

CHAPTER 17

Subdivisions

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ARTICLE I

General Provisions

Sec. 17-1-10. Purpose.

Pursuant to the authority conferred by Article 20 of Title 29, C.R.S., Article 23 of Title 31, C.R.S., and Article 67 of Title 24, C.R.S., this Chapter is enacted for the purpose of promoting the health, safety, convenience and general welfare of the citizens of the Town. In promoting the general purposes of this Chapter, the specific intent of this Section is to:

- (1) Establish standards of subdivision design which will encourage the development of sound, economical and stable neighborhoods; ensure a healthy living environment; and protect the natural environment.
- (2) Provide for lots of adequate size, configuration and appropriate design for the intended uses.
- (3) Encourage subdivision design, flexibility and imagination.
- (4) Provide for streets and walkways of appropriate capacity and construction with adequate measures to insure safe movement of pedestrian and vehicular traffic.
- (5) Insure the provision of efficient, adequate and economical utilities, services and improvements.
- (6) Provide for the coordination of subdivision development with requirements for schools, parks, recreation areas and other community facilities, and to insure the provision of such facilities.
- (7) Insure the desirable development of the community through the adherence to accepted principles of land use, intensity of development, distribution of growth, preservation of natural amenities and other elements of the Town's development plans.
- (8) Ensure conformance of land subdivision plans with the public improvement plans of the Town, the County, and the State and other public agencies.
- (9) Provide for adequate right-of-way for traffic and utilities.
- (10) Secure equitable handling of all subdivision plans by providing due process and uniform procedures and standards.
- (11) Prevent flood damage to persons and properties and minimize expenditures for flood control.
- (12) Restrict building on flood lands, shorelands, areas covered by poor soils, or in areas otherwise poorly suited for building or construction.
- (13) Prevent loss or injury from landslides, expansive soils and other geological hazards.
- (14) Improve land survey monuments and records by establishing standards for surveys and plats.
- (15) Safeguard the interest of the public and to protect against fraud and deceptive practices.

(16) Regulate such other matters as the Board of Trustees may deem necessary in order to protect the best interests of the public.

(17) Conform and comply when required with state statutes authorizing municipal regulation of subdivisions. (Ord. 8, 1994 §1.3; Ord. 11, 2002 §1)

Sec. 17-1-20. Jurisdiction.

(a) Territorial limits: The territorial jurisdiction under the provisions of these regulations shall include all land located within the corporate limits of the Town.

(b) Extraterritorial limits: All land located within three (3) miles of the corporate limits of the Town not located in any other municipality shall be subject to these regulations, but only with reference to any three-mile plan for the extension of major streets, and as may be otherwise authorized under state law. (Ord. 8, 1994 §1.4; Ord. 11, 2002 §1)

ARTICLE II

Definitions

Sec. 17-2-10. Interpretation.

All words used in this Chapter, except where specifically defined herein, shall carry their customary meanings when not inconsistent with the context. (Ord. 8, 1994 §11.1; Ord. 11, 2002 §1)

Sec. 17-2-20. Definitions.

For the purpose of this Chapter, certain words and terms are defined as follows:

Alley means a public or private right-of-way designed to serve as a secondary access by motor vehicles to the side or rear of a lot or building whose principal frontage is on a public street or some other principal right-of-way.

Bicycle way means a public pathway or land designed to be used exclusively by bicycle traffic and clearly separated from roadways and pedestrian ways.

Block means a unit of land within a subdivision, generally bounded by public or private right-of-way (other than alleys) and normally comprised of one or more lots.

Board means the Board of Trustees.

Commission means the Planning Commission.

Condominium means a type of real estate comprised of an individual air space unit together with an interest in common elements appurtenant to such unit.

Cul-de-sac means a short street having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

Dead-end street means a street leaving only one (1) outlet for vehicular traffic which does not meet the standards or definition of *cul-de-sac*.

Dedication means the transfer of land or monies in lieu of land by the owner to the Town for some public use. Acceptance of dedication does not necessarily constitute acceptance of maintenance by the Town, unless specifically agreed to in writing.

Development agreement means a written instrument setting forth the terms and conditions under which a subdivision or other land development project will be implemented and addressing such items as subdivision infrastructure/improvements, public dedications, construction schedules, financial security, vesting and any other matter required under the Town's subdivision regulations or as deemed necessary by the Town.

Drainage easement means an interest in land or right necessary to control drainage. Development on such easement shall be restricted to uses which would not interfere with the flow of the water or act as a barrier for debris.

Easement means an interest in land or a right to use the land of another for a special purpose not inconsistent with the general property rights retained by the owner.

Floodplain means the relatively flat or lowland area adjoining a river, stream, watercourse, lake or other body of surface water which has been or may be covered temporarily by flood water. For administrative purposes, the flood plain may be defined as the area that would be inundated by the base flood as delineated by the Federal Insurance and Hazard Mitigation Agency, or other recognized source.

Improvements means, without limitation, street grading, paving and curbing, fire hydrants, public and private utilities, storm sewers and drains, pedestrian and bicycle ways, crosswalks, street shade trees and landscaping, common open space and such other improvements as may be designated by the Town.

Improvements agreement guarantee means financial security which secures the timely and/or satisfactory construction or installation of improvements necessary or required to serve a subdivision, including performance bonds, escrow agreements or other similar collateral or surety agreements.

Lot means a basic land development unit which has fixed boundaries, is not divided by any public street or alley and, except as may be otherwise provided in Chapter 16 of this Code, is used or intended to be used by one (1) principal permitted use and/or building.

Lot of record means a lot which is part of a recorded subdivision that has been filed with the Park County Clerk and Recorder's office. For purposes of this Chapter, the term *legally described lot* shall be deemed synonymous with the term *lot of record*.

Major subdivision means all those subdivisions which do not meet the requirements of a minor subdivision as herein defined.

Minor subdivision means the subdivision of land into four (4) or fewer lots, all which abut an existing street, and which does not involve or require the installation or extension of a new water or sewer main or the installation of other public improvements beyond curb, sidewalk and gutter.

Pedestrian way means a public or private pathway or sidewalk designed to be used by pedestrian traffic.

Permanent monument means an object or physical structure permanently placed on or in the ground to mark a corner, including those expressly placed for surveying reference.

Planned unit development (PUD) means an area of land controlled by one (1) or more land owners that is to be developed under a unified site plan and which may include dwelling units, commercial, educational, recreational or other nonresidential uses, or any combination of the above, and in which lot size, dimensional requirements, type of use, density, lot coverage, open space or other regular zoning or subdivision regulations may be varied as part of the ongoing development of the land. Planned unit development is an overlay zoning district allowable under Section 24-67-101, et seq., C.R.S., in all zoning districts. Any planned unit development must comply with the requirements as set forth in Chapter 16.

Plat means one or more related documents prepared in accordance with the requirements of this Chapter showing the surveyed dimensions and legal description of a parcel of land, the reassemblage of parcels, or the subdivision or resubdivision of land into lots, blocks, tracts, easements and rights-of-way.

a. *Final plat* means a map and supporting materials prepared in accordance with these regulations as an instrument for recording real estate interests with the County Clerk and Recorder.

b. *Preliminary plat* means the maps and specified supporting materials of a proposed subdivision prepared in accordance with these regulations to permit evaluation of the proposal prior to the detailed engineering, design and preparation of the final plat.

Public hearing means a meeting of the Board of Trustees, or other duly constituted board or commission, for the purpose of hearing comments, testimony, recommendations and other responses from an applicant/appellant, the Town staff, interested parties and the general public concerning a land development application or other land use matter under the terms of this Chapter, such meeting being preceded by a published, posted and/or mailed notice.

Public meeting means a regularly or specially scheduled meeting of the Board of Trustees or other duly constituted board or commission, held for the purpose of conducting business.

Resubdivision means the changing of any existing lot or lots of any plat previously recorded with the Park Clerk and Recorder. For the purposes of this Chapter, *resubdivision* shall also include the condominiumization of units of property and the aggregation or reconfiguration of lots for purposes of redevelopment or sale.

Roadway means that portion of a street designated or used for vehicular traffic. This definition shall include the terms road, lane, place, avenue, drive and other similar designations.

Street means a dedicated public right-of-way which provides vehicular and pedestrian access to adjacent properties. This definition shall include the terms road, lane, place, avenue, drive and other similar designations.

a. *Arterial street* means a street which permits the rapid and relatively unimpeded movements of vehicular traffic between communities or major land use elements.

b. *Collector street* means a street which collects and distributes traffic between local streets and major arterial streets.

c. *Local street* (multi-family residential, business and industrial area) means a street which provides direct access to adjacent property and is designed in a manner to discourage through traffic movements, and should not intersect major arterial streets.

d. *Local street* (single-family residential areas) means a street which provides direct access to adjacent property and is designed in a manner to prevent through traffic movements, and does not intersect major arterial streets.

e. *Limited access street* means a street or highway which provides rapid and unimpeded traffic movement between urban centers. Access is partially or completely controlled with a primary grade separated by interchanges connecting only to major arterial streets.

Subdivider means any person, group, corporation or other entity who, as owner or purchaser, or agent of such owner or purchaser, divides or proposes to divide land into lots or other tracts for the purposes of resale or development.

Subdivision means, except as may be permitted under the subdivision exemption procedure provided in this Chapter, the division of a lot or parcel of land into two (2) or more lots and other parcels for the purpose of resale and/or development. This term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land being subdivided. Unless a division of land as specified below is undertaken and/or adopted for the purpose of evading the requirements of this Chapter, the term subdivision shall not apply to any division of land:

a. Which is created by order of any court in this state, or by operation of law, provided that the Town is given timely notice of and an opportunity to participate in such proceeding prior to the entry of the court order and the Town does not file an appropriate pleading within twenty (20) days after receipt of such notice from the court;

b. Which is created by a lien, mortgage, deed of trust or any other security instrument or the foreclosure thereof;

c. Which creates a cemetery lot;

d. Which creates an interest in oil, gas, minerals or water which is severed from the surface ownership of the real property;

e. Which is created by the acquisition of an interest in land in the name of a husband and wife, or other persons, in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this chapter to be only one interest;

f. Which creates an easement or right-of-way for utility installations, solar access, open space or pedestrian/vehicle travel;

g. Which is created by a contingency contract for the sale of land which is dependent upon the purchaser obtaining approval pursuant to a pending or soon to be filed application under this Chapter to subdivide the land subject to the contract;

h. Which is exempted by the Board of Trustees by written resolution after a public hearing at which it is determined that the subject division of land is not within the intent and purposes of this Chapter.

i. Which is the separation of the whole of an original Town site lot from one (1) or more abutting original Town site lots that are held under one (1) and the same ownership for purposes of conveyance, so long as the resulting lot(s) conforms to the minimum lot size requirements for the zone district in which the lot(s) are situated. (Ord. 8, 1994 §11.2; Ord. 11, 2002 §1)

ARTICLE III

Administration and Enforcement

Sec. 17-3-10. Administration of Chapter.

There is hereby vested in the Town staff the duty of administering this Chapter and the power necessary for such administration, incidental to which duty and power it shall:

(1) Appear for and on behalf of the Town in all public hearings before the Commission, present facts and information to assist the Commission in reaching a decision, resist and oppose any deviations from the standard provisions of this Chapter which are contrary to the public interest, and have the decisions of the Commission reviewed in a court of proper jurisdiction when, in its judgment, such review is desirable;

(2) Propose and recommend to the Board of Trustees the enactment of amendments to this Chapter for the purpose of improving the administration and enforcement of this Chapter;

(3) Receive all applications for subdivisions and other development proposed under this Chapter and forward such applications to the proper agencies for examination; and

(4) Assist the Commission in the review of all proposed subdivisions and other such matters related to planning as it deems desirable. All plats of proposed subdivisions shall be submitted to the Commission for its recommendation and approval before being presented to the Board of Trustees. (Ord. 8, 1994 §2.1; Ord. 11, 2002 §1)

Sec. 17-3-20. Application for subdivisions.

For purposes of this Chapter, an applicant filing an official subdivision application form shall be either the owner of the subject parcel or an authorized agent of the owner, inclusive of a prospective purchaser of the subject parcel.

(1) Without limiting an applicant's right to file additional material, the applicant shall submit an official subdivision application form provided by the Town Clerk. An application shall not be considered officially filed until the official application form is complete, the appropriate application fee is paid, and record of such payment is affixed to the application form.

(2) All final plats of subdivision or land within the Town shall be filed and recorded by the County Clerk and Recorder only after having been approved by the Board of Trustees with such approval entered in writing on the plat and signed by the Chairman of the Commission and the Mayor and attested to by the Town Clerk.

(3) No building shall be erected on any lot, nor shall a building permit be issued for a building, unless the street giving access to the lot upon which said building is proposed to be placed shall have been dedicated and approved by the Board of Trustees as part of a legal subdivision. However, a building permit may be issued for a residential lot not abutting a publicly dedicated street when private access is approved by the Commission and is provided by plat, reservation, deed, covenant or contract, and provisions satisfactory to the Town are made for maintaining the access and keeping it in good repair on a year-round basis. (Ord. 8, 1994 §2.2; Ord. 11, 2002 §1)

Sec. 17-3-30. General procedures.

Except as hereinafter provided, the following procedures shall apply to all applications filed under the provisions of this Chapter. Additional subdivision requirements are found in resubdivision, planned unit development, condominium, and time share estates:

(1) Preapplication conference: In order to properly evaluate an area proposed for subdivision, the applicant or his or her agent shall meet with Town staff (planning, building and public works) at a preapplication conference. Such conference shall be held for the purpose of discussing concepts, feasibility, regulations and procedures regarding the proposed subdivision.

(2) Official application form: All applications for subdivision must be submitted to the Town Clerk on a form provided therefor by the Town. The official application form shall be a detailed comprehensive form which includes, but is not limited to, the following:

a. Name, address and telephone number of the applicant, engineer and/or property owners of the subject property, which shall contain a written statement that the owner or owners have no objection to the proposed subdivision. Such statements shall include the verified signature of said owners.

b. A proposed subdivision plat showing the legal boundary of the subject property and all abutting properties; adjacent and included public rights-of-way and easements of record; drainageways and one-hundred year flood plains affecting the subject property; a boundary survey certified by a registered land surveyor; and a location map showing all streets, schools, parks and other public facilities lying within a one-half-mile radius of the boundaries of the subject property.

c. Other materials as specified in the official application form to provide the necessary information relative to the subject property to enable thorough and accurate analysis of the request.

(3) The responsibility to provide all required information, forms and statements at the time the application is filed is upon the applicant. Failure to provide such information, forms and statements shall cause the application to be rejected and returned to the applicant.

(4) Application fee:

a. The Board of Trustees may establish reasonable fees to defray the costs of processing an application and mailing notices, inclusive of fees to cover costs incurred for outside consultants, including planners, engineers and lawyers, utilized by the Town to review and evaluate the application. All fees or fee deposits shall be paid at the time an application is submitted and shall not be refunded unless the applicant withdraws his request prior to the mailing of referrals and/or notices by the Town staff, and/or prior to the Town incurring costs and expenses for consultants retained to review and evaluate the application. Fees shall reflect the reasonable and approximate cost to the Town of processing an application and may be revised from time to time as necessary.

b. The Town Clerk shall publicly post at Town Hall and make available to interested persons on request the hourly rates for planning, engineering and legal services charged to the Town by outside providers in the processing and reviewing of subdivision applications. These rates shall also be disclosed to all applicants for subdivision by the Town Clerk at all preapplication conferences.

c. The Town may require a deposit to be posted at time of application by the applicant to pay for some or all of the reasonably anticipated costs to be incurred by the Town in processing an application. The Town will periodically issue itemized billing statements to developers setting forth amounts owed, payment due dates, amounts credited, outstanding balances and/or amounts remaining on deposit. All application fees shall be nonrefundable and must be paid at time of application. All fees paid on deposit shall be credited against future billings and amounts deposited in excess of fees subsequently incurred shall be timely refunded, without interest, to the applicant. A failure to pay any fee or deposit when due shall result in the suspension of the processing of an application and/or a halt in construction inspections.

d. All fees or costs for the mailing or publication of notices for public hearings, and the recordation of plats and other subdivision or development documents, shall be paid by the applicant and be in addition to application fees.

e. All subdivision or other development approvals shall be subject to the full and timely payment of all fees.

(5) Required copies of application: Upon submission and acceptance of the official application form and unless otherwise directed by the Town Clerk, the applicant shall, within three (3) calendar days of such acceptance, provide ten (10) copies of the completed application, including all required information, forms and statements, or such lesser or greater number of copies as deemed necessary by the Town Clerk for the review of the application.

(6) Application deadline: The applicant shall submit the completed and accepted application at least thirty (30) calendar days prior to the regularly scheduled meeting of the Commission at which the applicant wishes the proposed subdivision request to be considered. The actual scheduling of the application before the Commission shall be determined by the Town Clerk based upon the availability of time on the Commission's agenda.

(7) All subdivision applications shall be reviewed and initially approved by the Commission and Department of Public Works, and finally reviewed and approved by the Board of Trustees. (Ord. 8, 1994 §2.3; Ord. 11, 2002 §1)

Sec. 17-3-40. Recording procedures.

A final plat approved by the Board of Trustees and to which all required signatures have been affixed shall be recorded by the Town Clerk at the applicant's sole expense in the office of the County Clerk and Recorder promptly after receiving authorization. Authorization to record shall be indicated by the signature of the Mayor.

(1) The applicant shall submit any land dedication fees and shall have obtained prior approval of the improvements, plans, letter of credit, subdivider improvements/development agreement and other applicable information specified by this Chapter, and other applicable Town ordinances and resolutions prior to recordation of the final plat.

(2) The applicant shall provide a reproducible Mylar copy of the recorded original final plat, including the County Clerk and Recorder's seal and recording information, to the Town Clerk for use by the Building Official and Commission prior to the issuance of building permits. (Ord. 8, 1994 §2.4; Ord. 11, 2002 §1)

Sec. 17-3-50. Exceptions; waiver.

(a) Upon application in writing by the subdivider, and where it can be shown in the case of a particular proposed subdivision that strict compliance with the requirements of this Chapter would result in extraordinary hardship to the subdivider because of unusual topography or other such conditions, the Board of Trustees may grant an exception, modification or waiver to a requirement so that substantial justice may be done and the public interest secured; provided that such exception, modification or waiver will not have the effect of nullifying the purpose and intent of this Chapter.

(b) In granting exceptions, modifications or waivers, the Board of Trustees may require such conditions as will, in its judgment, substantially secure the objectives of the standards and regulations so affected.

(c) In no case shall any exception, modification or waiver be more than is minimally necessary to relieve the hardship/condition giving rise to the exception, modification or waiver, and in no case shall it be in conflict with this Chapter.

(d) Exceptions, modifications or waivers shall be granted only after a noticed public hearing thereon, and hearings on applications for same may be incorporated into and be part of any noticed public hearing conducted on an underlying subdivision application. (Ord. 8, 1994 §2.5; Ord. 11, 2002 §1)

Sec. 17-3-60. Public notices and hearings on applications.

Whenever the regulations contained in this Chapter call for a public hearing on an application, whether before the Commission or the Board of Trustees, the following procedures shall be adhered to:

(1) All public hearings shall be preceded by written notice that shall be: (a) mailed, first class postage prepaid, to all owners of property within one hundred and fifty (150) feet of the boundaries of the proposed subdivision, disregarding public streets and other public rights-of-way; (b) published in a newspaper of general circulation within the Town; and (c) posted on the property subject to the application. All mailing, newspaper publication and posting of notices shall occur not less than ten (10)

days prior to the hearing. The applicant shall bear the costs of all noticing regarding public hearings on his or her application.

(2) All notices of public hearings shall contain a brief and accurate description of the type and nature of the application and the development proposed therein; the time, date and location of the hearing; the name of the applicant and the address and/or location of the property subject to the application; and an identification of the board conducting the hearing, along with an address/telephone number where additional information on the application may be obtained (e.g., Town Hall).

(3) The accurate and timely noticing by posting and mail required in this section shall be performed by the applicant under the guidance of the Town Clerk, while the Town shall be responsible for the noticing by newspaper publication. Posted notices shall not be less than twenty-two inches wide and twenty-six inches long (22" × 26"), shall be constructed of waterproof/weather resistant materials, shall utilize print not less than one inch (1") in height, and shall be placed facing the street at a conspicuous place on the subject property. If the subject property abuts more than one street, a sign shall be placed facing each such street.

(4) Notice by mail to persons other than an applicant is provided for purposes of convenience only and a failure by any person other than an applicant to have received a mailed notice shall not constitute grounds to delay or deny an application, or a meeting or hearing on an application, so long as the other types of notice required by this section were timely and properly provided.

(5) For purposes of this section, the names and addresses of the owners of properties within one hundred and fifty feet (150') of the property that is the subject of a hearing shall be those as listed in the most recent real property tax records for Park County as of the date the subject application was filed with the Town.

(6) At least one (1) copy of the subdivision application and all supporting documentation supplied by the applicant, inclusive of maps and design plans, shall be made available at the applicant's expense for public inspection at Town Hall during regular business hours not less than ten (10) days prior to any noticed public hearing on the application. (Ord. 11, 2002 §1)

Sec. 17-3-70. Enforcement.

There is hereby vested in the Town staff the duty of enforcing this Chapter and the power necessary for such enforcement, incidental to which duty and power it shall:

(1) Conduct investigations and surveys to determine compliance or noncompliance with the provisions of this Chapter. Incidental to such investigations and surveys, the Building Official or other designated Town officer may enter into and upon any land or structure to be inspected and examined. A failure or refusal to permit such entry and inspection, after issuance of an order therefor, shall constitute a violation of this Chapter. Additionally, the right of entry and inspection may be enforced by application to and proper orders from a court of proper jurisdiction.

(2) Make written orders requiring compliance with the provisions of this Chapter. Such orders shall be served personally or by certified mail upon the person deemed to be violating the provisions of this Chapter; provided, however, that if such person is not the owner of the land or structure in which the violation is deemed to exist or have occurred, a copy of such order shall be sent by certified mail to the

owner of such land or structure. The date of mailing shall be deemed the date of service of any order served by the certified mail. (Ord. 8, 1994 §2.9; Ord. 11, 2002 §1)

Sec. 17-3-80. Violations.

(a) It shall be unlawful for any person or owner, or agent of the owner, of any land located within a subdivision to sell, agree to sell, or offer to sell any land by reference to or by use of a plan or plat of subdivision until such subdivision has received final approval in writing by the Commission and the Board of Trustees and a plat is filed in the office of the County Clerk and Recorder; provided, however, that a written agreement to sell or lease, which is expressly conditioned upon full compliance by the seller with the subdivision regulations of the Town prior to the actual sale or lease of the subject lot or parcel, and which expressly recites that the seller's failure to timely and fully comply with the regulations shall entitle the buyer to terminate the agreement and obtain the prompt return of all consideration under said agreement, shall not constitute a violation of this Subsection.

(b) The prohibition of any act in this Chapter, in any amendment thereof and in any rule or regulation adopted hereunder shall include the causing, securing, aiding or abetting of another person to do said act. (Ord. 8, 1994 §2.10; Ord. 11, 2002 §1)

Sec. 17-3-90. Penalty.

(a) Any person violating any regulations of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000.00).

(b) Each and every day upon which a violation continues shall be deemed a separate offense. In case of a violation of this Chapter, the Board of Trustees may direct the Town Attorney to file an action for and on behalf of the Town seeking an injunction to abate or halt such violation. (Ord. 8, 1994 §2.11; Ord. 11, 2002 §1)

ARTICLE IV

Procedures - Major Subdivisions

Sec. 17-4-10. Preliminary subdivision plan/plat approval.

(a) Preapplication conference. No application for preliminary subdivision plan/plat approval may be submitted to the Town without the applicant having first met with Town staff (planning, building and public works) for a preapplication conference as required in Section 17-3-30(1) above. Applicants may schedule a time and date with the Town Clerk for the preapplication conference.

(b) Application. After the preapplication conference as required in (a) above, an applicant may file the necessary application and supporting materials, inclusive of a proposed preliminary plat prepared by a registered/licensed engineer or land surveyor, with the Town Clerk, accompanied by the appropriate fee. (One [1] reproducible Mylar of the final plat along with one [1] reproducible Mylar copy of the final plat and three [3] paper prints, shall be required upon final approval of the application by the Board of Trustees.) The applicant must submit the application not less than thirty (30) days prior to any meeting of the Commission at which the applicant would like to have the application considered. The applicant's failure to provide a fully

completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to delay the scheduling of the application before the Commission.

(c) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(d) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the Commission, Town Planner and, as necessary or appropriate given the nature of the application, the following persons and agencies:

- (1) Town Clerk file;
- (2) Town Attorney;
- (3) Building Official;
- (4) Public Works Department;
- (5) Police Department;
- (6) All proposed public utility providers (e.g., electric, gas, telephone and CATV);
- (7) Sanitation District;
- (8) Fire Department;

and if applicable:

- (9) Park County Health Department;
- (10) Ditch or irrigation companies;
- (11) U.S. Forest Service;
- (12) Colorado Land Use Commission;
- (13) Colorado Geologic Survey;
- (14) Park County School District RE-2;
- (15) U.S. Army Corps of Engineers;
- (16) Colorado Department of Transportation; and
- (17) Such other person or agency as the Town deems appropriate for a full review of the application.

The Town Clerk shall inform each outside agency receiving a request for review and referral comments that it must respond to such referral within thirty (30) days or such other time period as specified in the referral notice, and that a failure to timely respond shall be deemed to mean that the outside agency has no comments or objections to the development or activity proposed in the application. Reasonable extensions of the time period for submitting referral comments may be approved for good cause upon written request by the outside agency to the Commission. The Town may retain the services of and refer applications to, in whole or in part, outside professional consultants, inclusive of engineers, surveyors, land use planners and legal professionals, to assist in the processing, review, evaluation, design and approval of the application, the cost of which shall be paid for by the applicant as part of the application/review fee.

(e) Planning Commission action.

(1) The Commission shall review and consider a request for preliminary subdivision plan and plat approval, along with any referral comments and recommendations from any department or agency, at a noticed public hearing not later than thirty (30) days after the date on which a complete application was filed with the Town, inclusive of the payment of all required fees, unless the Commission receives a written request by the applicant to extend such time, or the applicant consents to an extension of the time at the request of the Commission. At the conclusion of the hearing, and in no event later than thirty (30) days thereafter, the Commission shall issue its findings and approve, disapprove, or conditionally approve the application by written resolution. If disapproved or conditionally approved, the applicant may be allowed to revise his or her application and resubmit it for consideration at a subsequently scheduled and noticed public hearing.

(2) The Commission shall not grant approval of a preliminary subdivision plan/plat application absent substantial compliance of the plan/plat with the Town's comprehensive plan and the applicable criteria set forth this Chapter and Chapter 16 of this Code, and without obtaining the comments and approval of the Department of Public Works with respect to the adequacy of the propose subdivision improvements and/or infrastructure and engineering.

(3) Approval or conditional approval of a preliminary subdivision plan/plat shall be valid for six (6) months from the date thereof and shall not constitute an acceptance or approval of any subsequent submission regarding the proposed subdivision. A failure by an applicant to submit an application for final subdivision plat approval, either for the entirety or a portion of the subdivision, within six (6) months from the date of the preliminary approval shall cause the preliminary approval to automatically expire; except where, for good cause shown, the Commission, acting within the original six-month approval period, extends such period; and except where an application for final plat approval is timely submitted for less than all of the land within the proposed subdivision, in which case the preliminary approval for the remaining area shall automatically be extended for an additional six (6) months. (Ord. 8, 1994 §3.1; Ord. 11, 2002 §1)

Sec. 17-4-20. Final subdivision plan/plat approval.

(a) Application. Within six (6) months after approval of a preliminary plat for a major subdivision, or within the time period granted by any extension, the subdivision applicant shall file a final plat application with the Town Clerk. The final plat application shall be made on a form supplied by the Town Clerk and be accompanied by all of the documentation and information required by this Chapter, inclusive of a proposed final plat prepared by a registered land surveyor. The application may be submitted for all or a portion of an area within a preliminary subdivision plat approved by the Commission, and shall conform to all of the terms

and conditions of that approval. No application shall be accepted except upon the full payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review). The applicant must submit the application not less than thirty (30) days prior to any meeting of the Commission at which the applicant would like to have the application considered. The applicant's failure to provide a fully completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to delay the scheduling of the application before the Commission.

(b) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials, inclusive of paper prints of the proposed final plat. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(c) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the Commission, Town Planner and Department of Public Works.

(1) Planning Commission action.

a. The Commission shall check the final plat at a public meeting for conformance with the approved preliminary plat and any terms or conditions under which the preliminary plat was approved. The Commission may approve minor modifications to the approved preliminary plat when all of the following conditions exist:

1. Any rearrangement of lot lines does not substantially alter the general lot and street layout of the approved preliminary plat, and remains compatible with surrounding development;

2. The requested modification is in compliance with the zoning regulations and regulations of this Chapter, and other applicable Town ordinances; and

3. The requested modification does not conflict with established policies of the Department of Public Works or other agency, public and private utilities, school district, recreation and park district.

b. Certification (approval): If the Commission finds that the final plat conforms with the approved preliminary plat and, if any, all terms and conditions of the preliminary plat approval, and the subdivider has fulfilled all requirements of these regulations and the ordinances of the Town, then the Chairman of the Commission shall certify said plat.

c. Modification or appeal: If the Commission determines that the final plat is not in compliance with the approved preliminary plat or any terms and conditions under which preliminary approval was granted and/or these regulations, the Commission shall give written notification of this determination to the applicant, who may make all necessary changes, additions or corrections. If the applicant does not desire to make the necessary changes, the applicant may appeal the decision as provided in Subsection (f) below.

(2) Department of Public Works action. The Department of Public Works shall check the final plat to insure compliance with these regulations, established policies of the Department of Public Works and other applicable Town ordinances.

a. Certification (approval): If the Department of Public Works finds the final plat and accompanying material is in compliance with accepted engineering principles, these regulations and other applicable Town ordinances, the Department of Public Works shall certify said plat.

b. Modification or appeal: If the Department of Public Works determines that the affidavits, offers of dedication, survey data or other requirements necessary to insure compliance with these regulations and accepted engineering principles are inadequate, the Department of Public Works shall give written notice of this determination to the applicant, who may make all necessary changes, additions or corrections. If the applicant does not desire to make the necessary changes, the applicant may appeal the decision as provided in Subsection (f) below.

(d) Approval of final plats: If the Chairman of the Commission and Department of Public Works certify that a final plat is in compliance with the approved preliminary plat, accepted engineering principles and the ordinances of the Town, and the plat is approved as to form by the Town Attorney, said plat shall be submitted to the Board of Trustees for final approval.

(e) Board of Trustees action.

(1) The Board of Trustees shall consider the application for final subdivision plan/plat approval at a noticed public hearing conducted not later than thirty (30) days from the date on which the application was deemed complete and ready for approval by the Commission and the Department of Public Works, or as soon thereafter as can be accommodated on the Board of Trustees' meeting schedule. The hearing may be continued for up to forty (40) days to allow for the gathering and submission of additional information deemed necessary to complete the Board of Trustees' review, inclusive of referring the matter, or any particular item associated therewith, to the Commission for additional study and recommendation. At the conclusion of the hearing, and after discussion and deliberation thereon, the Board of Trustees shall vote to approve, approve with conditions or deny the application and final plat, and shall thereafter direct staff to prepare a written resolution with supporting findings reflecting the Board of Trustees' decision for review and approval at the Board of Trustees' next regularly scheduled meeting.

(2) The Board of Trustees may only grant final subdivision plan/plat approval upon finding that the application substantially complies with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, and that the proposed subdivision will not adversely impact the public health, safety and welfare. The burden to demonstrate the application's and plan/plat's compliance with all applicable criteria shall rest with the applicant.

(3) The Mayor, Chairperson of the Commission and Director of Public Works shall execute the approved final subdivision plat within a reasonable time after the Board of Trustees has awarded final approval and the applicant has submitted the plat to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the subdivision have been satisfied, including the execution of a development or subdivision improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the subdivision until the final subdivision plat has been duly recorded in the office of the Park County Clerk and Recorder.

(4) The Mayor, Chair of the Commission, and Director of Public Works shall sign a reproducible Mylar original of the final subdivision plat and two (2) prints or copies thereof. One (1) fully executed copy or print will be returned to the applicant and the Town Clerk shall retain the other.

(5) It shall be the responsibility of the Town Clerk to file the approved plat with the county clerk and recorder's office within ten (10) days of the date of the last signature thereon. Simultaneously with the filing of the final plat, the Town Clerk shall also record any development or subdivision improvements agreement and any agreement for dedications, together with such other legal documents as may be required by the Town Attorney to be recorded. The applicant shall bear the cost of all recordation fees.

(f) Appeals.

(1) An applicant may appeal a decision of the Commission and/or Director of Public Works denying a preliminary or final subdivision application to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than fifteen (15) days from the date of the decision being appealed from. Such notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than forty-five (45) days from the date the notice of appeal was received. Ten (10) day advance written notice of the time, date and place for the hearing shall be posted at Town Hall and sent by regular mail or personally delivered to the appellant. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(2) All hearings on appeal shall be based on the record of the proceedings before the Commission and/or Director of Public Works and the appellant shall carry the burden of persuasion with regard to all issues on appeal. The concurring vote of a majority of the membership of the Board of Trustees shall be required to reverse a decision of the Commission or Public Works Director. The Board of Trustees shall evaluate a decision of the Commission and Director of Public Works under an abuse of discretion standard, taking into consideration the requirements and criteria applicable to subdivision applications. Decisions of the Board of Trustees shall be entered not more than thirty (30) days from the conclusion of the hearing and shall be reduced to writing, a copy of which shall be promptly mailed to the appellant. (Ord. 8, 1994 §3.2; Ord. 11, 2002 §1)

ARTICLE V

Procedures - Minor Subdivisions

Sec. 17-5-10. Eligibility for minor subdivision processing.

(a) A subdivision of land which complies with all of the following requirements as herein defined shall be processed within the provisions of this Article:

- (1) The proposed subdivision plan/plat shall contain four (4) or fewer lots;
- (2) All lots must abut an existing street that satisfies all minimum municipal street standards;

(3) The proposed subdivision plan/plat does not require or involve the installation or extension of a new water or sewer main or the installation of public improvements beyond curb, gutter and sidewalk;

(4) The proposed subdivision plan/plat shall meet the minimum requirements of this Chapter; and

(5) The subdivider shall not request any variance from the requirements of this Chapter or other applicable Town ordinances and resolutions during the subdivision process.

(b) Any proposed subdivision which does not comply with all of the requirements as specified in Subsection (a) above shall be considered a major subdivision and must be processed in compliance with Article IV of this Chapter. (Ord. 8, 1994 §4.1; Ord. 11, 2002 §1)

Sec. 17-5-20. Preliminary and final subdivision plan/plat approval.

(a) Preapplication conference. No application for minor subdivision plan/plat approval may be submitted to the Town without the applicant having first met with Town staff (planning, building and public works) for a preapplication conference as required in Section 17-3-30(1). Applicants may schedule a time and date with the Town Clerk for the preapplication conference.

(b) Application. After the preapplication conference as required in (a) above, an applicant may file the necessary application and supporting materials, inclusive of a proposed final plat prepared by a registered land surveyor, with the Town Clerk, accompanied by the appropriate fee. The proposed final plat need not be placed on Mylar at the time of application. (However, one [1] reproducible Mylar of the final plat along with one [1] reproducible Mylar copy of the final plat and two [2] paper prints shall be required upon final approval of the application by the Board of Trustees.) The applicant must submit the application not less than thirty (30) days prior to any meeting of the Commission at which the applicant would like to have the application considered. The applicant's failure to provide a fully completed application and/or supply all necessary supporting information or materials will cause the Town Clerk to delay the scheduling of the application before the Commission.

(c) Copies. Unless otherwise directed by the Town Clerk, the applicant shall provide ten (10) copies of all application materials. The Town Clerk may specify a lesser or greater number of copies in order to ensure that a sufficient number of copies are provided to those persons or agencies charged with reviewing the application.

(d) Referral of application. Upon receipt of a complete application and the payment of all required fees (and/or the posting of a deposit by the applicant to pay the costs of the application review), the Town Clerk shall distribute copies of the application and supporting materials to the Commission, Town Planner and Department of Public Works and, as may be necessary or appropriate given the nature of the application, the following persons and agencies:

- (1) Town Clerk;
- (2) Town Attorney;
- (3) Building Official;
- (4) Sanitation District;

- (5) Fire Department;
- (6) Colorado Department of Transportation;
- (7) Such other person or agency as the Town deems appropriate for a full review of the application.

The Town Clerk shall inform each outside agency receiving a request for review and referral comments that it must respond to such referral within thirty (30) days or such other time period as specified in the referral notice, and that a failure to timely respond shall be deemed to mean that the outside agency has no comments or objections to the development or activity proposed in the application. Reasonable extensions in the time period for submitting referral comments may be approved for good cause upon written request by the outside agency to the Commission. The Town may retain the services of and refer applications to, in whole or in part, outside professional consultants, inclusive of engineers, surveyors, land use planners and legal professionals, to assist in the processing, review, evaluation, design and approval of the application, the cost of which shall be paid for by the applicant as part of the application/review fee.

(e) Planning Commission action.

(1) The Commission shall review and consider a request for preliminary minor subdivision plan/plat approval, along with any referral comments and recommendations from any department or agency, at a noticed public hearing not later than thirty (30) days after the date on which a complete application was filed with the Town, inclusive of the payment of all required fees, unless the Commission receives a written request by the applicant to extend such time, or the applicant consents to an extension of the time at the request of the Commission. At the conclusion of the hearing, and in no event later than thirty (30) days thereafter, the Commission shall issue its findings and approve, disapprove or conditionally approve the application by written resolution. If disapproved or conditionally approved, the applicant may be allowed to revise his or her application and resubmit it for consideration at a subsequently scheduled and noticed public hearing.

(2) The Commission shall not grant preliminary approval of a minor subdivision plan/plat application absent substantial compliance of the plan/plat with the Town's comprehensive plan and the applicable criteria set forth in this Chapter and Chapter 16 of this Code, and without obtaining the comments and approval of the Department of Public Works with respect to the adequacy of the existing streets and water and sanitary sewer systems to service the proposed development.

(3) Approval or conditional approval of a preliminary minor subdivision plan/plat shall be valid for six (6) months from the date thereof and shall not constitute an acceptance or approval of any subsequent submission regarding the proposed subdivision. A failure by an applicant to submit an application for final minor subdivision plat approval to the Board of Trustees within six (6) months from the date of the preliminary approval shall cause the preliminary approval to automatically expire; except where, for good cause shown, the Planning Commission, acting within the original six-month approval period, extends such period, in which case the preliminary approval for the remaining area shall automatically be extended for six (6) additional months.

(f) Board of Trustees' action; final approval.

(1) The Board of Trustees shall consider the application for final minor subdivision plan/plat approval and the proposed final subdivision plat at a noticed public hearing conducted not sooner than

thirty (30) days from the date on which the application was approved or conditionally approved by the Commission, nor later than thirty (30) days from the date on which a completed application for final approval is submitted by the applicant to the Town Clerk, or as soon thereafter as can be accommodated on the Trustees' meeting schedule. The hearing may be continued for up to forty (40) days to allow for the gathering and submission of additional information deemed necessary to complete the Board of Trustees' review, inclusive of referring the matter, or any particular item associated therewith, to the Commission for additional study and recommendation. At the conclusion of the hearing, and after discussion and deliberation thereon, the Board of Trustees shall vote to approve, approve with conditions or deny the application and final plat, and shall thereafter direct staff to prepare a written resolution with supporting findings reflecting the Board's decision for review and approval at its next regularly scheduled meeting.

(2) The Board of Trustees may only grant final minor subdivision plan/plat approval upon finding that the application substantially complies with the Town's comprehensive plan and the applicable criteria set forth in this Chapter, and that the proposed subdivision will not adversely impact the public health, safety and welfare. The burden to demonstrate the application's and plan/plat's compliance with all applicable criteria shall rest with the applicant.

(3) The Mayor, Chairperson of the Commission, and Director of Public Works shall execute the approved final minor subdivision plat within a reasonable time after the Board of Trustees has awarded final approval and the applicant has submitted same to the Town, along with any and all other documents and evidence, if necessary, demonstrating that all applicable conditions of approval for the subdivision have been satisfied, including the execution of any development or subdivision improvements agreement and the full payment of all fees. No person shall sell, transfer, convey, lease or rent, or negotiate to sell, transfer, convey, lease or rent, any lot or other property within the subdivision until the final subdivision plat has been duly recorded in the office of the Park County Clerk and Recorder.

(4) The Mayor, Chairperson of the Commission, and Director of Public Works shall sign a reproducible Mylar original of the final minor subdivision plat and two (2) prints or copies thereof. One (1) copy or print will be returned to the applicant and the Town Clerk shall retain the other.

(5) It shall be the responsibility of the Town Clerk to file the approved plat with the county clerk and recorder's office within ten (10) days of the date of the last signature thereon. Simultaneously with the filing of the final plat, the Town Clerk shall also record the development or subdivision improvements agreement, if any, and any agreement for dedications, together with such other legal documents as may be required by the Town Attorney to be recorded. The applicant shall bear the cost of all recordation fees.

(g) Appeals.

(1) An applicant may appeal a decision of the Commission denying a preliminary minor subdivision approval to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than fifteen (15) days from the date of the Commission's written decision. Such notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Commission's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than forty-five (45) days from the date the notice of appeal was received. Ten (10) day advance written notice of the time, date and place for the hearing shall be posted at Town Hall and sent by regular mail or personally delivered to the appellant. Absent good and just cause, the failure of an appellant to attend the hearing on

his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.

(2) All hearings on appeal shall be based on the record of the proceedings before the Commission and the appellant shall carry the burden of persuasion with regard to all issues on appeal. The concurring vote of a majority of the membership of the Board of Trustees shall be required to reverse a decision of the Commission. The Board of Trustees shall evaluate a decision of the Commission under an abuse of discretion standard, taking into consideration the requirements and criteria applicable to preliminary subdivision applications. Decisions of the Board of Trustees shall be entered not more than thirty (30) days from the conclusion of the hearing and shall be reduced to writing, a copy of which shall be promptly mailed to the appellant. (Ord. 8, 1994 §4.2; Ord. 11, 2002 §1)

ARTICLE VI

Subdivision Plat Details

Sec. 17-6-10. Plat specifications.

(a) Plat preparation: The applicant shall cause the preparation of a subdivision plat on the subject property by a registered land surveyor. The subdivision plat shall comply with the detailed application form, the provisions of these regulations, the ordinances of the Town and State law. The subdivision plat may be comprised of multiple pages/sheets.

(b) Plat size: The size of all final plats shall be twenty-four (24) inches by thirty-six (36) inches.

(c) Plat requirements: Without limiting an applicant's right to file additional materials, the following application and subdivision plat details shall apply to all applications for subdivisions:

- (1) Name of proposed subdivision.
- (2) Name, address and telephone number of the applicant and legal property owners of subsurface mineral estates, including mineral lessees, if any.
- (3) Evidence of a title and any related supporting materials as needed.
- (4) Metes and bounds legal description, including monumentation certified by a registered land surveyor, and the total number of acres to be subdivided.
- (5) Survey notes of subdivision perimeter survey and copies of all monuments required pursuant to Section 38-53-103, C.R.S.
- (6) North point with written and graphic indication of the scale.
- (7) Vicinity map showing the subject site, streets, street names, schools, parks, railroads, public transit facilities, other identifying features of the area and any other public facilities within one-half (½) mile from the proposed subdivision.
- (8) Geologic investigation reports regarding area suitability for the proposed development.

(9) Tables of soil-type interpretations, as prepared for the sketch plan submission based on the National Cooperative Soils Survey, United States Department of Agriculture, Soil Conservation Service, and provided by the Soil Conservation District.

(10) Existing and proposed contours at two-foot intervals, width and direction of flow of all watercourses and any area inundated by the one-hundred-year frequency flood.

(11) The plat shall show all adjacent and included right-of-way locations, dimensions of proposed streets with delineation of proposed right-of-way dedication, names of existing and proposed streets; the proposed lot layouts, lot dimensions, lot areas and lot and block numbers; adjacent and included pedestrian ways; and all approximate locations of all building setback lines within and immediately adjacent to the subdivision.

(12) The names, locations and property lines of adjacent subdivisions and the owners' names, locations and property lines of abutting unplatted tracts and public lands.

(13) The existing uses on the property proposed for subdividing and all abutting property; and the building outline of all permanent structures located on the subject property which are to be retained.

(14) The location, size, type and, where applicable, grades of all adjacent and included existing utilities and easements, and all new utilities and easements proposed for the subject property, including fire hydrant locations and postal facilities.

(15) Designation of existing zoning on the subject property and abutting properties.

(16) Completed and signed application form for rezoning, if required, for the development of the subdivision.

(17) The substance of all covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings and structures.

(18) The location of bridges, culverts, catch basins and all other provisions for collecting and discharging surface and subsurface drainage.

(19) The location, area and dimensions of all parcels to be reserved for the common use of all property owners in the proposed subdivision and/or land to be dedicated for public parks, open space, schools or other public uses.

(20) The function, ownership and manner of maintenance of common open space not otherwise reserved or dedicated for public use.

(21) The total number of proposed off-street parking spaces, excluding those associated with single-family residential zones.

(22) The total number of square feet of proposed nonresidential floor space.

(23) The estimated total number of gallons per day of sewage.

(24) The estimated construction cost, proposed method of financing and construction schedule of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required of the developer by the Town.

(25) The estimated total number of gallons per day of water system requirements where a distribution system is proposed.

(26) Where a public water system is proposed, the plan must show:

a. The location of water, and a preliminary plan of the distribution system.

b. Adequate evidence that a water supply, that is sufficient in terms of quality, quantity and dependability, will be available to ensure an adequate supply of water for the type of subdivision proposed.

c. If water is to be supplied by an existing public purveyor, a statement from the purveyor stating:

1. Willingness to extend.

2. The quantity of water to be furnished.

3. Existing commitments to be served.

4. The quantity of water available to the purveyor.

5. The feasibility of extending the service into the subdivision.

d. If wastewater treatment is to be accomplished by an existing public facility:

1. The contract for service.

2. An engineer's report showing:

a) The existing capacity over and above commitments or ability to expand so as to create capacity.

b) A study showing the feasibility of extending services into the subdivision.

c) It shall be the responsibility of the subdivider to provide the appropriate utility companies with preliminary and final plats and any such plat revisions that in any way affect the type of design of the systems to be installed. (Ord. 8, 1994 §5.1; Ord. 11, 2002 §1)

Sec. 17-6-20. Final plat submission.

(a) Materials required to accompany final subdivision plat application. Following the approval of the preliminary plat, but not more than six (6) months after such approval, unless an extension of time is granted, the subdivider shall submit to the Town Clerk a sufficient number of copies of the proposed final plat and supporting materials to allow review of same by the Director of Public Works, Building Official, Commission and other reviewing agencies.

(1) In the event a preliminary plat covers only a portion of the applicant's entire holding, a sketch of the prospective street system for the entire tract shall accompany said plan. Filing fees will not be paid on the additional area until such time that a subdivision plat is submitted for such area.

(2) Drainage:

a. If any drainageway exists within the proposed subdivision or adjacent to said subdivision that would be affected by any additional runoff caused by the development of the proposed subdivision, the applicant shall provide a drainage plan. Such plan shall incorporate existing and future upstream development and drainageway modifications, the impact of the proposed subdivision with respect to increased runoff contribution and drainageway modification, means to minimize the additional runoff and increased flow rates, and consider immediate and future downstream implications. Such plat shall show the existing topography by dashed lines, and the approximate proposed grading shall be indicated by solid lines within the proposed subdivision.

b. Should it be determined that a preliminary drainage plan is not required, the applicant shall provide a grading plan of the proposed subdivision which shall show the existing topography by dashed lines, and the approximate proposed grading shall be indicated by solid lines.

c. For a drainageway easement where a subdivision is traversed by a watercourse, stream or drainageway, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction of both will be adequate for drainage purposes. Parallel streets, parkways, walkways, culverts, bridges or storm sewers may be required in connection with such drainage easement.

(3) All subdivision plans shall provide dedication of easements sufficient to allow the efficient installation and placement of all utilities as needed by the development now and in the foreseeable future.

(4) Public utility installations shall be located so as to permit multiple installations within the easements to avoid cross-connections, minimize trenching and adequately separate incompatible systems.

(5) Easements for utility service lines shall follow rear and side lot lines whenever practical and shall have a minimum width of ten (10) feet. The center line of any easement shall not coincide with a property line, and wherever possible the easement shall lie entirely on one (1) side of the property line. Where front line easements are required, a minimum of fifteen (15) feet shall be allocated as a utility easement, and shall not be less than fifteen (15) feet in width extending throughout the peripheral area of the development.

(6) The location and width of all utility easements shall be subject to the approval of the Director of Public Works and of the utilities using the easement. The subdivider shall be responsible for complying with the requirements, including any construction or installation charges, of the servicing utilities for the installation of such facilities.

(7) Underground placement of utilities shall be required in all subdivisions. Water and sewer lines must be buried at a minimum of nine and one-half feet (9.5') with cover to prevent freezing at or above eight thousand (8,000) feet. Electrical lines are to be buried at a minimum of forty-two (42) inches for primary and thirty (30) inches for secondary lines measured from the bottom of the conduit.

(8) All residential, commercial and industrial uses which have human occupancy shall be connected to the Fairplay Sanitation District's sanitary sewer system. The design and installation of all sewer mains, laterals and house connections must be in conformance with the Uniform Building Code and rules and regulations of the Fairplay Sanitation District. All sewer mains and laterals shall be installed in easements and/or dedicated rights-of-way.

(9) All residential, commercial and industrial uses which have human occupancy shall be connected to the Town's municipal water distribution system. The water distribution system of the subdivision shall contain mains of sufficient size and have sufficient number of outlets to furnish an adequate water supply for each lot or parcel in the subdivision, and to provide adequate riser protection. The Northwest Fire Protection District will review plans to ensure adequate fire protection. Design of water distribution systems shall be done by a licensed engineer and be in conformance with the Town requirements.

(10) Any new building construction or other site alteration shall minimize the removal from the lot of trees with a trunk diameter of four (4) inches or more.

(b) Required accompanying data: The final plat shall be accompanied by the following data:

(1) A certified statement by the subdivider to the effect that all supplemental information furnished with the preliminary plat is embodied in the final plat or, if this is not the case, revised supplemental data of the same scope and format as required for the preliminary plat is being furnished with the final plat.

(2) Utility location plan.

(3) Three (3) copies of all the protective covenants or restrictions placed on the subdivision, one (1) copy of which shall be filed with the plat.

(4) Engineering plans, descriptions and cost estimates for streets, drainage facilities, utility systems, bridges and for other improvements proposed to be installed by the subdivider.

(5) A check for the total amount of all fees owing the Town.

(6) Warranty deed to the Town conveying to the Town all public lands other than streets shown on the plat if not otherwise dedicated on the plat.

(7) Payment for any other fees applicable to the subdivision.

(8) Proof that the subdivider has a right to subdivide certain real property. Evidence shall include ownership and encumbrance reports and written approval by mortgagors, or other persons or corporations having interest in said property, agreeing with proposed subdivision. (Ord. 8, 1994 §5.2; Ord. 11, 2002 §1)

Sec. 17-6-30. Improvements.

(a) Plans to accompany final plats:

(1) Not less than three (3) copies of an improvements plan which shall include, as applicable, profiles, grades, specifications, estimated construction costs, time schedule and other necessary information for the construction and installation of all improvements.

(2) If there is evidence of unsuitable surface and/or subsurface soil conditions, the applicant shall provide a report, prepared by a licensed engineering geologist, which examines slope, stability and erosion characteristics, water table elevations, swelling pressure potential, bedrock depth or other geological characteristics necessary to insure that all hazards and special precautions have been identified.

(3) If the proposed subdivision is five (5) acres or larger, and there is evidence of sand, gravel, quarry aggregate or other mineral deposits underlying the subject property, the applicant shall provide a report, prepared by a licensed engineering geologist, which shall show the thickness and quality of such deposits, map the limits of the deposits, and other required information to determine the commercial value of such deposit, in accordance with state law, Section 34-1-130(4), C.R.S.

(4) One (1) copy of the computed closure sheets for the entire subdivision.

(5) Financial security, in the form of an irrevocable letter of credit, a cash or performance bond or in some other form acceptable to and approved by the Town Attorney, to secure to the Town the actual construction and installation of all required improvements, shall be transmitted upon approval of the final plat and prior to signing said plat for recording. Such financial security shall be in the amount of one hundred twenty-five percent (125%) for the estimated engineering, materials and construction costs at the projected time of installation. If the required improvements are not complete by the projected time of installation, the Department of Public Works shall review the amount of financial security and may require that the amount of financial security be revised in accordance with the then current costs of engineering, materials and construction.

(6) A subdivision improvements agreement by which the applicant agrees to construct any required improvements shown on the final plat, or other agreements or contracts setting forth the plan, methods and parties responsible for the construction of said improvements. As improvements are completed, the applicant may apply for release of part or all of the deposited collateral. If the Department of Public Works determines that any such improvements are not constructed in compliance with specifications, the applicant shall be furnished with a list of specific deficiencies and the Town shall withhold sufficient collateral to insure such compliance. If the deficiencies are not brought into compliance, the Town may withdraw funds from the deposit of collateral to bring the improvements into compliance.

(7) Development assurance for common open space:

a. Adequate assurance may be required to insure that any common open space and/or facilities will be provided as shown on the approved subdivision plat. Such assurance may be in the form of a bond, corporate surety or other financial guarantee approved as to form by the Town Attorney. The financial assurance, if required, shall be in the amount of one hundred twenty-five percent (125%) of the estimated engineering, materials and construction costs at the projected time of installation. If the required improvements are not complete by the projected time of completion, the Town shall review the amount of the financial assurance covering the incomplete improvements and may require that the amount of the assurance be revised in accordance with the then current costs of engineering, materials and construction.

b. If development is proposed to occur in phases, assurances that common open spaces and/or facilities will be provided as shown on the approved subdivision plat shall stipulate that such open space and/or facilities will be completed in the same proportion as that particular phase is of the entire development.

c. The requirements of this Subsection are deemed separate, distinct from and are not met by the requirements for collateral to secure construction of public improvements as provided hereinabove.

(b) Required improvements:

(1) Improvements agreement. No final plat shall be approved by the Board of Trustees for recordation until the subdivider has submitted and the Board of Trustees has approved a subdivision improvements/development agreement or contract agreeing to construct the required improvements as shown in the plans, plats and supporting documents. Through such agreement or contract, the subdivider, his or her successors, heirs and assigns, guarantees to make the required improvements in accordance with design and time specifications set forth therein.

(2) Unless specifically authorized, the following improvements shall be addressed in the subdivision improvements agreement or contract:

a. Road grading and surfacing.

b. Curbs, gutters and driveways.

c. Sidewalks.

d. Sanitary sewer mains as applicable and sanitary sewer laterals and house connections; this includes payment to the Sewer District for the appropriate portion of any sewer lines built through the property by the Town as determined by the Sewer District.

e. Separate bicycle paths.

f. Water distribution system, and fire-fighting resources, including fire hydrants, where applicable, water meters and house connections; this includes payment to the Town for the appropriate portion of any water lines built through the property by the Town as determined by the staff.

g. Storm sewers or storm drainage system, as required.

h. Street signs at all street intersections and other places, as required, and address numbers for all buildings; such signs and address numbers to be acceptable to the Planning Commission.

i. Landscaping and irrigation distribution system, where applicable.

j. Street trees.

k. Permanent reference monuments and monument boxes.

l. Street lighting.

m. Underground electric and communication utility lines and services, and all street lighting devices.

n. Adequate parking facilities.

o. Other facilities as may be specified or required in these regulations by the Commission or Board of Trustees.

p. No improvements shall be made until all required plans, profiles and specifications for such improvements have been submitted and approved by the designated Town official.

(3) Improvements guarantee.

a. The construction of public and other subdivision improvements to be installed as part of a subdivision shall be secured by adequate bond, cash escrow, letter of credit or other security instrument as approved by the Town, and shall be identified in a development or subdivision improvements agreement that shall be executed by the subdivider and the Town as a condition of approval for every subdivision in which public improvements are to be constructed or installed. All subdivision improvements shall be subject to warranty after construction and acceptance. No building permit shall be processed or issued by the Town for any subdivision lot or lots prior to the submission, review and approval of final construction plans for all subdivision infrastructure and improvements as required by the terms and conditions of the subdivision approval and/or terms of this Code, and the complete and satisfactory installation of such improvements and infrastructure necessary to serve any lot or lots for which a building permit has been sought. All costs reasonably incurred by the Town in reviewing and approving final construction plans, inclusive of planning, engineering and legal fees, shall be paid by the applicant.

b. The security instrument shall be accompanied by an engineer's estimate of the cost of providing the required improvements in accordance with density and time specifications. If the improvements are not constructed in accordance with all the specifications, the Town shall notify the subdivider of the noncompliance and proposed schedule for correcting the noncompliance. If the Town determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Town shall have the power to withdraw and employ the security as may be necessary to construct the improvements in accordance with the specifications.

(4) Release of guarantee. As the required improvements in a subdivision are completed, the subdivider may apply in writing to the Town for a partial or full release of the bond, credit deposit letter, certified check or other security. Upon receipt of such application in writing, the Director of Public Works or other designated Town official shall inspect the portion of the improvement which has been completed. If it is determined from such inspection that the improvements thus far completed have been made in accordance with the final plat and the requirements of these regulations and in accordance with time and design specifications, a portion of the bond, credit deposit letter, certified check or other security sufficient to cover the cost of improvements thus far completed shall be released; except that at no time shall the level of security be reduced below that amount necessary to insure the full and timely completion of improvements and infrastructure not yet completed and accepted, or below twenty-five percent (25%) of the amount originally posted until such time as the applicable maintenance and warranty period(s) for the improvement or infrastructure has expired.

(c) Acceptance of streets, roads, water system and other public improvements:

(1) Preliminary acceptance:

a. Upon completion of street or road, water system or other improvements, the subdivider shall notify the Town in writing and request inspection. The Director of Public Works or other designated inspector shall inspect such improvement and shall notify the subdivider in writing of nonacceptance or preliminary acceptance. If an improvement is not acceptable, the reasons for nonacceptance shall be stated and corrective measures shall be outlined in a letter of notification.

b. Until such time that the developer has received written acceptance for full maintenance of a public improvement by the Town, the developer shall be responsible for all maintenance and repairs of such improvement.

c. The Town shall not be required to inspect or accept street or water system improvements for maintenance from November through May since construction and operational deficiencies cannot usually be determined or corrected during this period due to weather.

d. The Town may require continued surety by the subdivider for any work to be done.

(2) Final acceptance:

a. One (1) year following the issuance of a certificate of preliminary acceptance, the Public Works Director or other designated inspector shall inspect a public improvement for final acceptance.

b. The Town shall notify the subdivider in writing of nonacceptance or final acceptance. If an improvement is not acceptable, the reasons for nonacceptance shall be outlined in the letter of notification. If an improvement is found to be acceptable, the Town shall release the guarantee for the improvement and assume full maintenance responsibility for same as provided in Paragraph (3) below.

(3) Certificate of completion: Except as may be otherwise provided in any subdivision agreement, the Town shall not accept responsibility for the operation or maintenance of improvements until completion of the improvements and final acceptance thereof by the Town. The Town will not accept any improvements, nor release or reduce the amount of any security posted by the subdivider, until the Town has certified that the required improvements have been satisfactorily completed and the subdivider's engineer or surveyor has provided detailed "as-built" drawings and/or surveys illustrating locations, dimensions, materials and other information required by the Town, and that the quality, grade, siting, alignment and all other aspects of the improvements are in accordance with construction plans for the subdivision. Additionally, the subdivider must affirm by delivery of an opinion of title or other documentation deemed acceptable by the Town that the improvements have been completed, are ready for acceptance by the Town and are free and clear of any and all liens and encumbrances. Upon written application by the subdivider for a certificate of completion, and provided that all payments and other performance agreed to be made and performed by the subdivider have been made and completed, the Town shall issue a certificate of completion. Upon issuance of a certificate of completion, all improvements specified in the certificate shall be deemed to be approved and accepted by the Town, whereupon the specific improvements shall be owned, operated and maintained by the Town.

(4) Maintenance of improvements: A subdivider/developer shall maintain all subdivision improvements and infrastructure, except for the removal of snow from streets, sidewalks or other public rights-of-way, until final acceptance of the improvements for maintenance by the Town. Prior to final acceptance, the Town, upon reasonable notice to the subdivider/developer, may undertake emergency repairs to any improvement or infrastructure as deemed necessary by the Town, and charge the reasonable

costs thereof to the subdivider/developer. The Town may make demand and draw upon security posted by the subdivider/developer for any improvement or infrastructure in order to recover its costs in maintaining or repairing same.

(5) Deferral or waiver of required improvements:

a. The Town may defer or waive at the time of final subdivision plat approval, subject to appropriate conditions, the provision of any or all subdivision improvements as the Town may deem necessary due to inadequate or non-existent connecting or supporting facilities or systems, or for other just cause. Decisions to waive or defer otherwise required subdivision improvements may only be made by the Board of Trustees on the record at a public hearing or meeting, and must be supported by expressed findings and reasons.

b. Whenever it is deemed necessary to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay to the Town its estimated proportionate share of the costs of the future improvements prior to the execution of the final subdivision plat, or execute a separate subdivision improvements agreement secured by a letter of credit or other financial instrument acceptable to the Town guaranteeing completion of the deferred improvements upon demand of the Town.

(6) Issuance of building permits or certificates of occupancy: No building permit or certificate of occupancy shall be processed or issued by the Town for any lot(s) or building(s) within a subdivision prior to the complete and satisfactory installation of all subdivision improvements or infrastructure required to serve such lot(s) or building(s), and the payment of any and all subdivision fees then due to the Town by the subdivider/developer. (Ord. 8, 1994 §5.3; Ord. 11, 2002 §1)

Sec. 17-6-40. Subdivision improvements/ development agreements.

(a) Completion of improvements. All applicants granted a subdivision approval requiring or involving public improvements and/or infrastructure shall timely, fully and satisfactorily construct or install all such public or other required improvements and infrastructure as a condition of final subdivision development approval. All improvements and infrastructure intended for public use shall be dedicated and/or transferred to the Town free of all liens and encumbrances. A failure by an applicant to complete, dedicate and/or transfer subdivision improvements and infrastructure as required herein may result in the suspension or withdraw of approval and authorization for the subdivision.

(b) Subdivision improvements agreement and guarantee.

(1) Agreement. No final subdivision plat shall be executed by the Town and no building permits shall be processed or issued for any lot or property within a subdivision involving or requiring the installation of public or other subdivision improvements absent the preparation and execution of a written subdivision improvements agreement (or development agreement) which shall be recorded simultaneously with the final subdivision plat. Such agreement shall, at a minimum, set forth construction specifications for required subdivision improvements, a construction and completion schedule, provide for security and guarantees concerning the timely and satisfactory completion of the improvements, and identify the terms and conditions for the acceptance of the improvements by the Town. The agreement shall also include a requirement that all improvements be maintained by and/or at the cost of the subdivider for a period of one

(1) year following preliminary acceptance, and that the subdivider will warrant all improvements to be free from defects (inclusive of materials, design and construction) for a period of one (1) year following preliminary acceptance.

(2) Covenants to run. A subdivision improvements agreement (or development agreement) shall run with the land and bind all successors, heirs and assignees of the subdivider.

(3) Security. All subdivision agreements (or development agreements providing for the installation of subdivision improvements) shall include a requirement for the posting of adequate financial security to insure the timely, complete and satisfactory construction or installation of all subdivision improvements and infrastructure as called for in the agreement. Security shall be in an amount not less than one hundred twenty-five percent (125%) of the estimated cost of completion of all improvements or infrastructure and may be provided by letter of credit, cash escrow, performance bond, or other financial instrument as approved by the Town within its sole discretion.

a. Letter of credit. If an applicant posts a letter of credit as security, it shall: (1) be irrevocable; (2) be for a term, inclusive of renewals, sufficient to cover the completion, maintenance and warranty periods as required in this section; and (3) require only that the Town present the letter of credit with a demand and an affidavit signed by the Mayor attesting to the Town's right to draw funds under the letter of credit.

b. Cash escrow. If an applicant posts a cash escrow, the escrow instructions shall provide that: (1) the subdivider will have no right to a return of any of the funds except as provided in this section and (2) that the escrow agent shall have a legal duty to deliver the funds to the Town whenever the Mayor presents an affidavit to the agent attesting to the Town's right to receive funds, whether or not the subdivider protests that right.

c. Reduction of security. Upon preliminary acceptance of a subdivision improvement or infrastructure, the Town shall release all but twenty-five percent (25%) of the amount of financial security posted to secure the successful and timely completion of same, so long as the subdivider/developer is not in default of any provision of the subdivision improvements (or development) agreement. The residual twenty-five percent (25%) retained by the Town shall act as security for the subdivider/developer's guarantee that the subdivision improvements and infrastructure remain free of defect during the applicable warranty period. The subdivider/developer may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the Town. (Ord. 11, 2002 §1)

Sec. 17-6-50. Final plat certificates and statements; accompanying documents.

All plats shall have the following certificates and statements unless otherwise authorized by the Town Attorney:

- (1) Certification of approvals and signature blocks for the following:
 - a. The Planning Commission by the Chairperson;
 - b. The Board of Trustees by the Mayor;

- c. Attestation and acceptance by the Town Clerk;
- d. Clerk and Recorder for Park County acceptance;
- e. Landowner ownership and dedication certificate(s);
- f. Title company/attorney title certificate;
- g. Surveyor's certificate; and
- h. Mortgagee's certificate (when applicable).

(2) Certificates substantially complying in form with the following shall, at a minimum, be included on the final map/plat when applicable.

Land Dedication and Owner's Certificate

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, being the owner or owners of the following described real property situate in the Town of Fairplay, County of Park and State of Colorado, to wit:

(Legal Description)

has laid out, subdivided and platted the same into lots, tracts, streets, and easements as shown herein under the name and style of _____ [insert name of subdivision], and by these presents does hereby set apart and dedicate to the Town of Fairplay for public use all of the streets, alleys and other public ways and places as shown hereon, and hereby dedicates those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon. [and/or other purposes, as appropriate to the subject plat].

Executed the ____ day of _____, ____.

Owner's or Owners' Name(s)

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledge before me this ____ day of _____, ____ by _____ [printed name(s) of owner(s)]. [If by natural persons, here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner].

Witness my hand and official seal.

(SEAL) _____
Notary Public

My commission expires: _____

Title Company Certificate:

_____ does hereby certify that we have examined the title to all lands shown hereon and all lands herein dedicated by virtue of the plat, and title to all such lands is in the above-named Owner(s) free and clear of all liens, taxes and encumbrances, except as follows:

[necessary descriptions when applicable]

Dated this ____ day of _____, ____.

Agent/Officer

Title: _____

(Notary certification)

Mortgagee's Certificate
(if applicable)

_____, as beneficiary of a deed of trust [or identify other mortgage instrument or agreement creating security interest] which constitutes a lien upon the declarant's property, recorded at Reception No. _____ and/or Book _____, Page _____, Park County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas as designated on this plat, and hereby forever releases said lands from the lien created by said instrument.

(print name of beneficiary)

(signature)

(print title)

Date: _____

Address: _____

(Notary certification)

Surveyor's Certificate:

I, _____, being a registered land surveyor in the State of Colorado, do hereby certify that this plat of _____ was prepared by me and under my supervision, that both this plat and the survey are true and accurate to the best of my knowledge and belief, and that the monuments were placed pursuant to Sec. 38-51-105, C.R.S.

Dated this ____ day of _____, ____.

[Surveyor's name/Registration No.]

Fairplay Planning Commission Certificate:

This plat is approved* this ____ day of _____, ____.

TOWN OF FAIRPLAY
PLANNING COMMISSION

Chairman

Fairplay Director of Public Works Certificate:

This plat is approved* this ____ day of _____, ____.

TOWN OF FAIRPLAY
DIRECTOR OF PUBLIC WORKS

Fairplay Board of Trustees Certificate:

This plat is approved* this _____ day of _____, _____.

TOWN OF FAIRPLAY

Mayor

ATTEST:

Town Clerk

(Seal)

*This approval does not guarantee that the type of soil, geologic hazard, drainage or flooding conditions of any lot shown hereon are such that a building permit may be issued. This approval is also with the understanding that all expenses involving necessary improvements for all utility service, paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the Town of Fairplay. Notice is further hereby given that acceptance of this platted subdivision by the Town of Fairplay does not automatically constitute an acceptance of the roads, rights-of-way and other public improvements shown hereon for maintenance by said Town. Until such roads and rights-of-way and improvements meet Town specifications and are specifically inspected and accepted by the Town, the maintenance, construction, and all other matters pertaining to or affecting said roads, rights-of-way and improvements are the sole responsibility of the subdivider and owners of the land embraced within this subdivision.

Town Clerk's Certificate:

STATE OF COLORADO)
) ss.
COUNTY OF PARK)

I hereby certify that this instrument was filed in my office at _____ o'clock ____M., _____, and is duly recorded.

Town Clerk

(Seal)

Clerk and Recorder's Certificate:

STATE OF COLORADO)
) ss.
COUNTY OF PARK)

I hereby certify that this plat was accepted for filing and recorded in the office of the Park County Clerk and Recorder on the _____ day of _____, _____, under Reception No. _____, and/or Book _____, Page _____, at _____ o'clock.

Park County Clerk and Recorder

(Seal)

(3) Other documents required at the time of submission of the final plat shall be:

- a. Draft engineering plans and specifications for all public infrastructure and facilities, e.g., water and sewer systems, streets/paving, drainage, curb, gutter and sidewalk.
- b. Utility and ditch company service agreements/written commitments when applicable.
- c. A draft subdivision improvements/development agreement prepared in substantial compliance with such format as adopted by the Town, inclusive of financial security agreements or specimens and all terms and conditions, if any, of subdivision approval established by the Board of Trustees. (The submission of the draft agreement can be delayed at the applicant's discretion until after the public hearing on the proposed final plat.) (Ord. 8, 1994 §5.4; Ord. 11, 2002 §1)

Sec. 17-6-60. Phasing of subdivision plats.

Prior to granting final approval of a subdivision plat, the Board of Trustees may permit the plat to be divided into two (2) or more phases or sections and impose such conditions upon the filing of the phases and sections as it may deem necessary to assure the orderly development of the plat. The Board of Trustees may also require that the subdivision improvement agreement and performance guarantees applicable to the subdivision be in such amount(s) as is commensurate with the phase or phases of the plat to be filed, and may defer the remaining amount of the security until the remaining phases of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining phases until those phases, subject to any conditions imposed by the Board of Trustees, shall be granted concurrently with the final approval of the plat. If phasing is approved, the approved subdivision plat showing the approved phase shall be filed with the County Clerk and Recorder's office. Unless otherwise approved by the Board of Trustees, phases must contain at least twenty-five percent (25%) of the total number of lots contained in the approved plat. The approval of all remaining phases not initially filed with the Clerk and Recorder's office shall automatically expire unless such phases have been approved and recorded, and all fees, instruments and offers of dedication have been submitted, along with a subdivision improvement agreement, security and performance bonds, if any, within three (3) years of the date of final subdivision approval of the subdivision plat. (Ord. 11, 2002 §1)

Sec. 17-6-70. Suspension and invalidation of final plat.

If the Town suspends final plat approval for any subdivision plat under these regulations, it shall record a document with the Park County Clerk and Recorder's office declaring that final approval for the subdivision is suspended and that the further sale, conveyance or development of property within the subdivision is prohibited; except that this prohibition shall not apply to innocent third persons or parties who have acquired property from the subdivider in good faith, unless the person or party acquiring property has done so as joint or common owner with the subdivider. Similarly, if any court of competent jurisdiction invalidates final plat approval for any subdivision, the municipality shall record a document with the Park County Clerk and Recorder's office declaring that the final plat for the subdivision is no longer valid and that further subdivision activity is prohibited. (Ord. 11, 2002 §1)

ARTICLE VII

Design Standards

Sec. 17-7-10. General requirements.

The planning, layout and design of subdivisions are of the utmost concern. The residents must have available to them within the area safe and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, and protect views, and afford privacy for the residents and protection from adverse noise and vehicular traffic. Natural features and vegetation of the area must be preserved when possible. Schools, parks, churches and other community facilities should be planned for as an integral part of the area.

(1) Names of subdivisions: The name of a subdivision shall not duplicate or closely duplicate that of any existing subdivision within the County area.

(2) Uninhabitable land: The land which is deemed to be uninhabitable because of the flooding, inadequate drainage or excessive grades shall not be subdivided for any use which may increase danger to health, life or property or aggravate flood or other hazards. Such lands within a subdivision may be set aside for approved uses which will remedy the condition or conditions.

(3) Regulatory considerations: When designing a subdivision, full compliance with the Zoning Code of the Town shall be required with particular attention to the zoning district in which the proposed subdivision is located. (Ord. 8, 1994 §6.1; Ord. 11, 2002 §1)

Sec. 17-7-20. Graphic presentation.

(a) Blocks:

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

- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- b. Zoning requirements as to lot sizes and dimensions;
- c. Needs for convenient and emergency access, circulation and traffic safety; and
- d. Limitations and opportunities of topography.

(2) Pedestrian access shall be required to provide links to neighborhood schools, playgrounds, shopping centers and other community facilities where such facilities exist within a reasonable walking distance of the subdivision.

(b) Lots:

(1) The lot size, width, depth, shape and orientation shall be appropriate for the type of development and use contemplated.

- (2) Residential lot dimensions shall conform to the minimum requirements of the Zoning Code.
- (3) Depth and width of properties shall be adequate to provide for the necessary private service and parking facilities required by the type of use and development contemplated.
- (4) Normally, the average lot depth shall not exceed twice the lot width at the building line.
- (5) Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both roads.
- (6) All lot lines shall be at right angles to the center line of an abutting street, or to a tangent of the arc of the center line of a curved street. If after subdividing the existing remnants of land, the remaining land shall be included in proposed or existing lot areas.
- (7) Each lot shall be provided with a minimum frontage on an approved public or private street as specified in the Zoning Code. The feasibility of a suitable driveway from the adjacent street to a usable building area on each site must be demonstrated for each lot.
- (8) Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from arterials and limited access facilities or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet in width and across which there shall be no vehicular right of access may be required along the rear property line of lots abutting such traffic artery or other disadvantageous use. (Ord. 8, 1994 §6.2)

Sec. 17-7-30. Street standards.

(a) Street systems: Street systems are to be laid out, designed and constructed in accordance with standards specified by the Department of Public Works. The following standards are only minimums and are designed to provide general guidelines to the subdivider.

(b) Street names: Streets that are extensions of, or obviously in alignment with, existing named streets shall bear the names of the existing streets. Street names shall be subject to the approval of the Commission.

(c) Street layout:

(1) Layout shall be considered in relation to existing and planned future streets, topographical conditions and soil conditions, particularly considering drainage and erosion factors, to public convenience and safety, to aesthetics and in their appropriate relation to the proposed use of the land to be served.

(2) When any part of a collector, arterial or limited access facility, indicated as such on the transportation plan of the Town, passes through a proposed subdivision, such part shall be dedicated in the location and at the width indicated on the plan.

(3) The dedication of a half street shall not be accepted unless:

a. The subdivider obtains for the Town a dedication from the abutting landowner of the other one-half (1/2) of the street; and

- b. The subdivider obtains from the said abutting landowner an agreement in a form satisfactory to the Town Attorney which guarantees the cost of the improvements and construction of the same on the half street within a time suitable to the Department of Public Works; and
 - c. The subdivider guarantees the construction of the improvements on the half street which he or she is dedicating; or
 - d. Any other similar arrangement recommended by the Department of Public Works and approved by the Board of Trustees.
- (4) Right angle intersections shall be used whenever practicable.
 - (5) Intersecting collector and local streets shall not empty into the same side of an arterial street at intervals of less than eight hundred (800) feet.
 - (6) Local and collector street shall be laid out so that their use by major through traffic will be discouraged.
 - (7) When a subdivision abuts and controls access to public lands or existing streets, access shall be provided in the form required by the public agency involved. When a subdivision abuts private lands, the Town may require the developer to provide access thereto.
 - (8) Reserve strips controlling access to public streets shall be prohibited except where their ownership is given to the public agency having jurisdiction and where agreed to by that public agency. In general, reserve strips in the form of one-foot outlets are required to control access on perimeter and stub streets.
 - (9) Alleys open at both ends may be required in commercial and industrial districts.
 - (10) Where railroad crossings are proposed or affected, provisions for grade separations, buffer strips and safety protection devices shall be provided by the applicant as required. Obtaining approval from the affected railroad company and the Colorado Public Utilities Commission where applicable shall be the applicant's responsibility.
 - (11) Streets which are stub streets designated to provide future connection with adjacent unplatted land shall be provided with a temporary turnaround at the stub end.
 - (12) Cul-de-sacs shall not exceed four hundred (400) feet in length and shall have a turnaround with a minimum radius of fifty (50) feet at the closed end. In the event the cul-de-sac drains into the closed end, storm sewers or other drainage structure shall be required to dispose of storm water satisfactorily.
 - (13) Street curb intersections shall be rounded by a tangential arc with a minimum radius of twenty (20) feet for a single-family local residential streets and cul-de-sacs, and thirty (30) feet for intersections including multifamily residential, business, industrial, collector and arterial streets. Corresponding radii for property lines shall be rounded by a tangential arc having the same center as the arc of the curb intersections.

(14) All changes in street bearing shall be connected with curves tangent to the bearing at both ends. There shall be a tangent of at least one hundred (100) feet in length measured at the center line at both ends.

(15) When a subdivision abuts or contains an existing or proposed freeway or major arterial, restriction of access may require the platting of a frontage road and/or visual screen planting easement.

(16) Where vertical curbs with separated sidewalks are required, the planting area or that unpaved portion of the right-of-way between the curb and the sidewalk shall be landscaped and maintained by the abutting property owners. Landscaping shall normally be limited to sodding or seeding, except that trees, shrubs or other plant materials may be used subject to the Town approval of the location and species of planting materials to be installed.

(17) Private streets: The use of private streets will be limited and is permitted only upon approval of the plan by the Board of Trustees. Private streets shall be confined to closed loops and dead-end streets not to be used for the convenience or safety of the general public.

(d) Design criteria:

(1) All streets constructed within the Town limits must be constructed to meet current fire and building code specifications as adopted by the Town.

(2) In the Residential One (R-1) Zoning District, the developer must construct streets with a minimum of thirty-two-foot-wide paved surface, two (2) feet, seven (7) inches on each side of pavement, with concrete curb and gutter and a six-foot-five-inch area between the curb and the edge of the street right-of-way, with a four-foot sidewalk on both sides of the street, or a concrete drain pan on each side of the paved street with a drive-over sidewalk within the six-foot-five-inch area on each side of the street.

(3) The street must be constructed with a minimum of six (6) inches of road base compacted to ninety-eight percent (98%) beneath the asphalt surface. Said compaction test must be performed by a licensed geotechnician and be paid for by the developer. Said asphalt surface must be a minimum of three (3) inches thick.

(4) If the Department of Public Works requests a core test of the asphalt, said test shall be performed at the expense of the contractor or the developer, as per the development agreement.

(5) In all zoning districts other than Residential One (R-1), the developer must construct streets with a minimum of forty-two-foot-wide paved surface, two (2) feet, seven (7) inches on each side of pavement, with concrete curb and gutter and a six-foot-five-inch area between the curb and the edge of the street right-of-way with a four-foot sidewalk on both sides of the street, or a concrete drain pan on each side of the paved street with a drive-over sidewalk within the six-foot-five-inch area on each side of the street. (Ord. 8, 1994 §6.3; Ord. 1, 2006)

Sec. 17-7-40. Storm drainage.

(a) Land within an adopted one-hundred-year flood plain zone or land which is subject to inundation by a one-hundred-year flood shall not be platted for occupancy unless the flooding condition is alleviated in conformance with the Town Flood Plain Management Regulations.

(b) Historical flow patterns and runoff amounts are to be maintained in such a manner that would preserve the natural character of the area and prevent property damage of the type generally attributed to runoff rate and velocity increases, diversions, concentrations and/or unplanned ponding of storm runoff.

(c) The runoff rate from a one-hundred-year frequency storm before and after anticipated development of the drainage basin involved shall be used in determining the provisions that must be made to satisfy the requirements of Subsection (b) above. Where the historical amounts of runoff cannot be maintained by detention storage or other devices, suitable channelization with erosion protection and/or outfall storm sewer leading to a suitable discharge point must be provided.

(d) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement for maintenance purposes and for the purpose of excluding improvements of the type that would interfere with runoff. The minimum requirements for such easements shall be based on a one-hundred-year frequency flood but shall not be less than twenty (20) feet in width.

(e) When a subdivision is traversed by water supply ditches or canals, the engineering requirements of the ditch owner may be specified with a certificate of clearance from the appropriate official of the ditch company to the effect that all work required by the Department of Public Works as a condition of plat approval has been satisfactorily performed may be required prior to acceptance of any public improvements or the issuing of building permits within the subdivision.

(f) All storm sewers and drainage facilities such as gutters, catch basins, bridges and culverts shall be installed and the land graded for adequate drainage as shown on plans submitted and approved and shall be inspected and checked for adequacy by the Department of Public Works.

(g) Erosion and sediment control: In addition to permanent provisions, temporary erosion and sediment control measures are also required during construction operations. (Ord. 8, 1994 §6.4)

Sec. 17-7-50. Utilities.

(a) General criteria:

(1) Telephone, electric, gas and other similar utility lines and services shall be placed underground unless otherwise authorized by the Board of Trustees. Transformers, switching boxes, terminal boxes, metering, roadway lighting, signal devices, gas regulators, compressor stations or other similar facilities necessary and appurtenant to underground facilities may be placed above ground. Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with adopted encroachment requirements or within easements or rights-of-way provided for the particular facilities in accordance with the approved improvements plan.

(2) The subdivider shall be responsible for all construction or installation charges including those required by the agency serving utilities, except those installed at the expense of the utility company involved.

(b) Easements: New easements shall be planned so as to be free from conflicting legal encumbrances, to avoid unnecessary removal of trees or excessive excavations, and to be free from obstructions. The developer is encouraged, in lieu of mechanically providing easements on each and every lot line, to propose a layout based upon a plan for providing the necessary utilities in order to reduce the number and complexity of

easements. Such a proposal is subject to approval by the utility agencies involved and by the Town. Easements are to be retained or, if nonexistent, provided for all existing utilities that are to remain.

(c) Availability of service: The subdivider must present assurances from authorized representatives of all major suppliers of utilities to the proposed subdivision that said utilities are available and will be supplied to the project.

(d) Water and sewer mains:

(1) In order to provide for the orderly construction of public improvements as areas are built and developed, and to avoid intermittent sections so improved or unimproved, and to promote the public health, safety and welfare, all water and sewer mains shall be installed and improved in accordance with the specifications of the Town and the Sewer District.

(2) All water and sewer mains shall be laid to the grades shown on the water and sewer profile and cross-section plans submitted and approved and shall be inspected and checked for accuracy by the Department of Public Works.

(e) Survey monuments: Permanent plat boundary monuments shall be set at locations approved by the Department of Public Works.

(f) Fire protection: Fire hydrants are to be provided in all developments served by central system and are to be separated by no more than five hundred (500) feet. (Ord. 8, 1994 §6.5; Ord. 11, 2002 §1)

Sec. 17-7-60. Waivers and modifications.

(a) Upon written request by a subdivider, the Board of Trustees may waive or modify the requirements of these regulations utilizing the following evaluation criteria:

(1) The granting of the waiver or change will not be detrimental to the health, safety, convenience and general welfare of the citizens of the Town; and

(2) The waiver or change shall not in any manner vary the provisions of the Zoning Code; and

(3) The waiver or change will be consistent with the goals and policies of the applicable neighborhood policy plan and the Comprehensive Plan of the Town; and

(4) The waiver or change shall not be injurious to the permitted usage of adjacent property; or

(5) The waiver or change will allow conformance with existing improvements; or

(6) The waiver or change will improve the design, character and quality of the new development by facilitating more efficient and economic provision of streets and utilities; and by preserving natural and scenic features of the particular site.

(b) Waivers or modifications authorized hereunder shall bind the development of the specific property regardless of any change in ownership of the property.

(c) Waivers or modifications authorized hereunder shall be indicated in written or graphic form on the final plat prior to recording the approved final plat in the office of the County Clerk and Recorder.

(d) No waiver or modification may be considered or granted for minor subdivisions. (Ord. 8, 1994 §6.6; Ord. 11, 2002 §1)

ARTICLE VIII

Land Dedication

Sec. 17-8-10. Policy.

The Board of Trustees does hereby declare that it shall be a matter of formal public policy that the standard of parks and/or open space for new residential subdivisions, or resubdivisions which result in an increase in density, shall be one and one-half (1.5) acres of parks and/or open space for each one hundred (100) residents of the Town. (Ord. 8, 1994 §7.1; Ord. 11, 2002 §1)

Sec. 17-8-20. Requirements.

Except as provided in this Article, the subdivision or platting of all lands within the limits of the Town on the effective date hereof, or thereafter annexed, shall be required to provide a cash payment or land dedication for parks/open space or public facilities as follows:

(1) Parks/open space fee for residential:

- a. Single-family - five hundred dollars (\$500.00) per unit.
- b. Multiple-family - three hundred fifty dollars (\$350.00) per unit.

(2) Public facilities fee for nonresidential: Except as provided in Subsection (4) below, land used for commercial, office or industrial purposes shall pay a public facilities fee equivalent to eight percent (8%) of the then-current market land value. The market value may be established by a sales transaction for the subject property or an appraisal made by a certified real estate appraiser; provided, however, that such sales transaction or appraisal was completed not more than twelve (12) months prior to approval of the final subdivision plat.

(3) Land dedication: The Board of Trustees may, at its option, require the dedication of land with a current appraised value equal to the required cash fee; the Board of Trustees may elect to accept a specific proposal for land dedication from the subdivider; or the Board of Trustees may accept a combination of cash and land equivalent to the total cash fee required. Land accepted in lieu of cash shall be in a location and of a physical character acceptable to the Town. The Board of Trustees shall apply the following standard in making its determination regarding the acceptance of land in lieu of the required cash payment:

Special consideration will be given to the following characteristics of the specific site proposed for dedication:

- a. Location;

- b. Size and shape of proposed site;
- c. Accessibility; and
- d. Topography.

(4) Credit for off-site improvements: When commercial, office or industrial subdivisions are required to provide off-site improvements, and such required improvements have a service capacity in excess of the demand generated by the subdivision on the capacity of the improvement, the value of any excess capacity may be credited against the public facilities fee set forth in Subsection (2) above.

a. Limitations. Off-site improvements which are the minimum required to serve the subdivisions specified in the subdivision regulations and/or the design standards of the Department of Public works, shall not be eligible for credit. A request for credit, as provided herein, may be made only in conjunction with filing the application for approval of a final subdivision plat for a major subdivision, or a preliminary and final subdivision plat for a minor subdivision.

b. Application for credit for off-site improvements. Application for credit, as provided herein, shall include:

1. A written statement requesting such credit, specifying the amount of credit being sought, and signed by the subdivider or designated agent thereof.

2. A report which provides specific data on the improvements for which credit is sought including, but not limited to, the following:

a) Description of the improvements for which credit is being sought.

b) Specifications of the improvements as required by the Town.

c) Specifications of the demands generated by the subdivision.

d) Documentation of the basis for which such improvements are required to exceed the demands generated by the subdivision.

e) A statement which, based on the data provided in the report, supports the credit being sought.

3. Written statements from the appropriate affected agencies including, but not limited to, the Department of Public Works, sewer district and State Department of Transportation which stipulate that the data used in the request for credit is reasonable and accurate.

c. Award of credit:

1. The Board of Trustees shall review the information required herein; the report and recommendation of the Town Administrative staff and affected agencies, together with any further evidence and testimony which may be presented at the meeting to consider the matter, which shall serve as the basis for their determination. The Board of Trustees may, based on the evidence:

- a) Grant the requested credit in full;
 - b) Find that the evidence does not support the full amount of credit requested and grant a lesser amount that the Board of Trustees determines the evidence does support;
 - c) Find that the evidence does not support granting any credit, and deny the request.
2. Under no circumstances shall the Board of Trustees grant credit for off-site improvements greater than either:
- a) The amount of credit requested by the applicant; or
 - b) The amount payable to the Town under Subsection (2) above. (Ord. 8, 1994 §7.2; Ord. 11, 2002 §1)

Sec. 17-8-30. Use of fees and dedicated land.

All cash fees and dedicated land shall be used for public parks/open space or other public purposes and shall be primarily directed for the particular benefit of the prospective residents of the subdivision or development to which the fee or land is attributable, but shall not exclude the use by the general public.

(1) Parks/open space fee for residential: The parks and open space fee shall be used for the purchase of public parks and/or open space within a reasonable distance of the subdivision from which such fee has been paid, if such land is available and is determined to be suitable for the intended use when consideration is given to the standard set forth in Subsection 17-8-20(3) above.

(2) Public facilities fee for nonresidential: This fee shall be used to help defer the costs of community facilities and services that are needed to serve a new development. Such fees shall be separately accounted for and shall be used by the Town for such related community facilities and services as directed by the Board of Trustees. (Ord. 8, 1994 §7.3; Ord. 11, 2002 §1)

Sec. 17-8-40. Payment of fees.

Fees shall be due and payable to the Town prior to recording the plat. Such fees are considered to be the minimum required. Any increase in dwelling unit density over that proposed and approved for construction in conjunction with approval of a final plat, unified development plan, planned unit development plan, planned industrial park plan or other plan shall be subject to payment as provided in Section 17-8-20 above. Such additional fee shall be due and payable at the then-applicable rate, prior to the issuance of building permits. (Ord. 8, 1994 §7.4)

Sec. 17-8-50. Applicability of requirements.

(a) Newly annexed land; residential: Except as provided in Section 17-8-40 above and Subsection (c) below, newly annexed land which has been subdivided prior to the time of annexation for residential use shall not be subject to the provisions of this Article.

(b) Newly annexed land; nonresidential: Newly annexed land which has been subdivided prior to the time of annexation for commercial, office or industrial use shall not be subject to the provisions of this Article except as provided in Subsection (c) below.

(c) Resubdivision: Any resubdivision of an existing subdivision, or part thereof, which results in a higher density or intensity of use, regardless of any previous exemption from the provisions of this Article, shall at the time of resubdivision become subject to these provisions. (Ord. 8, 1994 §7.5)

Sec. 17-8-60. Deferral of construction.

Any land exempted from the provisions of this Article under Section 17-8-50 above shall become subject to these provisions if the Board of Trustees determines one (1) of the following:

(1) That no obvious effort has been made to develop or install the required improvements on the land subdivided prior to annexation within one (1) year from the effective date of such annexation; or

(2) That, on land which was subdivided within the time requirement of Subsection 17-8-50(b) above, no effort has been made to physically develop the land or install the required improvements within one (1) year from the date the subdivision plat was recorded. (Ord. 8, 1994 §7.6; Ord. 11, 2002 §1)

Sec. 17-8-70. Revision of cash fees.

The Board of Trustees, at its annual budget meeting(s) of the calendar year, shall review and, if deemed appropriate, revise the cash fees herein provided. A failure or oversight by the Board of Trustees to review a fee shall not result in the invalidity or cancellation of the fee. (Ord. 8, 1994 §7.7; Ord. 11, 2002 §1)

ARTICLE IX

Land Reservation

Sec. 17-9-10. Purpose.

Because of unique requirements for sites for community facilities, the Town retains the right to reserve lands for new public facilities and streets at sites designated for such purposes. Such reservation may be for future public buildings, schools sites, open space, parks or streets above the classification of collector. These lands will be reserved for eventual purchase by the appropriate public body in the event that the projected need for public facilities on these sites becomes a reality. (Ord. 8, 1994 §8.1)

Sec. 17-9-20. Time limitation.

Lands may be reserved under the provisions of this Article for a period of no longer than three (3) years after the approval of a final plat which includes the affected property. Within this three-year period, the public body for whom the land is reserved must make a commitment for purchase or all rights to the reserved properties shall revert to the land owner. (Ord. 8, 1994 §8.2)

Sec. 17-9-30. Compensation.

The acquisition of reserved land shall be based upon the fair market value as determined by not less than two (2) independent appraisals at the time of acceptance of the final plat by the Town. Taxes on reserved lands during the period of reservation shall be paid by the agency for whom the land is reserved; if such taxes are not paid by the appropriate agency, the reservation shall cease. (Ord. 8, 1994 §8.3)

Sec. 17-9-40. Use of land.

During the period of reservation, lands may be used by the land owner for any purpose not incompatible with the proposed public use and the existing zoning on the property. (Ord. 8, 1994 §8.4)

Sec. 17-9-50. Denial of plat.

The subdivider shall be required to designate reserved lands on all plats as land reserved for public purchase. Failure to so designate such lands shall be a basis for denial of the final plat. (Ord. 8, 1994 §8.5)

ARTICLE X

Subdivision Exemption

Sec. 17-10-10. Purpose.

Notwithstanding any other requirement to the contrary, the land development or adjustment activities contained in this Article shall be exempt from the full subdivision processes and procedures set forth in this Chapter. (Ord. 11, 2002 §1)

Sec. 17-10-20. Lot line adjustment.

An adjustment of a lot line between two (2) contiguous lots if all of the following conditions have been met.

(1) The requested adjustment is necessary to correct a survey or engineering error in a recorded plat, or to allow an insubstantial boundary change between adjacent lots or parcels to relieve hardship or practical necessity, or to allow a transfer of land from a larger conforming lot to a smaller non-conforming lot so as to make both lots conforming, or to allow a boundary change between lots or parcels that is not intended or will result in an avoidance of the purposes of this Chapter.

(2) All owners whose lot line(s) or boundary line(s) are subject to the adjustment shall join in the lot line adjustment application.

(3) No new development shall be allowed on the lots absent review and approval under the provisions of this Chapter. (Ord. 11, 2002 §1)

Sec. 17-10-30. Elimination of lot lines.

The elimination of lot lines to merge not more than two (2) conforming lots, or to merge two (2) or more non-conforming lots, but not more than are necessary to create a single conforming lot within the applicable zoning district, if all of the following conditions have been met:

(1) The lots to be consolidated are under one (1) and the same ownership.

(2) The consolidated lot resulting from the elimination of the lot line(s) will not exceed any lot size maximum or other regulation established for the zone district in which the lot is situated.

(3) The proposed elimination of the lot line(s) is not intended or will result in an avoidance of the purposes this Chapter.

(4) Except for the construction or enlargement of a single-family or duplex residence and/or an accessory building when allowed by right under the applicable zoning district regulations, no development shall be permitted on a consolidated lot in a residential zone district absent prior review and approval of the proposed development under the provisions of this Chapter. (Ord. 11, 2002 §1)

Sec. 17-10-40. Duplex conversion subdivision.

The division of a single lot on which an existing duplex dwelling is located, or is to be constructed, into two (2) separate lots if all of the following conditions have been met.

(1) The duplex is allowed by right in the underlying zone district and is to be divided along a Code-compliant fire-resistant common wall into two (2) separate single-family dwelling units on separate lots of conforming size in the zone district, or on lots not less than four thousand five hundred (4,500) square feet in size if the minimum lot size for the zone district cannot be obtained.

(2) Each of the dwelling units is served by its own separate utility service lines and meters, inclusive of water, sewer, electricity and natural gas.

(3) A common-wall maintenance agreement shall be established and recorded to run with the land comprising the proposed duplex lots.

(4) Except for the original primary structure(s) comprising the dwelling units and any common and/or side-by-side or connected garages or driveway(s), all new structures, or the expansion of any existing structures, on the two new duplex lots shall be subject to the setback requirements for the underlying zone district in which the lots are located.

(5) The proposed duplex lots shall be the same size, or approximately the same, and each lot shall have its own direct access to a street. (Ord. 11, 2002 §1)

Sec. 17-10-50. Exemption procedures.

Land development activities eligible for exemption from normal subdivision standards and processes shall be subject to the following procedures:

(1) All applicants for a subdivision exemption shall meet with the Town Planner and/or Building Official to discuss exemption procedures prior to the submission of an application.

(2) All applicants shall submit a complete application, accompanied by any required fee, and a professionally prepared draft subdivision exemption plat substantially conforming in all respects to the applicable requirements of Article VI of this Chapter and illustrating all proposed adjusted lot lines and lots. The applicant shall provide no less than an original and two (2) copies of the proposed subdivision exemption plat unless otherwise specified by the Town Clerk.

(3) All applications for a subdivision exemption shall be initially reviewed by the Town Planner and Building Official for recommendation and then forwarded to the Chair of the Planning Commission, who shall approve or deny same within thirty (30) days without need for notice or hearing. Appeals from a

decision of the Chair of the Planning Commission shall be to the Board of Trustees in accordance with the procedures set forth in subsection (5) below.

(4) Upon approval of an application, the Chair of the Planning Commission shall sign a reproducible Mylar original of the final subdivision exemption plat substantially conforming in all applicable respects to the requirements of Article VI of this Chapter, and two (2) duplicate paper prints of the Mylar. One paper print shall be returned to the applicant. The Town Clerk shall file the approved plat with the County Clerk and Recorder as soon as reasonably possible, with the cost thereof to be borne by the applicant.

(5) Appeals from a decision approving or denying a subdivision exemption shall be made to the Board of Trustees in writing by filing same with the Town Clerk within ten (10) days from the date of the decision appealed from. All appeals shall be heard by the Board of Trustees de novo and shall be conducted at a public meeting within thirty (30) days from the filing of the appeal, or as soon thereafter as can be accommodated. The Town Clerk shall both (1) notify the appellant by certified mail, return receipt requested, of the date the appeal shall be heard and (2) publish notice thereof in a newspaper of general circulation at least seven (7) days in advance of the hearing. The decision of the Board of Trustees on appeal may be issued orally, but shall thereafter be reduced to writing within a reasonable period of time after the conclusion of the hearing and mailed to the appellant.

(6) Aggregation and consolidation of lots for subdivision purposes. Any application seeking to simultaneously merge or aggregate two or more lots or parcels and then subdivide same for the purpose of creating two (2) or more new conforming lots shall be reviewed and approved under the procedures and standards utilized for establishing a minor or major subdivision, as the case may be, depending upon the total number of new lots sought to be created. (Ord. 11, 2002 §1)

ARTICLE XI

Resubdivision, Condominiumization, Time Share and PUD Development

Sec. 17-11-10. Parcel resubdivision.

(a) Any resubdivision of a lot, tract or other parcel of land which has previously been subdivided is subjected to all provisions of this Article and all other rules and regulations which may apply to the original subdivision of land, except where such resubdivision is specifically exempted therefrom upon application to and approval by the Board of Trustees

(b) All resubdivisions shall comply with the procedures in Section 17-4-20 of this Chapter.

(c) Final plat:

(1) A final plat of the resubdivision will be reviewed by the Commission at the preliminary conference.

(2) The final plat will then be reviewed by the Commission at a public meeting and its recommendations thereon forwarded to the Board of Trustees for approval or disapproval of the final plat.

(3) The final plat will be reviewed by the Board of Trustees for final approval or disapproval at a noticed public hearing. (Ord. 8, 1994 §10.1; Ord. 11, 2002 §1)

Sec. 17-11-20. Resubdivision or duplex conversion resulting in party-wall.

In addition to the general procedures required in this Article, a party-wall agreement shall contain but not be limited to the following:

- (1) Identification of parties.
- (2) Identification of party-wall.
- (3) Provisions for repair and maintenance.
- (4) Restrictions, if any, pertaining to structural changes to the party-wall.
- (5) Easements for repairs to the party-wall.
- (6) Restrictive liens.
- (7) Utility easements (if needed).
- (8) Any other documentation as may be reasonably required. (Ord. 8, 1994 §10.2)

Sec. 17-11-30. Condominiumization.

(a) All proposed condominium projects and the condominiumization of existing property shall comply with the general procedures in Section 17-4-20 or 17-5-20 of this Chapter as the same are applicable.

(b) A subdivider proposing a condominium conversion shall provide a condominium conversion inspection report to the Building Official on the condition of the building illustrating the building's and all individual unit's compliance with all building and fire code regulations. The subdivider shall also make the building and individual units available for inspection by the Building Official if the Building Official deems such inspection is necessary to confirm compliance of the building and/or units with the Town's building and fire safety regulations. A fee will be required to cover the cost of the inspection.

(c) Final plat: In addition to the applicable provisions in Section 17-4-20 or 17-5-20, respectively, for final condominiumization approval, the following is needed:

- (1) A map showing all common areas and usages of the building and grounds, and plans for the interior division of the building showing horizontal and vertical boundaries of all units.
- (2) A copy of the declarations applicable to the condominium project, as defined in the Colorado Common Interest Ownership Act, C.R.S., §§ 38-33.3-101, et seq.
- (3) A copy of the condominium corporation by laws. The by laws shall contain the information required by the Colorado Common Interest Ownership Act. All condominium projects shall comply with these requirements.
- (4) A management plan which states:
 - a. The responsible party for managing the common area, lodging reservation, etc.

b. Provisions for selecting, appointing and securing management.

c. Responsibilities and duties of the managing entity.

d. The responsible party for coordinating the use and rental unit occupancy of those units that are used for short-term lodging.

(5) A maintenance plan which states:

a. The responsible entity for repair and maintenance of common areas.

b. What will be included in the maintenance program including, but not limited to, provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities.

c. The mechanism used to fund the management and maintenance activities of the development.

(d) Approval: No partial or final map shall be approved until all applicable requirements have been met. (Ord. 8, 1994 §10.3; Ord. 11, 2002 §1)

Sec. 17-11-40. Planned unit development.

(a) Any application to subdivide or resubdivide land may simultaneously seek treatment and designation of the proposed subdivision as a PUD. If PUD designation is sought, then the subdivision application must incorporate and comply with the PUD application processes and approval criteria contained in Chapter 16 of this Code in addition to satisfying the application requirements contained in this Chapter. Whenever PUD and subdivision application procedures or requirements overlap or are in conflict, such procedures or requirements shall not be applied cumulatively, but in a manner to avoid redundancies and to process the application in an expeditious fashion. Application fees with respect to residential PUD/subdivisions shall be calculated utilizing proposed lots, or units where multiple residential buildings/single-family units are proposed to be constructed on a single lot or parcel.

(b) If, following detailed review of the proposed plans as they relate to the approval criteria for a PUD, the Board of Trustees finds that the interests of the Town concerning good design, environmental amenity and efficiency of public services would be enhanced thereby, the Board of Trustees may waive one (1) or more of the subdivision regulations (excepting the requirements for installation of improvements), or may establish additional conditions to be met by the development plan.

(c) In approving such a PUD/subdivision development plan, the Board of Trustees shall be assured that the development provides and dedicates adequate open spaces and improvements for circulation, parking, recreation and service needs of the tract when fully developed, and that adequate covenants, financial and legal guarantees are provided as will assure that the plan will be followed and achieved. (Ord. 8, 1994 §10.4; Ord. 11, 2002 §1)

Sec. 17-11-50. Time share development.

In addition to the procedures contained in Section 17-4-20 or 17-5-20 of this Chapter, the applicant shall provide the following additional information and documentation to the Town at the time of application for time share development or conversion.

(1) Final plat: A plat showing all common areas and usages of the building and grounds and plans for the interior division of the building showing horizontal and vertical boundaries of all units. This is not required if there has not been a change or addition to the original plat for the property.

(2) A statement fully and accurately disclosing:

a. The name of the developer and the principal address of the developer and the units offered in the statement.

b. A general description of the time share units including, without limitation, the developer's schedule of commencement and completion of all buildings, units and amenities.

c. As to all units offered by the developer in the same project:

1. The types and number of units.

2. Identification of units that are time share units.

3. The maximum number of the developer's units that may become time share units.

4. A statement of the maximum number of time shares that may be created, or that there is no maximum; and

5. The number of proportion of time shares the developer intends to market in blocks to investors.

(3) Time share development shall provide a management plan which states:

a. The responsible entity for managing the common areas, lodging, reservation, etc.

b. Provisions for selecting, appointing and securing management.

c. Responsibilities and duties of the management entity.

d. The responsible party for coordinating the use and rental unit occupancy of those units that are used for short term lodging.

(4) A maintenance plan which states:

a. The responsible entity for repair and maintenance of common areas.

b. What will be included in the maintenance program including, but not limited to, provisions for snow removal, trash removal, maintenance of pools, hot tubs, common areas and other amenities.

c. The mechanism used to fund the management and maintenance activities of the development.

(5) Prior to the approval of a time share development proposal, the applicant shall submit to the Town an affidavit that he or she has complied with Sections 38-33-111 and 112, C.R.S., or their successor statutes. (Ord. 8, 1994 §10.5; Ord. 11, 2002 §1)

ARTICLE XII

Vested Property Rights

Sec. 17-12-10. Purpose.

The purpose of this Article is to provide procedures necessary to implement the provisions of Article 68 of Title 24 of C.R.S., and to exercise local municipal control over the creation and enforcement of vested property rights to the maximum extent allowed by law. In the event Article 68 of Title 24 of C.R.S. should be repealed or declared invalid or unconstitutional by a court of competent jurisdiction, this Article shall be deemed to be repealed and the provisions hereof shall no longer be effective. (Ord. 9, 1999)

Sec. 17-12-20. Definition of vested property right.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. (Ord. 9, 1999 §2)

Sec. 17-12-30. Definition of site specific development plan.

Site specific development plan means a plan which has obtained final development approval under the standards and procedures as contained in these subdivision regulations, inclusive of public notice and public hearing, and which describes with reasonable certainty the type and intensity of use for a specific parcel of property, and includes all terms and conditions of approval. A sketch plan, preliminary plan, variance, license, zoning, map, exemption, easement, permit, certificate of appropriateness or waiver shall not constitute a site specific development plan, but may be incorporated into and become part of a site specific development plan. (Ord. 9, 1999 §2)

Sec. 17-12-40. Designation of site specific development plan for vesting of property rights.

The following site specific development plans will create and cause property rights to vest as provided for in this Article:

- (1) A properly and fully executed final subdivision plat.
- (2) A properly and fully executed final PUD plat.
- (3) A properly and fully executed subdivision agreement, PUD agreement or other development agreement providing for vested rights.
- (4) A written land development agreement or authorization not otherwise identified in this Article which specifically provides for or incorporates a vested property right, and which was approved by the Board of Trustees following notice and public hearing. (Ord. 9, 1999 §2)

Sec. 17-12-50. Conditional approval of site specific development plan.

The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Failure to abide by such terms and conditions shall result in the forfeiture of any vested property rights. (Ord. 9, 1999 §2)

Sec. 17-12-60. Limitations; exceptions.

(a) Nothing in this Article is intended to or shall create a vested property right beyond such right as defined in Article 68 of Title 24 of C.R.S. Once established in conformity with this Article; however, a vested property right shall preclude any zoning or land use action by the Town, inclusive of a citizen-initiated measure, which would alter, impair, prevent, diminish or impose a moratorium on the development or use of property as authorized by an approved site specific development plan, except:

- (1) With the consent of the development applicant;
- (2) Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property which could not reasonably have been discovered at the time of the development or vested rights approval, and which if left uncorrected would pose a serious threat to public health, safety and welfare; or
- (3) To the extent compensation is paid as provided for in Article 68 of Title 24 of C.R.S.

(b) Notwithstanding the foregoing, the establishment of a vested property right shall not preclude the application to any land use or development of ordinances or regulations which are general in nature and applicable to all property subject to these subdivision regulations, including, but not limited to, fee assessments, water and sewer tap rationing and building, fire, plumbing and mechanical codes. Moreover, the vesting of a site specific development plan shall not exempt such plan from inspections, reviews or approvals deemed necessary by the Town to ensure compliance with the terms and conditions of the original development plan approval. (Ord. 9, 1999 §2)

Sec. 17-12-70. Public hearing and notice required.

The approval of a site specific development plan creating vested property rights shall require a public hearing preceded by public notice. Such hearing and notice may be combined with any other public hearing and notice otherwise required under this Chapter. If not combined with another notice, notice of a public hearing on the vesting of a property right shall be given by publication in a newspaper of general circulation in the Town not less than seven (7) days in advance of the hearing. (Ord. 9, 1999 §2)

Sec. 17-12-80. Effective date of approval; duration of vested property rights.

(a) A site specific development plan and vested property right shall only be deemed established upon the final action of the reviewing body or official designated under this Chapter with authority to grant final development approvals. The effective date of a site specific development plan and vested property right shall be the date on which a final plat, final development plan, development agreement or other applicable document memorializing a development approval and vested right as specified in this Article has been duly executed. A site specific development plan which has received final approval subject to conditions to be satisfactorily performed at some future date shall result in a vested property right unless there is a failure to abide by such conditions, in which event the vested property right shall be forfeited. In the event of amendments to a site specific development plan, the effective vesting date of any amendment shall be the date of the approval of the original plan unless otherwise specifically provided in the action or document approving and memorializing the amendment.

(b) A site specific development plan that has been vested as provided under this Article shall remain vested for three (3) years from the plan's effective date. A longer initial vesting period, or an extension in the

vesting period, may be granted upon a finding that a longer or extended vesting period will serve the public interest and welfare in view of all pertinent circumstances, including, but not limited to, the size and phasing of any given development, economic cycles or market conditions. (Ord. 9, 1999 §2)

Sec. 17-12-90. Document language.

Each map, plat or other document constituting or memorializing a vested site specific development plan shall contain the following language:

Approval of this plan shall create a vested property right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended, subject to the terms and limitations as contained in the Fairplay Municipal Code.

A failure to include this statement shall not invalidate the creation of the vested property right. (Ord. 9, 1999 §2)

Sec. 17-12-100. Published notice of approved site specific development plan and vested property right.

As soon as reasonably practicable following final approval of a vested site specific development plan, but in no event later than fourteen (14) days following final approval, notice of the same shall be published in a newspaper of general circulation in the Town generally advising the public of the approval and identifying the property subject thereto. Such notice shall be substantially in the following form:

Notice is hereby given to the general public of the approval of a site specific development plan and the creation of a vested property right pursuant to Title 24, Article 68, Colorado Revised Statutes, and the Fairplay Municipal Code pertaining to the following described project and/or property:

(Description of property)

The property shall be generally described in the notice and identify the ordinance or resolution granting such approval. The costs of publishing such notice shall be borne by the applicant. (Ord. 9, 1999 §2)

Sec. 17-12-110. Referendum and judicial review.

A vested site specific development plan shall be subject to all rights of referendum and judicial review, except that the thirty-day time period in which to exercise such rights shall not begin to run until the publication of the notice of approval as provided for in this Article. (Ord. 9, 1999 §2)