Building Department and the Larimer County Emergency Telephone Authority (LETA) to determine if the proposed street names duplicate existing street names and if the street names are consistent with street naming standards in this Code;
- 21) County Wildfire Safety Coordinator;
- 22) Any public or private agency, company, or corporation that, in the opinion of the Director, may be affected by the proposed development;
- 23) Colorado State University Cooperative Extension Service;
- 24) All property owners who receive mailed notice of public hearings under §6.3.7, *Scheduling and Notice of Hearings*; and
- 25) County TDU Administrator.

**6. Scheduling and Notice of Public Hearings**

The preliminary plat application shall be scheduled for public hearings before the Planning Commission or Rural Land Use Board, as applicable, and the County Commissioners and shall be noticed pursuant to §6.3.7, *Scheduling and Notice of Hearings*.

**7. Review and Decision****a. Planning Commission Review and Recommendation**

- i. The Planning Commission or Rural Land Use Board, as applicable, shall review the preliminary plat application in accordance with the approval criteria in §6.5.5.D, *Review Criteria*, and shall forward its recommendation to the County Commissioners.
- ii. The Planning Commission or Rural Land Use Board, as applicable, hearing will not be scheduled until the Director and the applicant agree to all staff-recommended conditions of approval or the applicant submits a written request to schedule the public hearing.

**b. County Commissioners Review and Decision**

- i. The County Commissioners may review and approve, approve with conditions, or deny the preliminary plat application in accordance with the approval criteria in §6.5.5.D, *Review Criteria*.
- ii. The date of the County Commissioners' public hearing on the preliminary plat will be selected no later than seven days after the Planning Commission or Rural Land Use Board, as applicable, hearing.
- iii. A subdivision application for six or fewer lots may combine preliminary plat and final plat review by County Commissioners.

**c. Project Redesign to Meet Review Criteria**

The Planning Commission, Rural Land Use Board, or County Commissioners may request redesign of part or all of a preliminary plat to meet the criteria §6.5.5.D, *Review Criteria*. If the applicant redesigns the plat in accordance with the request, no further redesign will be required unless it is necessary to comply with a duly adopted county resolution, ordinance, or regulation.

**8. Post-Decision Actions and Limitations**

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Expiration**

- i. Preliminary plat approvals are effective for one year. If a complete final plat application is not submitted to the Community Development Department within one year of preliminary plat approval, the preliminary plat approval will automatically expire.
- ii. The County Commissioners may extend the effective period of a preliminary plat for good cause. The applicant must request the extension in writing prior to expiration of the preliminary plat.



- iii. Notice of a hearing to consider an extension request will be given under notice requirements for County Commissioner consideration of a preliminary plat.
- iv. The County Commissioners will consider the following criteria when reviewing a preliminary plat extension request:
  - 1) Conditions in the neighborhood have not changed significantly since the original approval;
  - 2) The approved preliminary plat is consistent with any amendments to this Code adopted since the original approval; and
  - 3) The applicant demonstrates that the extension is necessary because there have been factors beyond his or her control that prevented the submittal of the final plat for this project.

**b. Resubmittals**

A preliminary plat application denied by the County Commissioners may be resubmitted only if the applicant makes significant changes to address the reasons stated for the denial. The Director will determine if the changes are sufficient to allow a resubmittal. The decision of the Director can be appealed in writing to the County Commissioners pursuant to §6.7.2, *Appeals*.

**c. Development Agreement Required**

All land divisions must include a development agreement pursuant to §6.3.9, *Post-Decision Actions and Limitations*, that specifies details of the development. Upon recording of the final plat and development agreement, a rezoning to Planned Development (PD) will be effective.

**d. Appeals**

The County Commissioners' decision on a preliminary plat application is final. The County Commissioners' decision can be appealed to court.

**D. Review Criteria**

**1. Generally**

In reviewing a proposed preliminary plat application, the review and decision-making bodies shall consider the general approval criteria in §6.3.8.D, *General Review Criteria*, and if the proposed subdivision:

- a. Complies with all applicable use, density, development, and design standards set forth in this Code that have not otherwise been modified or waived pursuant to this Code and that would affect or influence the layout of lots, blocks, and streets;
- b. Provides a layout of lots, roads, driveways, utilities, drainage, and other public facilities and services designed to minimize the amount of disturbance to sensitive natural areas or other community resources;
- c. Provides evidence to show that all areas of the proposed subdivision that may involve other natural hazards including flood and wildfire have been identified and mitigated to the maximum extent practicable;
- d. Provides evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations;

- e. As applicable, provides proposed phasing for development of the subdivision that is rational in terms of available infrastructure, capacity, and financing; and
- f. The subdivision is consistent with the subdivision sketch plan, if applicable, unless detailed engineering studies require specific changes based on site conditions.

## 2. Land Divisions within Growth Management Areas (GMAs) or the LaPorte Plan Area

In reviewing a proposed preliminary plat application, the review and decision-making bodies shall consider the general approval criteria in §6.3.8.D, the approval criteria in 6.5.5.D.1 above, in addition to the following:

- a. Complies with the applicable supplementary regulations of the GMA district, if any, or the LaPorte Area Plan or other adopted sub-area plan, as applicable.
- b. Is compatible with existing and allowed land uses in the surrounding area;
- c. Can and will comply with all applicable requirements of this Code;
- d. The County Commissioners have approved a rezoning of the land to PD-planned development;
- e. The recommendations of referral agencies have been considered; and
- f. Approval of the proposed land division will not result in a substantial adverse impact on other property in the vicinity of the proposed land division.

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### 6.5.6. Final Plat

#### A. Purpose

The final plat procedure completes the subdivision process and ensures compliance with the approved preliminary plat and all applicable standards of this Code.

#### B. Applicability

A final plat is required for any proposed subdivision that requires preliminary plat review pursuant to §6.5.5, *Preliminary Plat*.

#### C. Final Plat Procedure

Figure 6-8 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of final plat applications. Additions or modifications to the common review procedures are noted below.

**Figure 6-8: Summary of Final Plat Procedure**

1	Pre-Application Conference	Not Required	
2	Sketch Plan	Not Required	
3	Neighborhood Meeting	Not Required	
4	<b>Application Submittal and Processing (additional pre-application conference required)</b>	Submit to Director	Neighborhood Notice and Application Processing
5	<b>Staff Review</b>	Review by Staff	
6	Scheduling and Notice of Public Hearings	Not Required	
7	<b>Review and Decision</b>	Director review and decision	Hearing and Decision- making
8	<b>Post-Decision Actions</b>	Final recording and completion within 1 year of approval	

### 1. Application Submittal and Processing

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

- a. Approval or conditional approval of a preliminary plat by the County Commissioners pursuant to §6.5.5, shall be completed prior to final plat application submittal and review, unless otherwise allowed pursuant to §6.5.6.C.3.c.

### 2. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*, with the following modifications:

- a. Within seven days of the Director's determination that an application is complete, the Community Development Department will send the application materials to appropriate reviewing agencies.
- b. Reviewing agencies will review the application materials to ensure that the final plat complies with all conditions of preliminary plat approval, improvement standards required by this Code and the standards required by districts, utilities and agencies providing service to or having facilities and infrastructure that may be affected by the proposed development.
- c. The Community Development Department will ask each reviewing agency to send a copy of its comments to the applicant. The applicant should contact the staff planner assigned to the project to ensure all comments are received.

- d. The planner assigned to the project will prepare a written report specifying how the final plat meets or fails to meet the standards and other requirements of this Code. The report must also include comments received from reviewing agencies.
- e. The applicant may review the report and make revisions to the final plat to address concerns raised by the planning staff and reviewing agencies.

### 3. Review and Decision

- a. Director review will not be scheduled until all the districts, utilities, and agencies have approved the construction plans and the County Attorney has approved property owner documents and the development agreement described in §6.3.9, *Post-Decision Actions and Limitations*.
- b. The Director may review and approve, approve with conditions, or deny the final plat application in accordance with the approval criteria in §6.5.5.D, *Review Criteria*, or shall refer the application to the Board of County Commissioners; see §6.3.6.D.3, *Referrals to Board of County Commissioners*.
- c. A subdivision application for six or fewer lots may combine preliminary plat and final plat review.

### 4. Scheduling and Notice of Public Hearings

Not required, unless the Director refers the application for hearing and decision by the Board of County Commissioners.

### 5. Post-Decision Actions and Limitations

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

#### a. Recording

- i. After approval of a final plat, the Director will obtain the necessary signatures of public officials on the original mylar drawing.
- ii. The Director will then record the original mylar drawing, a mylar copy and all appropriate documents with the County Clerk and Recorder.
- iii. The applicant may request a delay of recording for up to six months from the date the final plat is approved. If the Director approve a delay, the development agreement must be amended by updating the estimates of the cost of the required improvements and by revising the construction schedule and other date-sensitive items. The amount of collateral required to guarantee installation of the improvements must be adjusted according to updated cost estimates.

#### b. Final Plat Completion

The final plat process must be completed within one year from the date that a complete and sufficient final plat application is accepted by the Director. Completing the final plat process will require complete execution of the final plat and the development agreement and the recording of these documents in the Office of the Larimer County Clerk and Recorder.

### D. Review Criteria

In reviewing a final plat application, the Director shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and if the proposed subdivision:

1. Conforms to the approved preliminary plat and incorporates all recommended changes, modifications, and conditions attached to the approval of the preliminary plat;
2. Complies with all applicable requirements of this Code; and
3. Complies with applicable technical standards and specifications adopted by the county.

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#### **6.5.7. Director-Approved Property Re-Configuration and Plat Modifications**

##### **A. Purpose**

This procedure provides an administrative review and approval process for the adjustment of property lines between two or more legal metes-and-bounds parcels or the combining of two or more legal metes-and-bounds parcels. This procedure also provides for the adjustment of lot lines or the combining of lots within recorded plats, including exemption plats. The procedure shall only be utilized where such property alterations comply with applicable zoning regulations and do not impact surrounding properties, environmental resources, or public facilities. This procedure shall not be used to convey or create additional parcels or lots than originally existed.

##### **B. Applicability**

This procedures shall be used for the following property re-configurations or recorded plat modifications:

##### **1. Boundary Line Adjustments**

Reconfiguration of the common property line between contiguous legal metes-and-bounds parcels, which does not include any of the following:

- a. In recorded subdivisions, planned unit developments, or minor residential developments approved under previous subdivision regulations;
- b. In recorded minor land divisions, subdivisions, conservation developments, planned land divisions, or rural land plans; or
- c. In approved exemptions, whether recorded or not.

##### **2. Add-On Agreements**

Combining of contiguous legal metes-and-bounds parcels, which does not include any of the following:

- a. Lots in recorded subdivisions, planned unit developments, or minor residential developments approved under previous subdivision regulations;
- b. Lots in recorded minor land divisions, subdivisions, conservation developments, planned land divisions, or rural land plans; or
- c. Lots in approved exemptions, whether recorded or not.

##### **3. Amended Plats**

This procedure may be used for:

- a. Minor corrections to recorded plats that do not involve changing lot boundaries or lot consolidations, or
- b. Reconfigurations of lot lines or lot consolidations in recorded subdivisions, planned unit developments, minor residential developments, minor land divisions, conservation developments, rural land plans, planned land divisions, as well as

- recorded or unrecorded exemptions. This does not apply to reconfigurations or consolidations that:
- i. Result in additional lots;
  - ii. Affect access, drainage or utility easements or rights-of way serving the property or other properties in the area;
  - iii. Create non-conforming resultant lots that do not meet the required minimum lot size standard of the applicable zoning district. If any of the lots are nonconforming with respect to minimum lot size, the adjustment must not increase the nonconformity; or
  - iv. Create a nonconforming setback for any existing building.

C. Director-Approved Plat Modification Process

Figure 6-9 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of applications for Director-approved property re-configurations or plat modifications. Additions or modifications to the common review procedures are noted below.

Figure 6-9: Summary of Director Approved Plat Modification Procedure

1	Pre-Application Conference	Required	
2	Sketch Plan	Not Required	
3	Neighborhood Meeting	Not Required	
4	Application Submittal and Processing	- Submit to Director - Neighbor referral not required	Neighborhood Notice and Application Processing
5	Staff Review	Review by Director	
6	Scheduling and Notice of Public Hearings	Not Required	Hearing and Decision- making
7	Review and Decision	Decision by Director	
8	Post-Decision Actions	Final plat required following approval	

1. Pre-Application Conference

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*. No neighbor referral is required.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

No public hearing is required, unless the Director refers the application for hearing and decision by the Board of County Commissioners.

**5. Review and Decision**

The Director shall review and decide the application in accordance with §6.3.8, *Review and Decision*, or shall refer the application for hearing and decision by the Board of County Commissioners pursuant to §6.3.6.D.3, *Referrals to Board of County Commissioners*.

**6. Post-Decision Actions and Limitations**

All applicable procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Boundary Line Adjustment**

After Director approval of a boundary line adjustment, the applicant shall submit all required final documentation as described in the application submittal requirements.

**b. Add-On Agreement**

After Director approval of a boundary line adjustment, the applicant shall submit all required final documentation as described in the application submittal requirements.

**c. Amended Plat**

After Director approval of a plat amendment, the applicant shall submit all final documentation as described in §6.5.6, *Final Plat*, and the application submittal requirements. Additionally, the following additional post-approval requirements shall apply:

- i. Amended plats that add contiguous lots together or are considered minor modifications that do not change the configuration of lots will be approved by resolution of the Director. The resolution will be recorded with the County Clerk and Recorder. No new plat will be required.
- ii. Prior to execution of the resolution by the Director, the applicant shall submit a certification of the County Treasurer's Office that all ad valorem taxes applicable to the lots for years prior to that year in which approval is granted have been paid.

**D. Review Criteria**

The Director shall review the application in accordance with the approval criteria in §6.3.8.D, *General Review Criteria*, in addition to the following:

**1. Boundary Line Adjustment**

To approve a boundary line adjustment, the Director shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- a. The lots are “legal lots” as defined in Article 20.0, Rules of Interpretation and Definitions.
- b. No additional lots will be created by the adjustment;
- c. The lots are not in a subdivision, planned unit development, minor residential development, or exemption approved under previous subdivision regulations or in a minor land division, subdivision, conservation development, or planned land division;
- d. The resultant lots will meet the required minimum lot size of the applicable zoning district. If either or both lots are nonconforming with respect to minimum lot size, the adjustment must not increase the nonconformity; and
- e. The adjustment will not create a nonconforming setback for any existing building.

**2. Add-On Agreement**

To approve an add-on agreement, the Director shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- a. The lots being combined are “legal lots” as defined in Article 20.0, Rules of Interpretation and Definitions. An illegally created lot can be combined with one or more legal lots, if the Community Development Director determines the resultant lot(s) are consistent with the intent and purpose of this Code;
- b. The add-on agreement will not adversely affect access, drainage or utility easements or rights-of-way serving the property or other properties in the area; and
- c. The add-on agreement will not result in any nonconforming lots with regards to the minimum lot size standard of the applicable zoning district. If any of the lots are nonconforming with respect to minimum lot size, the add-on agreement must not increase the nonconformity.

**3. Amended Plat**

To approve an amended plat, the Director shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- a. No additional lots will be created by the amended plat.
- b. The resultant lots will meet the required minimum lot size of the applicable zoning district. If any of the lots are nonconforming with regards to the minimum lot size, the amended plat must not increase the nonconformity.
- c. The amended plat will not create a nonconforming setback for any existing building;
- d. The amended plat will not adversely affect access, drainage or utility easements, or rights-of-way serving the property or other properties in the area; and
- e. Any covenants, deed restrictions, or other conditions of approval that apply to the original lots must also apply to the resultant lots and be noted on the final plat,



except those changes to a condition or note on a plat that are approved with this application.

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**6.5.8. Board-Approved Plat Modifications****A. Purpose**

The board-approved plat modification procedure provides for modifications to recorded plats, including exemption plats, identified in §6.5.6.5.7.B.3, *Amended Plats* that include modifications identified in §6.5.8.B, *Applicability*. This procedure shall not be used to convey or create additional parcels or lots than originally existed.

**B. Applicability**

This procedure shall be required for the following modifications to a recorded plat:

1. The vacation of any right-of-way that results in a new lot configuration;
2. Any change to a condition or note on a plat;
3. The vacation of rights-of-way and easements of record over which the County Commissioners have jurisdiction that are no longer needed after complete review by all appropriate agencies; or
4. The vacation of a contiguous lots shown on a final plat of record that results in a single, unplatted parcel.

**C. Board-Approved Plat Modification Procedure**

Figure 6-10 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of Board-approved plat modification applications. Additions or modifications to the common review procedures are noted below.

Figure 6-10: Summary of Board-Approved Plat Modification Procedure

1	Pre-Application Conference	Required	
2	Sketch Plan	Not Required	
3	Neighborhood Meeting	Not Required	
4	Application Submittal and Processing	Submit to Director	Neighborhood Notice and Application Processing
5	Staff Review	Review by Staff	
6	Scheduling and Notice of Public Hearings	County Commissioners open meeting required for some requests	Hearing and Decision-making
7	Review and Decision	County Commissioners review and decision	
8	Post-Decision Actions	See text below	

1. Pre-Application Conference

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

2. Application Submittal and Processing

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

- a. If the request includes a right-of-way vacation, the applicant must submit an amended plat showing how the lot configurations changed as a result of the vacation.

3. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

4. Scheduling and Notice of Public Hearings

- a. If an amended plat includes a right-of-way or easement vacation or dedication, or a change to a condition or a note on a plat, the application shall be scheduled for an open meeting before the County Commissioners and shall be noticed pursuant to §6.3.7, *Scheduling and Notice of Hearings*.

- b. Vacation of a plat for a subdivision may require Planning Commission review at the Director's discretion.

## 5. Review and Decision

The County Commissioners may review and approve, approve with conditions, or deny the application in accordance with the review criteria in §6.5.8.D, *Review Criteria*.

## 6. Post-Decision Actions and Limitations

All common procedures in §6.3.9, *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

### a. Lot Reconfigurations and Amended Plats Following Right-of-Way Vacation

After the County Commissioners approve an amended plat that reconfigures lots or adds vacated right-of-way to a lot, the applicant shall submit a final plat pursuant to §6.5.6, *Final Plat*.

## D. Review Criteria

In reviewing a proposed plat modification, the County Commissioners shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and the following:

### 1. Vacation of Right-of-Way or Easement

- a. Approval of the vacation request will not leave any land adjoining the right-of-way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services;
- b. The recommendations of referral agencies have been considered;
- c. Any right-of-way that is vacated will be divided equally between the lots on each side, unless it can be demonstrated that all of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel. Property owners on each side of the right-of-way may agree to divide the vacated right-of-way differently but must sign deeds to transfer ownership after the County Commissioners approve the vacation; and
- d. Right-of-way vacations must also meet requirements of C.R.S. § 43-2-303.

### 2. Vacation of Plat

- a. Vacation of the plat will not leave any lots without adequate utility or drainage easements;
- b. Vacation of the plat will not vacate road rights-of-way or access easements needed to access other property;
- c. Vacation of the plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code; and
- d. Vacation of the plat is consistent with the Comprehensive Plan.

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## 6.5.9. Condominium Maps

### A. Purpose

The condominium maps procedure is intended to provide a consistent process for creating condominium units in existing buildings.

**B. Applicability**

A condominium map is required for the conversion of any existing building to condominium units.

**C. Condominium Map Procedure**

Figure 6-11 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of condominium map applications. Additions or modifications to the common review procedures are noted below.

**Figure 6-11: Summary of Condominium Map Procedure**

<b>1</b>	<b>Pre-Application Conference</b>	<i>Required</i>	
<b>2</b>	<b>Sketch Plan</b>	<i>Not Required</i>	
<b>3</b>	<b>Neighborhood Meeting</b>	<i>Not Required</i>	
<b>4</b>	<b>Application Submittal and Processing</b>	<i>Submit to Director</i>	Neighborhood Notice and Application Processing
<b>5</b>	<b>Staff Review</b>	<i>Review by Staff</i>	
<b>6</b>	<b>Scheduling and Notice of Public Hearings</b>	<i>County Commissioners meeting required (public hearing not required)</i>	Hearing and Decision- making
<b>7</b>	<b>Review and Decision</b>	<i>County Commissioners review and decision</i>	
<b>8</b>	<b>Post-Decision Actions</b>	<i>See text below</i>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2: *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

The application shall be scheduled for a meeting before the County Commissioners pursuant to §6.3.7: *Scheduling and Notice of Hearings*.

**5. Review and Decision**

The County Commissioners may review and approve, approve with conditions, or deny the application in accordance with the approval criteria in §6.5.9.D, *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply.

**D. Review Criteria**

In reviewing a condominium map application, the County Commissioners shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and the following:

1. The proposed uses in the condominium units are consistent with existing zoning of the site;
2. The site complies with §4.7, *Landscaping*, §4.6, *Off-Street Parking and Loading*, and Article 8.0, *Signs*;
3. The condominium map complies with the monumentation and plat preparation standards required by state statute; and
4. The applicant has submitted property owner's association documents or their equivalent that address the unit owners' rights and responsibilities with respect to parking, loading and access facilities, landscaping, utilities, and any other common areas and facilities on the site. The documents must also provide for perpetual maintenance of common facilities by property owners. If property owners fail to adequately maintain the common facilities, the County Commissioners may take over maintenance and charge the cost to the property owners until property owners demonstrate they can adequately maintain the property.

#### 6.5.10. Minor Land Division

##### A. Purpose

This section provides the procedure for the Board of County Commissioners to review proposed minor land divisions that do not discernibly impact surrounding properties, environmental resources, or public facilities.

##### B. Applicability

This procedure shall be required for the following land divisions:

1. Division of existing legal uses that have separate utilities; however, the minor land division procedure may not be used to divide accessory uses from principal uses or create an opportunity for additional principal uses;
2. Division of an existing legal use from the remaining vacant property with the condition that development of the vacant property must be approved through the land division process that would have been utilized prior to the approval of the MLD;
3. Division of quarter sections into four parcels of equal size where the original quarter section contains fewer than 140 acres; and
4. Divisions of land for public utilities, open space, schools, or other public uses that require county review of potential impacts through the location and extent review or special review process.

##### C. Minor Land Division Procedure

Figure 6-12 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of minor land division applications. Additions or modifications to the common review procedures are noted below.

Figure 6-12: Summary of Minor Land Division Procedure

1	Pre-Application Conference	Required	
2	Sketch Plan	Not Required	
3	Neighborhood Meeting	Not Required	
4	Application Submittal and Processing	Submit to Director	Neighborhood Notice and Application Processing
5	Staff Review	Review by Staff	
6	Scheduling and Notice of Public Hearings	County Commissioners open meeting required for some requests	Hearing and Decision- making
7	Review and Decision	County Commissioners review and decision	
8	Post-Decision Actions	See text below	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2: *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6: *Staff Review*.

**4. Scheduling and Notice of Public Hearings**

A minor land division application shall be scheduled for an open meeting before the County Commissioners and shall be noticed pursuant to §6.3.7: *Scheduling and Notice of Hearings*.

**5. Review and Decision**

The County Commissioners may review and approve, approve with conditions, or deny the application in accordance with the review criteria in §6.5.8.D, *Review Criteria*.

**6. Post-Decision Actions and Limitations**

All common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**1. Minor Land Division**

After the County Commissioners approve a minor land division, the applicant shall submit a final plat pursuant to §6.5.6: *Final Plat*.

**D. Review Criteria**

In reviewing a proposed plat modification, the County Commissioners shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and the following:

**1. Minor Land Division**

- a. The property is not part of an approved or recorded subdivision plat;
- b. The property is not part of an exemption or minor residential development approved under the previous subdivision resolution or a minor land division;
- c. The newly created parcels will meet the minimum lot size required by the applicable zoning district;
- d. The newly created parcels meet minimum access standards required by the County Engineer or the Colorado Department of Transportation as applicable; and
- e. Approval of the minor land division will not result in impacts greater than those of existing uses. However, impacts from increased traffic to a public use may be offset by the public benefit derived from such use.

## 6.6. Code Amendment Procedures

**6.6.1. Amending the Official Zoning Map (Rezoning)****A. Purpose**

The purpose of this section is to provide the method for changing boundaries of zoning districts or overlay zoning districts and for changing the zone designation of a parcel as shown on the official zoning map.

**B. Applicability**

1. A zoning map amendment may be approved by the County Commissioners following review and recommendation by the Planning Commission. Official zoning maps amended under this subsection shall be signed by the County Commissioners and recorded with the County Clerk and Recorder.

**2. Rezoning to a Planned Development District**

The application and review process for zoning changes to the Planned Development district is in §6.6.1.E, *Rezoning to Planned Development (PD)*.

**3. Drafting Errors on the Official Zoning Map**

The Director is authorized to change the official zoning map when the public record clearly indicates the official zoning map does not accurately depict zoning district and overlay zoning district boundaries or zoning designations and subsequent amendments to those boundaries or zone designations approved by the County Commissioners.

**C. Application Submittal and Review Procedure**

Figure 6-13 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of zoning map amendment applications. Additions or modifications to the common review procedures are noted below.



**Figure 6-13: Summary of Official Zoning Map Amendment (Rezoning) Procedure**

<b>1</b>	<b>Pre-Application Conference</b>	<i>Required</i>	
<b>2</b>	<b>Sketch Plan</b>	<i>Required</i>	
<b>3</b>	<b>Neighborhood Meeting</b>	<i>Director may waive meeting requirement based on response to neighbor referral</i>	<b>Neighborhood Notice and Application Processing</b>
<b>4</b>	<b>Application Submittal and Processing (additional pre-application conference required)</b>	<ul style="list-style-type: none"> <li>– Submit to Director</li> <li>– Neighbor referral required</li> </ul>	
<b>5</b>	<b>Staff Review</b>	<i>Review by Director</i>	
<b>6</b>	<b>Scheduling and Notice of Public Hearings</b>	<ul style="list-style-type: none"> <li>– Planning Commission hearing</li> <li>– County Commissioners hearing</li> </ul>	<b>Hearing and Decision-making</b>
<b>7</b>	<b>Review and Decision</b>	<ul style="list-style-type: none"> <li>– Planning Commission review and recommendation</li> <li>– County Commissioners review and decision</li> </ul>	
<b>8</b>	<b>Post-Decision Actions</b>	<i>See text below</i>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2: *Pre-Application Conference*.

**2. Sketch Plan**

Sketch plan review pursuant to §6.3.3, *Sketch Plan Review*, shall be required prior to submission of the application.

**3. Neighborhood Meeting**

A neighborhood meeting shall be held in accordance with §6.3.4, *Neighborhood Meeting*. The Director may waive the meeting requirement based on responses received to the neighbor referral.

**4. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, and the neighbor referral completed, in accordance with §6.3.5, *Application Submittal and Processing*, with the following modifications:

**a. Application Content**

In addition to the application content requirements in the Administrative Manual, the following additional materials are required:

- i. A statement of how the proposed zone change complies with the approval criteria in §6.6.1.D.
- ii. Statements from public water and sewer utilities that indicate that they can provide service for the site. If public utilities are not to be used, the applicant shall submit information that documents the availability of water and suitability of the site for the sewage disposal system chosen by the applicant. The evidence shall document the adequacy of the proposed utility service for the uses permitted in the proposed zoning district.
- iii. If road, intersection, or highway facilities that provide access to the property are not adequate to meet the requirements of the proposed zoning district, the applicant shall supply information that demonstrates willingness and financial capability to upgrade the road or highway facilities in conformance with the County's road standards. In addition, the applicant shall provide information that demonstrates that no significant impact will occur to other roads, intersections, or highway facilities as a result of the proposed change, with consideration given to all potential changes in the vicinity or how the applicant intends to mitigate the impact.
- iv. If the proposed zoning change is located within an overlay district, the applicant shall submit information that represents how the applicable overlay districts standards have been satisfied, or how the applicant intends to meet the requirements of the County regulations concerning overlay districts.

#### 5. Staff Review

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6: *Staff Review*.

#### 6. Scheduling and Notice of Public Hearing

The application shall be scheduled for public hearings before the Planning Commission and the County Commissioners and noticed in accordance with §6.3.7: *Scheduling and Notice of Hearings*, with the following modifications.

##### a. Legislative Amendments to the Official Zoning Map

Legislative amendments to the official zoning map must meet notice requirements of C.R.S. §§ 30-28-112 and 30-28-116, as amended.

##### b. Quasi-Judicial Amendments to the Official Zoning Map

Quasi-judicial amendments to the official zoning map must meet all notice requirements of §6.3.7: *Scheduling and Notice of Hearings*.

#### 7. Review and Decision

The zoning map amendment shall be reviewed and decided upon in accordance with §6.3.8: *Review and Decision*, with the following modifications:

##### a. Planning Commission Review and Recommendation

- i. After receipt of the staff report, the Planning Commission shall conduct a public hearing on the application.
- ii. After the close of the public hearing, the Planning Commission, by a majority vote of the quorum present, shall recommend to the County Commissioners

either to approve, approve with conditions, or deny the application for a zoning map amendment based on the approval criteria in §6.6.1.D.

**b. County Commissioners Review and Decision**

- i. After receipt of the recommendation from the Planning Commission, the County Commissioners shall conduct a public hearing on the application.
- ii. After the close of the public hearing, the County Commissioners, by a majority vote of the quorum present, shall either approve, approve with conditions, or deny the application based on the approval criteria in §6.6.1.D.
- iii. The Zoning Map Amendment shall be adopted by a Resolution of the County Commissioners.

**8. Post-Decision Actions and Limitations**

- a. All common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply. Following approval of a rezoning, the Director shall prepare an appropriate revision to the Official Zoning Map.
- b. The County Commissioners shall include a resolution adopting the rezoning within 90 days of the County Commissioner's vote to approve, approve with conditions, or deny the rezoning.

**D. Review Criteria**

Amending the zoning map is a matter committed to the legislative discretion of the County Commissioners. In deciding the application, the Planning Commission and the County Commissioners shall consider the general approval criteria in §6.3.8.D, *General Review Criteria* and whether and the extent to which the proposed amendment meets the following.

**1. Compatible with Surrounding Uses**

The proposed change in zoning is compatible with the type, intensity, character, and scale of existing and permissible land uses surrounding the subject property. Dimensional limitations of the proposed zoning district, when applied, should result in development that will be consistent with the physical character of existing or permissible uses surrounding the subject property. The proposed change shall result in a logical and orderly development pattern in the neighborhood.

**2. Community Need or Public Benefit**

The proposed change in zoning addresses a demonstrated community need or otherwise results in one or more particular public benefits that offset the impacts of the proposed uses requested, including but not limited to: affordable and senior housing; childcare facilities; medical facilities; transportation efficiencies; public recreational opportunities; infrastructure improvements; and preservation of lands of high conservation value.

**3. Change of Circumstances**

The proposal change in zoning addresses or responds to a beneficial material change that has occurred to the immediate neighborhood or to the greater Larimer County community.

**4. Adequate Infrastructure**

The property subject to the proposed change in zoning is, or may be served by adequate roads, water, sewer, and other public use facilities.

**5. Natural Environment**

The proposed change does not result in significant adverse impacts on the natural environment.

**6. Additional Review Criteria in Growth Management Area (GMA) Districts**

- a. To establish or enlarge a GMA district, the County Commissioners must also find that the criteria in §4.2.1.B.3 have been met; and
- b. The County Commissioners may exclude or remove an area from an established GMA district boundary if they find one or more of the review criteria in §4.2.1.B.3 can no longer be met.

**E. Rezoning to Planned Development (PD) or Rural Planned Development (RPD)**

**1. Purpose**

The rezoning procedure may be used to amend the Official Zoning Map to reclassify land to the PD or RPD zoning districts established in Article 2.0, in accordance with C.R.S. §24-67-101, the Planned Unit Development Act of 1972. The PD and RPD rezoning is intended to achieve greater flexibility than otherwise allowed by the strict application of this Code while providing greater benefit of the County.

**2. Applicability**

- a. A property may only be rezoned to a PD zoning district if the property is within a designated growth management area or within the LaPorte Plan area or other adopted subarea.
- b. Properties within a GMA may only be rezoned to a PD zoning district and are not eligible for rezoning to another base zoning district.
- c. The PD or RPD rezoning procedure shall not be used when a special review, variance, minor modification, or rezoning to a base or overlay zoning district could achieve a similar result.

**3. Procedure for Rezoning to PD or RPD**

The general rezoning procedure set forth above applies to any rezoning to the PD or RPD district, with the following additions and modifications:

**a. Application Submittal and Processing**

The PD or RPD rezoning application submittal requirements are identified in the Administrative Manual.

**i. Sketch Plan Requirements**

At a minimum, the sketch plan application shall indicate the following:

- 1) Analysis as to why other flexibility and relief procedures in this Code are not sufficient to accommodate the proposed development.
- 2) For proposed development, the following characteristics, as applicable:

- (a) Description of the existing conditions of the site;
- (b) Statement of consistency with the Comprehensive Plan;
- (c) General site characteristics such as environmentally sensitive lands, wildlife habitat, areas of visual impact, and waterways;
- (d) Proposed land uses, including the approximate number and type of residential units and the approximate square footage and type of nonresidential uses;
- (e) Floor area of cumulative proposed buildings;
- (f) General site planning layout, including vehicular and pedestrian access;
- (g) Proposed public improvements including location and whether they would be provided on-site and/or connect to a public system;
- (h) Proposed deviations from the Code; and
- (i) Proposed phasing schedule, if applicable.

**ii. Application Requirements**

The application shall at a minimum include the following:

- 1) The general location of individual development areas, identified by land use and development density and intensity;
- 2) The land area, use types, and number of units by type;
- 3) The location, amount, and type of common open space, parks, and recreation areas;
- 4) The location of landscaping and installation plans;
- 5) The location of environmentally sensitive lands, wildlife habitat, areas of visual impact, and waterways;
- 6) On-site circulation system, including the location of all public streets, existing transportation corridors, and pedestrian and bicycle paths and how they connect to existing and planned systems;
- 7) The location of water and wastewater facilities and how they will connect to existing and planned systems;
- 8) The location of on-site storm drainage facilities and how they will connect to existing and planned systems;
- 9) The location of all other public facilities serving the development;
- 10) Provisions addressing how transportation, water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
- 11) Any other provisions the County Commissioners determine relevant and necessary regarding the development of the PD or RPD in accordance with applicable standards and regulations.

**iii. PD or RPD Agreement**

- 1) A PD or RPD agreement that specifies the terms and conditions defining the development parameters and provides for management and maintenance of development.
- 2) The agreement shall establish the responsibility of the developer to design and construct or install required and proposed on-site public facilities in compliance with applicable county, state, and federal regulations. This shall

include the responsibility to dedicate to the public the rights-of-way and easements necessary for the construction and installation of such improvements.

**b. Public Benefit**

The PD or RPD application shall provide an analysis of how the proposed PD or RPD addresses a demonstrated community need or otherwise results in one or more benefits that offset the impacts of the requested flexibility from the Code requirements.

**c. Phasing Plan**

If development in the proposed PD or RPD is proposed to be phased, the final PD or RPD plan and agreement shall include a development phasing plan that includes the general sequence and timing of development, including types and number of units and the timing of infrastructure and public improvements.

**4. Approval Criteria for Rezoning to PD and RPD**

In considering an application to rezone to the PD or RPD district, the Planning Commission in their review and recommendation, and the County Commissioners in their decision, shall consider whether and the extent to which the proposed PD or RPD meets the general approval criteria for Zoning Map Amendments in §6.6.1., and also the following:

- a. In order to approve a rezoning to PD, not including RPD, the subject property must be within a growth management area overlay zone district, the LaPorte Plan Area, or other adopted sub-area plan, and the County Commissioners must also find that the proposed land use type and intensity are consistent with the applicable supplementary regulations, if any, or with the LaPorte Area Plan or other adopted sub-area plan.
- b. Whether the proposed PD or RPD plan addresses a unique situation, provides substantial benefit to the County, or incorporates innovative design, layout, or configuration resulting in quality over what could have been accomplished through strict application of a base zoning district or other standards of this Code; and
- c. Whether the proposed PD or RPD plan meets the other standards of this Code not expressly modified by the PD plan or development agreement.

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**6.6.2. Amending the Code Text**

**A. Purpose**

The purpose of this section is to provide a method for changing the text of this Code.

**B. Applicability**

The provisions of this Code may be amended or repealed following the procedure in this section. Notwithstanding this procedure, the Director shall have the authority to revise this Code to correct errors or omissions, to clarify existing Code provisions, and make other minor non-substantive revisions. An application for a Code text amendment is not a development application.

**C. Procedure for Code Text Amendment****1. Initiation of a Text Amendment**

- a. The Director or any citizen may request that the text of this Code to be amended. A citizen request shall be submitted to the Director or the Board of County Commissioners.
- b. For any proposed text amendment, staff shall research the issue for a presentation and discussion at a work session of the Board and Planning Commission to determine if the requested change should be formally pursued.
- c. If the determination is that the proposed change should be pursued, staff shall initiate the text amendment process as set forth below.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6: *Staff Review*.

**4. Scheduling and Notice of Public Hearing**

The application shall be scheduled for public hearings before the Planning Commission and the County Commissioners and noticed in accordance with §6.3.7: *Scheduling and Notice of Hearings*.

**5. Review and Decision**

The code text amendment shall be reviewed and decided upon in accordance with §6.3.8: *Review and Decision*, with the following modifications:

**a. Planning Commission Review and Recommendation**

After receipt of the staff report, the Planning Commission shall conduct a public hearing on the application for the code text amendment. The Planning Commission shall recommend to the County Commissioners to approve, approve with conditions, or deny the application based on the criteria in §6.6.2.D below.

**b. County Commissioners Review and Decision**

After receipt of a recommendation from the Planning Commission, the County Commissioners shall conduct a public hearing on the application for the code text amendment. The County Commissioners shall approve, approve with conditions, or deny the application based on the criteria in §6.6.2.D below.

**6. Post-Decision Actions and Limitations**

All common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply.

**D. Review Criteria for Code Text Amendment**

Amending the text of this Code is a matter committed to the legislative discretion of the Board of County Commissioners. To approve a change in the code text, the Planning Commission in their review and recommendation, and the County Commissioners in their

review and decision, shall consider whether the proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code.

6.7. Flexibility and Relief Procedures

6.7.1. Minor Modifications

A. Purpose

The purpose of the minor modification procedure is to allow adjustments, modification, or deviations from the dimensional or numerical standards of this Code. Minor modifications are intended to provide greater flexibility when necessary without requiring a formal zoning amendment. The minor modification procedure is not a waiver, but rather a modification up to a specified amount when warranted.

B. Applicability

1. Other Incentives are Prerequisite

All available incentives and allowances in this Code shall be used before a minor modification may be considered.

2. Table of Allowed Modifications

Applications for minor modifications may only be considered for the modifications listed below in Table 6-4. The general approval criteria in §6.7.1.D.1 apply to all minor modifications, and the righthand column of the table identifies additional criteria that apply to that particular type of minor modification.

Table 6-3: Allowable Minor Modifications		
Standard	Allowable Modification (maximum)	Additional Criteria that May Apply
Lot and Building Standards		
Lot size, minimum	10 percent	--
Lot width-to-depth ratio	50 percent	--
Lot depth-to-width ratio	50 percent	--
Front setback, minimum	10 percent	6.7.1.D.5
Side setback, minimum	10 percent	6.7.1.D.5
Rear setback, minimum	10 percent	6.7.1.D.5
Setbacks from streams, creeks, and rivers	50 percent	6.7.1.D.2
Setbacks from county roads	See 6.7.1.D.3 and 6.7.1.D.4	6.7.1.D.3 and 6.7.1.D.4
Extension into setback, maximum	10 percent	--
Building height, maximum	20 percent	--
Site Features		
Fence or wall height, maximum	Two feet	--
Parking stalls required, minimum	20 percent	--
Landscaping requirements, minimum	10 percent	--



**3. Limitations on Minor Modifications**

The minor modification procedure shall not be used to:

- a. Modify standards outside this Code;
- b. Modify uses or activities allowed on a property;
- c. Modify the standards that apply to a specific use or activity, including dimensional and numerical standards; or
- d. Modify a standard that is already modified through a separate minor modification, variance, or other deviation procedure.

**4. Reasonable Accommodations Under the FFHA**

- a. The County may approve a minor modification to accommodate requirements under the FFHA provided:
  - i. The modification is the minimum change from the provisions of this Code necessary to comply with the FFHA; and
  - ii. The modification will not cause adverse impacts on the surrounding area.
- b. The County may approve a type of accommodation that is different than the applicant's request if the County deems such accommodation would satisfy the requirements of the FFHA and would result in fewer impacts on the surrounding area.
- c. The County may be required to approve requests for reasonable accommodations under the FFHA regardless of whether the request qualifies as a minor modification under this section.

**5. Accommodations Under RLUIPA**

- a. The County may allow modifications to eliminate a substantial burden on religious exercise as guaranteed by RLUIPA, as amended.
- b. Under no circumstance may the County approve a modification that allows a use, structure, or activity in a zoning district where such use, structure, or activity is prohibited.
- c. The County may grant a waiver or partial waiver of the provisions of this Code to accommodate a person's free exercise of religion pursuant to federal or state law.

**C. Procedure****1. Concurrent Review Required**

- a. An application for a minor modification may be submitted and reviewed concurrently with an application for a special review use, administrative special review use, site plan review approval, or subdivision concept plan or preliminary plan approval.
- b. Multiple requests for eligible modifications pursuant to Table 6-4 may be considered under the same minor modification application.

**2. Review and Decision****a. Applications Approved Administratively**

- i. When the request for a minor modification is submitted concurrently with and associated with an application that requires approval by the Director, the

Director shall review and approve, approve with conditions, or deny the modification in accordance with the criteria in §6.7.1.D below.

- ii. The Director shall provide notice of the application of the minor modification and an opportunity for interested persons to submit comments on the application. Notice must be provided by posting details of the request as follows:
  - 1) On a clearly visible sign on the subject property for a period of at least seven days; and/or
  - 2) In a designated location within the County Services building; and/or
  - 3) Mailed notice to surrounding property owners within 500 feet of the subject property; or
  - 4) Mailed notice to adjacent property owners.
- iii. The Director may refer a minor modification application to the Board of County Commissioners if the Director determines that the nature of the request requires additional feedback through a public hearing.

**b. Applications Approved by the Planning Commission or County Commissioners**

When the request for a minor modification is submitted concurrently with and associated with an application that requires recommendation by the Planning Commission and/or approval by the County Commissioners, the applicable decision-maker shall review the modification and approve, approve with conditions, or deny the modification in accordance with the criteria in §6.7.1.C.3 below.

**3. Post-Decision Actions and Limitations**

The common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

**a. Effect of Approval**

- i. Approval of a minor modification only authorizes the modifications as approved an only on the subject property associated with the application.
- ii. A minor modification may be suspended or revoked after notice and an opportunity to be heard is provided to the applicant if there is:
  - 1) A failure to comply with related provisions in this Code;
  - 2) A failure to comply with any conditions included with the minor modification; or
  - 3) A change in use or activity is established on the site.

**b. Recordation of Approval**

Approval of a minor modification shall be recorded with the county clerk.

**c. Expiration of Minor Modification**

Minor modifications automatically expire if not acted upon within 12 months of the date of the written approval, or if the development permit or application associated with the minor modification is denied or otherwise deemed invalid.

**d. Appeals**

- i. Appeals of a minor modification decision made by the Director may be heard by the Board of Adjustment pursuant to the procedures in §6.7.2.

- ii. Appeal of all other minor modification decisions shall be heard pursuant to the appeal procedures applicable to the body deciding the minor modification.

#### **D. Review Criteria**

An application shall be approved if the application supports the applicable criteria listed below, and the applicant has provided any additional data and references, if requested by the Director, the Planning Commission, or the County Commissioners.

##### **1. General Approval Criteria**

In reviewing a request for all minor modifications, the decisionmaker shall consider whether the modification would result in development that complies with the intent of the standard being modified and the overall intent of this Code, and the extent to which the requested minor modification:

- a. Is technical in nature;
- b. Compensates for an unusual site condition or circumstance not shared by landowners in general;
- c. Meets all other applicable building and safety codes;
- d. Benefits the county by protecting community assets, features, and sensitive areas; and
- e. Avoids creating adverse impacts to surrounding areas.

##### **2. Additional Criteria for Modifications to Setbacks from Streams, Creeks, and Rivers**

Approval of modifications to the required setback from the centerline of streams, creeks, and rivers are subject to the following additional criteria:

- a. The review criteria for a setback variance in §2.9.4.F, *Setbacks from Streams, Creeks, and Rivers*, are met or determined to be inapplicable;
- b. The proposed building site is not within a wetland area;
- c. The proposed building site is not within a 100-year floodplain; and
- d. The proposed building site is not within any federally designated threatened or endangered species critical habitat.

##### **3. Additional Criteria for Modifications to Setbacks from County Road Setbacks**

Approval of modifications to the county road setback requirements listed in §2.9.4.E, *Setbacks from All Roads, Streets, and Highways*, for additions to existing buildings that are nonconforming with respect to county road setbacks are subject to the following additional criteria:

- a. The proposed addition must meet the following minimum setbacks:
  - i. Arterial roads—90 feet from ROW centerline;
  - ii. Major collector roads—80 feet from ROW centerline;
  - iii. Minor collector roads—60 feet from ROW centerline;
  - iv. Local roads—55 feet from ROW centerline.
- b. No portion of the original building or the proposed addition is within the future right-of-way identified by the Larimer County Functional Road Classification.
- c. The review criteria in §6.7.3.D, *Review Criteria*, are met or determined to be inapplicable.

#### 4. Additional Criteria for Modifications to County Road Setbacks Located Within a County Adopted Growth Management Area (GMA)

Approval of modifications to the county road setback requirements listed in §2.9.4.E, *Setbacks from All Roads, Streets, and Highways*, or the applicable zoning district, for properties in unincorporated Larimer County along a road or street located within a County adopted growth management area (GMA), are subject to the following additional criteria:

- a. Written documentation from the GMA municipality and any applicable referral agency or department has been provided to the Community Development Department indicating that the proposed structure will meet the applicable setback requirements and will not impact current and/or future road improvements or maintenance activities.
- b. No portion of an existing building or the proposed addition is within the future right-of-way identified by the GMA municipality's applicable planned roadway section.
- c. The review criteria for a setback variance in §6.7.3.D, *Review Criteria*, are met or determined to be inapplicable.

#### 5. Additional Criteria for Modifications to Setbacks for Nonconforming Building on Corner Lot

Approval of modifications to the required setback on one side of a corner lot for an addition to an existing building that is nonconforming with respect to the required street or road setback are subject to the following additional criteria:

- a. The building is nonconforming with regards to the street or road setback that is not along the front lot line.
- b. The proposed addition must not come any closer to the road than the existing building.
- c. The lot is less than one-half acre in size.
- d. Written documentation has been provided to the Community Development Department that the property owners in the vicinity of the proposal as defined in this Code, or as determined by the Director, have been notified and they have indicated they support the variance request;
- e. No portion of the original building or the proposed addition is within the future right-of-way identified by the Larimer County Functional Road Classification or the Colorado Department of Transportation.
- f. The review criteria for a setback variance in §6.7.3.D, *Review Criteria*, are met or determined to be inapplicable.

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### 6.7.2. Appeals

#### A. Purpose

The purpose of this section is to define circumstances under and processes by which persons may appeal decisions made in administration, interpretation, or enforcement of this Code. An appeal is not a development application.

**B. Appeals to County Commissioners****1. Applicability**

The County Commissioners are authorized to hear and decide appeals where:

- a. A person asserts that there is an error in any order, requirement, decision, or refusal made by an administrative officer or agency in the administration or enforcement of the provisions of this Code except:
  - i. The minimum setback or structure height requirements of Article 2.0, *Zoning Districts*; or
  - ii. §2.9.4.E, *Setbacks from All Roads, Streets, and Highways*, and §2.9.4.F, *Setbacks from Streams, Creeks, and Rivers*.
- b. A person asserts that the Director made an error in interpreting the text of this Code.
- c. A person proposes to deviate from a standard or requirement imposed by this Code, except standards or requirements that are subject to zoning variances from the Board of Adjustment in §6.7.3.
- d. Appeals to the prohibition of medical marijuana centers, medical marijuana infused product manufacturers, medical marijuana optional premises cultivation operations, private marijuana clubs, and appeals that would allow for the submittal of a land use application to establish those or similar marijuana-related uses not otherwise allowed in a zoning district shall not be accepted, reviewed, or processed.

**2. Procedure for Appeals of Administrative Decisions and Director Interpretations****a. Initiation of Appeal**

A written application for appeal must be submitted to the Community Development Department within 30 days of the decision or interpretation which the person believes to be in error unless a different timeframe is specified for individual processes. The Director may grant one 30-day extension of this time limit provided that a written request for such extension is submitted to the Director within the initial 30-day period unless a different timeframe is specified for individual processes.

**b. Contents of Appeal**

The appeal must be submitted on a form provided by the Community Development Department and must include a statement of the decision or interpretation being appealed, the date of the decision or interpretation, and facts, legal authority, or other evidence that supports the decision was in error. An application fee established by the County Commissioners must be paid when the appeal is submitted.

**c. Scheduling**

Upon receipt of the notice of appeal form, the Director will schedule the appeal on the next available agenda of the County Commissioners, no later than 60 days after the date on which a properly completed notice of appeal is filed.

**d. Notice**

Notice of the time and place of the appeal hearing must be published in a newspaper of general circulation at least 10 days before the hearing date. Notice by first-class mail may be sent to property owners in the vicinity of the proposal if the Director determines such notice is appropriate.

**e. Action by the County Commissioners**

- i. At the appeal hearing the County Commissioners will take relevant evidence and testimony from the person who filed the appeal, the administrative officer, Director, county staff, and any interested party.
- ii. At the appeal hearing the County Commissioners will only consider the same application, plans, and materials that were the subject of the original decision or interpretation, the record of that decision or interpretation and the issue raised by the person who submitted the appeal, unless the County Commissioners determine other evidence to be relevant and helpful. Testimony from interested parties may be considered only as it relates to the administrative officer's decision or the Director's interpretation.
- iii. At the conclusion of the hearing the County Commissioners will affirm, affirm with modifications, or reverse the decision of the administrative officer or the interpretation of the Director.
- iv. The County Commissioners may refer an appeal to the Planning Commission for a recommendation. The decision to refer an appeal to the Planning Commission will be made by the County Commissioners within 14 days of the date the appeal was submitted.

**f. Burden of Proof**

The decision of the administrative officer or the Director's interpretation will not be reversed unless a preponderance of evidence supports that the decision is in error or inconsistent with the intent and purpose of this Code.

**3. Procedure for Appeals to Deviate from Standards or Requirements not Filed Concurrently with Development Applications**

**a. Initiation of Appeal**

A written application for appeal must be submitted to the Community Development Department for appeals to deviate from Code standards that are not filed as part of a development application.

**b. Contents of Appeal**

The appeal must be submitted on a form provided by the Community Development Department and must include a statement of the Code provision being appealed and evidence that supports the appeal, including evidence that demonstrates how the review criteria in §§6.7.2.B.5 or 6.7.2.B.6 for the appeal are being met. The Director may request additional information necessary to evaluate the appeal.

**c. Notice**

Notice of the time and place of the appeal hearing must be published in a newspaper of general circulation at least 10 days before the hearing date. Notice by first-class

mail may be sent to property owners in the vicinity of the proposal if the Director determines such notice is appropriate.

**d. Action by the County Commissioners**

- i. At the appeal hearing the County Commissioners will take relevant evidence and testimony from the person who filed the appeal, county staff and any interested party.
- ii. At the conclusion of the hearing the County Commissioners will affirm, affirm with modifications, or deny the appeal.
- iii. All appeals to the Board of County Commissioners will be reviewed by the director who will determine whether the appeal will be referred to the Planning Commission for a recommendation prior to a County Commissioners' hearing on the appeal.

**e. Burden of Proof**

The appeal will be granted only if the applicant shows by a preponderance of the evidence that granting the appeal will be consistent with the intent and purpose of this Code.

**4. Procedure for Appeals to Deviate from Standards or Requirements Filed Concurrently with Development Applications**

**a. Initiation of Appeal**

A written description of the appeal must be submitted with the development application to the Community Development Department for appeals to deviate from Code standards that are as part of a development application.

**b. Contents of Appeal**

The appeal must be submitted on a form provided by the Community Development Department and must include a statement of the Code provision being appealed and evidence that supports the appeal, including evidence that demonstrates how the review criteria in §§6.7.2.B.5 or 6.7.2.B.6 for the appeal are being met. The director may request additional information necessary to evaluate the appeal.

**c. Scheduling**

Appeals submitted as part of a development application will be heard concurrently with said application. If the associated development application does not require a public hearing, the appeal will be scheduled for a hearing prior to the approval of the associated development application.

**d. Notice**

Notice of the time and place of the appeal hearing must be published in a newspaper of general circulation at least 10 days before the hearing date. Notice by first-class mail may be sent to property owners in the vicinity of the proposal if the Director determines such notice is appropriate.

**e. Action by the County Commissioners**

- i. At the appeal hearing the County Commissioners will take relevant evidence and testimony from the person who filed the appeal, county staff and any interested party.

- ii. At the conclusion of the hearing the County Commissioners will affirm, affirm with modifications, or deny the appeal.
- iii. All appeals to the Board of County Commissioners will be reviewed by the director who will determine whether the appeal will be referred to the Planning Commission for a recommendation prior to a County Commissioners' hearing on the appeal.

**f. Burden of Proof**

The appeal will be granted only if the applicant shows by a preponderance of the evidence that granting the appeal will be consistent with the intent and purpose of this Code.

**5. Review Criteria for Appeals to Deviate from Standards or Requirements Other Than Minimum Lots Size Requirements**

When considering whether to approve an appeal to deviate from standards or requirements of the Code, other than minimum lot size requirements, the County Commissioner may grant the appeal subject to safeguards and conditions with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one which, in their discretion, applies to the appeal:

- a. Approval of the appeal will not subvert the purpose of the standard or requirement.
- b. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood.
- c. Approval of the appeal is the minimum action necessary.
- d. Approval of the appeal will not result in increased costs to the general public.
- e. Approval of the appeal is consistent with the intent and purpose of the Code.

**6. Review Criteria for Appeals to Deviate from Minimum Lot Size Requirements**

When considering whether to approve an appeal to deviate from the minimum lot size requirements of this Code, the County Commissioners may grant the appeal subject to safeguards and conditions consistent with their findings concerning the following factors. The County Commissioners will consider each of the following factors and make findings pertaining to each one, which in their discretion, applies to the appeal:

- a. The lot size being proposed is consistent with the pattern of existing lots in the neighborhood.
- b. The proposed lot has sufficient area to support the intended use of the lot.
- c. There are physical features of the site or other special circumstances that support the proposed lot size.
- d. Granting the lot size appeal is consistent with the intent and purpose of this Code.

**7. Review Criteria for Appeals to Article 8.0, Signs**

To approve an appeal from the applicable requirements in Article 8.0, *Signs*, the County Commissioner must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:



- a. Approval of the appeal is consistent with the purpose and intent of this Code.
- b. There are extraordinary or exceptional conditions on the site which would result in a peculiar or undue hardship on the property owner if Article 8.0, *Signs* are strictly enforced.
- c. Approval of the appeal would not result in an economic or marketing advantage over other business which have signs which comply with Article 8.0, *Signs*.

## **C. Appeals to the Board of Adjustment**

### **1. Applicability**

- a. The Board of Adjustment is authorized to hear and decide appeals where:
  - i. A person is aggrieved by their inability to obtain a building permit as a result of an error by an administrative officer or agency in the administration or enforcement of:
    - 1) The minimum setback or structure height requirements of Article 2.0, *Zoning Districts*; or
    - 2) §2.9.4.E, *Setbacks from All Roads, Streets, and Highways*, and §2.9.4.F, *Setbacks from Streams, Creeks, and Rivers*.
  - ii. An officer, department, board, or bureau of the county is affected by the grant or refusal to grant a building permit as a result of an error by an administrative officer or agency in the administration or enforcement of the requirements listed in §6.7.2.C.1.a.i above; or
  - iii. A person asserts that there is an error in any order, requirement, decision, or refusal made by an administrative officer or agency in the administration or enforcement of the requirements listed in §6.7.2.C.1.a.i above.
- b. The Board of Adjustment is authorized to hear appeals on decisions made by the Director on minor modifications. All other appeals of the Director's interpretations of the provisions of this Code or application of the provisions of this Code are expressly reserved to the County Commissioners.

### **2. Procedure for Appeals to the Board of Adjustment**

#### **a. Initiation of Appeal**

A written application must be submitted to the Community Development Department within 30 days of the order, requirement, decision, or refusal made by the administrative official or agency. The application must be on a form provided by the Community Development Department. A fee established by the County Commissioners must be paid when the appeal is submitted.

#### **b. Scheduling**

Upon receipt of the application, the Director will schedule a hearing before the Board of Adjustment no later than 60 days after receipt of the application pursuant to §6.3.7.

#### **c. Notice**

Notice of the time and place of the appeal hearing must be published in a newspaper of general circulation at least 10 days before the hearing date. Notice by first-class

mail must be sent to property owners in the vicinity of the proposal as determined by the Director.

**d. Action by the Board of Adjustment**

At the appeal hearing, the Board of Adjustment will take relevant evidence and testimony from the appellant, the administrative officer or agency, and any interested party. At the conclusion of the hearing, the Board of Adjustment will affirm, affirm with modifications, or reverse the determination made by the administrative officer or agency. A concurring vote of four members of the Board of Adjustment is necessary to reverse any order, requirement, decision, or refusal of the administrative official or agency or to decide in favor of the appellant.

**e. Burden of Proof**

An order, requirement, decision, or refusal of the administrative officer or agency shall not be reversed unless the appellant shows a preponderance of evidence that such order, requirement, decision, or refusal is erroneous.

**D. Appeals from Decisions of the Flood Review Board**

**1. Applicability**

Any person aggrieved by a decision of the Flood Review Board can appeal the decision to the County Commissioners.

**2. Procedure for Appeals from Decisions of the Flood Review Board**

- a. Appeals may be initiated by filing a notice of appeal with the County Commissioners within 30 days after the date of the Flood Review Board decision and paying any applicable fees.
- b. Upon receiving notice of appeal, the County Commissioners will set a date for hearing the appeal no sooner than 30 days and no later than 60 days after receipt. Written notice of the appeal designating the date, time, and place of the hearing along with the appellant's name must be mailed to the appellant (and to the applicant if the appellant is someone other than the applicant) at least 14 days prior to the hearing. Notice of the date, time, and place of the hearing must also be published in a newspaper of general circulation in Larimer County at least 14 days prior to the hearing.
- c. At the appeal hearing, the County Commissioners will take relevant evidence and testimony from the appellant and from any other interested party or person. At the conclusion of the hearing, the County Commissioners will affirm, affirm with modifications, or reverse the decision made by the Flood Review Board.
- d. A decision of the Flood Review Board shall not be reversed unless the appellant shows a preponderance of evidence that the decision is in error or inconsistent with this Code.

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**6.7.3. Zoning Variances**

**A. Purpose**

The purpose of a zoning variance is to grant a landowner relief from certain standards in this Code where, due to exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and

exceptional situations or conditions of the property, the strict application of the standards would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the property owner.

**B. Applicability**

When consistent with the review criteria listed below, the Board of Adjustment may grant zoning variances from the minimum setback requirements and the maximum structure height requirements of Article 2.0, *Zoning Districts*. An application for zoning variance is not a development application.

**C. Procedure**

Figure 6-14 identifies the applicable steps from §6.3, *Common Review Procedures*, that apply to the review of variance applications. Additions or modifications to the common review procedures are noted below.

**Figure 6-14: Summary of Variance Procedure**

1	Pre-Application Conference	Required	Neighborhood Notice and Application Processing
2	Sketch Plan	Not Required	
3	Neighborhood Meeting	Not Required	
4	Application Submittal and Processing	Submit to Director	
5	Staff Review	Review by Director	
6	Scheduling and Notice of Public Hearings	BOA hearing required	Hearing and Decision- making
7	Review and Decision	Review and decision by BOA	
8	Post-Decision Actions	<ul style="list-style-type: none"><li>– Expires after 12 months if no action</li><li>– May be appealed to the district court</li></ul>	

**1. Pre-Application Conference**

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

**2. Application Submittal and Processing**

The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*. Neighbor referral is not required.

**3. Staff Review**

The staff shall review the application and prepare a staff report and recommendation in accordance with §6.3.6, *Staff Review*.

**4. Scheduling and Notice of Hearings**

The application shall be scheduled for a public hearing before the Board of Adjustment and noticed in accordance with §6.3.7, *Scheduling and Notice of Hearings*.

**5. Review and Decision**

The variance shall be reviewed and decided upon in accordance with §6.3.8: *Review and Decision*, with the following modifications:

**a. Conditions of Approval**

- i. The Board of Adjustment may impose conditions on a zoning variance necessary to accomplish the purposes and intent of this Code and the Comprehensive Plan and to prevent or minimize adverse impacts on the general health, safety, and welfare of property owners and area residents.
- ii. All approved zoning variances run with the land, unless conditions of approval imposed by the Board of Adjustment specify otherwise.
- iii. The Board of Adjustment may require, as a condition of approval, that the applicant sign a development agreement to ensure completion of any public improvements related to the approved zoning variance.

**6. Post-Decision Actions and Limitations**

The common procedures in §6.3.9: *Post-Decision Actions and Limitations*, shall apply, with the following modifications:

- a. All Board of Adjustment decisions shall be recorded with the County Clerk and Recorder.
- b. All Board of Adjustment decisions regarding a zoning variance are final. Decisions can be appealed to court.
- c. All zoning approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

**D. Review Criteria**

To approve a zoning variance application, the Board of Adjustment must find that paragraph 1, 2, or 3 has been met and that paragraphs 4, 5, and 6 have each been met:

**1. Strict compliance with the standard sought to be varied will cause either:**

- a. A peculiar and exceptional practical difficulty; or
- b. An exceptional and undue hardship on the owner by reason of an exceptional physical condition of the property such as narrowness, shallowness, topography, or location of the property, or other extraordinary and exceptional situation unique to the property provided the difficulty or hardship is not caused by the act or omission of the applicant.

**Or**

- 2. The requested variance will promote or maintain the general purpose of the standard for which the variance is sought and will be equal to or better than the standard; or

3. The requested variance will diverge from the standard only in a nominal, inconsequential way when considered in the context of property in the vicinity of the subject land or structure.

**And**

4. Granting the variance will not result in a substantial adverse impact on other properties in the vicinity of the subject land or structure or be a detriment to the public good; and
5. Granting the variance will not substantially impair the intent and purpose of the Code and Comprehensive Plan; and
6. The recommendations of referral agencies have been considered.

## 6.8. Review and Decision-Making Bodies

### 6.8.1. Purpose

This section describes the organization, powers, and duties of those responsible for administration of this Code.

### 6.8.2. Board of County Commissioners

1. The Board of County Commissioners (County Commissioners) has the following powers and duties under this Code:
  - a. The review and decision-making authority as shown in Table 6-1: *Development Review Procedures Summary*; and
  - b. To take such other action not delegated to the Planning Commission, the Zoning Board of Adjustment, the Hearing Officer, or heads of County departments, as the County Commissioners may deem desirable and necessary to implement this Code.
2. Prior to making a final decision on any appeal, the County Commissioners may refer the matter to the Planning Commission for a recommendation.
3. Public hearings will be conducted in accordance with §6.3.8 of this Code. At the public hearing, the County Commissioners will consider all information presented by the applicant and the county staff, any verbal or written testimony and the recommendation of the Planning Commission. The County Commissioners will review the application with respect to the review criteria of this Code and all information and testimony to decide whether to approve, approve with conditions or deny the application. The County Commissioners may announce their decision at the conclusion of the hearing. The County Commissioners' official final decision will be in the form of a written resolution that states how the proposal meets or fails to meet the applicable review criteria of this Code.
4. The County Commissioners will administratively approve or deny final plats for planned land divisions, conservation developments, subdivisions, and rural land plans and amended plats at an open meeting. The meeting will be open to the public and the date, time, and location will be posted on the Larimer County website at least 24 hours prior to the meeting. Notice of the meeting will also be given in the County Commissioners' weekly schedule of meetings.

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**6.8.3. Planning Commission**

The Planning Commission has the review and decision-making authority as shown in Table 6-1: *Development Review Procedures Summary*, as well as the following duties:

1. Conduct a public hearing on any other matter specifically referred by the County Commissioners to the Planning Commission for a recommendation.
2. At the public hearing, the Planning Commission will consider all information presented by the applicant and the Community Development Department and any verbal or written testimony. The Planning Commission will review the application with respect to the Comprehensive Plan, this Code and all information and testimony and make a recommendation for approval, approval with conditions or denial. The recommendation must include findings stating how the proposal meets or fails to meet the review criteria of this Code.

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**6.8.4. Board of Adjustment**

The Board of Adjustment has the review and decision-making authority as shown in Table 6-1: *Development Review Procedures Summary*, as well as the following duties:

1. Approve, approve with conditions, or deny applications for zoning variances from certain requirements of this Code as specified in §6.7.3.
2. Hear appeals of certain administrative decisions as specified in §6.7.2.

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**6.8.5. Flood Review Board**

The Flood Review Board has the review and decision-making authority as follows:

1. Review and determine the exact location of a zoning district boundary of the FW, FF, and FH districts as they relate to any specific piece of property;
2. Review and make recommendations regarding floodplain special review applications;
3. Grant variances from the terms and conditions of the floodplain sections of this Code;
4. Review and grant variances to expand a nonconforming use or nonconforming structure in a floodplain;
5. Review and make determinations of interpretations of the floodplain sections of this Code; and
6. Determine the suitability and advisability of alternate methods of construction in the FW, FF, and FH overlay zoning districts.

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**6.8.6. Community Development Director**

The Community Development Director has the review and decision-making authority as shown in Table 6-1: *Development Review Procedures Summary*, as well as the following duties:

1. To undertake the day to day administration of this Code.
2. To receive applications for development permits for processing pursuant to the terms of this Code.
3. To ensure that adequate public notice is provided for applications for development permits pursuant to the terms of this Code.
4. To undertake the current and long-range comprehensive planning responsibilities of the County.
5. To review every five years the Comprehensive Plan and this Code and recommend amendments to the Planning Commission.

6. To coordinate other local, regional, state, and federal planning and permitting processes affecting development in the unincorporated county and to serve as liaison to such local, regional, state, and federal planning agencies having jurisdiction over development in the unincorporated county.
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**6.8.7. Rural Land Use Advisory Board**

The Rural Land Use Advisory Board (RLUAB) is appointed by County Commissioners. It is comprised of nine members who serve three-year staggered terms. Appointments to the RLUAB by the County Commissioners will represent a cross section of the county. The RLUAB will:

1. Make recommendations to the County Commissioners regarding changes to the rural land use process;
2. Evaluate and provide written comments and recommendations regarding proposed preliminary rural land plans. RLUAB members should visit the landowner's property prior to making a recommendation; and
3. Promote the principles, purposes, and objectives of the rural land use process.