



**Town of Green Mountain Falls
Planning Commission Work Session
Meeting Agenda**

**Monday, April 25, 2022 @ 3:00 PM
In-person Meeting @ 10615 Green Mountain Falls Rd
Green Mountain Falls, CO 80819**

OR JOIN ZOOM MEETING:

<https://us02web.zoom.us/j/86517646999?pwd=UnBwbWJNVTRibkw0eGdCb2lFZjBHUT09>

Meeting ID: 865 1764 6999; Passcode: 314583

	ITEM	DESIRED OUTCOME
1.	CALL TO ORDER	
2.	AUDIO CHECK	
3.	ADDITIONS, DELETIONS, OR CORRECTION TO THE AGENDA	
4.	APPROVAL OF MINUTES - April 12, 2022, Regular Meeting Minutes	Action Recommended
	NEW BUSINESS	
5.	Review of Land Use Code Rewrite Final Draft – Installment 1 of 3	Action Recommended
	OLD BUSINESS	
6.	Code Rewrite Next Steps	
7.	OTHER BUSINESS	
8.	Adjournment	

**Register for public comment by 2:00 PM the day of the meeting: planner@gmfco.us

Planning Commission Members:

Todd Dixon, Chair

Lamar Matthews, Commissioner

Sean Ives, Commissioner

Paul Yingling, Commissioner

Mike Frey, Commissioner



MEETING MINUTES
Planning Commission
April 12, 2022
6:30 p.m. In-Person and Zoom Meeting

Commissioners Present: Todd Dixon, Sean Ives, Mike Frey, Lamar Matthews (Zoom), Paul Yingling (Zoom)

Commissioners Absent:

Ex Officio Member: Jane Newberry

Board of Trustees Liaison:

GMF Staff: Nate Scott (Town Clerk/Treasurer/Planner)

Agenda Item	Motion/Discussion	M/S	TD	SI	LM	PY	MF
1. CALL TO ORDER / ROLL CALL	Meeting called to order at 6:32pm						
2. AUDIO CHECK	Audio is good for Zoom participants.						
3. ADDITIONS, DELETIONS, & CORRECTIONS TO THE AGENDA	No changes. Motion to approve agenda passed unanimously.	PY/LM	A	A	A	A	A
4. APPROVAL OF MINUTES a. March 8, 2022, Regular Meeting Minutes b. March 10, 2022, Special Meeting Minutes	No changes. Motion to approve minutes from both meetings as presented passed unanimously.	LM/PY	A	A	A	A	A
NEW BUSINESS							
5. Application 20220329 – 11145 and 11155 Falls Ave – Vacation of Lot Line	TCT Scott gave a summary about the process to create the structure for this application for an Administrative Vacation. Mr. Frey gave a summary of the ownership/quit claim deed situation. Mr. Frey left the room at 6:42 to allow for discussion. Motion to approve application passed unanimously.	LM/PY	A	A	A	A	Abstain

MEETING MINUTES

Planning Commission

April 12, 2022

6:30 p.m. In-Person and Zoom Meeting

<p>6. Application 20220223 – 6796 Pine St - Architectural and Zoning Application for Single Family Home Addition and ROW Easement Request</p>	<p>TCT Scott gave a summary about this application, including front/side consideration, nonconformity of the current deck, etc. Explained the process about the easement request for the entry portico. Discussion ensued about how the easement would affect the ROW moving forward.</p> <p>Motion to approve the architectural and zoning application and recommend easement approval to the Board.</p>	<p>PY/SI</p>	<p>A</p>	<p>A</p>	<p>A</p>	<p>A</p>	<p>A</p>
<p>7. Application 20220405 – 11120 Pueblo Ave – New Deck</p>	<p>TCT Scott gave a summary about the project. Mr. Yingling turned zoom audio off to allow for discussion at 7:27 p.m.</p> <p>No further discussion. Motion to approve the application as presented.</p>	<p>LM/SI</p>	<p>A</p>	<p>A</p>	<p>A</p>	<p>Abstain</p>	<p>A</p>
<p>OLD BUSINESS</p>							
<p>8. Code Rewrite Updates and Next Steps</p>	<p>TCT Scott explained what we have received so far and that there is a grant deadline of June 30, 2022. In order to close out grant, there must be Board adoption of new code, so we may need another extension for this. Discussion ensued about logistics and timeline. Consensus that we should ask for an extension. Next step is a work session on April 25 to review Installment 1. TCT Scott will send the doc to all for comments by April 20.</p>						
<p>9. OTHER BUSINESS</p>	<p>No other business.</p>						
<p>10. ADJOURNMENT</p>	<p>Meeting adjourned at 7:52 p.m.</p>						

Chapter 12 – Land Use Code

Article 1: General Provisions

12-1-10: Title, Validity and Severability

- (a) Title and Short Title. This Chapter, as amended from time to time, shall be known and may be cited as the Town of Green Mountain Falls Land Use Code. It may also be referred to within this document as the “Land Use Code,” “Chapter 12,” or “this Chapter.”
- (b) Presumption of Validity. All provisions of this Chapter are presumed to be valid and enforceable. In any challenge to the validity of any provision, the burden of proof shall rest with the person bringing the challenge.
- (c) Effective Date. This Chapter shall become effective on **<month/day>**, 2022.
- (d) Severability. If any section, subsection, paragraph, clause, phrase or provision of these regulations shall be adjudged invalid or held to be unconstitutional by a court of competent jurisdiction, the validity of these regulations shall not be affected in whole or in part, other than the provision adjudged to be invalid or unconstitutional.

12-1-20: Purpose

This Land Use Code is designed and enacted for the purpose of promoting the health, safety, quality of life, convenience, order, ~~prosperity~~prosperity, and general welfare of the present and future inhabitants of the Town by:

- (a) Lessening congestion in the streets and roads;
- (b) Securing safety from fires, flood water, and other dangers;
- (c) Providing for light and air;
- (d) Promoting the healthful and convenient distribution of population and avoiding undue congestion;
- (e) Ensuring the efficient use of land;
- (f) Facilitating the adequate provision of transportation, water, public utilities, schools, and other public requirements;
- (g) Securing protection of the tax base; and
- (h) By other means in accordance with the Town of Green Mountain Falls Comprehensive Plan.

12-1-30: Applicability

- (a) Jurisdiction. This Chapter and Land Use Code shall apply to all public and private land and all land uses within the legal and municipal boundaries of the Town of Green Mountain Falls, Colorado.
- (b) Compliance Required. No permit, certificate, or approval of any use that is subject to this Chapter shall be issued or granted by any department, agency, Town official, or Town employee without a finding of substantial compliance with this Chapter having been issued by the appropriate review authority. Unless otherwise stated in this Chapter, no



building or structure shall be erected, converted, enlarged, reconstructed, or altered without a determination of substantial compliance with this Chapter. No lot of record shall be created by subdivision or otherwise unless it complies with this Chapter.

- (c) Municipal Code. Whenever any provision of this Chapter conflicts with other provisions of the Municipal Code, the stricter provision, as determined by the Town Attorney, shall govern.

12-1-40: Transition from Prior Regulations

- (a) Development Approvals. Any development approved under regulations in effect prior to the effective date of this Chapter may be carried out under the terms and conditions of the approval and the development standards in effect at the time of approval, provided the approval has not expired and the development complies with any applicable standards of this Chapter regarding ongoing operations and maintenance. If the prior approval expires, is revoked, or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this Chapter.
- (b) Pending Applications. A development application that has been determined and documented to be complete pursuant to Town planning or administrative staff, prior to the effective date of this Chapter may be decided under the regulations in effect when the application was determined to be complete, or may be reviewed and decided under this Chapter at the request of the applicant. Applications shall not be processed under a combination of prior regulations and this Chapter.
- (c) Prior Violations. If a development or activity in violation of the prior development regulations fully complies with this Chapter, it shall no longer be deemed a violation. Unpaid fees and/or penalties from prior enforcement of violations are still valid and shall remain the responsibility of the violator under the prior regulations.

12-1-50: Nonconformities

- (a) Purpose. The purpose of this Section is to regulate and limit the development and continued existence of legal uses, structures and lots that were lawfully established prior to the effective date of this Chapter, and any future amendments, but that no longer conform to the requirements of this Chapter. All such situations are collectively referred to in this section as “nonconformities.” While nonconformities may continue, the intent of this section is to curtail substantial investment in nonconformities to bring about their eventual elimination and to preserve the integrity of this Chapter and the stated policies and goals of the Town of Green Mountain Falls.
- (b) Regulations Applicable to All Nonconformities
 - (1) *Authority to Continue*. Nonconformities may continue to be used and occupied, subject to regulations as to the maintenance of premises and conditions of operations set forth in this Section, or unless such nonconformity is terminated as provided in this Section.

Commented [TC1]: Paul Yingling: How would prospective buyer know if they were purchasing a non-conforming structure? Does the town make the list of nonconformities public? Does the seller have an obligation to disclose?

Sean Ives: The definition is very vague and I don't believe that someone attempting to be in compliance will easily understand what is meant.

How shall the owner establish a nonconformity?



(2) *Determination of Nonconformity Status.* The burden of establishing the existence of a nonconformity shall be solely on the owner of the property containing the nonconformity.

(3) *Maintenance and Minor Repair*

- a. Minor repairs or maintenance of nonconformities are permitted and encouraged, provided that the repairs and/or maintenance do not increase the nonconformity of any structure, use, or lot. Maintenance and repairs that qualify as “minor” include the following:
 1. Repairs necessary to maintain and to correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a building or structure, without expanding the building or structure;
 2. Maintenance of land to protect against and mitigate health and environmental hazards;
 3. Repairs that are required to remedy otherwise unsafe conditions; and
 4. Repairs necessary to comply with current building code requirements.
- b. Minor repairs and maintenance shall only be conducted in compliance with building code requirements and shall obtain the necessary permits pursuant to this Code.
- c. Repairs and maintenance within an area of special flood hazard shall comply with the applicable provisions of Section 12-4-10.

(4) *Change of Ownership or Tenancy.* Changes of ownership, tenancy, or management of property within an existing nonconformity may occur, but such nonconformities shall continue to be subject to the standards of this Section.

(5) *Compliance to the Maximum Extent Practicable.* Where compliance with the requirements of this section is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, hazard areas, or other significant environmental constraints, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Director.

(c) Nonconforming Uses

Nonconforming uses of land or structures are subject to the following additional limitations:

(1) *Limitations on Continuation of Nonconforming Uses of Lands or Structures*

- a. A nonconforming use may be extended throughout the same building, provided that:
 1. No structural alteration of the building (or portion of such building containing the nonconforming use in the case of buildings with multiple uses) shall be permitted unless it complies with Section 12-1-50(d)(1), *Additions to Nonconforming Structure*, below.
 2. No additional dwelling units shall be permitted in the building; and
 3. No additional nonresidential units and/or uses shall be permitted.



- b. Any existing occupied single-family residential dwelling that is deemed to be a nonconforming use may make improvements to the main and accessory structures so long as improvements do not increase the degree of nonconformity or increase the height or building footprint.
- c. No additional structure not conforming to the requirements of this Chapter shall be erected in connection with the nonconforming use of land or structure.

(2) *Changes of Use*

- a. A nonconforming use may be changed to another nonconforming use, provided the Director determines that the new use creates no greater impacts on surrounding properties and is no more intensive than the use it replaces, and no structural alterations to the building are required to accommodate such change. A nonconforming use that has been changed to a less nonconforming use, as determined by the Director pursuant to this subsection may not subsequently be changed back to a more nonconforming use.
- b. A nonconforming use, if changed to a conforming use, may not subsequently be changed back to any nonconforming use unless otherwise permitted by this Chapter.

Commented [TC2]: Sean Ives: Is the Director a substitute for Manager or Mayor?

- (3) *Discontinuation of Nonconforming Use.* Whenever a nonconforming use of land or a building has been discontinued for a period of one (1) year, future use of land or building shall comply with this Chapter.

(d) Nonconforming Structures

Nonconforming structures are subject to the following additional limitations:

(1) *Additions to Nonconforming Structure*

- a. A nonconforming structure may be extended or altered in a manner that does not increase its nonconformity or create a new nonconformity, but any structure or portion of a structure may be altered to decrease the nonconformity of the structure. No such change shall further encroach into any already-nonconforming setback.
- b. An extension to a nonconforming structure may be permitted by the Town Manager or Director to comply with the provisions of the Americans with Disabilities Act (ADA), provided that it is demonstrated that the only way to comply with the Act would be through an extension which increases the structure's nonconformity, and that the extension is the minimum necessary to comply with the Act.

- (2) *Restoration Following Damage or Destruction.* A nonconforming structure that has been damaged or destroyed by fire or other causes may be restored to its original condition, provided that such work is commenced within twelve (12) months of such event and completed within twenty-four (24) months of such event. By written request of the property owner, the Director may grant one extension of the completion of work time period.



(3) *Movement of a Nonconforming Structure.* A nonconforming structure shall not be moved to another location unless it shall thereafter conform to the provisions of the zone district into which it is moved.

(e) Nonconforming Lots

Nonconforming lots are subject to the following additional limitations:

- (1) A primary structure and customary accessory buildings and structures may be developed on a lot that is nonconforming as to minimum lot size or minimum lot frontage, provided that it can be located on the lot so that all other dimensional standards are met, or a variance from said dimensional standards is obtained pursuant to section 12-7-70(a) and provided that the development complies with all other standards of this Chapter.
- (2) No lot that is conforming as to minimum lot size or minimum lot frontage may be reduced in size or subdivided in such a way that it creates a nonconforming lot, causes any structure or use to become nonconforming, or causes the nonconformity of any use to increase.

12-1-60: Enforcement, violations and penalties.

- (a) It is unlawful to violate any of the provisions of this Chapter or to erect, construct, reconstruct, alter, maintain, or use any building or structure or to use any land in violation of any provision of this Chapter. Any person, as owner, lessee, occupant, or otherwise, who violates or fails to comply with any provision of this Chapter shall, upon conviction thereof, be punished pursuant to Chapter 1, Article IV of this Code.
- (b) Each day a violation is committed or permitted to continue shall constitute a separate offense.
- (c) Should any building or structure be or proposed to be erected, constructed, altered, maintained, or used, or any land is proposed to be ~~used~~, in violation of this Chapter, the Town Attorney, at the direction of the Board of Trustees, and in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or other appropriate action or proceeding to enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.
- (d) All remedies provided for in this Section are cumulative, and are not exclusive and shall be in addition to any other remedies provided by law.

Article 2: Zoning Districts

→ Introduces the new lineup of zoning districts, and includes the dimensional standards for those districts. Also discusses overlay districts and planned unit developments.

12-2-10: Zoning Districts Established

12-2-20: Single and Two-Family Residential District (SFR)

12-2-30: Multi-Family Residential District (MFR)

12-2-40: Business District (B)

12-2-50: Public and Semi-Public District (PF)

12-2-60: Parks and Open Space District (OSP)

12-2-70: Planned Unit Development District (PUD)

12-2-80: Overlay Districts



Article 3: Use Regulations

→ Combines similar use-specific standards into one location. Sections that regulate use are organized separately from zoning district standards and review procedures.

12-3-10: Purpose and Applicability

12-3-20: Table of Allowed Uses

12-3-30: Use-Specific Standards

12-3-40: Accessory Uses and Structures

12-3-50: Temporary Uses and Structures

Article 4: Development and Design Standards

→ Consolidates design standards in one place. Also adds other topic areas that assign standards to development. (staff noted these are bulky in current code, not usable in practice)

12-4-10: Flood Damage Protection

12-4-20: Signs

12-4-30: Fences

12-4-40: Grading and Drainage

12-4-50: Streets, Utilities and Services

12-4-60: Access, Connectivity and Circulation

12-4-70: Off-Street Parking and Loading

12-4-80: Landscaping, Buffering and Screening

12-4-90: Site and Building Design

12-4-100: Lighting

Article 5: Subdivisions

→ Includes subdivision regulations (currently in Chapter 17) that are not addressed elsewhere in the new Chapter 12

12-5-10: Purpose and Applicability

12-5-20: General Provisions for All Subdivisions

12-5-30: Lot and Block Layout

12-5-40: Street Standards

12-5-50: Required Improvements and Dedications

12-5-60: Residential Condominium Standards

Article 6: Historic Preservation

12-6-10: Purpose and Applicability

12-6-20: Designation of local historic districts and landmarks; procedure

12-6-30: Historic district and landmark designation review standards

12-6-40: Activities subject to review and certificate of approval regarding landmarks or within historic districts

12-6-50: Demolition or relocation of buildings, structures or sites

12-6-60: Certificates of approval; procedure

12-6-70: Certificates of approval; review standards

12-6-80: Exempt Activity and Exceptions



12-6-90: Removal of landmark, contributing or historic district designation

Article 7: Administration and Procedures

12-7-10: Purpose and Organization of this Article

- (e) The purpose of this Article is to provide consistent, equitable procedures for the review of development applications to ensure that development will be in accordance with the purpose and standards of this Chapter.
- (f) This Article describes the review and approval procedures for application for land use and development in the Town, and is divided into the following sections:
 - (1) Section 12-7-30, *Common Review Procedures*, describes the standard procedures that apply to most development application types.
 - (2) Sections 12-7-40 through 12-7-70 contain specific information on each application type, including approval criteria and any additions or modifications to the common review procedures.
 - (3) Section 12-7-80 describes the review and decision-making authorities, including the Board of Trustees, the Planning Commission, the Director, and other Town officials.

12-7-20: Summary Table of Development Review Procedures

Table 7-A lists the development applications authorized by this Chapter. For each type of application, the table indicates whether a pre-application conference is required, and approval role of decision makers.

Table 7-A: Summary of Development Review Procedures					
R: Recommend D: Decide A: Appeal *: Public Hearing required					
Procedure	Code Section	Pre-Application Conference	Admin. Review	Planning Commission	Board of Trustees
Ordinance Amendments					
Rezoning	12-7-40(a)	Required	R	R*	D*
Rezoning to Planned Unit Development (PUD)	12-7-40(b)	Required	R	R*	D*
Code Text Amendment	12-7-40(c)	Optional	R	R*	D*
Development Permits					
Minor Site Plan	12-7-50(a)	Required	D	A	
Major Site Plan	12-7-50(b)	Required	R	D*	A
Conditional Use	12-7-50(c)	Required	R	R*	D*
Subdivisions					
Minor Subdivision	12-7-60(a)	Required	D	A (if Director decides)	D* (if public dedication required)
Major Subdivision - Preliminary Plat	12-7-60(b)	Required	R	D*	A
Major Subdivision - Final Plat	12-7-60(c)	Optional	R	R*	D*
Condominiumization	12-7-60(d)	Required	R	R*	D*
Vacation of Plat, Right-of-Way, or Easement	12-7-60(e)	Required	R	R*	D*
Historic Preservation					



Landmark and District Designation	12-6-30	Optional	R	D*	A
Certificate of Approval	12-6-70	Optional	R		
Demolition Permit	12-6-50	Optional	R		
Variance Relief and Appeals					
Variance	12-7-70(a)	Required	R	D* (Board of Adjustment)	
Appeals	12-7-70(b)		<i>Pursuant to specific appeal procedures</i>		

12-7-30: Common Review Procedures

(a) **Purpose.** This Section describes the standard procedures and rules applicable to all development applications unless otherwise stated in this Code. Common review procedures include some or all of six steps, listed and shown below. Application-specific procedures in sections 12-7-40 through 12-7-70 identify additional procedures and rules beyond those in this Section.

(b) **Pre-Application Conference**

(1) **Purpose.** The pre-application conference is intended to provide an opportunity for the applicant to meet with Town staff to review submittal requirements, review procedures, and applicable Code standards associated with the proposed development.

(2) **When Required.** A pre-application conference is required for certain applications as listed in Table 7-A, and is optional for all other applications

(3) **Procedure**

- a. **Request.** The applicant shall submit a request for a pre-application conference to the Planning Department on a form prescribed by the Director.
- b. **Required Information.** Prior to scheduling the pre-application conference, the applicant shall submit the following:
 - 1. A written description of the project;
 - 2. Conceptual drawings showing the location, layout, and key elements of the proposed development;
 - 3. Specific uses, location of uses, and densities proposed;
 - 4. Proposed construction phasing, if applicable; and
 - 5. Location of required public improvements, if applicable.
- c. **Scheduling.** When required or requested by the applicant, the Director shall schedule pre-application conferences and notify appropriate staff and the applicant of the time and location of the meeting.
- d. **Conference Determinations.** Town staff attending the pre-application conference will identify initial concerns or issues the applicant should address related to the scope, features, and potential impacts of the project as they relate to this Chapter. Town staff will also indicate the approval procedures required for the proposed project.

(c) **Application Submittal and Handling**



(1) *Authority to Submit Application*

- a. 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 the development or activity is proposed; or
 - 2. A person authorized to submit the application on behalf of the owner, contract purchaser or other persons having a recognized property interest in the land, as evidenced by a letter or document signed by said individual.
- b. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such individuals shall sign the application or a letter consenting to the application.
- c. No application shall be submitted prior to attending a pre-application conference, if required pursuant to Table 7-A, *Summary of Development Review Procedures*.

(2) *Concurrent Review.* When a proposed development involves multiple application types, the applications may be reviewed concurrently at the option of the applicant.

(3) *Application Content.* The application shall be submitted to the Director on a form established by the Director. The applicant bears the burden of demonstrating compliance with application requirements.

(4) *Application Fees*

- a. **General.** Every application filed pursuant to this Chapter shall be submitted with the appropriate fees and charges for the type of application being submitted. This may also include a cost reimbursement agreement in a form approved by the Town Attorney. The amount of such fees and charges shall be established by resolution of the Board of Trustees, as may be amended from time to time, and available for review by the public at Town Hall during normal business hours.
- b. **Additional Fees for Outside Consultation**
 - 1. In addition to the minimum application fees, if additional review by an outside professional is necessary to make a determination, the applicant shall also be charged the actual review costs and fees for outside professional services for review of the application.
 - 2. The minimum application fees shall be due and payable upon submission of the application. In addition, at the time of submittal of the application, the applicant shall deposit funds equal to two times the minimum application fee to be used as the initial payment to offset the costs of outside professional services for review of the application.
 - 3. After exhaustion of the initial deposit, statements for professional review services shall be mailed to the applicant, and payment of such amounts is due within 30 days of receipt of the statement. Interest shall be imposed at a rate of one and one-half percent per month on all balances not paid within 30 days of the statement.
 - 4. All costs of providing notice, including publication, mailing and posting, shall be borne by the applicant. Recording and filing fees imposed by the County

Commented [TC3]: This ok?

Sean Ives: Is there a system already in place for collecting and tracking such things?

Paul Yingling: This seems high - 18% annual interest. Even if legal, it's excessive.



- Clerk and Recorder, and others, as a result of the application, shall be advanced by the applicant prior to the documents being recorded.
- c. Land use approval documents shall not be deemed effective until recorded in the real property records of the County (if required pursuant to the specific application type) and all fees and charges owed to the Town are paid in full.
 - d. In the event the Town is forced to pursue collection of any amounts due and unpaid, the Town shall be entitled to collect attorney's fees and costs incurred in such collection efforts in addition to the amount due and unpaid. The Town reserves the right to suspend review of an application, withhold approval, or postpone public hearings if an applicant fails to pay outstanding review fees as required. Delinquent charges may be certified to the County Treasurer and collected in the same manner as municipal taxes according to the procedure established in the Municipal Code

Commented [TC4]: Does town submit for recording or applicant?

Commented [TC5]: This is why town should

(5) *Application Review Timeline.* The Director shall establish a review timeline for development applications and shall include that information in the Town's Land Use Administrative Manual. The Director may amend the timeline to ensure effective and efficient review under this Chapter.

(6) *Determination of Application Completeness*

- a. Upon receipt of the submittal, the Director shall review the application for completeness in accordance with the pre-application checklist and the applicable requirements of this Chapter. Within thirty (30) days of the submittal, the Director shall determine if the application is complete and entitled to proceed.
- b. In the event the Director determines that an application is incomplete, the Director shall notify the applicant in writing by stating the deficiencies.

(7) *Abandoned Applications.* If an application has not been resubmitted to address the noted deficiencies within six months, then such application shall be deemed abandoned. Abandoned applications may require a new pre-application conference and may be subject to additional fees.

Commented [TC6]: Ok with this?

Commented [TC7]: Paul Yingling: At whose discretion?

(8) *Minor Application Revisions.* An applicant may revise an application after receiving notice of compliance deficiencies following staff review. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff, 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 application revisions shall be processed as a new application.

(9) *Application Withdrawal*

- a. 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.
- b. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the Director may refund fees not expended during the first round of staff review if the application is withdrawn within 10 days of



acceptance and prior to preparation or distribution of any official written comments.

(d) Staff Review and Action

(1) *Department and Agency Referral Review*

- a. The Director shall distribute the complete application to the appropriate staff and other internal and external review agencies per the Town's Land Use Administrative Manual.
- b. Such review agencies shall provide comments to the Director within fourteen (14) days following the distribution.

(2) *Staff Review and Application Revisions*

- a. Staff shall review the application and submit recommendations and comments to the applicant in a form established by the Director. The Director shall compile the comments from other reviewers and agencies and shall consider and incorporate such comments as necessary into the written summary of the issues provided to the applicant.
- b. Following receipt of staff comments, the applicant may request at their discretion a meeting with the Director to discuss staff recommendations and comments.
- c. An application shall not move forward for further review until the Director determines that the applicant has adequately addressed the Town's recommendations and comments.

(3) *Applications Subject to Staff Recommendation*

- a. **Staff Report.** For applications subject to staff recommendation per Table 7-A, staff shall prepare a written staff report. Such report shall state whether the application meets the requirements of this Chapter and other applicable standards of the Town and shall include a recommendation for consideration by the appropriate decision-making body.
- b. **Distribution and Availability of Application and Staff Report.** The Director shall submit a copy of the staff report to the applicant and the advisory or decision-making body, and shall make the report and related materials available for public review within a reasonable timeframe to review prior to any public meeting, public hearing, or decision.

(4) *Applications Subject to Staff Approval*

- a. **Decision**
 1. If an application is subject to staff review and final decision by the Director, the Director shall make the decision based on review standards applicable to the application type. The decision shall be in writing and if denied or approved with conditions, shall clearly state the reasons for denial or any conditions of approval.
 2. If the Director requests changes or additional information during its review, the applicant shall submit copies of the required changes or information to the Director. The Director shall review the additional submittal with appropriate Town departments and other agencies.



- b. **Effect of Decision.** For administrative approval, the Director’s decision is final.
- c. **Conditions of Approval.** Any conditions of approval shall be limited to the minimum conditions necessary to ensure compliance with the requirements of this Chapter and shall relate directly to the anticipated impacts of the proposed development or activity.

(e) Scheduling and Notice of Public Hearings

(1) *Scheduling Public Hearings*

- a. If an application is subject to a public hearing pursuant to Table 7-A, the Director shall schedule the public hearing for either a regularly scheduled meeting or a special meeting of the decision-making body.
- b. The public hearing shall be scheduled to allow sufficient time to prepare a staff report pursuant to subsection 12-7-30(d)(3)a.

(2) *Notice of Public Hearings*

- a. **General Requirements.** Unless otherwise stated in this Chapter, for all actions requiring a public hearing pursuant to Table 7-A, the applicant shall provide public notice and shall demonstrate that such public notice conforms to the requirements of this subsection and the Town’s Land Use Administrative Manual.

b. **Responsibility of Party Seeking Hearing**

- 1. The applicant or person seeking the public hearing shall be responsible for the accuracy and proper publication, mailing, and posting of notice, and shall bear the costs incurred by such notice.
- 2. The applicant shall provide certification that proper notice has been provided, including photographic evidence (for posted notices). The format of such certification shall be established by the Director. The applicant shall submit the certification to the Director prior to the start of the scheduled hearing.

c. **Notice Format and Content**

- 1. Content of all Public Notice types shall:
 - a) Identify the application type;
 - b) Describe the nature and scope of the proposal;
 - c) Identify the location subject to the application, including address and legal description, if available;
 - d) Identify the date, time and location of the hearing;
 - e) Identify when and where the application may be inspected, including a phone number of the appropriate Town or local government agency; and
 - f) Indicate if there will be an opportunity to appear and provide feedback during the hearing.
- 2. Published Notice. Except as otherwise required by law, notice of the hearing shall be published in a newspaper of general circulation within the Town at least 10 days in advance of the hearing.
- 3. Mailed Notice. Except as otherwise required by law, notice shall be sent by first class mail to all property owners within 200 feet of the property in question at least 15 days in advance of the hearing.
- 4. Posted Notice.

Commented [TC8]: ???applicant does public notice?

Sean Ives: Applicant and Town both need to post?



- a) At least one notice sign shall be posted by the applicant on the subject property at least 15 days in advance of the hearing. The dimensions of the sign shall be at least 11 by 17 inches, and the materials to which the notice is affixed shall be upright, sturdy, and waterproof.
- b) The Director may require additional signs based on the access and configuration of the subject property.

(3) *Notice to Mineral Estate Owners and Lessees.* The applicant shall provide notice by certified mail, return receipt requested, to all mineral estate owners and lessees on the subject property for development applications in accordance with C.R.S. 24-65.5-103. Such notice shall be provided not less than 30 days prior to the initial public hearing, or not less than 30 days prior to the final decision if the application does not require a public hearing. The burden of determining mineral estate owners and lessees shall be on the applicant.

(f) Review and Decision

(1) *Review and Decision by the Director.* Applications subject to administrative review and approval shall be decided by the Director in accordance with subsection 12-7-30(d)(4), *Applications Subject to Staff Approval.*

(2) *Review and Recommendations or Decisions by Planning Commission or Board of Trustees*

- a. Applications shall be subject to review, hearings, recommendations, and decisions in accordance with Table 7-A, *Summary of Development Review Procedures.*
- b. If an application requires a public hearing, the decision-making body shall hold a public hearing in accordance with Section 12-7-30(e), *Scheduling and Notice of Public Hearings*, and Section ????, *Review and Decision-Making Bodies.*
- c. The decision-making body shall consider the application, supporting materials, staff report, and any evidence presented during the public hearing (if required).
- d. The advisory board shall recommend, and the decision-making body shall approve, approve with conditions, or deny the application based on the applicable approval criteria relevant to the application type.
- e. In making its recommendation, the body may continue the hearing to a date certain because additional information or changes are necessary to determine whether the application complies with this Chapter. The applicant may also request to continue the hearing to a date certain, but any subsequent requests for continuance shall be at the discretion of the governing body. If the hearing is continued, the requested information shall be provided to the Director at least 10 days prior to the date of the continued hearing. Nothing shall prohibit the advisory or decision-making body from continuing a hearing more than once.
- f. If the application requires a quasi-judicial hearing, the recommendation or decision shall be based only on the record of the public hearing, shall include findings of fact based on evidence, shall reflect the determination of any contested facts, and shall state how the findings support compliance with the approval criteria.



- g. The decision-making body shall clearly state the factors considered in making its recommendation or decision, as well as the rationale for such recommendation and decision.
- h. Any recommendation or decision to deny an application shall specify the reasons, citing specific Code provisions or adopted policies of the Town with respect to the proposed development.

(3) *Conditions of Approval*

- a. Any conditions of approval shall be limited to the minimum conditions necessary to ensure compliance with the requirements or standards of this Chapter and shall be reasonably related to the anticipated impacts of the proposed development or activity.
- b. The approving body may modify conditions recommended by the reviewing body prior to making a final decision on an application.
- c. Unless otherwise provided in this Chapter, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.

(4) *General Approval Criteria.* The following general criteria shall apply to the various application types submitted to the Town for review and approval. If there is a conflict between these general criteria and the specific review criteria listed for a particular application type, then the specific review criteria shall control.

- a. **Compliance with this Chapter.** The proposed use and development shall comply with the applicable standards in this Chapter, including but not limited to zoning districts, use regulations, and development standards in effect at the time of application submittal.
- b. **Compliance with Other Applicable Regulations.** The proposed use and development shall comply with all other Town regulations and with all applicable standards or requirements of federal, state, or other local government control of the property or the current or proposed use of the property.
- c. **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 criterion includes consistency with approved development phasing plans and the installation of public improvements.
- d. **Consistency with Adopted Plans.** The proposed use and development are consistent with applicable Town policies of the Comprehensive Plan and other adopted Town plans and policies.

(g) Post-Decision Actions and Limitations

- (1) *Appeal.* A party aggrieved by final decisions may appeal the decision in accordance with the appeal procedures in Section 12-7-70(b).

(2) *Expiration of Approval*



- a. An application approval shall be valid as authorization for the approved activity unless it expires in accordance with the expiration time periods provided in this Chapter.
 - b. A change in ownership shall not affect the established expiration time period of an approval unless otherwise stated in this Chapter, or in the final decision of approval.
 - c. The Director may grant extensions of the expiration time period for up to one year following a written request that explains reasonable cause for such extension, prior to that expiration date. The Director shall determine whether there is reasonable cause for the extension. Further extensions shall be subject to the approval by the decision-making body for the original application.
- (3) *Format of Final Submissions.* All final submissions, including subdivision plats, development plans, record drawings and annexation maps shall be submitted to the town on a method of data transfer acceptable to the Town as detailed in the Town's Land Use Administrative Manual. This requirement may be waived at the discretion of the Director.
- (4) *Modification or Amendment of Approval.* Unless otherwise provided in this Chapter, any substantial modifications to approved plans, permits, or conditions shall require a new application submitted and reviewed in accordance with the full procedure requirements applicable to the original application. The Director shall determine whether proposed modifications or amendments to an approval are considered substantial and may require further determination by the decision-making body of the original application.
- (5) *Limitation on Subsequent Similar Applications.* Following denial of an application, the decision-making body shall not decide on applications that are same or substantially similar within one year of the denial. This waiting period may be waived by the decision-making body provided that there is substantial change to circumstances or new information is available related to the issues or facts considered during the previous review.

12-7-40: Ordinance Amendments

(a) Rezoning

- (1) *Purpose.* The rezoning procedure amends, supplements, or changes the Town's Official Zoning Map.
- (2) *Applicability.* The rezoning procedure should not be used when a conditional use or variance could be used to achieve a similar result. Changes to dimensional standards within a zoning district (such as setbacks or building height) should be processed as Code text amendments pursuant to subsection 12-7-40(c). A rezoning to a Planned Unit Development shall be processed pursuant to subsection 12-7-40(b).
- (3) *Rezoning Procedure*
 - a. **Pre-Application Conference**



1. Required
2. *See* 12-7-30(b)
- b. **Application Submittal and Handling**
 1. *See* 12-7-30(c)
 2. Application may be initiated by the Board of Trustees, the Planning Commission, the Director, or the owner of the real property subject to the proposed rezoning.
 3. When multiple parcels are proposed for rezoning, a separate application for each property shall be submitted, unless the Director approves a consolidated application during the pre-application conference.
- c. **Concurrent Review.** An applicant may request concurrent review of a development permit and/or subdivision approval with a rezoning application. Guidance will be provided during the pre-application conference.
- d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).
- e. **Scheduling and Notice of Hearings**
 1. Public hearings before the Planning Commission and Board of Trustees.
 2. Scheduled and noticed pursuant to 12-7-30(e).
- f. **Review and Decision**
 1. **Planning Commission Review and Recommendation.** The Planning Commission shall review the application and recommend approval or denial pursuant to 12-7-30(f) and the below approval criteria.
 2. **Board of Trustees Review and Decision.** The Board of Trustees shall review the application, and the recommendations of Planning Commission, and act to approve or deny the rezoning pursuant to 12-7-30(f) and the below approval criteria. Conditions are not attached to a rezoning decision.
- g. **Rezoning Approval Criteria.** In reviewing a proposed rezoning, the Planning Commission and Board of Trustees shall consider whether:
 1. The proposed amendment is consistent with the Comprehensive Plan;
 2. The proposed amendment is consistent with the purpose of the zoning district to which the property is proposed to be designated; and
 3. The development allowed by the proposed zoning would be compatible with surrounding districts, land uses, and neighborhood character.

OR

 1. The applicant has demonstrated that conditions affecting the subject parcel or the surrounding neighborhood have changed, or that due to the incorrect assumptions or conclusions about the property, one or more errors in the Official Zoning Map boundaries have occurred.
- h. **Post-Decision Actions and Limitations.** Subsection 12-7-30(g) applies, with the following modifications:
 1. Following approval of a rezoning, the Director shall prepare an appropriate revision to the Official Zoning Map, compliant with Section 12-2-10(c).
 2. An owner of any property affected by a rezoning may protest pursuant to the statutory requirements of C.R.S. 31-23-305.

(b) Rezoning to Planned Unit Development



(1) *Purpose.* The purpose of a rezoning classification to a planned unit development (PUD) is to encourage innovation and achieve flexibility in order to create a better living environment, preserve the unique features of the site and provide services in a more economic matter, while providing greater benefit to the Town and to ensure efficient provision of services and utilities. Examples of how a PUD may provide greater benefit to the Town include:

- a. Improved design quality;
- b. Variety of development types to promote the most suitable use of the site;
- c. Preservation of unique, natural, scenic, historical and cultural features of a site;
- d. Greater mix of uses and building types;
- e. Encouragement of energy conservation;
- f. Innovative and diverse housing types; and
- g. Higher level of public amenities such as open spaces, parks, recreational areas, trails, and schools.

(2) *Applicability*

- a. The PUD procedure should not be used when a conditional use, variance or rezoning to a base zoning district could achieve a similar result.
- b. An application to rezone to PUD may be submitted for any tract of land, or contiguous parcels of land, within any combination of zoning districts, held under single ownership or under unified control.
- c. The PUD zoning classification is established by overlaying the designation on land within an existing or newly created zoning district.
- d. Development within a PUD may be proposed to be phased, if neither the initial phase nor subsequent phases will have an adverse impact on the PUD or its surroundings.

(3) *Rezoning to PUD Procedure*

- a. **Pre-Application Conference**
 1. Required
 2. See 12-7-30(b)
- b. **Application Submittal and Handling**
 1. See 12-7-30(c)
 2. An PUD plan is required prior to approval of a development permit in a PUD district. Submittal requirements associated with a PUD plan are included in the Town's Land Use Administrative Manual.
- c. **Concurrent Review**
 1. Development permit applications may be submitted concurrently with a PUD application.
 2. A subdivision application may be reviewed concurrently with an application for rezoning to PUD. A preliminary plat on a site covered by a proposed PUD shall not be approved until after the rezoning to PUD is approved.
- d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).
- e. **Scheduling and Notice of Hearings**



1. Public hearings before the Planning Commission and Board of Trustees.
 2. Scheduled and noticed pursuant to 12-7-30(e).
- f. **Review and Decision**
1. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval or denial pursuant to 12-7-30(f) and the approval criteria below.
 2. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of Planning Commission, and act to approve or deny the rezoning to PUD pursuant to 12-7-30(f) and the approval criteria below.
- g. **Rezoning to PUD Approval Criteria.** In reviewing a proposed PUD, the Planning Commission and Board of Trustees shall consider whether and to what extend the PUD:
1. Meets the general approval criteria in 12-7-30(f)(4) and the approval criteria for rezonings in 12-7-40(a)(3)(g);
 2. Addresses a unique situation, provides substantial benefit to the Town, or incorporates innovative design that achieves a higher quality standard than could otherwise be achieved through strict application of a base zoning district; and
 3. Provides a variety of housing types and densities, if residential is proposed as part of the PUD.
- h. **Approval of a PUD Plan.** The approved PUD zoning and the approved PUD plan along with associated exhibits are inseparable.
- i. **Post-Decision Actions and Limitations.** Subsection 12-7-30(g) applies, with the following modifications:
1. Effect of Approval. The regulations of this Chapter remain applicable to areas within a PUD district unless expressly modified by the approved PUD.
 1. Expiration. A PUD shall remain valid until a PUD is subsequently amended or rezoned to another zoning district.
 2. Map Revision. Following approval of a rezoning to PUD, the Director shall prepare an appropriate revision to the Official Zoning Map to demarcate the PUD overlay.
 3. Recording. The PUD plan and zoning amendment shall be recorded with the County Clerk and Recorder.
 4. Protest. An owner of any property affected by a proposed rezoning may protest the rezoning pursuant to the statutory requirements of C.R.S. 31-23-305.
 5. Amendment.
 - a) Except as provided below for minor amendments, an approved PUD plan may only be amended pursuant to subsection 12-7-30(g)(4).
 - b) Minor amendments to an approved PUD plan may be approved by the Director if the proposed amendments do not:
 - 1) Change the ration of residential units to square feet of non-residential building square footage by more than ten percent.
 - 2) Increase the number of residential units by more than ten percent.



- 3) Increase the gross square footage of non-residential building area by more than ten percent.
- 4) Change the allowed uses listed in the approved PUD plan.
- 5) Change the number or location of vehicular access points in such a way that negatively impacts public safety or the flow of traffic into public streets.

(c) Code Text Amendment

(1) *Purpose.* This procedure is provided to revise the text of this Chapter 12 to respond to changed conditions or changes in public policy, or to advance the general welfare of the Town.

(2) *Code Text Amendment Procedure*

a. **Pre-Application Conference**

1. Optional, but recommended for a private applicant
2. If held, *see* 12-7-30(b)

b. **Application Submittal and Handling**

1. *See* 12-7-30(c)
2. Application may be initiated by the Board of Trustees, the Planning Commission, the Manager, the Director, a resident of the Town, or an owner of a property within the Town.
3. The applicant shall submit a complete text amendment application to the Director containing the precise amended wording. The Director shall be responsible for submitting the application materials for an amendment initiated by the Board of Trustees or Planning Commission

c. **Staff Review and Action.** The Director forwards a report to the Planning Commission that summarizes the application's compliance with the applicable approval criteria below, and other applicable provisions of this Chapter. Technical comments and professional recommendations of other agencies and organizations may be solicited when preparing the summary report.

d. **Scheduling and Notice of Hearings**

1. Public hearings before the Planning Commission and Board of Trustees.
2. Scheduled and noticed pursuant to 12-7-30(e).

e. **Review and Decision**

1. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval or denial pursuant to 12-7-30(f) and the approval criteria below, or shall remand the application to the applicant with instructions for modification or additional information or action.
2. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of the Planning Commission, and act to approve or deny the proposed amendment pursuant to 12-7-30(f) and the approval criteria below, or remand it to the applicant with instructions for modification or additional information or action.

f. **Code Text Amendment Approval Criteria.** In reviewing a proposed code text amendment, the Planning Commission and Board of Trustees shall determine that the following criteria are met:



1. The proposed amendment is consistent with the general purpose and intent of this Chapter;
 2. The proposed amendment shall not conflict with any other applicable provisions of this Chapter, or the Town shall repeal or amend provisions of this Chapter that are inconsistent, unreasonable, or out-of-date;
 3. The proposed amendment shall be consistent with the Comprehensive Plan; and
 4. The proposed amendment shall preserve the public health, safety, general welfare, and environment and shall contribute to the orderly development of the Town.
- g. **Post-Decision Actions and Limitations.** Upon approval of the amendment and the filing, the Director shall cause the amended text of this Chapter to be officially codified.

12-7-50: Development Permits and Approvals

(a) Minor Site Plan

(1) *Purpose.* The minor site plan process allows the Town to administratively evaluate smaller developments for compliance with the development and design standards of this Chapter. The minor site plan review procedure ensures that potential impacts are considered prior to an applicant submitting engineered construction plans or issuance of a building permit and certificate of occupancy.

(2) *Applicability*

- a. **Exemptions from Site Plan Review.** The following are exempt from the site plan review procedures, but are still subject to standards of this Chapter and other federal, state, and local permit requirements including, without limitation, building permits and floodplain development permits:
1. Additions or accessory structures to any existing single-family detached dwelling or duplexes.
 2. Accessory buildings, fences, hedges, or walls.
- b. **Thresholds for Site Plan Review.** Unless exempted from the site plan review procedure in paragraph a, above, the applicable site plan review type (minor or major) are as follows:
1. Minor Site Plan: []
 2. Major Site Plan: []
- c. Regardless of the thresholds above, any development that requires dedication of land to the Town shall be deemed a major site plan.

(3) *Minor Site Plan Procedure*

- a. **Pre-Application Conference**
1. Required
 2. See 12-7-30(b)
- b. **Application Submittal and Handling.**
1. See 12-7-30(c)

Commented [TC9]: Todd Dixon: The contents of that Section should be moved into the "thresholds" paragraph (b) under "minor" site plan. We can keep paragraph "a" and label it as "reserved" if needed. In other words, we should not have any exemptions, all improvements should go either through Administrative review or Planning Commission review. The reason is that we have too many encroachments into right of ways and property lines and we do not have a code enforcement officer to go around town when people are building and making sure the Codes are being complied with.

Commented [TC10]: Additions should not be exempt from site plans - Town needs to verify setbacks at least.

Need to verify setbacks and property boundaries even with acc. Buildings, fences, hedges, and walls.

Hedges maybe only thing exempt?

What is an accessory structure vs. accessory building?

Sean Ives: Agrees with Nate observations



c. **Concurrent Review**

1. A site plan application may be submitted and reviewed concurrently with a conditional use, variance, or subdivision plat.
2. At the sole risk of the applicant, construction plans may be submitted concurrently with a site plan application, and proposed development must comply with the required construction standards and all other applicable technical standards and specifications adopted by the Town.

d. **Staff Review and Action.** The Director shall review the application and approve, approve with conditions, or deny the minor site plan pursuant to subsection 12-7-30(f)(4) and the below approval criteria.

e. **Site Plan Approval Criteria.** In reviewing a proposed site plan application, the Director (for minor site plans) and Planning Commission (for major site plans) shall consider whether:

1. The site plan is consistent with the general purpose and intent of this Chapter;
2. The site plan is consistent with the standards of this Chapter; and
3. The site plan is consistent with any previously approved plat, PUD plan, or other previous land use approval applicable to the site.

f. **Post-decision Actions and Limitations**

1. Filing of Site Plan. An approved site plan shall be officially filed with the Planning Department within 60 days of its approval.
2. No Building Permit or Certificate of Occupancy without Approval
 - a) No building permit shall be issued without approval of the site plan, unless exempted from site plan review under 12-7-50(a)(2)a.
 - b) The building permit shall incorporate any conditions of approval associated with the site plan.
 - c) If the development includes construction of significant public improvements, a development agreement may be required to define the standards for construction, inspection, ~~acceptance~~ acceptance, and dedication of said public improvements prior to the issuance of a building permit.
3. Expiration of Approval. Site plans shall expire if the applicant fails to submit a complete application for a building permit ~~to PPRBD?~~ within three years after the approval date of the site plan, unless an extension is granted in accordance with subsection 12-7-30(g)(2)c. If the applicant makes a timely application for a building permit, then the site plan shall remain in effect for as long as the building permit remains in effect after the three-year period has passed.
4. Minor Changes Allowed. Development authorized by an approved site plan may incorporate minimal changes from the approved site plan without a new application, provided the Director finds that the proposed changes:
 - a) Comply with the standards of this Chapter;
 - b) Are necessary to meet conditions of approval; and
 - c) Would not alter the function, form, use, or intensity of the property or result in additional demands on public infrastructure or impacts on adjacent properties more than the originally approved site plan.

Commented [TC11]: ??? This reads as if the Town is issuing the building permit after site plan approval

Commented [TC12]: And we don't do CoOs



(b) Major Site Plan

(1) *Purpose.* The major site plan procedure allows the Town to evaluate larger and more complex developments for compliance with the development and design standards of this Chapter. It also ensures that potential impacts are considered prior to an applicant submitting engineered construction plans or issuance of a building permit and certificate of occupancy.

(2) *Applicability.* The applicable thresholds and exemptions listed in subsection 12-7-50(a)(2) shall apply to major site plans.

(3) *Major Site Plan Procedure*

a. **Pre-Application Conference**

1. Required
2. See 12-7-30(b)

b. **Application Submittal and Handling**

1. See 12-7-30(c)

c. **Concurrent Review.** A site plan may be submitted concurrently with those plans and applications listed for minor site plans in subsection 12-7-50(a)(3)c.

d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).

e. **Scheduling and Notice of Hearings.**

1. Public hearing before the Planning Commission.
2. Scheduled and noticed pursuant to 12-7-30(e).

f. **Review and Decision.** The Planning Commission shall review the application and approve, approve with conditions, or deny the major site plan pursuant to 12-7-30(f) and the approval criteria listed for minor site plans in subsection 12-7-50(a)(3)e.

g. **Post-decision Actions and Limitations.** A major site plan is subject to the post-decision actions and limitations applicable to minor site plans pursuant to subsection 12-7-50(a)(3)f.

(c) Conditional Use

(1) *Purpose.* The conditional use procedure evaluates and approves proposed land uses that are generally compatible with the permitted uses in a zoning district, but that require site-specific review of their location, design, intensity, density, operating characteristics, and configuration because they have unique or varied operating characteristics or unusual impacts. This is intended to ensure that the proposed development adequately mitigates anticipated impacts to ensure compatibility with surrounding areas and to ensure that the proposed development complies with all the standards of this Chapter.

(2) *Applicability.* A conditional use approval is required for land uses as specified in Table 3-A: Table of Allowed Uses.

(3) *Conditional Use Procedure*



- a. **Pre-Application Conference**
 - 1. Required
 - 2. See 12-7-30(b)
- b. **Application Submittal and Handling**
 - 1. See 12-7-30(c)
- c. **Concurrent Review.** A conditional use application may be submitted concurrently with a site plan, variance, or subdivision plat.
- d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).
- e. **Scheduling and Notice of Hearings**
 - 1. Public hearing before the Planning Commission and Board of Trustees.
 - 2. Scheduled and noticed pursuant to 12-7-30(e).
- f. **Review and Decision.**
 - 1. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval, recommend approval with conditions, or recommend denial of the conditional use approval pursuant to 12-7-30(f) and the approval criteria listed below.
 - 2. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of Planning Commission, and approve, approve with conditions, or deny the conditional use approval pursuant to 12-7-30(f) and the approval criteria listed below.
- g. **Conditional Use Approval Criteria.** In addition to any use-specific standards applicable to the use that is subject to the conditional use approval, and in addition to the general approval criteria in subsection 12-7-30(f)(4), the application must comply with the following:
 - 1. The use shall be appropriate to its proposed location, and not disrupt or harm the prevailing uses and activities in the immediate vicinity;
 - 2. The use shall not cause undue traffic congestion, dangerous traffic conditions, or incompatible service delivery, parking, or loading problems. Necessary mitigating measures shall be proposed by the applicant;
 - 3. The operating characteristics of the use shall not create a nuisance, and the impacts of the use on surrounding areas shall be minimized with respect to noise, odors or other emissions, vibrations, glare, and similar conditions;
 - 4. There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies that the use may cause; and
 - 5. The use shall not cause significant deterioration to water resources, wetlands, fire mitigation, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.
- j. **Post-Decision Actions and Limitations.** Subsection 12-7-30(g) applies, with the following modifications:
 - 1. Expiration of Conditional Use
 - a) Within a one-year period, or other approved period, the approved permit holder must either obtain site plan approval, begin construction,



or establish the land use authorized by the conditional use approval, including any conditions attached to the approval.

- b) Failure to obtain a site plan approval, start construction, or establish such use within the one-year or other applicable time period shall result in automatic expiration of the conditional use approval.
- c) Any discontinuance of the use for a period of one year, for any reason, shall result in automatic expiration of the conditional use, unless otherwise provided in the permit or an extension is granted pursuant to subsection 12-7-30(g)(2).
- d) The approval of a conditional use may or may not identify an initial term for the conditional use. Upon expiration of the term, if the permit is so limited, the conditional use shall automatically expire, unless an extension is granted pursuant to subsection 12-7-30(g)(2).

2. Revocation of Conditional Use

- a) All stipulations submitted as part of a conditional use application and all conditions imposed by the Board of Trustees shall be maintained in perpetuity with the conditional use. If at anytime the stipulations or conditions are not met or have been found to have been altered in scope, application, or design, the use shall be in violation of the conditional use approval.
- b) If and when any conditional use is determined to be in violation of the terms and conditions of approval, the Director or Manager shall notify the approval holder in writing and shall provide the permit holder with a 30 day period in which to remedy the violation.
- c) If the violation of the conditional use continues after the 30 day period specified in the written request to remedy the violation, the Director shall schedule a public hearing before the Board of Trustees.
- d) Public notice for the hearing shall be in the same manner as that required for the initial grant of the conditional use approval. Such notice may be personally served, mailed to the approval holder's last known address by first-class U.S. mail, or conspicuously posted on the property upon which the use is located.
- e) Following a proper hearing, the Board of Trustees shall issue a decision either revoking or sustaining the conditional use approval. If a conditional use approval is revoked, the Town shall issue a written notice of the revocation within 15 days of the completion of its consideration thereof. Such notice may be personally served upon the applicant or mailed to their last known address by first-class U.S. mail.
- f) Appeals of the Board of Trustees decision regarding revocation of the conditional use may be brought by the approval holder according to the procedure established in Section 12-7-70(b).

3. Transfer or Conditional Use. Unless otherwise specified in the conditions of approval, a conditional use approval may be transferred to another individual or entity to operate the same use, in the same structures, on the same property, and under the same terms of the original conditional use approval.



12-7-60: Subdivision Approvals

(a) Minor Subdivision

(1) *Purpose.* The minor subdivision procedure evaluates proposed subdivisions that create no more than two lots or involve minimal adjustments or corrections to previously recorded final plats.

(2) *Applicability*

- a. The minor subdivision procedure applies when the following are met:
 1. The properties are within an approved preliminary plat;
 2. The proposed subdivision would create two or fewer lots or condominium units within a single plat; and
 3. The proposed subdivision would not require land dedication or dedication of public improvements.
- b. The following are eligible to be processed as a minor subdivision provided paragraph a, above, is met:
 1. Boundary or lot line adjustments to an approved final plat, including lot line vacations or eliminations;
 2. Condominiumization of units within an existing building
 3. An insubstantial change to an approved plat to address engineering or technical constraints with no material effect on the plat and no relocations of streets or rights-of-way; or
 4. Corrections of errors on an approved final plat.
- c. Any subdivision that requires dedication of right-of-way, public tracts, or public improvements to the Town shall be submitted to the Board of Trustees for acceptance or denial of the dedication.
- d. To prevent serial subdivision, an applicant may only be approved for one resubdivision of a single property.

Commented [TC13]: Could vacations be a separate thing, so as not required to have an "approved preliminary plat"?

(3) *Minor Subdivision Procedure*

- a. **Pre-Application Conference**
 1. Required
 2. See 12-7-30(b)
- b. **Application Submittal and Handling**
 1. See 12-7-30(c)
 2. An application must include all of the subdivision submittal requirements listed in the Town's Land Use Administrative Manual.
 3. For lot line adjustments and lot consolidations, the owners of all affected properties whose lot lines are being amended shall provide written consent to the application.
 4. To the extent that submittal information was submitted as part of a previous subdivision proposal and is adequate by current standards, the Director may waive submittal requirements at the request of the applicant.
- c. **Staff Review and Action.** The Director shall review the application and approve, approve with conditions, or deny the minor subdivision pursuant to subsection 12-7-30(f)(4) and the below approval criteria.



- d. **Post Decision Actions and Limitations.** Subsection 12-7-30(g) applies, with the additional requirement that the Director shall record the minor subdivision plat with the County Clerk and Recorder as soon as practicable.
- (4) *Minor Subdivision Approval Criteria.* The Director shall consider the general approval criteria in 12-7-30(f)(4) and also whether the minor subdivision:
- b. Is consistent with the underlying zoning district(s);
 - c. Does not result in the creation of more than two lots;
 - d. Does not result in the creation of lots that cannot be built upon under this Chapter;
 - e. Does not affect a recorded easement without approval from the easement holder;
 - f. Provides all required in-lieu fees; and
 - g. Will not limit the Town's ability to effectively provide facilities or services to all lots involved
- (b) Major Subdivision – Preliminary Plat
- (1) *Purpose.* The preliminary plat procedure reviews and overall plan for a proposed subdivision to ensure compliance with this Chapter, the Comprehensive Plan and the adequate provision of facilities and services in the Town.
- (2) *Applicability.* A preliminary plat is required if the proposed subdivision:
- a. Will result in more than two lots;
 - b. Will include the dedication of public right-of-way, other public tracts, or public improvements for any subdivision not determined to be eligible to be processed as a minor subdivision; or
 - c. Is not eligible to be processed as a minor subdivision.
- (3) *Preliminary Plat Procedure*
- a. **Pre-Application Conference**
 - 1. Required
 - 2. See 12-7-30(b)
 - b. **Application Submittal and Handling**
 - 1. See 12-7-30(c)
 - 2. An application must include all of the subdivision submittal requirements listed in the Town's Land Use Administrative Manual.
 - 3. To the extent that submittal information was submitted as part of the original subdivision proposal and is adequate by current standards, the Director may waive submittal requirements at the request of the applicant.
 - c. **Concurrent Review.** A preliminary plat may be submitted concurrently with a site plan, conditional use, or variance.
 - d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).
 - e. **Scheduling and Notice of Public Hearings**
 - 1. Public hearings before the Planning Commission.
 - 2. Scheduled and noticed pursuant to 12-7-30(e).
 - f. **Review and Decision**



1. Planning Commission Review and Decision. The Planning Commission shall review the application, and approve, approve with conditions, or deny the plat pursuant to 12-7-30(f) and the approval criteria below.
 2. Conditions of Approval. If the preliminary plat is approved with conditions, those conditions and the standards of this Chapter must be met prior to approval of a final plat.
- g. **Preliminary Plat Approval Criteria.** The Planning Commission shall consider the general approval criteria in 12-7-30(f)(4) and also whether the plat:
1. Complies with the applicable zoning district standards;
 2. Complies with any applicable public dedication, in-lieu fees, and subdivision design standards required by Chapter 12, Article 5;
 3. Shows location of public water and sewer system connections; and
 4. If proposed in phases, the plat proposes reasonable phasing for providing required infrastructure.
- h. **Post-Decision Actions and Limitations**
1. Expiration of Approval. Preliminary plat approval shall automatically expire if a final plat has not been recorded within one year after the date of the approval, or if an extension is granted pursuant to subsection 12-7-30(g)(2).
 2. Phased Final Platting. Whenever a preliminary plat is approved for development of a subdivision in phases, the Planning Commission may allow alternate timing for final plats for each phase following the first.
- (c) Major Subdivision – Final Plat
- (4) *Purpose.* The final plat procedure completes the major subdivision process and provides a mechanism to ensure compliance with the approved preliminary plat and applicable standards of this Chapter.
 - (5) *Applicability*
 - a. The final plat procedure applies to all major subdivisions in the Town unless otherwise stated in this Chapter.
 - b. Any major subdivision that requires dedication of right-of-way, public tracks, or public improvements to the Town shall be submitted to the Board of Trustees for acceptance or denial of the dedication.
 - (6) *Final Plat Procedure*
 - a. **Pre-Application Conference**
 1. Required
 2. See 12-7-30(b)
 - b. **Application Submittal and Handling**
 1. See 12-7-30(c)
 - c. **Concurrent Review.** A final plat may be submitted concurrently with a site plan, conditional use approval, or variance.
 - d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendations, pursuant to section 12-7-30(d).
 - e. **Scheduling and Notice of Hearings**



- i. Public hearings before the Planning Commission and Board of Trustees.
 - ii. Scheduled and noticed pursuant to 12-7-30(e).
 - f. **Review and Decision.**
 - i. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval, approval with conditions, or denial pursuant to 12-7-30(f) and the below approval criteria.
 - ii. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of Planning Commission, and act to approve, approve with conditions or deny the application pursuant to 12-7-30(F) and the below approval criteria.
 - g. **Final Plat Approval Criteria.** In reviewing a final plat, the Planning Commission and Board of Trustees shall consider the general approval criteria in 12-7-30(f)(4) and also whether:
 - i. The final plat complies with the approved preliminary plat, including any conditions of approval; and
 - ii. The proposed development will comply with the required construction standards and all other applicable technical standards and specifications adopted by the Town.
 - h. **Post-Decision Actions and Limitations.** Subsection 12-7-30(g) applies, with the additional requirement that the Director shall record the final plat with the County Clerk and Recorder as soon as practicable.
- (d) Condominiumization
 - (1) *Purpose.* The condominiumization procedure ensures that condominium subdivisions comply with this Chapter and state law.
 - (2) *Applicability*
 - a. The creation of new condominium units and the conversion of existing buildings into condominium units shall follow the procedure for a minor subdivision in subsection 12-7-60(a), if applicable.
 - b. Conversion of existing buildings into condominium units not meeting the eligibility requirements for processing as a minor subdivision shall follow this condominiumization procedure.
 - c. Any condominiumization requiring dedication of right-of-way, public tracts, or public improvements to the Town shall be submitted to the Board of Trustees for acceptance or denial of the dedication.
 - (3) *Condominiumization Procedure*
 - a. **Pre-Application Conference**
 - 1. Required
 - 2. See 12-7-30(b)
 - b. **Application Submittal and Handling**
 - 1. See 12-7-30(c)



2. In addition to the subdivision submittal requirements listed in the Town's Land Use Administrative Manual, an application must include the following:
 - a) Required parking spaces and joint trash collection areas;
 - b) Floor plans, elevations, and site plan as required to show separate ownership of all separate units, common elements, and limited common elements;
 - c) Number, type, and floor area of units, common elements, and other amenities delineated in square feet, proposed use for each unit, land area;
 - d) Statement of total number of units shown on the proposed plat; and
 - e) Documentation showing compliance with the standards and terms of the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-201, et seq., as may be amended.
- c. **Concurrent Review.** A condominiumization application may be submitted concurrently with a site plan, conditional use approval, or variance.
- d. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to subsection 12-7-30(d).
- e. **Scheduling and Notice of Hearings**
 1. Public hearings before the Planning Commission and Board of Trustees.
 2. Scheduled and noticed pursuant to 12-7-30(e).
- f. **Review and Decision.**
 1. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval, approval with conditions, or denial pursuant to 12-7-30(f) and the below approval criteria.
 2. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of Planning Commission, and act to approve, approve with conditions or deny the application pursuant to 12-7-30(f) and the below approval criteria.
- g. **Condominiumization Approval Criteria.** In reviewing a condominiumization application, the Planning Commission and Board of Trustees shall consider the general approval criteria in 12-7-30(f)(4) and also whether the condominiumization would not result in adverse impacts to the surrounding area or Town.
- h. **Post-Decision Actions and Limitations**
 1. After buildings have been constructed and final "as-built" surveys have been completed, the applicant shall submit an amended condominium plat showing graphically and dimensionally the subdivision of buildings into volumetric spaces and the relationship of these spaces with the boundaries of the site and other appurtenances on the site.
 2. Condominium plats shall comply with the requirements of C.R.S. 38-33.3-209, as may be amended and may be approved and amended by the Director.
 3. No individual condominium unit shall be sold into separate ownership until and unless a condominium plat has been approved by the Town based upon an "as-built" survey of the unit boundaries and such plat has been recorded with the County Clerk and Recorder. A plat note on the final subdivision plat for each condominium development shall be included to this effect.



(e) Vacation of Plat, Right-of Way, or Easement

(1) *Purpose.* The vacation procedure provides a mechanism for vacating rights, interests, or title of the Town in and to any subdivision plat, right-of-way, or easement located in the Town.

(2) *Applicability.* This procedure applies to any request to vacate any rights, interests, or title of any plat, right-of-way, or easement within the Town.

(3) *Vacation Procedure*

a. **Pre-Application Conference**

1. Required
2. See 12-7-30(b)

b. **Application Submittal and Handling**

1. See 12-7-30(c)
2. Applications shall include a scaled survey from a Colorado registered surveyor or engineer that indicates the rights-of-way and adjacent properties subject to the vacation.

c. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).

d. **Scheduling and Notice of Hearings**

1. Public hearings before the Planning Commission and Board of Trustees.
2. Scheduled and noticed pursuant to 12-7-30(e).

e. **Review and Decision**

1. Planning Commission Review and Recommendation. The Planning Commission shall review the application and recommend approval or denial pursuant to 12-7-30(f) and the below approval criteria.
2. Board of Trustees Review and Decision. The Board of Trustees shall review the application, and the recommendations of Planning Commission, and approve or deny the vacation pursuant to 12-7-30(f) and the below approval criteria.

f. **Vacation Approval Criteria.** The Planning Commission and Board of Trustees shall consider the following in evaluating the vacation of a recorded plat, right-of-way, or easement:

1. No roadway shall be vacated if doing so would leave any adjoining land without a means of access to another public road.
2. In granting a vacation, the Town may reserve easements for the installation or maintenance of utilities, ditches and similar improvements.
3. A subdivision plat, public right-of-way, or dedicated easement may be vacated if the vacation would be consistent with or implements the applicable intent statements, specific directions, and recommended actions of the Comprehensive Plan.
4. A subdivision plat may be vacated if none of its lots have been sold or transferred; or, if there have been sales or transfers, no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.

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



1. Record Vacation Plat. The Director shall record the vacation plat indicating the vacated plat, right-of-way, or easement with the County Clerk and Recorder as soon as practicable.
2. Quitclaim Deed. Whenever the Town approves an application vacating a public right-of-way, the Town shall provide adjacent property owners with a quitclaim deed for the vacated lands. Title to the vacated right-of-way shall vest with adjacent property owners or the original grantor or its successors-in-interest as provided by C.R.S. 43-2-302 et seq.

12-7-70: Flexibility and Relief Procedures

(a) Variance

(1) *Purpose.* The variance procedure provides authorization to deviate from the literal terms of this Chapter where strict application and enforcement of this Chapter would result in exceptional practical difficulty or undue hardship preventing the use of the land as otherwise allowed by this Chapter. A variance shall not be granted solely because of the presence of nonconformities in the zoning district or adjoining districts.

(2) *Applicability*

- a. Any property owner seeking relief from this Chapter may request a variance when the strict application of the Code would result in an undue hardship.
- b. Variance from the standards of the underlying zoning district shall be authorized only for lot size, frontage, setbacks, height, lot coverage, and parking requirements.
- c. Establishment or expansion of a use otherwise prohibited in a zoning district shall not be allowed by variance.

(3) *Variance Procedure*

- a. **Pre-Application Conference**
 1. Required
 2. See 12-7-30(b)
- b. **Application Submittal and Handling**
 1. See 12-7-30(c)
- c. **Concurrent Review.** A variance application may be submitted as a standalone application or submitted concurrently with a site plan, conditional use, or subdivision plat.
- h. **Staff Review and Action.** The Director reviews the application and prepares a staff report and recommendation, pursuant to section 12-7-30(d).
- i. **Scheduling and Notice of Hearings**
 1. Public hearings before the Board of Adjustment.
 2. Scheduled and noticed pursuant to 12-7-30(e).
- j. **Review and Decision**
 1. The Board of Adjustment shall review the application, and approve, approve with conditions, or deny the variance pursuant to 12-7-30(f) and the below approval criteria.

Commented [TC14]: Does this have to exist? Does it have to be different people than PC or BoT?

Paul Yingling: We have trouble staffing our existing boards.



2. The Board of Adjustment shall make a decision based on the staff report and the record of the public hearing and include findings of fact based on competent, material, and substantial evidence presented, and shall state how the findings support compliance with the review criteria.
3. The Board of Adjustment, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety, and welfare of the Town. All conditions imposed upon any variance shall be set forth in the granting of such variance.

Commented [TC15]: ?????

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

1. Expiration of a Variance. If the property owner has not commenced development or obtained the required permits to carry out the development for which the variance was required within three years of the variance approval, then the variance shall automatically expire. Board of Adjustment may grant an extension of up to three years upon request.
2. Non-Transferable. The variance shall apply only to the structure or property subject to the variance approval and shall not be transferable to any other property or structure.

(4) *Variance Approval Criteria.* Variances from the requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing, and deciding on a variance application, the Board of Adjustment shall apply the criteria set forth below.

- a. The applicant would suffer hardship as a result of the strict application of these regulations, which hardship is not generally applicable to other lands or structures in the same zone district because of considerations relating to the preservation of historic structures, the unusual configuration of the applicant's property boundaries, or unique circumstances related to existing structures or topographic conditions.
- b. There are no reasonable design alternatives or alternative locations for structures that would eliminate or reduce the need for the requested variance, or decrease the scope or extent of the variance required, that do not involve unreasonable expense under the circumstances.
- c. The need for the variance does not result from the intentional, reckless, or negligent actions of the applicant or their agent, a violation of any provision of this Chapter, this Code or any other code or ordinance adopted and in effect in the Town or a previously granted variance.
- d. Reasonable protections are afforded to adjacent properties
- e. The variance is the minimum variance that will make possible the reasonable use of the land or structure.
- f. The granting of the variance is consistent with the general purposes and intent of this Chapter.

(b) Appeals



(1) *Purpose.* The purpose of the appeals procedure is to define the circumstances by which persons may appeal a decision made by the Director or any Board or Commission other than the Board of Adjustment or Board of Trustees.

Commented [TC16]: ?????

(2) *Applicability*

- a. Appeals shall be as indicated in Table 7-A: *Summary of Development Review Procedures*, and Table 7-B: *Summary of Appeal Procedures*.
- b. Appeals of decisions be made by the Board of Adjustment or Board of Trustees shall be final and may not be appealed except to the courts in accordance with state law.

Table 7-B: Summary of Appeal Procedures			
Procedure	Code Section	Decision	Appeal
Ordinance Amendments			
Rezoning	12-7-40(a)	Board of Trustees	Courts
Rezoning to Planned Unit Development (PUD)	12-7-40(b)	Board of Trustees	Courts
Code Text Amendment	12-7-40(c)	Board of Trustees	Courts
Development Permits			
Minor Site Plan	12-7-50(a)	Planning Director	Planning Commission
Major Site Plan	12-7-50(b)	Planning Commission	Board of Trustees
Conditional Use	12-7-50(c)	Board of Trustees	Courts
Subdivisions			
Minor Subdivision	12-7-60(a)	Planning Director / Board of Trustees	Planning Commission / Courts
Major Subdivision - Preliminary Plat	12-7-60(b)	Planning Commission	Board of Trustees
Major Subdivision - Final Plat	12-7-60(c)	Board of Trustees	Courts
Condominiumization	12-7-60(d)	Board of Trustees	Courts
Vacation of Plat, Right-of Way, or Easement	12-7-60(e)	Board of Trustees	Courts
Variance Relief			
Variance	12-7-70(a)	Board of Adjustment	Courts

(3) *Appeals Procedure*

- a. **Pre-Application Conference**
 - 1. Optional
 - 2. If held, *See* 12-7-30(b)
- b. **Application Submittal and Handling.** *See* 12-7-30(c), with the following modifications:
 - 1. **Application Contents.** The appeal shall be in the form of a written letter of appeal delivered or postmarked to the Director within 15 days of the date the interpretation or decision was made. Such notice shall identify the date and nature of the order, decision, or interpretation at issue, and set forth in plain and concise language:
 - a) The facts and reasons for the appeal, including any relevant citation to any rule, regulation, or Code section relied upon; and



- b) A copy of the order, decision, or interpretation being appealed if the same was issued in writing.
- 2. **Burden of Proof on Appellant.** The burden of proof on appeal shall rest with the appellant. Such proof shall include applicable specific section references within this Chapter and shall be provided at the time of application.
- c. **Staff Review and Action.** Upon receipt of the appeal, the Director shall schedule the appeal for a regular or special meeting of the appropriate body within 31 days of the filing of the notice to appeal.
- d. **Scheduling and Notice of Public Hearings**
 - 1. Written notice of the time, date and location of the hearing shall be sent by regular mail to the appellant not less than 15 days prior to the hearing. In cases where a decision rendered during a public hearing is being appealed, notice shall be provided in accordance with 12-7-30(e).
 - 2. An appeal stays all proceedings from further action on the subject decision unless the Board of Trustees determines that a stay would create adverse impacts to the health, safety, or welfare of the Town or would cause imminent peril to life and property. Such determination shall be made only after written request to the Director and a public hearing with the Board of Trustees. The public hearing shall be held within 31 days of receipt of the request.
- e. **Review and Decision.** The applicable review and decision-making body shall consider the appeal during the scheduled hearing and consider the following:
 - 1. **Evidence.** Formal Rules of evidence shall not be followed during hearings. The chair or presiding officer shall have the power to decide what evidence is material to the appeal. Written documents presented at the hearing shall be made part of the record, and public testimony shall be taken if the appeal required public notice.
 - 2. **Basis of Decision.** Review of the decision being appealed shall be limited to the record established before and relied upon by the designated decision-making body. An appealing body shall not have the authority to override the provisions of this Chapter. Any decision shall include a basis for the decision and cite specific sections of this Chapter.
 - 3. **Decision.** The appropriate appealing body shall hear all relevant evidence, and within a reasonable time and in no more than 15 days thereafter, shall render its decision. The appealing body may reverse, modify, or confirm the order, decision, or interpretation.
- f. **Post-Decision Actions and Limitations**
 - 1. **Recording.** Audio recordings of the hearing shall be necessary. A written summary of the audio recording shall be made in a timely fashion following the hearing. Whenever a written verbatim transcript of such recording is requested by the appellant or when a transcript is furnished by the Town pursuant to court order, the cost of preparing the transcript shall be borne in full by the appellant.
 - 2. **Notice of Decision.** All decisions on appeal shall be reduced to writing, containing a concise listing of facts and reasons supporting the same, and shall be promptly mailed by regular mail to the appellant.



3. Further Appeals. Any further appeals from the appropriate appeal decision-making authority shall be made to the courts in accordance with state law.

12-7-80: Review and Decision-Making Bodies

The review and decision-making bodies shall be established and shall have the power and authority according to Chapter 2 of this Municipal Code. Decision-making bodies for applications in this Chapter shall be as indicated in Table 7-A: *Summary of Development Review Procedures*.

Article 8: Rules of Construction and Definitions

12-8-10: Rules of Construction

Chapter 1, Article II of this Code establishes rules that shall be observed and applied when interpreting the language of this Chapter, unless the context clearly requires otherwise.

12-8-20: Definitions of Use Categories and Use Types

[Installment 2 – Districts and Uses]

12-8-30: Other Terms Defined

[In other Installment document]

