



# City of Castle Pines, Colorado

## AGENDA

**REGULAR MEETING OF THE PLANNING COMMISSION**  
**360 Village Square Lane, Event Hall, Castle Pines, CO 80108**  
**Thursday, October 28, 2021 – 6:00 PM**

Chair  
Michelle Wiley  
02/2024

Chair Pro Tem  
Millard Foraker  
02/2024

Commissioner  
Craig Barragry  
02/2024

**VIEWING THE PUBLIC MEETING: THE OCTOBER 28, 2021 PLANNING COMMISSION MEETING WILL BE CONDUCTED AS A HYBRID MEETING. TO REGISTER TO WATCH THE 6:00 P.M. VIRTUAL MEETING FROM YOUR COMPUTER OR SMARTPHONE, CLICK [HERE](#)**

Lisa Glynn  
01/2023

1. **CALL TO ORDER**

David Goode  
01/2022

2. **ROLL CALL**

Seth Katz  
01/2022

3. **PLEDGE OF ALLEGIANCE**

Vincent Oletu  
01/2023

4. **APPROVAL OF AGENDA**

5. **PUBLIC COMMENT**

6. **PLANNING COMMISSION ACTION ITEMS**

6.a. Approval of the September 23, 2021 Planning Commission Meeting Minutes

[2021-09-23 Planning Commission Minutes Draft.docx](#)

6.b. PUBLIC HEARING: Ordinance 21-08, An Ordinance Of The City Council Of The City Of Castle Pines, Colorado Repealing Subsection 2602, Subsection 3301, And Subsection 3303.01, Of The City Of Castle Pines Zoning Ordinance, And Amending Articles 6 And 7 Of Chapter 2 Of The Castle Pines Municipal Code, Concerning The Powers And Procedures Of The Board Of Adjustment And Planning Commission

[Staff Memo Ordinance 21-08.docx](#)  
[Ordinance 21-08 Repealing ZO 2602 3301 and 3303.01 and Amending Art 6 and 7 of Code Ch 2.docx](#)

6.c. Unified Land Development Code Module 2 Review and Discussion

[Articles 5-7\\_PC\\_102121.pdf](#)

7. **PLANNING COMMISSION DISCUSSION ITEMS**

7.a. Community Development Director Update

8. **ADJOURNMENT**

**City Council Meetings are held on the second and fourth Tuesday of each month at the Douglas County Library, 360 Village Square Lane, Castle Pines, CO 80108. Please call City Offices, (303) 705-0226 a minimum 48 hours prior to the Council meeting if you believe you will need special assistance or any reasonable accommodation to be in attendance or participate in any such meeting.**

**THIS AGENDA IS SUBJECT TO CHANGE**



# City of Castle Pines, Colorado Minutes

**REGULAR MEETING OF THE PLANNING COMMISSION**  
**Douglas County Library, 360 Village Square Lane, Castle Pines, CO 80108**  
**Held as a hybrid meeting via Zoom**  
**Thursday, September 23, 2021**  
**At 6:00 PM**

Planning Commission/  
Board of Adjustment

Members

Michelle Wiley  
Chair

Millard Foraker  
Chair Pro Tem

Craig Barragry

Lisa Glynn

David Goode

Seth Katz

Vincent Oletu

**1. CALL TO ORDER**

- Chair Wiley called the meeting to order at

**2. ROLL CALL**

**Those present were:** Chair Michelle Wiley  
Chair Pro Tem Millard Foraker  
Commissioner Craig Barragry via Zoom  
Commissioner David Goode  
Commissioner Seth Katz  
Commissioner Vincent Oletu

**Those absent were:** Commissioner Lisa Glynn

**Also present with the Commission:**

Sam Bishop, Community Development Director  
Tobi Duffey, City Clerk  
Silvia Buchenic, Assistant City Attorney  
Nicholas Hufford, Planner II

**3. PLEDGE OF ALLEGIANCE**

- Chair Wiley led the Pledge of Allegiance.

**4. APPROVAL OF AGENDA**

- The agenda was approved as presented.

**5. PUBLIC COMMENT**

- No public comment was presented.

**6. PLANNING COMMISSION ACTION ITEMS**

- a. Approval of the August 26, 2021 Planning Commission Minutes

**Motion:** Chair Pro Tem Foraker moved to approve the August 26, 2021 Planning Commission Minutes. Commissioner Katz seconded. The motion passed by unanimous consent.

- b. SIP-2021-002 Lagae Family Trust Minor Development Lot 5 Restaurant
  - Nicholas Hufford, Planner II, gave the staff presentation.
  - Mr. Hufford answered questions regarding development review, traffic volume, building elevations, roof overhang, ingress/egress, and grading.
  - Brian Horan of Ventana Capital gave the applicant presentation.
  - Mr. Horan answered questions regarding kitchen concept, beverage machines, and days of operation

**Motion:** Commissioner Oletu moved to approve the Lagae Family Trust Minor Development Lot 5 Restaurant Site Improvement Plan, Case No. SIP-2021-002, based on

the analysis and findings set forth in the Staff Report dated September 17, 2021 and subject to the following conditions of approval:

1. The applicant shall pay ALL fees and costs incurred by the City and its consultants, in the review and processing of the Site Improvement Plan application prior to final approval; and
2. The applicant shall resolve any minor technical changes to the Site Improvement Plan as directed by staff prior to final approval; and
3. The applicant shall provide an executed "Requirements for Release of C.O." or "Requirements for Final Inspections" form, as determined by staff planner prior to final approval; and
4. The applicant shall provide a "Treasurer's Certificate of Taxes Due" indicating no past due taxes prior to final approval.

Commissioner Goode seconded. The motion passed by unanimous consent of the Planning Commissioners in the room. Commissioner Barragry abstained.

## 7. PLANNING COMMISSION DISCUSSION ITEMS

### a. Community Development Director Update

- Welcomed Commissioner Vincent Oletu and congratulated him for making a motion at his first meeting.
- Explained that the Electronic Meeting Policy prevents remote participation in quasi-judicial issues, which is why Commissioner Barragry did not participate regarding SIP-2021-002
- No upcoming applications are expected.
- Remaining Unified Land Development Code update will be at the next meeting.
- No meeting in November and December meeting is December 2<sup>nd</sup>.

## 8. ADJOURNMENT

Chair Wiley adjourned the meeting at 6:53 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

\_\_\_\_\_  
Tobi Duffey, CMC, City Clerk

\_\_\_\_\_  
Michelle Wiley, Chair



360 Village Square Lane, Suite B  
Castle Pines, CO 80108  
303-705-0200  
castlepinesco.gov

TO: Members of the Planning Commission

FROM: Lori Strand, Assistant City Attorney

THROUGH: Sam Bishop, Community Development Director

DATE: September 10, 2021 [for October 28, 2021 meeting]

RE: Ordinance No. 21-08 Repealing Subsection 2602, Subsection 3301, and Sub-Subsection 3303.01 of the City Of Castle Pines Zoning Ordinance, and Amending Articles 6 and 7 of Chapter 2 of the Castle Pines Municipal Code, Concerning the Powers and Procedures of the Board of Adjustment and Planning Commission

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**Question Before the Commission:** Does the Commission recommend approval of Ordinance No. 21-08, which (1) removes redundancies and clarifies inconsistencies related to the powers, terms of appointment, and quorum, voting, and removal requirements in the City Zoning Ordinance and Municipal Code, and (2) formalizes City procedures for adoption and amendments to the City of Castle Pines Comprehensive Plan?

**Background:**

*1. Removal of redundancies and clarification of inconsistencies*

Article 6, Chapter 2 of the Municipal Code and Subsection 2602 of the City Zoning Ordinance set forth duplicative and, in some places, inconsistent provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Board of Adjustment.

Similarly, Article 7, Chapter 2 of the Municipal Code and Subsection 3301 of the City Zoning Ordinance set forth duplicative and, in some places, inconsistent provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Planning Commission. Sub-subsection 3303.01 of the Zoning Ordinance also references state law as the source of authority for the Planning Commission's rule-making powers; as a home rule municipality, this authority now derives from City law, and is set forth in Municipal Code Section 2-7-20.

Ordinance No. 21-08 deletes the duplicative provisions from the Zoning Ordinance and clarifies, as needed, the surviving provisions in the Municipal Code.

*2. Establishment of City procedures for adoption and amendments to the comprehensive plan*

The City of Castle Pines Comprehensive Plan currently identifies different types of amendments to the Comprehensive Plan, including major plan updates, text and land use plan amendments,

and administrative amendments; however, neither the Municipal Code nor the Zoning Ordinance establish procedures for such amendments.

As a home rule municipality, the City of Castle Pines may establish procedures for the adoption and amendment of its Comprehensive Plan that differ from statutory law.

Ordinance No. 21-08 adds a new Section 2-7-50 to the Municipal Code to establish City procedures for adopting and amending the Comprehensive Plan.

**City Attorney & City Staff Recommendation:** As a general code clean-up measure and to formalize the City's procedures for adoption and amendment of the Comprehensive Plan, the City Attorney and City staff recommend adoption of Ordinance No. 21-08.

**Proposed Motion:** I move to recommend City Council's adoption of Ordinance No. 21-08, Repealing Subsection 2602, Subsection 3301, and Sub-subsection 3303.01 of the City of Castle Pines Zoning Ordinance, and Amending Articles 6 and 7 of Chapter 2 of the Castle Pines Municipal Code, Concerning the Powers and Procedures of the Board of Adjustment and Planning Commission.

**ORDINANCE NO. 21-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, REPEALING SUBSECTION 2602, SUBSECTION 3301, AND SUBSECTION 3303.01 OF THE CITY OF CASTLE PINES ZONING ORDINANCE, AND AMENDING ARTICLES 6 AND 7 OF CHAPTER 2 OF THE CASTLE PINES MUNICIPAL CODE, CONCERNING THE POWERS AND PROCEDURES OF THE BOARD OF ADJUSTMENT AND PLANNING COMMISSION**

**WHEREAS**, the City Council (“Council”) of the City of Castle Pines (the “City”) is authorized under its home rule charter to establish a board of adjustment and a planning commission, and to confer upon the same such powers and duties as Council deems advisable; and

**WHEREAS**, Council has heretofore established a board of adjustment (the “Board”) and conferred upon the same the power and duty to grant variances to City zoning regulations and planned development establishing documents (“PDs”), and to hear and decide appeals of decisions of City officials related to City zoning regulations and PDs; and

**WHEREAS**, Council has heretofore established a planning commission (the “Commission”) and conferred upon the same the power and duty to review and make recommendations to Council on land use and planning matters, and to make and adopt a comprehensive plan for the City; and

**WHEREAS**, Subsection 2602 of the City of Castle Pines Zoning Ordinance (the “Zoning Ordinance”), titled “Board of Adjustment,” sets forth provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Board that are duplicative of or inconsistent with Article 6 of Chapter 2 of the Castle Pines Municipal Code (the “Municipal Code”), titled “Board of Adjustment”; and

**WHEREAS**, Subsection 3301 of the Zoning Ordinance, titled “Planning Commission,” sets forth provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Commission that are duplicative of or inconsistent with Article 7 of Chapter 2 of the Municipal Code, titled “Planning Commission”; and

**WHEREAS**, Sub-subsection 3303.01 of the Zoning Ordinance sets forth provisions regarding Planning Commission’s authority to adopt rules and regulations that are duplicative of Section 2-7-20 of the Municipal Code; and

**WHEREAS**, Council desires to clarify said provisions related to the Board and Commission by repealing duplicative and inconsistent provisions set forth in the Zoning Ordinance and amending provisions in the Municipal Code; and

**WHEREAS**, Part 2 of Article 31 of the Colorado Revised Statutes (C.R.S.) authorizes the City to make, adopt, amend, extend, add to, or carry out a comprehensive plan as provided in said Part 2, to create a planning commission with the powers and duties set forth in said Part 2, and to limit the application of said Part 2 by City charter or ordinance; and

**WHEREAS**, C.R.S. §31-23-208 establishes procedures, including public notice and hearing requirements, for the Commission’s adoption and amendment of the City’s comprehensive plan; and

**WHEREAS**, the City of Castle Pines Comprehensive Plan, approved by the Commission and ratified by Council resolution, currently identifies different types of amendments to the Comprehensive Plan, including major plan updates, text and land use plan amendments, and administrative amendments; and

**WHEREAS**, Council desires to formalize the procedures applicable to each type of amendment identified by the Comprehensive Plan by adopting procedures regarding the same into the Municipal Code; and

**WHEREAS**, Council finds that this Ordinance is in the best interest of the public health, safety, and welfare of the inhabitants of the City; and

**WHEREAS**, the Commission considered the amendments to the Zoning Ordinance set forth in this Ordinance at a duly noticed public hearing and recommended the proposed amendments to Council for approval; and

**WHEREAS**, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO:**

Section 1. Subsection 2602 of the Zoning Ordinance, titled “Board of Adjustment,” concerning the powers, terms of appointment, and quorum, voting, and removal requirements of the Board, is hereby repealed in its entirety.

Section 2. Subsection 3301 of the Zoning Ordinance, titled “Planning Commission,” concerning the powers, terms of appointment, and quorum, voting, and removal requirements of the Commission, is hereby repealed in its entirety.

Section 3. Sub-subsection 3303.01 of the Zoning Ordinance, concerning the adoption of rules and regulations by the Commission, is hereby repealed in its entirety.

Section 4. The first sentence of Subsection 2-6-10(1) of the Municipal Code is amended, with additions shown in bold and underlined, as follows:

“To vary or modify the application of the regulations or provisions of any zoning district or Planned Development (“PD”) establishing document of the City relating to the construction or alteration of buildings or structures where there are practical difficulties or unnecessary hardships, in conformity with this Article **and any other applicable law.**”

Section 5. Section 2-6-30 of the Municipal Code, titled “Quorum and required vote,” is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

“A quorum of the Board shall consist of four (4) members. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any City official charged with the enforcement of any Zoning Ordinance or PD establishing document adopted by the City or to grant a variance **to the regulations or**

**provisions set forth in Subsection 2-6-10(1) of ~~or otherwise decide in favor of an applicant on any matter considered by the Board under the provisions of state law or this Article~~ **and to such other regulations or provisions as authorized by City ordinance.****

Section 6. Section 2-6-40 of the Municipal Code, titled "Removal," is amended, with additions shown in bold and underlined, as follows:

"Members of the Board **serve at the pleasure of City Council and** may be removed by majority vote of the City Council."

Section 7. Section 2-7-10 of the Municipal Code, titled "Establishment of powers," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"There is hereby established a ~~P~~lanning ~~C~~ommission to review all land use applications and make formal recommendations **on such applications** to the City Council; **to adopt and amend a comprehensive plan for the City (the "Comprehensive Plan"), subject to ratification of the Comprehensive Plan by the City Council; and to perform all other functions as may be assigned to the Planning Commission by the City Council. The Planning Commission shall exercise its powers** in accordance with this Article and, **to the extent not inconsistent with this Code or the Charter, C.R.S. Title 31, Article 23, Parts 2 and 3, together** with any other applicable law. The Planning Commission may be referred to herein as the "Commission" or the "Planning Commission."

Section 8. Section 2-7-30 of the Municipal Code, titled "Quorum and required vote," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"A quorum of the Commission shall consist of ~~three~~ **four (34)** members. A concurring vote of ~~three (3)~~ **a majority of Commission** members ~~of the Commission present~~ shall be necessary to make recommendations on any land use applications and for other planning and zoning matters before the Commission; **except that a** ~~A~~-concurring vote of ~~four~~ **five (45)** members of the Commission shall be necessary **for the Commission** to adopt by resolution the City's Comprehensive Plan, or any **major plan update or plan** amendments thereto **as provided in Section 2-7-50,** subject to ratification of such ~~P~~lan, **major plan update, or plan amendment** by the City Council."

Section 9. Section 2-7-40 of the Municipal Code, titled "Removal," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"Members of the Commission **serve at the pleasure of City Council and** may be removed by majority vote of the City Council."

Section 10. Article 7 of Chapter 2 of the Municipal Code is amended to add a new Section 2-7-50, titled "Adoption and amendment of the Comprehensive Plan," to read as follows:

“Sec. 2-7-50. - Adoption and amendment of the Comprehensive Plan.

(a) The Comprehensive Plan shall be adopted, updated, and amended in accordance with this Section.

(b) The Comprehensive Plan and any major plan update or plan amendment shall be adopted by resolution of the Planning Commission in accordance with Section 2-7-30 of the Code, and after consideration of the same at a public hearing. Notice of the public hearing shall be published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing. Such notice shall state the date, place, and time of the public hearing, and where copies of the Comprehensive Plan, major plan update, or plan amendment may be reviewed prior to the hearing.

(1) A major plan update means amendments to the Comprehensive Plan resulting from the Department of Community Development’s periodic re-evaluation of the vision, goals, objectives, and data contained within the Comprehensive Plan. The Department shall endeavor to conduct a major plan update to ensure the Comprehensive Plan remains relevant with current community realities at least once every five (5) years, or as directed by City Council.

(2) A plan amendment means a revision to the text of or a figure or map in the Comprehensive Plan, which revision does not constitute an administrative amendment as described in subsection (f) of this Section. Plan amendments may be initiated by the Department of Community Development on its own initiative or at the direction of City Council or the Planning Commission. If a land use application necessitates a corresponding amendment to the future land use plan or a land use category in the Comprehensive Plan, the Department of Community Development shall be responsible for initiating the necessary plan amendment; in such circumstances, the plan amendment may be processed concurrently with the land use application. Plan amendments may not be initiated by a member of the public.

(c) After the Planning Commission adopts the Comprehensive Plan or a major plan update or plan amendment, the same shall be forwarded to City Council for ratification by resolution or remand to the Planning Commission for further review or additional public input. City Council shall consider the Comprehensive Plan or any major plan update or plan amendment thereto at a public meeting; a public hearing before City Council shall not be required.

(d) The Planning Commission may consider and adopt, and the City Council may consider and ratify, the Comprehensive Plan and major plan updates as a whole or in parts (for example, on a section-by-section or chapter-by-chapter basis).

(e) When considering a major plan update or plan amendment, the Planning Commission and City Council should consider, as applicable, whether:

(1) Changed conditions or new information since adoption of the existing Comprehensive Plan support the need for the update or plan amendment; and

(2) The update or plan amendment is consistent with the Comprehensive Plan's vision and with the goals and objectives unchanged by the update or plan amendment; and

(3) The update or plan amendment, particularly if the update or amendment affects the future land use plan or land use categories, is compatible with the surrounding area and the existing or anticipated development pattern for the surrounding area; and

(4) The update or plan amendment negatively impacts transportation or City services and facilities; and

(5) Strict adherence to the existing Comprehensive Plan would result in a situation neither intended nor in keeping with the Comprehensive Plan's vision or with the goals and objectives unchanged by the update or plan amendment; and

(6) The proposed update or plan amendment will promote the public health, safety, and welfare.

(f) The Department of Community Development may administratively amend the maps, figures, or text of the Comprehensive Plan to correct typographical or clerical mistakes. The Department shall maintain a record of all such administrative amendments. Such administrative amendments shall not require public notice or a public meeting or hearing, and the Department's action on the administrative amendments shall be final and non-appealable.

Section 11. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 12. No Existing Violation Affected. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 13. Publication and Effective Date. The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

**INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO THE \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO THE \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
Tera Stave Radloff, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Tobi Basile, CMC, City Clerk

\_\_\_\_\_  
Linda C. Michow, City Attorney

**CERTIFICATION OF PUBLICATION**

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on \_\_\_\_\_, 2021; published by title only in the Douglas County News-Press, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on \_\_\_\_\_”; and finally passed and adopted by the City Council on \_\_\_\_\_, 2021, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Tobi Basile, CMC, City Clerk

## ARTICLE 5. ENVIRONMENTAL MANAGEMENT

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### Division 5.1 Flood Damage Prevention

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#### Sec. 5.1.1 Purpose

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##### A. Findings of Fact.

1. The flood hazard areas of Castle Pines, Colorado, are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

##### B. Purpose. It is the purpose of this Division to promote public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Ensure that landowners in areas of special flood hazards assume responsibility for their actions;
3. Minimize damage to public facilities and utilities such as water, gas, electric, telephone and sewer lines, roads and bridges located in areas of special flood hazard;
4. Minimize expenditure of public money for costly flood control projects and the need for rescue and relief efforts associated with flooding;
5. Minimize prolonged business interruptions;
6. Maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
7. Ensure that potential buyers are notified that property is located in a flood hazard area;
8. Protect the hydraulic characteristics of the drainageways, the storage capacity of floodplains, and to assure retention of floodway area to convey flood flows which can reasonably be expected to occur; and
9. Comply with the program requirements of the Federal Emergency Management Agency (FEMA) in order that national flood insurance is available to City residents.

##### C. Methods. In order to accomplish its purposes, this Division includes methods and provisions for:

1. Restricting uses or prohibiting certain uses which would be hazardous to the public health, safety and property;

2. Requiring permitted floodplain uses to be protected against flooding by providing general flood protection at the time of initial construction or reconstruction;
3. Requiring water supply and sanitation systems to be protected against flood damage at the time of initial construction so as to prevent disease, contamination and unsanitary conditions;
4. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5. Delineating areas that could be inundated by flooding thereby protecting individuals from purchasing floodplain land for purposes which are not suitable;
6. Regulating excavation, filling, dumping, dredging, and channelization which may increase flood damage; and
7. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwater or which may increase flood hazards in other areas.

### **Sec. 5.1.2 Applicability**

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- A. **Generally.** This Division shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City.
- B. **Special Flood Hazard Areas.** The Special Flood Hazard Areas (or, "Floodplain") identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Douglas County, Colorado and Incorporated Areas," dated September 4, 2020, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ULDC. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Division and may be supplemented by studies designated and approved by the Castle Pines City Council. The Floodplain Administrator shall keep a copy of the FIS and FIRMs on file and available for public inspection.
- C. **Compliance.** No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Division and other applicable regulations. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
- D. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ULDC is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ULDC does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ULDC shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this ULDC or any administrative decision lawfully made thereunder.

### **Sec. 5.1.3 Floodplain Overlay District**

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- A. **Generally.** The Floodplain Overlay District is composed of the 100-year floodplain and a subarea within the floodplain called the floodway which must be reserved to discharge the 100-year flood without increasing the water surface elevation more than one half foot at any point.
- B. **Nature of the Floodplain Overlay District.** The Floodplain Overlay District shall be applied as a supplemental regulation on existing zoned areas containing flood hazard areas, including Planned Developments (PDs). The Floodplain Overlay District is superimposed on the existing zoning and the restrictions and requirements herein are in addition to those of the underlying zone. All land use review processes that apply to the underlying zoning district shall remain in full force and effect.
- C. **Floodplain Overlay District Boundary.**
  1. The boundary of the Floodplain Overlay District shall be the boundary of the 100-year floodplain. The extent of this area shall be based upon the best available information including:
    - a. "The Flood Insurance Study for Douglas County, Colorado and Incorporated Areas," dated March 16, 2016, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ULDC
    - b. Areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction.
    - c. Flood Hazard Area Delineation studies produced through the Mile High Flood District and approved by the City Engineer and the Colorado Water Conservation Board; and

- d. Other 100-year floodplain studies as approved by the City Engineer and accepted by the appropriate local, regional, state, or federal agencies.
2. When base flood elevation data and floodway data have not been provided in accordance with the FEMA Flood Insurance Study, the Floodplain Administrator shall require applicants to use other base flood elevation and floodway information, if it exists. If this information does not exist, the applicant shall generate these studies.
  3. Base flood and floodway elevations must be determined prior to the permitting of new construction, substantial improvements, or other development in the 100-year floodplain (Zone A on FEMA maps) or adjacent to major drainageways not yet identified as Zone A on the FEMA maps.
  4. Floodplain maps will be kept on file with the City are adopted by reference and hereby incorporated into this ULDC. The boundary lines on the map shall be determined by the scale appearing on the map.
  5. The Floodplain Administrator shall make the necessary interpretation of the location of the boundary of the Floodplain Overlay District. The decision of the Floodplain Administrator may be appealed to the City Council.
  6. If an individual wishes to appeal the flood elevation on the FEMA Flood Insurance Study, a map amendment or process is available. Contact the regional FEMA Office for this information.
- D. **Uses Prohibited.** The following uses are strictly prohibited within the Floodplain Overlay District regardless of whether they may be allowed within the underlying zoning districts of the City:
1. Habitable structures, or commercial/industrial structures, except the following:
    - a. Fish hatcheries;
    - b. Water-related recreational facilities;
    - c. Single-family dwellings on nonconforming lots; and
    - d. Reconstruction of any nonconformity (See Article 6, *Nonconformities*); and
  2. Storage or processing of materials that are buoyant, flammable, explosive, or that constitute a dangerous condition that could reasonably cause injury at the time of flooding.

### **Sec. 5.1.4 Flood Hazard Reduction**

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- A. **Floodplain Development Permit.** A Floodplain Development Permit is required to develop in areas designated as special flood hazard areas or for a change of use located in the Floodplain Overlay District which is subject to the provisions of this Section. The Floodplain Development Permit is required in addition to other permits or review processes which may be associated with the underlying zone district. All applicable Federal and State permits shall be obtained prior to the issuance of a Floodplain Development Permit.
- B. **General Standards.** In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;
  6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

C. **Specific Standards.** In all Special Flood Hazard Areas where base flood elevation data has been provided, the following provisions are required:

1. *Residential Construction.* New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
2. *Nonresidential Construction.* With the exception of Critical Facilities, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator.
3. *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. *Manufactured Homes.* All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:
  - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
5. *Recreational Vehicles.* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM must either:
  - a. Be on the site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use; or

c. Meet the permit requirements of [Sec. 7.3.7, Floodplain Development Permit](#).

D. **Standards for Areas of Shallow Flooding (AO/AH Zones).** Located within the Special Flood Hazard Area established in [Sec. 5.1.2.B, Special Flood Hazard Area](#), are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. *Residential Construction.* All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.
2. *Nonresidential Construction.* With the exception of Critical Facilities, outlined in Section H below, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

E. **Floodways.** Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Article 2). Located within a Special Flood Hazard Area and established in [Sec. 5.1.2.B, Special Flood Hazard Area](#), are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If D.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for and is issued a CLOMR and floodway revision through FEMA.

F. **Alteration of a Watercourse.** For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.

5. All activities within the regulatory floodplain shall meet all applicable federal, state and local floodplain requirements and regulations.
  6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project applicant demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the City first applies for and is issued a CLOMR and Floodway revision in accordance with D.3, above.
  7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.
- G. Properties Removed from the Floodplain by Fill.** A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:
1. *Residential Construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.
  2. *Nonresidential Construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- H. Standards for Subdivision Proposals.**
1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
  2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements.
  3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser.
  4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
  5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- I. Standards for Critical Facilities.** A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
1. *Classification of Critical Facilities.* Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.
  2. *Protection for Critical Facilities.* All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Division, protection shall include one of the following:
    - a. Location outside the Special Flood Hazard Area; or
    - b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. *Ingress and Egress for New Critical Facilities.* New Critical Facilities shall, when practicable as determined by the City shall have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.
- J. **Floodplain Variance Procedure.** The Planning Commission shall hear requests for variances from the requirements of this Division 5.1. Procedures for such variances are as follows:
1. *Submittal.* Variance requests shall be made in writing to the Floodplain Administrator. The Floodplain Administrator shall forward such request to the Planning Commission and shall prepare a staff report for presentation at a Public Hearing. The Commission shall consider technical evaluations, relevant factors, and standards specified elsewhere in this ULDC.
  2. *Criteria for Approval.* The Planning Commission may issue a variance to these standards only if:
    - a. The variance would not result in an increase in flood levels beyond the base flood discharge;
    - b. The variance is the minimum necessary to afford relief;
    - c. There is demonstrated good and sufficient cause for the variance;
    - d. Failure to grant the variance would result in exceptional hardship to the applicant; and
    - e. The granting of a Floodplain Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.
  3. *Conditions.* The Commission may attach conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ULDC.
  4. *Post-approval Actions.*
    - a. The Floodplain Administrator shall maintain a record of all actions and shall report variances to the Federal Emergency Management Agency upon request.
    - b. Any applicant to whom a variance is granted to build the lowest floor elevation below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## Division 5.2 Environmental Quality

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### Sec. 5.2.1 Erosion Control

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- A. **Purpose.** The purposes of erosion control measures are to:
1. Safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity, which disturbs or breaks the topsoil or otherwise results in the movement of the soil on the land. This section shall also:
  2. Control non-point source pollution and protect water quality by requiring soil erosion and sediment control practices that comply with the provisions of the City's [Grading, Erosion and Sediment Control \(GESC\) Manual](#), as amended. The GESC Permit Program implements the provisions of the GESC Manual, as amended. The GESC Manual, as amended, is hereby incorporated by reference; and
  3. Develop, implement, and enforce the Castle Pines GESC Permit Program, which is mandated by the terms of the National Pollutant Discharge Elimination System (NPDES) Stormwater Regulations (40 C.F.R. 122.26) of the Federal Clean Water Act. The overall purpose of the NPDES stormwater permits program is to reduce the amount of pollutants entering streams, lakes, and rivers as the result of stormwater runoff from residential, commercial, and industrial areas.
- B. **General Standards.** All land disturbing activities shall:
1. Comply with the provisions of the [GESC Manual](#), as amended, and the City's [Storm Drainage Design and Technical Criteria Manual](#), as amended. The manuals are maintained by the City Public Works & Engineering Division.
  2. Be subject to review by this ULDC regarding:
    - a. Significant wildlife habitat;
    - b. Archeological or historical resources;

- c. Lands identified as having high open space, visual or vegetative value;
  - d. Geologically sensitive areas;
  - e. Riparian or wetland areas; and
  - f. Unique or distinctive topography.
- C. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan shall be submitted to the appropriate Division which addresses the existing and potential erosion and sediment problems created by the proposed development. Conservation measures used to mitigate these concerns shall be in accordance with the City's [Drainage Design and Technical Criteria Manual](#), this ULDC, and the City's [Roadway Design and Construction Standards](#).

## Sec. 5.2.2 Water Supply Standards

- A. **Purpose.** The purpose of this Section is to ensure that development in all areas of the City provides a water supply of sufficient quantity, quality, and dependability. This Section includes methods and provisions for:
1. Delineating the various water supply areas of the City;
  2. Aligning the water supply standards with statutory provisions;
  3. Restricting the dependence on nonrenewable water sources;
  4. Encumbering groundwater through the use of restrictive covenants;
  5. Verifying water rights and adjudication of these rights;
  6. Identifying minimum water demand standards;
  7. Identifying minimum water supply standards;
  8. Identifying the land-use process affected by these standards; and
  9. Providing an appeal process to prove water-supply sufficiency.
- B. **Boundaries.** Applications for water shall be directed to the applicable water supply district as appropriate based on location within the City. The City shall maintain a map of active water supply districts for reference.
- C. **Minimum Water Supply Standards.** The following minimum water supply standards are required within the City:
1. OS and ER zoning districts and PUDs with categories other than Mixed Use: One acre-foot/year/residence;
  2. MU zoning districts and PUDs with a mixed use category: 0.75 acre-foot/year/residence;
  3. Irrigated lawn/garden or golf course: 2.50 acre-feet/year/acre;
  4. The City reserves the right to require greater minimum water supply standards provided that there is sufficient water demand for the proposed uses based on the estimate of the proposed usage and analysis by the City or an independent contractor.
- D. **Water Supply Documentation Standards.** The following water supply documentation standards shall apply to all applications proposing a new water supply district, either directly or through execution of an intergovernmental agreement with a new special district:
1. *Rezoning, PUDs, and Preliminary Plats.* For rezonings, Planned Unit Development (PUD) amendments to either increase the number of dwelling units, increase the PUD boundary, or change the allowed land uses, and for preliminary plats, the applicant shall submit:
    - a. A report documenting the amount of water that can be supplied to the development, containing the following:
      - i. A summary of the water rights owned;
      - ii. The anticipated yield of these rights in both an average and dry year;
      - iii. The present demand on the water supply district and the anticipated demand due to commitments for service entered into by the water supply district that are not yet supplied;
      - iv. The amount of uncommitted firm supply the water supply district has available for future commitment and development;
      - v. A summary of what water rights the applicant will convey to the water supply district and/or what water credits the applicant must purchase from the water supply district, if any, to serve the development; and
      - vi. A map of the water supply district service area.
    - b. A letter from the water supply district referencing the development name (as submitted to the City), stating:
      - i. The water supply district's intent to serve the development;
      - ii. The conditions under which the water supply district will commit to serving the development;

- iii. Whether the development is in fact within the boundaries of the water supply district;
- iv. The estimated demand of the development based on the standards within Subsection C, *Minimum Water Supply Standards*;
- v. The amount of water that can be supplied to the development;
- vi. The proposed uses, the uses of the existing district's water rights, and that the proposed uses correspond to the uses of the existing district's water rights;
- vii. Evidence that demonstrates that the water supply is potable, and documentation of the steps necessary to ensure the potability of the water supply; and
- viii. A statement regarding the feasibility of extending service to the development.

E. **Methods of Providing Water Supply.** The methods of providing a water supply shall be subject to the standards set forth by the applicable water supply district.

1. *New Special District.* The organization of a new special district to provide water service is authorized by §32-1-201, et seq., C.R.S. The City Council is authorized by §32-1-203, C.R.S., to review and approve the service plan. A water supply sufficient in terms of quantity, quality, and dependability shall be required. When service will be provided by an existing district through an IGA with the new special district, the applicant shall submit documentation in compliance with the standards in this section. When service will be provided by the new special district, approval shall be based on compliance with state law and as follows:

- a. The proposed water supply for any new special district proposed to rely on Denver Basin aquifers may be obtained from the Denver Basin aquifers underlying the subject land; and/or from beneath land located in the Central Basin that is subject to a perpetual open space conservation easement, in accordance with the Denver Basin aquifer standards. A copy of the conservation easement shall be submitted to the Community Development Department, and shall contain provisions that restrict the uses of the land to substantially the same uses and level of development as are permitted on land zoned Open Space, as determined by the Director. A copy of the declaration of restrictive covenants shall be provided, as required.
- b. An attorney's opinion letter has been provided stating ownership by the applicant and/or new special district of, or an executed contract granting rights to the applicant and/or new special district for, all Denver Basin aquifers present beneath the subject land and a copy of the court decree adjudicating those water rights, if those water rights have been adjudicated.
- c. An adjudicated Augmentation Plan shall be provided, if required by the Colorado State Engineer, and a copy of the court decree adjudicating the Augmentation Plan. An adjudicated augmentation plan shall be submitted prior to the scheduling of a public meeting or public hearing for the application.
- d. The applicant, in coordination with the new special district, has demonstrated that the water rights can be used for the proposed use(s).
- e. The water rights are sufficient based on the minimum water demand standards.
- f. The water in all Denver Basin aquifers shall be reserved in perpetuity, for the benefit of future landowners within the proposed development, pursuant to a declaration of restrictive covenants in a form prescribed by the City.
- g. The total annual demand of water proposed for the subject land, in accordance with, the minimum water demand standards, shall not exceed 100 percent of the total annual appropriable water supply contained within the Denver Basin aquifers underlying the subject land.
- h. *Service Plan Provisions.* The proposed service plan shall include a well-field analysis that demonstrates that such wells will not adversely impact existing water rights on adjoining lands, consistent with the provisions in §37-90-137(4)(c), C.R.S., as amended. The proposed service plan shall require the district to install an acceptable water level measuring device in all new district wells to measure and record water levels on a monthly basis, whether the water level obtained is a static or pumping water level, and provide for an annual report of such data to the City of Castle Pines.

2. *Denver Basin Aquifers.* The water supply may be provided from the Denver Basin aquifers, in compliance with the following:

- a. An attorney's opinion letter stating ownership by the applicant of, or an executed contract granting rights to the applicant for, all Denver Basin aquifers present beneath the subject land and a copy of the court decree adjudicating those water rights, if those water rights have been adjudicated.
- b. An adjudicated Augmentation Plan shall be provided, if required by the Colorado State Engineer, and a copy of the court decree adjudicating the Augmentation Plan. An adjudicated Augmentation Plan, if not available prior to the hearings, may be required as a condition of approval.

- c. The water in all Denver Basin aquifers shall be reserved in perpetuity, for the benefit of future landowners within the proposed development, pursuant to a declaration of restrictive covenants in a form prescribed by the City.
- d. The total annual demand of water proposed for the subject land, in accordance with the minimum water demand standards, shall not exceed 100 percent of the total annual appropriable water supply contained within the Denver Basin aquifers underlying the subject land.
- e. When the landowner does not own rights to all the Denver Basin aquifers, a groundwater well may be allowed as the source of water as required for issuance of a building permit, for a principal or accessory use currently allowed by zoning, on a legally created parcel.

### Sec. 5.2.3 Wildfire Hazard Standards

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- A. **Purpose.** The purpose of wildfire hazard standards is to protect the health, safety, and welfare of residents by minimizing the potential for the loss of life and property by the ignition and spread of wildfires. The City is diverse in character with land areas ranging from grasslands and shrublands, to steep, forested slopes. These areas are often viewed as highly desirable development sites due to their unique scenic qualities. By identifying potential wildfire hazard areas, and requiring mitigation measures as part of the land planning and development process, the current and future risk of wildfires can be reduced.
- B. **Applicability.** This Section shall apply to all new development and new structures within existing developments. Defensible space standards in subsection 5.2.3.E shall apply to all properties within the City.
- C. **Exceptions.**
  - 1. Subsection 5.2.3.D, *Structural Design*, shall not apply to existing structures. New structures, additions, and substantial remodels shall comply with 5.2.3.D.
  - 2. Subsection 5.2.3.E, *Defensible Space*, shall not apply to parks and open space; however, wildfire mitigation standards in this Section are recommended for all areas to the extent practicable.
- D. **Structural Design.** Buildings, structures, and other forms of development shall be located, designed, and constructed in a manner to minimize the possibility of ignition from a wildfire and the spread of a structural fire. All structures shall comply with the following standards:
  - 1. New buildings shall use building materials that are fire-resistant such as brick, fiber-cement, plaster, or stucco;
  - 2. Windows on a new structure shall be dual-pane tempered glass at a minimum;
  - 3. The roof of any new structure shall use Class A fire-rated roofing products, such as composite shingles, metal, concrete, and clay tiles;
  - 4. Roof materials shall be regularly inspected, repaired, and replaced to prevent ember entry; and
  - 5. Roof and attic vents shall be screened to prevent ember entry.
- E. **Defensible Space.** Property surrounding a structure shall be designed to include defensible space, an area in which vegetation, debris, and other combustible fuels have been treated, cleared, or reduced to slow the spread of fire to and from the building. Persons owning, leasing, controlling, operating, and maintaining buildings or structures are responsible for maintaining defensible space. Defensible space is created by application of the following zone regulations and as depicted in Figure 5.2.3.1, *Defensible Space*:
  - 1. **Zone 1.** Zone 1 is the area of maximum modification and treatment. It consists of an area of 15 feet around the structure in which all flammable native vegetation is removed. This 15 feet is generally measured from the outside edge of the building or structure's eaves and any attached structures, such as decks. The following standards apply to Zone 1:
    - a. Eliminate all combustible materials including fire-prone vegetation, wood stacks, and leaves, needles, and other dead vegetative materials.
    - b. Prune tree branches extending to within 10 feet of any structure to maintain a minimum horizontal clearance of 10 feet. Prune tree branches to remove limbs located less than 10 feet above the ground surface adjacent to trees.
    - c. To the extent practicable, incorporate irrigated grass, rock gardens, stone patios, metal patio furniture, and noncombustible decking.
    - d. At least once per year, remove combustible litter on roofs and gutters, and trim tree branches that overhang the roof and chimney of any building or structure.
  - 2. **Zone 2.** Zone 2 is an area of fuel reduction. It is a transitional area between Zones 1 and 3. The size of Zone 2 depends on the slope of the ground where the structure is built. Typically, the defensible zone, or home ignition

zone (HIZ) consisting of the home or structure itself, Zone 1 and Zone 2, shall extend at least 100 feet from the structure unless limited by property boundaries. The following standards apply to Zone 2:

- a. The continuity and arrangement of vegetation is modified to remove stressed, diseased, dead or dying trees and shrubs. Remaining larger trees and shrubs shall be thinned and pruned. Extend thinning along either side of the driveway all the way to the main access road as applicable.
- b. Ensure that Zone 2 includes only individual and well-spaced groups of trees, shrubs, and other vegetation. These should be surrounded by areas with noncombustible materials.
- c. Incorporate hardscape features such as driveways, walkways, or patios to create firebreaks throughout the yard.
- d. Select fire-resistant, low-volume vegetation that retains moisture and needs minimum maintenance such as pruning and removing branches.
- e. Over-mature, dead, and dying trees shall be evaluated as to their potential to ignite and carry a fire and shall be removed accordingly.
- f. Annual grasses shall be mowed to 6 inches or less.
- g. To the extent practicable, locate auxiliary structures such as a detached garage, pergola, or utility shed from the home by at least 50 feet. Increase this distance if the structure will be used for the storage of combustible materials.
- h. To the extent practicable, locate combustible patio furniture, woodpiles, and fuel tanks at least 30 feet from a structure and in a vegetation-free zone.

3. **Zone 3.** Zone 3 is an area of traditional forest management and is of no particular size. It extends from the edge of Zone 2 to the property boundaries. Actions in Zone 3 shall include regular pruning and thinning both horizontally and vertically of vegetation to reduce fuels.

F. **Water Supply.** The fire protection agency having jurisdiction shall be notified before any water system is constructed, altered, or removed and before site development or construction of any structure commences so that fire protection can be evaluated and ample water supply to the development can be established.

G. **Additional Standards.** The Director, in consultation with other City, County, or authorities with jurisdiction, may require additional mitigation standards and recommendations to protect the public health, safety, and welfare of the subject development and adjacent properties. Such standards may be required based on site-specific conditions warranting additional mitigation, including, but not limited to slope, aspect, vegetation or other fuels, and structures.



## Sec. 5.2.4 Visual Impact of Wireless Communications Facilities

A. **Purpose.** Castle Pines has long been recognized for its outstanding visual attributes. As one of the most scenic of the Front Range cities, the City seeks to protect those attributes by promoting the siting and design of Wireless Communications Facilities (WCFs) in a manner that minimizes visual impacts, and thus protects quality of life for residents and businesses in the region. The standards in this Section supplement the standards for WCFs in Section 2.3.5.

B. **Visual Impact Assessment (VIA).** The purpose of the VIA is to identify and assess how a proposed WCF will affect the viewshed. It provides a format for gathering the information on the site characteristics of an area and analyzing the resulting impacts. By understanding the relevant environmental qualities, and how they affect visual perception, an applicant is in a better position to both choose a location, and demonstrate that the location meets the provisions of this ULDC. It also provides the information necessary to design the facility to blend with the surrounding environment.

1. **Applicability.** A VIA is required to accompany any application for all towers, including ancillary equipment, and any other WCF that is taller than the maximum building height permitted by the underlying zoning district as established in Division 2.2. A VIA is not required for an eligible facilities request (EFR), which are subject to approval pursuant to FCC regulations.
2. **Preparation.** The VIA shall be prepared in consultation with a landscape architect or other professional trained and experienced in the preparation of such assessments. It is recommended that maps, photographs and other visual support should be incorporated into the final document.
3. **Contents.** The VIA consists of the following three parts:

- a. *Inventory.* Information should be gathered and presented on the topography, vegetation, and land uses in the study area. The viewer groups must also be described. The viewer groups are those that live, work, travel or recreate in the study area. The information collected should be used in the analysis portion of the VIA to determine the visual impacts and their projected duration. The study area should coincide with the search ring and must extend a minimum of one mile in all directions for each 100 feet, or fraction thereof, of height proposed. The minimum study area shall be one mile; however, it may be required to be expanded based on the potential impact as determined by staff at the pre-application conference. The visual character shall include descriptions of the following:
  - i. Physiography and key landforms of the study area, including maps and photographs that support the narrative;
  - ii. Predominant vegetation of the study area focusing on the vegetation specific to the proposed facility location;
  - iii. Existing land uses in the study area including recreational uses, as well as transportation corridors providing access to, or through, these areas;
  - iv. Water features located in the study area and uses associated with each feature;
  - v. Type of wildlife prevalent in the study area, particularly birds that could be affected by a WCF support tower;
  - vi. Visually sensitive resources located in the study area such as unique geographic features (such as mountain backdrops, ridges, hills, buttes, arroyos), historic sites or scenic vista; and
  - vii. Viewer groups, such as those with homes or businesses in the study area, or those that use any part of the study area for recreational or transportation purposes.
  
- b. *Analysis.* The purpose of the visual analysis is to assess the visual impact of possible WCF locations based on the information presented in the inventory. The possible WCF locations should be those identified and justified by the application as being technologically feasible. The analysis should compare those locations, describing whether the potential sites meet the objectives of the review criteria contained in [Sec. 7.4.8, Use by Special Review](#). The comparison should also include analysis of the visual impact to the identified viewer groups. The positives and negatives of each site in terms of meeting the review criteria should be delineated in the analysis. If feasible, the findings may be presented in the form of a matrix. The preferred site will be the one in which the WCF will both blend with the landscape and provide the least visual impact to viewer groups. The visual analysis shall include:
  - i. Using a computer-modeling program to prepare a viewshed map of the study area using USGS digital elevation model data (7.5-minute series). The resulting viewshed map should illustrate maximum proposed structure height above an identified base elevation and should define the maximum area from which the tallest element of a completed WCF could potentially be visible within the study area.
  - ii. Discuss how the screening effect of existing or future, planted vegetation influences the visibility of the various locations proposed, recognizing that the computer model does not factor in vegetative or structural screens.
  - iii. Describe potential project visibility by identifying locations in the study area where a high probability that the facility will be visible, exists. Demonstrate how the impact to viewer groups will be minimized.
  - iv. Assess the extent and nature of visibility by viewer groups through field verification and photo documentation.
  - v. Describe how the applicant would propose to design each WCF to blend with the surrounding environment. See Section [2.3.5.D, Design Standards](#).
  - vi. Describe the method of field verification used and the conditions of the field tests.
  - vii. Describe and analyze how each viewer group identified will be impacted by a facility sited in the preferred location and discuss seasonal, or other, changes that affect the view.
  
- c. *Conclusion.* The conclusion shall summarize the findings of the inventory and analysis, and describe the process that lead to identification of the preferred WCF location. The conclusion must clearly demonstrate that the preferred location meets the objectives of the review and approval criteria required by this ULDC. The mitigation measures proposed to soften any remaining visual impacts of the facility, including the design, color, material, texture and screening of all visible elements of the facility must be described as well.

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### Division 6.1 Purpose and Applicability

#### Sec. 6.1.1 Purpose

The purpose of this Division is to recognize and respect land development -- including uses, structures, lots, and signs, that were lawfully built prior to the adoption of this ULDC, as amended, but no longer comply with one or more provisions of this ULDC. For such uses, structures, lots, and signs, this Division sets out equitable rules for whether, when, and how the regulations of this ULDC apply.

#### Sec. 6.1.2 Applicability

- A. **Generally.** This Division shall apply to uses, structures, lots, and signs that were lawfully constructed or established, but no longer conform to the regulations of the ULDC, as amended.
- B. **Existing Permits Still Valid.** Nothing in this ULDC shall be interpreted to require a change in plans, construction, or use of any structure in which a building permit was lawfully issued prior to the effective date of this ULDC or as amended, provided that:
  1. Construction was commenced within 60 days after obtaining said building permit: and
  2. Work is proceeding diligently toward completion.
- C. **Reduction of Nonconformities.** All legal nonconforming uses, structures, signs, and lots shall be encouraged to conform to this ULDC. Rules and procedures are established in this Division to balance the City's desire to eliminate nonconforming uses, structures, lots, and signs, with the degree and impact of nonconformities on private property rights.
- D. **Nonconformity Created by Public Action.** Any nonconformity expressly created or caused by a conveyance of privately owned land to a federal, state, or local government to serve a public purpose shall be deemed conforming for the purposes of this ULDC, and is not subject to the limitations of this Division. This exemption applies only in cases where private land is obtained by a governmental entity for a public purpose, through condemnation, threat of condemnation or otherwise, which creates a nonconformity in the remainder parcel in terms of setback, lot size, or other standards of this ULDC. This exemption does not apply to right-of-way dedication or other public conveyances of land required by the City in the course of subdivision or other routine development plan approvals.

### Division 6.2 Types of Nonconformities

#### Sec. 6.2.1 Nonconforming Uses

- A. **Generally.** A nonconforming use is a land use that was lawfully established on a parcel of property but no longer complies with this ULDC. Any nonconforming use may continue to exist even though the use would be prohibited or restricted under the provisions of this ULDC, subject to the provisions of this Division.
- B. **Expansion of Nonconforming Uses.** An existing nonconforming use shall not be enlarged, expanded, extended, or altered to accommodate the nonconforming use or any other use not allowed in the zoning district in which the structure is located.

- C. **Discontinuance.** If a nonconforming use is discontinued for a period of nine months, for any reason, it shall not be resumed. Any subsequent use of the land or structure on that property shall comply with this ULDC. The Director shall notify any property owner in writing if a nonconforming use has not been continuously used for a period of nine months. The burden shall be on the property owner to either disprove or justify the discontinued use of the property as outside the control of the property owner or previous property owner.
- D. **Change in Use.** A nonconforming use may be changed only to a use that is allowed in the zoning district in which the land is located.
- E. **Transfer in Ownership.** Change in ownership does not affect the new owner's ability to continue a nonconforming use provided that the use is in compliance with this Division.

### Sec. 6.2.2 Nonconforming Structures

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- A. **Generally.** A nonconforming structure is a structure or building that was lawfully constructed but no longer complies with this ULDC.
- B. **Alteration of Structure.** Nonconforming structures shall not be enlarged or altered in a manner that will increase their nonconformity, but any structure or portion thereof may be altered to decrease or eliminate the nonconformity.
- C. **Repairs and Maintenance.** Any nonconforming structure may be repaired and maintained for ordinary upkeep. This includes making necessary non-structural repairs, painting, and making incidental alterations which do not extend or increase the nonconformity.
- D. **Damage or Destruction.** Should a nonconforming structure be damaged or partially destroyed by any means, it may be restored provided that:
  1. The damage or destruction does not exceed 50 percent of the reasonable market value of the nonconforming structure;
  2. A building permit is obtained for repairs within nine months of the date the structure was damaged or destroyed;
  3. The reconstruction of the structure begins within one year of the date the structure was damaged or destroyed;
  4. The reconstruction is completed within the time limits of the building permit; and
  5. The original nonconformity is not enlarged, increased, or extended.
- E. **Movement of Structure.** Should such nonconforming structure be moved for any reason for any distance whatever, it shall conform to the provisions of the zoning district in which it is located after the move.

### Sec. 6.2.3 Nonconforming Lots

---

- A. **Generally.** Nonconforming lots are lots that were lawfully created but no longer comply with the requirements of this ULDC.
- B. **Nonconforming by Virtue of Adoption.** Lots made nonconforming by virtue of adoption of this ULDC may be allowed to be developed provided the proposed development complies with the standards and procedures of this ULDC excluding lot size and lot dimensional standards.
- C. **Uses and Structures on Nonconforming Lots.** When a modification to an existing use or structure is proposed on a nonconforming lot, such modification of the use or structure may be allowed provided:
  1. The only nonconformity is the lot size or lot dimensions; and
  2. The modification of the use or structure complies with all other standards in this ULDC.

### Sec. 6.2.4 Nonconforming Signs

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- A. **Generally.** Nonconforming signs are permanent signs that were lawfully installed but no longer conform to the provisions of [Division 3.3, Signs](#).
- B. **Continuation of Nonconforming Signs.**
  1. *Damage or Destruction.* In the event a nonconforming sign is damaged or destroyed to the extent that the estimated cost of reconstruction or repair exceeds 50 percent of the assessed valuation of the original sign according to the permit, the sign shall be:
    - a. Removed;
    - b. Made to conform with the requirements of this ULDC; or
    - c. Replaced with a conforming sign.

2. *Maintenance and Repairs.* Nonconforming signs shall be kept in good repair and visual appearance. Incidental maintenance and repairs that do not extend or intensify the degree of nonconformity shall be permitted. Maintenance and repair includes changing the message of the sign by replacing or repainting the sign face.
3. *Danger to Public Safety.* A nonconforming sign that the Building Official determines to be a danger to public safety due to damage or wear shall be removed and shall not be replaced unless in accordance with [Division 3.3, Signs](#).
4. *No Message.* If a nonconforming sign does not display any message for a period of nine months, it shall be removed or brought into conformance with this ULDC.
5. *Replacement.* When a nonconforming sign is replaced, the replacement sign must comply with this ULDC. The installation of any new sign is prohibited on the same property while a nonconforming sign remains in place.
6. *Temporary Signs.* Temporary signs that are not in compliance with either [Sec. 3.3.4.F, Temporary Signs](#), or [Sec. 3.3.5, Signs not Requiring a Permit](#), are illegal signs and shall be removed.

## ARTICLE 7. ADMINISTRATION

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## Division 7.1 Administrative Bodies

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### Sec. 7.1.1 City Council

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- A. **Generally.** The City Council ("Council") of the City of Castle Pines is established as the legislative body for the City by Article II of the [Castle Pines Home Rule Charter](#).
- B. **Powers and Duties.** The City Council reserves to itself all of the powers and duties with respect to the administration of the ULDC that are not assigned by the Castle Pines Home Rule Charter; or to Boards or Commissions created by the City Council or the Castle Pines Home Rule Charter.
- C. **Meetings and Procedures.** The City Council shall conduct meetings according to the adopted City Council Procedures and Rules of Order, and pursuant to the Castle Pines Home Rule Charter, Articles III and VI.
- D. **Decisions.** The City Council makes decisions with respect to the administration of the ULDC pursuant to Table [7.4.1-1](#).
- E. **Appeals.** The City Council shall hear and decide appeals from decisions of the Planning Commission.

### Sec. 7.1.2 Planning Commission

---

- A. **Established.** The Planning Commission ("Commission") is established pursuant to the authority of Chapter 2, Article 7, *Planning Commission*, of the Castle Pines Municipal Code and Colorado Revised Statutes (C.R.S) 31-23-306, *Zoning Commission*.
- B. **Powers and Duties.** The Commission shall review and decide land use applications with respect to administration of this ULDC pursuant to Table [7.4.1-1](#).
- C. **Composition and Appointment.** The composition of the Planning shall be pursuant to the standards in Chapter 2, Article 7 of the Municipal Code.
- D. **Meetings and Procedures.** The Planning Commission shall conduct meetings according to the City's Adopting Bylaws and Rules of Procedure, and pursuant to the Castle Pines Home Rule Charter, Articles III and IX, and pursuant to Chapter 2, Article 7 of the Municipal Code.

### Sec. 7.1.3 Board of Adjustment

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- A. **Established.** The Board of Adjustment is established pursuant to the authority of Chapter 2, Article 6, *Board of Adjustment*, of the Castle Pines Municipal Code and Colorado Revised Statutes (C.R.S) 31-23-307, *Board of Adjustment*.
- B. **Powers and Duties.** This section delegates the Board of Adjustment the following powers:
  1. To grant variances or modifications pursuant to [Sec. 7.4.15](#); and
  2. To hear and decide appeals from and to review any order, requirement, decision, or determination made by any City official charged with the enforcement of any Zoning Ordinance or PUD establishing document adopted by the City, and to reverse, affirm, modify, or amend any such order, requirement, decision, or determination.
- C. **Composition and Appointment.** The composition of the Board shall be pursuant to Sec. 2-6-20 of the Municipal Code.
- D. **Meetings and Procedures.** The Board of Adjustment shall conduct meetings according to the City's Adopting Bylaws and Rules of Procedure, and pursuant to the Castle Pines Home Rule Charter, Articles III and IX, and pursuant to Chapter 2, Article 6, of the Municipal Code.

## Sec. 7.1.4 Public Works Director / Floodplain Administrator

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- A. **Generally.** With respect to the administration of this ULDC, the Public Works Director or a designee, is generally responsible for verifying that all standards and quality assurance requirements are met for public infrastructure improvements. The Public Works Director also establishes and promulgates construction standards for public improvements and infrastructure. The Public Works Director shall also act as the Floodplain Administrator.
- B. **Duties and Responsibilities.** The Public Works Director, or designated representative, shall have the authority to make recommendations, permit, and inspection of improvements and engineering issues subject to development review applications, including but not limited to Grading, Erosion, and Sediment Control (GESC). The Public Works Director shall also serve as the City's Floodplain Administrator and shall be responsible for oversight of Division 5.1, Flood Damage Prevention and applications for Floodplain Development Permits.

## Sec. 7.1.5 Community Development Director

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- A. **Generally.** The Community Development Director ("Director") is a member of the City staff who is ultimately responsible for processing an application to decision (in case of administrative approval) or recommendation to another review body (in case of public hearing approvals). The Director shall designate staff members to manage applications through the review process and to be points of contact for applicants, and to perform such other functions and duties as may be required of the Director of this ULDC. The Director may also designate review responsibilities to other members of the City staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Council.
- B. **Duties and Responsibilities.** Generally, the Director shall comply with and perform the duties as required by the City of Castle Pines Home Rule Charter, Article VII, Administrative Services. For the purpose of the ULDC, the Director has the following duties and responsibilities. Such duties may be allocated and reallocated by the City Council in the exercise of the responsibilities of that office without amendment to the ULDC:
  - 1. *General Administration.* The Director or the Director's designee shall:
    - a. Interpret the general intent and/or specific meaning of any portion of the ULDC text, position of district boundaries, district regulations, or other matters relating to the Official Zoning Map.
    - b. Maintain the Official Zoning Map and record all amendments to and information thereon;
    - c. Maintain an up-to-date digital copy of this ULDC for public inspection;
    - d. Provide public information relating to zoning matters including scheduled meetings of the Planning Commission and the Board of Adjustment;
    - e. Register and maintain records and maps of nonconforming uses, buildings, structures, lighting, landscaping, bufferyards, signs, parking, site access, site improvements, and lots;
    - f. Revoke permits or certificates in violation of the provisions of this ULDC.
  - 2. *Processing Permits and Applications.* The Director or the Director's designee shall:
    - a. Receive and log applications for development and land use applications pursuant to this ULDC;
    - b. Review application materials and verify that applications are complete;
    - c. Communicate with applicants to inform them that their applications are complete or not complete; and if the applications are not complete, what items are required to complete the application;
    - d. Manage the processing of applications according to [Division 7.2, Standardized Development Procedures](#);
    - e. Process and review all applications (or cause the applications to be reviewed) and either decide applications or make a recommendation regarding how the application should be decided (depending upon the type of application);
    - f. Set applications on agendas of the Planning Commission, Board of Adjustment, or the City Council, as appropriate;
    - g. Ensure that public notice is provided as may be required by the provisions of [Sec. 7.2.5, Public Notice Requirements](#); and
    - h. Promptly issue written permits, approvals, or order that reflect the substance of approval granted by the City pursuant to this ULDC.
  - 3. *Recommendations.* The Director or the Director's designee shall provide professional recommendations regarding:

- a. Whether applications that are placed on an agenda of the Planning Commission, Board of Adjustment, and City Council comply with the requirements of the ULDC, and, if not, whether conditions of approval could be imposed to bring the application into compliance (including specification of such conditions);
- b. Whether amendments to the Comprehensive Plan or this ULDC are advisable to, among other things:
  - i. Bring the Comprehensive Plan or this ULDC into conformity with state or federal requirements as they change over time;
  - ii. Respond to changing demographics, physical conditions, technological advancements, or economic conditions;
  - iii. Implement amendments to the Comprehensive Plan or other adopted plans of the City; or
  - iv. Resolve errors, internal inconsistencies, or other administrative matters.
- c. Whether amendments to the Comprehensive Plan or the ULDC that are proposed by persons or bodies outside of the City are appropriate to serve their stated purposes.

## Division 7.2 Standardized Development Procedures

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### Sec. 7.2.2 Pre-Application Conference

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- A. **Purpose.** The purpose of a pre-application conference is to familiarize the applicant with the submittal requirements and review procedures, including all applicable standards, the feasibility of the proposed land use activity, and any known constraints, hazards, or special conditions associated with the subject property.
- B. **Applications Requiring a Pre-Application Conference.**
  - 1. *Administrative Decisions.* Pre-application conferences are optional, but not required, for applications that are approved administratively in accordance with Division 7.3, *Administrative Decisions*. However, consultation with the Director is recommended prior to submittal of any application that is approved administratively regardless of whether or not the applicant requests a Pre-application conference.
  - 2. *Public Process Decisions.* Applications that are approved through a public process in accordance with Division 7.4, *Public Process Decisions*, may require a pre-application conference as indicated in Table 7.4.1, *Public Process Decisions*.
  - 3. *Director Discretion.* The Director shall have the discretion to require a pre-application conference for any application, including for those applications that are not otherwise required by this ULDC.
- C. **Timing.** A pre-application conference, when required, shall be held prior to submittal of a formal application. Following the pre-application conference, the applicant shall submit a formal application within six months of the pre-application conference date or shall require another pre-application conference prior to submitting a formal application.
- D. **Concept Plan.** The applicant shall submit a Concept Plan as a basis for discussion prior to the pre-application conference. The Concept Plan shall be of sufficient detail to accurately convey the concept, character, location, parcel size, and the size and scale of the proposed development. The applicant shall also submit additional materials as required by the Director to adequately review the proposed development or land use activity.
- E. **Disclaimer.** Outcomes of the pre-application meeting conference shall not imply, in whole or in part, any final decision on any application. The Concept Plan is not part of the formal application process and no comments made by the City in reaction to a Concept Plan shall be binding on the City's consideration of any subsequent application nor result in the vesting of any rights under this ULDC or any provisions of state or federal law.

### Sec. 7.2.3 Application Fees

---

- A. **Generally.** Every process and application established by this ULDC shall have a corresponding and appropriate application fee in accordance with the City's Schedule of Fees. All fees and charges are on file in the office of the Community Development Department.
- B. **Schedule of Fees.** No permit, certificate, special exception, variance, or other entitlement shall be issued unless and until such costs, charges, fees, or expenses are paid.
- C. **City's Submittal Requirements.** The City's submittal requirements are available for review in the Community Development Department and are posted online via the [permitting portal](#).
- D. **Expenditures and Reimbursements.** If the City incurs costs in excess of the amount paid by the applicant, the City shall invoice the applicant for recovery of those additional fees. Should the applicant fail to pay the City within 30 days

after written notice is issued, the City may place a lien on the property. An approval or entitlement document shall not be recorded with the Douglas County Clerk and Recorder unless and until such fees are paid in full.

### Sec. 7.2.4 Completeness Review

---

- A. **Generally.** The completeness review process is designed to ensure that an applicant has submitted all of the required information pursuant to this ULDC for the appropriate decision maker to make a decision on the application.
- B. **Complete Applications Required for Submittal.** No application shall be deemed submitted for purposes of this ULDC until such application has been determined to be complete.
  - 1. *Completeness Review Timeframe.* After a proposed application is received by the City, the City shall have a period of seven days to review the application pursuant to the regulations of this ULDC.
  - 2. *Determination of Completeness.* To be deemed complete the following is required:
    - a. The application materials are internally consistent and are presented as required by this ULDC and the applicable application forms;
    - b. Materials are prepared by qualified professionals (where such qualifications are required), and signatures and certifications are present, if required; and
    - c. The application materials are technically sufficient to demonstrate compliance with applicable standards of this UDLC.
  - 3. *Applications Deemed Complete.* Complete applications shall be processed according to the applicable standards and procedures of this UDLC.
- C. **Insufficient Applications.** An application is insufficient if it does not meet the standards of Subsection B, above.
  - 1. *Notification.* If an application is determined to be insufficient, the Director shall notify the applicant and provide a written explanation regarding the materials that must be submitted, or revisions that must be made, to continue processing the application.
  - 2. *Applicant Responsibility.* It is the responsibility of the applicant to submit the requested missing material. A substantive review of the application shall not occur until such time that the application is deemed to be complete.
  - 3. *Failure to Resubmit.* An application shall become void if the applicant fails to respond to notice of insufficiency within 30 days of such notice. See also Sec. 7.2.6, *Stale Applications*.

### Sec. 7.2.5 Public Notice Requirements

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- A. **Generally.** Public notice shall be required in accordance with Table 7.4.1-1, *Table of Public Process Decisions*.
- B. **Types of Notice.** There are three primary types of notice:
  - 1. *Posted Notice.*
    - a. Posted notice, when required, shall be posted by a sign on the subject property adjacent to the public right-of-way . On properties that do not have frontage on a public street, signs shall be posted on any portion of the subject property with visibility from a public right-of-way.
    - b. Such signs are required:
      - i. To be posted in at least two conspicuous locations that are within 300 feet of the exterior boundaries of the affected land and no less than 200 feet apart;
      - ii. To be located so that the lettering is visible from the street;
      - iii. To be at least three feet by four feet in dimension and located at least four feet above the ground; and
      - iv. To have letters of at least three inches in height.
    - c. A minimum of one sign shall be posted; however, additional signs may be required at the Director's discretion. The applicant shall pay a deposit equal to the cost of the sign for each sign obtained. The deposit shall be refunded to the applicant if the sign is returned in good condition to the Community Development Department within 30 days after the final hearing date.
  - 2. *Published Notice.* Published notice, when required, shall be published in a newspaper of general circulation in the City.
  - 3. *Notice by Mail.* Notice by mail, when required, shall be provided to all owners of real property through the United States Postal Service (USPS) that are located within 300 feet of the subject lot or within 200 feet of any other abutting lot under the same ownership as the subject property. If a common interest association has over 10 units, then notification shall be sent to the association's representative.

- C. **Content of Notice.** Regardless of whether the notice is posted, published, or mailed, the notice shall contain:
1. The time and place of the public hearing;
  2. A brief description of the land which is the subject of the matter of the public hearing;
  3. The type of application subject to the public hearing;
  4. A statement that the public is invited to review and comment on the matter to be heard;
  5. The method(s), location, and timing for inspecting the application materials prior to the public hearing; and
  6. Contact information for the City's Community Development Department.
- D. **Timeframe to Provide Notice.** The City, when required to provide notice, regardless of the type of notice that is required, shall provide such notice 15 days prior to the public hearing.
- E. **Constructive Notice.** Failure of a property owner to receive notice of a hearing shall not affect the validity of the final decision. For example, a mailed notice returned to the sender shall not prevent a decision making body from holding a public hearing nor shall it prevent the decision making body from making a final decision for a given application. Should questions arise during a public hearing regarding the adequacy of notice provided, the decision making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Section prior to making a decision on the subject application.

### Sec. 7.2.6 Stale Applications

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- A. **Generally.** This Section is intended to extinguish applications that become stale due to inaction by the applicant.
- B. **Procedures.**
1. *Failure to Respond.* When an action by the applicant is required for further processing of an application (for example, if revisions are requested after agency referrals), the application shall become void:
    - a. Six months after the date that the action is requested if the applicant either fails to take action or fails to request an extension of time pursuant to Subsection 2, below; or
    - b. Upon failure to timely provide requested information to make an application complete pursuant to Sec. 7.2.4, *Completeness Review*.
  2. *Extension.* The response time for an applicant may be extended by up to six additional months upon written request of the applicant before the end of the period set out in Subsection B(1), above.

### Sec. 7.2.7 Expiration of Approvals

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- A. **Generally.** Applicants shall diligently pursue completion of all work or other activity authorized or required by an approved development review application in accordance with the terms of their respective approvals.
- B. **Renewal of Approvals.**
1. Written requests for extensions shall be received no later than 30 days prior to the expiration of the approval.
  2. Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances justifies the request.
- C. **Extensions for Extraordinary Circumstances.** The Director may grant an extension for a period up to one year following a written request. In such cases, the applicant's written request for extension shall include reasonable cause based on extraordinary circumstances. Further extensions beyond one year, and the extent of such extensions, shall require approval by the City Council.

### Sec. 7.2.8 Appeals

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- A. **Generally.** This section sets forth the process for appealing decisions made pursuant to this ULDC by any administrative official, board or commission, or the City Council.
- B. **Submittal Requirements.**
1. *Persons Qualified to make an Appeal.* Appeals may be submitted by an affected applicant or by the owner of a property that is adjacent to the property that was subject of the application.
  2. *Timing of Appeal.* Appeal petitions pertaining to decisions relating to both Division 7.3, *Administrative Decisions*, and Division 7.4, *Public Process Decisions*, shall be filed in writing with the Administrator within 28 days of the date of the decision being appealed. Failure to file within 28 days shall cut off the right of appeal.
- C. **Procedures.**

1. *Types of Appeals.*
  - a. *Appeals of Administrative Decisions.* Appeals of administrative decisions shall be made to the Board of Adjustment.
  - b. *Appeals of Planning Commission Decisions.* Appeals of decisions made by the Planning Commission shall be to the City Council.
  - c. *Appeals of City Council or Board of Adjustment Decisions.* Appeals of decisions by the City Council or Board of Adjustment made pursuant to this ULDC shall be submitted to a court of competent jurisdiction.
2. *Scope of Review.* The appellate body shall schedule a public hearing to review the appeal based on the standards in this ULDC and the record of decision and shall act to uphold, modify, or overturn the decision to bring the decision into compliance with this ULDC. During such public hearing:
  - a. No evidence shall be presented to the appellate body that was not considered by the decision-making body; and
  - b. No issues shall be reviewed by the appellate body that were not described or obviously implied by the petition for appeal.

## Division 7.3 Administrative Decisions

### Sec. 7.3.1 Table of Administrative Decisions

Table 7.3.1, *Administrative Decisions*, summarizes the procedures involved in the administrative application processes. Detailed information about specific procedures and applications are further discussed within this Division.

Table 7.3.1 Administrative Decisions					
Administrative Decision Type	Procedure Reference <sup>1</sup>	Required For	Timing	Pre-Application Conference Required <sup>2</sup>	Issued By
Administrative Adjustment	Sec. 7.3.2	Requests for small specified deviations from otherwise applicable development standards	Prior to the approval of a Site Improvement Plan or Building Permit	No	Director
Final Plat	Sec. 7.3.3	Construction on (or sale of) lots	Following approval of a Preliminary Plat	Yes	Director
<u>Minor Subdivision</u>	Sec. 7.3.4	Subdivisions creating three or fewer lots; plat corrections; some replats and vacations of lot lines, easements, and building envelopes	When necessary following approval of a Preliminary Plat	Yes	Director
Building Permit	Sec. 7.3.5	Building, plumbing, or electrical construction or repair	Prior to beginning construction	No	Building Official
Sign Permit	Sec. 7.3.6	Placement, construction, location, or alteration of any sign	Prior to work on a sign	No	Director
Floodplain Development Permit	Sec. 5.1.4	Construction and development within an area of special flood hazard or flood-related erosion hazard	Prior to construction of a building or structure	No	Public Works Director / Floodplain Administrator
Written Interpretation	Sec. 7.3.8	The interpretation of the terms, provisions, or requirements of this ULDC when added clarity is necessary	After the submittal of a request for interpretation	No	Director
Temporary Use Permit	Sec. 7.3.9	The temporary uses as listed in Sec. 2.3.7, <i>Temporary Uses</i>	Prior to permitting of any land use that is designated as a temporary use	No	Director
Certificate of Occupancy	Sec. 7.3.10	Occupancy of a structure, vacant land, or the change in the use of specific structures	Prior to occupancy or change in the use of the structure	No	Director
Request for Reasonable Accommodation	Sec. 7.3.11	Relief from any land use regulation of this ULDC for reasons related to any applicable fair housing or disabilities law (e.g., Fair Housing Amendments Act, Americans with Disabilities Act, or applicable state law).	Prior to a Site Plan or Building Permit	No	Director

TABLE NOTES:  
 1. Standards are provided for cross-reference purposes only and do not exempt the application from all applicable standards of this ULDC.  
 2. For information concerning a pre-application conference, see Sec. 7.2.2, *Pre-Application Conference*.

### Sec. 7.3.2 Administrative Adjustment

- A. **Purpose.** An Administrative Adjustment allows for small-scale changes or modifications to be made to the development standards and thus allowing for approval by the Director. This process is designed to provide relief where the application of a standard creates practical difficulties in allowing development that otherwise complies with this ULDC.
- B. **Procedures.** The Director shall review a request for an administrative adjustment and approve, approve with modifications, or deny the adjustment based on the criteria in subsection C, below. When an administrative adjustment

is associated with an application that requires approval by the Planning Commission or City Council, that applicable decision making body shall review and decide the administrative adjustment request.

- C. **Specific Decision Criteria.** The Director may grant an Administrative Adjustment for legally platted lots that meet the criteria stated below. Such adjustment shall not, however, exceed 35 percent of the minimum lot requirements.
1. Any adjustment granted under the provisions of this Section shall meet all of the following criteria:
    - a. The adjustment will not alter the essential neighborhood character, nor will it substantially impair the permitted use or development of adjoining property;
    - b. The adjustment is consistent with the purpose of the applicable zoning district;
    - c. The adjustment shall be the minimum necessary to grant the request; and/or
    - d. The adjustment is of a technical nature and is required to mitigate an unusual condition, eliminate minor site issues, or to protect a community resource or asset.
  2. Adjustments granted under this provision shall be restricted to:
    - a. Minimum lot area requirements for legally platted lots which do not meet the minimum lot area required by the zone district regulations governing the area in which the lot is located;
    - b. Minimum lot width at the front setback line;
    - c. Parking design standards (See Sec. 3.1.6, *Parking Design Standards*); and
    - d. Building setbacks for primary and accessory structures.

### Sec. 7.3.3 Final Plat

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- A. **Purpose.** The purpose of a Final Plat is to complete the subdivision process and ensure compliance with an approved preliminary plat and associated standards within this ULDC. Details included in the final platting stage include final engineering plans, the subdivision improvement agreement (SIA), public dedication, and other legal agreements.
- B. **Connection to Preliminary Plat.**
1. *Compliance.* The Final Plat shall be in compliance with an approved Preliminary Plat.
  2. *Timeframe After Preliminary Plat Approval.* The Final Plat shall be submitted within one year of approval of the Preliminary Plat, or as extended pursuant to the procedures in [Sec. 7.4.10.G](#).
  3. *Concurrent Preliminary Plat Approval.* The Final Plat may be submitted concurrently with the Preliminary Plat, when approved by the Director, based upon, but not limited to, the following factors: design, size, public concern, public facilities, services, access, and transportation network.
- C. **Public Dedication of Land.** Any Final Plat dedicating land or right-of-way to the City shall require approval by the City Council. Such dedications shall require signature by the Mayor prior to recordation.
- D. **Recording.** The Final Plat and associated documentation shall be recorded with the Douglas County Clerk and Recorder within 30 days approval.

### Sec. 7.3.4 Minor Subdivision

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- A. **Purpose.** To provide an administrative review process for minor subdivisions and plat corrections that do not warrant substantial changes and do not alter the intent of the original subdivision.
- B. **Applicability.** The minor subdivision process may be used for:
1. Plat corrections;
  2. Replat of a lot line, easement, or building envelope;
  3. Vacation of a lot line or easement; and
  4. Subdivisions within an approved preliminary plat into three or fewer parcels.
- C. **Procedures.**
1. *Pre-application Conference.* Prior to submittal of a minor subdivision application, the applicant shall meet with staff to discuss the proposal, the procedures and submittal requirements, and is encouraged to meet with the Engineering Division and other referral agencies to identify potential issues and ways to address these issues.
  2. *Submittal Requirements.*

- a. The City will administratively correct misspellings on recorded plats by issuing an Affidavit of Correction. Staff shall mail an Official Notification form to affected landowners.
- b. A written narrative describing the requested subdivision or correction.
- c. For a road name change:
  - i. Verification by the City that the road name does not duplicate an existing road name in the City and that the proposed name is acceptable;
  - ii. Proof of ownership of land abutting, or accessed by, such road;
  - iii. A letter stating the reason for the requested change;
  - iv. A list of landowners abutting or accessing land by the road with their addresses, prepared by a licensed title insurance or abstract company; and
  - v. Notarized signatures of all such landowners supporting the road name change and the proposed name.
- d. For a lot line or easement vacation:
  - i. A reproduction of the platted lots on an 8.5" X 11" sheet of paper, or another size approved by the staff planner, including the abutting street(s). Indicate the lot line(s) vacated and the new lot number.
  - ii. A letter from all special districts providing service to the lots stating their recommendations regarding the vacation.
  - iii. When an easement is vacated, a letter from any known beneficiary stating their recommendation regarding the vacation and any existing facilities they have over or across the land.
- e. For a lot line adjustment:
  - i. A lot line adjustment exhibit including:
    - a. A certified boundary survey of the lots prepared by a professional land surveyor on an 8.5" X 11" sheet of paper, or another size approved by staff, that shows the existing and proposed lot/easement configuration with distances and bearings shall be provided when the lots affected can be clearly represented; otherwise,
    - b. A 24" X 36" plan exhibit shall be provided when the lots affected cannot be clearly represented on a smaller exhibit, as determined by staff; and
    - c. Vicinity map - a reduction of the filing showing the relationship of the lots to the filing.
  - ii. Letters from all special districts providing service to the lots and all known easement beneficiaries stating their recommendation regarding the lot line adjustment and any existing facilities they have over or across the land.

3. Review and Approval. Staff shall review the information and send a referral to the Assessor's mapping division and other agencies as necessary.

**D. Approval Criteria.** The minor subdivision may be approved if the Director finds that:

- 1. The minor subdivision is in accordance with all applicable standards and criteria, and the original conditions of approval;
- 2. The intent is not to circumvent the subdivision process;
- 3. The zoning is not changed as a result of the action;
- 4. The resulting lots comply with the applicable dimensional, development, and design standards in this ULDC;
- 5. Nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; and
- 6. Approval of such minor subdivision will not adversely affect the public health, safety, and welfare.

**E. Post Approval.**

- 1. The minor subdivision shall be recorded with the Douglas County Clerk and Recorder within 30 days of approval by the Director.
- 2. For plat corrections, a Plat Correction Certificate shall be prepared by the Director that identifies the error or omission, the plat to be corrected, its reception number, and the necessary corrective action.

3. For lot line and easement vacations, a Vacation Approval Certificate shall be prepared and signed by the owner, beneficiaries of the deed of trust, and the Director that identifies the affected plat, its reception number, the lot line(s) and/or easement(s) vacated, and reference to the vacation map, and the recommendation(s) of the special district(s), and easement holders, as applicable. Within 30 days of approval by the Director, the Director shall record the Vacation Approval Certificate and Vacation Map with the Douglas County Clerk and Recorder, and mail a copy of the recorded documents to the applicant.
4. For lot line adjustments, within 30 days of receipt of the deeds, the Director shall record the Lot Line Adjustment Certificate, Lot Line Adjustment Map, and deeds with the Douglas County Clerk and Recorder, and provide a recorded copy to the applicant.

### **Sec. 7.3.5 Building Permit**

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- A. **Purpose.** The building permit completes the review process for development applications and allows the applicant to begin vertical construction on the site.
- B. **Timing.** It shall be unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure, including surface and subsurface structures, or to move a structure from one property to another within the City without first obtaining a building permit. The plans, submitted with the building permit application, for the proposed development shall conform to all applicable provisions of this ULDC and shall be constructed in accordance with the City's Code of Ordinances.

### **Sec. 7.3.6 Sign Permit**

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- A. **Generally.** A sign permit shall be required for the placement of all permanent and temporary signage per Sec. 3.3.4, *Signs Requiring a Permit*.
- B. **Procedures.**
  1. *Application Review.* The Director shall examine the plans and specifications and the premises upon which the proposed sign is to be installed. The Director shall determine whether an application for a sign permit is complete within five days after it is submitted, and shall approve or deny the permit application within 15 days after receipt of a complete application. If an application is incomplete, the Director shall return it to the applicant, along with a notice specifying what must be included to complete the application. If the application is denied, the Director shall specify the reason for denial to the applicant in writing.
  2. *Building Official Review.* An application for a sign permit requiring electrical service or engineering shall be referred by the Administrator to the Building Official. The Building Official shall examine the plans and specifications to determine compliance with the adopted electrical code as a condition of granting the sign permit.
  3. *Decision.* The Administrator may approve, approve with conditions, or deny the application. The Administrator may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this ULDC.
  4. *Inspection.* The Director may inspect the sign to ascertain whether the structure is secure and in conformance with the permit application.
- C. **Master Sign Plan.** The approval of a master sign plan requires compliance with the standards of Sec. 3.3.9, *Master Sign Program*.

### **Sec. 7.3.8 Written Interpretation**

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- A. **Purpose.** The purpose of a written interpretation is to provide an applicant with the terms, provisions, or requirements of this ULDC when added clarity is necessary.
- B. **Standards.** The Administrator may base the interpretation on:
  1. *Materials or Scenario.* The materials or scenario posed by the applicant;
  2. *Word Meanings.*
    - a. The plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in a dictionary of common usage; and
    - b. The provisions of [Article 8, Word Usage](#).
  3. *Purpose Statements.* An applicable purpose statement that is subject to interpretation;
  4. *Law.* Any provision of this ULDC that is related to the same matter of state or federal law;

5. *Other Interpretations.* Other interpretations rendered by the Administrator associated with the same or related provisions of this ULDC;
  6. *Legislative History.* The legislative history of the provision subject to interpretation; or
  7. *Other Sources.* Sources outside of the ULDC that provide additional information on the provision in question, such as technical or professional literature.
- C. **No Legal Advice.** No written interpretation shall be construed as legal advice.
- D. **Final Decision.** For purposes of appeal, a Written Interpretation is deemed a final decision. An appeal of a Written Interpretation shall take place in accordance with [Sec. 7.2.8, Appeals](#).
- E. **Recordkeeping.** The Administrator shall keep records of interpretations made pursuant to this Section, which may periodically be presented to the Planning Commission and used for consideration of text amendments in accordance with [Sec. 7.4.3, Text Amendments](#).

### **Sec. 7.3.9 Temporary Use Permit**

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- A. **Purpose.** The purpose of a Temporary Use Permit is to ensure that temporary uses comply with the requirements of this ULDC, including [Sec. 2.3.7, Temporary Uses](#), and that they do not become permanent uses or structures.
- B. **Applicability.** A Temporary Use Permit is required before establishing, constructing, or installing any temporary use or structure designated as requiring a Temporary Use Permit in [Sec. 2.3.7, Temporary Uses](#).
- C. **Specific Decision Criteria.** The use or structure conforms to the standards set out in [Sec. 2.3.7, Temporary Uses](#), and is compliant with other requirements in this ULDC.
- D. **Additional Conditions.** The Administrator, in coordination with other City staff, may establish additional conditions that are desirable to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets, or the City as a whole. These may include, but are not limited to, the following:
1. *Hours of Operation.* The modification or restrictions on hours of operation;
  2. *Clean Up.* Posting of a performance bond to ensure clean up and removal of signs, equipment, trash, and other similar items; or
  3. *Attendance.* Limitations on the attendance of an event.
- E. **Extension.** The property owner may extend a Temporary Use Permit for an additional 30 days by written approval of the Administrator if:
1. The use has been operated during the previous approval period in conformance with the conditions for approval specified at that time; and
  2. There have been no convictions for violations of the applicable provisions of this ULDC.

### **Sec. 7.3.10 Certificate of Occupancy**

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- A. **Purpose.** A Certificate of Occupancy certifies compliance with Chapter 18, *Building Regulations*, of the City's Municipal Code. A temporary Certificate of Occupancy certifies substantial compliance with Chapter 18, Building Regulations, of the City's Municipal Code.
- B. **Applicability.** A Certificate of Occupancy or Temporary Certificate of Occupancy is required prior to the occupation of a building and prior to conversion of residential use to a nonresidential use, or vice versa.
- C. **Requirements for Issuance.** Certificate of Occupancy permits shall be issued only upon a finding that all requirements of this ULDC, the building codes adopted by the City, and all other applicable portions of this ULDC have been met. A Temporary Certificate of Occupancy may be issued when the City finds substantial compliance with requirements of the ULDC, the building codes, and the associated building permit.
- D. **Records.** A record of all Certificates of Occupancy shall be kept on file in the office of the Community Development Department.

### **Sec. 7.3.11 Request for FHA Reasonable Accommodation**

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- A. **Purpose.** This section allows the Administrator to grant accommodations in the application of land use regulations, policies, and procedures to persons with disabilities or handicaps seeking equal access to housing under applicable Federal or State housing or disabilities law.

- B. **Initiation.** The request for relief from any land use regulation or procedure in this ULDC necessary to ensure equal access to housing for an individual with a disability may come from the person with a disability or handicap, his or her representative, or a developer or provider of housing for individuals with disabilities.
- C. **Submittal.** The request shall be submitted in writing on a form provided by the Administrator, or in another manner deemed acceptable by the Administrator, along with any additional information required.
- D. **Specific Decision Criteria.** In determining whether to approve, approve with modifications, or deny a proposed Request for Reasonable Accommodation, review bodies shall determine the following:
  - 1. Whether the dwelling unit will at all times be used by an individual or group of individuals with a qualifying disability or handicap;
  - 2. Whether the requested accommodation is necessary to afford persons with disabilities equal opportunities to use and enjoy housing;
  - 3. Whether the requested accommodation is reasonable under the factual circumstances;
  - 4. Whether the requested accommodation will impose an undue financial or administrative burden on the City or will require a fundamental alteration of the subject rules, regulations, ordinances, policies, and practices;
  - 5. Whether adequate measures are in place to mitigate potential negative impacts to surrounding properties; and
  - 6. Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit to the applicant.
- E. **Decision.** The request may be approved, conditionally approved or denied in accordance with all applicable housing and/or disabilities law and the provisions of this Section.
  - 1. If the request is approved or approved with conditions, the request is granted to a disabled individual or individuals and shall not run with the land unless the request requires a physical modification of a structure that cannot be easily removed or altered.
  - 2. The accommodation may continue to be used and maintained only by the individual or individuals with a disability under the Fair Housing Amendments Act and must be re-applied for annually.
  - 3. If the applicant is a provider of housing for persons with a disability, the applicant shall certify to the following in writing as a condition of approval:
    - a. Unless approved as a Group Home or Group Care Facility, the property will not be used as temporary shelter for homeless persons during the term of the reasonable accommodation nor to provide any treatment or care;
    - b. The provider will comply with this ULDC and all provisions of the City's Municipal Code with the exception of those provisions that have been waived or modified as part of the approved request;
    - c. The property is designed and intended for persons with disabilities as defined by the Fair Housing Amendments Act and that the provider will notify the City if the intended use of the property changes; and
    - d. The provider will maintain liability insurance.
  - 4. In the event the application is denied, the decision may be appealed to the City Council, who shall hold a hearing on the appeal as close as possible to within 30 days of the receipt of the request for appeal.
- F. **Termination of Reasonable Accommodation.** In the event that any condition placed upon a grant of reasonable accommodation is violated or the property is no longer used and maintained only by an individual or individuals with a disability under the Fair Housing Amendments Act, the reasonable accommodation shall automatically terminate and the property shall be subject to the same land use regulations, policies, and procedures as any other similarly situated dwelling in the City.

### **Sec. 7.3.13 Visual Impact Assessment**

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See Sec. 2.3.5, *Wireless Communication Facilities*, and Sec. 5.2.4, *Visual Impact*.

### **Sec. 7.3.14 Eligible Facilities Request**

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Refer to Sec. 2.3.5.E, *Review Procedures and Requirements*, for information on the application for and procedures to receive an Eligible Facilities Request.

## **Division 7.4 Public Process Decisions**

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## Sec. 7.4.1 Table of Public Process Decisions

Table 7.4.1, *Public Process Decisions*, summarizes the procedures involved in the legislative application processes. Detailed information about specific procedures and applications are further discussed in this Division.

Table 7.4.1-1 Public Process Decisions						
Approval Type	Procedure Reference	Required For	Timing	Pre-Application Conference Requirement <sup>1</sup>	Public Notice Required (Sec. 7.2.5)	Issued By
Annexation	Sec. 7.4.2	Incorporation of parcels of property into the City's municipal limits.	Prior to any changes to the City's Official Zoning Map	No	Mailed Posted Published	City Council
Text Amendment	Sec. 7.4.3	Amendments, supplements, or changes to the text of the ULDC	Prior to any modifications to the text of this UDC.	No	Published	City Council
Rezoning	Sec. 7.4.4	Prior to establishing or expanding a use or residential density prohibited in the current zoning district.	Prior to any modifications to the City's Official Zoning Map	Yes	Mailed Posted Published	City Council
Site Improvement Plan	Sec. 7.4.5	New commercial or multifamily development or a change in use of a property	Prior to changes in use or new development of commercial or multifamily	Yes	Mailed Posted Published	Planning Commission
Site Improvement Plan Modifications	Sec. 7.4.5	Approval of minor and major modifications to approved SIPs	Prior to issuance of a permit	Yes	Minor: None Major: Mailed Posted Published	Minor: Director Major: Planning Commission
Planned Unit Development (PUD)	Sec. 7.4.6	Establishing a PUD district designation on a parcel or group of parcels to negotiate the terms of development not otherwise permitted by a base zone district	Prior to rezoning of property to PUD and preparation of development plan	Yes	Mailed Posted Published	City Council
PUD Amendments	Sec. 7.4.6	Approval of minor and major modifications to approved PUDs	Prior to issuance of a permit or a development plan	Yes	Minor: None Major: Mailed Posted Published	Minor: Director Major: City Council
Use by Special Review Permit	Sec. 7.4.8	Uses in specific zoning districts that are not permitted by right	Prior to use of a site with the special use as proposed	Yes	Mailed Posted Published	Planning Commission
Preliminary Plat	Sec. 7.4.10	Reviewing the overall plan for a proposed subdivision to ensure compliance with this ULDC and required infrastructure improvements	Prior to Final Plat application submittal	Yes	Mailed Posted Published	City Council
Replat	Sec. 7.4.11	Proposed additions for additional lots or public rights-of-way to an existing recorded plat without prior vacation.	Prior to issuance of a building permit on subject property	Yes	Mailed	City Council
Street Plat and Easement Vacation	Sec. 7.4.13	Road vacation and realignment	Prior to a Replat application, or the vacation of a road	Yes	Mailed	City Council
Wireless Communication Facilities Permit	Sec. 2.3.5	Installation of a WCF	Prior to the installation of a WCF	Yes	None	Administrator or City Council <sup>2</sup>

**Table 7.4.1-1  
Public Process Decisions**

Approval Type	Procedure Reference	Required For	Timing	Pre-Application Conference Requirement <sup>1</sup>	Public Notice Required (Sec. 7.2.5)	Issued By
Variances	<a href="#">Sec. 7.4.14</a>	Limited relief from the standards required by this ULDC	Prior to commencement of any work not permitted by this ULDC.	Yes	Mailed Posted Published	Board of Adjustment
Floodplain Variance	<a href="#">Sec. 5.1.4.I</a>	Relief from flood hazard reduction standards	Prior to issuance of a permit for development within a flood hazard area	Yes	Mailed Posted Published	Planning Commission

- A. For information concerning a pre-application conference, see [Sec. 7.2.2, Pre-Application Conference](#).
- B. Eligible Facility Requests may be approved by the Administrator. All other applications are approved by the City Council.

## Sec. 7.4.2 Annexation

- A. **Generally.** This Section sets out the procedures and requirements for annexing land into the City's municipal limits.
- B. **Applicability.** This Section applies to all petitions to annex land into the City.
- C. **Annexation Procedure.**
1. *Submittal Requirements.* An annexation application that includes the following must be submitted to the City:
    - a. Annexation petition in accordance with [Article II, Section 30\(1\)\(b\)](#) of the Colorado Constitution;
    - b. Annexation map showing the property to be annexed;
    - c. All requirements as applicable per C.R.S. § 31-12-101 et seq.; and
    - d. All requirements as applicable per [Sec. 7.2.3, Application Requirements and Fees](#).
  2. *Zoning and Development Permits.* Annexations may be considered concurrently with zoning and development permits provided the City Council approves the annexation prior to the effective date of the zoning or development permit. When concurrent processes are considered, the Planning Commission shall hold a public hearing on the matter of such annexation and shall make a recommendation to the City Council on the associated rezoning or development permit application.
    - a. *Annexation Agreement.* Owners of land petitioning the City for annexation of their property shall, at the discretion of the City Manager, enter into an annexation and development agreement with the City stating any terms and conditions applicable to said property, prior to the first reading of the annexation ordinance. Upon annexation, such agreements shall be recorded with the Douglas County Clerk and Recorder.
    - b. *Review and Approval by City Council.* The City Council shall hold a public hearing to review and make a decision on the proposed annexation, annexation and development agreement, and zoning and development permits, as applicable. Such decision shall be consistent with state statutes, the City's annexation policies, the Comprehensive Plan, and the City's Three-Mile Plan.
    - c. *Effective Date of Annexation.* An annexation becomes effective 30 days after publication, and is typically published the first Sunday after the City Council meeting at which the second reading of the annexation ordinance occurs.
    - d. *Public Improvements.* Where the annexation agreement provides that the City may install public improvements and that the owners of the annexed property will pay for such improvements, the costs of such improvements constitute an assessment against the annexed property as they accrue. If, after notice, any such assessment is not paid when due, the City Manager shall certify the amount of the principal, interest, and penalties due and unpaid, together with 10 percent of the delinquent amount for costs of collection to the County Treasurer to be assessed and collected in the same manner as general taxes are assessed and collected as provided by State Statute.
- D. **Public Notice.** See [Sec. 7.2.5, Public Notice Requirements](#).

## Sec. 7.4.3 Text Amendment

- A. **Generally.** The City Council may amend the text of this ULDC in accordance with this Section to:
  1. Implement the Comprehensive Plan, as may be periodically amended;
  2. Conform to state or federal legal requirements;
  3. Address changing or changed conditions; and/or
  4. Advance the public health, safety, and welfare of the City.
- B. **Initiation.** Requests for amendments to change, supplement, modify, or repeal any portion of the text of the ULDC may be initiated in writing by the City Council, Planning Commission, or the Director.
- C. **Text Amendment Procedures.** After evaluation of the proposed amendment, referral comments, the staff report, public testimony, and recommendation for the City Council, the City Council shall, after due notice, conduct a Public Hearing on the proposed amendment. At the hearing, the City Council shall evaluate the amendment proposal, referral agency comments, staff report, the Planning Commission recommendation, and public testimony. The City Council shall approve, approve with modifications, table for further study, remand to the Planning Commission, or deny the amendment proposal.
- D. **Specific Review Criteria.** In determining whether to approve, approve with modifications, or deny a proposed ULDC text amendment, review bodies shall consider the following:
  1. *Errors.* The amendment is necessary to correct an error or inconsistency in the ULDC; or
  2. *Changing Conditions.* The amendment is necessary to meet the challenge of a changing condition that was not anticipated in the Comprehensive Plan; or
  3. *General Improvements.* The amendment would improve the development patterns in the community or otherwise improve compatibility among or within zoning districts and land uses.
- E. **Recording.** If approved, a copy of the amendment shall be recorded with the Douglas County Clerk and Recorder.
- F. **Annual Review.** The Director shall review the ULDC at least once per year to determine necessary amendments.

#### **Sec. 7.4.4 Rezoning**

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- A. **Generally.** The Rezoning procedure is established to amend the official zoning map of the City of Castle Pines to reflect changes in policy or conditions. The zoning district classification of any parcel of land within the City may be amended using the Rezoning procedure. Changes to the characteristics of development that apply within a zoning district shall be amended through the Text Amendment procedure in Sec. 7.4.3.
- B. **Initiation.** Requests for amendments to rezone a property or properties may be initiated in writing by the Planning Commission, the City Council, or any applicant.
- C. **Rezoning Procedures.** After the submittal of a rezoning amendment request, the following shall occur:
  1. The Director or the landowner shall prepare the amendment request. The Director shall forward the request to appropriate referral agencies for review and comment.
  2. The Director shall schedule a public hearing before the Planning Commission and publish a notice in the newspaper in accordance with Sec. 7.2.5, *Public Notice Requirements*.
  3. The Director will review all comments and suggestions and prepare a staff report for the Planning Commission.
  4. The Planning Commission shall evaluate the proposed map amendment, staff report, referral agency comments, and public testimony, then, make a recommendation to the City Council to approve, approve with modifications, table for further study, or deny the proposed rezoning.
  5. City Council shall hold a public hearing to evaluate the proposed rezoning, staff report, referral agency comments, public testimony, and the Planning recommendation. City Council shall approve, approve with modifications, table for further study, remand to the Planning Commission, or deny the rezoning.
- D. **Specific Review Criteria.** In determining whether to approve, approve with modifications, or deny a proposed rezoning, review bodies shall consider whether the rezoning:
  1. Is consistent with the Comprehensive plan and the purposes of this ULDC;
  2. Is consistent with the purpose and intent of the proposed zoning district;
  3. Is necessary due to substantial changes in policy or changes in the area subject to the rezoning;
  4. Will not result in significant adverse impacts on the surrounding properties or neighborhood;
  5. Is appropriate given public facilities and services available to serve the subject property; and/or
  6. Is necessary to correct an error when the current zoning was established.

- E. **Recording.** If approved, a copy of the zoning amendment shall be recorded with the Douglas County Clerk and Recorder. The Director shall update the official zoning map of the City as soon as practicable.

### **Sec. 7.4.5 Site Improvement Plan**

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- A. **Generally.** The Site Improvement Plan (SIP) process is required to ensure development will be consistent with this ULDC, and all applicable federal, state, and local standards. The process encourages sustainable design through water conservation, passive energy benefits through appropriate site design, and supports multimodal transportation options and the use of alternative energy sources, when appropriate.
- B. **Applicability.** A SIP shall be required for any use or change in use for any development other than single family detached and City-owned facilities. Proposed changes to an approved SIP shall be processed as either a revision or modification to an approved SIP. Except as otherwise provided herein, building permits shall not be issued for any development that does not have an approved SIP or is not in conformance with the approved SIP.
- C. **Initiation.** Requests for an SIP may be initiated in writing by any applicant after meeting with City Staff to review the proposal, discuss procedures, and discuss submittal requirements.
- D. **Procedures and Public Hearing.** After the submittal of a SIP proposal, the following shall occur:
1. Staff shall distribute information to and collect comments from referral agencies;
  2. The applicant shall submit a revised SIP that addresses comments;
  3. Staff shall schedule a public meeting before the Planning Commission;
  4. The Planning Commission shall consider referral agency comments, applicant responses, and a staff report, and shall approve, approve with conditions, or deny the application; and
  5. If approved, the applicant shall submit one final plan set.
- E. **Specific Decision Criteria.** In determining whether to approve, approve with modifications, or deny a proposed SIP, review bodies shall consider whether the rezoning would allow the following criteria to be met:
1. In conformance with the standards as set out in this ULDC and any adopted design guide by the City;
  2. Supports the goals and objectives of the City of Castle Pines [Comprehensive Plan](#); and
  3. Furthers the public health, safety, and welfare of the community.
- F. **Minor Modifications to an Approved Site Improvement Plan.** The Director may approve minor modifications to an approved SIP administratively without requiring a new site improvement plan application provided the proposed modifications:
1. Would be allowed as an administrative adjustment pursuant to the requirements in Sec. 7.3.2;
  2. Comply with the standards in this ULDC; and
  3. Would not substantially alter the function, form, intensity, or impact on adjacent properties or the community at large.
- G. **Major Modifications to an Approved Site Improvement Plan.** Any modification not meeting the standards in subsection F, above, shall require approval by the Planning Commission pursuant to the procedures in subsection D, above.

### **Sec. 7.4.6 Planned Unit Development**

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- A. **Purpose.** The purpose of the Planned Unit Development (PUD) process is to encourage innovative and creative design and to facilitate a mix of use in the development of a balanced community including residential, business, commercial, recreational, open space, and other selected secondary uses that could not otherwise be achieved through the strict application of the ULDC. The PUD district is characterized by neighborhoods balanced in terms of scale and identity and as a complete community with adequate schools, parks, employment opportunities, convenience retail; health services and public transit. Pedestrian, bicycle, and automobile circulation should include connections between neighborhoods, community facilities, employment centers, and shopping centers. Growth should occur in a phased and contiguous manner to save on the costly, premature extension of basic infrastructure. Development within the PUD district shall:
1. Ensure that provision is made for ample open space;
  2. Ensure that environmentally and visually sensitive areas are preserved;
  3. Promote layout, design and construction of residential development that is sensitive to the natural land form and environmental conditions of the immediate and surrounding area;

4. Provide or be located in proximity to employment and activity centers such as shopping, recreational, and community centers, health care facilities, and public transit;
  5. Ensure the adequacy of public facilities to accommodate population growth;
  6. Promote balanced developments of mixed housing types;
  7. Encourage the provision of dwellings with a range of affordability; and
  8. Otherwise implement the stated purpose and intent of this Ordinance and the City Comprehensive Master Plan.
- B. Applicability.** Development in this district is permitted only in accordance with a development plan prepared and approved in accordance with this Section and the ULDC.
- C. Procedures.**
1. *Pre-submittal Meeting.* Prior to submittal of a Planned Unit Development rezoning application, the applicant shall meet with staff to review the proposal and discuss the procedures and submittal requirements. The applicant shall contact the Director and schedule a pre-submittal meeting which may include the Engineering staff and other referral agencies, as deemed necessary. The applicant shall provide the following:
    - a. A schematic plan illustrating the location and relationship of proposed uses by planning area, including access, street network, trails, parks, open space, connections to neighborhoods;
    - b. Preliminary evidence of the availability of services, including schools, fire and sheriff protection, parks, utilities such as water, sanitary sewer, electricity, and gas; and
    - c. A description of the site regarding natural and man-made hazards, soils, vegetation, water features, drainage, and wildlife movement areas.
  2. *Submittal Requirements.* A PUD application shall include:
    - a. A completed application form;
    - b. Application fee;
    - c. Proof of ownership, which may be updated or current title insurance policy or title commitment no more than thirty days old from the date of application;
    - d. Notarized letter of authorization from the landowner permitting a representative to process the application, as necessary;
    - e. Project summary;
    - f. Plan exhibit;
    - g. Development Plan;
    - h. A copy of the staff comments from the pre-submittal review and any additional information, as requested by staff; and
    - i. Evidence of a sufficient water supply.
  3. *Referral Review.* The Director shall forward the request to appropriate referral agencies for review and comment.
  4. *Staff Report.* The Director shall prepare a staff report for consideration by the Planning Commission.
  5. *Public Hearings.*
    - a. The Director shall schedule a public hearing before the Planning commission and publish notice in accordance with [Sec. 7.2.5, Public Notice Requirements](#).
    - b. The Planning Commission shall evaluate the proposed PUD, staff report, referral agency comments, and public testimony and shall make a recommendation to the City Council to approve, approve with modifications, table for further study, or deny the proposed PUD.
    - c. The City Council shall hold a public hearing to evaluate the proposed PUD, staff report, referral agency comments, Planning Commission recommendations, and public testimony and shall approve, approve with modifications, remand to the Planning Commission, table for further study, or deny the PUD.
- D. Recording.** Upon approval by the Council, and submittal of required materials within the established time frame, the Director shall record the PUD with the Douglas County Clerk and Recorder.
- E. Amendments to Approved PUDs.**
1. *Minor Amendments.* Minor amendments to an approved PUD may be approved by the Director if the proposed amendment:
    - a. Does not change the ratio of residential units to square feet of non-residential space by more than 10 percent.
    - b. Does not change the the allowed uses.

- c. Does not increase the number of residential units by 10 percent.
  - d. Does not increase the square feet of nonresidential by more than 10 percent.
  - e. Does not change the maximum height of structures.
  - f. Does not adjust any other standard more than would otherwise be allowed through the Administrative Adjustment procedure pursuant to Sec. 7.3.2.
  - g. Any projected increases in traffic volume are within the design capacities of the existing or planned internal and adjacent public street system;
  - h. The existing or planned internal and adjacent public utilities have adequate capacities to serve the proposed amendment;
  - i. Off street parking or loading space meets the applicable minimum requirements; and
  - j. The basic content of the amended approved plan will remain in conformance with the originally approved plan.
2. Major Amendments. Any proposed modification that does not meet the criteria listed in subsection 1, above shall be deemed a major amendment and shall require a new application and rezoning pursuant to this Section 7.4.6.
- F. **List of Existing PUDs.** See Appendix A, *Planned Unit Developments*, for a summary of the individual PUDs that have been approved by the City.

### **Sec. 7.4.8 Use by Special Review Permit**

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- A. **Purpose.** The purpose of a Use by Special Review Permit is to provide for uses in specific zoning districts that shall require a public notice and hearing and the approval of the Planning Commission subject to such conditions and safeguards as may be imposed by the Commission.
- B. **Prerequisite.** The applicant shall meet with the Director informally to discuss the request and to determine the submittal requirements, dependent upon the size and nature of the proposal.
- C. **Procedures and Public Hearing.**
1. *Submittal Requirements.* The following information shall be submitted to the Planning Department, unless waived by the Director:
    - a. Completed land use application;
    - b. Application fee;
    - c. Proof of ownership that includes an updated or current title insurance policy or title commitment no more than thirty days old from the date of application;
    - d. A notarized letter of authorization from the landowner permitting a representative to process the application;
    - e. Narrative;
    - f. Plan Exhibit and Plan Reductions;
    - g. Site Improvement Plan
    - h. Management/Operational Plan; and
    - i. Evidence of a sufficient water supply in accordance with Sec. 5.2.2, *Water Quality, Quantity, and Dependability*.
  2. *Submittal Process.*
    - a. The applicant shall submit one copy of the submittal to the Planning Division.
    - b. The submittal shall be reviewed for completeness within 15 working days. The applicant shall be notified of any inadequacies. An incomplete submittal shall not be processed.
    - c. Once the submittal is determined complete, staff will notify the applicant of the number of copies of the plan exhibit required to be submitted for distribution to referral agencies. Referral packets shall be provided by the applicant in unsealed manila envelopes, addressed to the appropriate referral agency, with all submittal information properly folded and compiled. The staff shall mail the referral packets.
    - d. The applicant shall also provide stamped envelopes addressed to the adjacent landowners, and other landowners as required by staff for notification of the Use by Special Review application.
    - e. Referral agencies shall comment within 35 days of receiving a complete submittal. The applicant is encouraged to meet with the Planning staff, referral agencies and other interested parties to address the referral concerns.

- f. The Staff Planner will review the referral comments, discuss the concerns with the applicant, prepare a staff report for the Planning Commission, and notify the applicant of the hearing date and time.
  - g. The applicant is responsible for posting a notice on the property and publishing a notice in the newspaper, prior to the Planning Commission hearing, in compliance with [Sec. 7.2.5, Public Notice Requirements](#).
  - h. The Planning Commission shall evaluate the Use by Special Review, referral agency comments, staff report, and public testimony, and shall approve, conditionally approve, table for further study, or deny the Use by Special Review. The Commission's decision shall be based on the evidence presented, compliance with the adopted City standards, regulations, policies, and other guidelines.
  - i. The applicant shall be responsible for posting a notice on the land and publishing a notice in the newspaper, prior to the Council hearing, in compliance with [Sec. 7.2.5, Public Notice Requirements](#).
  - j. For applications that propose a water supply from an Existing District as described in the Water Supply-Overlay District, at least 21 days prior to the public hearing the applicant shall submit a copy of a fully executed inclusion agreement, which may be contingent upon the Commission's approval of the special use and subject to review of the inclusion agreement by Council.
  - k. If denied by the Commission, the submittal of a new application and processing fee shall be required in order to pursue the proposed Use by Special Review. A resubmittal of an application for the same or substantially same request, as determined by the Director, shall not be accepted within one year of such denial. The applicant may appeal the decision of the Director, in writing, to the Council within 10 days from the date of the decision.
  - l. For applications that propose a water supply from an Existing District as described in the Water Supply-Overlay District, the applicant shall submit evidence of inclusion of the property into the Existing District prior to approval of the Site Improvement Plan.
  - m. For applications that propose a water supply from a New Special District that will enter into an intergovernmental agreement with an Existing or Extraterritorial District as described in the Water Supply – Overlay District, the applicant shall submit evidence of creation of the New Special District, evidence of execution of the intergovernmental agreement by both parties, and evidence of inclusion of the property into the New Special District prior to approval of the Site Improvement Plan.
  - n. For applications that propose a water supply from an Existing District or from a New Special District that has entered into an intergovernmental agreement with an Existing or Extraterritorial District as described in the Water Supply-Overlay District, the applicant shall submit evidence that the water rights necessary to serve the development have been conveyed to the Existing or Extraterritorial District, and/or that the water credits to serve the development have been purchased from the Existing or Extraterritorial District, prior to approval of the Site Improvement Plan.
3. *Withdrawal of an Application.* A request to withdraw an application shall be submitted, in writing, to the Planning Division, staff planner. Withdrawal of the application shall preclude reactivation. The submittal of a new application and processing fee shall be required in order to pursue the proposed Use by Special Review.
- D. **Special Decision Criteria.** In determining whether to approve, approve with modifications, or deny a proposed Use by Special Review Permit, the Planning Commission shall consider whether the proposed use:
1. Complies with the minimum zoning requirements of the zoning district in which the special use is to be located, as set forth in this ULDC;
  2. Complies with the requirements of this Section and [Appendix A, Planned Unit Development](#);
  3. Complies with [Article 4, Subdivision Standards](#);
  4. Will be in harmony and compatible with the character of the surrounding areas and neighborhood;
  5. Will be consistent with the City's Comprehensive Plan, as amended;
  6. Will not result in over-intensive use of land;
  7. Will not have a material adverse effect on community capital improvement programs;
  8. Will not require a level of community facilities and services greater than that which is available;
  9. Will not cause significant air, water, or noise pollution;
  10. Will be adequately landscaped, buffered, and screened;
  11. Will have sufficient water supply in terms of quantity, dependability, and quality as determined in conformance with the standards set forth in [Sec. 5.2.2, Water Quality, Quantity, and Dependability](#); and
  12. Will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of the City.

- E. **Length of Approval.** A special use shall be permitted for a duration of time specified by the Commission or until the land use changes or is terminated, whichever occurs first. The use by special review may transfer with the sale of the land.
- F. **Annual Review.** Each special use is subject to yearly review, or as often as the Commission deems appropriate to ensure compliance with the approval standards and conditions of approval.
- G. **Special Uses in Revised PUDs.** Special uses specified in a PUD shall follow the procedures in this Section 7.4.8, unless the PUD includes specific procedures addressing special uses.
- H. **Recording.** The City shall maintain a file containing all documents relevant to the application and disposition of a Use by Special Permit.

### **Sec. 7.4.10 Preliminary Plat**

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- A. **Purpose.** The purpose of the Preliminary Plat is to provide an in-depth analysis of the proposed subdivision including a refinement of the design considering the geologic hazards, wildlife habitat/corridors, environmentally sensitive areas, source of required services, vehicular/pedestrian circulation, and relationship to surrounding land uses. The development plan and reports shall include relevant statutory requirements as amended.
- B. **Initiation.** The Preliminary Plat shall be submitted by the applicant after meeting with staff to discuss the procedures and submittal requirements. The pre-application conference may be waived by the Director.
  - 1. *Pre-application Conference.* The applicant shall contact the Development Review Manager and schedule a pre-application conference which may include the Engineering staff and other referral agencies, as deemed necessary, e.g. Division of Wildlife. The applicant shall provide the following:
    - a. A schematic plan depicting the lot layout, access, street network, trails, parks, open space, connections to neighborhoods;
    - b. An analysis of the availability of services, including at a minimum schools, fire and sheriff protection, parks, water and sanitation; and
    - c. A description of the site regarding natural and man-made hazards, soils, vegetation, water features, drainages, wildlife movement areas.
  - 2. *Staff Comments.* The staff shall provide comments regarding the proposed subdivision design, compliance with the subdivision and zoning regulations and the Master Plan, and explain the subdivision process.
  - 3. *Meeting Summary.* A written meeting summary shall be provided to the applicant, and to the Planning Technician for inclusion in the Preliminary Plat file.
- C. **Procedures and Public Hearing.**
  - 1. *Submittal Requirements.* The following information shall be submitted to the Planning Department, unless waived by the Director:
    - a. Completed land use application;
    - b. A written narrative which, at a minimum, provides the following:
      - i. The total land area to be subdivided;
      - ii. The total number of lots;
      - iii. The density;
      - iv. The total land area to be preserved as open space; and
      - v. Phasing of the proposed subdivision.
    - c. Water Supply Summary Sheet;
    - d. Application fee;
    - e. Proof of ownership that includes an updated or current title insurance policy or title commitment issued no more than thirty days prior to the date of application;
    - f. A notarized letter of authorization from the landowner permitting a representative to process the application, when the landowner is not the applicant;
    - g. Plan exhibit and plan reductions;
    - h. Development Reports;

- i. Engineering plans - including drainage plans, roadway design, and construction plans - and fees shall be submitted to the Engineering Division;
- j. Phase III drainage plans and final roadway design and construction plans shall not be submitted to the Engineering Division prior to preliminary plan approval, unless approved by the Director based upon, but not limited to, the following factors: design, size, public concern, public facilities, services, access and transportation network; and
- k. Any additional information, as requested by staff.

2. *Submittal Process.*

- a. The applicant shall submit one copy of the complete submittal to the Planning Department. The submittal shall be reviewed for completeness within 15 working days. The applicant will be notified of any inadequacies. An incomplete submittal will not be processed.
- b. Once the submittal is determined complete, staff will notify the applicant of the number of copies of the Preliminary Plat required for distribution to referral agencies. Referral packets shall be provided by the applicant in unsealed manila envelopes, addressed to the appropriate referral agency, containing all submittal information properly folded and compiled. The staff shall mail the referral packets. The applicant shall distribute any revised plans, as required by staff.
- c. The applicant shall provide stamped envelopes addressed to the adjacent landowners and other landowners, as required by staff, for notification of the Preliminary Plat application.
- d. The referral agencies shall comment within 21 days of receiving a complete submittal unless an extension of no more than 30 days is consented to by the subdivider. The applicant is encouraged to meet with the referral agencies, staff, and public interest groups to address any concerns prior to the end of the referral period. The applicant is required to pay those fees assessed by referral agencies.
- e. The staff planner will review the referral comments, discuss the concerns with the applicant, prepare a staff report for the Planning Commission, and notify the applicant of the date and time of the public meeting, unless the City Council or Director requires a public hearing based upon the following factors: design, size, public concern, public facilities and services, access, or the transportation network. If a public hearing is required, the applicant is responsible for posting a notice on the land and publishing a notice in the newspaper, prior to the Planning Commission hearing, in compliance with [Sec. 7.2.5, Public Notice Requirements](#).
- f. The Planning Commission shall evaluate the application, staff report, referral comments, public testimony, and make a recommendation to the City Council to approve, approve with conditions, table for further study, or deny the Preliminary Plat. The Planning Commission's decision shall be based on the evidence presented, compliance with the adopted standards, regulations, policies and other guidelines.
- g. Following the recommendation by the Planning Commission, the staff planner shall schedule the Preliminary Plat with the City Council and notify the applicant of the date and time of the public meeting, unless the City Council or Director requires a public hearing based upon the following factors: design, size, public concern, public facilities and services, access, or the transportation network. If a public hearing is required, the applicant is responsible for posting a notice on the land and publishing a notice in the newspaper, prior to the City Council hearing, in compliance with [Sec. 7.2.5, Public Notice Requirements](#).
- h. The City Council shall evaluate the Preliminary Plat, staff report, referral agency comments, Planning Commission recommendations, public testimony and shall either approve, conditionally approve, table for further study or deny the Preliminary Plat. The City Council's action shall be based on the evidence presented, compliance with the adopted standards, regulations, policies, and other guidelines.
- i. If denied by the City Council, the submittal of a new application and processing fee shall be required in order to pursue the proposed subdivision. The resubmittal of a Preliminary Plat application for the same or substantially the same request, as determined by the Director, shall not be accepted within 1 year of such denial. The applicant may appeal the decision of the Director, in writing, to the City Council within 10 days from the date of the decision.

D. **Special Decision Criteria.** In determining whether to approve, approve with modifications, or deny a proposed Preliminary Plat, review bodies shall consider whether it would allow the following criteria to be met:

- 1. The preliminary plat is in conformance with the goals, objectives, and policies of the City Comprehensive Plan;
- 2. The plan is in conformance with the design elements established in [Article 2, Zoning Districts and Use Standards](#), and the design elements established in the section below.

3. The subdivider has provided evidence that provision has been made for a water supply that is sufficient in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in [Sec. 5.2.2, Water Quality, Quantity, and Dependability](#);
4. The subdivider has provided evidence that provision has been made for a public sewage disposal system and, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with State and local laws and regulations;
5. The subdivider has provided evidence to show that all areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, as well as the protection of natural resources and unique landforms, have been identified by the subdivider and the proposed uses of these areas are compatible with such conditions;
6. The subdivider has provided adequate drainage improvements;
7. Significant cultural, archaeological, natural/historical resources, and unique landforms have been protected; and
8. Necessary services, including fire/police protection, recreation, utilities, open space and transportation system, are available to serve the proposed subdivision;
9. Bonus lots meet the criteria set forth in the ULDC regarding site design standards and density bonus approval standards of the associated zone district; and
10. The proposed subdivision will not interfere with the extraction of any known commercial mining deposit

**E. Design Elements.** The following shall be considered in reviewing the subdivision design:

1. Lots shall meet the minimum lot size of the zone district with the ability of structures placed on the lot to meet the district setbacks, and provide off- street parking;
2. Geologic hazards or other hazardous conditions shall be mitigated or eliminated;
3. Lot layout shall provide protection from wind, noise, and traffic; buffering for visual relief from development; and shall conform to design guidelines adopted by Castle Pines;
4. Streets shall be laid out with the ability to meet the Douglas County Roadway Design and Construction Standards as adopted by the City, Storm Drainage Design and Technical Criteria manual, and other applicable City regulations;
5. The natural terrain, drainage, riparian areas, and vegetation shall be preserved to the maximum extent possible;
6. Multi-frontage lots should be avoided except where essential to provide separation of residential development from regional or major arterials, or to overcome specific disadvantages of topography and orientation;
7. The subdivision design shall be coordinated with the storm water drainage and flood control systems;
8. Pedestrian, bicycle, and vehicular access to abutting neighborhoods, recreation, shopping, and employment areas shall be provided to the maximum extent possible; and
9. Physical and visual barriers shall be minimized to accommodate a free flow of views, and pedestrian/vehicular circulation.

**F. Length of Approval.**

1. *Preliminary Plat Approval.* The Preliminary Plat shall be effective for a period of one year from the date of approval, unless stated otherwise in such approval. During that time, an applicant shall submit a final plat for that property. The Director may grant a one-year extension of time, upon a written request by the applicant. The Director may grant additional extensions upon a finding that the plan is in compliance with the City [Comprehensive Plan](#) and this ULDC, as amended.
2. *Final Plat Approval.* When a part of the Preliminary Plat obtains Final Plat approval, approval of the remaining area of the Preliminary Plat shall be effective for an additional one-year period or as otherwise extended by the Director or the City Council.
3. *Extension Request.* An extension request shall include a fee and a narrative stating the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes in the City Comprehensive Plan, Zoning Ordinance or this Ordinance that have occurred since approval of the plan as these changes affect the plan and the anticipated time schedule for completing the platting process.

A fee schedule is available from the Planning Department. Additional review of the plan may occur resulting in additional conditions as applicable.

4. *Appeal.* The denial of an extension by the Director may be appealed to the City Council in writing within 10 days of the decision by the Director.

### **Sec. 7.4.11 Replat**

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- A. **Purpose.** The purpose of a replat is to provide a review process for the replatting of an existing subdivision plat or superblock final plat. The process shall vary according to the nature of the proposed amendment, as determined by the Director, based on, but not limited to, the following:
  1. Size;
  2. Design;
  3. Degree of change;
  4. Public concern; and
  5. Impact to public facilities, services, access, and roads.
- B. **Prerequisite.** Prior to submittal of a Replat application, the applicant shall meet with staff to discuss the proposal, the procedures and submittal requirements, and is encouraged to meet with the Engineering Division and other referral agencies to identify potential issues and ways to address these issues.
- C. **Procedures and Public Hearing.** The Director may modify the application procedures herein upon the determination that adequate public notice and input on the replat application can be attained through the modified process and that the modified process will not substantially impair the intent and purpose of this Section.
- D. **Preparation.** The following information shall be submitted to the Planning Department, unless waived by the Director:
  1. Completed land use application (available from the Planning Department);
  2. A written narrative which, at a minimum, provides the following information:
    - a. The total land area to be resubdivided;
    - b. The total number of lots;
    - c. The density; and
    - d. The total land area to be preserved as open space
  3. Application fee (fee schedule available from Planning Department)
  4. Proof of ownership that includes an updated or current title insurance policy or title commitment issued no more than 30 days prior to the date of application
  5. A notarized letter of authorization from the landowner permitting a representative to process the application;
  6. Plan exhibit;
  7. Plan reductions (11" X 17") for public hearing packets for the City Council
  8. Development reports;
  9. Final drainage plans and roadway design and construction plans and review fees shall be submitted to the Engineering Division; and
  10. A copy of the original subdivision plat and any additional information, as requested by staff.
- E. **Special Decision Criteria.** In determining whether to approve, approve with modifications, or deny a proposed Replat, review bodies shall consider whether it would allow the following criteria to be met:
  1. The Replat is in compliance with all applicable standards and criteria, and the original conditions of approval;
  2. Nonconforming lots are not created, and in the case of existing nonconforming lots, the nonconformity is not increased;
  3. The Replat is in compliance with this ULDC;
  4. The approval will not adversely affect the public health, safety, and welfare;
  5. The Replat is in conformance with the goals and policies of the City Comprehensive Plan;
  6. The Replat is in conformance with the design elements established in the applicable Preliminary Plat;

7. The subdivider has provided evidence to show that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
8. The subdivider has provided adequate drainage improvements;
9. Significant cultural, archaeological, natural/ historical resources and unique landforms have been protected; and
10. Necessary services, including fire/police protection, recreation, utilities, open space and transportation system, are available to serve the proposed subdivision.

**F. Recording.** The replat shall be submitted for recordation as follows:

1. *Amendments.* The applicant shall amend the Replat document in accordance with the City Council approval, as necessary.
2. *Submittal Materials.* Within 60 days of approval of the Replat, unless stated otherwise in such approval, the applicant shall submit:
  - a. Two photographic or computer-generated reproductions (emulsion up) of the approved Replat ready for recordation (except for the signatures of the Mayor, Director and other City Departments);
  - b. All required documentation; and
  - c. All mapping and recordation fees to the Planning Department. Diazo (sepia) or electrostatic-generated (Xerox) plans are not acceptable.
3. *Security.* The applicant shall provide proof that adequate security has been provided to cover the subdivision improvement costs in accordance with the requirements of the [Douglas County Roadway Design and Construction Standards](#) as adopted by the City, and any other performance bonds, as required;
4. *Title Insurance.* The applicant shall provide a current title insurance policy or commitment, no more than 2 weeks old. If there is a difference in ownership between this title policy and the title policy submitted with the replat application, recordation shall not be allowed until a determination can be made that the newly identified owners have had an opportunity to comment. Objection by these newly identified owners may result in the City Council rehearing the Replat.
5. *Deed.* The applicant shall provide a warranty deed, or cash-in-lieu for county land dedication for parks or schools, as identified on the plat and rights-of-way outside and adjacent to the subdivision reflecting widths as designated in the [Douglas County Transportation Plan](#) as adopted by the City;
6. *Warranty Deed.* A signed warranty deed must be provided, if such has been required, conveying certain tracts, or the development rights to such tracts, to the appropriate entity for public use; and
7. *Taxes.* The applicant shall provide a certificate of Taxes Paid for the land area of the replat.
8. *Post Recordation Requirement.* Within 45 days of recordation the applicant shall submit an address plat on 17" X 22" sheet of paper or another sheet size approved by staff. The address plat may be a reduction of the replat or another graphic representation that includes a north arrow, the lot numbers, street names, and addresses. When multiple sheets are needed a cover sheet shall be provided which shows a composite of the subdivision.

**G. Expiration of Approval.**

1. *Null and Void.* Failure by the applicant to submit all required documentation within 60 days shall render approval of the replat null and void and result in the necessity for a resubmittal of the replat, along with all required fees and documentation.
2. *Extensions.* The Director may grant extensions of time up to one year, upon a written request by the applicant or staff for good cause being shown. Further extensions may be granted by the City Council at a public meeting, upon a written request by the applicant or staff.
3. *Extension Requests.* An extension request shall include a fee and a narrative stating the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes in the City Comprehensive Plan, Zoning Ordinance or this Ordinance that have occurred since approval of the plat as these changes affect the plat and the anticipated time schedule for completing the platting process. A fee schedule is available from the Planning Department. Additional review of the plat may occur resulting in additional conditions as applicable. The denial of an extension by the Director may be appealed to the City Council in writing within 10 days of the decision by the Director.

- H. **Resubmittal.** An application shall not be resubmitted within one year of the date of denial. However, if the Director determines that the resubmitted replat application has been modified to correct the stated objections, then the resubmittal will be accepted.
- I. **Lot Numbering.** When vacating or replatting lots/tracts, the following shall apply:
1. When vacating a common lot line between two lots, use the original lot number followed by the letter A. e.g., Vacating the common lot line between lot 1 and lot 2 - the newly created lot should be renumbered lot 1A.
  2. When replatting 3 lots into 2 lots use the original lot numbers followed by the letter A. e.g., replatting lots 3, 4, & 5, into two lots - the new lots should be numbered lot 3A and 4A.
  3. When adjusting the common lot line between two lots, use the original lot numbers followed by the letter A. e.g., Realignment of the common lot line between lots 7 and 8 - the new lots should be numbered 7A and 8A.
  4. When replatting an entire subdivision filing the lots shall be numbered consecutively starting with the number 1. Tracts shall be lettered alphabetically in consecutive order. Specify the acreage within each lot and tract.

### **Sec. 7.4.13 Street Plat and Easement Vacation**

- A. **Purpose.** The purpose of a Street Plat and Easement Vacation is to provide a review process for a road vacation, and when the road is being realigned, to provide a process for replatting the road in the new alignment.
- B. **Prerequisite.** Prior to submittal of a replat/vacation application, the applicant shall meet with staff to discuss the proposal, the procedures and submittal requirements, and is encouraged to meet with the Engineering Division and other referral agencies to identify potential issues and ways to address these issues.
- C. **Initiation.** The City Council has authority to vacate roads, which include any public street, alley, lane, parkway, avenue, road, trail, or other public way designated or dedicated on a plat, conveyed by deed or recorded easement, or acquired by prescriptive use, whether or not it has ever been used as such.
- D. **Procedure and Public Hearing.** Generally, roads that are proposed to be vacated and replatted or realigned shall be presented to the City Council at a public hearing. Roads that are proposed to be vacated shall be presented to the Planning Commission and the City Council at a public hearing, due to the potential effect on the Transportation Plan as adopted by the City.
1. **Submittal Requirements.** The following information shall be submitted to the Planning Department, unless waived by the Director:
    - a. Completed land use application;
    - b. Written narrative describing the request;
    - c. Application fee;
    - d. Vacation Map - A reproduction of the road or access easement on an 8.5" X 11" sheet of paper, or another size approved by staff, or on 24" X 36" mylar. Include the written legal description;
    - e. Vicinity map - a reduction of the subdivision plat showing the location of the road in relation to the lots; or the area surrounding the road within a 1-mile radius superimposed on a current City Subdivision Map;
    - f. Letters from the following stating their recommendation regarding the vacation and any existing facility they have over or across the land:
      - i. All special districts providing maintenance of infrastructure within the right-of-way; and
      - ii. All known easement beneficiaries.
    - g. Stamped envelopes addressed to abutting landowners and other landowners using the access proposed for vacation, as required by staff, for notification of the vacation application. Include a map identifying the road section to be vacated and relationship to the abutting landowners.
  2. **Process for Road Vacation and Replat.** The following process is for the vacation and replatting or realignment of all or a section of the present road alignment:
    - a. The applicant shall submit the required information to the Planning Department. Staff shall review the information and send a referral to the Assessor's Mapping Division and other referral agencies, as required by staff.

- b. The referral agencies shall comment within 21 days of receiving the packet. Staff shall review the information, prepare a staff report for the City Council, schedule the request for a public hearing with the City Council, and notify the applicant of the hearing date and time.
  - c. The City Council shall evaluate the request, staff report, referral agency comments, and public testimony, and shall approve, conditionally approve, table for further study, or deny the request. The City Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies, and other guidelines.
  - d. Staff shall prepare a Vacation Ordinance that specifies the legal description of the road to be vacated, the reception number of the plat, if applicable, and reference to the recommendation of the special district(s), and easement holders, as applicable.
  - e. Upon approval by the City Council, the staff planner shall, in consultation with the City Attorney, prepare any deeds required by the vacation. Within 30 days, the staff planner shall submit the Vacation Ordinance, Vacation Map and deeds, as required, for recordation in the Office of the Clerk and Recorder.
3. *Process for Road Vacation.* The following process is for the vacation of all or a section of a road when no replatting or realignment will occur:
- a. The applicant shall submit the required information to the Planning Department. Staff shall review the information and send a referral to the Assessor's Mapping Division and other referral agencies, as required by staff, and mail notification letters to the abutting landowners.
  - b. The referral agencies shall comment within 21 days of receiving the packet. Staff shall review the information and prepare a staff report for the Planning Commission and notify the applicant of the hearing date and time.
  - c. The applicant shall be responsible for public notice, prior to the Planning Commission hearing, in compliance with the public notice requirements in [Sec. 7.2.5, Public Notice Requirements](#).
  - d. The Planning Commission shall evaluate the application, referral comments, staff report, and public testimony, and make a recommendation to the City Council to approve, approve with conditions, table for further study, or deny the vacation request. The Planning Commission's decision shall be based on the evidence presented and compliance with the adopted standards, regulations, policies and other guidelines.
  - e. Following the recommendation by the Planning Commission, the staff planner will schedule the vacation request for a public hearing with the City Council, and notify the applicant of the hearing date and time.
  - f. The applicant shall be responsible for public notice, prior to the City Council hearing, in compliance with [Sec. 7.2.5, Public Notice Requirements](#).
  - g. The City Council shall evaluate the application, referral agency comments, staff report, public testimony, and the Planning Commission recommendation, and shall approve, conditionally approve, table for further study, remand to the Planning Commission or deny the vacation request. The City Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.
  - h. Staff shall prepare a Vacation Ordinance that specifies the legal description of the road to be vacated, the reception number of the plat, if applicable and reference to the recommendation of the special district(s), and easement holders, as applicable.
  - i. Upon approval by the City Council, the staff planner, in consultation with the City Attorney, shall prepare any deeds required by the vacation. Within 30 days, the staff planner shall submit the Vacation Ordinance, Vacation Map and deeds, as required, for recordation in the Office of the Clerk and Recorder.
- E. **Special Review Criteria.** In determining whether to approve, approve with modifications, or deny a proposed Street Plat or Easement Vacation, review bodies shall consider whether it would allow the following criteria to be met:
- 1. A platted or deeded road or portion thereof or unplatted or undefined roads which have arisen by public usage shall not be vacated so as to leave any land adjoining said road without an established public road or private access easement connecting said land with another established public road;
  - 2. The road vacation, or vacation and replat is in keeping with the spirit and intent of the ULDC, the City Comprehensive Plan, and Transportation Plan as adopted by the City;
  - 3. The road vacation will not diminish the ability to provide adequate emergency services and will not increase the cost of services; and

4. The approval will not adversely affect the public health, safety, and welfare.

F. **Vesting of Title.** Vesting of title upon vacation shall be in accordance with §43-2-302 C.R.S., as amended.

### **Sec. 7.4.14 Wireless Communications Facilities Permit**

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Refer to [Sec. 2.3.5.F](#), *Review Procedures and Requirements*, for information on the application for and procedures to receive a Wireless Communications Facilities Permit.

### **Sec. 7.4.15 Variances**

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A. **Purpose.** A Variance may be requested from the Board of Adjustment for relief from certain provisions of this ULDC when a strict application of this ULDC would cause peculiar and exceptional practical difficulties or exceptional and undue hardship.

B. **Applicability.** Variances may include, but are not limited to:

1. Minimum area of a lot;
2. Maximum height, minimum setback, and square footage requirements of structures, fences or signs;
3. Minimum off-street parking requirements; and
4. Width of lots and square footage of lot area.

C. **Floodplain Variances.** Variances to the flood damage prevention standards shall be reviewed in accordance with Division [5.1.4.I](#).

D. **Special Decision Criteria.** The Board may, following a public hearing, grant a variance and thus vary the application of the Zoning Ordinance and regulations only upon a finding that all of the following criteria are met:

1. The subject property was properly and timely posted in accordance with this Section;
2. By reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the ULDC would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the property owner;
3. The variance, if granted, will not adversely affect the adjacent property or neighborhood;
4. The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property;
5. The variance, if granted, will not be contrary to the purpose of the City's Comprehensive Plan;
6. The variance, if granted, is the minimal variance that will afford the relief with the least modification possible of the ULDC;
7. Any circumstances justifying a variance were not created by the owner of the property and are not due to or the result of general conditions in the zone district in which the property is located;
8. Development or use of the property for which the variance is sought, if limited by a literal enforcement of the provisions of this ULDC, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district;
9. The variance will not alter the essential character of the district in which the property is located for which the variance is sought;
10. The variance will not adversely affect the public health, safety or welfare;
11. All concerns raised by the Community Development Department or other City departments or referral agencies have been adequately addressed.

E. **Administrative Variance.**

1. *Purpose.* The Director may grant up to a 35 percent adjustment in the zoning requirements for those items listed in [6.5.15.B](#), above, in accordance with the Special Decision Criteria, above, without going to the Board of Adjustment.
2. *Procedure.*
  - a. A decision by the Director to deny such variance may be appealed to the Board of Adjustment in accordance with the procedure in [Sec. 7.2.8](#), *Appeals*. A written appeal shall be submitted by the applicant to the Planning Office within 30 days of such denial.
  - b. The applicant shall notify abutting landowners, affected by the appeal, of the request. Such notification shall be either a notice of the variance request sent by certified mail, return receipt requested, at least 10 days

prior to the Director's consideration of such request, or the applicant may obtain a signed statement from the abutting landowners stating that they were notified of the variance request and submit these signatures with the application.

c. The applicant shall submit the fee and the information required herein to the Planning Office.

- F. **Expiration of Approval.** Construction pursuant to approval of a Variance shall be completed within five years from the date the Variance was granted, unless otherwise specified by the Board of Adjustment or the approval shall terminate. The Director may grant an extension of time, for good cause shown, upon a written request by the applicant.
- G. **Post Denial Application.** If denied by the Board of Adjustment, a resubmittal of the same or substantially same Variance application shall not be accepted within one year from the date of denial by the Board of Adjustment or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Board of Adjustment showing that there has been a substantial change in physical conditions or circumstances, the Board of Adjustment will reconsider the variance. A new application and processing fee shall be required.

## Division 7.5 Enforcement, Violations, and Remedies

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### Sec. 7.5.1 Enforcement

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### Sec. 7.5.2 Non-Judicial Remedies

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### Sec. 7.5.3 Judicial Remedies

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### Sec. 7.5.4 Violations and Penalties

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