

**ARTICLE III. DEVELOPMENT APPLICATIONS, REVIEW AND PROCEDURES\***

## DIVISION 1. GENERAL PROVISIONS

**Sec. 26-40. Exemptions from development review process.**

(a) *Applicability.* Certain activities or development may be exempt from development permit review. Exemption does not exempt any development or its use from any other applicable requirement of this CDC or the requirement to obtain a building permit and certificate of occupancy.

(b) *Determination of exemption.* Any person may request a written determination, from the director, regarding whether a specific proposed development is exempt from one or more of the review processes contained in this article. In determining the applicability of any exemption listed, the director, in the director's sole discretion, may require the submittal of accurate and where applicable, scaled sketches, site plans, photographs, subdivision plats, existing conditions plans, improvement location surveys, and specifications or other information describing the proposed activity, construction or development.

(c) *Single-family residential and mobile home residential development.* Development permits are not generally required for single-family and mobile home residential development and uses, as well as related accessory uses or structures, where the director determines all of the following conditions are met:

- (1) The activity takes place on a legal parcel or within an approved mobile home park;
- (2) The single-family use is not located in a planned unit development;
- (3) The activity is in conformance with the requirements of the applicable zone district; and
- (4) The activity is in conformance with all applicable development standards of this CDC.

(d) *Other development.* Development permits are not required for commercial, industrial, multi-family, mixed-use, and other types of development in the following situations:

- (1) *Internal modifications to commercial, industrial, multi-family, and mixed-use structures.* An alteration, modification, or change of a commercial, industrial, multi-family or mixed-use structure that is internal to the structure, does not alter or affect the exterior appearance of the structure, does not result in an increase in traffic impacts, and does not result in any noncompliance with any development or dimensional standard contained with this CDC.
- (2) *Agricultural practices.* Agricultural practices in conformance with the applicable zone district.

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\***Editor's note**—Ord. No. 2187, § 1, adopted June 3, 2008, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 26-41—26-90, pertained to similar subject matter. See the Code Comparative Table for full derivation.

- (3) *Temporary emergency measures.* A temporary emergency measure necessary for the safety or protection of persons or property as determined by the city manager.
- (4) *Tents.* Erection of a tent or other fabric shelter having an area less than two hundred (200) square feet, or a canopy less than four hundred (400) square feet for a period of time not to exceed twenty-one (21) days, provided that such tent or structure is not utilized for any retail or commercial.
- (5) *Short-term events.* An event that takes place on public or private property, for a period of time not to exceed seven (7) days, including but not limited to special events and sales.
- (6) *Routine maintenance.* Maintenance of property and structures for the purposes of routine upkeep that does not result in noncompliance with this CDC. Routine maintenance does not include maintenance that modifies any approved development permit, regardless if a building permit is required. Examples of routine maintenance include, but are not limited to, roof replacement when the same or substantially similar materials are utilized, re-siding when the same siding materials are utilized, or replacement of existing facilities such as sidewalks, parking lots or trails when the same alignment/square footage will be maintained. Routine maintenance does not include development that requires review and approval of a minor exterior modification.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-41. Applications in general.**

(a) *General.* This article describes the various types of applications and procedures that will be used to review development applications for compliance with this CDC. The following types of applications are created and grouped together according to their function and purpose.

- (1) *Land use.* To review land use requests, the following types of applications will be used:
  - a. Community plan land use map amendment (refer to article II);
  - b. CDC text amendment;
  - c. Annexation;
  - d. Official zoning map amendment;
  - e. Development plan;
  - f. Use with criteria;
  - g. Change of use; and
  - h. Regulating plans.
- (2) *Subdivision.* To review subdivision requests, the following types of applications will be used:
  - a. Preliminary plat;
  - b. Final plat;

- c. Lot line adjustment; and
  - d. Lot line elimination.
- (3) *Site development.* To review site development plan requests, the following types of applications will be used:
- a. Final development plan;
  - b. Floodplain development permit;
  - c. Master sign plan;
  - d. Sign permit;
  - e. Variance (single-family or duplex structure);
  - f. Waterbody setback variance;
  - g. Minor adjustment;
  - h. Minor exterior modification; and
  - i. Administrative final development plan.
- (Ord. No. 2187, § 1, 6-3-08; Ord. No. 2277, § 1, 10-13-09)

**Sec. 26-42. Development review.**

(a) *Purpose and intent.* The purpose of this section is to outline the procedures that the city will use in evaluating land use applications, subdivision requests, and site development plans for conformance with the CDC. The intent of this section is to:

- (1) Apply an efficient, effective and predictable review process to those uses and activities proposed for the community;
  - (2) Encourage development to occur in conformance with the standards of this CDC by applying a simplified review process to development that purports to meet those standards;
  - (3) Provide for adequate public review of development that is not in conformance with the adopted standards or creates greater impacts to the community; and
  - (4) Ensure that any conditions imposed on development approvals have a rational nexus with the impacts of the development, that any conditions requiring dedications of land, public access, or payments of money be roughly proportional to the impacts of the development, and that any discretionary decisions to require dedications of land, public access, or payments of money be imposed only after an individualized determination of the impacts of that development.
- (b) *Simultaneous processing of applications.*
- (1) With approval from the director, applications for different types of development approvals may be processed simultaneously in order to reduce total review and

processing time for a project. For example, an application for development plan approval and preliminary plat approval may be submitted together for simultaneous review.

- (2) Whenever two (2) or more forms of development approval are being processed simultaneously and this CDC provides for the approvals to be made by two (2) or more decision-makers (for example, one application may be approved by staff, but the second requires approval by the city council), all approvals shall be contingent upon the approval of the last required approval, and no approval shall be effective until all requested approvals have been granted.
- (3) Unless simultaneous processing is approved by the director, applications for final development plans shall not be accepted until after final approval of the development plans.

(c) *Review process table.* The following table lists all types of applications, and identifies what types of development review processes will be required for each of these applications that are described in this article:

<b>Table 26-42 Review Procedures Table</b>							
<b>X</b>	Required notice	<b>CU</b>	Call Up	<b>PC</b>	Planning Commission	<b>TAC</b>	Technical advisory committee
<b>A</b>	Appeal body	<b>Dir</b>	Director of Planning and Community Development	<b>PUD</b>	Planned Unit Development	( )	An extra review that may be required by the Director or requested by the applicant
<b>BOA</b>	Board of Adjustment	<b>DM</b>	Decision Maker	<b>R</b>	Reviewing body	< >	Public hearing
<b>CC</b>	City Council	<b>HPAC</b>	Historic Preservation Advisory Commission	<b>SPO</b>	Surrounding property owner	{ }	Consent agenda
<b>Requirements for all applications</b>							
1) A complete submittal in accordance with subsections (d) and (f) of Section 26-42 is required prior to review.							
2) Additional technical submittals - During the processing of a complete application, if the city or any review agency identifies any additional materials that are needed to accurately evaluate the potential impacts of the proposed application the additional materials will be provided In accordance with subsection (g) of Section 26-42							
3) <i>Burden of proof.</i> The applicant for development approval shall bear the burden of presenting sufficient competent evidence to support the standards for approval set forth by this article.							

Review Procedures															
Types of Applications		Public Notice Requirements				Admin Review			Public Review				Final Document		
		SPO Notice (26-51(c))		Post	Publish	Mineral Rights	Presubmittal	TAC	Dir	HPAC	PC	BOA	CC		
		Application	Public hearing /final decision												
Land Use/Site Development	Community plan land use map amendment (§ 26-32)	X	X		X		X	(R)			<R>			Resolution	
	Pre-application review (§ 26-46)	X	X	X	X	X	X	(R)			<R>		<R>	Letter	
	CDC text amendments (§ 26-61)				X		X	(R)			<R>	<R>	<R>	<DM>	Ordinance
	Official Zoning map amendment (§ 26-62)	X	X	X	X	X	X	R				<R>		<DM>	Ordinance
	Regulating Plans (§ 26-90)	X	X	X	X	X	X	R				<R>		<DM>	Approval letter
	Annexations (§ 26-63)	X	X	X	X	X	X	R				<R>		<DM>	Ordinance
	Use with criteria (§ 26-64)									DM				A	Signed form
	Development plan (§ 26-65)	X	X	X	X	X	X	R			<R>	<R>		{DM}	Approval letter
	Development Plan with PUD (§§ 26-65 & 26-81)	X	X	X	X	X	X	R			<R>	<R>		<DM>	Approval letter
	PUD - minor amendment	X	X	X	X			(R)	DM						Approval letter
	Final development plan (FDP) (§ 26-66)	X	X	X	X	X	X	R			<R>	<R>		<DM>	Signed FDP
	Minor adjustment (§ 26-69)		X	X	X			(R)	DM					A	See 26-69(f)
	Variance (§ 26-70)	X	X	X	X			X	(R)				<DM>	A	Bldg Permit
	Waterbody setback variance (§ 26-71)		X	X	X			X	(R)			<R>		{DM}	Bldg Permit
	Floodplain development permit (§ 26-72)							(R)	DM					A	Permit
	Written interpretation (§ 26-73)													A	Letter
	Master sign plan (§ 26-75)							(R)	DM					A	Approval letter
	Sign permit (§ 26-76)							(R)	DM					A	Permit
	Change of use (§ 26-77)	X	X	X	X				DM					A	Signed form
	Minor exterior modification (§ 26-78)		X	X	X			X	(R)	DM				CU	Approval letter
	Vacation Home Rental Permit (§ 26-89)		X	X	X				DM					A	License
	Telecommunication Facility (§ 26-147(g))		X	X	X			X	(R)	DM		<R>		<R>	Approval letter
	Administrative FDP (§ 26-89)		X	X	X	X	X	(R)	DM			CU		CU	Approval letter
Building Permit Review							(R)	DM					A	Bldg Permit	
Subdiv.	Preliminary plat (§ 26-67)	X	X	X	X	X	X	R					<DM>	Approval letter	
	Preliminary plat/PUD (§ 26-67 & § 26-81)												<DM>	Approval letter	
	Final plat (§ 26-68)		X*	X	X	X*		(R)	DM				CU	Plat	
	Lot line adjustment (§ 26-79)							(R)	DM				A	Plat	
	Lot line elimination (§ 26-80)							(R)	DM				A	Plat	

\* Not required if SPO notice for the same subdivision was accomplished during the preliminary plat application or in conjunction with any previously approved applications for the development.

(d) *Pre-submittal meeting.* A pre-submittal review meeting with the director or designee is required prior to submission of certain types of applications as listed in table 26-42. Failure of the director to identify all applicable requirements, standards and issues does not relieve the applicant from the responsibility of meeting all requirements and standards of the CDC and other adopted city standards. Pre-submittal review is intended to provide information to potential applicants before substantial commitments of time and money are made in connection with the proposed development. The pre-submittal review seeks to assist or aid the applicant to:

- (1) Identify the necessary materials for the submittal package that the applicant will be required to prepare;
- (2) Identify and coordinate the required procedures for review and approval;
- (3) Identify the requirements and standards that may apply to the specific project;
- (4) Identify probable referral and review agencies within the TAC and others if necessary;
- (5) Obtain preliminary feedback from review agencies as necessary; and
- (6) Identify other possible issues that may arise under this CDC.

(e) *Application submittal requirements.* A complete application is required prior to review of any application. Submittal requirements are set forth for each specific type of development application in forms maintained by the director. The director may waive certain submittal requirements by, in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The director may waive such requirements where he/she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such waiver.

(f) *Application completeness and corrections.* Within ten (10) days after the submission of an application, the city shall review the application and determine whether it is complete (i.e. whether it contains all submittal requirements listed in this CDC that were not waived in writing by the director). If the city determines that the application is incomplete, it shall not begin processing the application, but shall instead promptly notify the applicant in writing that the application is incomplete, and shall identify the materials needed to complete the application. If the required materials are received by the city within thirty (30) days after such notice to the applicant, the city shall begin processing the application. If the required materials are not received within the thirty-day period, the city shall notify the applicant that unless the required materials are received within the following thirty (30) days, the city shall treat the application as withdrawn. If the requested materials are not received within such second thirty-day period, the city shall return the incomplete application submittal materials and fee to the applicant, and applicant shall be required to resubmit all materials to re-activate the process.

(g) *Technical materials completeness.* During the processing of a complete application, if the city or any review agency identifies any additional materials that are needed to accurately evaluate the potential impacts of the proposed application, the city shall notify the applicant

that such materials need to be submitted within thirty (30) days. If such materials are not submitted within such thirty-day period, the city shall again notify the applicant that unless the required materials are received within the following thirty (30) days, the city shall treat the application as withdrawn. If the requested materials are not received within such second thirty-day period, the city shall return the submitted materials to the applicant, and applicant shall be required to resubmit all materials, and any resubmitted materials shall be treated as a new application. In any case where a complete application is withdrawn, the applicant shall forfeit the entirety of the application fee, and shall be required to submit a new application fee upon submittal of any new application.

If such materials are not able to be submitted within such thirty-day period due to their technical nature, the director may grant additional time for required materials to be submitted to the city. The amount of time necessary shall be negotiated between the applicant and the director, and shall be set to a date certain. Such additional time shall be requested in writing by the applicant.

(h) *Burden of proof.* The applicant for development approval shall bear the burden of presenting sufficient competent evidence to support the standards for approval set forth by this article.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2230, § 2, 2-3-09; Ord. No. 2277, § 2, 10-13-09; Ord. No. 2349, § 5, 11-16-10)

**Sec. 26-43. Technical advisory committee role and procedures.**

(a) *Technical advisory committee powers and duties.* The technical advisory committee's powers and duties under this CDC are set out in this section. The technical advisory committee shall be responsible for assisting applicants in understanding city requirements and procedures, as well as to identify possible issues associated with certain development applications. There shall be no real or implied approval or denial as a result of the technical advisory committee's review of application materials.

(b) *Technical advisory committee review.*

- (1) The director shall forward copies of the application to the appropriate technical advisory committee members and set a date for a meeting between the applicant and TAC. The meeting shall be administrative, and notice shall be required only to the applicant.
- (2) Subsequent to the TAC meeting, the director shall forward written comments and/or redline corrections on the application materials to the applicant, or if there are no material changes, shall accept such materials for review or action by the planning commission or board of adjustment, as applicable.
- (3) The applicant shall have an opportunity to make revisions to the application materials based upon the comments of the technical advisory committee, proceed with a recommendation of denial, or to withdraw the application.

- (4) The revised materials shall be resubmitted to the director for review of the revisions. The director may redistribute the plans for a second TAC meeting if the director



determines that additional review by the TAC is justified based on the extent of the revisions, or may place the application materials on the next available planning commission or board of adjustment agenda.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-44. Director of planning and community development role and procedures.**

(a) *Director of planning and community development powers and duties.* The director of planning and community development shall have the following powers and duties under this CDC:

- (1) The director shall be responsible for administering and enforcing this CDC. The city manager may direct other persons to assist the director in performing this duty.
- (2) Review and approval of applications as set forth in section 26-42.
- (3) Preparing reports to assist the planning commission and the city council and other applicable boards or commissions in their consideration of such applications.
- (4) Building permits. The director shall be responsible for reviewing building permit applications to ensure compliance with the provisions of this CDC prior to permit issuance. The director shall not give approval of any building permit application that is not in substantial conformance with this CDC, any approval granted under this CDC, or a valid approval granted prior to this CDC.
- (5) Certificates of occupancy. The director shall be responsible for reviewing certificate of occupancy requests to ensure compliance with the provisions of this CDC prior to issuance. The director shall not grant approval of any certificate of occupancy that is not in substantial conformance with this CDC, any approval granted under this CDC, or a valid approval granted prior to this CDC.
- (6) Development agreements. The director shall be responsible for reviewing, negotiating and providing a recommendation to city council on development agreements in accordance with article VIII.
- (7) Improvements agreements. The director shall be responsible for preparing, reviewing, and enforcing improvement agreements in accordance with article VIII.

(b) *Director review.* In accordance with section 26-42 of this CDC the director is authorized to make the final decision for certain types of applications as outlined in section 26-42.

- (1) *Public hearing call up.* Certain types of applications may be called up for public review by a city council member, planning commissioner, or an aggrieved party in accordance with the review procedures table in section 26-42. Any such request shall be reviewed in accordance with section 26-47.

(2) *Director decision.*

- a. After receipt of comments from surrounding property owners (SPO), or expiration of the SPO review period, and notification of decision to city council and planning commission for a final plat, minor adjustment, written interpretation, change of use, or minor exterior modification, the director shall make a decision.
  1. *Effect of SPO comments.* The director shall review all written comments received from any SPO. The director shall have the authority to require applicants to address any comments received from any SPO that is directly related to requirements of the CDC.
  2. *Effect of director decision.* The director is authorized to approve, approve with revisions, or deny any application that is processed by administrative review. The decision by the director is a final administrative decision.

(c) *Appeals.* Any applicant, or aggrieved party may appeal the decision of the director through the process for appeal of administrative decision outlined in section 26-50.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-45. Reserved.**

**Editor's note**—Ord. No. 2230, § 3, adopted Feb. 3, 2009, deleted § 26-45, which pertained to the historic preservation advisory commission role and procedures and derived from Ord. No. 2187, § 1, adopted June 3, 2008. See subsection 26-84(d) for similar provisions.

**Sec. 26-46. Board of adjustment role and procedures.**

(a) *Board of adjustment powers and duties.* The board of adjustment shall be responsible for reviewing variance applications as set forth in section 26-70, and for taking final action to approve, approve with revisions, or deny such applications.

(b) *Board of adjustment review.*

- (1) *Public hearing.* The board of adjustment shall hear the request in accordance with the procedures and guidelines set forth in chapter 2 of the Steamboat Springs Revised Municipal Code regarding quasi-judicial hearings and the procedures contained in section 26-52.
- (2) *Board action.* Following the public hearing for the application, the board may take one of the following actions:
  - a. *Approval.* The board may approve the plans as proposed.
    1. *Effect of approval.* A majority vote for approval shall constitute approval.
  - b. *Approval with conditions or revisions.* The board may approve with specific conditions or revisions to the plans intended to protect the health, safety, welfare and aesthetics of nearby property or to bring the plans into general conformance with the requirements of the CDC.
    1. *Effect of approval with revisions.* A majority vote of approval with conditions or revisions shall constitute approval. The director shall ensure that the required conditions or revisions are incorporated into the plans within one year of the approval date.

- c. *Table.* The board may table the request to a date certain within six (6) months and direct the applicant to make specific revisions to the plans, or an applicant may request to table to a date certain, no more than six (6) months from the date of tabling.
    - 1. *Effect of tabling.* The application will be brought back for review on the date specified by the board and shall be acted upon at that time. No application shall be tabled more than twice without applicant approval.
  - d. *Denial.* The board may deny the application. Any denial shall include a resolution stating reasons for the denial.
    - 1. *Effect of denial.* Any denial shall be considered a final decision unless appealed to city council, or unless a council member calls the matter up for a hearing before the city council.
- (3) *Appeal of board decision.* Any aggrieved party may appeal a decision made by the board of adjustment. A written appeal must be submitted to the city clerk within fifteen (15) calendar days of the date of the decision, and must include a statement of the grounds for the appeal, and any applicable fees. Any appeal submitted by the applicant must include the original signature of the property owner, if the property owner is different from the applicant.
- a. *Effect of appeal.* If the board of adjustment decision is appealed, the director and council shall follow the procedures outlined in subsection 26-48(b)(2)b. for city council review where a hearing is requested.
- (Ord. No. 2187, § 1, 6-3-08)

### **Sec. 26-47. Planning commission role and procedures.**

(a) *Planning commission powers and duties.* The planning commission shall be responsible for reviewing applications as set forth in section 26-42 and for recommending that the city council approve, approve with revisions, or deny such petitions or applications. The planning commission shall actively promote implementation of the community plan and other adopted plans, through its powers and duties as set out in this chapter.

(b) *Planning commission review.*

- (1) *Public hearing.* The planning commission shall hear the request in accordance with the procedures and guidelines set forth in chapter 2 of the Steamboat Springs Revised Municipal Code regarding quasi-judicial hearings and the procedures contained in section 26-52.
- (2) *Commission action.* Following the public hearing for the application, the commission may take one of the following actions:
  - a. *Approval.* The commission may recommend approval of the plans as proposed.
    - 1. *Effect of approval.* A majority vote for approval shall constitute approval.

- b. *Approval with conditions or revisions.* The commission may recommend approval with specific conditions or revisions to the plans intended to protect the health, safety, welfare and aesthetics of nearby property or to bring the plans into general conformance with the requirements of the CDC.
- c. *Table.* The commission may table the request to a date certain within six (6) months and direct the applicant to make specific revisions to the plans, or an applicant may request to table to a date certain, no more than six (6) months from the date of tabling.
  - 1. *Effect of tabling.* The application will be brought back for review on the date specified by the commission and shall be acted upon at that time. No application shall be tabled more than twice without applicant approval.

d. *Denial.* The commission may recommend denial of the application. Any denial shall be accompanied by a resolution stating reasons for the denial.

1. *Effect of denial.* Any denial shall be considered a final decision unless appealed to city council, or unless a council member calls the matter up for a hearing before the city council.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-48. City council role and procedures.**

(a) *City council powers and duties.*

- (1) *Steamboat Springs Area Community Plan.* The city council shall actively promote implementation of the community plan and other adopted plans, through its powers and duties as set out in this chapter.
- (2) *Application review.* The city council shall be responsible for reviewing applications as set forth in section 26-42 and for taking final action to approve, approve with revisions, or deny such applications.

(b) *City council review.*

- (1) *Public hearing.* The city council shall hear the request in accordance with the procedures and guidelines set forth in chapter 2 of the Steamboat Springs Revised Municipal Code regarding quasi-judicial hearings and the procedures contained in section 26-52. Development applications types that require the approval of an ordinance shall require two (2) public hearings before city council (first reading and second reading).
- (2) *City council review.* The council may take one of the following actions:
  - a. *Consent agenda.* The city council may approve the plans as proposed on the consent agenda. A consent agenda item may be pulled from the consent agenda for discussion purposes. If there are no changes to application required, the proposal may be placed back on the consent agenda for approval. A city council member, or an aggrieved party, may pull the application from the consent agenda and request a public hearing in conformance with section 26-52. When a public hearing is requested, the public hearing will be conducted in accordance with section 26-52, public hearings, and the application shall be scheduled in accordance with one of the alternatives listed below:
    1. If no new information was presented during the consent agenda discussion and if the applicant and city council desire to hear the application during a public hearing and there is sufficient time within the agenda, the application will be heard during the same city council meeting; or
    2. If new information was presented during the consent agenda discussion, and if the applicant, city council and staff desire to hear the application during a public hearing and there is sufficient time within the agenda, the application will be heard during the same city council meeting; or

3. If there is not sufficient time within the agenda, the application will be heard during a public hearing on the next city council agenda that is not exclusively devoted to policy development and discussion.
- b. *Public hearing.*
1. *Remand.* Following the public hearing, the city council may remand the application to the planning commission for further review pursuant to additional guidance from city council consistent with this CDC.
  2. *Approval.* The city council may approve the plans as proposed.
    - A. *Effect of approval.* Any majority vote for approval constitutes approval.
  3. *Approval with conditions or revisions.* The city council may approve with specific conditions or revisions to the plans intended to protect the health, safety, welfare and aesthetics of nearby property or to bring the plans into general conformance with the requirements of the CDC.
    - A. *Effect of approval with revisions.* A majority vote of approval with conditions or revisions shall constitute approval. The director shall ensure that the required conditions or revisions are incorporated into the plans within one year of the approval date or prior to submission of subsequent development applications for the same development.
  4. *Table.* The city council may table the request to a date certain within six (6) months and direct the applicant to make specific revisions to the plans, or an applicant may request to table to a date certain no more than six (6) months from the date of tabling.
    - A. *Effect of tabling.* The application will be brought back for review on the date specified by the city council and shall be acted upon at that time. No application shall be tabled more than twice without applicant approval.
  5. *Denial.* Denial of an application by council is final and shall be accompanied by a resolution stating the reasons for the denial. If the city council denies an application, that same request or one substantially the same may not be heard by the city council for a period of one year from the date of denial, unless the city council's denial explicitly states that an earlier reapplication will be considered. The applicant may submit a revised application that adequately addresses all of the council's stated reasons for denial; however, at any time, such revised application shall be treated as a new application for purposes of fees, review and scheduling. The director shall determine whether a new submittal adequately addresses all of council's stated reasons for denial, or whether a new submittal is sufficiently revised in order to qualify as a new application for a different project other than that denied by city council.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-49. Reserved.****Sec. 26-50. Appeal of administrative decision.**

(a) *Purpose.* The purpose of the appeal of administrative decision process is to outline a procedure to be used when it is alleged that an administrative official has erred in a decision related to enforcement of the CDC.

(b) *Applicability.* The procedures contained in this section shall apply in the following two (2) circumstances:

- (1) *Daily administration.* During the normal course of business, it is necessary for the director to make administrative decisions regarding implementation of the CDC. Any applicant or aggrieved party may appeal a written administrative decision, order, determination, and/or interpretation made by the director.
- (2) *Applications and permits.* Any applicant or aggrieved party may appeal a final written administrative decision regarding approval or denial of an application.

(c) *Appeal process.*

- (1) All requests for appeals shall be filed in writing with the director within ten (10) days following the date of decision. The appeal shall designate the CDC provision that the appellant believes the director has applied incorrectly. The planning commission shall hear appeals from written decisions of the director.
- (2) The director shall schedule the appeal for the next available planning commission meeting, unless, in the director's sole discretion, the appeal does not present issues requiring planning commission review, in which case the director shall schedule the appeal with the city clerk for the first available city council meeting.
- (3) The planning commission shall review the information presented and make a recommendation at the public hearing to the city council.

(d) *City council review.* City council shall review the appeal and the planning commission recommendation according to the following procedures:

- (1) The director shall schedule city council review with the city clerk for the first available hearing after the planning commission hearing.
- (2) The city council may review the information and make a decision in a public hearing, or may remand the issue to the planning commission for further review prior to making a decision. Upon completion of council's review, the council may:
  - a. Uphold the director's administrative decision; or
  - b. Require the director to reconsider the administrative decision and issue a new decision based upon specific recommendations; or
  - c. Find in favor of the written opinion of the appellant.

(e) *Format and content of administrative appeals.* All appeals shall consist of the following items:

- (1) *Letter from appellant.* The written appeal of the appellant shall be in the form of a letter to the city council containing the following information:
  - a. Name, address and phone number of the appellant;
  - b. A numerical reference to the provision(s) of the CDC that the appellant believes were applied incorrectly; and
  - c. A detailed explanation of why the decision of the administrator regarding this specific provision(s) is in error.
- (2) *Administrator's written decision.* A copy of the written decision of the administrator.
- (3) *Application or permit.* Where a decision regarding an application or permit is in question, the appeal shall include the same information that was afforded to the director in making the administrative decision. New information may be included in the appeal, however; the administrator shall first review the new information to determine the information's impact on the administrator's original decision.
- (4) *Director's statement.* Anytime prior to or concurrent with planning commission's or city council's consideration of the appeal, the director may submit to the planning commission or city council a statement and supporting documents concerning the issue(s) being appealed.
- (5) *Fee.* The appropriate fee as set by ordinance.

(f) *Criteria for administrative appeal decision.* The planning commission and/or city council shall find in favor of the appellant if it is demonstrated that all of the following exist:

- (1) The application for appeal is complete;
- (2) The appellant presents the same information that the administrator reviewed in making the original decision (new information may be included in the appeal, however; the administrator shall first review the new information to determine the information's impact on the administrator's original decision); and
- (3) The opinion or interpretation of the appellant is more consistent with the CDC or the Steamboat Springs Area Community Plan than the decision of the administrator.

(Ord. No. 2187, § 1, 6-3-08)

### **Sec. 26-51. Public notice requirements.**

(a) *General.* This section outlines the requirements for notifying the public of development applications submitted to the city for consideration and decision. The following types of notice shall be used: Notice by publication in a newspaper of general circulation in the city; notice by mail to surrounding property owners; and notice by posting a sign on the property.

(b) *Notice by publication in newspaper.*

- (1) *Content.* Whenever this CDC requires that a notice be published in a newspaper, such notice shall include:
  - a. The legal name, address and phone number of the applicant;
  - b. A general description of the location of the development/action;
  - c. Name of development/action and a brief summary of the requested action and type of application;
  - d. Name and phone number of the department of planning and community development contact person;
  - e. A statement that the application or proposal is available at the department of planning and community development offices during regular business hours for review and inspection;
  - f. The time, date, and location of the public hearing, if applicable; and
  - g. Deadline to respond, if applicable, with address where written responses may be sent.
- (2) *Procedure.* Not less than seven (7) days prior to the date set for a public hearing, the director shall cause as copy of a notice to be published once in a newspaper of general circulation in the city.

(c) *Surrounding property owner notice.*

- (1) *Content.* Whenever this CDC requires notice be given to surrounding property owners the notice shall include the same information as listed in subsection 26-51(b)(1) and may include:
  - a. Reduced copies of the site plan, vicinity map, and/or building elevations, as well as information concerning where all the pertinent plans may be inspected.
- (2) *SPO information.* Where notice is required to surrounding property owners, the applicant shall make a best faith effort to identify the most current surrounding property owners and shall submit a copy of the tax assessment map (or an acceptable equivalent) containing the property that is the subject of the application with the following information illustrated:
  - a. The property that is the subject of the application is to be outlined in red and shall be designated as the "site."
  - b. A boundary representing the area within three hundred (300) feet of all of the perimeter property lines illustrated in red.
  - c. Each property that is located partially or completely within the three hundred-foot boundary, identified numerically beginning with the number 1.

- d. A list indicating the name(s) of the owner of each numbered property and the names(s) of any homeowner's associations and registered architectural control committees whose jurisdiction includes any property within three hundred (300) feet of the subject property.
  - e. Notification of adjacent landowners within a multi-family structure may be satisfied by mailing the notice to the managing or registered agent of such multi-family structure and to each member of the board of directors for the project association for such multi-family structure or development.
- (3) *Application notice.* The applicant shall mail a copy of the notice by first class mail to each surrounding property owner. Such notice shall be mailed no later than fourteen (14) days after determination of a complete application has been made in accordance with subsection 26-42(f). The applicant shall submit a signed affidavit to the director no later than seven (7) days after such notification has been provided. In circumstances when an application is deemed complete at the same time that a final decision date is determined, the complete application notice and final decision notice may be combined and sent to surrounding property owners concurrently.
  - (4) *Public hearing or final decision procedure.* The applicant shall mail a copy of the notice by first class mail to each surrounding property owner. Such notice shall be mailed no later than fourteen (14) days prior to any required public hearing or final decision regarding an application. The applicant shall submit a signed affidavit to the director no later than seven (7) days prior to the required public hearing or final decision confirming such notification has been provided.
- (d) *Notice by property posting.*
- (1) *Content.* Whenever this CDC requires that a notice be posted on property, such notice shall include at a minimum:
    - a. The type of the application submitted for consideration with a brief project description;
    - b. Phone number of the department of planning and community development; and
    - c. The time, date, and location of the public hearing, if applicable.
  - (2) *Procedure.* The applicant shall post the property for ten (10) consecutive days prior to the public hearing. The sign shall be located on the site or premises in a location approved by the director that is conspicuously and readily visible from a public right-of-way. If there is no location on the property that is conspicuously and readily visible from a public right-of-way, the director may approve an alternative location. In all situations, the sign shall be posted where the greatest number of public will have a reasonable opportunity to view the sign. For projects that include more than one lot or one acre, the director may require additional signs to be posted. The applicant shall provide a signed affidavit that the sign was placed in the approved location for at least ten (10) consecutive days prior to the public hearing.

(e) *Mineral rights notification.*

- (1) *Content.* Whenever this CDC requires notice be given to mineral rights owners the notice shall include the same information as listed in subsection 26-51(b)(1).
- (2) *Procedure.* Written notice shall be provided to mineral rights owners and lessees at the last known address of record. Such notice shall be mailed at least thirty (30) days prior to the initial public hearing. The applicant shall submit a signed affidavit to the director no later than seven (7) days prior to the required public hearing or final decision confirming such notification has been provided. Such notification shall also be in accordance with C.R.S. §§ 24-65.5-101—24-65.5-104.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-52. Public hearings.**

(a) *Conduct of public hearings.* Public hearings required or authorized by this article shall be conducted in accordance with the City Charter, this article, and the bylaws of the city council, planning commission, board of adjustment, and historic preservation advisory commission.

(b) *Evidence.* The applicant and all interested parties shall be afforded an opportunity to submit evidence, exceptions to the record, contentions and arguments with respect to the issues.

- (1) All maps, drawings, illustrations, graphs and written evidence shall be marked as exhibits, dated, and made a part of the record.
- (2) No written or graphic material that changes the project proposal shall be submitted at a public hearing or consent agenda unless the material has first been submitted and reviewed by staff in accordance with this section at least five (5) business days prior to the hearing date. Staff, planning commission, city council, or any other board/commission may table any application where evidence is submitted to the director or city clerk after the administrative deadline for inclusion in the planning commission, city council, or other board/commission packets, or staff, planning commission, city council, or other board/commissions may consider such evidence.

(Ord. No. 2187, § 1, 6-3-08)

**Secs. 26-53—26-59. Reserved.**

DIVISION 2. SPECIFIC PROCEDURES

**Sec. 26-60. Pre-application review.**

(a) *Purpose.* The purpose of the pre-application review is generally to provide information to potential applicants before substantial commitments of time and money are made in connection with the proposed development. The pre-application review seeks to assist or aid the applicant to:

- (1) Identify the necessary materials for the submittal package that the applicant will be required to prepare;

- (2) Identify and coordinate the required procedures for review and approval;
- (3) Identify the requirements and standards that may apply to the specific project;
- (4) Identify probable referral and review agencies within the TAC and others if necessary;
- (5) Obtain preliminary feedback from review agencies as necessary; and
- (6) Identify other possible issues that may arise under this CDC.

(b) *Applicability.* Pre-application review with planning commission and/or city council may be requested by the applicant.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Scope and effect of review.*

- (1) The primary issues and information to be discussed at the pre-application review are those listed in subsection (a).
- (2) Comments and opinions offered by the planning commission or city council during a pre-application review are advisory only, and will not affect their consideration of formal development applications when they occur.
- (3) *Effect of review.* There shall be no real or implied approval or denial of an application as a result of the pre-application review. The pre-application review is intended to assist applicants in understanding city requirements and procedures, as well as to identify possible issues that could delay consideration of the application if they are not identified early in the process. Statements made by staff members during the pre-application review are statements of opinion and are not intended to establish final positions or conclusions on the part of the city.

(Ord. No. 2187, § 1, 6-3-08)

#### **Sec. 26-61. CDC text amendments.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for amending text within the CDC adopted by the city.

(b) *Applicability.* The purpose of this section is to set forth the requirements and procedures for amendments to the CDC.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* In considering any application for amendment to the CDC, the following criteria shall govern unless otherwise expressly required by the CDC. Approval of the

amendment shall be granted only if it appears by clear and convincing evidence presented during the public hearing before planning commission or city council that the following conditions exist:

- (1) *Conformance with the community plan.* The amendment to the CDC will substantially conform with and further the community plan's preferred direction and policies.
- (2) *Error or goal/objective.* The amendment to the CDC will correct an error, or will further a public goal or objective.
- (3) *Public safety.* The amendment to the CDC is necessary to ensure public health, safety and welfare.

(f) *Term and effect of approval.* The term of approval is in perpetuity or until amended and is effective upon the date specified in the amendment ordinance.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-62. Official zoning map amendments.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for amending the official zoning map and any overlay zone district designations adopted by the city.

(b) *Applicability.* These requirements apply to any amendment initiated by a property owner, or the city, that desires to change from one zone district to another or desires to adopt, initiate, or revise an approved overlay zone district boundary.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* In considering any petition for amendment to the official zoning map, the following criteria shall govern unless otherwise expressly required by the CDC. The ordinance approving the rezoning amendment shall be approved and adopted only if it appears by clear and convincing evidence presented during the public hearing before city council that the following conditions exist:

- (1) *Justification.* One of the following conditions exists:
  - a. The rezoning is necessary to correct a mistake in the current zoning map; or
  - b. The amendment to the overlay zone district was an error; or
  - c. The rezoning is necessary to respond to changed conditions since the adoption of the current zoning map; or
  - d. The rezoning will substantially further the community plan's preferred direction and policies, or specific area plans, and the rezoning will substantially conform to the community plan land use map designation for the property, or is accompanied by an application for an amendment to the community plan land use map and the amendment is approved prior to approval of the requested zoning map amendment.

- (2) *Compatibility with surrounding development.* The type, height, massing, appearance and intensity of development that would be permitted by the proposed amendment will be compatible with surrounding zone districts, land uses, and neighborhood character, and will result in a logical and orderly development pattern within the community.
  - (3) *Advantages versus disadvantages.* The advantages of the zone district proposed substantially outweigh the disadvantages to the community and/or neighboring land occasioned by the zoning amendment.
  - (4) *Consistent with purpose and standards of zone district.* The amendment will be consistent with the purpose and standards of the zone district to which the property is proposed to be designated.
  - (5) *Effects on natural environment.* That the proposed amendment will not result in significant adverse effects on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.
- (g) *Term and effect of approval.* Approval of a change of zone shall be permanent and run with the land, until such time as council approves a different zoning. The approval shall be considered final at such time as public notice requirements have been satisfied and when the effective date of the change of zone ordinance has occurred.

(Ord. No. 2187, § 1, 6-3-08)

**Editor's note**—Ord. No. 1815, § 3, adopted Nov. 6, 2001, states the following: "The official zoning map presented at the Oct. 16, 2001 city council public hearing is hereby adopted as the official zoning map for the city."

Amendments to the official zoning map of the city are not codified herein, but are available on file at the office of the city clerk.

### **Sec. 26-63. Annexation.**

- (a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for annexing new lands into the corporate limits of the city.
- (b) *Applicability.* The provisions of this section shall apply to every annexation of land proposed after the effective date of this CDC.
- (c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- (d) *Intergovernmental agreement.* In connection with an anticipated or proposed annexation of land, the city may conclude one or more intergovernmental agreement(s) with the county, or any other governmental or quasi-governmental entity regarding the timing or phasing of development on the land, the construction and/or maintenance of infrastructure to serve the land, or allocation of costs associated with the provision of infrastructure or public services to the land proposed for annexation. The city may decide to delay processing of a proposed annexation until the conclusion of such an intergovernmental agreement, and may also decide to review a proposed annexation for compliance with the terms of such agreement.

(e) *Pre-annexation agreement.* No petition for annexation of land shall be reviewed or approved until the petitioner and the city have negotiated and entered into a pre-annexation agreement governing the proposed development of the land proposed for annexation, the timing and phasing of such development, provisions regarding the construction and maintenance of infrastructure required to serve such land, pre-existing vested property rights and such other matters as the city shall deem appropriate for inclusion in order to protect the health, safety, and welfare of its residents.

(f) *Criteria for approval.* In considering any petition for annexation of land and any related pre-annexation agreement, the following criteria shall govern unless otherwise expressly required by the CDC. The ordinance approving the annexation shall be approved and adopted only if it appears by clear and convincing evidence presented during the public hearing before city council that the following conditions exist:

- (1) *Consistency with applicable plans.* The proposed annexation and proposed development of the land are consistent with the plans for such land shown in the adopted Steamboat Springs Community Area Plan and any other adopted plans addressing the future of the area (including, without limitation, the West of Steamboat Springs Area Plan, as applicable).
- (2) *Compatibility with surrounding development.* The type, height, massing, appearance and intensity of development that would be permitted by the proposed amendment will be compatible with surrounding city zone districts, land uses, and neighborhood character, and will result in a logical and orderly development pattern within the community.
- (3) *Consistent with purpose and standards of zone district.* The amendment will be consistent with the purpose and standards of the zone district to which the property is proposed to be designated.
- (4) *Contribution to affordable housing.* The proposed development is consistent with any adopted guidelines or requirements for the inclusion of affordable housing in new development or annexation proposals.
- (5) *Effects on natural environment.* That the proposed amendment will not result in significant adverse effects on the natural environment, including water quality, air quality, wildlife habitat, vegetation, and wetlands.
- (6) *Advantages versus disadvantages.* Taken as a whole, the advantages of the proposed Annexation substantially outweigh the disadvantages to the community and neighboring land occasioned by the annexation.
- (7) *Pre-annexation agreement.* That a pre-annexation agreement has been negotiated and entered into by all involved parties. No petition for annexation of land shall be approved until the petitioner and the city have negotiated and entered into a pre-annexation agreement governing the proposed development of the land proposed for annexation, the timing and phasing of such development, provisions regarding the construction and maintenance of infrastructure required to serve such land, and such

other matters as the city shall deem appropriate for inclusion in order to protect the health, safety, and welfare of its residents. All development of the annexed land shall be consistent with the terms of the approved pre-annexation agreement.

(g) *Term and effect of approval.* If approved, a petition for the annexation of land shall create a permanent addition of land to the city, except as provided in C.R.S. § 31-12-101 et seq.

(h) *Modifications to a pre-annexation agreement.* Modifications to a pre-annexation agreement shall be processed according to the same procedures required for approval; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s).

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-64. Use with criteria.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for obtaining approval of a use with criteria.

(b) *Applicability.* Approval of a use with criteria shall be required to engage in any use shown as use with criteria in table 26-92. The planning staff shall review all uses with criteria in order to ensure compliance with the specific criteria. Based on the characteristics of certain uses and the associated criteria, uses with criteria shall be reviewed either prior to development or building permit, as applicable, or concurrent with the building permit. The process for each specific use with criteria is included within article XX. When a criterion specifies that a use with criteria shall be reviewed prior to development, the purpose of that review is to assist or aid the applicant in understanding the criteria that must be met in order to process the use as a use with criteria. Specifically, the review prior to building permit shall serve to:

- (1) Identify the necessary materials for the submittal package that the applicant will be required to prepare;
- (2) Identify the requirements and standards that may apply to the specific project;
- (3) Identify probable referral and review agencies within the TAC and others if necessary; and
- (4) Ensure that the applicant is aware that the public review process is available if the use criteria cannot be met.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* No use with criteria shall be approved unless the director finds that the use meets all the criteria:

- (1) *Compliance with use criteria.* The proposed use shall comply with the specific use criteria listed in article XX, definitions and use criteria. Any use with criteria that is unable to comply with the specific use criteria will be reviewed as a conditional use pursuant to section 26-65.

- (2) *Compliance with other standards.* The proposed use shall comply with all other applicable requirements of the CDC, including article V, development standards.
  - (3) *Conformity with community area plan.* The proposed use shall conform to the preferred direction and any applicable policies of the community area plan.
- (e) *Term and effect of approval.* Approval of a use with criteria shall be final when the director's signature of approval has been obtained on the use with criteria checklist form. Approval of a use with criteria shall remain effective for a period of three (3) years from the date of issuance. If an active building permit has been obtained for the use with criteria and the term of approval for the use with criteria expires, the development covered under the active building permit may continue; however, the use with criteria approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the use with criteria or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.  
(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-65. Development plan.**

- (a) *Purpose.* The development plan is intended to allow public review of development proposals at a level of detail where informed decisions can be made by the planning commission and city council.
- (b) *Applicability.* Approval of a development plan is required for:
  - (1) Applications for a conditional use (when the development plan is utilized for a conditional use that does not involve external modifications to a structure, no final development plan is required);
  - (2) Applications for development of a site with PUD, or a major amendment to an existing PUD pursuant to section 26-81 or 26-82;
  - (3) Applications for development of a site requesting two (2) or fewer variations to dimensional, or development standards listed in article V, development standards where such variations do not qualify as minor adjustments in section 26-69.
  - (4) Applications for a variation from more than two (2) dimensional, or development standards listed in article V development standards, where such variances do not qualify as minor adjustments (section 26-69). Such applications shall be processed as a PUD pursuant to section 26-81 or 26-82. (For the purposes of determining the number of variations, each dimensional standard, regardless of the number of buildings it is applied to, shall count for one variation; each development standard provision shall count as one variation. Example of this is when a front setback and side setback variance are requested, that constitutes two (2) variations. Example: when a parking space and parking size variation are requested, that shall constitute two (2) variations. Example: when a front setback variation is requested for any number of structures, that constitutes one variation.)

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for review and approval.* No development plan shall be approved unless the planning commission and city council find that the plan meets all of the following criteria:

- (1) *Conformity with community plan.* The development plan significantly furthers the preferred direction and policies outlined in the community plan or approved master plans.
- (2) *Consistency with surrounding uses.* The proposed development shall be consistent with the character of the immediate vicinity of the parcel proposed for development, or shall enhance or compliment the mixture of uses, structures and activities present in the immediate vicinity.
- (3) *Minimize adverse impacts.* The design and operating characteristics of the proposed development shall minimize any adverse impacts on surrounding uses and shall not cause a nuisance, considering factors such as proposed setbacks, planned hours of operation, and the potential for odors, noise, smoke, dust, glare, vibrations, shadows, and visual impacts from the proposed development.
- (4) *Access.* Access to the site shall be adequate for the proposed development, considering the width, grades, and capacities of adjacent streets and intersections and the entrance to the site. The adequacy of the facilities provided for any necessary service delivery, parking and loading, and trash removal shall also be considered. When appropriate, public transportation or other public or private transportation services and appropriate pedestrian facilities shall be made available to serve the use.
- (5) *Minimize environmental impacts.* The proposed development shall minimize its adverse impacts on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.
- (6) *Phasing.* If the proposed development is to be developed in phases, then each phase shall contain the required streets, utilities, landscaping, and other improvements that are necessary and desirable for residents of the project for that phase. Each phase of the phasing plan shall meet the requirements of the CDC on its own unless a variation is granted. If the development incorporates any amenities for the benefit of the city, such as trail connections, these shall be constructed within the first phase of the project, or, if this is not practical, then as early in the project as is reasonable.
- (7) *Compliance with other standards.* The proposed development shall comply with all other applicable requirements of this CDC, including article V, development standards.
- (8) *Variance criteria.* Development plans, in all zone districts with the exception of the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) seeking variation from up to two (2) of dimensional, development or subdivision standards listed in article V, development standards and article

VII, subdivision standards, where such variances do not qualify as minor adjustments shall meet the following criteria for approval in addition to the criteria in subsections 26-65(e)(1)—(8):

- a. *Legal use.* The property and the use of such property for which the variance is requested is in full compliance with all requirements of the zone district in which the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No variance may be granted which would permit or expand any unlawful use of property.
  - b. *Injury to adjoining property mitigated.* The variance will not permanently injure or adversely impact legal conforming uses of adjacent property; or the applicant has accurately assessed the impacts of the proposed variance and has agreed to mitigate those impacts. In making this determination the city council shall begin with the assumption that variations from development standards create impacts on adjacent properties, and shall place the burden of proof on the applicant to show:
    1. Impacts to adjacent properties are presumed.
    2. That there are no impacts, or that the impacts have been adequately mitigated. Unsupported opinions of impacts from surrounding property owners shall not be conclusive evidence of impacts.
  - c. *Advantages outweigh disadvantages.* The applicant shall bear the burden of proof and demonstrate that the advantages of the variance substantially outweigh its disadvantages to the community and to neighboring lands.
  - d. *Superior development.* The applicant shall demonstrate that the requested variation(s) from the dimensional or development standards will result in a development which better meets the intent of the underlying zone district and adopted plans.
  - e. *Minimum relief.* The applicant shall demonstrate that the requested variation(s) is (are) the least modification possible of the CDC that will meet the design goals of the development.
- (9) *Variance criteria.* Development plans, in the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) zone districts seeking variation from any dimensional, development or subdivision standards listed in article V, development standards and article VII, subdivision standards, shall meet the following criteria for approval in addition to the criteria in subsections 26-65(d)(1)—(7): (Note: No variations are permitted to height or the base area design standards per this variance process.)
- a. *Legal use.* The property and the use of such property for which the variance is requested is in full compliance with all requirements of the zone district in which

the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No variance may be granted which would permit or expand any unlawful use of property.

- b. *Equal enjoyment.* The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zoning district in which the subject property is located.
  - c. *Hardship.* The special circumstances of the subject property make the strict enforcement of the provisions of this CDC an unnecessary hardship to the property owner.
  - d. *Hardship not self-imposed.* The special circumstances of the subject property are not the result of the actions of the applicant.
  - e. *Special circumstances.* The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zoning district in which the subject property is located.
  - f. *Height variation.* Under no circumstances will variances to the maximum height in the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) zone districts be permitted.
  - g. *Design standards variation.* Under no circumstances will variances to the Mountain Base Area Design Standards in the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) zone districts be permitted.
- (e) *Term and effect of approval.*
- (1) Approval of a development plan shall be final as of the date of city council approval.
  - (2) Approval of a development plan shall remain effective for a period of two (2) years from the date of approval, or other time frame approved by city council through a development agreement pursuant to section 26-203. Any request for approval longer than two (2) years must be made concurrently with the application for the development plan.
  - (3) Revisions to the development plan required as a condition of approval must be made within one year from the date of approval.
  - (4) If a complete application for a final development plan is not filed with the department within the approval term, the development plan shall be considered expired. (This provision shall not apply if the development plan was obtained solely for approval of a conditional use where no exterior modifications to a structure were required. In that instance, the conditional use is required to have been executed within the approval term, or the development plan shall be considered expired. If an active building permit has been obtained for the conditional use or part thereof, and the term of approval for

the development plan expires, the development covered under the active building permit may continue; however, the development plan approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the development plan or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.)

- (5) Approval of a development plan does not relieve the project from meeting the requirements of the CDC where inconsistencies between the development plan and the requirements of the CDC may exist; and
- (6) Approval of a development plan does not relieve the project from meeting all other applicable local, state, and federal regulations.

(f) *Modifications.* Modifications to a development plan may be accomplished through the final development plan process, as long as the modifications are in substantial conformance with the approved development plan as determined by the director. Modifications that are not in substantial conformance with the development plan require an application for approval for a new development plan, which shall be processed through the public review process (see section 26-47). The director shall have full discretion to determine the submittal requirements and review process for all proposed amendments.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2254, § 6, 7-7-09)

#### **Sec. 26-66. Final development plan.**

(a) *Purpose.* The purpose of a final development plan is to allow detailed administrative review and limited public review of development proposals to ensure compliance with the requirements of this CDC and any previously approved development plan.

(b) *Applicability.* Approval of a final development plan is required:

- (1) For any project that was required to first obtain approval of a development plan and is within substantial conformance with the development plan. When a final development plan is not in substantial conformance with the development plan, a new development plan application shall be required;
- (2) For all uses by right and uses with criteria proposing new construction of freestanding structures that meet all the dimensional and development standards listed in article V;



- (3) For all exterior additions, alterations, renovations, restorations, or facade changes to any commercial, industrial, multi-family or mixed-use structure that is greater than one thousand five hundred (1,500) square feet; and
  - (4) For all grading, filling, clearing and site preparation on all property except for approved lots within a single-family or duplex subdivision.
- (c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- (d) *Criteria for review and approval.* No final development plan shall be approved unless the city council finds that the plan meets following criteria:
- (1) *Conformity with community plan.* The final development plan significantly furthers the preferred direction and policies outlined in the community plan or approved master plans.
  - (2) *Consistency with surrounding uses.* The proposed development shall be consistent with the character of the immediate vicinity of the parcel proposed for development, or shall enhance or compliment the mixture of uses, structures and activities present in the immediate vicinity.
  - (3) *Conformity with the building and architectural standards.* The proposed development complies with the building and architectural design standards of the CDC.
  - (4) *Minimize adverse impacts.* The design and operating characteristics of the proposed development shall minimize any adverse impacts on surrounding uses and shall not cause a nuisance, considering factors such as proposed setbacks, planned hours of operation, and the potential for odors, noise, smoke, dust, glare, vibrations, shadows, and visual impacts from the proposed development.
  - (5) *Access.* Access to the site shall be adequate for the proposed development, considering the width, grades, and capacities of adjacent streets and intersections and the entrance to the site. The adequacy of the facilities provided for any necessary service delivery, parking and loading, and trash removal shall also be considered. When appropriate, public transportation or other public or private transportation services and appropriate pedestrian facilities shall be made available to serve the use.
  - (6) *Minimize environmental impacts.* The proposed development shall minimize its adverse impacts on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.
  - (7) *Phasing.* If the proposed development is to be developed in phases, then each phase shall contain the required streets, utilities, landscaping, and other improvements that are necessary and desirable for residents of the project for that phase. Each phase of the phasing plan shall meet the requirements of the CDC on its own unless a variation was granted. If the development incorporates any amenities for the benefit of the city, such as trail connections, these shall be constructed within the first phase of the project, or, if this is not practical, then as early in the project as is reasonable.

- (8) *Compliance with other standards.* The final development plan is in substantial conformance with the requirements of the CDC as modified by any approved variance, development plan, or PUD, for the property, and any applicable terms and conditions imposed by the city on any such prior approval granted to the property have been satisfied.
- (e) *Term and effect of approval.*
- (1) Approval of a final development plan shall be final as of the date of city council approval.
  - (2) Approval of a final development plan shall remain effective for a period of three (3) years, or for a time period agreed upon by the city council through a development agreement pursuant to section 26-203, and may be extended as provided in subsection (3) of this section. Such development agreement shall be processed concurrently with final development plan application. If an active building permit has been obtained for the final development plan or part thereof, and the term of approval for the final development plan expires, the development covered under the active building permit may continue; however, the final development plan approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the final development plan or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.
  - (3) The director may approve a two-year extension if the director finds the project substantially conforms to the provisions of the Community Development Code as defined in section 26-402 at the date of the original approval expiration date. The director may approve a three-year extension if the project is in substantial conformance as defined in the preceding sentence and if the approval included multiple buildings in a single phase, the project has installed public infrastructure improvements and received preliminary acceptance of those improvements, and all outstanding agreements with regards to infrastructure improvements are fulfilled, as well as any incomplete grade and fill requirements, or other improvements associated with outstanding permits are fully complete. The applicant shall submit a request for administrative approval of an extension pursuant to this subsection to the director no later than thirty (30) days prior to the approval expiration date.
  - (4) All required signatures shall be obtained and sections one, two, three, four, and five of the final development plan prior to the issuance of a building permit.
  - (5) Approval of a final development plan does not relieve the project from meeting the requirements of the CDC where inconsistencies between the development plan and the requirements of the CDC may exist.
  - (6) Approval of a final development plan does not relieve the project from meeting all other local, state, and federal regulations.
- (f) *Modifications.* Modifications to a final development plan shall be processed according to the same procedures required for approval provided such changes are in substantial conformance

with an approved development plan when applicable; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s). In any case, the amended plans shall be labeled as such. When a final development plan is not in substantial conformance with an approved development plan, a new development plan application shall be required.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2297, § 1, 1-19-10)

**Sec. 26-67. Preliminary plat.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures to be used in evaluating land subdivisions. The intent of the preliminary plat process is to ensure efficient and orderly development within the city consistent with the CDC and to allow subdividers to receive review and action upon their subdivision request prior to the expenditure of time and resources required for approval of a final plat.

(b) *Applicability.* A preliminary plat shall be required in the following instances:

- (1) *Public land dedication.* Any subdivision request where public land dedication is required pursuant to article VII, subdivision regulations, except when exempted in subsection 26-67(c)(1).
- (2) *Variance.* The proposed subdivision is requesting a variation from four (4) or fewer subdivision standards listed in article VII, subdivision regulations, and/or the applicable zone district regulations of lot width or lot area. (An application requesting variation from more than four (4) of the subdivision standards listed in this CDC shall be processed as a PUD in accordance with section 26-81. Subdivision standard variances are limited those listed in subsection 26-81(d)).
- (3) *Subdivision.* A subdivider wishes to initiate any division of property pursuant to article VII, subdivision regulations, that is not exempted pursuant to subsection 26-67(c).
- (4) *Vacation of right-of-way.* A subdivider wishes to vacate a street or alley.

(c) *Exemptions.* Divisions of land that meet the following conditions are exempt from the preliminary plat process. However, the director at her/his discretion may recommend to an applicant that a preliminary plat be submitted for review by the technical advisory committee, prior to submission of a final plat, in order to better evaluate potential project impacts.

- (1) Any replat, resubdivision, or correction plat, that is found by the director to be in strict conformance with the provisions of the Steamboat Springs Municipal Code, this CDC, city road standards, sidewalk standards, water and sewer standards and the requirements of the applicable zone district, and is one of the following:
  - a. Is in substantial conformance with an existing approved preliminary plat (if applicable);
  - b. Lot consolidations involving five (5) or less lots. Such consolidations shall be processed in accordance with section 26-80;

- c. Lot line adjustments in accordance with section 26-79;
- d. Is a relocation of, or adjustment to, an easement;
- e. Is a townhome or condominium plat;
- f. Is a correction of an engineering or survey error or other minor change to a recorded plat which has no effect on the degree to which the plat conforms to city standards and/or the approved preliminary plat;
- g. Creates three (3) or fewer industrial lots with each lot being less than one acre;
- h. Creates three (3) or fewer duplex lots;
- i. Creates six (6) or fewer single-family lots;
- j. Vacates a dedicated easement (utility easement encroachments are permitted in accordance with section 26-82);
- k. Is being done solely to dedicate land to the public for vehicle, pedestrian, or utility right-of-way;
- l. Creates three (3) or fewer commercial (nonresidential) lots with each lot being less than one acre in size.

(d) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the planning director.

(e) *Criteria for approval.* All preliminary plats shall only be approved where the plat, supporting materials and documentation and any testimony and evidence presented during a public hearing (where applicable), establishes that all of the following standards have been met:

- (1) *Conformity with CDC.* The proposed preliminary plat substantially conforms to all applicable requirements of this CDC, including all applicable requirements of the zone district(s) in which the property to be subdivided is located, and all regulations applicable to any conditional uses, as such regulations may have been modified by an approved variance or PUD for the property.
- (2) *Verification of developable lots.* Each lot proposed for development in the subdivision has demonstrated, to the satisfaction of the director, that it is developable. Elements reviewed for developability include a demonstrated ability to meet the requirements of this Community Development Code in terms of zone district standards, development standards, and subdivision standards.
- (3) *Conformance with other applicable regulations.* The proposed subdivision conforms to any other applicable regulations and requirements including but not limited to provisions of state law, Steamboat Springs Municipal Code, and any requirements set by any capital improvement plan or program, or any approved subdivision improvements agreement or development agreement for the property.
- (4) *Conformity with community area plan.* The proposed subdivision shall conform to the preferred direction and any applicable policies of the community area plan.

- (5) *Compatibility with surrounding area.* The proposed subdivision shall be compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area.
- (6) *Suitability for development.* The land proposed for subdivision shall be physically suitable for development, considering its topography (the presence of steep or unstable slopes), natural resource features (such as wetlands, floodplains, and sensitive wildlife habitat areas), and any environmental hazards (such as avalanche or landslide paths, rockfall hazard areas, or wildfire hazard areas) that may limit the property's development potential.
- (7) *Phasing.* If the proposed development is to be developed in phases, then each phase shall contain the required streets, utilities, landscaping, and other improvements that are necessary and desirable for residents of the project for that phase. Each phase of the phasing plan shall meet the requirements of the CDC on its own unless a variation was granted. If the development incorporates any amenities for the benefit of the city, such as trail connections, these shall be constructed within the first phase of the project, or, if this is not practical, then as early in the project as is reasonable.
- (8) *Variance criteria.* Preliminary plats seeking variation from up to four (4) subdivision standards listed in article VII, subdivision standards, where such variances do not qualify as minor adjustments shall meet the following criteria for approval in addition to the criteria in subsections 26-67(e)(1)—(7):
  - a. *Legal use.* The property and the use of such property for which the variance is requested is in full compliance with all requirements of the zone district in which the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No variance may be granted which would permit or expand any unlawful use of property
  - b. *Injury to adjoining property mitigated.* The variance will not permanently injure or adversely impact legal conforming uses of adjacent property; or the applicant has accurately assessed the impacts of the proposed variance and has agreed to mitigate those impacts. In making this determination the city council shall begin with the assumption that variations from development standards create impacts on adjacent properties, and shall place the burden of proof on the applicant to show:
    1. Impacts to adjacent properties are presumed.
    2. That there are no impacts, or that the impacts have been adequately mitigated. Unsupported opinions of impacts from surrounding property owners shall not be conclusive evidence of impacts.
  - c. *Advantages outweigh disadvantages.* The applicant shall bear the burden of proof and demonstrate that the advantages of the variance substantially outweigh its disadvantages to the community and to neighboring lands.

- d. *Superior development.* The applicant shall demonstrate that the requested variation(s) from the dimensional or development standards will result in a development which better meets the intent of the underlying zone district and adopted plans.
- e. *Minimum relief.* The applicant shall demonstrate that the requested variation(s) is (are) the least modification possible of the CDC that will meet the design goals of the development.

(f) *Term and effect of approval.*

- (1) Approval of a preliminary plat shall be final as of the date of city council approval.
- (2) Revisions to the preliminary plat required as a condition of approval must be made within one year from the date of approval.
- (3) An approved preliminary plat shall lapse and be of no further force and effect if a complete final plat application for the subdivision has not been submitted within any time frame established by city council at the time of preliminary plat approval, or, if no time frame was established by city council, then within three (3) years.

(g) *Modifications.* Modifications to a preliminary plat may be accomplished through the final plat process, as long as the modifications are in substantial conformance with the approved preliminary plat. Modifications that are not in substantial conformance with the preliminary plat require a new preliminary plat application. The director shall have full discretion to determine the submittal requirements and review process for all proposed amendments.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2278, § 1, 10-13-09)

**Sec. 26-68. Final plat.**

(a) *Purpose.* The purpose of the final plat process is to allow detailed administrative review of land subdivisions that do not create significant impacts on nearby lands, or land subdivisions that were reviewed and approved as preliminary plats.

(b) *Applicability.* A final plat is required for all subdivisions of land, re-subdivisions, replats, lot line adjustments, lot line eliminations, corrections, plat vacations, easement vacations, including without limitation all plats exempt from preliminary plat review. It is intended that the city exercise all powers vested in it by C.R.S. §§ 31-23-212—31-23-225.

(c) *Prerequisites.*

- (1) All divisions of land required by subsection 26-67(b) to obtain approval of a preliminary plat shall obtain such approval prior to application for a final plat. The final plat shall be in substantial conformance with the preliminary plat. When a final plat is not in substantial conformance with the preliminary plat, a new preliminary plat application shall be required.

- (2) The director may refer any application for a final plat to the planning commission for a recommendation if the director concludes that the application may create significant impacts on nearby properties or may be inconsistent with the preferred direction or policies within the community area plan.
  - (3) Prior to submittal of a final plat for a site where collateral is required sufficient design information must be prepared to identify the scope of the improvements. When required by the director of public works for sites with public infrastructure, the design must be in the form of approved civil construction plans.
- (d) *Exemptions.* No final plat application may be made for the same land area in any five-year period that would result in the creation of:
- a. Three (3) or more industrial lots with each lot being less than one acre;
  - b. Three (3) or more duplex lots; or
  - c. Six (6) or more single-family lots.
- (e) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- (f) *Criteria for approval and recording.* No final plat shall be approved and recorded until the following criteria are met. When a final plat has been reviewed and approved as a preliminary plat under the provisions of this CDC and a criterion listed below was satisfied at that review stage, and the final plat is determined to be in substantial conformity with the approved preliminary plat, the criterion shall not apply to the review of the final plat:
- (1) *Conformity with CDC.* The proposed final plat substantially conforms to all applicable requirements of this CDC, including the dimensional standards of the zone district(s) in which it is located, as modified by any PUD or variance for the property or as registered as a legal nonconforming structure.
  - (2) *Verification of developable lots.* Each lot proposed for development in the subdivision has demonstrated, to the satisfaction of the director, that it is developable. Elements reviewed for developability include a demonstrated ability to meet the requirements of this Community Development Code in terms of zone district standards, development standards, and subdivision standards.
  - (3) *Conformity with other applicable regulations.* The proposed final plat conforms to any other applicable regulations and requirements including but not limited to provisions of state law, this Code, and any requirements set by any capital improvements plan or program, or any approved subdivision improvements agreement or development agreement for the property.
  - (4) *Conformity with area community plan.* The proposed final plat shall conform to the preferred direction and any applicable policies of the Steamboat Springs Area Community Plan.

- (5) *Compatibility with surrounding area.* The proposed final plat shall be compatible with the character or existing land uses in the area and shall not adversely affect the future development of the surrounding area.
- (6) *Suitability for development.* The land proposed for subdivision shall be physically suitable for development, considering its topography (the presence of steep or unstable slopes), natural resource features (such as wetlands, floodplains, and sensitive wildlife habitat areas), and any environmental hazards (such as avalanche or landslide paths, rock fall hazard areas, or wildfire hazard areas) that may limit the property's development potential.
- (7) *Phasing.* If the proposed development is to be developed in phases, then each phase shall contain the required streets, utilities, landscaping, and other improvements that are necessary and desirable for residents of the project for that phase. Each phase of the phasing plan shall meet the requirements of the CDC on its own unless a variation was granted. If the development incorporates any amenities for the benefit of the city, such as trail connections, these shall be constructed within the first phase of the project, or, if this is not practical, then as early in the project as is reasonable.
- (8) *Consistency with preliminary plat.* The proposed final plat shall be consistent with the approved preliminary plat and shall include sufficient response to any issues identified during preliminary plat review or any conditions applied by the city to the approval of the preliminary plat.
- (9) *Compliance with state law.* The final plat has been prepared in substantial conformance with state law governing subdivisions, plats and surveying requirements as amended from time to time.
- (10) *Completion of infrastructure or improvements agreement.* The required infrastructure, including but not limited to streets, drainage, water, and sewer are complete and have final acceptance, or an improvements agreement has been executed.
- (11) *Criteria for townhome plats for duplexes.* The subdivision of any duplex in any zone district in the city shall be allowed provided that the following criteria are met:
  - a. Construction and occupancy of the duplex is a conforming use and was in compliance with all applicable zoning regulations of the zone district in which the duplex is situated at the time of its construction unless a variance from the zoning regulations was granted by the board of adjustment.
  - b. The final plat for the duplex subdivision may divide the lot in which the duplex is located into two (2) lots, each containing one duplex unit pursuant to a recorded party wall agreement. The duplex subdivision must meet all requirements of article VII, subdivision regulations, with the exception of subsections 26-184(b)(3) and 26-184(d). A party wall agreement will be required to be recorded concurrently with the duplex plat. For purposes of determining compliance with dimensional requirements, at the time of subdivision or with any future site development, setback standards will not be required from the common property

line. In the alternative to the above, after subdivision, title to the land area at the duplex site, except for the land area occupied by the duplex itself and that area within a five-foot perimeter, shall remain undivided and owned in common by the owners of the subdivided duplex or by a corporation, partnership, or other entity consisting only of the owners of the subdivided duplexes.

(g) *Term and effect of approval.*

- (1) The approval of the plat shall be final for three (3) years or a term agreed upon through a development agreement when approved by the director.
- (2) Final plats shall be signed by the director and the city council president, and the city clerk shall attest the signature of the city council president. When signatures have been obtained and the plat or part thereof recorded with the county clerk and recorder, the final plat or part thereof shall be approved in perpetuity or until amended.
- (3) Where final plats are utilized in order to vacate an easement an ordinance shall accompany the plat document and shall be filed concurrently at the county clerk and recorder's office.
- (4) Final plats shall run with the land unless and until amended or vacated as provided in subsection (h).

(h) *Modification or vacation.* Modifications to a final plat shall be processed according to the same procedures required for approval; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s). In any case, the amended plans shall be labeled as such, contain the necessary signatures and certificates for recording and be recorded with the county clerk and recorder's office if the amendment was in sections one, two, three, four or five of the final plat. No final plat shall be modified or vacated so as to deprive any lot owner of access, open space, or any other amenity included in the approved final plat unless each affected lot owner has given written consent to such modification or vacation and the modification or vacation has been approved through the applicable process provided in this CDC.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2208, § 1, 9-16-08; Ord. No. 2302, § 1(Exh. 1), 2-2-10)

**Sec. 26-69. Minor adjustment.**

(a) *Purpose.* The purpose of this section is to allow the director to approve minor variations to certain numerical development standards for good cause shown and without the need to apply for a variance under section 26-70, a development plan under section 26-65, or a PUD under section 26-81.

(b) *Applicability.*

- (1) *General rule.* The director shall be authorized to grant the following types of minor adjustments to development standards where such standards have not already been modified through a variance, a development plan, or a PUD, subject to the approval criteria in subsection 26-69(d):
  - a. Minor adjustments of twenty (20) percent or less of any lot size, lot width, setback, building height, or lot coverage standard set forth in article V.

- b. Minor adjustments of twenty (20) percent or less of any numeric requirements set forth in section 26-137, landscaping standards.
  - c. Minor adjustments of twenty (20) percent or less of any dimensional requirement relating to fences and walls as set forth in subsection 26-145(c).
  - d. An increase in permitted maximum development density or intensity (as measured by FAR) of five (5) percent or less.
  - e. Building envelope adjustments for single-family or duplex lots.
- (2) *Prohibitions.* In no circumstance shall the director approve a modification of a standard that is not listed specifically in subsection (b)(1) above, or that results in any of the following:
- a. An increase in permitted maximum development density or intensity (as measured by FAR) of greater than five (5) percent;
  - b. A change in permitted uses or mix of uses involving a conditional use; and
  - c. A decrease in the amount of common, dedicated or designated required open space.
- (c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- (d) *Criteria for review and approval.* Minor adjustments may be approved only upon a finding that all of the following criteria have been met:
- (1) The requested minor adjustment is consistent with the preferred direction and policies of the community plan and the stated purpose of this CDC;
  - (2) The requested minor adjustment is consistent with the intent of any approved development permit, development plan, final development plan, final plat, or PUD for the property;
  - (3) The requested minor adjustment is the minimum amount of relief required and will have no significant adverse impact on the health, safety or general welfare of nearby properties or the general public;
  - (4) Any adverse impacts resulting from the minor adjustment will be mitigated to the maximum extent practical;
  - (5) When the requested minor adjustment is for a building height modification, the minor adjustment shall:
    - a. Not be substantially out of scale with adjacent buildings;
    - b. Shall not result in snowshed which would damage or otherwise adversely impact adjacent properties;
    - c. Shall not result in increased shadowing which would damage or otherwise adversely impact adjacent properties.

- (6) The requested minor adjustment is either:
    - a. Of a technical nature and is required to compensate for some practical difficulty or unusual feature of the site or the proposed development that is not shared by landowners in general; or
    - b. An alternative or innovative design practice that achieves the same or increases the degree of the objective of the existing standard being modified.
  - (7) When the requested minor adjustment is for a building envelope adjustment for a single-family or duplex lot, the criteria provided in subsection 26-151(h) shall be required to be satisfied in addition to the criteria listed above for a minor adjustment.
- (e) *Term and effect of approval.*
- (1) Minor adjustments to approved plans/plats. Minor adjustments to an approved development plan, final development plan, or final plat shall be noted on a revised plan/plat, which shall be clearly marked as "Amended," and submitted to the director.



The director shall note the terms of the approved minor adjustment directly on the amended plan/plat and affix his/her signature and the date of approval. Such amended plan/plat shall be recorded if the plan/plat that it amends was previously recorded.

- (2) Approval of a minor adjustment shall run with the property described in the minor adjustment and shall remain in effect for a period of three (3) years from the date of approval by the director. If an active building permit has been obtained for the minor adjustment and the term of approval for the minor adjustment expires, the development covered under the active building permit may continue; however, the minor adjustment approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the minor adjustment or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.

(f) *Modifications.* An approved minor adjustment may be further modified through the same process used to approve the minor adjustment. The cumulative effect of two (2) or more minor adjustments shall not result in any variation of any CDC requirement that could not have been approved in a single minor adjustment.

(Ord. No. 2187, § 1, 6-3-08)

#### **Sec. 26-70. Variance.**

(a) *Purpose.* The purpose of this section is to allow the board of adjustment to review and decide upon requests to vary development standards contained in either article IV or article V on a limited basis. This section is not intended to be used for other types of properties, or requests to vary development standards that do not specifically qualify for review under the applicability limitations of this section.

(b) *Applicability.* A variance may be utilized where an applicant wants:

- (1) To modify numerical or dimensional standards contained in article V for one single-family or duplex structure where such variations cannot be approved as a minor adjustment;
- (2) To construct a single-family or duplex structure upon a nonconforming lot provided that subsection 26-95(c) cannot be met;
- (3) To allow for alteration or modification of a nonconforming structure or a conforming structure housing a nonconforming use, provided that such alteration or modification of a nonconforming structure does not meet the applicable zone districts requirements in which it is located;
- (4) To allow for variances to the provisions of article IX, signs; and
- (5) To vary the city's requirements for a floodplain development permit, pursuant to section 26-164.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for review and approval.* Variances may be approved when it is determined from evidence at the public hearing that the variance is consistent with the purposes of this section and that all of the following criteria or alternative criteria in subsection(e) or alternative criteria for floodplain development permit variances in section 26-164 or alternative criteria for sign variances in article IX have been met:

- (1) *Legal use.* The property and the use of such property for which the variance is requested is in full compliance with all requirements of the zone district in which the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No variance may be granted which would permit or expand any unlawful use of property.
- (2) *Equal enjoyment.* The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zoning district in which the subject property is located.
- (3) *Hardship.* The special circumstances of the subject property make the strict enforcement of the provisions of this CDC an unnecessary hardship to the property owner.
- (4) *Hardship not self-imposed.* The special circumstances of the subject property are not the result of the actions of the applicant.
- (5) *Injury to adjoining property mitigated.* The variance will not permanently injure or adversely impact legal conforming uses of adjacent property; or the applicant has accurately assessed the impacts of the proposed variance and has agreed to mitigate those impacts. In making this determination the board shall begin with the assumption that variations from development standards create impacts on adjacent properties, and shall place the burden of proof on the applicant to show:
  - a. Impacts to adjacent properties are presumed.
  - b. That there are no impacts, or that the impacts have been adequately mitigated. Unsupported opinions of impacts from surrounding property owners shall not be conclusive evidence of impacts.
- (6) *Minimum relief.* The requested variance is the least modification possible of the provision of the CDC that will afford relief to the applicant.
- (7) *Increase in nonconformity.* When considering the amount of variance requested, an existing nonconformity will be considered part of the overall variance request. For example, an existing nonconforming structure encroaches five (5) feet into the setback, and the applicant would like to encroach an additional five (5) feet. The variance request is for a ten-foot encroachment into the required setback.
- (8) *Special circumstances.* The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zoning district in which the subject property is located.

- (9) *Consistent with CDC, policies and plans.* The variance is consistent with the purposes and intent of this CDC and purpose of the CDC and adopted land use policies or plans, as applicable. In granting any variance, appropriate conditions and safeguards may be prescribed to ensure that the purpose and intent of this title will not be violated.
  - (10) *Previous variance.* Every piece of property is unique, so evidence that a variance was previously granted under similar circumstances shall not be considered binding grounds for granting a variance.
- (e) *Alternative approval criteria—Restoration or expansion of historic structures.* In the case of a variance requested for the restoration, modification or expansion of a historic building or structure, and in lieu of the approval criteria required under subsection 26-70(d), the variance may be approved if the following criteria are met:
- (1) *Restoration.* The restoration meets all of the following criteria:
    - a. The restoration or rehabilitation relates to and is reasonably necessary to permit the restoration or rehabilitation of a previous condition of historical significance or historic period of significance to the building; and
    - b. The granting of the variance will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the subject property is situated.
  - (2) *Modification or expansion.* The modification or expansion meets all of the following criteria:
    - a. The modification or expansion has been designed to preserve the historic character defining elements of the building;
    - b. The variance is the minimum necessary to fulfill the purpose and the need of the applicant; and
    - c. The granting of the variance will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the subject property is situated.
  - (3) In granting any variance, appropriate conditions and safeguards may be prescribed to ensure that the purpose and intent of this chapter will not be violated.
- (f) *Term and effect of approval.*
- (1) Approval of a variance shall run with the property described in the variance and shall remain in effect for a period of three (3) years from the date of approval by the board of adjustment. If an active building permit has been obtained for the variance and the term of approval for the variance expires, the development covered under the active building permit may continue; however, the variance approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the variance or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.

(g) *Modifications.* An approved variance may be further modified through the same process used to approve the variance. The cumulative effect of two (2) or more variances shall not result in any variation of any CDC requirement that could not have been approved in a single variance.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2208, 9-16-08)

**Sec. 26-71. Waterbody setback variance.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for reviewing variance requests from the waterbody setback requirements.

(b) *Applicability.* A waterbody setback variance shall be required before construction or development commences on land within waterbody setback areas as established in section 26-132 or 26-145.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* Waterbody setback variances may be approved when it is determined from evidence presented at the public hearing that the waterbody setback variance is consistent with the purposes of this section and, if applicable, that all of the following criteria have been met:

- (1) *Legal use.* The property and the use of such property for which the waterbody setback variance is requested is in full compliance with all requirements of the zone district in which the property is located, or there is a legal nonconforming structure or lot, or there is a conforming structure housing a legal nonconforming use. No waterbody setback variance may be granted which would permit or expand any unlawful use of property.
- (2) *Equal enjoyment.* The waterbody setback variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zoning district in which the subject property is located.
- (3) *Hardship.* The special circumstances of the subject property make the strict enforcement of the provisions of this CDC an unnecessary hardship to the property owner.
- (4) *Hardship not self-imposed.* The special circumstances of the subject property are not the result of the actions of the applicant.
- (5) *Injury to adjoining property mitigated.* The waterbody setback variance will not permanently injure or adversely impact legal conforming uses of adjacent property; or the applicant has accurately assessed the impacts of the proposed waterbody setback variance and has agreed to mitigate those impacts. In making this determination the city council shall begin with the assumption that variations from development standards create impacts on adjacent properties, and shall place the burden of proof on the applicant to show:
  - a. Impacts to adjacent properties are presumed.

- b. That there are no impacts, or that the impacts have been adequately mitigated. Unsupported opinions of impacts from surrounding property owners shall not be conclusive evidence of impacts.
- (6) *Minimum relief.* The requested waterbody setback variance is the least modification possible of the provision of the CDC that will afford relief to the applicant.
- (7) *No increase in nonconformity.* The waterbody setback variance does not expand the scope of any nonconforming use or does not increase the degree of nonconformity of any existing nonconforming structure by more than twenty (20) percent.
- (8) *Special circumstances.* The waterbody setback variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zoning district in which the subject property is located.
- (9) *Consistent with CDC, policies and plans.* The waterbody setback variance is consistent with the purposes and intent of this CDC and purpose of the CDC and adopted land use policies or plans, as applicable. In granting any variance, appropriate conditions and safeguards may be prescribed to ensure that the purpose and intent of this CDC will not be violated.
- (10) *Previous variance.* Every piece of property is unique, so evidence that a waterbody setback variance was previously granted under similar circumstances shall not be considered binding grounds for granting a variance.
- (11) *Denial of economic use.* When an applicant requests a reduction of any required waterbody setback, the city council shall only approve the waterbody setback variance if it finds that either subsections a.1 or a.2 or a.3—7 exist, or b.1 or b.2—7 exist:
- a. Applicable only to existing platted single-family and duplex lots.
1. Strict enforcement of the setback requirement will deprive the property owner of all reasonable economic uses of the property in accordance with the relevant zone district; or
  2. The riparian environment within the required setback has been previously disturbed on the subject property; or
  3. The riparian environment within the required setback has been previously disturbed on immediately adjacent properties; and
  4. Appropriate avoidance measures will be implemented to eliminate any potential negative impacts on the watercourse; and
  5. Natural drainage patterns will not be affected; and
  6. Appropriate Army Corps of Engineer's permit has been applied for and will be obtained; and
  7. A floodplain development permit has or will be obtained, if applicable.

- b. Applicable only to development other than existing platted single-family and duplex lots.
  1. Strict enforcement of the setback requirement will deprive the property owner of all reasonable economic uses of the property in accordance with the relevant zone district; or
  2. The riparian environment within the required setback has been previously disturbed on the subject property; and
  3. The development is for the purposes of irrigation and water diversion facilities, flood control structures, trails, recreation access sites, bridges, fences, erosion control devices, underground utilities, and all riparian areas disturbed will be restored to the greatest degree possible; and
  4. Appropriate avoidance measures will be implemented to eliminate any potential negative impacts on the watercourse; and
  5. Natural drainage patterns will not be affected; and
  6. Appropriate Army Corps of Engineer's permit has been applied for and will be obtained; and
  7. A floodplain development permit has or will be obtained, if applicable.

(e) *Alternative approval criteria—Restoration or expansion of historic structures.* In the case of a waterbody setback variance requested for the restoration, modification or expansion of a historic building, and in lieu of the approval criteria required under subsection 26-71(d), the waterbody setback variance may be approved if the following criteria are met:

- (1) *Restoration.* The restoration meets all of the following criteria:
  - a. The restoration relates to and is reasonably necessary to permit the restoration of a previous condition of historical significance to the building.
  - b. The granting of the waterbody setback variance will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the subject property is situated.
- (2) *Modification or expansion.* The modification or expansion meets all of the following criteria:
  - a. The modification or expansion has been designed to preserve the historic character defining elements of the building.
  - b. The waterbody setback variance is the minimum necessary to fulfill the purpose and the need of the applicant.
  - c. The granting of the waterbody setback variance will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the subject property is situated.

- (3) In granting any waterbody setback variance, appropriate conditions and safeguards may be prescribed to ensure that the purpose and intent of this title will not be violated.
- (f) *Term and effect of approval.*
- (1) Approval of a waterbody setback variance shall run with the property described in the waterbody setback variance and shall remain in effect for a period of three (3) years from the date of approval by the city council. If an active building permit has been obtained for the waterbody setback variance and the term of approval for the waterbody setback variance expires, the development covered under the active building permit may continue; however, the waterbody setback variance approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the waterbody setback variance or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.
- (2) Approval of the waterbody setback variance may be extended if a valid building permit exists for the property and the improvements for which the waterbody setback variance was granted, and such construction covered by the building permit is being diligently pursued. Approval of the extended waterbody setback variance shall expire with the expiration of any building permit for the improvements for which the waterbody setback variance was granted. The waterbody setback variance shall be vested upon receipt of a certificate of occupancy for the structure or that portion of the structure that required a waterbody setback variance.
- (g) *Modifications.* An approved waterbody setback variance may be further modified through the same process used to approve the waterbody setback variance. The cumulative effect of two (2) or more waterbody setback variances shall not result in any variation of any CDC requirement that could not have been approved in a single waterbody setback variance.  
(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-72. Floodplain development permit.**

- (a) *Purpose.* The purpose of this section is to set forth the requirements and procedures to be used for reviewing development request on land affected by special flood hazards.
- (b) *Applicability.* A floodplain development permit shall be required before any site disturbance activity commences within any area of special flood hazard as established in article VI, flood damage prevention.
- (c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- (d) *Criteria for approval.*
- (1) All floodplain development permits shall only be approved where the application materials, documentation and any testimony and evidence presented during a public hearing (where applicable), establishes all of the following standards for approval:
- a. All necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required; and

- b. All provisions of article VI have been met; or
- c. The applicant has obtained approval of a variance for any provision of article VI that is not met by the application.

(e) *Term and effect of approval.*

- (1) Approval of a floodplain development permit shall be final upon the director's approval. Required signatures shall be obtained and the floodplain development permit recorded at the county clerk and recorder's office prior to issuance of a building permit for the structure approved by the floodplain development permit.
- (2) Approval of a floodplain development permit shall remain effective for a period of three (3) years. If an active building permit has been obtained for the floodplain development permit and the term of approval for the floodplain development permit expires, the development covered under the active building permit may continue; however, the floodplain development permit approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the floodplain development permit or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.
- (3) Approval of a floodplain development permit does not relieve the project from meeting the requirements of the CDC where inconsistencies between the floodplain development permit and the requirements of the CDC may exist.
- (4) Approval of a floodplain development permit does not relieve the project from meeting all other local, state, and federal regulations.

(f) *Modifications.* Modifications to a floodplain development permit shall be processed according to the same procedures required for approval; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s). In any case, the amended plans shall be labeled as such.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-73. Written interpretations.**

(a) *Purpose.* This section establishes a procedure whereby CDC users may seek an interpretation of any of the CDC's provisions.

(b) *Applicability.*

- (1) This section shall apply to all provisions contained within this CDC, as well as to interpretations regarding the official zoning map, the official floodplain map boundaries of the flood regulatory, floodway, and flood zone districts, and regarding final floodplain boundaries.
- (2) The provisions of this section shall not apply to permit any specific use that is expressly prohibited in a zoning district. If, pursuant to this section, a specific use

cannot clearly be determined to be in a use classification permitted in a particular zoning district, such use may be incorporated into the zoning regulations pursuant to subsection 26-92(c) and by a CDC text amendment pursuant to section 26-61.

(c) *Filing of interpretation requests.* Requests for written interpretations of this CDC shall be submitted to the director.

(d) *Director review and action.* Within thirty (30) days of receipt of a complete request for a written interpretation, the director shall:

- (1) Review and evaluate the request in light of this CDC, the community plan, and any other relevant documents;
- (2) Consult with the city attorney and TAC, as necessary;
- (3) Render a written interpretation; and
- (4) Mail a copy of the written interpretation to the applicant and applicable boards and commissions.

(e) *Official record of interpretations.* An official record of interpretations shall be kept on file in the office of the director, and shall be available for public inspection in the department during normal business hours.

(f) *Appeals.* Appeals of the director's written interpretation shall be taken to the city council in accordance with the administrative appeal procedures of section 26-50. If the appeal results in a change of interpretation, a copy of the new interpretation shall be mailed to the applicant and applicable boards and commissions, and filed in the official record of interpretations.

(Ord. No. 2187, § 1, 6-3-08)

### **Sec. 26-74. Vested rights.**

(a) *Purpose.* The purpose of this section is to provide the procedures necessary to implement the provisions of C.R.S., tit. 24, art. 68, which establish a vested property right to undertake and complete development and use of real property under the terms and conditions of an approved site specific development plan, and which further establish the applicable rules and regulations governing applications for a site specific development plan.

(b) *Applicability.*

- (1) A vested property right shall attach only to an approved site specific development plan. A "site specific development plan" shall mean final approval, including the applicant's acceptance of any terms and conditions of approval, of any of the following types of applications where the applicant has expressly requested a vested right:
  - a. Final development plans; and
  - b. Final plats.

(c) *Application.* A request for a vested property right shall be made in writing as part of an application for the applicable final development plan, or final plat. A request for a vested property right shall comply with all other submittal requirements for the type of approval requested, including any required fees or fee deposits.

(d) *City council notice and hearing.*

- (1) In the case of final development plans, the notice and public hearing requirements of C.R.S. § 24-68-103(b) shall be satisfied by the notice and public hearing before city council to consider the final development plan pursuant to section 26-66, and the city council shall indicate that such vested right shall only be created upon approval of the required final development plan by the city council pursuant to section 26-66.
- (2) In the case of final plats, the notice and public hearing requirements of C.R.S. § 24-68-103(b) shall be satisfied by the notice and public hearing before city council to consider the preliminary plat pursuant to section 26-67, and the city council shall indicate that such vested right shall only be created upon approval of the required final plat by the director pursuant to section 26-68.

(e) *Effective date of approval.* The effective date of a vested right approval shall be the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the vested right approval and creation of a vested property right pursuant to this section and C.R.S. § 24-68-103. Such publication shall occur no later than fourteen (14) days following the approval of the final development plan or final plat, or no later than fourteen (14) days following the city council's decision to grant a vested property right for a final development plan.

(f) *Term and effect of approval.*

- (1) Approval of a site specific development plan shall create a vested right to undertake and complete development and use of real property pursuant to C.R.S. § 24-68-103, but only as to those terms and conditions contained in the approved site specific development plan.
- (2) The granting of a vested right in an approved site specific development plan shall not prevent the city, in subsequent actions, from applying any of the following to the subject property:
  - a. New ordinances, rules, regulations, and policies that do not conflict with those rules, regulations, and policies in effect as of the site specific development plan's effective date of approval;
  - b. New ordinances, rules, regulations, and policies that are specifically anticipated and provided for in the terms or conditions of the approved site specific development plan;
  - c. New ordinances, rules, regulations, and policies that are necessary for the immediate preservation of the public health and safety; or

- d. New ordinances, rules, regulations, and policies when the city finds that the site specific development plan is based on substantially inaccurate information supplied by the applicant.
- (3) A vested right shall remain vested for a period of three (3) years from the site specific development plan's effective date of approval, unless a longer term is agreed to by the city in a development agreement pursuant to section 26-203. An amendment to any site specific development plan shall not extend the period of vested rights, unless otherwise authorized by agreement approved by city council.
- (g) *Plat or plan language required.* Each site specific development plan shall contain the following language: "Approval of this plan or plat creates a vested property right subject to all conditions of approval pursuant to Colorado Revised Statutes § 24-68-103. The effective date is [insert date]."
- (h) *Pending applications for a site specific development plan—Applicable rules and regulations.*
  - (1) *General rule.* Pursuant to C.R.S. § 24-68-102.5, the review, approval, approval with conditions, or denial of an application for a site specific development plan shall be governed by the adopted laws and regulations in effect at the time an application for a site specific development plan is submitted pursuant to this CDC.
  - (2) *Exception.* The city may apply any subsequently enacted or amended ordinances, rules, regulations, or policies that are necessary for the immediate preservation of the public health and safety to the pending application for a site specific development plan.
- (i) *Waiver.* A landowner may waive a vested property right by separate agreement, which shall be recorded with the county clerk and recorder. Unless otherwise agreed to by the city, any landowner requesting annexation to the city shall waive in writing any pre-existing vested property rights as a condition of such annexation.
- (j) *Other provisions unaffected.* Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of his CDC pertaining to annexation, development, and use of property.  
(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-75. Master sign plan.**

- (a) *Purpose.* The purpose of this section is to ensure coordination of, and avoid duplication of signs in developments containing more than one building, use, or lot.
- (b) *Applicability.* A master sign plan, conforming to all provisions in this section 26-75, is required for all of the following:
  - (1) All multiple tenant commercial and/or industrial buildings and multiple commercial and/or industrial building developments;
  - (2) Any development plan, final development plan and preliminary plat; and

- (3) Any PUD involving multiple tenant commercial and/or industrial buildings or multiple commercial and/or industrial building developments.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* No master sign plan shall be approved unless the director or city council, pursuant to subsection (f), determines that the plan meets the following criteria:

- (1) The master sign plan complies with the provisions of article IX, signs; and
- (2) The master sign plan proposes uniformity in the shape, color, size and lettering of the signs within the development.

(e) *Term and effect of approval.* Master sign plans shall be valid for a period of one year from the effective date of the permit. Once the master sign plan permit has been executed through the installation of a sign, the approval shall remain in effect for perpetuity or until amended.

(f) *Modifications.* Modifications to a master sign plan shall be processed according to the same procedures required for approval; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s).

(Ord. No. 2187, § 1, 6-3-08)

#### **Sec. 26-76. Sign permit.**

(a) *Purpose.* The purpose of this section to set forth the procedures that the city will use in determining whether or not a request to construct a sign conforms with the provisions of article IX, signs.

(b) *Applicability.* A sign permit is required to construct all signs unless specifically exempted by article IX.

(c) *Prerequisites.* No sign permit for a lot or building with multiple users shall be considered without previous approval of a master sign plan. A sign permit may be considered concurrently with a master sign plan.

(d) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(e) *Criteria for approval.* Any application for a sign permit shall be approved if it complies with the provisions of article IX, signs.

(f) *Term and effect of approval.* Sign permits shall be valid for a period of one year from the effective date of the permit, and once the sign permit has been executed through the installation of a sign, the approval shall remain in effect for perpetuity or until amended. Temporary signs/banners shall be approved for a period as set forth in article IX, signs.

(g) *Modification.* Modifications to a sign permit shall require the application for a new sign permit; however, the director shall have the discretion to modify the submittal requirements based upon the magnitude of the modification(s).

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2349, § 9, 11-16-10)

**Sec. 26-77. Change of use.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for a change of use and to ensure compliance with this CDC.

(b) *Applicability.* Approval of a change of use shall be required for any use by right or use with criteria that substantially differs from the previous use of a building or land, where such change in use may result in different parking requirements, access or circulation patterns, traffic impacts, drainage patterns, building configurations, or noise and lighting. A change of ownership, by itself, shall not be considered a change of use. An example of a change of use is changing an existing building space from an office use to a retail use.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* No change of use shall be approved unless the director finds that the use meets all the following the criteria:

- (1) *Compliance with CDC.* The proposed use shall comply with all applicable requirements of the CDC, including article V, development standards.
- (2) *Conformity with community area plan.* The proposed use shall conform to the preferred direction and any applicable policies of the community area plan.

(e) *Term and effect of approval.*

- (1) Approval of a change of use shall be final when the director's signature has been obtained on the change of use form.
- (2) Approval of a permit for a change of use shall remain effective for a period of three (3) years from the date of issuance. If an active building permit has been obtained for the change of use and the term of approval for the change of use expires, the development covered under the active building permit may continue; however, the change of use approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the change of use or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-78. Minor exterior modifications.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for a minor exterior modification and to ensure compliance with this CDC.

(b) *Applicability.* Approval of a minor exterior modification shall be required for any changes to the exterior of an existing multi-family or commercial structure including:

- (1) Changes of materials;
- (2) Significant changes in primary or secondary color; and,

- (3) Significant changes in window or door locations or sizing.

Examples of the above include change of color to a multi-family or commercial building from white to bright blue, the change of materials on a multi-family or commercial building from wood to vinyl siding or adding additional entryways to a retail building.

- (4) Approval of a minor exterior modification shall also be required for any building addition that involves less than one thousand five hundred (1,500) square feet of additional floor area.

The director shall have the discretion to exempt from this review a project that is insignificant and not necessitating public notification.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.* No minor exterior modification shall be approved unless the modification meets all the following the criteria:

- (1) *Compliance with CDC.* The proposed modification shall comply with all applicable requirements of the CDC, including article V, development standards.
- (2) *Compliance with building and architectural design guidelines.* The proposed minor exterior modification shall comply with all applicable provisions of the building and architectural design guidelines.
- (3) *Conformity with community area plan.* The proposed use shall conform to the preferred direction and any applicable policies of the community area plan.
- (4) *Conformity with applicable area plan.* The proposed minor exterior modification shall conform to any applicable area plan.

(e) *Term and effect of approval.*

- (1) Approval of a minor exterior modification shall be final when the director's signature has been obtained.
- (2) Approval of a permit for a minor exterior modification shall remain effective for a period of three (3) years from the date of issuance. If an active building permit has been obtained for the minor exterior modification and the term of approval for the minor exterior modification expires, the development covered under the active building permit may continue; however, the minor exterior modification approval shall be considered expired and no new building permits may be issued based on the expired

approval. Once the minor exterior modification, or part thereof, has been fully executed, the approval, or part thereof, shall remain in effect for perpetuity or until amended.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-79. Lot line adjustment.**

(a) *Purpose.* The purpose of a lot line adjustment is to allow administrative review of final plats for minor adjustments to legally subdivided lots.

(b) *Applicability.* To be processed as a lot line adjustment a final plat is required to meet all of the following conditions:

- (1) The adjustment shall affect only two (2) adjacent lots.
- (2) No new parcels, lots or building envelopes shall be created.
- (3) The lot line adjustment shall comply with all other applicable requirements of this CDC, including article v, development standards.
- (4) The adjustment shall not cause either of the two (2) adjacent lots to shift into a new zoning district.
- (5) The adjustment shall not diminish in size open space or other protected environments.
- (6) The use of a lot line adjustment shall be limited to one time. Additional adjustments shall then be considered a replat and shall be reviewed in accordance with section 26-68, final plat.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.*

- (1) *Conformity with the CDC.* The proposed lot line adjustment substantially conforms to all applicable requirements of this CDC, including the dimensional standards of the zone district(s) in which it is located, as modified by any PUD or variance for the property or as registered as a legal nonconforming structure.
- (2) *Conformance with other applicable regulations.* The proposed lot line adjustment conforms to any other applicable regulations and requirements including but not limited to provisions of state law, Steamboat Springs Municipal Code, and any requirements set by any capital improvement plan or program, or any approved subdivision improvements agreement or development agreement for the property.
- (3) *Compatibility with surrounding area.* The proposed lot line adjustment shall be compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area.

(e) *Term and effect of approval.*

- (1) Approval of a lot line adjustment shall be final when the director's signature has been obtained on the lot line adjustment plats.
  - (2) All lot line adjustment plats involving the dedication, vacation or acceptance of any easement or land is required to obtain the signature of the city council president.
  - (3) All lot line adjustment plats must be recorded with the county clerk and recorder within thirty (30) days of approval or the approval shall be considered null and void.
  - (4) Lot line adjustments shall run with the land unless and until amended.
- (Ord. No. 2187, § 1, 6-3-08; Ord. No. 2208, § 2, 9-16-08)

**Sec. 26-80. Lot line elimination.**

(a) *Purpose.* The purpose of a lot line elimination is to allow administrative review of final plats to remove interior lot lines of a parcel comprised of two (2) or more separate lots with contiguous ownership.

(b) *Applicability.* To be processed as a lot line elimination a final plat is required to meet all of the following conditions:

- (1) The elimination shall affect five (5) or less lots. Lot line eliminations that affect more than five (5) lots shall be processed in accordance with section 26-66.
- (2) The lot line adjustment shall comply with all other applicable requirements of this CDC, including article V, development standards.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.

(d) *Criteria for approval.*

- (1) *Conformity with the CDC.* The proposed lot line elimination conforms to all applicable requirements of this CDC, including the dimensional standards of the zone district(s) in which it is located, unless modified by any PUD or variance for the property or as registered as a legal nonconforming structure.
- (2) *Conformance with other applicable regulations.* The proposed lot line elimination conforms to any other applicable regulations and requirements including but not limited to provisions of state law, Steamboat Springs Municipal Code, and any requirements set by any capital improvement plan or program, or any approved subdivision improvements agreement or development agreement for the property.
- (3) *Compatibility with surrounding area.* The proposed lot line elimination shall be compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area.

(e) *Term and effect of approval.*

(1) Approval of a lot line elimination shall be final with the recordation of a final plat. (Ord. No. 2187, § 1, 6-3-08; Ord. No. 2208, § 2, 9-16-08)

**Sec. 26-81. Planned unit development.**

(a) *Purpose.* The purpose of the planned unit development (PUD) is to provide flexibility from the strict application of certain standards of this CDC so as to encourage innovative site planning and, thereby, to achieve a more desirable environment than would be possible through the strict application of the minimum standards of this CDC. Specifically, it is the purpose of a PUD to: (Note: The planned unit development is not applicable within the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) zone districts.)

- (1) *Allow creativity.* Allow a creative approach to the development and use of land and related physical facilities to produce better developments, obtain amenities for the public and/or the users of the project, and to maximize choice in the type of environments available in the city.
- (2) *Permit integrated and efficient land use patterns.* Permit the integration rather than the separation of land uses, to provide opportunities for traditional community living, so commercial, recreational, and educational facilities can be conveniently located in relation to a mix of housing types, establish land use patterns that promote and expand opportunities for public transportation, and for street and utility networks that are safe, compact, and efficient.
- (3) *Preserve valued features.* Encourage better siting of development that preserves valued environmental and cultural resource lands, minimizes the disturbance of natural hazard areas, and increases the amount of functional open space within the development or creates functional public spaces.
- (4) *Authorize variations.* Provide authority to grant variations from certain standards of the CDC that cannot be obtained through a minor adjustment in section 26-69, preliminary plat in section 26-67, or with a development plan in section 26-65, provided such variations are consistent with the community plan, and allow the project to achieve one or more of the public purposes for PUDs described in subsection 26-81(e).
- (5) *Commercial over twelve thousand (12,000) square feet, PUD review required.* Provide authority to review any single tenant commercial tenant over twelve thousand (12,000) square feet and any multiple commercial tenants in a single building twenty thousand (20,000) square feet or greater.
- (6) *Building supplies and lumberyard, over twelve thousand (12,000) square feet, PUD review required.* Provide authority to review any tenant business space in this land use classification, larger than twelve thousand (12,000) square feet, net floor area.

(b) *Overview of PUD process.*

- (1) *Lands to which PUD may be applied.* An applicant may apply for a PUD on any land within the city with the exception of those located within the Gondola one (G-1), Gondola two (G-2), resort residential one (RR-1), and resort residential two (RR-2) zone districts. If the PUD is approved, then the PUD designation shall be placed on the official zone district map.
- (2) *PUD submittal requirements and review procedure.* Development of a site seeking PUD approval requires approval of a development plan, final development plan, preliminary plat, or final plat as applicable.
- (3) *Amendments to approved PUD.* An amendment to an approved PUD may take one of the following forms:
  - a. *Minor amendment.* A minor amendment to an approved PUD is any revision that is in substantial conformance with the approved PUD and does not change the character of the PUD. The determination of substantial conformance and lack of change in character of the PUD shall be at the director's discretion and may be approved administratively by the director, pursuant to section 26-42. Minor amendments that do not change the character of the PUD may include changes in square footage allocations to approved uses within the PUD, and changes in building materials that do not represent a degradation of quality or changes of colors.
  - b. *Major amendment.* Any change to an approved PUD that the director determines:
    - (a) is not in substantial conformance with the approved PUD or
    - (b) changes the character of the PUD shall be considered to be a major amendment. A major amendment shall require submittal of a new application and shall be processed in accordance with section 26-42.
  - c. *Properties for which there is no approved PUD.* For any property designated on the official zone district map as Gondola one (G-1) or Gondola two (G-2) for which there is no approved PUD plan of record, an applicant proposing development shall submit an accurate, current improvements survey to document the existing conditions on the property, as-built drawings or an accurate existing conditions site plan in accordance with the submittal requirements for a development plan. The proposed development shall then be compared to the existing conditions to determine whether the proposal represents a minor amendment or a major amendment to the site, and the application shall be processed accordingly.
  - d. *Abandonment of a PUD.* Approved, but undeveloped phases of a PUD may be abandoned for a new development permit reviewed under the applicable process indicated in subsection 26-42(a), provided that all infrastructure and amenities associated with any previously developed phases have been completed to the satisfaction of the director of planning and community development and the director of public works. The approval of the new development permit shall supersede the approved PUD, which shall become null and void.

(c) *General requirements.*

- (1) *Minimum land area.* There shall be no minimum land area qualification in order to be eligible to designate a property with a PUD, provided that a PUD designation shall not be granted solely to permit variations needed to develop one single-family or duplex unit or structure, or to authorize a single use that would not otherwise be permitted by the underlying zone district.
- (2) *Adopted standards shall be a guide.* The use lists and dimensional standards of the zone district in which the PUD is located, and the adopted development standards contained in article V and VII of this CDC, shall be used as guides when determining the appropriate level or type of variation to be granted to the PUD.
- (3) *Development plan shall define standards and variations.* The development plan for the PUD shall clearly define each allowed use, dimensional standard, and subdivision standard that has been established for the property, and any variations that have been granted with respect to the development standards. When a PUD is silent with respect to any particular use, dimensional standard, development standard, or subdivision standard, it means the standards of the zone district in which the property is located or the other applicable standards of this Code shall prevail.
- (4) *Further adopted plan.* A variation may be obtained if the proposed PUD will further an adopted city plan, such as the community plan, Mountain Town Sub-Area Plan, or West of Steamboat Plan. To obtain the variation, the applicant shall demonstrate that the proposed PUD is not only consistent with the applicable plan, but also goes beyond particular goals, objectives, or recommendations of the plan to provide a benefit for the public and/or the users of the development.

(d) *Variations permitted.* An applicant proposing development on land with a PUD designation, or applying for PUD designation, is authorized to apply for any of the following variations to the standards of the CDC:

- (1) *Development and subdivision standards.* The PUD may vary any of the development standards contained in article V of this CDC. The PUD may also vary the following subdivision standards contained in article VII of this CDC:
  - a. *Standards for all subdivisions.* The standards for lots stated in subsection 26-183(a) and the standards for street widths stated in subsection 26-183(b).
  - b. *Standards for residential subdivisions.* The standards for lots, stated in subsection 26-184(b) and the standards for neighborhood parks, open space and trails stated in subsection 26-184(d).

(e) *Public purposes for PUDs.*

- (1) *Required findings.* A proposed PUD may be granted to one or more of the variations authorized in subsection 26-81(d) if it is found to achieve one or more of the public purposes described in subsections (2)a. through (2)g., below. For any commercial single tenant (excluding grocery stores) over twelve thousand (12,000) square feet, for any

commercial buildings with multiple tenants (excluding grocery stores) twenty thousand (20,000) square feet or greater and building supplies and lumber yard over twelve thousand (12,000) square feet public purposes shall be provided based on square footage:

- a. Twelve thousand (12,000) square feet to twenty thousand (20,000) square feet: one or more of the public benefits described in subsections (2)a. through (2)g., below;
  - b. Twenty thousand one (20,001) square feet to thirty thousand (30,000) square feet: two (2) or more of the public benefits described in subsections (2)a. through (2)g., below;
  - c. Thirty thousand one (30,001) square feet to forty thousand (40,000) square feet: three (3) or more of the public benefits described in subsections (2)a. through (2)g., below;
  - d. More than forty thousand (40,000) square feet: four (4) or more of the public benefits described in subsections (2)a. through (2)g., below;
- (2) *Contributions to public benefits and improvements.* In addition to subsections (e)(1)a., b., c., and d., a PUD shall meet the following criteria:
- If three (3) to four (4) variances are approved, the applicant shall provide at least one of the following public benefits
  - If five (5) to six (6) variances are approved, the applicant shall provide at least two (2) of the following public benefits
  - If more than six (6) variances are approved, the applicant shall provide at least three (3) of the following public benefits:
    - a. *Affordable housing contribution.* The proposed development will contribute land, monies or build affordable housing facilities for the Yampa Valley Housing Authority above and beyond the inclusionary zoning requirement as determined by the city council to be an adequate public benefit. The contribution shall be equal to or greater than one percent of the project's land and construction cost valuation as determined by the Routt County Building Department.
    - b. *Contributes necessary community facilities.* The proposed development will contribute land or build necessary community facilities as determined by the city council to other neighborhood services, such as a fire substation, fire apparatus and equipment, transit facilities, or other facilities as approved by the city because of the need for such community facilities. The contribution shall be equal to or greater than one percent of the project's land and construction cost valuation as determined by the Routt County Building Department.

- c. *Contributions to the preservation of resource lands.* The proposed development will accomplish preservation of resource lands by a contribution equal to or greater than one percent of the project's land and construction cost valuation as determined by the Routt County Building Department.
- d. *Contributions to preserve or enhance cultural and historical resources or public spaces.* The proposed development will accomplish preservation or enhancement of cultural and historical resources or public spaces by a contribution equal to or greater than one percent of the project's land and construction cost valuation as determined by the Routt County Building Department.
- e. *Public art.* A PUD development plan may be approved by city council at its discretion for contributions to the city for public art. The contributions shall be equal to or greater than one percent or greater of the project's land and construction cost valuation as determined by the Routt County Building Department.

These original works of art shall be installed and maintained in accordance with the provisions of this Code and in coordination with the Steamboat Springs Public Art Board. The cost of the art work may include: Structures which enable the display of art work(s); expenses incurred within the artist's budget to cover professional fees for the artist(s); labor of assistants; materials and contracted services required for the production and installation of the work(s) of art; travel expenses of the artist for site visitation and research; transportation of the work of art to the site; site preparation for art work installation; and other installation costs of the completed art work.

In accordance with the Steamboat Springs Public Art Board, original art work is to be placed on a site which takes into account the following: Unobstructed public viewing and accessibility; public safety; interior and exterior use patterns which are consistent with existing or future architectural and natural features; and primary uses of the building, and relationship of the proposed art work to existing art works within the site or area. Artwork should be placed where visible from the street, or in exterior spaces such as walkways, plazas, and exterior building surfaces.

- f. *Special infrastructure improvements.* A PUD development plan may be approved by city council at its discretion for contributions to a special infrastructure improvement fund, or for dedication of land and construction of improvements thereon. The contributions shall be one percent or greater of the project's land and construction cost valuation as determined by the Routt County Building Department.
- g. Any public benefit deemed by the city council to be in the city's best interest not listed above (items a.—f.) may be used to satisfy this requirement. Contributions to public benefits and improvements may be combined into one category or divided into multiple categories as determined by the city council.

(f) *Criteria for review of all PUDs.* All PUDs shall comply with the following criteria. If the PUD proposes variations from standards of this Code, then the PUD shall also comply with the applicable criteria for review of particular types of variations stated in subsection (g).

- (1) *Criteria for review and approval.* The PUD standards may only be approved if it meets all of the criteria for review and approval of development plan, final development plan, preliminary plat, or final plat, as applicable.
- (2) *Advantages outweigh disadvantages.* The applicant shall demonstrate that the advantages of the PUD substantially outweigh its disadvantages to the community and to neighboring lands.
- (3) *Legal instrument required.* If the proposed PUD includes common open spaces, recreation areas, other shared facilities, or any of the items listed as necessary community services, the applicant shall submit a legal instrument acceptable to the city attorney guaranteeing the permanent care and maintenance of these common lands and facilities. When specific to a necessary community service, a provision in this legal instrument shall be included to requirement that if that necessary community service is terminated, mitigation for the loss of that community service will be provided to the satisfaction of the city either on- or off-site.

(g) *Criteria for review of particular types of variations.*

- (1) *Criteria for review of height variation.* Whenever a proposed PUD includes a request for a height variation, the review body shall consider the following factors:
  - a. *Context and scale.* Whether the proposed height of the structure will be appropriate and in context with the surrounding built and natural environment, and will be in scale with adjacent pedestrian ways and public gathering places.
  - b. *Shadows and solar access.* Whether there is the potential for the height variation to cause any problems for neighboring sites due to shadow effects or loss of solar access on structures, roads, or pedestrian paths, or due to the loss of air circulation, or closing of public views.
  - c. *Snow storage.* The applicant shall demonstrate that the storage and shedding of snow, ice, and water has been accommodated in a safe and efficient manner that will not require significant maintenance as determined by the review body.
  - d. *Setbacks.* The size of the proposed side, front, and rear yard setbacks, and whether the applicant proposes a greater setback from neighboring structures or a reduced site coverage ratio as a means of compensating for the requested increase in height.
  - e. *Height reduction.* Whether the applicant proposes to reduce height in portions of the development as a means of compensating for the increase in bulk from the proposed height variation. The applicant may be required to step the height of buildings down from the central portions of the development to the periphery of the property as a means of ensuring that the proposed height is compatible with that of surrounding developments.

- f. *Ridgeline intrusion.* Whether the height variation would have the effect of creating an intrusion of a structure above a ridgeline.
  - g. *FAR Part 77.* Whether the height variation would penetrate the Federal Aviation Administration FAR Part 77 imaginary plane.
- (2) *Criteria for review of setback variations.* Whenever a proposed PUD includes a request for a variation from the minimum front, side or rear yard setbacks, the review body shall consider the following factors:
- a. *Emergency vehicle access.* Whether adequate room has been provided for emergency vehicles to obtain access to buildings throughout the development.
  - b. *Environmental sensitivity and land use compatibility.* Where the PUD is proposed in a developing portion of the city, whether units have been clustered in the most developable and least environmentally sensitive portions of the site, with common open spaces provided between the clusters where appropriate. Where the PUD is proposed in a developed portion of the city, the proposed setbacks and minimum lot area shall be consistent and compatible with those of surrounding developments. The city may establish a "build-to" line for portions of the PUD to ensure consistency with the setbacks on neighboring properties and to ensure structures are appropriately oriented to public streets.
  - c. *Light, air, and solar access.* Whether there will be adequate light and air to units and opportunities for solar access to be obtained.
  - d. *Waterbody setbacks.* A PUD may vary the special waterbody setback standards stated in sections 26-132 and 26-145 for a development that is designed to provide public access to the waterbody or that will enhance a waterfront area within the city. To obtain this type of variation, the applicant shall demonstrate that the proposed setback will provide an equal level of water quality protection as would have been achieved had the PUD complied with the waterbody setback stated in the Code and that the development has avoided impacts on riparian vegetation and any other critical natural resources found along the waterbody. Note: When this PUD criterion is met, the criteria for approval for a waterbody setback variance do not apply.
- (3) *Criteria for review of parking standard variations.* The PUD shall provide the number of parking spaces required for the project pursuant to subsection 26-139(d)(1)g., unless a reduction in that number of parking spaces is approved pursuant to subsection 26-139(d)(4), credit for multiple-use facilities, or unless a variation in the number of required parking spaces is granted pursuant to the following criteria:
- a. *Transit-oriented design.* A variation may be granted based on a determination that the proposed development is a transit-oriented design. This shall include a finding that the development is located no more than one-quarter ( $\frac{1}{4}$ ) mile from a stop along a public transportation route, and the PUD has been designed to provide the appropriate connections from structures to the transit facilities.

- b. *Alternative transportation plan.* A variation may be granted based on a commitment by the applicant to an alternative transportation plan or to transportation demand management measures that reduce the need for parking for residents, guests, or employees. Such alternative measures could include a commitment to offer van or limousine service; to provide financial incentives for employees to commute by van pool, car pool or transit; and other proven techniques. The applicant shall provide assurance to the city that these alternative measures will remain in place for the life of the project, or, if they are withdrawn, that additional parking will be provided on-site to bring the project into compliance with the parking standards in effect at that time.
  - c. *Application of parking variations.*
    - 1. *Limitation to amount of parking spaces to be varied.* A proposed development that is found to comply with either subsection 26-81(g)(3)a. or b. may reduce its required parking to a number specified in a parking study, paid for by the applicant and commissioned by the city planning department, or other city department, demonstrating that the parking reduction requested will allow for functional use and vehicular circulation of the proposed project and also demonstrating that the parking reduction requested will not be detrimental to the parking and vehicular circulation of properties in the vicinity.
    - 2. *Relation to other parking reductions.* The variations authorized by this section shall be in addition to the parking reductions authorized by subsection 26-139(d)(4) of this Code.
- (4) *Criteria for review of street standard variations.* A PUD may be permitted to deviate from the minimum road width requirements of the city's street standards, to enable the development to achieve greater efficiency of infrastructure design and installation through clustered or compact forms of development or to achieve greater sensitivity to environmental features, when the following minimum design principles are followed:
- a. *Safe, efficient, environmentally sound access.* The circulation system shall be designed to provide safe, convenient access to all areas of the proposed development using the minimum practical roadway length. However, roads should also be designed to fit the site's natural topography and site conditions, including following the contours of the natural terrain. Access shall be provided via a public right-of-way, private vehicular or pedestrian way, or a commonly owned easement.
  - b. *Trails and sidewalks.* Internal trails and sidewalks shall be provided to form a logical, safe, and convenient system for pedestrian access to proposed lots and common areas, with appropriate linkages off-site.
  - c. *Emergency vehicles.* Roadways shall be designed to permit access by emergency vehicles to all lots or units. Cul-de-sac design shall accommodate the needs of fire-fighting apparatus. An access easement shall be granted for emergency and

utility vehicles to use private roadways in the development for the purpose of providing emergency services and for installation, maintenance, and repair of utilities.

- d. *Principal access points.* Principal vehicular access points shall be designed to provide for smooth traffic flow, minimizing hazards to vehicular, pedestrian, and bicycle traffic. Where a PUD abuts a major collector, arterial road, or highway, direct access to such road or highway from individual lots, units, or buildings shall be discouraged when other reasonable access options are available.
- e. *Snow storage.* Adequate areas shall be provided to store snow removed from internal streets and from off-street parking areas, or other alternatives are provided.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2254, §§ 2 and 7, 7-7-09; Ord. No. 2349, § 10, 11-16-10)

**Sec. 26-82. Reserved.**

**Editor's note**—Ord. No. 2254, § 1, adopted July 7, 2009, deleted § 26-82, which pertained to the base area planned unit development and derived from Ord. No. 2187, § 1, adopted June 3, 2008; and Ord. No. 2213, § 1, adopted Nov. 4, 2008.

**Sec. 26-83. Preservation of mobile home housing.**

(a) *Conditional use permit required.* Conversion, cessation or change of use of a mobile home park to another use shall be permitted only upon approval of a conditional use permit.

(b) *Mobile home park conversion impact report.* Statement of purpose. The purpose of this section is to provide for preparation and approval of a report evaluating the impact of changes of use of mobile home parks and to provide for measures to mitigate the impact on park residents of these changes of use. The reporting requirement is necessary because mobile home park space is difficult to obtain and relocating difficult and costly, and the closure of mobile home parks or their change of use has serious implications or results for homeowners who may find it impossible to relocate to a comparable park.

(1) Definitions used in this division.

- a. *Change of use* means the use of a mobile home park for the purpose other than the rental or the holding out for rent of mobile home sites to accommodate mobile homes for human habitation. Change of use includes, but is not limited to, a change in any mobile home park or any portion thereof, cessation of use of all or any portion of the park, whether immediate or on a gradual basis, or the closure of the park occurring on or after the effective date of this section. Change of use shall not include mere purchase of the park by its existing mobile home tenants.
- b. *Mobile home park* means a parcel of land used for the continuous accommodation of five (5) or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, his agents, lessees, or assigns. Mobile home park does not include mobile home subdivisions or property zoned for manufactures home subdivisions.

- (2) A conditional use permit shall not be issued until a conversion impact report has been prepared, submitted to the department of planning and community development and approved by the city council following recommendation by the planning commission. The conversion impact report shall be processed in the same manner as an application for conditional use under this Code. The conversion impact report shall contain the following information as of the date such application is filed. The submission of the information set forth in the following subsections in full and complete format shall be deemed compliance with the conditional use criteria necessary for the issuance of the conditional use permit referred to in this section:
- a. The names, addresses and mobile home site identification numbers of all persons owning mobile homes within the mobile home park and all mobile home residents.
  - b. The age, including date of manufacture, of each mobile home within such park, including the type of mobile home, with characteristics, size, and number identifying the mobile home site being occupied.
  - c. A list of known available mobile home sites in comparable mobile home parks within a fifty-mile radius of the park that is the subject of the application or request.
  - d. A schedule of site rental rates for each park listed and the criteria of the management of each park for acceptance of new homeowners and used mobile homes.
  - e. A relocation plan that will include the proposed date for closing the mobile home park, what, if any, relocation assistance payments will be offered to the mobile home park tenants, and the method of calculation of such assistance.
  - f. Applicant's intended use of the property following closure of the mobile home park, including conceptual plans describing the proposed new use.
  - g. Such other information as the department of planning and community development, planning commission or city council may require.
  - h. Certification from the owner/applicant that the conversion impact report has been sent/delivered to all of the owners of mobile homes in the mobile home park and their tenants at least thirty (30) days before the first public hearing on the conditional use permit.
- (3) *Exemptions.* No conversion impact report shall be required for a change of use if, prior to the change of use, at least seventy-five (75) percent of the mobile home park tenants and the land owner have entered into an agreement and submitted it to the city in a form satisfactory to the city attorney to waive such requirement.
- (c) *Waiver of certain requirements for sales to existing tenants.* The director shall have the authority to waive the requirements of this division with respect to minimum lot area, setbacks, residential density and the additional regulations under section 26-929 in connection

with an application of a mobile home park owner to subdivide an existing mobile home park into lots for the purpose of selling such lots to the existing tenants within the mobile home park if the director finds:

- (1) That the waiver of such requirements does not substantially increase fire or other life safety hazards to the residents of the mobile home park, and
- (2) The mobile home park owner has entered into a contract with the city assuring that such subdivided spaces will be offered for sale to existing tenants within the park.

(d) *Mandatory disclosure.* All lease agreements between the owner of a mobile home park, as landlord, and the lessee of a mobile home or a mobile home pad, shall include language to the effect that: "All lease agreements for mobile homes or mobile home pads in mobile home parks are subject to the risk that lease agreements may not be renewed and that the owners of mobile home parks may elect to terminate the use of their property as a mobile home park in the future." If the landlord agrees to an oral tenancy or lease, the landlord must secure a written acknowledgment of this mandatory disclosure.

(Ord. No. 2187, § 1, 6-3-08)

#### **Sec. 26-84. Historic preservation.**

(a) *Purpose.* The purpose of the section is to:

- (1) Preserve, protect, enhance and perpetuate the exteriors of those buildings, structures, objects, sites and districts that reflect outstanding elements of the city's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- (2) Stabilize or improve aesthetic and economic vitality and the values of such buildings, structures, objects, sites and districts;
- (3) Enhance the visual character of the city by encouraging new design and construction that complements the city's historic buildings, structures, objects, sites and districts;
- (4) Promote the use of outstanding historical or architectural buildings, structures, objects, sites and districts for the education, stimulation and welfare of the people and the visitors to the city;
- (5) Conserve valuable material and energy resources by the ongoing use and maintenance of the existing built environment;
- (6) Increase the economic benefits of historic preservation to the city and its inhabitants;
- (7) Protect property values within the city; and
- (8) Promote and encourage continued private ownership and use of such buildings, structures, objects, sites or districts now so owned and used, to the extent that the objectives listed above can be attained under such a policy.

(b) *Definitions.* The following words and phrases shall have the definitions and meanings set forth below. They shall be capitalized to indicate their special definitions. If any of the words

or phrases are defined elsewhere in this Code, and there is a disagreement as to their intended meaning, the definitions and meanings set forth in this section shall control the historic preservation section.

*Affected Property* shall mean a governmental, commercial, institutional or residential building or other public or private structure, object, site or district covered by this section.

*Alteration* shall mean any exterior change, addition, or modification to an Affected Property located within the city boundaries, or the site upon which such property is located including, but not limited to:

- (1) Exterior changes including additions to, or modifications of, a structure's Architectural Features or visual characteristics;
- (2) Disturbance of archaeological sites or areas; and
- (3) The placement or removal of any exterior objects including; signs, plaques, light fixtures, street furniture, walls, fences, and steps that alter the exterior visual qualities of the Affected Property.

*Architectural Feature* shall mean the architectural elements embodying style, design, general arrangements and components of the exterior of any building or structure, including; but not limited to, the kind of building material and the style and type of all windows, doors, lights, signs and other fixtures.

*Building Department* shall mean the Routt County Regional Building Department.

*Business Day* shall mean any day when the city's offices are open for business.

*Certificate of Approval* shall mean a certificate issued by the Commission pursuant to this section approving any proposed alteration, modification, repair, rehabilitation, restoration, renovation or demolition of an Affected Property located within the city boundaries.

*Commission or HPC* shall mean the Historic Preservation Commission created under this section.

*Community Development Code or CDC* shall mean the Community Development Code of Steamboat Springs, as amended.

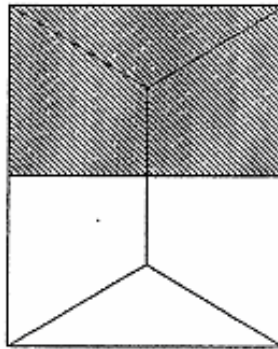
*Contributing Property* shall mean a parcel or lot containing a building, structure, site, feature or object within a Historic District that embodies significant physical characteristics and features, or adds to the historic associations, historic architectural qualities or archaeological values identified for the Historic District, and was present during the period of significance, relates to the documented significance of the district, and possesses historic integrity or is capable of yielding important information about the period.

*Dangerous Building* shall mean as defined in the 2003 International Building Code as adopted by the City of Steamboat Springs.

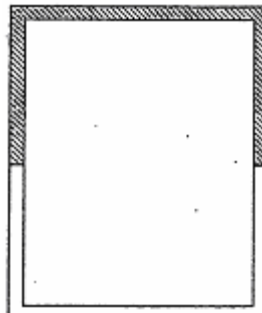
*Demolition*

(1) *Demolition*: "Demolition" or "demolish" means an act or process which removes one or more of the following. The shaded area illustrates the maximum amount that may be removed without constituting demolition.

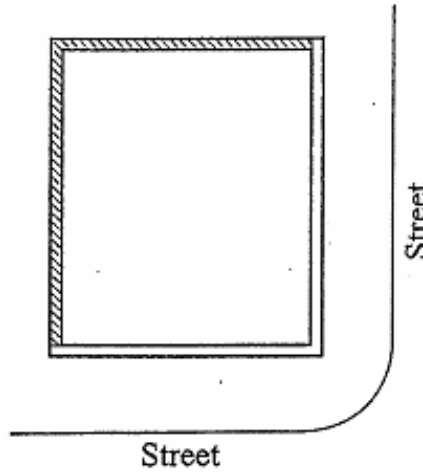
- a. Fifty (50) percent or more of the roof area as measured in plan view (see diagram);



- b. Fifty percent or more of the exterior walls of a building as measured contiguously around the "building coverage" as defined in this section (see diagram); or



- c. Any exterior wall facing a public street, but not an act or process which removes an exterior wall facing an alley (see diagram).



A wall shall not be considered removed if it meets the following:

- (i) The wall shall retain seventy-five (75) percent of studs or other structural elements, the exterior wall finish, and the fully framed and sheathed roof above that portion of the remaining building to which such wall is attached;
- (ii) The wall shall not be covered or otherwise concealed by a wall that is proposed to be placed in front of the retained wall; and
- (iii) Each part of the retained exterior walls shall be connected contiguously and without interruption to every other part of the retained exterior walls.

(2) *Demolition by Neglect:*

- a. " Demolition by neglect means any total or partial destruction of or damage to a structure or any portion thereof, due to the failure of the structure's owner(s) or lessee(s) to maintain adequately or repair the structure, excepting acts of God, Force Majeure, natural or manmade disasters.
- b. See also, section 5-9 of the Municipal Code.

*Design Guidelines* shall mean the Steamboat Springs Historic Preservation Design Guidelines adopted by the city council in November, 2001, and as may be amended from time to time.

*Eligible Resource* shall mean any governmental, commercial, institutional or residential building or other private or public structure, object or site fifty (50) years of age or older, identified and deemed eligible by the city's historic preservation staff for listing on the Local Register by the criteria set forth in this section.

*Exterior* shall mean the character and general composition of the outside of an Affected Property, as defined herein, including, but not limited to, the kind the building material and the type, design and character of all windows, doors, light fixtures, and appurtenant elements.

*Hardship Exemption* See subsection 26-84(p).

*Historic District* shall mean an area of two (2) or more contiguous Eligible Resources designated by the city council on recommendation of the Commission, following a petition for the creation of a Historic district by the owners of those properties. The resulting Historic District shall possess: "a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development," as defined by the criteria for inclusion as a Historic District in the National Register of Historic Places.

*Historic Resource* shall mean any public or private resource in the city, including any governmental, commercial, institutional or residential building or other structure, object or site that has importance in the history, architecture, archeology or culture of the city, state or nation and is listed on the Local Register. Historic Resources may only be listed on the Local Register with the written and recorded consent of the owner(s).

*Historic Site* shall mean any place or parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a Historic Event has occurred, and which has been designated as a Historic Site under this section. Historic Sites may only be listed on the Local Register with the written and recorded consent of the owner(s).

*Improvement* shall mean any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

*Local Landmark* shall mean any public or private resource in the city, including any governmental, commercial, institutional or residential building, or other structure, object or site, that has outstanding importance in the history, architecture, archaeology or culture of the city, state or nation and is listed on the Local Register individually as a Local Landmark, pursuant to the criteria set forth in subsection (g) of this section. Local Landmarks may only be listed on the Local Register with the written and recorded consent of the owner(s).

*Local Register* shall mean the Steamboat Springs Register of Historic Places, containing Local Landmarks, Historic Resources, and Historic Districts approved for listing by the Commission, with the written and recorded consent of the owner(s).

*New Construction* shall mean the construction of a new Improvement on a previously undeveloped parcel of land, or the development of a new Improvement on a previously developed parcel.

*Planning Department* shall mean the Steamboat Springs Planning and Community Development Department.

*Secretary's Standards* shall mean the Secretary of the Interior's Standards for the Treatment of Historic Properties.

*Survey* shall mean the cultural resource survey of buildings and structures within the city boundaries, updated from time to time by qualified third party independent contractors and/or by the city's historic preservation staff.

(c) *Local Register.* There is hereby created the Steamboat Springs Register of Historic Places ("Local Register"). The purposes of the Local Register are:

- (1) To preserve, protect, enhance and perpetuate those Local Landmarks, Historic Resources and Historic Districts that reflect outstanding elements of the city's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- (2) To stabilize or improve aesthetic and economic vitality and values of such Local Landmarks, Historic Resources and Historic Districts;
- (3) To promote the use of outstanding historical or architectural buildings, sites, structures, objects and districts for the education, stimulation and welfare of the people;
- (4) To promote good urban design; and
- (5) To promote and encourage continued private and governmental ownership and use of such Local Landmarks and Historic Resources now so owned and used, to the extent that the objectives listed above can be achieved under this section.

(d) *Historic Preservation Commission.*

(1) *Established.* There is hereby established a Historic Preservation Commission ("HPC" or "Commission") for the city. The Commission shall be comprised of five (5) members and one alternate, with no more than two (2) members residing outside the city boundaries, but within the RE-2 School District. The members shall have the responsibilities set forth in this section.

(2) *Membership—Appointment and Term of Members.*

- a. All members of the commission shall have demonstrated interest, knowledge, or formal training in historic preservation and related fields including history, architecture, landscape architecture, architectural history, archaeology, planning, building trades, cultural geography, cultural anthropology, real estate, or law and be supportive of historic preservation. At least two (2) regular members of the Commission shall be professionals in preservation whose qualifications, to the extent possible, conform to the Secretary of the Interior's Professional Qualifications Standards [36 C.F.R. Part 61] regarding composition of the Commission.
- b. The six (6) members of the Commission shall be appointed by the city council. The initial members of the Commission shall be the members of the city's Historic Preservation Advisory Commission as of the effective date of this section, with the term of each member the same as his or her term on the Historic Preservation Advisory Commission. All successive terms shall be three (3) years in duration. Should a position become vacant, city council may appoint a new member who shall serve out the remainder of the unexpired term.

- c. The Commission shall annually elect from its membership a chairperson. The chairperson may serve successive terms.
  - d. In addition to the Commission membership described above, the Commission may invite representatives of the following organizations to participate in Commission meetings as non-voting ex officio members. Their attendance shall be discretionary: Steamboat Springs Planning Commission, Steamboat Springs City Council and the Routt County Regional Building Department.
- (3) *Duties and Responsibilities.* The Commission shall draw a reasonable balance between the community's interest in historic preservation and the rights of private property owners. In that connection:
- a. The Commission shall advise the city council regarding the historic preservation aspects of the Steamboat Springs Community Area Plan and regarding other historic preservation issues that may present themselves. The Commission's advice to council shall include, but is not limited to recommendations as to the implementation of the historic preservation aspects of the Steamboat Springs Community Area Plan and facilitation of community discussion relative to the implementation of historic preservation initiatives.
  - b. The Commission shall be responsible for providing owners of Eligible Resources within the city boundaries with annual, written notification of their property's eligibility for permanent listing on the Local Register.
  - c. The Commission may pro-actively solicit public and private property owners to nominate their properties for permanent listing on the Local Register.
  - d. The Commission shall administer and maintain the Local Register.
  - e. The Commission shall review all applications for building permits for Alterations and Demolitions relating to the Exterior of any principal or accessory building, structure, object, or site which is designated on the Local Register, or is an Eligible Resource, as defined in this section. When reviewing permit requests covered by this section, the Commission shall determine whether the proposed work complies with the requirements of this section, and, if so, it shall issue a Certificate of Approval. If the Commission determines that it cannot issue a Certificate of Approval, or if the Commission otherwise delays such issuance of a Certificate of Approval, it shall cite the historic preservation or other principle(s) upon which it is relying in making its decision. The Commission shall review and render its decision in a public hearing within thirty (30) days of the filing of the application for a permit.
  - f. The Commission shall review all development permit applications that involve Alteration or Demolition of an Eligible Resource in the CN, CO and CY districts as defined by the CDC. Properties with an approved development permit by city council will be exempt from building permit review for demolition by the Commission. When reviewing development permits covered by this section, the Commission shall determine whether the proposed work complies with the

requirements of this section, and, if so, shall issue a Certificate of Approval. If the Commission determines that it cannot issue a Certificate of Approval, or if the Commission otherwise delays such issuance of a Certificate of Approval, it shall cite the requirements of the CDC and the historic preservation or other principle(s) upon which it is relying in making its decision. The Commission shall review and render its decision in a public hearing.

- g. The Commission shall set a regular meeting time, day and place and cause same to be published to the community at least seventy-two (72) hours in advance of any such regular or special meeting of the Commission. The Commission shall report to city council on its activities at six-month intervals.
- h. All decisions by the Commission shall be made in a public forum and applicants shall be notified in writing of the decisions of the Commission. All decisions of the Commission are subject to appeal to the city council by the Affected Property owner pursuant to the appeal provisions in this section.
- i. The Commission shall rely upon the Local Register designation process established in this section for the designation of Local Landmarks, Historic Resources and Historic Districts in the Local Register.
- j. The Commission may provide out-reach and educational opportunities, via lectures, conferences, publications, walking tours, work shops, city website, historical marker programs and any other means to educate the community on the importance of historic preservation, and the historic preservation process.
- k. The Commission may advise and assist owners of Local Landmarks, Historic Resources, and Historic Districts on the physical and financial aspects of preservation, rehabilitation, restoration, renovation, and re-use of their properties. The Commission may also assist property owners in pursuing financial and other assistance, including identifying sources of grants, low interest loans and other historic preservation programs available to such property owners to encourage the historic preservation of their properties. In addition, the Commission may provide conceptual reviews to owners of properties and sites on the Local Register and Eligible Resources for historic preservation projects within the city boundaries, as well as assistance in preparing applications for nomination of properties to the Local, State and/or National Registers.
- l. The Commission shall establish and publish administrative rules, regulations and procedures regarding its duties under this section.
- m. The Commission shall recommend to city council the removal of properties from the Local Register for reasons the Commission deems appropriate, including, but not limited to: Acts of God, Force Majeure, Hardship, as defined in this section, and for Dangerous Buildings, as defined in this section.
- n. The Commission may cause a cultural resource survey of buildings and structures within the city boundaries to be updated every two (2) years, by qualified, third party independent contractors, and/or by the city's historic preservation staff.

- o. The Commission may recommend to city council the purchase of development rights or the issuance of historic preservation easements for Local Landmarks and Historic Resources in appropriate cases.
- p. Upon the written request of any property owner within the city's boundaries, the Commission may direct the city's historic preservation staff to determine the eligibility of such property for listing on the Local Register.
- q. The Commission shall exercise such other roles or duties delegated to it by the Colorado Historical Society of the State Historic Preservation Office, subject to the approval of the city council.

(e) *Administrative Review.* Upon receipt of any permit application under subsection 26-84(h), (i) or (j) for the Alteration to any building, site, structure or object on the Local Register or Eligible Resource, the historic preservation staff shall review the application for compliance with the requirements of this section. Upon a determination by the historic preservation staff that the proposed Alteration will not significantly alter the historic character of such building, site, structure or object on the Local Register or Eligible Resource, the historic preservation staff may recommend approval to the HPC without referring the application for public hearing before the HPC.

In determining whether the proposed Alteration will significantly alter the historic character of such building, site, structure or object on the Local Register or Eligible Resource, the historic preservation staff shall apply the Secretary of the Interior's Standards, the Design Guidelines, this section and any other applicable provisions of the CDC.

The historic preservation staff shall notify the HPC in writing of the historic preservation staff's decision to recommend approval without a public hearing by HPC. The historic preservation staff's recommendation shall take effect upon the passage of seven (7) days from the date of notice unless any member of HPC objects thereto in writing prior to the expiration of the seven-day period. An HPC member's objection must be based on an incorrectly applied standard, guideline, or other code provision. In the event of such objection, the proposed Alteration shall be scheduled for a public hearing within thirty (30) days of the written notice from the historic preservation staff to the HPC.

(f) *Eligibility Criteria—Historic Resource Designation.* A building, site, structure or object may be eligible for designation as a Historic Resource on the Local Register if it meets at least one criterion in one or more of the following categories:

- (1) *Historic Importance.* The building, site, structure or object has character, interest or value as part of the development, heritage or cultural characteristics of the city, state or nation; is the site of a historic event with an effect upon society; is identified with a person or group of persons who had some influence on society; or, exemplifies the cultural, political, economic, social or historic heritage of the community.
- (2) *Architectural Importance.* The building, site, structure or object portrays the environment of a group of people in an era of history characterized by a distinctive architectural style; embodies those distinguishing characteristics of an architectural-

type specimen; is the work of an architect or master builder whose individual work has influenced the development of the city or contains elements of architectural design, detail, materials and craftsmanship which represent a significant innovation.

- (3) *Geographic Importance.* The building, site, structure or object, because of being part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or, due to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood, community or city.

(g) *Eligibility Criteria—Local Landmark Designation.* A governmental, commercial, institutional, residential or other private or public building, site, structure, or object within the city's boundaries may be eligible for listing on the Local Register as a Local Landmark by the Commission if it meets the criteria for Historic Resource designation under this section and at least two (2) of the following additional criteria:

- (1) Must be of overwhelming historic or architectural importance and significance to the entire community.
- (2) Possesses such unusual or uncommon significance that the potential demolition or major alteration would diminish the character and sense of place in the community.
- (3) Contains the possibility of important discoveries related to prehistory or history.
- (4) Represents a significant and distinguishable entity whose components may lack individual distinction, yet represents an established and familiar feature to the community.
- (5) Has significance to the community's history to the extent that it illustrates and commemorates the city's collective past and helps define the community's identity.

(h) *Procedure for Historic Resource Designation; Demolition and Alteration of Historic Resources; Benefits of Historic Resources.*

- (1) *Recommendations for Designation of Historic Resources.* Pursuant to the procedures set forth in this section, the owner(s) of any governmental, commercial, institutional or residential building or other public or private structure, object, or site meeting the criteria set forth in subsection 26-84(f), as amended from time to time, or HPC, with the written consent of the owner(s), may propose its designation as a Historic Resource.

Each such designation recommendation shall include a brief description of the characteristics of the building, structure, object, or site that justify its designation and shall include a legal description of the location and boundaries of the historic resource.

- (2) *Procedures for Designating Historic Resources for Preservation.* Applications for designation as a Historic Resource must be made to the HPC. The HPC may require

that such application be made in such form as specified by the HPC. Applications shall be made only by the property owner(s) for which an application is submitted, with the written consent of the property owner(s).

- a. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the criteria for designation established in subsection 26-84(f) hereof, as they may be amended from time to time, and within the purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed application for designation. The staff shall forward the application and its recommendation to HPC.
  - b. *HPC Review.* HPC shall consider the application at a regularly scheduled or special meeting after the completion of the staff review. HPC shall approve, recommend modifications to, or deny the application. HPC shall notify the owner(s) and city council in writing immediately following any decision approving or disapproving an application.
  - c. *Demolition of Historic Resources.* Once a Historic Resource is listed on the Local Register, demolition of such Historic Resource is prohibited except when maintaining the resource constitutes a Hardship, as defined in this section, or the Planning or Building Department Staff proves to the Commission that the Historic Resource is a Dangerous Building, as defined in this section. However, the foregoing exceptions shall not apply in the case of Demolition by Neglect. A permit for the Demolition of a Historic Resource shall only be issued after issuance of a Certificate of Approval.
  - d. *Alterations to Historic Resources.* Once a Historic Resource is listed on the Local Register, Alterations to such Historic Resource shall be made in compliance with the Design Guidelines and the Secretary's Standards as determined by HPC. Alterations need not comply with every applicable Design Guideline, but HPC must determine that there is sufficient compliance that the characteristics that made the Historic Resource a Historic Resource are retained and that following the Alteration, the building, structure, site or object will continue to be a Historic Resource. A permit for the Alteration of a Historic Resource shall only be issued after issuance of a Certificate of Approval.
- (5) *Procedures for Alterations or Demolitions of Historic Resources.* Applications for Alterations or Demolitions of a Historic Resource must be made to the HPC. The HPC may require that such application be made in such form as specified by the HPC. Applications shall be made only by the property owner(s) for which an application is submitted, or with the written consent of the property owner(s).
- a. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the applicable criteria for Alterations or Demolitions of a Historic Resource, as it may be amended from time to time, and within the

purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed application for Alteration or Demolition. The staff shall forward the application and its recommendation to HPC.

- b. *HPC Review.* HPC shall consider the application at a regularly scheduled or special meeting after the completion of the staff review. HPC shall approve, recommend modifications to, or deny the application. If the application meets HPC approval, HPC shall issue a Certificate of Approval immediately. HPC shall notify the owner(s) and city council in writing immediately following any decision approving or disapproving an application.
- (6) *Benefits Available to Historic Resources.* Once a Historic Resource is listed on the Local Register, the applicable incentives listed in subsection 26-84(q) shall be available to the owner(s).
- (i) *Procedure for Local Landmark Designation; Demolition and Alteration of Local Landmarks; Benefits for Local Landmarks.*
  - (1) *Recommendations for Designation of Local Landmarks.* Pursuant to the procedures set forth in this section the owner(s) of any governmental, commercial, institutional or residential building, site, structure or object meeting the criteria set forth in subsection 26-84(g) above, as amended from time to time, or HPC, with the written consent of the owner(s), may propose its designation as a Local Landmark.  
  
Each such designation recommendation shall include a description of the characteristics of the structure, object or site that justify its designation and shall include a legal description of the location and boundaries of the Local Landmark.
  - (2) *Procedures for designating Local Landmarks for Preservation.* Applications for designation as a Local Landmark must be made to the HPC. The HPC may require that such application be made in such form as specified by the HPC. Application shall be made only by the property owner(s) for which an application is submitted, or with the written consent of the property owner(s).
    - a. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the criteria for designation established in subsection 26-84(g) hereof, as it may be amended from time to time, and within the purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed application for designation. The staff shall forward the application and its recommendation to HPC.
    - b. *HPC Review.* HPC shall consider the application at a regularly scheduled or special meeting after the completion of the staff's review. HPC shall approve, recommend modifications to, or deny the application. HPC shall notify the owner(s) and city council in writing immediately following any decision approving or disapproving an application.
  - (3) *Demolition of Local Landmarks.* Once a Local Landmark is listed on the Local Register, Demolition of such Local Landmark is prohibited except with proof from the

city that the Local Landmark is a Dangerous Building, as defined in this section. However, the foregoing exception shall not apply in the case of Demolition by Neglect. A permit for the Demolition of a Local Landmark shall only be issued after issuance of a Certificate of Approval.

- (4) *Alteration to Local Landmarks.* Once a Local Landmark is listed on the Local Register, Alterations to such Local Landmark shall be made in compliance with the Design Guidelines and the Secretary of the Interior's Standards as determined by HPC. Alterations need not comply with every applicable Design Guideline, but HPC must determine that there is sufficient compliance that the characteristics that made the Local Landmark are retained and that following the Alteration the building, structure, site or object will continue to be a Local Landmark. A permit for the Alteration of a Local Landmark shall only be issued after issuance of a Certificate of Approval.
  - (5) *Procedures for Alteration or Demolition of Local Landmarks.* Applications for Alterations or Demolitions of Local Landmarks must be made to the HPC. The HPC may require that such application be made in such form as specified by the HPC. Applications shall be made only by the property owner(s) for which an application is submitted, with the written consent of the property owner(s).
    - a. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the applicable criteria for Alterations or Demolitions of a Local Landmark, as they may be amended from time to time, and within the purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed application for Alteration or Demolition. The staff shall forward the application and its recommendation to HPC.
    - b. *HPC Review.* HPC shall consider the application at a regularly scheduled or special meeting after the completion of the staff review. HPC shall approve, recommend modifications to, or deny the application. If the application meets HPC approval, HPC shall issue a Certificate of Approval immediately. HPC shall notify the owner(s) and city council in writing immediately following any decision approving or disapproving an application.
  - (6) *Benefits Available to Local Landmarks.* Once a Local Landmark is listed on the Local Register, the applicable incentives listed in subs 26-84(q) shall be available to the owner(s).
- (j) *Procedure for Designation of Historic Districts: Demolitions and Alterations of Resources in Historic Districts; Benefits for Contributing Properties.*
- (1) *Recommendations for Designation of Historic Districts.* Pursuant to the procedures set forth in this section, one or more owners of an Eligible Resource, as defined in this section may petition the Commission for the creation of a Historic District, provided the resulting Historic District possesses: "a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development," as defined by the criteria for inclusion as a Historic

District in the National Register of Historic Places. Thereafter, upon recommendation of the HPC, the city council may designate an area within the city boundaries as a Historic District in accordance with the procedure set forth below.

Each such designation recommendation shall include a description of the characteristic of the proposed Historic District that justify its designation and shall include a legal description of the location and boundaries of the proposed Historic District, as well as a list of the Contributing Properties.

(2) *Procedures for Designating Historic Districts.*

- a. *Preliminary Application.* One or more owners of an Eligible Resource may prepare a Preliminary Application for designation of an area within the city boundaries for presentation to the city's historic preservation staff. Such Preliminary Application shall be in a form prescribed by the HPC and shall include, among other things, the boundaries of the proposed Historic District and a statement as to why the proposed Historic District meets the definition for Historic District designation, as defined above, and a list of Contributing Properties.
- b. *Preliminary Evaluation.* If the city's historic preservation staff determines that the Preliminary Application has merit, it will request the chair of the HPC to appoint a sub-committee to work with the applicant(s), staff and Affected Property owners to prepare an Application for Historic District Designation ("Application"). The HPC may require that such Application be made in such form as specified by the HPC. Application shall be made only with the owner's written consent of one hundred (100) percent of the properties within the boundaries of the proposed Historic District.
- c. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the definition for designation established in subsection 26-84(j)(1) hereof, as it may be amended from time to time, and within the purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed Application. Upon determination the application is in conformance with the criteria for designation, staff shall schedule a public hearing and forward the application and its recommendation to HPC. Notice shall be posted and also be sent by first class mail to the property owners within the proposed Historic District's boundaries.
- d. *HPC Review.* HPC shall consider the Application at a regularly scheduled or special meeting after the completion of the staff's review and recommendations. HPC shall either approve, recommend modifications to, or deny the Application. HPC shall notify the owner(s) filing the Application, the Affected Property owner(s) within the proposed Historic District boundaries and city council, in writing, immediately following any decision approving or denying an Application.
- e. *City Council Review.* After notice to the property owners in the proposed Historic District, city council shall schedule a hearing for the next available hearing date,

where the Applicant and any non-consenting property owner(s) who may each be represented by counsel, to consider the Petition. After due consideration of the Petition, city council may approve the creation of the proposed Historic District, modify the proposed Historic District or deny the creation of the proposed Historic District. The non-consenting property owner(s) have such appeal rights to the district court as exist for the appeal of any final city council action.

If city council approves the district, the city council shall adopt an ordinance to that effect establishing the Historic District and its boundaries. Said ordinance shall be recorded with the Routt County Clerk and Recorder, and the city council may provide for such other recognition, markers and the like to identify the Historic District.

- (3) *Protection from Demolition while Application for Historic District Designation under Review.* Commencing upon the date set by staff for the public hearing on the application pursuant to subsection 26-84(j)(2)c above, no Demolition or Alteration permit shall be issued for any structure within the boundaries of the proposed Historic District for a period not to exceed ninety (90) days, except for Dangerous Buildings as defined in this section. If HPC denies the application for designation, or if at the end of the ninety-day period the Historic District has not been so designated by city council, the Demolition or Alteration permit for the structure shall be issued, unless the structure is listed on Local Register. If the Historic District has been so designated by city council within the ninety-day period, the Contributing Properties within the Historic District are subject to the recording, incentive and protective provisions of this section.
- (4) *Demolition within Historic District.* Once a Historic District is established and is listed in the Local Register, demolition of buildings, structures, objects or sites located within a Historic District is prohibited except upon written determination that the building, object, or site is a Dangerous Building, as defined in this section. A permit for the Demolition of buildings, structures, objects or sites located within a Historic District shall only be issued after the issuance of a Certificate of Approval. The provisions of this section do not apply to properties within the Historic District that are not Contributing Properties, as defined in this section.
- (5) *Alterations within Historic District.* Once a Historic District is established and is listed in the Local Register, Alterations to such buildings, structures, objects or sites shall be made in compliance with the Design Guidelines and the Secretary of the Interior's Standards as determined by HPC, or such design guidelines as proposed in the application and approved by city council. Alterations need not comply with every applicable Design Guideline or customized design guideline for that Historic District, but HPC must determine that there is sufficient compliance that the characteristics that made the Historic District is retained and that following the Alteration the buildings, structures, sites or objects will continue to constitute a Historic District. A permit for the Alteration of buildings, structures, objects or sites located within the

Historic District shall only be issued after the issuance of a Certificate of Approval. The provisions of this section do not apply to properties within the Historic District that are not Contributing Properties, as defined in this section.

- (6) *Procedures for Alterations or Demolitions within Historic District.* Applications for Alterations or Demolitions to a building, structure, site, feature or object within a Historic District must be made to the HPC. The HPC may require that such application be made in such form as specified by the HPC. Applications shall be made only by the property owner(s) for which an application is submitted, or with the written consent of the property owner(s).
  - a. *Staff Review.* The city's historic preservation staff shall review the application for conformance with the applicable criteria for Alterations or Demolitions to a building, structure, site, feature, or object within a Historic District, as it may be amended from time to time, and within the purposes of this section. Such review shall be concluded no more than thirty (30) days after the filing of a fully completed application for Alteration or Demolition. The staff shall forward the application and its recommendation to HPC.
  - b. *HPC Review.* HPC shall consider the application at a regularly scheduled or special meeting after the completion of the staff review. HPC shall approve, recommend modifications to, or deny the application. If the application meets HPC approval, HPC shall issue a Certificate of Approval immediately. HPC shall notify the owner(s) and city council in writing immediately following any decision approving or disapproving an application.
- (7) *Infill Development within Historic District.* Once a Historic District is established and is listed in the Local Register, the construction of any new Improvement or Alteration of any existing Improvement shall be made in compliance with the Design Guidelines and the Secretary of the Interior's Standards as determined by HPC.
- (8) *Benefits Available to Historic District.* Once a Historic District is established and listed in the Local Register, the applicable incentives listed in subsection 26-84(q) shall be available to the owner(s) of the buildings, structures, sites or objects located within the Historic District's boundaries.
- (k) *Amendment of Designation.* Designation of a Historic Resource, a Local Landmark, or a Historic District may be amended to add features or property to the site under the procedures prescribed in subsection 26-84(h), (i), (j), respectively, for initial designations.
- (l) *Notifications.*
  - (1) Any owner(s) filing an application for designation of a property as a Local Landmark, Historic Resource or Historic District under this section shall, as a part of the application, notify property owners within three hundred (300) feet of the property to be designated a Local Landmark, Historic Resource or Historic District.

- (2) Within thirty (30) days of designation as a Local Landmark, Historic Resource, or Historic District, the city historic preservation staff shall record a notice of such designation with the Routt County Recorder of Deeds.
  - (3) Public Notice requirements for Alteration and Demolition are consistent with the Community Development Code, section 26-51.
- (m) *Revocation of Designation.* HPC may revoke a Local Landmark, Historic Resource or Historic District designation if the property is damaged by an Act of God, Force Majeure or otherwise falls below the standards for listing the property or district originally as a Local Landmark, Historic Resource, or Historic District.
- (n) *Demolition or Alteration of Eligible Resources Not on the Local Register.*
- (1) *Demolition.* Upon the receipt by the Planning or Building Department, as the case may be, of an application for a permit for the Demolition of an Eligible Resource that is not listed on the Local Register, the Planning or Building Department shall forward a copy of such application to HPC. HPC shall schedule a hearing with respect to such application at a public meeting to be held within thirty (30) days of receipt of such application. At the hearing, HPC shall advise the owner(s) of the building, structure, site or object about the benefits of listing such building, structure, site or object on the Local Register and shall discuss alternatives to the proposed Demolition. Provided proof by the owner that the building, structure, site or object is a Dangerous Building or that deferring Demolition would cause a Hardship, as defined in this section, the HPC shall immediately issue a Certificate of Approval to allow the Demolition. Absent such proof, a Certificate of Approval to allow the Demolition will be issued by HPC thirty (30) days following the public meeting. A permit for the Demolition of an Eligible Resource shall only be issued after issuance of a Certificate of Approval. Notwithstanding the foregoing, the issuance of a final development permit from city council for a commercial project shall be deemed to be the issuance of a Certificate of Approval from HPC for the Demolition of any structures on the site for which the final development permit is issued, and no public hearing with HPC is required with respect to such Demolition.
  - (2) *Alteration or Addition.* Upon the receipt by the Planning or Building Department, as the case may be, of an application for a permit for the Alteration of an Eligible Resource that is not listed on the Local Register, the Planning or Building Department shall forward a copy of such application to HPC. HPC shall schedule a hearing with respect to such application at a public meeting to be held within thirty (30) days of receipt of such application. HPC shall review the proposed Alteration for compliance with the Design Guidelines and the Secretary's Standards and shall make a determination as to whether the proposed work complies or would comply with specified changes. At the hearing, HPC shall advise the owner(s) of the building, structure, site or object about the benefits of listing such building, structure, site or object on the Local Register and shall discuss its determination as to compliance with the Design Guidelines and the Secretary of the Interior's Standards. If the application meets HPC approval, HPC

shall issue a Certificate of Approval immediately. Notwithstanding the foregoing, the owner of an Eligible Resource may proceed with the original plans without a Certificate of Approval following the scheduled meeting date.

(o) *Demolition by Neglect.* Demolition by Neglect of Local Landmarks, Historic Resources or Contributing Property is prohibited and shall be punishable under the provisions for penalties and sanctions as contained in subsection 26-84(r).

(p) *Hardship Exemption.* If the applicant presents facts clearly demonstrating to the satisfaction of the HPC that there are no feasible measures that can be taken that will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property in its current form, the property owner may apply to the Commission for a Hardship Exemption from the provisions of this section.

(q) *Historic Preservation Fund and other Incentives.*

(1) *Historic Preservation Fund.* In order to promote historic preservation of Local Landmarks, Historic Resources and Historic Districts and to encourage the owners of Eligible Resources within the city boundaries to list their properties on the Local Register, a Historic Preservation Fund, ("Fund"), is hereby established as part of the Planning and Community Development Department's operating budget and may be funded with an annual appropriation from the city's budget, as determined by city council in their discretion, as well as grants to the city from other governmental and private historic preservation organizations, individuals or other sources. These funds shall be used by HPC to pursue its out-reach and educational responsibilities to the community, as provided in this section, as well as to purchase, or assist the city in the purchase of development rights in appropriate cases. The Director of Planning and Community Development, with recommendations for HPC, will administer the Historic Preservation Fund and account annually to city council.

(2) *Other Economic and Regulatory Incentives.* In order to induce owners of Eligible Resources to consider proposing their property for listing on the Local Register as a Local Landmark, Historic Resource or Historic District, HPC may offer the owner one or more of the following incentives:

a. Owners of Local Landmarks, Historic Resources and Contributing Properties shall be entitled to such federal and state income tax credits as provided by law, with reviews conducted by HPC by virtue of the city's certification as a Certified Local Government.

b. Owners of Local Landmarks, Historic Resources and Contributing Properties shall be entitled to rebate of city sales taxes on materials purchased locally and used for rehabilitating, renovating and restoring Local Landmarks and Historic Resources in accordance with subsections 22-183(d)(12) and 22-198(g) of the Municipal Code.

- c. Owners of Local Landmarks, Historic Resources and Contributing Properties shall be entitled to waiver of Planning Department permit fees for work consistent with the Design Guidelines and the Secretary's Standards and in accordance with section 26-86 of the Municipal Code.
  - d. Owners of Local Landmarks, Historic Resources and Contributing Properties shall be entitled to waiver of tap fees for work consistent with the Design Guidelines and the Secretary of Interior Standards.
  - e. The Commission shall recommend resources for architectural, design and technical consultation and assistance to the owners of Local Landmarks, Historic Resources and Contributing Properties at no or reduced fees.
  - f. The Commission shall attempt to identify and implement other economic incentives for Local Landmarks, Historic Resources and Contributing Properties and shall notify owners of Local Landmarks, Historic Resources and Eligible Resources of those economic opportunities as they become available.
  - g. The Commission may recommend to city council the purchase of development rights, or the city cover the costs associated with the granting of preservation easements in appropriate cases (consistent with IRS regulations for "Qualified Organizations") for Local Landmarks, Historic Resources and Contributing Properties.
  - h. The Commission may recommend to city council such other and further measures that will promote historic preservation within the city boundaries.
- (3) *Recognition.* Owners of Local Landmarks, Historic Resources and Contributing Properties within the city boundaries shall be offered the opportunity to have a Commission designed plaque or other appropriate marker placed on their property at the city's expense identifying their property as listed on the Local Register.
- (r) *Penalties and Sanctions.* In case of Demolition without a Certificate of Approval or for Alterations, additions or modifications without, or beyond the scope of, a Certificate of Approval, or for the failure of the owner(s) of an Eligible Resource to follow the rules and procedures set forth in this section, the owners of such Affected Properties, shall be subject to any and all penalties provided for violation of any other city ordinance including the maximum fine as provided in section 1-15 of the Municipal Code. In addition, city council may impose one or more of the following penalties and sanctions:
- (1) Moratorium on development or re-development of the Historic Resource, Landmark or Contributing Property for up to five (5) years.
  - (2) Requirement to reconstruct, repair, or rehabilitate the Historic Resource, Landmark or Contributing Property.
  - (3) Up to triple the permit fees for future work on the Affected Property.
  - (4) The issuance of a Stop Work Order or a court ordered Injunction regarding the Affected Property as provided in the CDC.

- (5) The assessment of the costs and expenses, including reasonable attorney's fees incurred by the city in enforcing the provisions of this section against the owners of the Affected Property.

(s) *Appeals.* The owner of a property may appeal any decision of the Commission affecting the property to the city council in accordance with the following procedures:

- a. Within thirty (30) days of the Commission's decision affecting the Affected Property, the property owner may file a Notice of Appeal with the city clerk attaching the Commission's decision and specifying the relief requested.
- b. The city clerk shall calendar the Appeal on the city council's agenda and notify the property owner in writing when the Appeal will be heard.
- c. The property owner may be accompanied, represented and advised by counsel in the Appeal process, at the property owner's expense.
- d. If city council renders a decision adverse to the property owner, the property owner shall have such rights of appeal to the courts as provided in Colorado law.
- e. If city council renders a decision acceptable to the property owner, such decision shall be final and not subject to judicial appeal.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2230, § 4, 2-3-09)

**Sec. 26-85. Final development plan required prior to issuance of demolition permit.**

(a) *Final development plan required.* Notwithstanding anything to the contrary that may be contained in this Community Development Code, no demolition permit shall be issued by the Routt County Regional Building Department or approved or issued by anyone on behalf of the City of Steamboat Springs for any structure located in the G-1, G-2, CN, CY, or CO zone districts, whether residential or commercial, without a final development plan having been approved for the property on which the structure to be demolished is located. If an applicant for a demolition permit intends to construct a single-family residence on the property, applicant may be issued a demolition permit if applicant has a valid building permit for the single-family structure. In the case of an application for a demolition permit made prior to the effective date of this section, the permit shall be issued or denied in accordance with the provisions of this Code existing as of the date of such application. However, it is the express intent of the city council that this section shall operate to revoke any such permit immediately upon the issuance of such permit, or the effective date of this section, whichever later occurs, unless (i) a final development plan has been approved for the property on which the structure to be demolished is located, or (ii) the permit applicant demonstrates to the city council that the permit applicant has taken substantial steps in reasonable reliance on the permit prior to the effective date of this section. It is further the express intent of the city council that the enactment of this section is for the protection and preservation of public health, welfare, peace, safety, property and economic well-being of the community so that no building in the heart of the commercial section of the city or at the base area shall be demolished and the land permitted to remain vacant, without an approved final development plan being approved for

the replacement of the demolished structure. The city council further expresses its intent that the mere application for a demolition permit vests no property right in the applicant, and grants no benefit upon which an applicant may rely to its detriment.

(b) *Exception.* A demolition permit may be issued in the absence of a final development plan when, upon submittal of a finding by a registered structural engineer that a building is structural unsafe, and, after consultation with the city's chief building official and the director of planning services, and after written notification to the city council, the city manager determines that to protect the public health, safety and welfare, a structure in the G-1, G-2, CN, CY, or CO zone districts is in such disrepair or unstable condition as to require its demolition. The city council intends this paragraph (b) exception to be used in extraordinary circumstances, which may include, but are not limited to, conditions resulting from fire, flood, explosion, natural disaster, or the extreme deterioration of a structure.

(c) *Collateral.* Prior to issuing any demolition permit, the applicant shall present (i) a grading and landscape plan showing the final grade of the lot after demolition of the structure and the seeding, vegetation, or other process to be used to stabilize the soil after demolition, together with a long-term maintenance plan (ii) an estimate of the cost of such grading and soil stabilization and long-term maintenance plan, which shall be reviewed by the director for accuracy, and (iii) collateral to the city to assure that such grading and soil stabilization are completed after demolition and that such long-term maintenance plan is implemented. The applicant shall comply with the provisions of section 26-204 of this Code, entitled "Collateral." In the event a building permit for a final development plan is issued within forty-five (45) days of the completion of the demolition, the applicant shall not be required to grade the lot, provide soil stabilization, or implement any maintenance plan, and all collateral shall be returned to the applicant.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2274, § 1, 9-1-09)

#### **Sec. 26-86. Fee reimbursement.**

The city shall reimburse from the general fund the partial cost recovery system for planning and development fees established by Ordinance No. 1802 and Resolution 2001-20 paid by any applicant to the extent such fees apply to the restoration or rehabilitation of historic structures that are registered with either the local, state, or federal historic registers. An applicant shall be entitled to reimbursement hereunder only if the restoration or rehabilitation conforms to the Secretary of the Interior's Standards for the Treatment of Historic Properties, the city's building and architectural design standards, and historic preservation design guidelines. Whether the restoration or rehabilitation conforms to the applicable standards and guidelines shall be determined by either the historic preservation specialist or the historic preservation advisory commission concurrent with their review of the project. This section shall apply to applications filed on and after January 1, 2005.

(Ord. No. 2187, § 1, 6-3-08)

#### **Sec. 26-87. Extraterritorial subdivision plat.**

(a) *Purpose.* The purpose of the extraterritorial subdivision plat process is to allow detailed administrative and public review of major street plans for subdivisions of land located outside of the city's territorial limits, but subject to the city and Routt County's major street planning.

(b) *Procedure.* Extraterritorial subdivision plats shall be reviewed by the city council within thirty (30) days of the receipt by the director of planning and community development of a complete application unless the applicant consents to a longer time period for review. The city council shall review the application at a public hearing. The applicant shall publish and provide notice of such hearing in accordance with the requirements set forth in section 26-51 of this Community Development Code. The applicant shall provide notice of such hearing to surface owners, mineral owners, and the lessees of mineral owners as provided in C.R.S. 31-23-215 and C.R.S 24-65.5-101 et seq.

(c) *Submittal requirements.*

- (1) *Application.* A completed application form as provided by the director.
- (2) *Fee.* The appropriate fee as adopted by city resolution.
- (3) *Contact information for surface and mineral owners.* Names and addresses of all surface owners, mineral owners, and lessees of mineral owners as their names may appear in a telephone or other directory of general use in the area of the property or on the tax records of the municipality or county.
- (4) *Project information.* The following project information and features shall be included on the plat:
  - a. Date of preparation of the plat;
  - b. Location of the subdivision by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner;
  - c. All dimensions necessary to establish boundaries in the field;
  - d. Location of the related section, township, range lines, and point or monument of beginning;
  - e. All curve data shall be shown on the face of the plat and shall include radii, internal angles, points of curvature, and length of all arcs;
  - f. Data determining the location and length of all lines and the radii, internal angles, points of curvature, arc and chord lengths, and bearings, dimension, and bearings of azimuths of lot lines, and the location of all monuments that are sufficient to establish boundaries and locate the monuments;
  - g. The perimeter of the subdivision with bearings and distances, and the location of pins and monument(s) in accordance with city standards for monuments;
  - h. Graphic identification, delineation, location, and dimension of all recorded, proposed, and apparent easements, rights-of-way, streets, trails, bikeways, bridle paths and ski trails with bearings, dimensions, and purpose or use of such easements. Blanket easements are exempt from this graphic identification requirement, but must be described in text on the plat;
  - i. Bearings and dimensions for centerlines of rights-of-way with dimensions for proposed streets;

- j. Boundaries of the 100-year floodplain and floodway as defined by FEMA and/other available drainage information acceptable to the floodplain administrator for the city;
- k. Water courses, irrigation ditches, and drainage ditches;
- l. The following information regarding adjacent and surrounding properties shall be shown:
  - 1. Existing lots and lot lines;
  - 2. Name of the subdivision(s) or, if unplatted, the word "unplatted" with the name of the property owner of record;
  - 3. Water courses, irrigation ditches, drainage ditches, floodway, floodplain;
  - 4. Street names, rights-of-way and their width, private access easements and their width;
  - 5. Gas and oil wells.
- m. Conceptual street design for rights-of-way that will not be improved by the subdivider.

(Ord. No. 2187, § 1, 6-3-08)

**Sec. 26-88. Vacation home rental.**

(a) *Purpose.* After a number of public hearings during which the use of residences as "Vacation Home Rentals" was the subject of spirited and often contentious debate, the city council has concluded that it is necessary to repeal and readopt the rules and regulations concerning Vacation Home Rentals to more adequately comply with the pertinent stated policies of the city council, which are to "make decisions and recommendations based on research, facts, and careful listening, taking into consideration short-term and long term goals, competing community interests, and using measurable evaluation criteria whenever possible." It is the intent of the city council in adopting these new rules and regulations to acknowledge and reconcile the sometimes conflicting "purposes" of the Community Development Code ("CDC") set out in section 26-1 of the CDC, which include to "preserve existing neighborhood character" (subsection 26-1(11)) and to "foster the city's resort, business and other economic bases" (subsection 26-1(16)). To that end, the city council desires to eliminate those uses that are more closely associated with commercial, resort uses, such as hotels, inns, lodges and bed and breakfast residences, which adversely affect existing neighborhood character, but to license, regulate, and foster those uses that are more residential in nature, which are compatible with existing neighborhood character, but which complement the city's resort, business and other economic bases.

(b) *License.* To operate as a Vacation Home Rental, the Owner of the Property must file an Application with the city's planning and community development department. Applications shall be reviewed as applications for approval of a Use with Criteria. Vacation Home Rentals that cannot satisfy the criteria set forth herein may apply for conditional use approval per the provisions of subsections 26-92(b)(3) and 26-65 of the City's Municipal Code. Notwithstanding

anything to the contrary set forth in this chapter, no part of this Vacation Home Rental licensing procedure, including without limitation, the submittal requirements, fee, criteria, prohibited activities, etc., shall apply to the RR residential resort zone districts, including the RR-1 and RR-2 subdistricts.

(c) *Submittal requirements.*

- (1) Complete application signed by the Owner.
- (2) "Proof of ownership", as set out in section 26-64 of the Municipal Code.
- (3) "Site plan" containing:
  - i. Written or graphic scale;
  - ii. North arrow;
  - iii. Existing zone district;
  - iv. Perimeter outline of interior and exterior lot lines;
  - v. Location of site improvements including but not limited to structures, driveways, and trash enclosures;
  - vi. Location and dimension of parking areas.
- (4) A Floor Plan;
- (5) If direct vehicular access from the Property to a public street is not shown on the site plan, the Application must include an Access Easement from the owners of each property over which vehicles must pass to access the Property or otherwise demonstrate that any existing access easement expressly permits access for commercial uses, including Vacation Home Rentals. All Access Easement shall be signed and notarized by the owner or owners of the property or properties granting the Access Easement. It is the intent of this requirement that the Owner must demonstrate that the Owner has permission to use any existing or historical access easement for the increased commercial use created by a Vacation Home Rental over and above normal ingress and egress for residential access.
- (6) The names and mailing addresses for all properties within three hundred (300) feet of any boundary of the Property.
- (7) A statement by Owner that Owner has read the recorded covenants that apply to the subdivision in which the Property is located.
- (8) Copies of currently valid city and state sales tax licenses in the name of the Owner or the Property Management Company.
- (9) The name and address and contact information including a 24-hour contact phone number for the Property Management Company managing the Property; or, if there is no Property Management Company, the name, address, and contact information, including a 24-hour contact phone number, or a resident of the City of Steamboat Springs, which may be the Owner of the Property, who can be contacted in the event of an emergency.

- (10) An acknowledgement that the Owner, Property Management Company, and agent of the Owner, if any, have read all regulations pertaining to the operation of a Vacation Home Rental.
- (11) The Owner shall sign and certify the accuracy of the information submitted and agree to comply with all regulations. If there is a Property Management Company or other agent of the Owner managing the Vacation Home Rental, the other agent or an authorized officer of the Property Management Company, or both, shall also sign and certify the accuracy of the information submitted and agree to comply with all regulations.

(d) *Definitions.* The following words and phrases shall have the definitions and meanings set forth below. They shall be capitalized to indicate their special definitions. If any of the words or phrases are defined elsewhere in this Code, and there is a disagreement as to their intended meaning, the definitions and meanings set forth in this section shall control the Vacation Home Rental Chapter.

- (1) *Application* shall mean the application for a Vacation Home Rental License, which shall be a form approved by the city's planning services department.
- (2) *Access Easement* shall mean an easement in favor of the Owner and the Property over the property of another necessary to provide access to the Property. Access Easements must expressly acknowledge that the Property will be used for commercial purposes either by reference to the Vacation Home Rental use or by a description of such use.
- (3) *Complete Application* shall mean an Application that has satisfied all of the submittal requirements set forth in this Vacation Home Rental Chapter and otherwise complies with all of the criteria required for the issuance of a Vacation Home Rental license.
- (4) *Director* shall mean the Director of Planning Services for the City.
- (5) *Floor Plan* shall mean a dimensioned level by level plan of the Property labeling all enclosed spaces within the structure, including without limitation, all Sleeping Rooms.
- (6) *Owner* shall mean the titled owner of the residence for which a Vacation Home Rental license is sought or has been issued. The Owner may be a natural person or any business entity recognized by the State of Colorado. If the Owner is a business entity it must be registered with the Colorado Secretary of State.
- (7) *Parking Spaces* shall mean areas with a width of no less than nine (9) feet and a length of no less than eighteen (18) feet located either within designated garages or on surfaces designed for the parking of motor vehicles such as asphalt or concrete. Parking spaces shall not include spaces located on grass or other landscaped areas.
- (8) *Property* or *Vacation Home Rental Property* shall mean the residence to be used as a Vacation Home Rental.
- (9) *Property Management Company* shall mean the Owner's agent for renting the Property, if any.

- (10) *Short Term Rentals* shall mean "the use of a single-family or duplex residential dwelling unit by visitors in return for payment on not more than two (2) occasions per year with a combined total of not more than thirty (30) days annually", together with other use criteria as set forth in section 26-402 of the Steamboat Springs Municipal Code entitled "Definitions and use criteria."
- (11) *Sleeping Room* shall mean any room that has a bed, bunk beds, daybed, or other furniture for sleeping, including, without limitation, a roll out couch or futon. To be a valid Sleeping Room the Sleeping Room shall comply with all pertinent building code regulations, including, without limitation, exit requirements, ceiling height requirements, and window requirements.
- (12) *Use With Criteria* shall mean the land use approval process contained in section 26-64 of the City's Municipal Code; provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in section 26-64 and the process and requirements set out in this Vacation Home Rental Chapter, the terms and conditions in the Vacation Home Rental Chapter shall control.
- (13) *Vacation Home Rental* shall mean the rental of a single-family home or duplex to a single party of related persons or un-related persons known to one another, without the Owner residing in the single family home or duplex, for periods of time not to exceed twenty-nine (29) consecutive days; provided, however, Short Term Rentals (a defined term in the Steamboat Springs Municipal Code) shall not be regulated by this chapter nor shall the use of a Property licensed as a Vacation Home Rental be regulated by this chapter during periods when the Property is used solely for personal use by the Owner. These regulations shall not prohibit an Owner living in a secondary unit from using the principal unit as a Vacation Home Rental or an Owner living in one-half of an undivided duplex from using the other half of the duplex as a Vacation Home Rental.
- (14) *Valid Objection* shall mean an objection based on:
- i. The Owner's failure to file a Complete Application; or
  - ii. The Owner's failure to meet any of the required criteria for the issuance of a Vacation Home Rental License; and
  - iii. The objection is filed by an owner, or by someone authorized by the owner, of a property within three hundred (300) feet of any boundary of the Property.
- (e) *Public notice.* SPO notice, and property posting in accordance with section 26-51.
- (f) *Effective date of license.* The license shall be issued by the Director no sooner than fifteen (15) days after the completion of the notice to the surrounding property owners, provided that (a) the Director has notified the Owner that the Application is complete prior to providing the Notice to the Surrounding Property Owners and (b) a Valid Objection to the issuance of the License has not been filed with the Director. If a Valid Objection is filed prior to the Director issuing the license, the Director shall schedule a hearing with the city council for the purpose of determining whether to issue the license or not. The Director, after consultation with the city manager and the city attorney shall decide any dispute as to whether or not there is a

Valid Objection to the issuance of the license. A final decision by the Director that there is no Valid Objection may be appealed to the district court under Rule 106(a)(2) of the Colorado Rules of Civil Procedure.

(g) *Fee.* The application fee shall be five hundred dollars (\$500.00) and the annual renewal fee shall be fifty dollars (\$50.00) per Sleeping Room to offset the cost to the city to process, administer, and monitor the operation of Vacation Home Rentals. In no event shall the initial fee and annual renewal fee provide a sum greater than the cost incurred by the city to administer the provisions of this Vacation Home Rental Chapter.

(h) *Term of License.* The License shall be valid for one year and may be renewed upon the payment of the annual renewal fee. The Owner shall amend the Application at the time of annual renewal in the event there is any change in circumstances that would require an update to the information submitted by the Owner. By way of example and not limitation, a change in circumstance would be change of ownership of the Property, any modification to the premises, including any changes to the Floor Plan or the site plan, or number of Sleeping Rooms, any changes of Property Management Company, or any change in 24-hour contact information. At the time of renewal, the Owner, Property Management Company, or other agent of Owner shall specify the number of civil penalty violations incurred within the preceding 12-month period, together with any other convictions for conduct described in subsection (1)(3) of this chapter.

(i) *Additional criteria:*

- (1) There shall be a minimum of two (2) Parking Spaces. No more than four (4) vehicles may be parked overnight on the Property outside of garages. No parking shall be permitted in public rights of way or Access Easements.
- (2) The maximum number of guests staying at the Property shall be one per two hundred (200) square feet of net floor area, as that term is defined in section 26-402 of the Community Development Code, up to a maximum of sixteen (16).
- (3) The Owner or Property Management Company, or other agent of Owner shall (i) mail to the party signing any rental agreement or reserving the Property a copy of all Vacation Home Rental rules and regulations within ten (10) days of reserving the Property; and (ii) shall prominently display on the Property all of the rules and regulations pertaining to Vacation Home Rentals.
- (4) Each Vacation Home Rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:
  - a. The name of the Property Management Company, agent, local contact person, or Owner of the Property, and a telephone number at which that party may be reached on a 24-hour basis;
  - b. The maximum number of occupants permitted to stay in the Property;
  - c. The maximum number of vehicles allowed for the occupants of the Property and that all allowed vehicles must be parked on the Property;

- d. The number and location of all on-site parking spaces and the parking rules for seasonal snow removal;
  - e. The trash pick-up day and notification of all rules and regulations regarding trash removal, including without limitation, when trash may be left out and that bear-proof containers must be used.
- (5) The Owner shall include in all advertising a reference to the Owner's Vacation Home Rental license number.
  - (6) The Owner shall assure that the occupants and/or guests of the Vacation Home Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding Vacation Home Rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the Owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.
  - (7) The Owner shall, upon notification that occupants and/or guests of his or her Vacation Home Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this Code or state law pertaining to noise, or disorderly conduct, prevent a recurrence of such conduct by those occupants or guests.
- (j) *Prohibited Activities:*
- (1) Outdoor sleeping.
  - (2) Any outdoor activity at which more than twice the number of allowed occupants (see subsection (i)(2), above) are in attendance.
  - (3) Tents or other outdoor structures, whether deemed temporary or permanent.
  - (4) Commercial kitchens approved as such by the Routt County Department of Environmental Health.
  - (5) The preparation of any food on site for persons other than the allowed occupants and the allowed guests (see subsection (2), above)
  - (6) There shall be no employees of the Owner or the property management company living in the Property; provided, however, if the property has a secondary unit, this section does not restrict who the Owner may have as a tenant.
  - (7) Advertising the Property for any prohibited use.
- (k) *Inspection.* If the Director has reasonable grounds to believe that the information provided in the Application is inaccurate, has become inaccurate, or that prohibited activities are occurring at the Property, the Director may require an inspection of the Property on 24-hour advanced notice to the Owner, Property Management Company, or other agent or local contact person for the Owner.

(l) *Violations and penalties:*

- (1) The following conduct shall constitute a violation for which the penalties specified in subsection (2) of this section shall be imposed:
  - i. The Owner, Property Management Company, or other agent of Owner has signed an Application, which, at the time of signing, was substantively incorrect;
  - ii. The Owner, Property Management Company, or other agent of Owner has failed to comply with any of the additional criteria set forth in section (i);
  - iii. The Owner, Property Management Company, or other agent of Owner has conducted, permitted, or allowed any of the prohibited activities set forth in subsection (j) to occur on the Property.
- (2) The penalties for violations specified in subsection (1) of this section shall be as follows:
  - i. For the first violation within any 12-month period, the penalty shall be two hundred fifty dollars (\$250.00);
  - ii. For a second violation within any 12-month period, the penalty shall be a fine of five hundred dollars (\$500.00);
  - iii. For third violation and all subsequent violations within any 12-month period, the penalty shall be a fine of one thousand dollars (\$1,000.00);
  - iv. Each calendar day there is a failure to comply with additional criteria and each day a prohibited activity takes place may be considered by the municipal court as a separate and distinct violation.
- (3) These violations and penalties shall be in addition to any other violations of law that may be charged under the Steamboat Springs Municipal Code, including, without limitation, Noise Pollution (section 7-61 et seq.), Nuisances (section 15-1 et seq.), and failure to pay sales tax.
- (4) In addition to the violations and penalties set forth in this section, the city shall be entitled to all other remedies in law or equity, including, without limitation, seeking an injunction in any court of competent jurisdiction.

(m) *Procedure for imposition of penalties.* Any person with reason to believe that an Owner, Property Management Company, or other agent of Owner has violated any of the provisions of this chapter, he or she may file a complaint with the Steamboat Springs Police Department. After investigation by city staff, if there exists probable cause to proceed with the complaint, the Owner, Property Management Company, or other agent of Owner shall be summoned into Steamboat Springs Municipal Court to answer charges. The standard of proof for any such prosecutions under this chapter (as opposed to the charges referenced in subsection (1)(3) of this chapter) shall be a "preponderance of the evidence" and shall result, upon conviction, in a civil penalty. The provisions of subsection 26-3(d) of the Community Development Code shall not apply to the enforcement of these Vacation Home Rental Regulations.

(n) *Revocation; show cause hearing.* Upon the occurrence of any of the following, the city council shall schedule a hearing requiring the Owner to show cause why the license should not be revoked:

- (1) The imposition of a civil penalty for a third violation within one calendar year;
- (2) At the time of annual renewal, the combination of civil penalties and violations under subsection (1)(3) reported by the Owner, Property Management Company, or other agent of Owner are sufficient, in the discretion of the city manager, to warrant a show cause hearing on revocation of the license.
- (3) A show cause hearing for the revocation of a Vacation Home Rental License shall be conducted by the city council. If, after public hearing, the city council determines that the operation of the described Vacation Home Rental Property has been more detrimental to the existing neighborhood character than it has been beneficial to the community in fostering its resort, business, and economic base, then the license shall be suspended for such period as determined by the city Council. The city council may also revoke the license. Upon revocation, the Owner may not reapply for a Vacation Home Rental license at that location for two (2) years.

(o) *Operating a Vacation Home Rental without a license.* Any Person, including, without limitation, the Owner, a Property Management Company, or any agent or representative of the Owner, violating the provisions of this chapter by operating a Vacation Home Rental without a valid license shall, upon conviction, be guilty of a misdemeanor resulting in the imposition of a fine of one thousand dollars (\$1,000.00) for each day of operation without a license. The Property being operated as a Vacation Home Rental shall not be eligible for a Vacation Home Rental License for two years after conviction. Upon passage of the ordinance creating this "Vacation Home Rental Chapter", any Property operating as a Vacation Home Rental shall have three months to apply for a License without violation of this section.

(p) *Exemptions.* Vacation Home Rental shall be a use by right in the RR resort residential zone districts. Vacation Home Rentals operating in the RR resort residential zone districts shall not be required to obtain a license hereunder and shall not be required to comply with the submittal and operating criteria set forth in subsections (c), (i), and (j).

(q) *Transition rules.* The city council acknowledges that Vacation Home Rentals are currently operating under the rules and regulations adopted in 2001. All existing permitted Vacation Home Rentals shall have until April 30, 2008 to apply for a Vacation Home Rental license under this new Vacation Home Rental Chapter and comply with these new regulations, or, in the alternative, to apply for another use, which, in the opinion of the Owner, is a more appropriate land use designation for their particular business. If an existing Vacation Home Rental cannot satisfy the criteria set forth herein by April 30, 2008 for approval as a Use with Criteria, the Owner may apply for conditional use approval per the provisions of sections 26-92(b)(3) and 26-65 of the City's Municipal Code.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2249, § 3, 6-16-09)

Valid Objection to the issuance of the license. A final decision by the Director that there is no Valid Objection may be appealed to the district court under Rule 106(a)(2) of the Colorado Rules of Civil Procedure.

(g) *Fee.* The application fee shall be five hundred dollars (\$500.00) and the annual renewal fee shall be fifty dollars (\$50.00) per Sleeping Room to offset the cost to the city to process, administer, and monitor the operation of Vacation Home Rentals. In no event shall the initial fee and annual renewal fee provide a sum greater than the cost incurred by the city to administer the provisions of this Vacation Home Rental Chapter.

(h) *Term of License.* The License shall be valid for one year and may be renewed upon the payment of the annual renewal fee. The Owner shall amend the Application at the time of annual renewal in the event there is any change in circumstances that would require an update to the information submitted by the Owner. By way of example and not limitation, a change in circumstance would be change of ownership of the Property, any modification to the premises, including any changes to the Floor Plan or the site plan, or number of Sleeping Rooms, any changes of Property Management Company, or any change in 24-hour contact information. At the time of renewal, the Owner, Property Management Company, or other agent of Owner shall specify the number of civil penalty violations incurred within the preceding 12-month period, together with any other convictions for conduct described in subsection (1)(3) of this chapter.

(i) *Additional criteria:*

- (1) (a) There shall be a minimum of two (2) Parking Spaces.
- (b) No more than four (4) vehicles may be parked overnight on the Property outside of garages.
- (c) Overnight parking of vehicles outside of garages shall comply with the following standards:
  - i. All vehicles can be parked on an all-weather, drivable surface.
  - ii. Sufficient maneuvering space is available on-site so that vehicles do not have to be parked on the City Right-of-Way to accommodate the arrival and departure of each vehicle.
  - iii. Adequate snow storage exists on-site to accommodate the parking areas and maneuvering space.
  - iv. Parking areas are not located in emergency access easements.
- (d) A maximum of six (6) vehicles may be parked overnight on the Property outside of garages when the above conditions are met to the satisfaction of the Planning Director, upon inspection of the site and evidenced by a scaled site plan.
- (e) No parking shall be permitted in public right-of-way or emergency access easements.

- (2) The maximum number of guests staying at the Property shall be one per two hundred (200) square feet of net floor area, as that term is defined in section 26-402 of the Community Development Code, up to a maximum of sixteen (16).
  - (3) The Owner or Property Management Company, or other agent of Owner shall (i) mail to the party signing any rental agreement or reserving the Property a copy of all Vacation Home Rental rules and regulations within ten (10) days of reserving the Property; and (ii) shall prominently display on the Property all of the rules and regulations pertaining to Vacation Home Rentals.
  - (4) Each Vacation Home Rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:
    - a. The name of the Property Management Company, agent, local contact person, or Owner of the Property, and a telephone number at which that party may be reached on a 24-hour basis;
    - b. The maximum number of occupants permitted to stay in the Property;
    - c. The maximum number of vehicles allowed for the occupants of the Property and that all allowed vehicles must be parked on the Property;
    - d. The number and location of all on-site parking spaces and the parking rules for seasonal snow removal;
    - e. The trash pick-up day and notification of all rules and regulations regarding trash removal, including without limitation, when trash may be left out and that bear-proof containers must be used.
  - (5) The Owner shall include in all advertising a reference to the Owner's Vacation Home Rental license number.
  - (6) The Owner shall assure that the occupants and/or guests of the Vacation Home Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding Vacation Home Rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the Owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.
  - (7) The Owner shall, upon notification that occupants and/or guests of his or her Vacation Home Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this Code or state law pertaining to noise, or disorderly conduct, prevent a recurrence of such conduct by current and/or future occupants or guests.
- (j) *Prohibited Activities:*
- (1) Outdoor sleeping.
  - (2) Any outdoor activity at which more than twice the number of allowed occupants (see subsection (i)(2), above) are in attendance.

- (3) Tents or other outdoor structures, whether deemed temporary or permanent.
- (4) Commercial kitchens approved as such by the Routt County Department of Environmental Health.
- (5) The preparation of any food on site for persons other than the allowed occupants and the allowed guests (see subsection (2), above).
- (6) There shall be no employees of the Owner or the property management company living in the Property; provided, however, if the property has a secondary unit, this section does not restrict who the Owner may have as a tenant.
- (7) Advertising the Property for any prohibited use.

(k) *Inspection.* If the Director has reasonable grounds to believe that the information provided in the Application is inaccurate, has become inaccurate, or that prohibited activities are occurring at the Property, the Director may require an inspection of the Property on 24-hour advanced notice to the Owner, Property Management Company, or other agent or local contact person for the Owner.

(l) *Violations and penalties:*

- (1) The following conduct shall constitute a violation for which the penalties specified in subsection (2) of this section shall be imposed:
  - i. The Owner, Property Management Company, or other agent of Owner has signed an Application, which, at the time of signing, was substantively incorrect;
  - ii. The Owner, Property Management Company, or other agent of Owner has failed to comply with any of the additional criteria set forth in section (i);
  - iii. The Owner, Property Management Company, or other agent of Owner has conducted, permitted, or allowed any of the prohibited activities set forth in subsection (j) to occur on the Property.
- (2) The penalties for violations specified in subsection (1) of this section shall be as follows:
  - i. For the first violation within any 12-month period, the penalty shall be two hundred fifty dollars (\$250.00);
  - ii. For a second violation within any 12-month period, the penalty shall be a fine of five hundred dollars (\$500.00);
  - iii. For third violation and all subsequent violations within any 12-month period, the penalty shall be a fine of one thousand dollars (\$1,000.00);
  - iv. Each calendar day there is a failure to comply with additional criteria and each day a prohibited activity takes place may be considered by the municipal court as a separate and distinct violation.
- (3) These violations and penalties shall be in addition to any other violations of law that may be charged under the Steamboat Springs Municipal Code, including, without limitation, Noise Pollution (section 7-61 et seq.), Nuisances (section 15-1 et seq.), and failure to pay sales tax.

- (4) In addition to the violations and penalties set forth in this section, the city shall be entitled to all other remedies in law or equity, including, without limitation, seeking an injunction in any court of competent jurisdiction.

(m) *Procedure for imposition of penalties.* Any person with reason to believe that an Owner, Property Management Company, or other agent of Owner has violated any of the provisions of this chapter, he or she may file a complaint with the Steamboat Springs Police Department. After investigation by city staff, if there exists probable cause to proceed with the complaint, the Owner, Property Management Company, or other agent of Owner shall be summoned into Steamboat Springs Municipal Court to answer charges. The standard of proof for any such prosecutions under this chapter (as opposed to the charges referenced in subsection (1)(3) of this chapter) shall be a "preponderance of the evidence" and shall result, upon conviction, in a civil penalty. The provisions of subsection 26-3(d) of the Community Development Code shall not apply to the enforcement of these Vacation Home Rental Regulations.

(n) *Revocation; show cause hearing.* Upon the occurrence of any of the following, the city council shall schedule a hearing requiring the Owner to show cause why the license should not be revoked:

- (1) The imposition of a civil penalty for a third violation within one calendar year;
- (2) At the time of annual renewal, the combination of civil penalties and violations under subsection (1)(3) reported by the Owner, Property Management Company, or other agent of Owner are sufficient, in the discretion of the city manager, to warrant a show cause hearing on revocation of the license.
- (3) A show cause hearing for the revocation of a Vacation Home Rental License shall be conducted by the city council. If, after public hearing, the city council determines that the operation of the described Vacation Home Rental Property has been more detrimental to the existing neighborhood character than it has been beneficial to the community in fostering its resort, business, and economic base, then the license shall be suspended for such period as determined by the city Council. The city council may also revoke the license. Upon revocation, the Owner may not reapply for a Vacation Home Rental license at that location for two (2) years.

(o) *Operating a Vacation Home Rental without a license.* Any Person, including, without limitation, the Owner, a Property Management Company, or any agent or representative of the Owner, violating the provisions of this chapter by operating a Vacation Home Rental without a valid license shall, upon conviction, be guilty of a misdemeanor resulting in the imposition of a fine of one thousand dollars (\$1,000.00) for each day of operation without a license. The Property being operated as a Vacation Home Rental shall not be eligible for a Vacation Home Rental License for two (2) years after conviction. Upon passage of the ordinance creating this "Vacation Home Rental Chapter", any Property operating as a Vacation Home Rental shall have three (3) months to apply for a License without violation of this section.

(p) *Exemptions.* Vacation Home Rental shall be a use by right in the RR resort residential zone districts. Vacation Home Rentals operating in the RR resort residential zone districts shall not be required to obtain a license hereunder and shall not be required to comply with the submittal and operating criteria set forth in subsections (c), (i), and (j).

(q) *Transition rules.* The city council acknowledges that Vacation Home Rentals are currently operating under the rules and regulations adopted in 2001. All existing permitted Vacation Home Rentals shall have until April 30, 2008 to apply for a Vacation Home Rental license under this new Vacation Home Rental Chapter and comply with these new regulations, or, in the alternative, to apply for another use, which, in the opinion of the Owner, is a more appropriate land use designation for their particular business. If an existing Vacation Home Rental cannot satisfy the criteria set forth herein by April 30, 2008 for approval as a Use with Criteria, the Owner may apply for conditional use approval per the provisions of sections 26-92(b)(3) and 26-65 of the City's Municipal Code.

(Ord. No. 2187, § 1, 6-3-08; Ord. No. 2249, § 3, 6-16-09; Ord. No. 2350, §§ 1, 2, 11-16-10)

**Sec. 26-89. Administrative final development plan.**

(a) *Purpose.* The purpose of this section is to set forth the requirements and procedures for an administrative final development plan and to ensure compliance with this CDC.

(b) *Applicability.* Approval of an administrative final development plan shall be required for any development that:

- (1) Meets all applicable development and dimensional standards or has obtained a minor adjustment pursuant to section 26-69; and
- (2) Contains no more than sixteen thousand (16,000) square feet of gross floor area per lot or parcel.

(c) *Submittal requirements.* Submittal requirements are set forth in forms maintained by the planning director.

(d) *Criteria for approval.* No administrative final development plan shall be approved unless the modification meets all the following the criteria:

- (1) *Compliance with CDC.* The proposed administrative final development plan shall comply with all applicable requirements of the CDC, including article V, development standards.
- (2) *Compliance with building and architectural design guidelines.* The proposed administrative final development plan shall comply with all applicable provisions of the building and architectural design guidelines.
- (3) *Conformity with all applicable use criteria.* The proposed use shall conform to all applicable use criteria.
- (4) *Conformity with community area plan.* The proposed use shall conform to the preferred direction and any applicable policies of the community area plan.

- (5) *Conformity with applicable area plan.* The proposed administrative final development plan shall conform to any applicable area plan.

(e) *Term and effect of approval.*

- (1) Approval of an administrative final development plan shall be final when the director's signature has been obtained.
- (2) Approval of a permit for an administrative final development plan shall remain effective for a period of three (3) years from the date of issuance. If an active building permit has been obtained for the administrative final development plan or part thereof, and the term of approval for the administrative final development plan expires, the development covered under the active building permit may continue; however, the administrative final development plan approval shall be considered expired and no new building permits may be issued based on the expired approval. Once the administrative final development plan or part thereof has been fully executed, the approval or part thereof shall remain in effect for perpetuity or until amended.

(Ord. No. 2277, § 3, 10-13-09)

**Sec. 26-90. Traditional neighborhood development (TND).**

(a) *Purpose and intent.* The purpose of this section is to provide an overview of development within the TND zone district and set forth specific procedures applicable within the TND zone district. The TND zoning designation is intended to provide options and standards for development that emphasize TND principles in keeping with the West of Steamboat Springs Area Plan (WSSAP). In order to make such innovative development possible, the TND zone district provides alternatives to some of the CDC requirements in the form of form-based development standards and development review procedures. These components intend to encourage feasible TND and the creation of places that are mixed-use, compact, and pedestrian-oriented.

(b) *Overview of development.* Site development within the TND zone district shall occur through the implementation of regulating plans that implement specific transect designations, and shall occur following the applicable requirements and procedures of article III of the CDC in addition to the TND review procedures outlined below.

(c) *TND development review procedures.* The following additional review procedures are unique to development within the TND and shall apply only to land designated TND on the official zoning map:

(1) *Regulating plans:*

- a. *Purpose and intent.* The purpose of this section is to set forth the requirements and procedures for the initial adoption of a regulating plan in conjunction with adoption of any land into the TND zone district. Regulating plans denote the

locations where different transect zone designations, and subsequently different building form standards, building type standards, and land uses may occur within the TND zone district.

- b. *Applicability.* These requirements apply to any adoption initiated by a property owner, or the city, that desires to utilize the TND zone district and its accompanying standards.
- c. *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- d. *Review process.* Applications to adopt a regulating plan shall be reviewed in accordance with procedures for public review (section 26-42). Ordinances shall be adopted in accordance with procedures outlined in the Steamboat Springs Home Rule Charter.
- e. *Criteria for approval.* In considering any petition for the adoption of a regulating plan, the following criteria shall govern unless otherwise expressly required by the CDC. The ordinance approving the adoption of the regulating plan shall be approved and adopted only if it appears by clear and convincing evidence presented during the public hearing before city council that the proposed regulating plan clearly demonstrates the following:
  1. *Intent and purpose.* The proposed regulating plan meets the purpose and intent of the TND zone district.
  2. *Compatibility with SSACP.* The proposed regulating plan furthers the goals and policies of the Steamboat Springs Area Community Plan or approved master plans.
  3. *Environmental quality.* The proposed regulating plan promotes or preserves the preservation of environmental quality, conserves energy usage, energy resources and water conservation and reuse.
  4. *Allocation of transects.* The proposed regulating plan shall provide a mix of transects that is consistent with the purpose and intent of the TND zone district and will not be overly concentrated in any particular transect. The proposed regulating plan shall provide a spectrum of transects that organizes development intensity in compliance with a system of walkable pedestrian sheds.
  5. *Civic uses.* The proposed regulating plan contains adequate land set aside for civic uses per the community facilities master plan, if applicable.
  6. *Parks open space and recreation.* The proposed regulating plan has adequate land set aside for active and passive recreation per the open space, parks and recreation master plan. The regulating plan shall address parks and open spaces as follows:
    - i. The locations and approximate sizes of the primary parks and open spaces including community parks and natural preserves, hillside and

riparian areas totaling no less than fifteen (15) percent of the gross land area of the regulating plan shall be delineated on the regulating plan as described in section 26-154. These primary parks and open spaces shall be dedicated to the city at the time of initial subdivision unless dedicated previously. Minor deviations to their general form, disposition, and boundaries based on actual field conditions may occur at the time of subdivision in accordance with this section.

- ii. The locations and approximate sizes of the secondary park types shown on the regulating plan are illustrative and subject to change and refinement based on actual field conditions and additional requirements at the time of subdivision. Additional secondary park types may be proposed at time of subdivision, in accordance with the applicable transect zone.
  - iii. The locations of tertiary park types are not typically shown on the regulating plan and shall be determined at time of subdivision based on the parks and open space requirements in 26-187.
7. *Overlay districts.* The proposed regulating plan accurately delineates the location of any overlay districts proposed.
- f. *Term and effect of approval.* Adoption of a regulating plan shall be permanent and run with the land, until such time as council approves a major amendment to the regulating plan or the director approves a minor amendment to the regulating plan.
- g. *Amendments to an adopted regulating plan.* Amendments to adopted regulating plans may take on one of the following forms:
- 1. *Minor amendment.* A minor amendment to an approved regulating plan is any revision that does not change the character of the regulating plan. Minor amendments include the following:
    - i. Deviations to the attributed transect acreage within twenty (20) percent of acreage amount of any given transect as illustrated on the regulating plan.
    - ii. Deviations from locations or orientations of parks and open space or the locations or orientations of primary streets.
    - iii. Deviations of twenty (20) percent or less in acreage sizes of parks and open spaces.

The determination of conformance with the character of the regulating plan shall be at the director's discretion and may be approved administratively by the director, pursuant to section 26-42, administrative review.
  - 2. *Major amendment.* Any change to an approved regulating plan that the director determines changes the character of the regulating plan or does not meet the criteria in section (1) above shall be considered to be a major amendment. A major amendment shall require submittal of a new applica-

tion for a revised regulating plan, shall be processed in accordance with section 26-42, public review and be subject to the criteria for approval contained herein.

(2) *Transect level increases.*

- a. *Purpose and intent.* Transect level increases intend to facilitate the long-term, healthy evolution of mixed-use communities by providing a process for the careful reconsideration of particular transects in the project. Such increases intend to allow for the gradual expansion of mixed-use, walkable districts, accommodate potential demand for both residential and nonresidential uses over time, and allow such uses to be appropriately integrated into the community fabric in locations that can support increased density and intensified land use.

Transect level increases will provide an opportunity for a reconsideration of a regulating plan and may result in additional residential units, nonresidential square footage, additional parks and/or open spaces, and addition to infrastructure.

- b. *Applicability.* Transect level increases may apply to any land within the TND zone district with a transect designation indicated on an adopted regulating plan.
- c. *Procedure.* Beginning ten (10) years from recordation of the first subdivision plat, the city or any land owner may apply for a transect to increased one step along the transect continuum pursuant to the major amendment process above, such as with the following examples:
1. T-3 Neighborhood General - Low may be changed to T-3 Neighborhood General - Medium
  2. T-4 Neighborhood Center may be changed to T-5 - Town Core
- d. *Submittal requirements.* Submittal requirements are set forth in forms maintained by the director.
- e. *Criteria for approval.* Transect level increases will be granted by the planning commission, provided that the review authority can make the following findings:
1. That the transect level increase shall maintain compliance with the purpose and intent of the TND zone district.
  2. That the transect level increase shall not result in the introduction of uses, land use intensities, or built form that will provide potential conflicts and/or incompatibilities with adjacent transect designations
  3. That all parking requirements within the proposed transect level increase area can be met.
  4. Adequate infrastructure exists to support the proposed transect level increase.

(Ord. No. 2279, § 1, 10-13-09)