

## CHAPTER 7: REVIEW AND APPROVAL PROCEDURES

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### 10.7.1 SUMMARY AND ORGANIZATION OF THIS CHAPTER

- A. This Chapter describes the procedures for review and approval of all applications for development activity in the Town. Common procedures, which are applicable to all or most types of development applications, are in Section 10-7-27.2. Subsequent Sections set forth additional provisions that are unique to each type of application, including staff and review board assignments, review standards, and other information.
- B. Table 7.1-1 summarizes-sets forth the review and decision-making responsibilities for the administration of the procedures described in this Chapter. ~~The table is a summary tool and does not describe all possible types of decisions made under this UDC. Other duties and responsibilities are described in this Chapter.~~
- C. ~~The Community Development Director may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this Chapter.~~

TABLE 7.1-1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES

NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 7.

R = Review (Responsible for Review or Recommendation)  
D = Decision (Responsible for Final Decision)

H = Hearing (Public Hearing Required)  
A = Appeal (Authority to Hear/Decide Appeals)

Procedure	Section	Pre-App Conf?	Neighborhood Meeting?	Decision-Making Body					Referral Agencies/Consultants	Notice Required		
				Board of Trustees	Planning Comm.	Board of Adjustmt.	Chief Building Official	Town Staff		Mailed	Published	Posted
Annexation	7.3	Yes		D-H				R	<u>R</u>		X	<u>X</u>
<u>Architectural Review</u>	<u>7.12</u>							<u>D</u>				
<u>Building Permits</u>	<u>7.13</u>							<u>D</u>				
<u>Development Agreement</u>	<u>7.15</u>			<u>D</u>				<u>R</u>				
<u>Fence Permit</u>	<u>6.4.H</u>							<u>D</u>				
<u>Floodplain Permit</u>	<u>2.7.C</u>							<u>D</u>				
<u>Improvement Guarantees</u>	<u>7.17</u>							<u>D</u>				
Initial Zoning	7.4	Yes		D-H				R	<u>R</u>	X	X	X
<u>Rezoning</u>	<u>7.5</u>	<u>Yes</u>	<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Rezoning to PUD:</u>	<u>7.6</u>	<u>Yes</u>		<u>D-H</u>	<u>R</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Planned Development Zoning</u>	<u>7.20</u>	<u>Yes</u>	<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>PUD Plan Amendment: Administrative Review</u>	<u>7.6</u>	<u>Yes</u>						<u>D</u>	<u>R</u>			
<u>PUD Plan Amendment: PC/BOT Review</u>	<u>7.6</u>	<u>Yes</u>	<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>

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<u>Rezoning</u>	<u>7.5</u>	<u>Yes</u>	<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Sign Permit</u>	<u>6.12</u>							<u>D</u>				
<u>Site Plan: Administrative Review</u>	<u>7.10.E</u>	<u>Yes</u>						<u>D</u>	<u>R</u>			
<u>Site Plan: Planning Commission Review</u>	<u>7.10.F</u>	<u>Yes</u>	<u>Yes</u>		<u>D-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Site Plan Agreement</u>	<u>7.16</u>			<u>D</u>				<u>R</u>				
<u>Special Review Use</u>	<u>7.11</u>	<u>Yes</u>	<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Subdivision: Annexation Subdivision</u>	<u>7.7.G</u>	<u>Yes</u>						<u>D</u>				
<u>Subdivision: Sketch Plan</u>	<u>7.7.C</u>	<u>Yes</u>						<u>R</u>				
<u>Subdivision: Preliminary Plat</u>	<u>7.7.D-G</u>		<u>Yes</u>	<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Subdivision: Final Plat</u>	<u>7.7.E-D</u>	<u>Yes</u>			<u>A-H</u>			<u>D</u>	<u>R</u>			
<u>Subdivision: Minor Subdivision</u>	<u>7.7.F-E</u>	<u>Yes</u>			<u>A-H</u>			<u>D</u>	<u>R</u>			
<u>Subdivision: Minor Subdivision – Non-Residential Parcels</u>	<u>7.7.F</u>	<u>Yes</u>		<u>D-H</u>	<u>R-H</u>			<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Subdivision: Annexation Subdivision</u>	<u>7.x</u>	<u>Yes</u>						<u>D</u>				
<u>Temporary Use Permit</u>	<u>7.14</u>							<u>D</u>	<u>R</u>			
<u>Variance</u>	<u>7.9</u>	<u>Yes</u>				<u>D-H</u>		<u>R</u>	<u>R</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Vacation</u>	<u>7.10x</u>	<u>Yes</u>	<u>Yes</u>	<u>D</u>	<u>A-H</u>			<u>R</u>	<u>R</u>			
<u>Easement/Land Dedication</u>	<u>7.11x</u>			<u>D</u>				<u>R</u>	<u>R</u>			

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<del>Site Plan: Administrative Review</del>	7.12-D	Yes		A-H				D	R			
<del>Site Plan: Planning Commission Review</del>	7.12-E	Yes	<u>Yes</u>	A-H	D-H			R	R	X	X	X

TABLE 7.1-1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES

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Procedure	Section	Pre-App Conf?	Neighborhood Meeting?	Board of Trustees	Planning Comm.	Decision-Making Body			Referral Agencies/ Consultants	Notice Required		
						Board of Adjstm nt.	Chief Building Official	Town Staff		Mailed	Published	Posted
Special Review Use	7.13x	Yes	Yes	D-H	R-H			R	R	X	X	X
Architectural Review w/out Subdivision or Site Plan	7.14x			A				D	R			
Building Permits, C/O's, and Performance Requirements	7.15x					A-H	D					
Temporary Use Permit	7.16x					A-H		D	R			
Annexation Agreement	7.17			D				R				
Development Agreement	7.18x			D				R				
Site Plan Agreement	7.19x			D				R				
Improvement Guarantees	7.20x							D				
Amendment to Text of this UDC	7.2418	Yes		D-H	R			R			X	
Planned Development Zoning	7.23x	Yes	Yes	D-H	R-H			R	R	X	X	X
Floodplain Permit	2.7 C.					A-H		D				
Fence Permit	6.4 H.					A-H	D					
Sign Permit	6.12					A-H	D					

## 10.7.2 ~~STANDARD~~COMMON DEVELOPMENT REVIEW PROCEDURES

The ~~standard~~common development review procedures in this Section ~~7.2~~ shall apply to all types of development applications under this ~~Title Chapter and Chapter 13~~, unless ~~otherwise expressly stated an exception to the common procedures is expressly called for in the particular development application requirements in subsequent Sections of this Chapter or Chapter 13.~~

### A. Step 1: Pre-Application Conference

#### 1. Purpose

The purpose of a Pre-Application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant ~~and the Town staff~~ with the applicable provisions of this UDC, the Town's Comprehensive ~~Master Plan, and other documents as may be appropriate, including~~ the Town's Parks, Recreation, Open Space and Trails Master Plan and the Town's Standards and Specifications for Design and Construction of Public Improvements, infrastructure requirements, the UDC User's Guide, and any other issues that may affect the applicant's proposal.

#### 2. ~~Applicability~~

##### ~~a. Required for New Applications~~

~~A Pre-Application conference is required prior to certain types of applications, as listed in Table 7.1-1, unless waived by the Director. Applications for these types of approvals shall not be accepted until after the Pre-Application conference is completed. The conference shall take place prior to any formal development application submittal to the Town.~~

##### ~~b. Exception for Some Changes to Previously Approved Applications~~

~~Pre-Application conferences are not required for changes to previously approved Special Review Uses and subdivision plans if the following conditions are met:~~

- ~~i. For non-residential development, the proposed increase in building square footage is less than 50 percent of the existing building square footage.~~
- ~~ii. For residential development, the proposed increase in the number of dwelling units or lots is not more than 50 percent of the existing number of dwelling units or lots.~~

~~Changes to already approved Special Review Uses and subdivision plans that exceed these thresholds shall require a Pre-Application conference.~~

##### ~~c. Optional for All Other Applications~~

~~A Pre-Application conference is optional prior to submission of any other application under this UDC not listed as requiring a conference in Table 7.1-1.~~

#### 3. ~~Initiation of Pre-Application Conference~~

~~The applicant shall request a Pre-Application conference with the Community Development Director and pay the required fee, if applicable. With the request for a Pre-Application conference, the applicant shall provide to the Community Development Director a description of the character, location, and magnitude of the proposed development and any other supporting documents, such as maps, drawings, models, and the type of application. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below.~~

#### 4.2. ~~Pre-Application Conference Content~~

The ~~Community Development Director~~ Town shall schedule a Pre-Application conference after receipt of a proper request. At the conference, the applicant, ~~the Community Development Director or designee, and any other persons the Community Development~~

~~Director deems appropriate to attend and Town staff~~ shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this UDC, the parties ~~should~~shall discuss in general the proposed development and the applicable requirements and standards of this UDC.

**5. ~~Informal Evaluation Not Binding~~**

~~The informal evaluation of the Community Development Director and staff provided at the conference are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application and advising the applicant in advance of the formal application of issues which may be presented to the appropriate decision-making body.~~

**3. Maximum Number of Pre-Application Meetings**

~~The applicant shall request a maximum of two Pre-Application conferences~~meetings with Town staff prior to a formal submittal.

**6.4. Application Required Within 6 Months**

After a Pre-Application conference has been held, an application must be submitted within 6 months or sooner if required by the ~~Community Development~~ Director due to changing conditions. If an application is not filed within such timeframe, a new Pre-Application conference shall be required prior to filing an application, unless waived by the ~~Community Development~~ Director.

**B. Step 2: ~~Development~~ Application Submittal**

**1. ~~Form of Application~~**

~~Applications and submission materials required under this Chapter shall be submitted in a form and in such number as required by the Community Development Director and described in the User's Guide's.~~

**2.1. UDC User's Guide**

The ~~Community Development~~ Director shall compile the current requirements for application contents, forms, fees, and the submission materials and review schedule in a User's Guide, which shall be made available to the public. ~~The Community Development Director may amend and update the User's Guide from time to time.~~

**3.2. Consolidated Development Applications and Review**

Multiple development applications for the same development proposal may be consolidated for submittal and review, as ~~required-determined~~ by the ~~Community Development~~ Director ~~and the User's Guide and depending upon the complexity of the proposal. Such consolidated applications shall be reviewed, considered, and decided upon by the highest level decision-maker that would have decided any of the individual review processes under this Chapter had they been submitted, processed, and considered as separate development applications. Decision-makers, from highest level to lowest level for purposes of this Subsection, are the Board of Trustees, the Planning Commission, and the Community Development Director, respectively.~~ Annexation, Annexation Plat, and Initial Zoning Applications cannot be consolidated with Subdivision and Site Plan applications. Site Plan Applications ~~can may~~ be submitted and processed concurrently with ~~Preliminary-Final~~ Plat applications, ~~but; however~~ a Site Plan application ~~may only be approved~~can only be given final approval after ~~thea~~ Final Plat ~~is approved~~approval is granted. ~~While the noted types of applications cannot be consolidated into one application, the individual applications can be processed simultaneously.~~

**4.3. Authority to File Applications**

- a. Unless otherwise specified in this UDC, applications for review and approval may be initiated by:
  - i. The owner of the property that is the subject of the application; or
  - ii. The owner's authorized agent; or

iii. The Board of Trustees; or

iv. Other entities that have rights provided by law.

b. When an authorized agent files an application ~~under this UDC~~ on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

~~c. When a review or decision-making body initiates action pursuant to this UDC, it does so without influencing the approval or denial of the application.~~

#### **5.4. Development Review Fees**

##### **a. Recovery of Costs**

~~Development review fees are hereby established for the purpose of recovering the costs incurred by the Town in processing, reviewing, and recording applications pertaining to development applications or activity within the Town or its Comprehensive Master Plan area. In addition, an The applicant shall pay all costs incurred by the Town for costs incurred in review of an application, including attorney fees, review fees from consultants acting as staff or other fees. The applicant shall pay the development review fees imposed pursuant to this Section, at the time of submittal of any development application. The applicant, as required herein, shall pay other costs as the Town incurs them.~~

##### **b. Development Review Fee Schedule**

The amount of the Town's development review fees shall be established by the Board of Trustees, and shall be based on the actual expenses incurred by or on behalf of the Town. The schedule of fees are noted in Title 2 of the Municipal Code and on the Land Use Application. ~~The schedule of fees may be reviewed annually by the Community Development Director, on the basis of actual expenses incurred by the Town to reflect the effects of inflation and other changes in costs. If an adjustment to the fee schedule is warranted, the revised schedule shall be referred to the Board of Trustees for approval.~~

##### **c. Outstanding Fees and Costs**

All fees and costs shall be paid by the applicant prior to scheduling of hearings or meetings for any development application. No new applications shall be accepted by the Town until all previous fees and costs associated with an applicant, application or property are paid in full.

#### **~~6. Waivers~~**

~~The Community Development Director may waive certain submittal requirements when such submittal requirements are unrelated to any project impacts, or to reduce the burden on the applicant by tailoring the requirements to produce only the information necessary to review any particular application. The Community Development Director may waive such requirements when it is determined that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly support such waiver.~~

#### **~~7. Additional Information~~**

~~Additional application-specific information may be required by the Community Development Director, Public Works Director, Planning Commission, and/or Board of Trustees, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this UDC.~~

#### **8.5. Inactive Files**

If an applicant fails to submit required information for a period of more than 6 months from the initial filing of the initial date of the request, the application, the application shall become void and ~~the re-submittal of a new application and fees shall be required. The Community Development Director may grant~~



~~no more than 2 extensions of time to this provision, of no more than 6 months each, upon a written request by the applicant.~~

**C. Step 3: Determination of Application Completeness**

After receipt of the development application, the ~~Community Development~~ Director shall determine whether the application is complete ~~and ready for formal processing.~~

1. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this UDC. An application shall be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the User's Guide, and is accompanied by the applicable ~~fee or fees. The determination of completeness by the Community Development Director shall not be based upon the perceived merits of the development proposal.~~
2. If an application is determined to be incomplete, the ~~Community Development~~ Director shall provide notice to the applicant along with an explanation of the application's deficiencies. Further processing of an incomplete application shall not occur until the deficiencies are corrected in a future re-submittal.
3. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed incomplete.

**D. Step 4: Neighborhood Meeting**

**1. Purpose**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the ~~applicant~~developer intends to meet the standards contained in this UDC, and to receive public comment and encourage dialogue at an early time in the review process. ~~No decision regarding the application will be made at the Neighborhood Meeting.~~

**2. Applicability**

A neighborhood meeting shall be required ~~following Step 3 and concurrent with prior to Step 5~~ for any development proposal that will be subject to Planning Commission review, unless otherwise indicated in this Chapter. ~~The neighborhood meeting shall take place within six (6) months of the first required hearing date, and if more than six (6) months elapse, if not, a second neighborhood meeting shall be held which meets this requirement. However, the Community Development Director may change the timing for the neighborhood meeting, require an additional neighborhood meeting, or upon written request of the applicant waive the neighborhood meeting requirement, if it is determined that the development proposal would not have significant impacts in any of the areas listed below. The waiver shall be in writing and shall be included as part of the case record.~~

~~Traffic;~~

~~Natural resources protected under this UDC;~~

~~Provision of public services such as safety, schools, or parks;~~

~~Compatibility of building design or scale; or~~

~~Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.~~

**3. Notice of Neighborhood Meeting**

The applicant shall give mailed and posted notice of the neighborhood meeting to property owners, pursuant to the general notice provisions of ~~Section 10-7-2.F. Subsection 7.2.F.~~ The applicant shall submit a An affidavit ~~shall be submitted to the Town, by the applicant,~~ stating that the notice requirement has been met.

**4. Attendance at Neighborhood Meeting**

If a neighborhood meeting is required, the applicant or applicant's representative shall attend

~~and facilitate~~ the meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator -if -needed. ~~Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting shall be deemed informative of the Towns' development application processing and yet non-determinative.~~

**5. Summary ~~of Neighborhood Meeting~~**

The applicant shall prepare a written summary of the neighborhood meeting including a list of participants and a copy of the mailed notice. The written summary shall be provided to Town staff.

**E. Step 5: Application Referral, Review and Staff Report**

After determining that a development application is complete, ~~the~~ Town ~~staff~~ shall process the development application in the following manner.

**1. Referral Packets**

~~The TownStaff~~ shall notify the applicant of the ~~number of copies of the application and~~ submittal information required for distribution to referral agencies. ~~Referral packets shall be provided by the applicant in unsealed Tyvek envelopes, addressed to the appropriate referral agency, containing all submittal information properly folded and compiled. Staff shall mail the referral packets. The applicant shall distribute any revised plans, as required by staff.~~

**2. Referral Review**

~~Staff and R~~ referral agencies shall provide comments to the Town staff on the application(s) within 21 working days of receiving a complete submittal unless the applicant agrees to an extension of no more than 30 days. ~~The applicant is encouraged to meet with referral agencies prior to the end of the referral period.~~ The applicant is required to pay fees assessed by referral agencies.

**3. Resolution of Issues**

~~The TownStaff~~ shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with a written summary of how all outstanding referral and ~~Townstaff~~ comment issues have been resolved. Documentation from the referral agency that the issue has been resolved shall also be submitted to the Town. At the discretion of the ~~Community Development~~ Director, referral comments requiring significant changes to a development application, plan or proposal may require re-referral to any and all referral agencies.

**4. Staff Report**

After ~~staff has scheduled an the~~ application has been scheduled for a ~~review or~~ public hearing, staff shall prepare a Staff Report. The Staff Report shall indicate whether, ~~in the opinion of the staff,~~ the development application complies with all applicable standards of this UDC, and may, Staff may recommend approval, denial or conditions for approval may also be recommended to eliminate any areas of non-compliance or mitigate any adverse effects of the development proposal. The Staff Report shall be made available to for inspection and copying by the applicant and the public prior to the scheduled public hearing ~~on the development application.~~

**F. Step 6: Notice**

**1. Content of Notices**

Notice of all public hearings required under this Chapter shall, unless otherwise specified in this UDC: (1) identify the date, time, and place of the public hearing, (2) ~~if applicable,~~ describe the property involved in the application by street address or by legal description and nearest cross street; (3) describe the nature, scope, and purpose of the proposed action; (4) indicate that interested parties may appear at the hearing and be heard speak on the matter; and (5)

indicate where additional information on the matter may be obtained.

## 2. Summary of Notice Requirements

~~The following~~ Table 7.21-1 summarizes the notice requirements of the procedures set forth in this Chapter.

## 3. Published Notice

When Table 7.21-1 requires that notice be published, the ~~Community Development~~ Director shall cause a notice to be published in a newspaper having general circulation in the area. The notice shall be published at least 15 days prior to the ~~scheduled~~ hearing date. ~~In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.~~

- ~~a. Subdivision applicants shall also comply with the post-approval requirements for published notice contained in C.R.S. §§31-23-221 and 31-23-222.~~

## 4. Mailed Notice

When ~~Table 7.21-1 requires that~~ mailed notice ~~is required~~be provided, the applicant shall provide the ~~Community Development~~ Director with a current (prepared within 30 days of the scheduled hearing) list of names and addresses~~applicable property owners and organizations as~~ listed below. ~~The noted list shall be prepared by the applicant or their authorized representative, along with stamped and addressed envelopes to each owner. The applicant Community Development Town Director shall mail such notice via the United States Postal Service using first class mail at least 15 days prior to the scheduled date of the hearing. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted. Mailed notice shall be provided to the following persons or groups: The applicant shall submit an affidavit to the Town stating that the notice requirement has been met.~~

### ~~a. Property Owners and Other Entities~~

- ~~a.~~ All persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels within of the land subject to the application and owners within 500 feet of the outer boundary of the land subject to the application.

~~a.b.~~ All homeowners' associations, business associations, metropolitan districts, and similar entities of the land subject to the application and within 500 feet of the outer boundary.

### ~~b. Additional Persons Notices~~

~~Such a~~ Additional persons notices or geographic areas as the Community Development Director may designate.

### ~~c. Subdivision Applicants~~

~~Subdivision applicants shall comply with notice requirements of C.R.S. §31-23-214 et seq.~~

## 5. Posted Notice

- a. When ~~posted~~Table 7.21-1 requires that notice ~~is required~~be posted, the applicant shall cause a notice to be posted on the property for at least 15 days before the scheduled hearing date. ~~In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted.~~

- b. Notice shall be posted along the public street rights-of-ways bordering the property, or as otherwise approved by the ~~Community Development~~ Director. ~~Notice of public hearings required under this UDC shall also be posted at the locations specified in the Town of Erie Public Meeting Posting Resolution.~~

- c. Posted notices shall include all the content specified in Subsection 7.2.F.1 above except for the legal description.

- d. Before the public hearing, the applicant shall submit to the ~~Community Development Department~~Planning and Development Department a notarized affidavit, signed by the person who did the posting or the person who caused the posting to be done, that notice was posted and maintained as required by this Subsection.
- e. The applicant is responsible for ensuring that the posted notices remain in place, in legible condition until the public hearing is concluded, and for removal of thesaid posted notices within 2 days after the public hearing is concluded.

#### **~~6. Constructive Notice~~**

- a. ~~Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this UDC.~~
- b. ~~When the records of the Town document the publication, mailing, and posting of notices as required by this Section, it shall be presumed that notice of a public hearing was given as required by this Section.~~

#### **~~7. Notice of "Major Activities"~~**

~~Applicants proposing a subdivision or commercial or industrial activity that will cover 5 or more acres of land shall comply with the notice requirements for "major activities" contained in C.R.S. §31-23-225.~~

#### **~~8-6. Mineral Owner Notice Requirements~~**

~~All development applicants shall comply with the notice requirements contained in C.R.S. § 24-65.5-103, which are designed to protect the interests of mineral owners.~~

### **G. Step 7: Public Hearing**

~~Each~~A public hearing, ~~if required under this UDC,~~ shall be conducted as follows~~according to the following procedures:~~

#### **1. Rights of All Persons**

Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name and place of residence,~~address~~ and, if appearing on behalf of a person or organization, the name and place of residence~~mailing address~~ of the person or organization being represented.

#### **2. Exclusion of Testimony**

~~The decision-maker conducting the public hearing may exclude~~Ttestimony or evidence that ~~it finds to be is~~ irrelevant, immaterial, or unduly repetitious may be excluded.

#### **3. Continuance of Public Hearing**

~~The decision-maker conducting~~Tthe public hearing may be continued,~~on its own motion or at the request of any person, continue the public hearing~~ to a fixed date, time and place. ~~All continuances shall be granted at the discretion of the body conducting the public hearing. Re-publication and re-noticing of continued public hearings shall be at the discretion of the body conducting the public hearing.~~

#### **~~4. Court Reporter~~**

~~The Community Development Director shall have the discretionary authority to require the~~

~~presence of a court reporter at any public hearing required by this Chapter and to assess the cost of such reporter to the applicant.~~

#### **5.4. Order of Proceedings at Public Hearing**

The order of the proceedings at ~~each~~the public hearing shall be as follows:

**a. Opening of Public Hearing**

The public hearing shall be formally opened by the Town body conducting the public hearing.

**b. Staff Report ~~Presented~~**

~~First, t~~The Community Development Director or designee shall present a summary narrative and/or graphic description of the development application including. ~~The Community Development Director or designee shall present a an introduction of the Staff Report which includes a written recommendation. The staff presentation may be given before or after the applicant's presentation, at the discretion of the Community Development Director. The staff recommendation shall generally address the standards required to be considered by this UDC prior to approval of the development application.~~

**c. Applicant Presentation**

The applicant shall present any relevant information the applicant deems appropriate. Copies of all writings or other exhibits that the applicant wishes the ~~decision maker to be considered~~ should~~shall~~ be submitted to the ~~Community Development Director~~Town before the public hearing.

**d. Public Testimony**

The public shall be provided an opportunity to present testimony, with time limits to be determined by the body conducting the public hearing, not to be less than three (3) minutes. Relevant public testimony shall be heard. Pooling of time shall be allowed.

**e. Applicant Response**

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

**f. Staff Response**

The ~~Community Development~~ Director, the Town Attorney, and any other Town staff member may respond to any statement made or evidence presented by the applicant or the public.

**g. Close of Hearing/Deliberation**

After the public hearing is closed, the body conducting the public hearing shall deliberate the merits of the application, considering the applicable review criteria, in public. After consideration of the development application, the Staff Report, any additional written and/or exhibit materials submitted, and the evidence from the public hearing, the decision maker shall close the public hearing.

### **H. Step 8: Decision and Findings**

**1. Decision**

~~After consideration of the development application, the Staff Report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable) Following deliberation, the body conducting the hearing decision maker shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 of the Common Development Review Procedures.~~

**2. Findings**

All decisions shall include at the least the following elements:

~~A~~ a clear statement of approval, approval with conditions, or denial, whichever is appropriate; ~~and~~

- a. ~~A clear statement of the basis upon which the decision was made, including specific, written findings of fact with reference to the relevant standards of this UDC and other Town regulations, plans and documents.~~

### **3. ~~Effect of Inaction on Applications~~**

~~Except for subdivision applications covered under C.R.S. §31-23-215, when a review or decision-making body fails to take action on an application within the time required (which varies by type of application), such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame.~~

### **4.3. ~~Record of Proceedings~~**

#### **a. ~~Recording of Public Hearing~~**

~~Each public hearing shall be recorded. The decision-maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Town Clerk, and payment of a fee to cover the cost of duplication of the record. The Director shall have the discretionary authority to require the presence of a court reporter at any public hearing required by this Chapter and to assess the cost of such reporter to the applicant.~~

#### **b. ~~The Record~~**

~~For purposes of judicial review or appeal, t~~The record shall consist of the following:

- i. All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items entered into the record by the decision maker at the proceedings;~~;~~
- ii. All minutes of the proceedings; ~~and~~
- iii. ~~If appealed,~~ a verbatim transcript of the proceedings ~~before the decision maker. The cost of preparing the transcript shall be borne by the applicant.;~~
- iv. ~~If available, a videotape recording of the proceedings before the decision maker.~~

### **5. ~~Recording of Decisions and Plats~~**

#### **a. ~~Filing with Town Clerk~~**

~~Once approved the decision and required documents of the decision maker shall be filed with the Town Clerk.~~

#### **b. ~~Final Plats Recorded with County Clerk and Recorder~~**

~~Once the Final Plat and associated construction plans are approved, the Development Agreement is executed, the guarantees submitted and approved, required documents, and any other conditions of approval have been met the Final Plat shall be recorded in the Office of the appropriate County Clerk and Recorder and shall be filed with the Town Clerk. All recording fees shall be paid by the applicant.~~

## **I. Step 9: Approval Criteria**

~~To be approved, a development application must satisfy all To approve a development application, the decision-maker must first determine and find that the development application has satisfied and followed the applicable requirements of this Chapter, the general intent of the Towns' Comprehensive Master Plan and other Town plans and documents as applicable, and meets all of the approval criteria required for the applicable development application, which are set forth in subsequent Sections of this Chapter under "Step 9, Approval Criteria."~~

~~For denial of an application the decision maker shall determine and find that the development application has not satisfied and followed the applicable requirements of the Unified Development UDC, the Comprehensive Plan and other Town plans and documents, and has not met the approval~~



~~criteria required for the applicable development application.~~

**J. ~~Step 10:~~ Conditions of Approval**

- ~~1. The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and general intent of the Towns' Comprehensive Master Plan and this UDC. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to Variance or Minor Modification approvals shall be less restrictive than the requirements of this UDC. The applicant may be required to pay reimbursements to the Town or to a party paying for public improvements and/or land acquisitions for public improvements that benefit the applicant's property or potentially benefit the applicant's property or development thereon. This requirement shall be reflected in any agreements entered into by the applicant and the Town.~~

**K.J. Step 104: Amendments**

**1. Minor Amendments**

Minor Amendments to any form of approval issued under this Chapter may be approved, approved with conditions, or denied administratively by the ~~Community Development~~ Director and may be authorized without additional public hearings. Such Minor Amendments may be authorized by the ~~Community Development~~ Director as long as the development approval, as so amended, continues to comply with the standards of this UDC, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this UDC by reason of such amendments). Minor Amendments shall only consist of any or all of the following:

- a. Any change to any form of approval issued under this Chapter that was originally subject only to administrative review and was approved by the ~~Community Development~~ Director, provided such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that:
  - i. The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or
  - ii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
  - iii. The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or
  - iv. The Minor Amendment does not result in a change in the character of the development.
- b. Any change to any form of approval issued under this Chapter that was originally subject to review by the Planning Commission and was approved by the Planning Commission, provided that:
  - i. The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or
  - ii. The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
  - iii. The Minor Amendment results in a change in the housing mix or use mix

ratio that complies with the requirements of the zoning district and does not change the character of the project; or

- iv. The Minor Amendment does not result in a change in the character of the development.

- c. The ~~Community Development~~ Director may refer any amendment to the Planning Commission and, if so referred, the decision of the Planning Commission shall constitute a final decision, subject only to appeal as provided for in Section 7.2218.

## 2. Major Amendments

Amendments to any approval that are not determined by the ~~Community Development~~ Director to be Minor Amendments under the criteria set forth in Subsection 7.2.KJ.1 above, shall be deemed Major Amendments. Major Amendments to approvals under this UDC shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Any Major Amendments shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initial approvals.

### ~~L. Step 12: Lapse~~

- 1. ~~If applicable, the lapse of approval time frames established by the procedures of this UDC may be extended only when all of the following conditions exist:~~
  - a. ~~The provisions of this UDC must expressly allow the extension;~~
  - b. ~~An extension request must be filed prior to the applicable lapse of approval deadline;~~
  - c. ~~The extension request must be in writing and include justification; and~~
  - d. ~~Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.~~
- 2. ~~Approvals of land use applications shall be null and void if not completed within the lapse of approval time frames established by the procedures of this UDC.~~

## 10.7.3x3 ANNEXATIONS

### A. Purpose

This Section provides the procedure by which land shall be brought into the municipal limits and jurisdiction of the Town.

### B. Procedure

~~The common development review procedures of Section 7.2 shall apply, with modifications as noted below. See Table 7.1, Section 10.7.2, and the User Guide for review procedure and recommended submittal requirements. All annexations shall be governed by the Municipal Annexation Act of 1965, C.R.S. § 31-12-101, et seq. Annexation applications should be accompanied by an initial zoning application that is processed concurrently with the annexation application.~~

- 1. **Step 1 (Pre-Application Conference)**  
~~Applicable.~~
- 2. **Step 2 (Development Application Submittal)**  
Applicable, with the following modifications:

~~The applicant shall submit a formal Annexation application in accordance with the User's Guide. The application shall include at a minimum the proposed zoning for the property and a Concept Plan for the property's development, prepared to the specifications of the subdivision Sketch Plan (see Subsection 7.7.C). The applicant also shall submit an Annexation Agreement, as follows:~~



**~~a. Annexation Agreement~~**

- ~~i. Except for Town-owned property, Town-initiated annexation of enclaves, or when waived by the Board of Trustees, an Annexation Agreement is required before the Annexation may be approved. The Annexation Agreement shall contain inducements by the applicant for favorable consideration of the Annexation, and shall identify the mutual understanding of the commitments and responsibilities of both the Town and the property owner(s) about the Annexation. Such agreement shall address the approval criteria listed in Step 9 below and shall be specifically enforceable by the Town.~~
- ~~ii. The Community Development Director shall coordinate all Annexation Agreement negotiations. The Community Development Director shall prepare the first draft of the agreement in a form approved by the Town Attorney and present such to the applicant. The property owners may either sign the agreement or present an alternative agreement to the Community Development Director for consideration.~~
  - ~~(A) If the applicant accepts the agreement as drafted by the Town, the applicant shall submit to the Community Development Director the Annexation Agreement, signed and acknowledged by all owners, at least 7 days before the Board of Trustees meeting at which the first reading of the Annexation Ordinance will be considered.~~
  - ~~(B) If the applicant presents an alternative agreement to the Town for consideration, the applicant shall submit to the Community Development Director the Annexation Agreement, signed and acknowledged by all owners, at least 14 days before the Board of Trustees meeting at which the first reading of the Annexation Ordinance will be considered. If the applicant's alternative agreement differs substantially from the Town-prepared agreement, the Town may delay scheduling the Annexation for Board of Trustees consideration in order to review the alternative agreement.~~

**~~3. Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

**~~4. Step 4 (Neighborhood Meeting)~~**

~~Not applicable.~~

**~~5. Step 5 (Application Referral, Review and Staff Report)~~**

~~Applicable, with the following additional requirement:~~

**~~a. Resolutions Regarding Statutory Compliance~~**

~~The Community Development Director shall report to the Board of Trustees an assessment of whether the Petition for Annexation substantially complies with C.R.S. §31-12-107. The Board of Trustees shall review the petition and the Community Development Director's report and shall, by resolution, make a finding that the petition is or is not in substantial compliance with C.R.S. §31-12-107.~~

- ~~i. If the petition is found to be in substantial compliance with C.R.S. §31-12-107, the procedure outlined in C.R.S. §31-12-108 to §31-12-110 shall be followed.~~
- ~~ii. If the Board of Trustees finds that the petition is not in substantial compliance with C.R.S. §31-12-107, then no further action shall be taken on the application for annexation.~~

**~~6. Step 6 (Notice)~~**

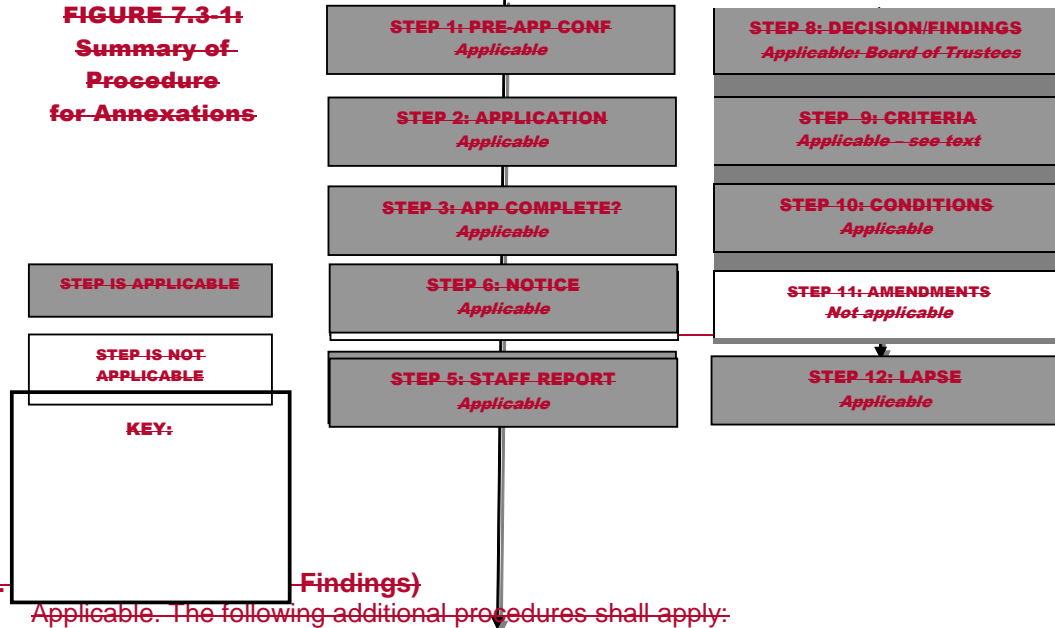
~~Applicable, as follows: Published and posted notice of hearings on Annexations shall be~~

~~provided as required by C.R.S. §31-12-108. If applicable, the Town shall prepare the Annexation Impact Report in accordance with C.R.S. §31-12-108.5.~~

## 7. ~~Step 7 (Hearing)~~

~~Applicable.~~

**FIGURE 7.3-1:  
Summary of  
Procedure  
for Annexations**



## 8. ~~Findings)~~

~~Applicable. The following additional procedures shall apply:~~

### ~~a. Action by Board of Trustees~~

~~The Board of Trustees shall hold a hearing on the proposed Annexation and, based upon the recommendations of the Community Development Director and the applicable approval criteria listed below, approve the Annexation by ordinance, deny the Annexation, or refer the Annexation to the Planning Commission or to a committee of the Board of Trustees for further consideration.~~

### ~~b. Annexation Ordinance Required~~

~~After completing a hearing under C.R.S. §31-12-109 and adopting an appropriate resolution under C.R.S. §31-12-110, the Board of Trustees may annex the petitioned area by adopting, with or without conditions, an Annexation Ordinance.~~

### ~~c. Hearing~~

#### ~~i. Annexation Impact Report~~

~~(A) When an annexation agreement is contemplated for a proposed annexation, the Town will not conduct a hearing until all requirements of C.R.S. §31-12-108.5 (annexation impact report) have been fully satisfied.~~

~~(B) The Town will include a draft annexation agreement in the annexation impact report required by C.R.S. §31-12-108.5.~~

## 9. ~~Step 9 (Approval Criteria)~~

~~Applicable, as follows: All annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary, legislative act. The Town shall never be compelled to annex, unless otherwise required by State law, even if all these review criteria have been satisfied.~~

~~a. The Annexation is in compliance with the Municipal Annexation Act of 1965 (C.R.S. §31-12-101, et seq., as amended).~~

## 10. ~~Step 10 (Conditions of Approval)~~

~~Applicable, with the following modification: Any terms or conditions of Board of Trustees approval shall be contained in the Annexation Ordinance or an Annexation Agreement.~~

**11. Step 11 (Amendments)**

~~Not applicable.~~

**12. Step 12 (Lapse)**

~~Applicable, as follows:~~

**~~a. Annexation Not Final Until Satisfaction of All Requirements~~**

- ~~i. Town action on the Annexation application shall not become final unless all requirements of the Annexation Ordinance and State statutes have been satisfied, as certified by the Community Development Director. The approved Annexation shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Annexation Map within 60 days from approval.~~
- ~~ii. If the requirements of the Annexation Ordinance and State statutes are not satisfied within the applicable time period, the Annexation approval shall lapse and be of no further force and effect.~~
- ~~iii. When all requirements have been satisfied, the ordinance, the Annexation Agreement, and the Annexation Map shall be recorded with the appropriate County Clerk and Recorder, and the Annexation will then be final.~~

## 10.7.4 INITIAL ZONING

### A. Purpose

The boundaries of zone districts and the zone classification of a parcel of land shall be identified at the time a property annexes into the Town of Erie pursuant to this Section.

### B. Procedure

**STEP 5: REFERRAL & REVIEW**  
*Applicable*

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**1. Step 1 (Pre-Application Conference)**

~~Applicable.~~

**2. Step 2 (Development Application Submittal)**

~~Applicable, see User's Guide for submittal requirements.~~

**3. Step 3 (Determination of Application Completeness)**

~~Applicable.~~

**4. Step 4 (Neighborhood Meeting)**

~~Not Applicable.~~

**5. Step 5 (Application Referral, Review and Staff Report)**

~~Applicable.~~

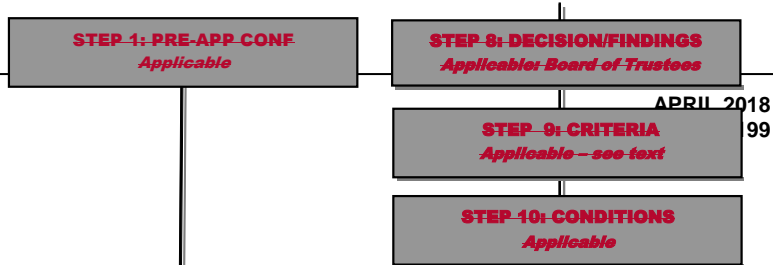
**6. Step 6 (Notice)**

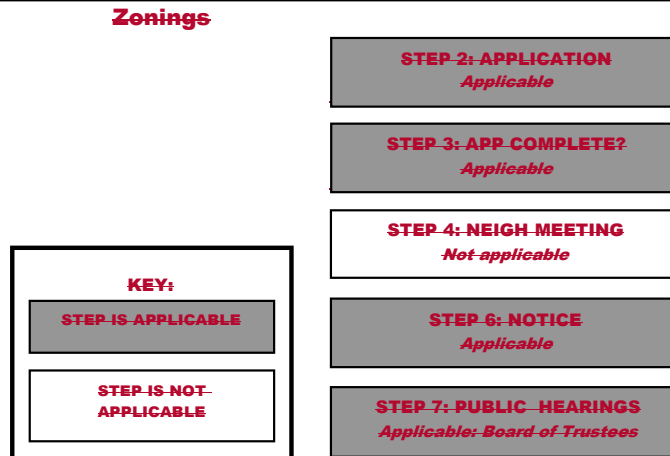
~~Applicable.~~

**7. Step 7 (Public Hearings)**

~~Applicable.~~

**Figure 7.4-1: Summary  
of Procedure for Initial**





#### **~~8. Step 8 (Decision and Findings)~~**

~~Applicable. The following additional procedures shall apply:~~

##### **~~a. Action by Board of Trustees~~**

~~The Board of Trustees shall hold a Public Hearing on the proposed Initial Zoning and approve the Initial Zoning by ordinance, or deny the Initial Zoning.~~

##### **~~b. Form of Amending Ordinance~~**

~~An ordinance amending the zoning map shall contain the following:~~

- ~~i. The name of each use district which the ordinance applies; and~~
- ~~ii. The legal description of the land within each zoning district applied by the ordinance.~~

##### **~~c. Successive Applications~~**

~~Following denial of an Initial Zoning with Annexation request, no new application for the same or substantially the same Zoning shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.~~

#### **9.1. Step 9 (Approval Criteria)**

Applicable, as follows: The Board of Trustees may approve Initial Zonings if the Initial Zoning meets all of the following criteria:

- a. The Initial Zoning will promote the public health, safety, and general welfare;
- b. The Initial Zoning is generally consistent with the Town's Comprehensive **Master** Plan and the purposes of this UDC;
- c. The Initial Zoning is generally consistent with the stated purpose of the proposed zoning district;
- d. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- e. The Initial Zoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- f. The Initial Zoning is not likely to result in significant adverse impacts upon other

property in the vicinity of the subject property;

- g. Future uses on the subject tract will be compatible in scale with uses on the other properties in the vicinity of the subject property; and
- h. The Initial Zoning is generally consistent with the Town's economic development goals and objectives in bring positive growth and sustainable revenues to the Town.

**10. Step 10 (Conditions of Approval)**

Applicable.

**11. Step 11 (Amendments)**

Not Applicable.

**12. Step 12 (Lapse)**

Applicable, in addition:

- a.i. The approved Zoning documents shall be recorded within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Zoning documents within 60 days from approval. Zoning approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

## 10.7.5 REZONING

### A. Purpose

The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this Section. The purpose is to make adjustments to the official zoning map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Rezoning shall not be used to relieve particular hardships, or to convey special privileges on any person or organization. ~~In addition, Rezoning shall not be used as a way to legitimize nonconforming uses or structures, and should not be used when a Special Review Use, Variance, or Minor Modification could be used to achieve the same result.~~

### B. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**1. Step 1 (Pre-Application Conference)**

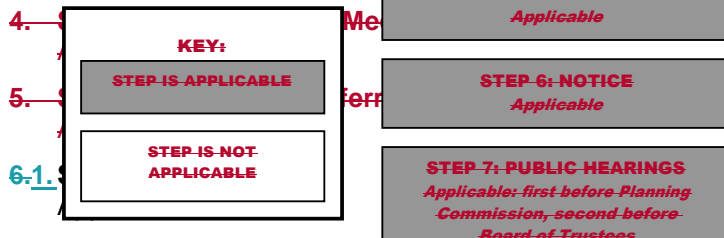
Applicable.

**2. Step 2 (Development Application Submittal)**

Applicable, see User's Guide for submittal requirements.

**3. Step 3 (Determination of Application Completeness)**

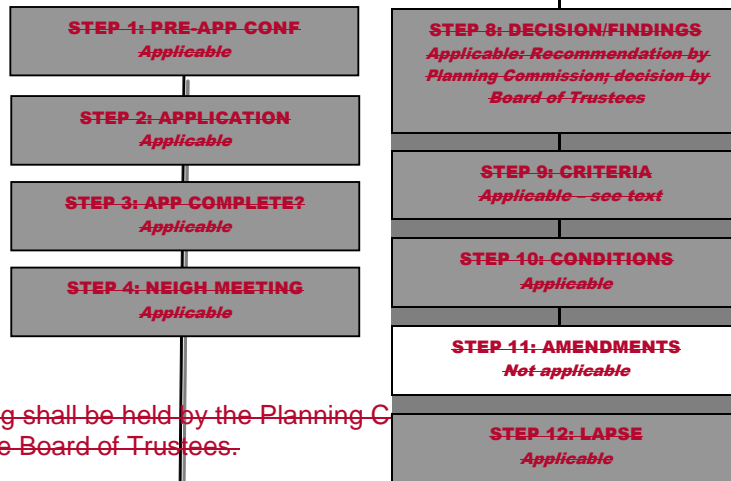
Applicable.



Published, mailed, and posted notice of public hearings on Rezoning<sup>1</sup> shall be provided. In addition, the notice shall list the protest provisions set forth in Subsection 7.5.B.8.c below. Where the Rezoning has been initiated by someone other than the property owner or their designated agent, the ~~Community Development~~ Director also shall mail a notice to all owners

of the property to be reclassified, as shown in the current County Assessor's records.

**Figure 7.5-1: Summary of Procedure for Rezoning**



**7. Step 7 (Public Hearings)**

Applicable. The first hearing shall be held by the Planning Commission and the Board of Trustees.

**8.2. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. Review and Recommendation by Planning Commission**

- i. The Planning Commission shall hold a Public Hearing on the proposed Rezoning and shall recommend that the Board of Trustees approve or, approve with modifications, or deny the Rezoning.
- ii. The Community Development Director shall forward the recommendation, to approve or approve with modifications, to the Board of Trustees with an ordinance to amend the official zoning map in accordance with the recommendation.
- iii. If the Planning Commission recommends that the Board of Trustees deny a Rezoning, that action is final unless, within 20 days of the Planning Commission's action, the applicant files a written statement with the Town Clerk requesting that an ordinance amending the zoning map in accordance with the application be submitted to the Board of Trustees.

**b. Action by Board of Trustees**

The Board of Trustees shall hold a Public Hearing on the proposed Rezoning and approve the Rezoning by ordinance or, deny the Rezoning, or refer the proposed Rezoning back to the Planning Commission or to a committee of the Board of Trustees for further consideration.

**c. Protests**

Protests shall be governed by C.R.S. § 31-23-305. Any owner of property subject to a proposed Rezoning may protest the Rezoning by filing a written protest with the Community Development Director pursuant to this Section. The protest shall object to the Rezoning, contain a legal description of the property on behalf of which the protest is made, and be signed by the owners of at least 1/3 of the property, excluding right-of-ways, of the land to which the Rezoning applies. To be valid, the protest must be received by the Town Clerk after notice of a Public Hearing before the Board of Trustees on a Rezoning and at least 1 business day before the time set for the Board of Trustees Public Hearing on the Rezoning. Board of Trustees approval of a Rezoning subject to a valid protest under this Subsection shall require an affirmative vote of 5 Board members.

**~~d. Form of Ordinance~~**

~~An ordinance rezoning property shall contain the following:~~

- ~~i. The name of each zone district which the ordinance applies; and~~
- ~~ii. The legal description of the affected property, a map showing the affected property, or any other information identifying the affected property.~~

**~~e.d. Successive Applications~~**

~~Following denial of a Rezoning request, no new application for the same or substantially the same Rezoning shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.~~

**~~9.3. Step 9 (Approval Criteria)~~**

~~Applicable, as follows: The Board of Trustees may approve Rezoning, and the Planning Commission may recommend approval, if the Rezoning corrects a technical mistake or the Rezoning meets all of the following criteria:~~

- ~~a. The Rezoning will promote the public health, safety, and general welfare;~~
- ~~b. The Rezoning is generally consistent with the Town's Comprehensive Master Plan and the purposes of this UDC;~~
- ~~c. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;~~
- ~~d. The Rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;~~
- ~~e. The Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;~~
- ~~f. Future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and~~
- ~~g. The Rezoning is generally consistent with the Town's economic development goals and objectives in bring positive growth and sustainable revenues to the Town.~~

**~~10. Step 10 (Conditions of Approval)~~**

- ~~a. Applicable.~~

**~~11. Step 11 (Amendments)~~**

- ~~a. Not applicable.~~

**~~12. Step 12 (Lapse)~~**

~~Applicable, in addition:~~

~~The approved Rezoning documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Rezoning documents within 60 days from approval. Rezoning approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.~~

**10.7.6 REZONING—PLANNED UNIT DEVELOPMENTS DEVELOPMENT PLAN AMENDMENTS**

**A. Purpose**



~~In order to promote creative design efforts on the part of owners, builders, architects, and developers, and also to produce developments that are in keeping with the overall land use intensity and open space objectives of the Town's Comprehensive Master Plan, this Section makes available a procedure to depart from the requirements of this UDC through a rezoning to a Planned Unit Development ("PUD") overlay district. The intent of the PUD overlay district is to permit flexibility from the requirements of the underlying base zoning districts, in exchange for greater public benefits than would otherwise be achieved through development under this UDC. This Section provides a procedure to amend an approved Planned Unit Development ("PUD") development plan within an existing PUD overlay district. PUD amendment applications are not permitted for property that does not have an approved PUD.~~

**B. ~~PUD Development Plans Required~~ Amendments**

1. Approval of an amendment to a PUD development plan is required prior to development in a PUD overlay district. ~~A PUD plan shall be submitted with the request for rezoning to the PUD overlay district.~~ A PUD development plan amendment shall may be submitted concurrently with a subdivision application. Amendment of a PUD development plan is subject to recommendation by the Planning Commission and approval by the Board of Trustees.
2. A major amendment of an approved PUD development plan shall require the filing of new application for a PUD development plan, subject to the major PUD development plan amendment procedure in Section 7.6.D below.
3. The procedure in Section 7.6 D. below is not applicable if the Director determines that the requested changes are a Minor Amendment per Section 10.7.2.K. 4) are minor and do not include substantial alterations to the PUD development plan or conditions of approval, and 2) are generally consistent with the intent of the original PUD approval. Upon such determination, the Director may approve the changes administratively as a minor amendment to the PUD development plan.

**C. Coordination with Subdivision Review**

1. It is the intent of this UDC that subdivision review required under Section 7.7, ~~if applicable, may~~ be carried out concurrently with the review of PUD development plans under this Section. ~~If subdivision approval is required for the subject property, the PUD plans required under this Section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals. A PUD typically should be reviewed with the Preliminary Plat and subject to approval, approval with conditions or denial. A PUD that is approved by the Board of Trustees concurrently with a Preliminary Plat approval shall not be recorded and come into effect until a Final Plat is approved and recorded for the property.~~
2. If any provisions of this Section or the PUD standards of Subsection 2.7.~~DE~~.2 conflict with the subdivision ~~procedures or~~ standards of this UDC, the more restrictive or detailed requirements shall be met, unless specifically altered ~~by the Board of Trustees~~ through the Minor Modification process.

**D. Procedure ~~for Review of PUD Plans~~**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**~~1. Step 1 (Pre-Application Conference)~~**

~~Applicable.~~

**~~2. Step 2 (Development Application Submittal)~~**

~~Applicable, see User's Guide for submittal requirements.~~

**~~a. PUD Development Plan~~**

~~The application for PUD rezoning shall include a PUD development plan prepared to the specifications in the User's Guide. The Community Development Director shall~~



require sufficient detail in the PUD development plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The application shall include, at a minimum:

- ~~i. A quantitative summary of existing conditions on the subject property, as specified in the User's Guide;~~
- ~~ii. A list of uses to be permitted within the PUD by right and a list of uses to be permitted only with a Special Review Use permit;~~
- ~~iii. Intensity or density of uses proposed;~~
- ~~iv. Location of public and private open space, parks and trails;~~
- ~~v. Location of existing and proposed buildings on the site;~~
- ~~vi. Road, street, and pedestrian networks proposed;~~
- ~~vii. Drainage facilities;~~
- ~~viii. Existing or proposed utilities and public services;~~
- ~~ix. If development is to be phased, a description of the phase components and timing;~~
- ~~x. A statement that development on the site will meet applicable standards of the underlying zoning district and this UDC, or a statement specifying the standards of the underlying district and this UDC to which modifications are proposed and the justification for such modifications; and~~
- ~~xi. A statement specifying the public benefit(s) to be contained in or associated with the PUD.~~

~~3. Step 3 (Determination of Application Completeness)  
Applicable.~~

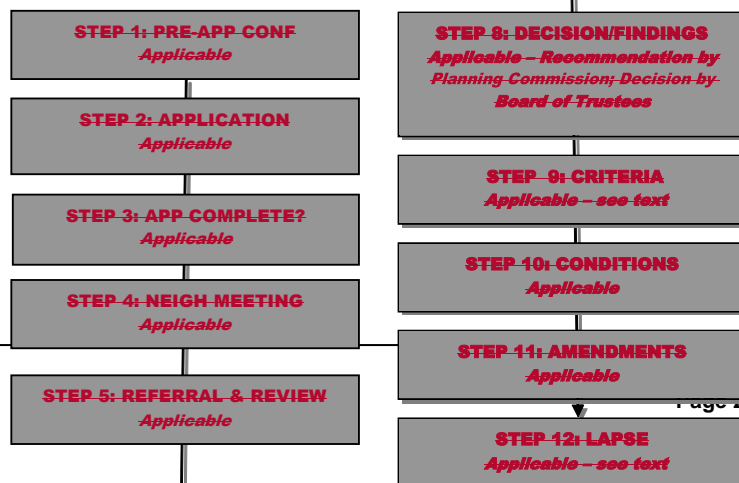
~~4. Step 4 (Neighborhood Meeting)  
Applicable.~~

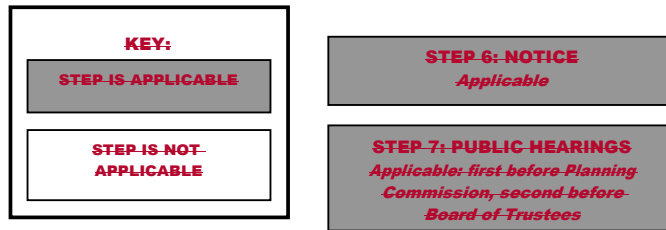
~~5. Step 5 (Application Referral, Review and Staff Report)  
Applicable.~~

~~6. Step 6 (Notice)  
Applicable, as follows: Published, mailed, and posted notice of public hearings on PUD development plans and Rezoning to the PUD overlay district shall be provided.~~

~~7. Step 7 (Public Hearings)  
Applicable, as follows: 2 public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.~~

**FIGURE 7.6-1:  
Summary of  
Procedure  
for Review of PUD  
Development Plans**





### **8-1. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. Planning Commission ~~Review and Recommendation~~**

The Planning Commission shall hold a public hearing on the PUD development plan ~~and Rezoning to the PUD overlay district amendment~~. The Commission shall recommend that the Board of Trustees approve the plan amendment as submitted, approve the plan amendment with modifications, or deny the plan amendment. The ~~Community Development~~ Director shall forward the recommendation to the Board of Trustees.

**b. ~~Action by~~ Board of Trustees**

The Board of Trustees shall hold a public hearing on the PUD development plan amendment ~~and Rezoning to the PUD overlay District~~ and, at the close of the hearing, may by ordinance, approve, approve with modifications, or deny the PUD development plan amendment.

**~~c. Form of Amending Ordinance~~**

~~An ordinance amending the zoning map to create or modify a PUD overlay district shall contain the following:~~

- ~~i. The name of each base zoning district to which the ordinance applies;~~
- ~~ii. The legal description of the land within each zoning district applied by the ordinance; and~~
- ~~iii. A copy of the PUD development plan as approved, including all documents in support thereof, subject to such additional conditions and upon such terms as the Board deems necessary or appropriate to effectuate the purposes of this UDC and the general policies of the Town's Comprehensive Master Plan.~~

**~~d. Placement on Official Zoning Map~~**

~~All PUDs approved in accordance with the provisions of this Section shall be referenced on the Zoning Map, and a list of such PUDs, together with the category of uses permitted therein, shall be maintained as part of this UDC. Placement of approved PUD rezoning on the Official Zoning Map shall not occur until a Final Plat is approved and recorded for the property.~~

**~~e. c. Recording~~**

Following approval of the PUD ~~rezoning~~ the PUD rezoning shall be signed by the Mayor or other authorized Town representative development plan amendment, ~~The the~~ Town shall record the amended PUD development plan rezoning and other associated documents to the approvals in the office of the appropriate County Clerk and Recorder. The developer shall be responsible for all required recording fees.

**~~f. d. Successive Applications~~**

Following denial of a PUD ~~development plan amendment rezoning~~ request, no new application for the same or substantially the same ~~rezoning-PUD development plan amendment~~ shall be accepted within 1 year of the date of denial, ~~unless denial is made without prejudice.~~

~~g. Protests~~

~~Any owner of property subject to a proposed PUD rezoning may protest the rezoning, by following the protest provisions in Subsection 7.5.B.8.c.~~

**9-2. Step 9 (Approval Criteria)**

Applicable, as follows: The Board of Trustees may approve a PUD development plan ~~amendment and Rezoning to the PUD overlay district~~, and the Planning Commission may recommend approval, if the ~~Rezoning to the PUD overlay district and the associated~~ PUD development plan ~~amendment~~ meets all of the following criteria:

- a. The PUD ~~Rezoning-development plan amendment~~ is generally consistent with the purpose of the PUD overlay district in Subsection 2.7.~~DE~~.1;
- b. The PUD ~~Rezoning-development plan amendment~~ will promote the public health, safety, and general welfare;
- c. The PUD ~~Rezoning-development plan amendment~~ is generally consistent with the Town's Comprehensive ~~Master~~ Plan and the purposes of this UDC;
- d. The PUD ~~Rezoning-development plan amendment~~ is generally consistent with the PUD standards in Subsection 2.7.~~DE~~.2;
- e. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- f. The PUD ~~Rezoning-development plan amendment~~ is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- g. The PUD ~~Rezoning-development plan amendment~~ is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;
- h. The PUD ~~Rezoning-development plan amendment~~ is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- i. Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;
- j. The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of development or Development Agreement submitted by the applicant; and
- k. The PUD ~~Plan-development plan amendment~~ provides public benefit(s).

**10. Step 10 (Conditions of Approval)**

~~Applicable.~~

**11. Step 11 (Amendments)**

~~Applicable, with the following modification:~~

~~a. Minor Amendments~~

~~A request to change a PUD Development Plan shall require the filing of new application for a PUD, subject to the submittal requirements listed above in Section~~

~~7.6.D. If the Community Development Director determines that the requested changes are minor and do not include substantial alterations to the PUD Development Plan or conditions of approval, and are generally consistent with the intent of the original PUD approval, the Community Development Director may approve the changes. If the amendments are determined to be major amendments, they shall follow the process identified in Subsection 7.2.K.2.~~

**12. Step 12 (Lapse)**

Applicable, in addition:

~~The approved amended PUD/PD documents development plan shall be recorded within 60 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the documents within 60 days from approval. The approval of the amended PUD/PD approval development plan shall be null and void and shall automatically lapse if recordation does not occur within the time specified.~~

~~Development in the approved PUD shall commence within 12 months from the recordation of the rezoning. If development has not commenced within 12 months, the Community Development Director shall initiate a Public Hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification, or in light of other conditions, to another zoning classification, and revocation of all permits issued and action taken.~~

**E. —Planned Development Districts Adopted Prior to this UDC Shall Continue**

~~The Planned Development (PD) ordinances or parts of ordinances approved prior to the adoption of this UDC shall be carried forth in full force and effect and are the conditions, restrictions, regulations, and requirements that apply to the respective planned development districts shown on the Zoning Map at the date of adoption. Amendments to a PD shall be processed the same as a PUD Amendment (Subsection 7.6.D.11).~~

**10.7.7 SUBDIVISION**

**A. Purpose**

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in Chapter 10-6, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive ~~Master~~ Plan.

**B. Applicability**

**1. General**

The procedures of this Section, and the standards and requirements set forth in Chapter 6, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the State or Town, unless specifically excluded by State law.

**2. Subdivision Approval is Prerequisite to Other Approvals**

- a. No building permit or Certificate of Occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until either:
  - i. ~~A plan for the subdivision has been approved and all required dedications of land have been made, and all All~~ required improvements have been installed in accordance with the procedures and requirements of this Section; or
  - ii. A ~~plan for the subdivision of land has been approved and a~~ Development Agreement has been executed that provides for future improvements

pursuant to Section 7.4815.

- b. The Town shall not accept or maintain any street and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this Section.

**3. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat**

~~It is unlawful for a~~Any person ~~to who~~ transfers or sells any land ~~located~~ within the Town by reference to a plat that has not been approved by the Town and recorded by the appropriate County ~~shall be guilty of a violation of this UDC~~. The Town also may enjoin such transfer or sale by filing ~~an~~ action for an injunction.

**4. Existing Lots of Record**

~~No provision of this Section or Chapter 6 applies to any lot in a subdivision legally created and filed of record before the effective date of this UDC, unless the lot is further subdivided.~~

**C. Procedure for Review of Sketch Plans and Preliminary Plats**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**1. Step 1 (Pre-Application Conference)**

~~Applicable to Sketch Plan only.~~

**2. Step 2A (Development Application Submittal – Sketch Plan)**

~~Two types of application submittals are required – first, a Sketch Plan, followed by a Preliminary Plat. The Sketch Plan requirements are listed in this Subsection. The Preliminary Plat requirements are listed below as “Step 2B.” Applications for Subdivision shall only be accepted for property annexed into the municipality. A Subdivision application cannot be reviewed concurrently with an annexation application.~~

**a. Purpose**

~~A Sketch Plan represents a generalized land use plan and layout for the area proposed to be included within a subdivision. Sketch Plan is required to allow early, informal evaluation of a proposed subdivision before detailed planning and engineering work has been undertaken and before substantial expenses have been incurred by the applicant.~~

**b. Sketch Plan Submittal Requirements**

~~A Sketch Plan shall be prepared and submitted to the Community Development Director pursuant to the User’s Guide. An Alta Survey shall be prepared and submitted to illustrate the existing conditions on the property and, at a minimum, the Sketch Plan shall contain the following:~~

- ~~i. Uses proposed;~~
- ~~ii. Intensity or density of uses proposed;~~
- ~~iii. Location of public and private open space;~~
- ~~iv. Drainage Facilities;~~
- ~~v. Road, street, and pedestrian networks proposed; and~~
- ~~vi. Existing or proposed utilities and public services for the development.~~

**c. Staff Review**

~~The Community Development Department shall review the Sketch Plan, focusing on standards and criteria of this UDC that are applicable to the proposed development. The Community Development Department shall summarize the results of the review in writing and provide a copy to the applicant. The summary shall include any special~~

information regarding the proposed project, plus an evaluation of the proposal with respect to the current policies of the Town, identifying areas of potential compatibility or conflict with these policies. All comments made by the Community Development Department shall not be binding on the Town's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.

**d. ~~Meeting to Discuss Sketch Plan~~**

At the request of the Community Development Director or applicant, the parties shall meet to discuss the results of the review. The applicant shall be informed of the necessary provisions of this UDC relating to subdivision application, including submittal requirements, required public improvements, design standards, and Development Agreements. The Community Development Director shall inform the applicant whether or not a Planning Commission Review shall be required.

**e. ~~Planning Commission Review~~**

In addition to the staff review the Community Development Director may require that the Sketch Plan be reviewed by the Planning Commission or the applicant may request this review. The staff review summary shall be submitted to the Planning Commission for consideration. All comments made by the Planning Commission shall not be binding on the Town's consideration of any subsequent application, and are intended only to provide an informal evaluation of the proposed project.

**Effect of Review**

The Sketch Plan is not part of a formal application for approval of a subdivision and any comments made by the Town in reaction to a Sketch Plan shall not be binding on the Town's consideration of any subsequent Preliminary or Final Plat application, nor result in a vested property right under this UDC or State Statute. Since the Sketch Plan is conceptual only, there are no lapse provisions applicable.

**Step 2B (Development Application Submittal — Preliminary Plat)**

Applicable, see User's Guide for submittal requirements:

A Preliminary Plat shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Preliminary Plat and Final Plat. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.

**Step 3 (Determination of Application Completeness)**

Applicable to both Sketch Plan and Preliminary Plat.

**Step 4 (Neighborhood Meeting)**

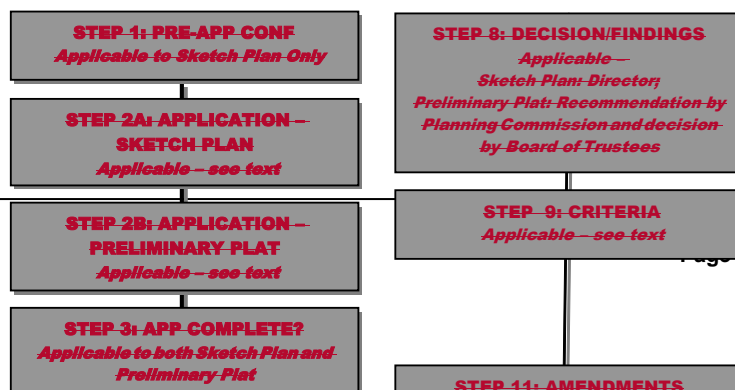
Applicable to Preliminary Plat only.

**Step 5 (Application Referral, Review and Staff Report)**

Applicable to Preliminary Plat only.

STEP IS NOT APPLICABLE

**FIGURE 7.7-1:  
Summary of  
Procedure  
for Review of  
Sketch Plans &**



**Preliminary Plats**

**STEP 10: CONDITIONS**  
*Applicable to Preliminary Plat only*



**~~3. Step 6 (Notice)~~**

~~Applicable to Preliminary Plat only. Subdivision applicants shall comply with the notice and other requirements contained in C.R.S. §31-23-213 et seq.~~

**~~4. Step 7 (Public Hearings)~~**

~~Applicable to Preliminary Plat only. Two public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.~~

**D. Procedure for Review of Preliminary Plats**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**5.1. Step 8 (Decision and Findings)**

~~Applicable to Preliminary Plat only.~~ The following ~~additional~~ procedures shall apply:

**a. Public Hearing and Recommendation by Planning Commission**

- i. The Planning Commission shall hold a public hearing on the Preliminary Plat. ~~Notice for the public hearing shall be published, posted, and mailed as set forth in Subsection 7.2.F. A copy of the Preliminary Plat filed with the Town shall be available for public viewing during regular business hours. Anyone may submit written comments on the Preliminary Plat, to the Planning Commission on or before the date for the public hearing.~~
- ii. At the public hearing, the Planning Commission shall consider Staff recommendations and any comments received from the referral agencies, public comments, and based on the applicable approval criteria below, recommend that the Board approve, conditionally approve, or deny the application; ~~table the application for further review; or continue the hearing to a new date.~~ The Planning Commission shall have the authority to recommend changes in the Preliminary Plat which more fully meet the purposes of this UDC.
- iii. ~~The Planning Commission shall notify the Board of Trustees of its recommendation concerning the Preliminary Plat. If denied, the reasons for denial shall be stated upon the records of the Planning Commission.~~

**b. Review and Decision by Board of Trustees**

The Board of Trustees shall review the Preliminary Plat application at a scheduled and noticed public hearing. The Board of Trustees shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application; ~~or table the application for further review,~~ based on the applicable approval criteria below.

**c. Additional Documentation**

In its review of the Preliminary Plat the Board of Trustees and/or the Planning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.

**~~d. Denial of a Preliminary Plat~~**

~~If denied, the reasons for denial shall be stated upon the records of the Board of Trustees.~~

**~~e. Effect of Approval~~**



~~Approval of a Preliminary Plat shall be deemed an expression of approval to the layouts submitted on the Preliminary Plat to lots, density, and the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of the Final Plat.~~

~~**f. Construction Work**~~

~~No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Final Plat. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Community Development and/or Public Works Departments, at the subdivider's risk.~~

**g.d. New Application Following Denial**

~~A Final Plat application cannot be filed, after a Preliminary Plat denial, without first submitting and obtaining approval for a new Preliminary Plat application. No new application for the same or substantially the same Preliminary Plat shall be accepted by the Community Development Director within 1 year of denial of the original application. The waiting period required by this Section may be waived in an individual case, based upon new evidence or changed circumstances, by the Community Development Director.~~

**6-2. Step 9 (Approval Criteria)**

Applicable, as follows: A Preliminary Plat may be approved only if the Board of Trustees finds that all of the following criteria have been met:

- a. The subdivision is generally consistent with the Town's Comprehensive ~~Master~~ Plan.
- b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.
- c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC.
- d. The subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter or this UDC. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
- e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
- f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.
- h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

- i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
- j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

**~~7. Step 10 (Conditions of Approval)~~**

~~Applicable.~~

**~~8. Step 11 (Amendments)~~**

~~Applicable.~~

**~~9.3. Step 12 (Lapse)~~**

~~Applicable, as follows:~~

- a. Approval of a Preliminary Plat shall be effective for 1 year ~~from the date of approval unless reviewed by the Board of Trustees in the light of new or significant information that would necessitate the revision of the Preliminary Plat.~~ If no development or change in requirements has occurred that would affect the proposed plat at the end of the year of an effective approval, the Board of Trustees may, at the request of the applicant, extend its approval another year without the submission of a new Preliminary Plat ~~by re-approving the original Preliminary Plat.~~ No filing fee is required for such ~~extension~~ re-approval. However, no extensions of approval shall be granted more than once.
- b. An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within any time-frame specified by the Board of Trustees or, if no time-frame was established by the Board, then within 24 months after the approval date. In the case of partial Final Plat submission, the approval of the remaining portion of the Preliminary Plat shall automatically gain an extension of 1 year.

**D.E. Procedure for Review of Final Plats**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**~~Step 1 (Pre-Application Conference)~~**

~~Applicable.~~

**~~1. Step 2 (Development Application Submittal)~~**

~~Applicable, see User's Guide for submittal requirements.~~

~~The Final Plat shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Final Plat. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.~~

**~~2. Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

**~~3. Step 4 (Neighborhood Meeting)~~**

~~Not applicable.~~

**~~4. Step 5 (Application Referral, Review and Staff Report)~~**

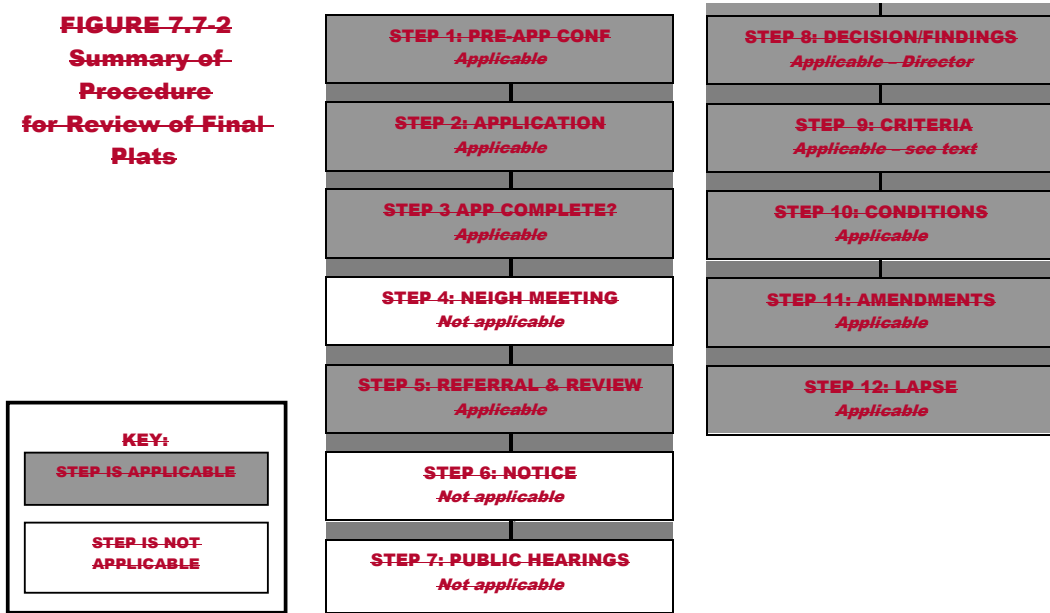
~~Applicable.~~

**~~5. Step 6 (Notice)~~**

~~Not applicable.~~

~~6. Step 7 (Public Hearings)~~  
~~Not applicable.~~

**FIGURE 7.7-2**  
**Summary of**  
**Procedure**  
**for Review of Final**  
**Plats**



**7.1. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. ~~Community Development~~ Director's Review and Decision**

The ~~Community Development~~ Director shall review each proposed Final Plat application relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the ~~Community Development~~ Director shall act to approve, approve with conditions, or deny the proposed Final Plat. If the ~~Community Development~~ Director finds that the Final Plat materials do not comply with the applicable requirements of this UDC, the ~~Community Development~~ Director may refer it back to the applicant for modification or further study. The ~~Community Development~~ Director shall make a final decision on the Final Plat.

**b. Final Plats that Differ from Approved Preliminary Plats**

If the Final Plat is found not to be in substantial compliance with the approved Preliminary Plat, the ~~Community Development~~ Director shall refer the application to the Planning Commission, and the Board of Trustees. The Final Plat submittal shall require review and approval in the same manner as the Preliminary Plat (i.e., hearings before the Planning Commission and the Board of Trustees).

**c. Effect of Approval**

**i. Recording**

Following the approval of a Final Plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the Final Plat shall be signed by the Mayor or other authorized Town representative. The Town shall then record the Final Plat and any signed subdivision improvements Development Agreement in the office of the appropriate

County Clerk and Recorder. The applicant shall pay all required recording fees.

*ii. Lapse of Approval*

The approved Final Plat documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the ~~Community Development~~ Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval. Final Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

~~d. Acceptance of Dedications~~

~~Recordation of the approved Final Plat shall constitute the Town's preliminary acceptance of any public dedication, subject to an improvements guarantee.~~

~~e.d. Improvements Guarantees~~

~~The subdivider shall provide any required improvement guarantees to the Town Clerk pursuant to the applicable development agreement, and in any case prior to the recording of the Final Plat, unless otherwise authorized by the Board of Trustees. For a period of 2 years after receipt of an acceptance letter from the Town, the applicant shall guarantee the conditions of all public facilities and be responsible for the structural maintenance and the repair of any defects that may emerge during that period. Maintenance of those areas not formally accepted shall be the responsibility of the applicant. At the end of 2 years, the applicant shall petition the Town for formal final release from the responsibility for the improvements. The Town shall then inspect the improvements and determine whether the applicant has met the conditions specified in the preliminary acceptance. If conditions have been met, the Town shall release the applicant from responsibility for the improvements. Upon final acceptance, it shall be the Town's responsibility to maintain and repair all such improvements.~~

~~f. Development Agreements~~

~~The Mayor or other authorized Town representative shall sign any related development agreement.~~

**8.2. Step 9 (Approval Criteria)**

Applicable, as follows: The ~~Community Development~~ Director shall approve a Final Plat if it meets the following criteria:

- a. The Final Plat is ~~found to be~~ in substantial compliance with all respects of the approved Preliminary Plat and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Plat;
- b. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Chapter 6 of this UDC, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval. All construction plans for improvements shall be approved by the Public Works Director prior to the ~~Community Development~~ Director's action on the Final Plat;
- c. The applicant has either installed all required improvements or has executed a Development Agreement ~~pursuant to Section 7.18~~; and
- d. The applicant has paid ~~or satisfied~~ all applicable fees ~~and charges~~;

**9. Step 10 (Conditions of Approval)**

~~Applicable.~~

**10.3. Step 11 (Amendments)**

- a. A Minor Amendment, by affidavit, to remove lot lines in Old Town shall be required when a building permit is requested for the following structures that would cross existing lot lines:
  - i. New principal building construction;
  - ii. Additions greater than 400 gross square feet; and
  - iii. New accessory building construction over 400 gross square feet.
- b. Applicable, with the additional provisions:

**Minor Amendments**

The ~~Community Development~~ Director may approve Minor Amendments to approved plats, which shall be recorded and shall control over the preceding or Final Plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

- i. Correct an error in a course or distance shown on the preceding plat;
- ii. Add a course or distance that was omitted on the preceding plat;
- iii. Correct an error in a real property description shown on the preceding plat;
- iv. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- v. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- vi. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- vii. Correct an error in courses and distances of lot lines between 2 adjacent lots if:
  - (A) Both lot owners join in the application for amending the plat;
  - (B) Neither lot is abolished;
  - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
  - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- viii. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- ix. Relocate or remove 1 or more lot lines between 1 or more adjacent lots if all of the following have been met:
  - (A) The owners of all those lots join in the application for amending the plat;
  - (B) The amendment does not attempt to remove recorded covenants or restrictions; and
  - (C) The amendment does not increase the number of lots.

- x. Vacate lot lines within Old Town by affidavit if the following 2 requirements

have been met:

- (A) All contiguous lots with the same ownership are being vacated.
- (B) Lots must be combined so that no lot in the same ownership is created as a non-conforming lot, and no existing non-conforming lot remains.

Notice, a public hearing, and the approval of other lot owners shall not be required for the approval and issuance of a Minor Amendment plat. Minor Amendments shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Colorado, and shall be filed with the appropriate County Clerk and Recorder.

#### **~~11.4. Step 12 (Lapse)~~**

~~Applicable, in addition:~~ The approved Final Plat documents shall be recorded within 60 days of approval, or the approval shall automatically lapse. ~~Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval. Final Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.~~

### **E.F. Procedure for Review of Minor Subdivisions**

#### **1. Applicability**

The procedure set forth in this Section shall apply to subdivisions that create 4-10 or fewer lots in any zoning district. Parcels are eligible for Minor Subdivision only once, and further subdivisions or newly created parcels shall follow Preliminary and Final Plat procedures.

#### **2. Step 1 (Pre-Application Conference)** See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements. ~~Applicable.~~

##### **Step 2 (Development Application Submittal)**

~~Applicable, see User's Guide for submittal requirements.~~

~~A Minor Subdivision shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Minor Subdivision. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.~~

##### **a. Purpose**

~~A Minor Subdivision represents a detailed land use plan and layout for the area proposed to be included within a subdivision. The process requires detailed planning and engineering work.~~

##### **b. Minor Subdivision Submittal Requirements**

~~A Minor Subdivision shall be prepared and submitted to the Community Development Department in accordance with the User's Guide.~~

#### **3. Step 3 (Determination of Application Completeness)**

~~Applicable.~~

#### **4. Step 4 (Neighborhood Meeting)**

~~Not applicable.~~

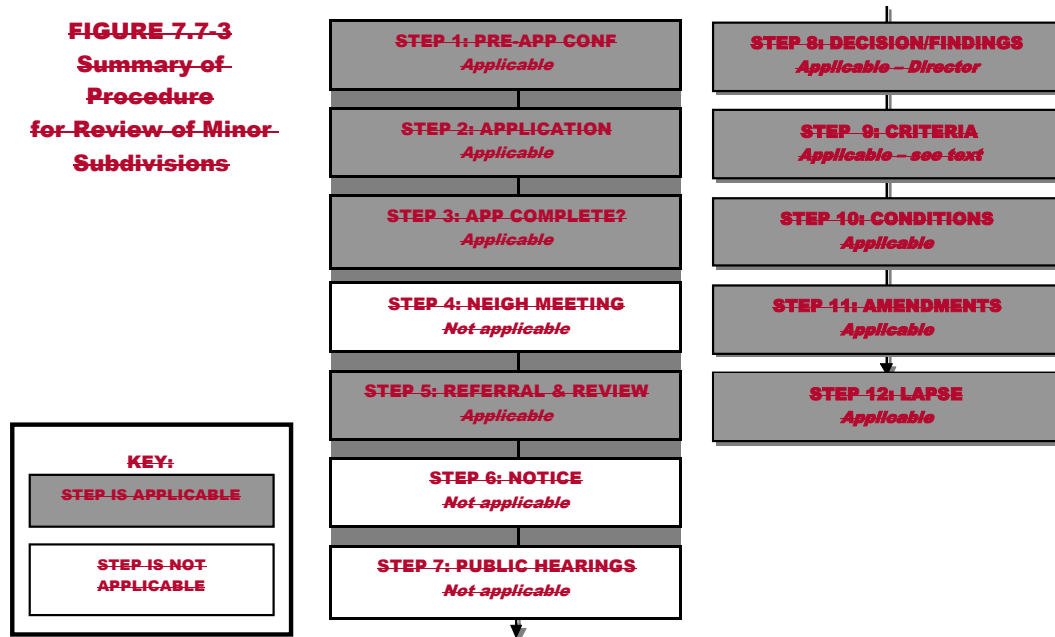
#### **5. Step 5 (Application Referral, Review and Staff Report)**

#### **6. Applicable.**

#### **7.**

- 8. ~~Step 6 (Notice)~~
- 9. ~~Not applicable.~~
- 10. ~~Step 7 (Public Hearings)~~
- 11. ~~Not applicable.~~
- 12.

**FIGURE 7.7-3**  
**Summary of**  
**Procedure**  
**for Review of Minor**  
**Subdivisions**



### 13.3. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

#### a. ~~Community Development~~ Director's Review and Decision

The ~~Community Development~~ Director shall review each proposed Minor Subdivision relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the ~~Community Development~~ Director shall act to approve, approve with conditions, or deny the proposed Minor Subdivision. The ~~Community Development~~ Director shall make a final decision on the Minor Subdivision.

#### b. ~~Effect of Approval~~

##### i. ~~Recording~~

The approved Minor Subdivision documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the ~~Community Development~~ Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

### 14.4. Step 9 (Approval Criteria)

Applicable, as follows: The ~~Community Development~~ Director shall approve a Minor Subdivision application if it meets the following criteria:



- a. The Minor Subdivision is generally consistent with the Town's Comprehensive ~~Master~~ Plan;
- b. The Minor Subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located;
- c. As applicable, the Minor Subdivision is generally consistent with the terms and conditions of any previously approved development plan;
- d. The Minor Subdivision complies with all applicable use, development, and design standards set forth in this UDC; and
- e. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

**15. ~~Step 10 (Conditions of Approval)~~**

~~Applicable.~~

**16. ~~Step 11 (Amendments)~~**

~~Applicable.~~

**17.5. ~~Step 12 (Lapse)~~**

~~Applicable, in addition:~~

**~~a. Time Extension~~**

Minor Subdivisions shall be recorded within 60 days of approval by the ~~Community Development~~ Director. Upon written request by the applicant ~~or Staff~~, the ~~Community Development~~ Director, for good cause, may extend the period, 1 time, for a period not to exceed 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

**G. Procedure for Review of Annexation Subdivisions:**

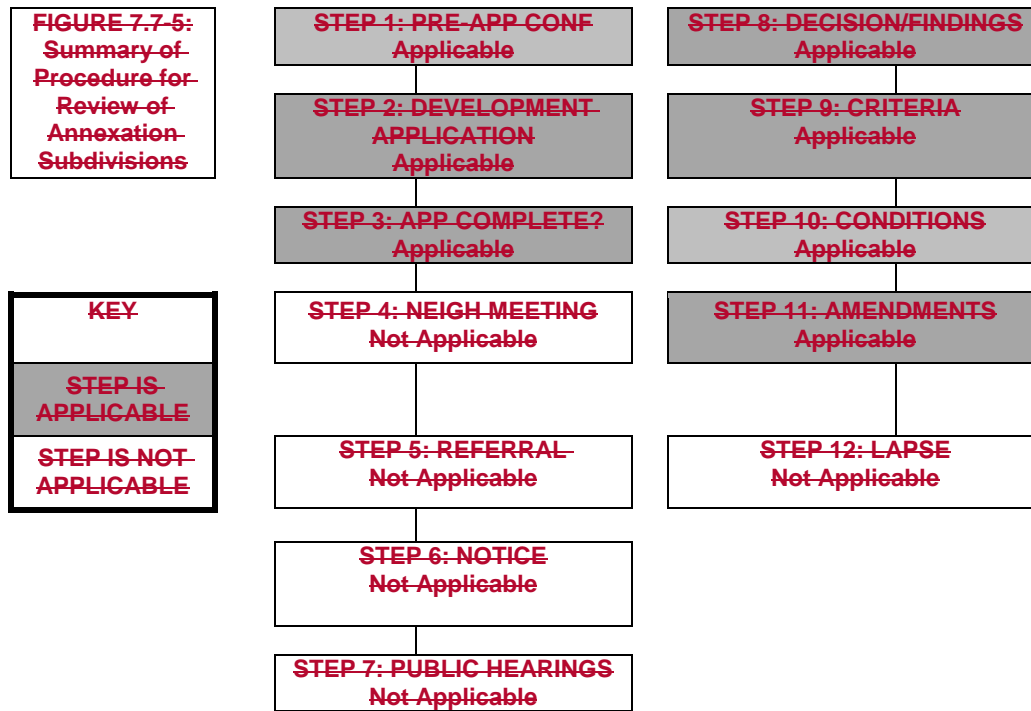
1. **~~Applicability:~~** The procedure set forth in this subsection shall apply to subdivision plats submitted in connection with applications for annexation and initial zoning that propose more than one (1) zone district on a property.
2. **~~Step 1 (Pre-Application Conference):~~** ~~Applicable; provided, however, no separate pre-application conference is required, because any issues related to the Annexation Subdivision shall be addressed during the pre-application conference on the initial zoning for the subject property. See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.~~
3. **~~Step 2 (Development Application Submittal):~~** ~~Applicable. Applicant shall submit: the Annexation Subdivision Plat; the Town of Erie Land Use Application form; applicable fees; title work showing that the applicant is the owner of the property; and an ALTA survey of existing conditions.~~
4. **~~Step 3 (Determination of Application Completeness):~~** ~~Applicable.~~
5. **~~Step 4 (Neighborhood Meeting):~~** ~~Not applicable.~~
6. **~~Step 5 (Application Referral, Review and Staff Report):~~**
  - a. ~~Application Referral (not applicable).~~
  - b. ~~Staff Review (applicable).~~



~~e. Staff Report (applicable).~~

~~7. Step 6 (Notice): Not applicable.~~

~~8. Step 7 (Public Hearings): Not applicable.~~



**9.3. Step 8 (Decision and Findings):** Applicable. The following additional procedures shall apply:

- a. The ~~Community Development~~ Director shall review the proposed Annexation Subdivision relative to the applicable approval criteria listed below, and shall then act to approve, approve with conditions, or deny the proposed Annexation Subdivision; provided, however, the ~~Community Development~~ Director's final approval of the Annexation Subdivision shall be subject to the condition precedent that the Board of Trustees take final action approving and adopting an ordinance annexing the subject property.
- b. Effect of Approval: Recording: The approved Annexation Subdivision Plat shall be recorded within sixty (60) days of approval. Upon written request by the applicant or staff, the ~~Community Development~~ Director may grant one extension for a maximum of sixty (60) days due to unique circumstances that make it impractical to file the Annexation Subdivision Plat within sixty (60) days from approval. Annexation Subdivision Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

**10.4. Step 9 (Approval Criteria):** Applicable, as follows: The ~~Community Development~~ Director shall approve an Annexation Subdivision application if it meets the following criteria:

- a. The Annexation Subdivision is consistent with the Town's Comprehensive Plan;
- b. The Annexation Subdivision is consistent with and implements the intent of the Unified Development Code; and
- c. Zone district designations do not cross boundary lines of subdivided lots, parcels or tracts.

~~11. Step 10 (Conditions of Approval):~~ Applicable.

~~12. Step 11 (Amendments):~~ Applicable.

~~13. Step 12 (Lapse):~~ Not applicable.

#### **~~F. Procedure for Review of Minor Subdivisions – Non-Residential and Mixed-Use Parcels~~**

##### **~~1. Applicability~~**

~~The procedure set forth in this Section may apply to non-residential and mixed-use subdivisions at the discretion of the Community Development Director. To determine whether or not a parcel is eligible for this review process, the Community Development Director shall consider the: scale/size, design and timing of the proposal; impact to public facilities, public services and streets; and overall impacts on the community.~~

~~If the Community Development Director determines that an application is not eligible for utilizing the Minor Subdivision process, the application shall be processed in accordance with the Sketch Plan, Preliminary Plat and Final Plat subdivision procedures.~~

##### **~~2. Step 1 (Pre-Application Conference)~~**

~~Applicable.~~

##### **~~3. Step 2 (Development Application Submittal)~~**

~~Applicable, see User's Guide for submittal requirements.~~

~~A Minor Subdivision shall include all land under contiguous ownership unless separate legal descriptions exist as a matter of record. If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the Minor Subdivision. Requirements for surveying this remaining tract may be waived at the discretion of the Community Development Director.~~

##### **~~a. Purpose~~**

~~A Minor Subdivision represents a detailed land use plan and layout for the area proposed to be included within a subdivision. The process requires detailed planning and engineering work.~~

##### **~~b. Minor Subdivision Submittal Requirements~~**

~~A Minor Subdivision shall be prepared and submitted to the Community Development Department in accordance with the User's Guide.~~

##### **~~4. Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

##### **~~5. Step 4 (Neighborhood Meeting)~~**

~~Applicable.~~

##### **~~6. Step 5 (Application Referral, Review and Staff Report)~~**

~~Applicable.~~

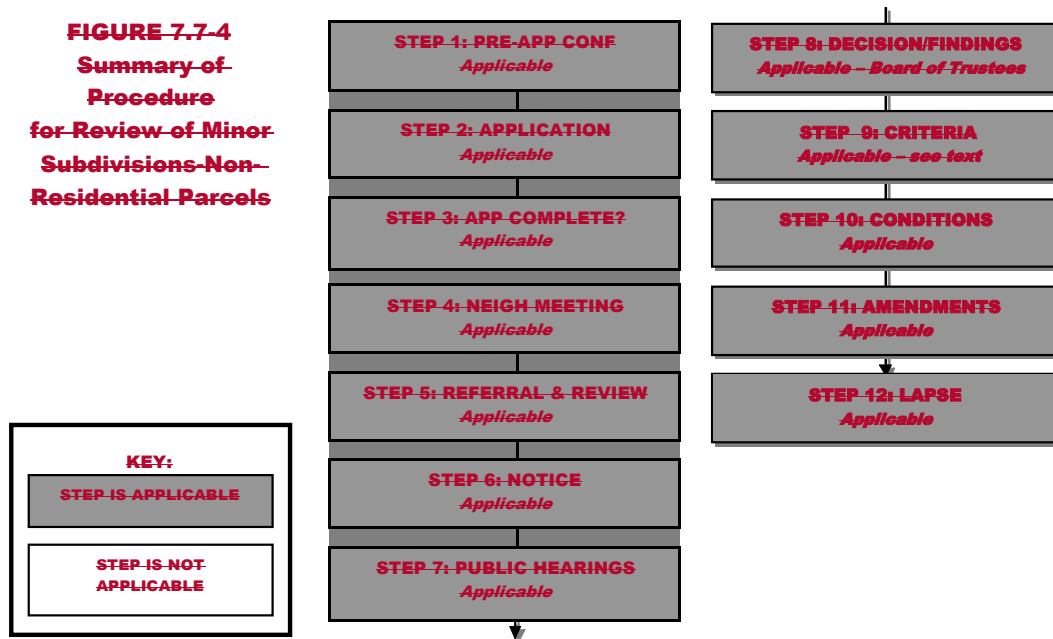
##### **~~7. Step 6 (Notice)~~**

~~Applicable. Subdivision applicants shall comply with the notice and other requirements contained in C.R.S. §31-23-213 et seq.~~

**8. ~~Step 7 (Public Hearings)~~**

~~Applicable. Two public hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.~~

**FIGURE 7.7-4**  
**Summary of**  
**Procedure**  
**for Review of Minor**  
**Subdivisions-Non-**  
**Residential Parcels**



**9. ~~Step 8 (Decision and Findings)~~**

~~Applicable. The following additional procedures shall apply:~~

**a. ~~Public Hearing and Recommendation by Planning Commission~~**

- ~~i. The Planning Commission shall hold a public hearing on the Minor Subdivision. Notice for the public hearing shall be published, posted, and mailed as set forth in Subsection 7.2.F. A copy of the Minor Subdivision filed with the Town shall be available for public viewing during regular business hours. Anyone may submit written comments on the Minor~~

~~Subdivision, to the Planning Commission on or before the date for the public hearing.~~

~~ii. At the public hearing, the Planning Commission shall consider Staff recommendations and any comments received from the referral agencies, public comments, and based on the applicable approval criteria below, recommend that the Board of Trustees approve, conditionally approve, or deny the application; table the application for further review; or continue the hearing to a new date. The Planning Commission shall have the authority to recommend changes in the Minor Subdivision which more fully meet the purposes of this UDC.~~

~~iii. The Planning Commission shall notify the Board of Trustees of its recommendation concerning the Minor Subdivision. If denied, the reasons for denial shall be stated upon the records of the Planning Commission.~~

**~~b. Review and Decision by Board of Trustees~~**

~~The Board of Trustees shall review the Minor Subdivision application at a scheduled and noticed public hearing. The Board of Trustees shall consider Staff and the Planning Commission's recommendations and approve, conditionally approve, or deny the application, or table the application for further review, based on the applicable approval criteria below.~~

**~~c. Additional Documentation~~**

~~In its review of the Minor Subdivision the Board of Trustees and/or the Planning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.~~

**~~d. Denial of a Minor Subdivision~~**

~~If denied, the reasons for denial shall be stated upon the records of the Board of Trustees.~~

**~~e. New Application Following Denial~~**

~~No new application for the same or substantially the same Minor Subdivision shall be accepted by the Community Development Department within 1 year of denial of the original application. The waiting period required by this Section may be waived in an individual case, based upon new evidence or changed circumstances, by the Community Development Director~~

**~~f. Effect of Approval~~**

**~~i. Recording~~**

~~The approved Minor Subdivision documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval.~~

**~~g. Acceptance of Dedications~~**

~~Recordation of the approved Minor Subdivision shall constitute the Town's preliminary acceptance of any public dedication, subject to an improvements guarantee.~~

**~~h. Improvement Guarantees~~**

~~The subdivider shall provide any required guarantees to the Town Clerk prior to the recording of the Minor Subdivision.~~

~~i. **Development Agreements**~~

~~The Mayor or other authorized Town representative shall sign any related development agreement.~~

~~j. **Construction Work**~~

~~No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Minor Subdivision. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Public Works Department, at the subdivider's risk.~~

**10. Step 9 (Approval Criteria)**

Applicable, as follows: The Minor Subdivision may be approved only if the Board of Trustees finds that all of the following criteria have been met:

- ~~a. The Minor Subdivision is generally consistent with the Town's Comprehensive Master Plan;~~
- ~~b. The Minor Subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located;~~
- ~~c. As applicable, the Minor Subdivision is generally consistent with the terms and conditions of any previously approved development plan;~~
- ~~d. The Minor Subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible;~~
- ~~e. The Minor Subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations;~~
- ~~f. The Minor Subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;~~
- ~~g. The Minor Subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features;~~
- ~~h. The Minor Subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated;~~
- ~~i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development; and~~
- ~~j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.~~

**11. Step 10 (Conditions of Approval)**

~~Applicable.~~

**12. Step 11 (Amendments)**

~~Applicable.~~

Section 10.7.8 Minor Modifications

**13. Step 12 (Lapse)**

~~Applicable, in addition, Minor Subdivisions shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Community Development Director, for good cause, may extend the period, 1 time, for a period not to exceed 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.~~

**10.7.8 MINOR MODIFICATIONS**

**A. Purpose and Scope**

This Section sets forth the required review and approval procedures for “Minor Modifications,” which are minor deviations from otherwise applicable standards that may be approved by the ~~Community Development~~ Director, the Board of Trustees, or the Planning Commission. Minor Modifications are to be used when the ~~small size~~ minor deviation of the ~~modification requested~~ applicable standard, and the ~~unlikelihood~~ of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process.

**B. Applicability**

**1. Minor Modifications to General Development and Zoning District Standards**

As part of the review and approval of any procedure set forth in this Chapter, the Board of Trustees, the Planning Commission, or the ~~Community Development~~ Director may approve Minor Modifications of up to a maximum of 10 percent from the following general development and zoning district standards, including Planned Development (PD) District standards, provided that the applicable approval criteria ~~listed below~~ are met.

- a. Minimum lot area requirements;
- b. Setback requirements;
- c. Subdivision design and improvement standards set forth in Chapter 5; and
- d. Quantitative development standards set forth in Chapter 6 (e.g., number of parking spaces);

**2. Exceptions to Authority to Grant Minor Modifications**

~~Notwithstanding Subsection 7.87.B.1 above, in no circumstance shall any decision-making body approve a No~~ Minor Modification ~~shall that~~ results in:

- a. An increase in overall project density;
- b. A change in permitted uses or mix of uses;
- c. An increase in building height;
- d. A deviation from the use-specific standards, ~~set forth in Section 3.2;~~ or
- e. A change in conditions attached to the approval of any Plat, Site Plan, or Special Review Use.

**C. Procedure**

**1. Minor Modifications Approved by Community Development Director**

The ~~Community Development~~ Director may ~~initiate or~~ approve a Minor Modification ~~permitted under this Section~~ at any time ~~prior to submittal of the staff report on~~ before taking action on ~~an development application to another decision-making body, or prior to final decision~~ if the ~~Community Development~~ Director is the final decision-maker.

**2. Minor Modifications Approved by Board of Trustees or Planning Commission**

The Board of Trustees or Planning Commission may ~~initiate or~~ approve a Minor Modification ~~permitted under this Section~~ at any time before it takes action on a development application

under its respective jurisdiction.

**3. ~~Noted on Pending Application~~**

~~Staff shall specify any approved Minor Modifications and the justifications for such modifications on the pending development application for which the modifications were sought.~~

**D. Approval Criteria**

The decision-making body may approve the Minor Modification only if it finds that the modification meets all of the criteria below:

1. The requested modification is generally consistent with the Town's Comprehensive ~~Master~~ Plan and the stated purpose of this UDC;
2. The requested modification meets all other applicable building and safety codes;
3. The requested modification does not encroach into a recorded easement;
4. The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated; and
5. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if "practical difficulty" exists, the approval criteria for Variances in Section 7.9, shall be considered.

**10.7.9 VARIANCES**

**A. Purpose and Scope**

The Variance process is intended to provide limited relief from the requirements of this UDC in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this UDC. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of this UDC may impose on property owners in general. ~~Rather, it is intended to provide relief where the requirements of this UDC render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the Variance is requested. State and/or Federal laws or requirements may not be varied by the Town.~~

**B. Procedure**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**1. ~~Step 1 (Pre-Application Conference)~~**

~~Applicable.~~

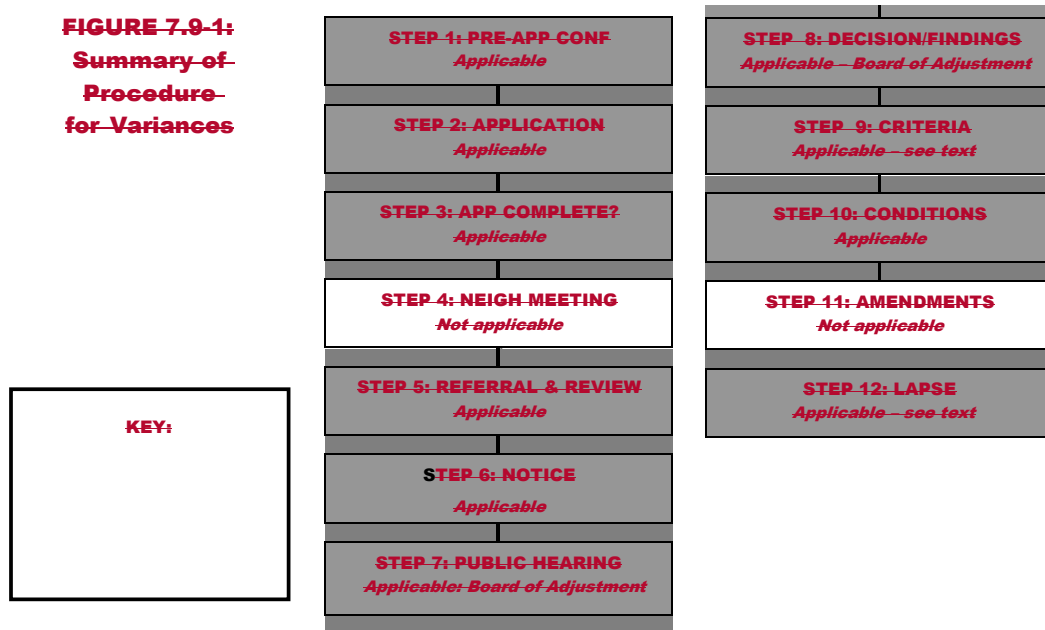
**2. ~~Step 2 (Development Application Submittal)~~**

~~Applicable, see User's Guide for submittal requirements.~~

**3. ~~Step 3 (Determination of Application Completeness)~~**

~~Applicable, with the following modification: A request for Variance may be initiated only by the property owner or his authorized representative. The application must state with particularity the relief sought and must specify the facts or circumstances that are alleged to show that the application meets the approval criteria listed below.~~



**4. ~~Step 4 (Neighborhood Meeting)~~**~~Not applicable.~~**5. ~~Step 5 (Application Referral, Review and Staff Report)~~**~~Applicable.~~**6. ~~Step 6 (Notice)~~**~~Applicable.~~**7. ~~Step 7 (Public Hearing)~~**~~Applicable. One public hearing is required before the Board of Adjustment.~~**FIGURE 7.9-1:  
Summary of  
Procedure  
for Variances****8.1. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. Board of Adjustment Review and Decision**

- i. ~~Upon receiving the application materials from the Community Development Director,~~ the Board of Adjustment shall hold a public hearing on the proposed Variance. ~~Written, published, and posted notice of the hearing shall be provided pursuant to Subsection 7.2.F.~~
- ii. In considering the application, the Board of Adjustment shall review the application materials, the applicable approval criteria below, and all testimony and evidence received at the public hearing.
- iii. After conducting the public hearing, the Board of Adjustment may: deny; ~~approve or approve with conditions~~ ~~conduct an additional public hearing; or grant~~ the requested Variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact ~~that the Variance meets or does not meet each of the criteria set forth in below, stating the reasons for such findings.~~ A concurring vote of a majority of ~~those present~~ ~~the fully constituted membership of the Board~~ shall be required to grant a Variance.

~~iv. In granting any Variance, the Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this UDC.~~

~~**b. Recording**~~

~~Variances granted by the Board of Adjustment shall be recorded with the appropriate County Clerk and Recorder.~~

**9.2. Step 9 (Approval Criteria)**

Applicable, as follows:

- a. The Board of Adjustment may approve a Variance only if it finds that all of the criteria below have been met:
  - i. There are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
  - ii. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
  - iii. Such physical circumstances or conditions were not created by the applicant;
  - iv. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this UDC;
  - v. The Variance, ~~if granted~~, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
  - vi. The Variance, ~~if granted~~, is the minimum Variance that will afford relief and is the least modification possible of the provisions of this UDC which are in question.
- b. No Variance shall be granted that violates the intent of this UDC ~~or its amendments~~.
- c. No Variance shall be granted from any written conditions attached by another decision-making body to the approval of a Special Review Use, Plat or Site Plan.
- ~~d. No Variance shall be granted if the conditions or circumstances affecting the applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.~~
- e.d.** No Variance may authorize a use other than those permitted in the district for which the Variance is sought; ~~also, an application or request for a Variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which zoning request for any parcel of property or portion thereof has not been finally acted upon by both the Planning Commission and by the Board of Trustees.~~

**10. Step 10 (Conditions of Approval)**

~~Applicable.~~

**11. Step 11 (Amendments)**

~~Not applicable.~~

**12.3. Step 12 (Lapse)**

~~Applicable, as follows:~~ Any Variance ~~granted~~ shall become null and void:

- a. If the Variance is not exercised within 180 days of the date it is granted, or
- b. If any building, structure, or characteristic of use permitted by the Variance is moved or altered so as to enlarge the Variance or discontinue it.

**10.7.10x — VACATIONS****A. — Purpose and Scope**

This Section sets forth the required review and approval procedures for street, easement and subdivision plat vacations. The Board of Trustees has the authority to:

1. Vacate roads, which include any public street, alley, lane, parkway, avenue, road, trail or other public right-of-way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.
2. Vacate easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement.

**B. — Procedure****1. — Step 1 (Pre-Application Conference)**

Applicable.

**2. — Step 2 (Development Application Submittal)**

Applicable, see User's Guide for submittal requirements.

**3. — Step 3 (Determination of Application Completeness)**

Applicable.

**4. — Step 4 (Neighborhood Meeting)**

Applicable, at the discretion of the Community Development Director.

**5. — Step 5 (Application Referral, Review and Staff Report)**

Applicable.

**6. — Step 6 (Notice)**

Not applicable.

**7. — Step 7 (Public Hearings)**

Not applicable.

**8. — Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. — Planning Commission Review and Recommendation**

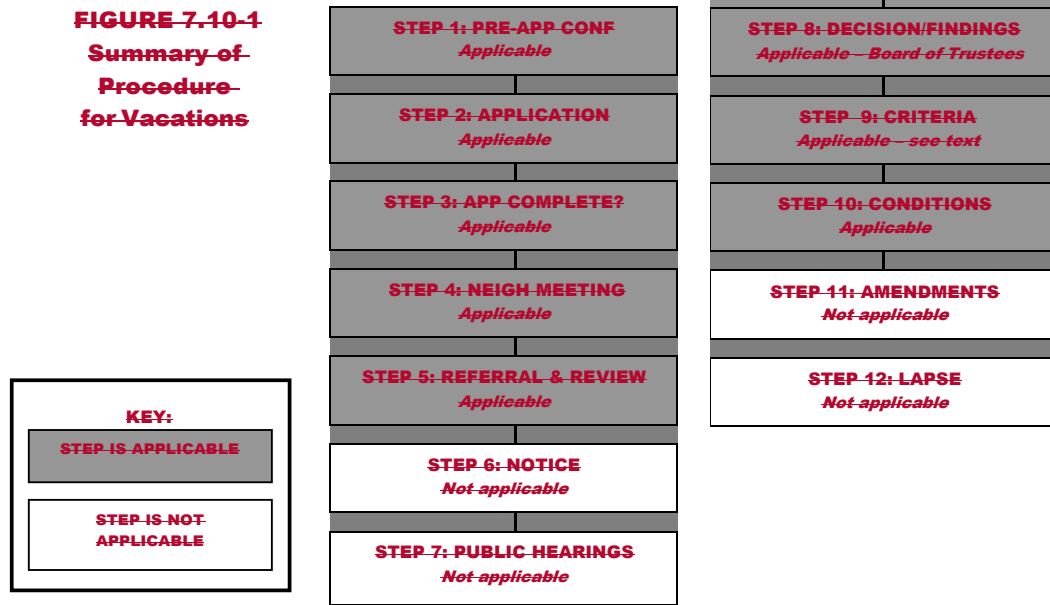
After submission of the application, the Community Development Director shall determine whether consideration of the Vacation request by the Planning Commission is necessary. If there are no unresolved issues regarding the Vacation and the proposal has no material adverse impact on adjacent property owners, the Community Development Director may waive Planning Commission review and recommendation. If Planning Commission review is waived, the Community Development Director shall schedule the application for Board of Trustees consideration.

If consideration before the Planning Commission is necessary, the Planning Commission shall review the proposed Vacation and shall recommend that the Board of Trustees approve, approve with modifications and/or conditions, or deny the application based on the applicable approval criteria listed below.

**b. — Board of Trustees Review and Decision**

The Board of Trustees shall review each Vacation application relative to the applicable approval criteria listed below and shall approve, approve with modifications and/or conditions, or deny the application.

**FIGURE 7.10-4**  
**Summary of**  
**Procedure**  
**for Vacations**



#### **9. Step 9 (Approval Criteria)**

Applicable, as follows: Applications for Vacation requests shall comply with the following review criteria, as applicable:

- a. The Vacation is generally consistent with the Town's Comprehensive Master Plan, as amended;
- b. The right-of-way or easement will not be utilized in the short or long term ~~future~~ or the Town receives conveyance or dedication of substituted easements or rights-of-ways appropriate to satisfy the continuing municipal need;
- c. The Vacation does not create an irregular right-of-way or easement configuration which could create difficulty in the provision of services or installation of public improvements;
- d. The Vacation serves the interest of the Town by removing maintenance or liability risks;
- e. The public benefits and utility of the Vacation request outweigh any adverse impacts of the Vacation; and
- f. The applicant will relocate, if necessary, any public facilities or utilities located within the right-of-way or easement, and grant and/or obtain an easement for relocation of said public facilities or utilities.

#### **10. Step 10 (Conditions of Approval)**

Applicable.

#### **11. Step 11 (Amendments)**

Not applicable.

#### **12. Step 12 (Lapse)**

Not applicable.

### **C. Standards for Compensation**

The following standards shall be applied to determine compensation to the Town for any Vacation:

1. If the Town purchased the easement or right-of-way, the value paid by the Town plus a reasonable inflation factor related to real estate or interest rates shall be required as

consideration;

- ~~2. If the Town must purchase additional right-of-way or easements to satisfy the continuing municipal need, all costs incurred in acquiring/developing an alternate easement or right-of-way shall be required as consideration;~~
- ~~3. The willingness of the applicant to re-convey such easement/right-of-way to the public, if such need should occur;~~
- ~~4. If the party requesting the Vacation dedicated the right-of-way or easement without cost to the Town, no compensation will generally be required; and~~
- ~~5. If the Town incurred substantial costs in constructing/maintaining the easement or right-of-way, reimbursement for such costs may be required.~~

#### **~~10.7.11x EASEMENTS AND LAND DEDICATIONS~~**

##### **Purpose**

~~This Section provides the process by which the Town of Erie can accept easements and land dedications outside of the subdivision platting process.~~

##### **Procedure**

~~See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.~~

##### **~~Step 1 (Pre-Application Conference)~~**

~~Not Applicable.~~

##### **~~Step 2 (Development Application Submittal)~~**

~~Applicable.~~

##### **~~Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

##### **~~Step 4 (Neighborhood Meeting)~~**

~~Not Applicable.~~

##### **~~Step 5 (Application Referral, Review and Staff Report)~~**

~~Applicable, as follows:~~

~~Staff review only is required to ensure that the appropriate easement document or deed has been provided that is acceptable to the Town. Additionally, the applicant shall provide the Town with a title insurance policy for land being dedicated.~~

~~A staff report shall be prepared.~~

##### **~~Step 6 (Notice)~~**

~~Not Applicable.~~

##### **~~Step 7 (Public Hearing)~~**

~~Not Applicable.~~

##### **~~Step 8 (Decision and Findings)~~**

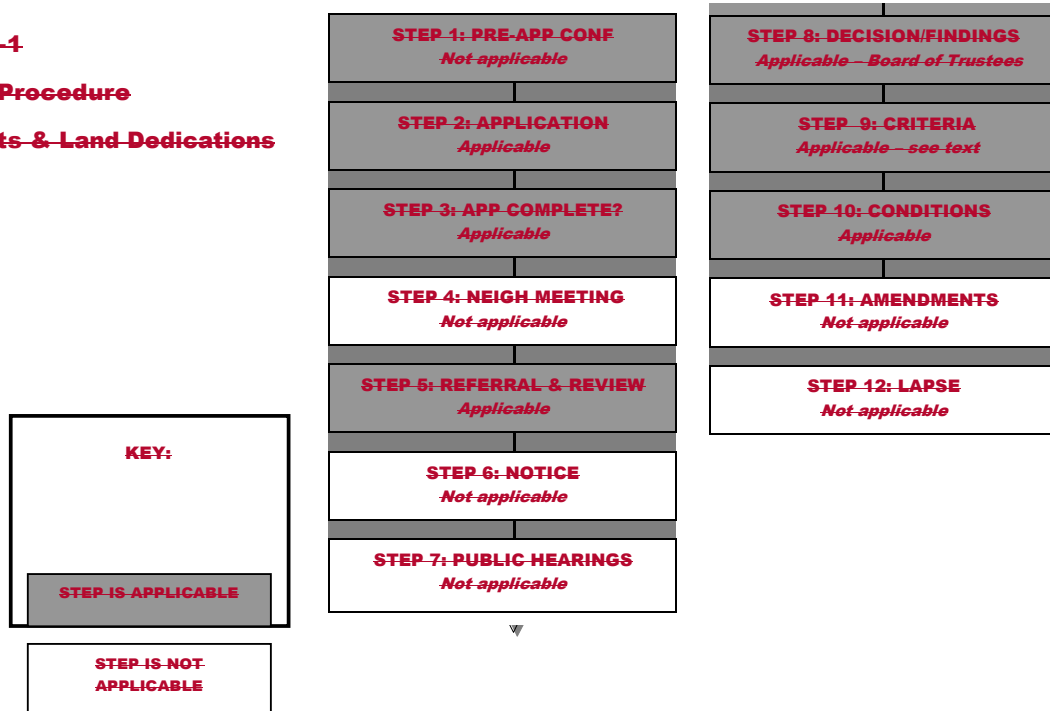
~~Applicable. The following additional procedures shall apply:~~

~~The Board of Trustees shall review the Easement or Land Dedication application relative to the~~

~~applicable approval criteria listed below and shall approve, approve with modifications or conditions, or deny the application.~~

**FIGURE 7.11-1**

**Summary of Procedure  
for Easements & Land Dedications**



**Step 9 (Approval Criteria)**

~~Applicable, as follows. Applications for Easement or Land Dedication shall comply with the following review criteria, as applicable:~~

~~The Easement or Land Dedication is generally consistent with the Town's Comprehensive Master Plan;~~

~~The Easement or Land Dedication public benefit outweighs any adverse impacts of the Easement or Land Dedication; and~~

~~The Easement or Land Dedication serves the interest of the Town.~~

**Step 10 (Conditions of Approval)**

~~Applicable.~~

**1. Step 11 (Amendments)**

~~Not Applicable.~~

**2. Step 12 (Lapse)**

~~Not Applicable.~~

**10.7.4210 SITE PLAN**

**A. Purpose**

The purpose of the Site Plan ~~review~~ process is to ensure compliance with ~~the development and design standards and provisions of~~ this UDC, and to encourage quality development reflective of the

goals, policies, and objectives of the Town's Comprehensive ~~Master Plan. For land uses requiring a Site Plan review, such uses may be established in the Town, and building or land use permits may be issued, only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section.~~

## B. Applicability

~~A Site Plan application can only be submitted for property that is annexed and has a legal platted lot.~~  
A Site Plan can be reviewed concurrently with a Final Plat application or other applications as may be necessary.

1. Site Plan review shall be required for:
  - a. All new development (not including additions);
  - b. Any change of use from 1 primary use classification to another (for example, residential use to commercial use);
  - c. An increase of the number of stories for a building on a lot;
  - d. An increase of the combined gross floor area of a building of more than 10 percent or 5,000 square feet, whichever is less; and
  - e. An increase in the non-permeable lot coverage by more than 2,000 square feet; ~~and~~
2. Site Plan review shall not be required for:
  - a. A single-family ~~home or duplex use and associated accessory structures~~ on an approved ~~single-family lot; and~~  
~~A duplex dwelling on an approved lot; and~~
  - b. Public parks and open space. ~~Public parks and open space shall meet Town requirements found in this UDC and the Standards and Specifications for Design and Construction of Public Improvements.~~

## C. Types of Site Plan Review

### 1. Administrative ~~Site Plan~~ Review

The following types of projects may be approved by the ~~Community Development~~ Director using the administrative Site Plan approval process:

- a. A single use proposed in a structure that is less than 25,000 square feet in building size for that use, not including a single-family detached ~~or duplex~~ dwelling unit;
- b. A combination of uses proposed in a single structure, such as a shopping center, that is less than 25,000 square feet in building size, not including a single-family detached ~~or duplex~~ dwelling unit; and
- c. Multiple buildings proposed where the combined total of all structures will not exceed 25,000 square feet in building size, not including single-family detached ~~or duplex~~ dwelling units on lots larger than 5,000 square feet.

### 2. Planning Commission ~~Site Plan~~ Review

The following types of projects shall require Site Plan review by the Planning Commission:

- a. Any development, ~~with the exception of single-family detached dwelling units on lots larger than 5,000 square feet;~~ that exceeds the size threshold for administrative Site Plan approval; ~~and~~
- ~~b. Development in any PUD, except for exclusively single-family residential planned-unit developments on lots larger than 5,000 square feet; and~~
- ~~c. b.~~ Any administrative Site Plan referred to the Planning Commission by the ~~Community Development~~ Director.



**3. Review of Site Plan with Subdivision**

~~At the option of the applicant, The following projects shall require~~ a Subdivision application ~~may be submitted and finalized with the Town~~ concurrent with a Site Plan application ~~for the following types of projects:~~

- a. Property in Old Town in which the Site Plan includes more than 1 legal lot;
- b. A Site Plan on property that does not have a legal building lot platted within the Town ~~of Erie~~; and
- c. A Site Plan on property that is identified by the Town as needing to dedicate easements, right-of-way, or property dedication.

**D. Coordination with Special Review Uses**

If review of a Special Review Use is required ~~pursuant to Section 7.1312~~, then the applicant shall file a Special Review Use application concurrent with the Site Plan application. In such cases, the Board of Trustees shall be the final decision-maker for both the Site Plan and the Special Review Use, and shall render separate decisions on both applications based on the applicable approval criteria ~~in Section 7.13 12 (for the Special Review Use)~~ and this Section ~~7.12 11 (for the Site Plan)~~.

**E. Procedure for Administrative Site Plan Review**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

**~~1. Step 1 (Pre-Application Conference)~~**

~~Applicable.~~

**~~2. Step 2 (Development Application Submittal)~~**

~~Applicable, see User's Guide for submittal requirements.~~

**~~3. Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

**~~4. Step 4 (Neighborhood Meeting)~~**

~~Not applicable.~~

**~~5. Step 5 (Application Referral and Review)~~**

~~Applicable.~~

**~~6. Step 6 (Notice)~~**

~~Not applicable.~~

**~~7. Step 7 (Public Hearings)~~**

~~Not applicable.~~

**~~8.1. Step 8 (Decision and Findings)~~**

~~Applicable. The following additional procedures shall apply:~~

**~~a. Community Development Director's Review and Decision~~**

~~The Community Development Director shall review each administrative Site Plan applying relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.~~

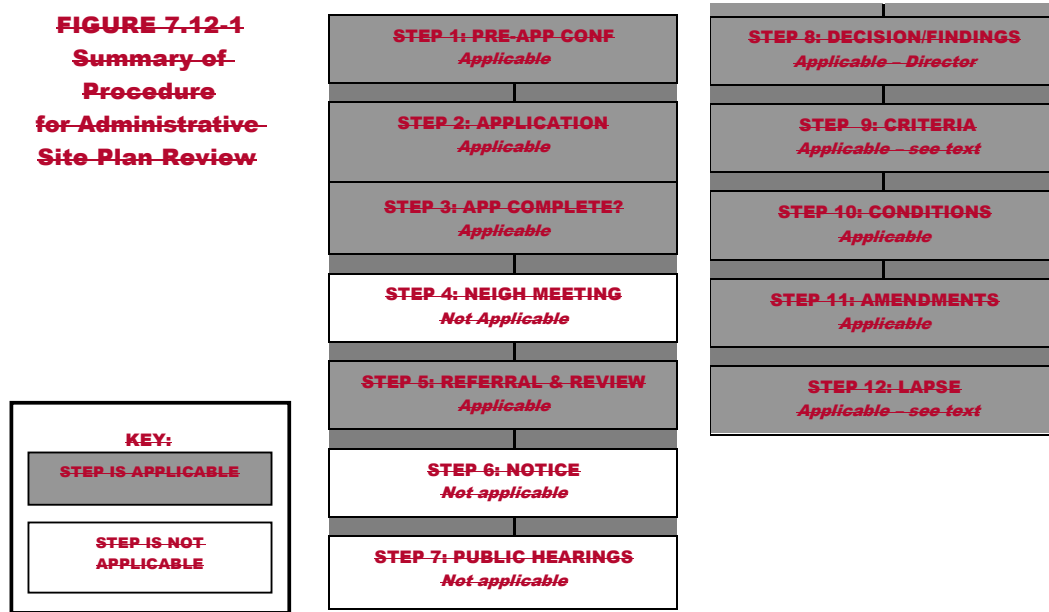
**~~b. Referral to Planning Commission~~**

~~The Community Development Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, and/or any application that in the Community Development Director's discretion presents issues that require Planning Commission attention, to the Planning Commission. Such plans shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this UDC.~~

**~~c. Appeal to the Board of Trustees~~**

~~Appeals of decisions made by the Community Development Director under this~~

**FIGURE 7.12-4**  
**Summary of**  
**Procedure**  
**for Administrative**  
**Site Plan Review**



~~Section shall be made to the Board of Trustees.~~

#### 9.2. Step 9 (Approval Criteria)

Applicable, as follows: An administrative Site Plan may be approved upon a finding that the application meets all of the following criteria:

- a. The Site Plan is generally consistent with the Town's Comprehensive ~~Master Plan~~;
- b. The Site Plan is generally consistent with any previously approved subdivision plat, planned development, or ~~any other precedent plan or~~ land use approval ~~as applicable~~;
- c. The Site Plan complies with all applicable development and design standards set forth in this UDC, ~~including but not limited to the provisions in Chapter 2, Chapter 3, Chapter 4, and Chapter 6~~;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

#### 10. Step 10 (Conditions of Approval)

~~Applicable.~~

#### 11.3. Step 11 (Amendments)

Applicable, as follows: Proposed changes to an approved Site Plan that meet the Applicability requirements in Subsection 7.424110.B.1 shall be submitted as a new Site Plan application and shall not qualify as an Amendment application.

Any proposed changes to an approved Site Plan shall require a new Site Plan application approval or an Amendment to the Site Plan application approval before construction.

Applicable, with the following addition:

##### a. Examples of Minor Amendments

The following amendments are offered as examples of amendments to approved Site Plans that the ~~Community Development~~ Director may reasonably determine to be "minor":

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment (subject to plat approval or right-of-way vacation), drives, and parking if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.
- iii. Changes in building height, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.
- iv. Minor changes in building materials, landscaping, sign placement, lighting fixtures, etc. to further the intent of the Site Plan and this UDC.

#### **~~12.4. Step 12 (Lapse)~~**

~~Applicable, in addition:~~ The approved Site Plan documents shall be submitted to the Town within 60 days of approval. Upon written request by the applicant or staff, the ~~Community Development~~ Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

##### ***a. Special Conditions: Phasing and Expiration of Approval***

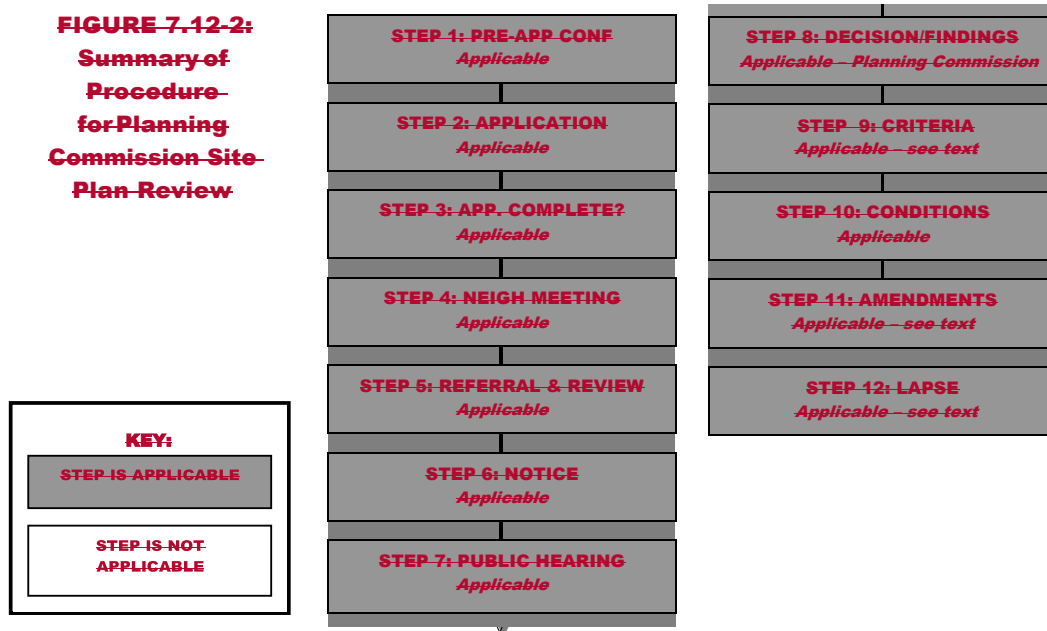
- i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. ~~Building permits shall not be issued based on Site Plans that have an approval date more than 3 years old. For multi-phased Site Plans, building permits shall not be issued based on an approval date more than 3 years from the date of Phase I approval.~~
- ii. The ~~Community Development~~ Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan. ~~Failure by the applicant to request a time extension prior to the expiration of the Site Plan shall render the un-built portion of the Site Plan null and void. The submittal of a revised Site Plan and fees shall be required to obtain a building permit for further site improvements.~~

#### **F. Procedure for Planning Commission Site Plan Review**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

- ~~1. Step 1 (Pre-Application Conference)~~**  
~~Applicable.~~
- ~~2. Step 2 (Development Application Submittal)~~**  
~~Applicable, see User's Guide for submittal requirements.~~
- ~~3. Step 3 (Determination of Application Completeness)~~**  
~~Applicable.~~
- ~~4. Step 4 (Neighborhood Meeting)~~**  
~~Applicable.~~
- ~~5. Step 5 (Application Referral, Review and Staff Report)~~**  
~~Applicable.~~

**FIGURE 7.12-2:  
Summary of  
Procedure  
for Planning  
Commission Site  
Plan Review**



**6. Step 6 (Notice)**  
*Applicable.*

**7. Step 7 (Public Hearing)**  
*Applicable.*

**8.1. Step 8 (Decision and Findings)**

*Applicable. The following additional procedures shall apply:*

**a. Planning Commission Review, Hearing, and Decision**

The Planning Commission shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

~~In cases where Site Plan approval includes provisions that must be approved by the Board of Trustees, Planning Commission approval of the Site Plan shall be referred to the Board of Trustees for this action.~~

**b. Appeals to Board of Trustees**

- i.** ~~The decision of the Planning Commission to approve, approve with conditions, or deny a Site Plan may be appealed to the Board of Trustees.~~

An appeal of a decision of the Planning Commission shall be filed in writing with the ~~Community Development~~ Director not more than 7 days after the action taken by the Planning Commission. The ~~Community Development~~ Director shall notify the Town Clerk that such appeal request has been made. The appeal shall state all reasons for dissatisfaction with the action of the Planning Commission.

- ii.** Within 30 days of the filing of a notice of appeal, the Board of Trustees shall hold a public hearing on the appeal. The appeal shall be de novo. The Board of Trustees may affirm or reverse the decision of the Planning Commission, and the Board's decision shall be final, subject only to judicial review. If the Board of Trustees at a hearing, by majority vote, deems the

~~appeal to be without merit, it may refuse to accept the appeal, and the action of the Planning Commission shall stand. If the Board, by majority vote, accepts the appeal, the Board shall hold a noticed public hearing on the appeal. The decision by the Board to approve or deny a Site Plan shall be final and binding. The accepted appeal will be placed on the first possible public hearing agenda, to be determined and coordinated by the Town Clerk's office.~~

- iii. In cases where Site Plan approval includes provisions that must be approved by the Board of Trustees, Planning Commission approval of the Site Plan shall be referred to the Board of Trustees for this action.

**c. Board of Trustees Review, Hearing and Decision**

~~In cases where the Planning Commission approval of the Site Plan is referred to the Board of Trustees because the Site Plan approval includes provisions that must be approved by the Board of Trustees, the~~ Board of Trustees shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

**9-2. Step 9 (Approval Criteria)**

Applicable, as follows: A Site Plan may be approved upon a finding that the application meets all of the following criteria:

- a. The Site Plan is generally consistent with the Town's Comprehensive ~~Master~~ Plan;
- b. The Site Plan is generally consistent with any previously approved subdivision plat, ~~planned development, or any other precedent plan or~~ other land use approval ~~as applicable~~;
- c. The Site Plan complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 2, Chapter 3, Chapter 4, and Chapter 6;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

**~~10. Step 10 (Conditions of Approval)~~**

~~Applicable.~~

**~~11-3. Step 11 (Amendments)~~**

Applicable, with the following modification:

**a. Examples of Minor Amendments**

The following amendments are offered as examples of amendments to approved Site Plans that the ~~Community Development~~ Director may reasonably determine to be "minor", and approve:

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment (subject to plat approval) if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.
- iii. Changes in building envelope, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.
- iv. Changes in landscaping, sign placement, lighting fixtures, etc. to further the

intent of the Site Plan and this UDC.

#### **12.4. ~~Step 12 (Lapse)~~**

~~Applicable, in addition:~~

The approved Site Plan documents shall be submitted to the Town within 60 days of approval. Upon written request by the applicant or staff, the ~~Community Development~~ Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

##### **a. *Special Conditions: Phasing and Expiration of Approval***

- i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. ~~Building permits shall not be issued based on Site Plans that have an approval date more than 3 years old. For multi-phased Site Plans, building permits shall not be issued based on an approval date more than 3 years from the date of Phase I approval.~~
- ii. The ~~Community Development~~ Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan. ~~Failure by the applicant to request a time extension prior to the expiration of the Site Plan shall render the un-built portion of the Site Plan null and void. The submittal of a revised Site Plan and fees shall be required to obtain a building permit for further site improvements.~~

### **10.7.1311 SPECIAL REVIEW USE**

#### **A. Purpose**

This Section provides a discretionary approval process for Special Review Uses, which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Review Uses will not have a significant adverse impact on surrounding uses or on the community ~~-at -large. This review process is intended to provide assurance to the community that such uses will be compatible with their locations and surrounding land uses and will further the purposes of this UDC.~~

#### **B. Relationship to Site Plan Requirements**

##### **1. Coordination with Review of Site Plans**

If a Site Plan is necessary for the proposed Special Review Use, then the Site Plan and the Special Review Use applications shall be processed concurrently. In such cases, the ~~Board of Trustees~~ shall be the final decision-making entity for both the Site Plan and the Special Review Use. ~~The Board shall render separate decisions on the applications based on the applicable approval criteria in this Section 7.13 12 (for the Special Review Use) and Section 7.12 11 (for the Site Plan).~~

#### **C. Procedure**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

##### **1. Step 1 (Pre-Application Conference)**

~~Applicable.~~

##### **2. Step 2 (Development Application Submittal)**

~~Applicable, see User's Guide for submittal requirements.~~

##### **3. Step 3 (Determination of Application Completeness)**

~~Applicable.~~

~~4. Step 4 (Neighborhood Meeting)~~

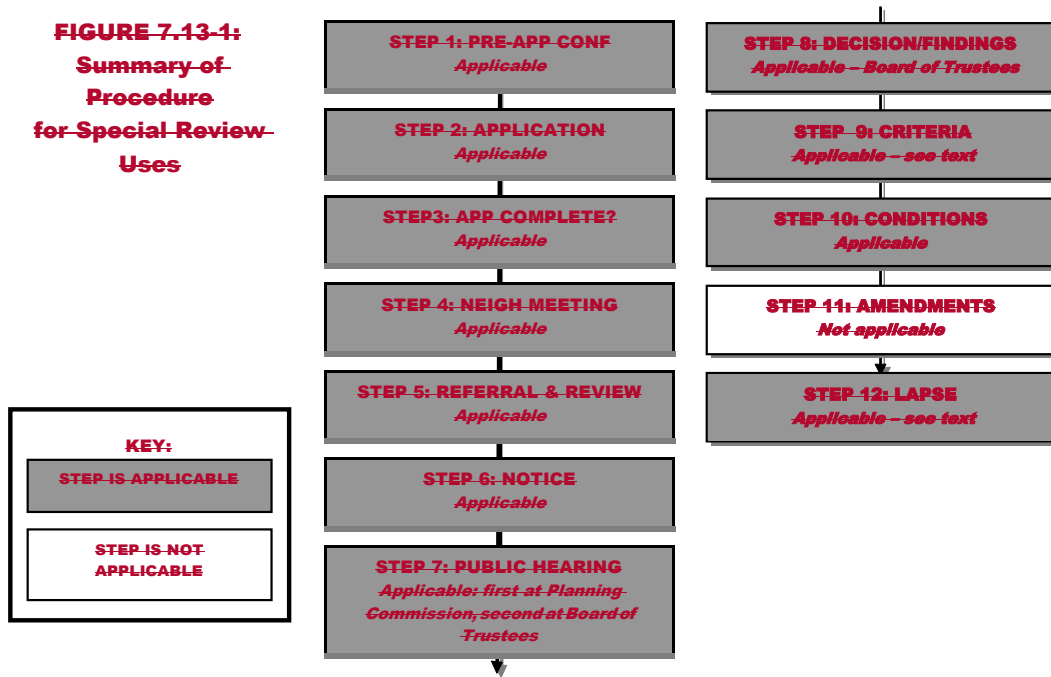
~~Applicable.~~

~~5. Step 5 (Application Referral, Review and Staff Report)~~

~~Applicable.~~

~~6. Step 6 (Notice)~~

**FIGURE 7.13-4:  
Summary of  
Procedure  
for Special Review  
Uses**



~~Applicable.~~

~~7. Step 7 (Public Hearing)~~

~~Applicable.~~

**8.1. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. Planning Commission's Review and Recommendation**

The Planning Commission shall hold a public hearing on the proposed Special Review Use, and shall recommend that the Board of Trustees approve, approve with modifications or conditions, or deny the application, based on the applicable approval criteria below.

**b. Board of Trustees Review and Action**

The Board of Trustees shall review the Special Review Use application at a scheduled and noticed public hearing. The Board shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application, request that the application be further reviewed by the Planning Commission, or table the application for further review, based on the applicable approval criteria below.

**c. Indication on Zoning Map**

A zoning change to the zoning map is not required for Special Review Uses.

**d. Alterations of Approved Uses**

No approved Special Review Use may be modified, physically expanded, hours of



operation extended, or otherwise altered unless amended in accordance with the procedures applicable to initial approval of a Special Review Use as set out in this UDC.

**9.2. Step 9 (Approval Criteria)**

Applicable, as follows: A Special Review Use may be approved only if the Board of Trustees finds that all of the following criteria have been met:

- a. The proposed use is generally consistent with the Town's Comprehensive ~~Master~~ Plan and all applicable provisions of this UDC and applicable State and Federal regulations;
- b. The proposed use is generally consistent with the purpose and intent of the zoning district in which it is located;
- c. The proposed use is generally consistent with any applicable use-specific standards set forth in Section 3.2;
- d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
- e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable;
- f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
- g. Adequate assurances of continuing maintenance have been provided; and
- h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent reasonably practicable.

**~~10. Step 10 (Conditions of Approval)~~**

~~Applicable.~~

**~~11. Step 11 (Amendments)~~**

~~Not applicable.~~

**~~12.3. Step 12 (Lapse)~~**

~~Applicable, as follows:~~

**a. *Lapse of Special Review Use Approval Upon Site Plan Expiration***

- i. If a Site Plan is necessary for the proposed Special Review Use, the approval of the Special Review Use shall be conditioned on the approval of the Site Plan. Accordingly, the approval of any Special Review Use shall lapse and become null and void upon the expiration of the approved Site Plan, unless otherwise restricted by the Town.
- ii. If a Special Review Use is not in operation within 1 year after a building permit is issued or within the timeframe established as a Condition of Approval of the Special Review Use, the Special Review Use Approval shall be revoked by the ~~Community Development~~ Director. The owner shall be notified of any revocation in writing.

**b. *Lapse of Special Review Use Approval without Site Plan***

If a Special Review Use is not in operation within 1 year after the date of its approval or within the timeframe established as a Condition of Approval of the Special Review Use, its approval shall be revoked by the ~~Community Development~~ Director. The owner shall be notified of any revocation in writing.

D. Non-Compliance of Special Review Uses after Approval

In the event of noncompliance by the applicant with the approved Special Review Use plan, written agreement, development schedule, or any conditions of approval, ~~the Planning Commission may initiate proceedings to review the Special Review Use. Such review shall occur in the same manner as for original approval as provided herein, and upon completion of such review,~~ the Board of Trustees may revoke the Special Review Use or amend the original approval.

E. Approved Special Review Uses Existing Prior to Effective Date of this UDC

Any approved Special Review Use that existed prior to the effective date of this UDC shall continue to be an approved Special Review Use, ~~subject to the provisions of this Section.~~

10.7.1412 ARCHITECTURAL REVIEW ~~WITHOUT SUBDIVISION OR SITE PLAN~~

A. Purpose

The purpose of the Architectural review process is to ensure compliance with the ~~development and design standards~~ Development Design Standards and provisions of this UDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Master Plan. ~~Single family residential structures and accessory structures~~ Structures requiring Architectural review may only be issued a building permit after ~~Architectural architectural Plans plans~~ have been approved ~~either during the Subdivision or Site Plan process or in accordance with the procedures and requirements of this Section.~~

B. Applicability

Architectural review and approval of new single family detached and duplex dwelling units ~~residential structures and accessory structures requiring Architectural review~~ will typically be conducted concurrently with a Subdivision or Site Plan application ~~after Final Plat approval.~~ Architectural review does not apply to structures reviewed and approved through a Site Plan Review process. However, if additional dwelling units are desired to be added to the Subdivision or Site Plan or changes are requested to the approved Subdivision or Site Plan Architecture then the process in this Section shall apply.

~~C. Types of Architectural Review~~

~~1. Coordination with Subdivision Review~~

~~Architectural review shall typically occur during the Subdivision or Site Plan Review process. The review and approval agencies shall be those that review and approve the Subdivision or Site Plan application.~~

~~2. Administrative Architectural Review~~

~~Single family residential structures and accessory structures requiring Architectural review, which were not reviewed during the Subdivision or Site Plan application process, may be approved by the Community Development Director using the administrative Architectural review approval process.~~

D.C. Procedure for Administrative Architectural Review

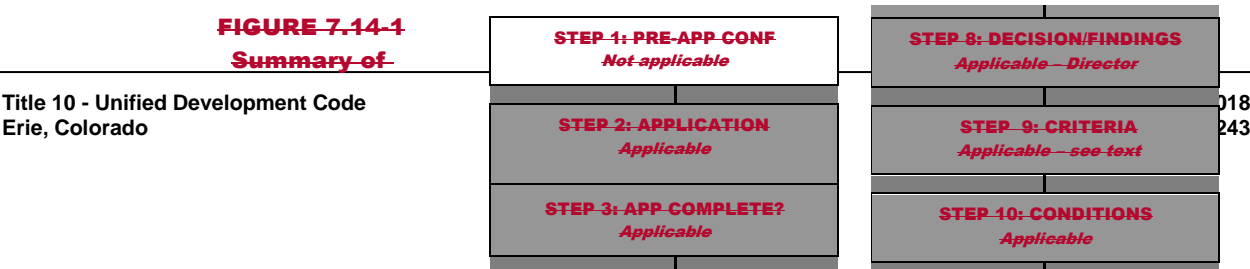
See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

~~1. Step 1 (Pre-Application Conference)~~

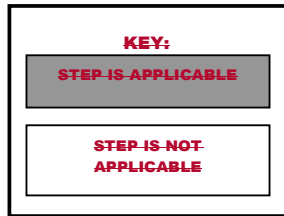
~~Not Applicable.~~

~~2. Step 2 (Development Application Submittal)~~

~~Applicable.~~



**Procedure  
for Architectural  
Review without  
Subdivision or Site  
Plan**



**3. ~~Step 3 (Determination of Application Completeness)~~**

~~Applicable.~~

**4. ~~Step 4 (Neighborhood Meeting)~~**

~~Not Applicable.~~

**5. ~~Step 5 (Application Referral and Review)~~**

~~Applicable.~~

**6. ~~Step 6 (Notice)~~**

~~Not Applicable.~~

**7. ~~Step 7 (Public Hearings)~~**

~~Not Applicable.~~

**8.1. Step 8 (Decision and Findings)**

Applicable. The following additional procedures shall apply:

**a. ~~Community Development~~ Director's Review and Decision**

The ~~Community Development~~ Director shall review each administrative Architectural review application relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.

**b. Referral to Planning Commission**

The ~~Community Development~~ Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, or any application that in the ~~Community Development~~ Director's discretion presents issues that require Planning Commission attention, to the Planning Commission. The applicant shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this UDC.

**c. Appeal to the Board of Trustees**

Appeals of decisions made by the ~~Community Development~~ Director or Planning Commission under this Section shall be made to the Board of Trustees.

**9.2. Step 9 (Approval Criteria)**

Applicable, as follows: An Architectural review may be approved upon a finding that the application meets all of the following criteria:

- a. The Architecture is generally consistent with the Town's Comprehensive ~~Master~~

Plan;

- b. The Architecture is generally consistent with any previously approved Architecture during the subdivision plat, Site Plan, or any other precedent plan or approval as applicable;
- c. The Architecture complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 6;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The Architecture proposed will be compatible with the character of surrounding land uses.

~~10. Step 10 (Conditions of Approval)~~

~~Applicable.~~

~~11. Step 11 (Amendments)~~

~~Applicable.~~

~~12.3. Step 12 (Lapse)~~

~~Applicable, with the following modification:~~

**a. Special Conditions: Expiration of Approval**

- i. The Architectural approval shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. This is for all Architectural approvals whether approved as part of a Subdivision or as a separate review and approval process. Building permits shall not be issued based on Architectural Plans that have an approval date more than 3 years old.
- ii. The ~~Community Development~~ Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Architectural Plans. Failure by the applicant to request a time extension prior to the expiration of the Architectural Plans shall render the Architectural Plans null and void. The submittal of revised Architectural Plans and fees shall be required to obtain a building permit after the Plans have lapsed. The revised plans shall meet the current Town standards.

## **10.7.4513 BUILDING PERMITS, CERTIFICATES OF OCCUPANCY, AND PERFORMANCE REQUIREMENTS**

### **A. Building Permits**

~~A building permit in a development that requires a Site Plan, shall be issued only when a Site Plan has been approved. However, with the approval of the Community Development Director, an applicant may submit a building permit application to the Building Official concurrent with the Site Plan application, which permit may be issued upon Site Plan approval by the Town. Building permits shall not be issued for any development that is not in conformance with the approved Site Plan this Code.~~ Approval of construction drawings by the Public Works Director shall be required prior to issuance of building permits.

### **B. Certificates of Occupancy**

- ~~1. When building construction and all site development is completed in accordance with the approved Site Plan and building permit, a Certificate of Occupancy may be issued.~~
- ~~2. When a Certificate of Occupancy is not required, such as for a change of use where no new building construction is proposed, site development in accordance with the approved Site Plan shall be completed within 6 months of Site Plan approval. The Community Development Director may grant no more than 1 time extension of not more than 6 months, upon a written~~

request by the applicant, prior to the expiration of the 6-month period for good cause shown.

3. ~~If adverse weather prevents the installation of minor Site Plan elements that do not affect the function and access of the occupancy use, a Certificate of Occupancy may be issued upon the applicant providing 1 of the following forms of security: (1) irrevocable Letter of Credit; or (2) cashier's check. This security shall be in an amount equal to the cost of the unfinished work, plus 15 percent and shall be submitted prior to the issuance of a Certificate of Occupancy. The security will be held by the Town and released when the work is deemed complete by the Community Development Director or the Public Works Director.~~
  - a. ~~In order to quantify the required amount of the security, the Town may require up to 3 bids for the required improvements by qualified professionals, at no cost to the Town. Based on these bids, the Community Development Director or Public Works Director shall determine the amount of security required.~~
  - b. ~~When a Certificate of Occupancy is issued, based on security, prior to the completion of all site improvements, the time for the completion of site improvements shall not exceed 6 months from the date the Certificate of Occupancy is issued.~~
  - c. ~~Failure by the applicant to complete the work or to request a time extension within the specified time period shall result in a forfeiture of the security and shall cause the Town to initiate the construction of such improvements. The Community Development Director may grant no more than 1 time extension of not more than 6 months upon receipt of a written request, accompanied by an extension of the financial security, prior to the date the construction was to have been completed.~~
4. ~~Prior to the issuance of the Certificate of Occupancy, the applicant shall submit a completed application for "Request for Release of Certificate of Occupancy."~~

## **10.7.4614 TEMPORARY USE PERMIT**

### **A. Applicability**

No use that is classified as a Temporary Use in the zoning district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit, ~~unless excepted from the permit requirements by Subsection 10.3.4 Cc.2 of this title.~~

### **B. Procedure**

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

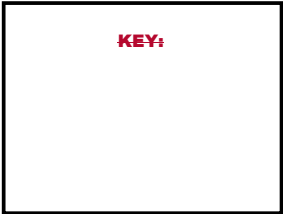
1. **Step 1 (Pre-Application Conference)**  
Not applicable.
2. **Step 2 (Development Application Submittal)**  
Applicable, with the following modification:
  - a. **Filing Deadline**  
All applications for Temporary Use permits shall be filed at least 2 weeks prior to the date the Temporary Use will commence, or at least 4 weeks prior to the date the Temporary Use will commence if public safety support is requested from the Town. The Community Development Director may waive this filing deadline requirement in an individual case, for good cause shown.
3. **Step 3 (Determination of Application Completeness)**  
Applicable.
4. **Step 4 (Neighborhood Meeting)**  
Not applicable.
5. **Step 5 (Application Referral and Review)**

Applicable.

~~6. Step 6 (Notice)~~

Not applicable.

**FIGURE 7.16-4**  
**Summary of**  
**Procedure**  
**for Temporary Use**  
**Permits**



<b>STEP 1: PRE-APP CONF</b> <i>Not applicable</i>	<b>STEP 8: DECISION/FINDINGS</b> <i>Applicable—Director</i>
<b>STEP 2: APPLICATION</b> <i>Applicable</i>	<b>STEP 9: CRITERIA</b> <i>Applicable—see text</i>
<b>STEP 3: APP COMPLETE?</b> <i>Applicable</i>	<b>STEP 10: CONDITIONS</b> <i>Applicable</i>
<b>STEP 4: NEIGH MEETING</b> <i>Not Applicable</i>	<b>STEP 11: AMENDMENTS</b> <i>Applicable</i>
<b>STEP 5: REFERRAL &amp; REVIEW</b> <i>Applicable</i>	<b>STEP 12: LAPSE</b> <i>Applicable</i>
<b>STEP 6: NOTICE</b> <i>Not applicable</i>	
<b>STEP 7: PUBLIC HEARINGS</b> <i>Not applicable</i>	

VF

**7. ~~Step 7 (Public Hearings)~~**

~~Not applicable.~~

**8. ~~Step 8 (Decision and Findings)~~**

~~Applicable. The following additional procedures shall apply:~~

**~~a. Community Development Director's Review and Decision~~**

~~The Community Development Director shall review each Temporary Use application relative to the approval criteria listed below and shall act to approve, approve with conditions, or deny, the application.~~

**~~b. Duration of Permit~~**

~~A Temporary Use permit shall be valid only for the time period stated on the permit, unless otherwise authorized in this UDC.~~

**9.1. ~~Step 9 (Approval Criteria)~~**

~~Applicable, as follows: The Community Development Director shall issue a Temporary Use permit only upon finding that the proposed Temporary Use satisfies the requirements set forth in Section 3.43.~~

**10. ~~Step 10 (Conditions of Approval)~~**

~~Applicable.~~

**11. ~~Step 11 (Amendments)~~**

~~Applicable.~~

**12.2. ~~Step 12 (Lapse)~~**

~~Applicable, as follows: The Temporary Use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.~~

**10.7.17 — ANNEXATION AGREEMENT****A. ~~Purpose~~**

~~Annexation Agreements are contracts between the applicant and the Town. Annexation Agreements are typically required with an annexation application.~~

**B. ~~Contents~~**

~~The Town has a standard Annexation Agreement format that is to be used in the drafting of an Annexation Agreement for an application. The standard form is to be used in drafting the Annexation Agreement with modifications only occurring in the special provisions section and related exhibits section. An applicant may not change the standard form language outside the special provisions section and exhibits without approval by the Town. This UDC and other Town laws may not be altered by the Annexation Agreement.~~

~~The Annexation Agreement represents the applicant's proposed performance to induce the Board of Trustees to act favorably on the proposed Annexation. The accompanying Initial Zoning application and if applicable, a Concept Plan for the Annexation application are part of the applicant's proposal and shall be an integral part of the Annexation Agreement. The special provisions section of the Annexation Agreement is based on the general development information submitted at the time of Annexation and Initial Zoning. As future applications for subdivision and Site Plan are submitted to the Town and more detailed development information is submitted for review, additional agreements, such as a Development and Site Plan Agreement may be required to contractually bind the owner and Town to improvements identified during those review processes. The Annexation Agreement shall detail the mutual understanding about the Annexation. The Annexation Agreement may possibly include the following matters or other development related items:~~

- ~~1. Density or intensity of development and land use mix, including designation of the density distribution within the parcel to be annexed;~~



- ~~2. Phasing of the development in general terms;~~
- ~~3. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;~~
- ~~4. Street and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter right-of-ways and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and right-of-ways, responsibility for construction or participation in traffic signals and other traffic control devices, payment for any transportation or site access studies or any addenda;~~
- ~~5. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;~~
- ~~6. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;~~
- ~~7. Fire protection, detailing responsibility for fire protection measures;~~
- ~~8. Land dedication or reservation, designating land for public purposes including but not limited to streets, utilities, parks, open space, trails, schools, greenways, or cash-in-lieu agreements. Land reserved for future park, open space or trail purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;~~
- ~~9. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;~~
- ~~10. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;~~
- ~~11. Special districts, all agreements concerning special districts projected to be created within the Town limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;~~
- ~~12. Vested rights and growth management:
  - ~~a. Specifying that the Town's action in annexing the property and approving the Concept Plan and Initial Zoning do not create a vested right as defined in the Colorado Revised Statutes or other Town regulation or ordinance;~~
  - ~~b. Specifying that, unless otherwise agreed to by the Town, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation; and~~
  - ~~c. Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the Town;~~~~
- ~~13. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;~~
- ~~14. Non-contestability clause detailing reliance by all on the agreement and providing for disconnection of the Annexation, at the option of the Town, upon noncompliance or nonperformance by the applicant;~~
- ~~15. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of~~

~~irrigation ditches and laterals, and purchase of existing electric facilities or electric service territory; and~~

~~16. Other issues as may be necessary to evidence compliance with this Section and UDC.~~

### **~~C. Procedure & Review Criteria~~**

#### **~~1. Decision-Making Body~~**

~~The Board of Trustees shall be the decision-making body on all Annexation Agreements and any amendments to the Annexation Agreement.~~

#### **~~2. Procedure for Review~~**

~~A proposed Annexation Agreement shall be reviewed by the Board of Trustees at the same time that the related annexation application is reviewed. The Board shall have the power to make recommendations regarding the proposed Annexation Agreement.~~

### **~~D. Amendment Procedure~~**

~~Any party to the Annexation Agreement may request, through a formal application to the Town, that the Town amend the agreement.~~

### **~~E. Enforcement~~**

~~Unless amended or terminated pursuant to this Section, an Annexation Agreement shall be enforceable by any party thereto.~~

## **10.7.1815 DEVELOPMENT AGREEMENT**

### **A. Purpose**

Development Agreements are contracts between an applicant and the Town. Development Agreements are typically required with a subdivision application when public improvements and private improvements of public interest are identified during review of the application.

### **B. Contents**

The Town has a standard Development Agreement format that is to be used in the drafting of a Development Agreement for an application. The standard form is to be used in drafting the Development Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This UDC and other Town laws may not be altered by the Development Agreement. Development agreements may contain the following:

~~Descriptions of the acceptable and prohibited uses on the property;~~

~~The density of proposed uses, including maximum floor area and height of buildings;~~

~~Provisions for the reservation or dedication of land for public purposes;~~

~~Provisions for the timing, location, and maintenance of on-site improvements, including parks, trails, landscaping and open space;~~

~~Proposed timing and phasing of the development project;~~

~~Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;~~

~~Provisions for public benefits or improvements in excess of what is required by current Town policy or law;~~

~~Reimbursements to the Town or to the party paying for the public improvements and/or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;~~

~~Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;~~

~~A provision that construction shall begin by a specified date or that certain phases shall be completed~~

~~within a specified time;~~

~~Provisions for the vesting of property rights;~~

~~Termination date for the Development Agreement; and~~

~~Any other provisions appropriate to guide the completion of the development as proposed.~~

~~Procedure & Review Criteria~~

#### **Decision-Making Body**

~~The Board of Trustees shall be the decision-making body on all development agreements, and shall approve a development agreement and any amendments to the Development Agreement.~~

~~Procedure for Review~~

~~A proposed Development Agreement shall be reviewed by the Board of Trustees at the same time that the related development application is reviewed. The Board shall have the same power to make recommendations regarding the proposed Development Agreement or amendment as they do for the related development approval. Procedures for review and approval of development agreements, by the Board of trustees, shall be as follows:~~

~~For subdivision applications requiring a Preliminary Plat, a preliminary draft of the Development Agreement (with completed draft exhibits) may be reviewed by the Board of Trustees at the same time as the public hearing for the Preliminary Plat. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.~~

~~At Final Plat, the Board of trustees shall review a final Development Agreement. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.~~

~~Development Agreements that are processed with a Minor Subdivision or Subdivision Amendment shall be reviewed by the Board of Trustees. The Board of Trustees shall be the decision-making body on all Development Agreements and amendments thereto.~~

~~Review Criteria~~

~~In reviewing and acting upon proposed Development Agreements and amendments, the Board of Trustees shall consider the review criteria for the development application and the following additional review criteria:~~

~~Whether the benefits of the Development Agreement provisions to the Town outweighs its costs; and~~

~~Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.~~

~~Amendment Procedure~~

~~Any party to the Development Agreement may request, through a formal application to the Town, that the Town amend the agreement.~~

~~The Procedure and Review Criteria in Section H.3 above shall be used for the amendment request.~~

~~Section 10.7.19 Site plan agreement~~

~~Enforcement~~

~~Unless amended or terminated pursuant to this Section, a Development Agreement shall be enforceable by any party thereto.~~

## **10.7.4916 SITE PLAN AGREEMENT**

### **A. Purpose**

Site Plan Agreements are contracts between an applicant and the Town. Site Plan Agreements are typically required with a Site Plan application when public improvements and private improvements

of public interest are identified during review of the application.

## **B. Contents**

The Town has a standard Site Plan agreement format that is to be used ~~in the drafting of a Site Plan Agreement for an application. The standard form is to be used in drafting the Site Plan Agreement with modifications generally occurring only in the special provisions section and related exhibits section. This UDC and other Town laws may not be altered by the Site Plan Agreement. Site Plan agreements may contain the following:~~

- ~~1. Descriptions of the permitted and prohibited uses on the property;~~
- ~~2. The density of proposed uses, including maximum floor area and height of buildings;~~
- ~~3. Provisions for the reservation or dedication of land for public purposes;~~
- ~~4. Provisions for the timing, location, and maintenance of on-site improvements;~~
- ~~5. Proposed timing and phasing of the development project;~~
- ~~6. Provisions to mitigate the impacts of proposed development on the general public, including the protection of wildlife habitat and other environmentally sensitive lands;~~
- ~~7. Provisions for public benefits or improvements in excess of what is required by current Town policy or law;~~
- ~~8. Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;~~
- ~~9. A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time;~~
- ~~10. Reimbursements to the Town or to the party paying for the public improvements or land acquisitions for public improvements that benefit the property or potentially benefit the property or development thereon;~~
- ~~11. Provisions for the vesting of property rights;~~
- ~~12. Termination date for the Site Plan Agreement; and~~
- ~~13. Any other provisions appropriate to guide the completion of the development as proposed.~~

## **C. Procedure and Review Criteria**

### **1. Decision-Making Body**

~~The Board of Trustees shall be the decision-making body on all Site Plan Agreements and any amendments to the Site Plan Agreement.~~

### **2. Procedure for Review**

~~A proposed Site Plan Agreement shall be reviewed by the Board of Trustees before the related Site Plan application is approved. The Board shall have the power to make recommendations regarding the proposed Site Plan Agreement or amendment. See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.~~

### **3. Review Criteria**

~~In reviewing and acting upon proposed Site Plan Agreements, the Board of Trustees shall consider the review criteria for the Site Plan application and the following additional review criteria:~~

- ~~a. Whether the benefits of the Site Plan Agreement provisions to the Town outweighs its costs; and~~

- ~~b. Whether the Site Plan Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable.~~

#### ~~D. Amendment Procedure~~

- ~~1. Any party to the Development Agreement may request, through a formal application to the Town, that the Town amend the agreement.~~
- ~~2. The procedure and Review Criteria in Subsection 7.1917.C above shall be used for the amendment request.~~

#### ~~E. Enforcement~~

~~Unless amended or terminated pursuant to this Section, a development agreement shall be enforceable by any party thereto.~~

### **10.7.2017 IMPROVEMENT GUARANTEES**

#### **A. Guarantee Required**

To ensure the installation of required public improvements, at the time the Final Plat or Site Plan is filed, a Development Agreement shall require the Developer to guarantee the completion of all such improvements by 1 or more of the methods specified in this Section. The means of a guarantee may be changed during the guarantee period through a written modification of the agreement only with the ~~Community Development~~ Director's approval. The amount of the guarantee shall be determined on the basis of the Developer's cost estimate as accepted by the Town. The guarantee shall remain in effect until final acceptance of improvements.

#### **B. Cost Estimate; Overrun Allowance**

The engineer's cost estimate shall state the estimated cost of completion for each required public improvement. Cost estimates for each required public improvement must be approved by the Town. The guarantee of completion of public improvements shall include a 15 percent overrun allowance.

#### **C. Methods**

The Development Agreement shall include 1 or more of the following methods to guarantee the construction of required public improvements:

##### **1. Deposit in Escrow**

The Developer may elect to deposit a cash sum equal to the guarantee as required herein. In the case of an escrow account, the Developer shall file with the Town an escrow agreement in a form approved by the Town Attorney, that includes the following terms:

- a. Funds of the escrow account shall be held in trust until released by the Town and may not be used or pledged by the Developer as security in any matter during that period other than payment for the improvements.
- b. In the case of a failure on the part of the Developer to complete any improvement within the required time period, the funds in such account shall be used by the Town for the completion or partial completion of those improvements.

##### **2. Letter of Credit**

The Developer may elect to provide from a bank or other responsible financial institution authorized to do such business in the state an irrevocable letter of credit in a form acceptable to the Town Attorney. Such letter shall be filed with the Town and shall certify the following:

- a. That the creditor irrevocably guarantees funds in an amount equal to the estimated cost of all required public improvements plus overrun allowances as provided herein for the completion of all such improvements.

- ~~b. That in the case of failure on the part of the Developer to complete any specified~~

improvements within the required time period the Town may immediately and without further action draw upon the letter of credit as necessary to finance the completion or partial completion of those improvements.

3. If any portion of the development governed by the development agreement is being funded by the Town or the Town of Erie Urban Renewal Authority, the Town may, in the Town's sole discretion and subject to approval by the Town Attorney, accept other forms of improvement guarantees, including without limitation performance bonds, warranty bonds and pledges of bond proceeds.

#### **D. Improvement Warranty**

##### **1. Time Period**

The Developer shall warrant and guarantee that required public improvements constructed under the agreement will remain in good condition and meet operating specifications for 2 years, commencing with construction acceptance of each public improvement when it is completed. Such warranty includes defects in design, workmanship, materials, and any damage to improvements caused by the Developer, his agents or others engaged in work to be performed under the subdivision agreement.

##### **2. To secure the warranty**

- a. The performance guarantee ~~of performance provided for in this Section~~ shall remain in effect until the end of the warranty period.
- b. The performance guarantee ~~of performance~~ shall be reduced to 25 percent of the original Development Agreement for the warranty period.

#### **~~E. Correction of Deficiencies under Guarantee~~**

~~Within 30 days, or a reasonable extension at the sole discretion of the applicable department director, of notification by the Town of the need for repair or reconstruction, the Developer shall correct the deficiencies to the Town's satisfaction. Such notification shall be made by certified mail. If the Developer fails to repair or reconstruct the deficiency within the time specified in this Section, the Town will make the repair at the Developer's sole expense. The Town may then bill the Developer for the cost of the repair, or declare the guarantee forfeited.~~

#### **~~F.E. Release of Guarantee~~**

An inspection will be made by the Town at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the guarantee.

#### **~~G. Default~~**

~~If the Developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the Town may demand immediate payment on the performance guarantee. In the case of deposits in escrow or letters of credit, the Town may demand immediate payment of a portion or all of all sums obligated for the performance or warranty of any improvement. All funds received by the Town shall be used to complete the improvements necessary to ensure that:~~

- ~~1. All required public improvements are built to specifications necessary to receive final acceptance; and~~
- ~~2. The improvements remain in good condition for the completion of the warranty period. The Town may use guarantee funds for the completion of required public improvements from the date of initial default until 3 years after the funds have become available to the Town for such use. The Town shall pay to the developer all guarantee funds which were not used or obligated for the completion of the improvements by:~~
  - ~~a. The final acceptance of all public improvements; or~~

~~b. The 2-year period provided for in this Section.~~

#### ~~H. Standards May Not be Altered; Enforcement of Chapter~~

~~All provisions of this Chapter are mandatory and may not be altered by the Development Agreement. The obligations contained in this Chapter shall be enforceable by methods of enforcement of ordinance as well as contract.~~

### **10.7.1824 AMENDMENTS TO THE TEXT OF THIS UDC**

#### **A. Purpose**

The purpose of this Section is to provide standards and requirements for amending the text of this UDC. The purpose of text amendments is to make adjustments to the text of this UDC that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Amendments will not be granted to relieve particular hardships or to confer special privileges or rights on any person or organization.

#### **B. Applicability**

Any amendments to the text of this UDC shall be processed in accordance with Section 1-1-10 of the Municipal Code, as well as the requirements set forth in this Section 10.7.21. Only the Board of Trustees may, after recommendation of the Planning Commission, adopt an ordinance amending the text of this UDC in accordance with the requirements of this Section.

#### **C. Procedure**

1. **Step 1 (Pre-Application Conference)**  
Not Applicable.
2. **Step 2 (Development Application Submittal)**  
Not Applicable.
3. **Step 3 (Determination of Application Completeness)**  
Not Applicable.
4. **Step 4 (Neighborhood Meeting)**  
Not Applicable.
5. **Step 5 (Application Referral, Review and Staff Report)**  
Applicable.
6. **Step 6 (Notice)**  
Applicable. Published notice only.
7. **Step 7 (Public Hearing)**  
Applicable, before the Board of Trustees only.
8. **Step 8 (Decision and Findings)**  
Applicable. The following additional procedures shall apply:

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

- i. The Planning Commission shall make a recommendation to the Board of Trustees to approve or deny the text amendment, based on the applicable standards of this Section.
- ii. If no recommendation is made within 60 days, then the Planning Commission may request an extension of time from the Board of Trustees. If no recommendation is made and no extension is granted, then the Board of Trustees may act on the proposed amendment without a recommendation from the Planning Commission.

##### **b. Board of Trustees Action**

After reviewing the reports and recommendations of the Community Development Director and the Planning Commission, and following a public hearing, the Board of

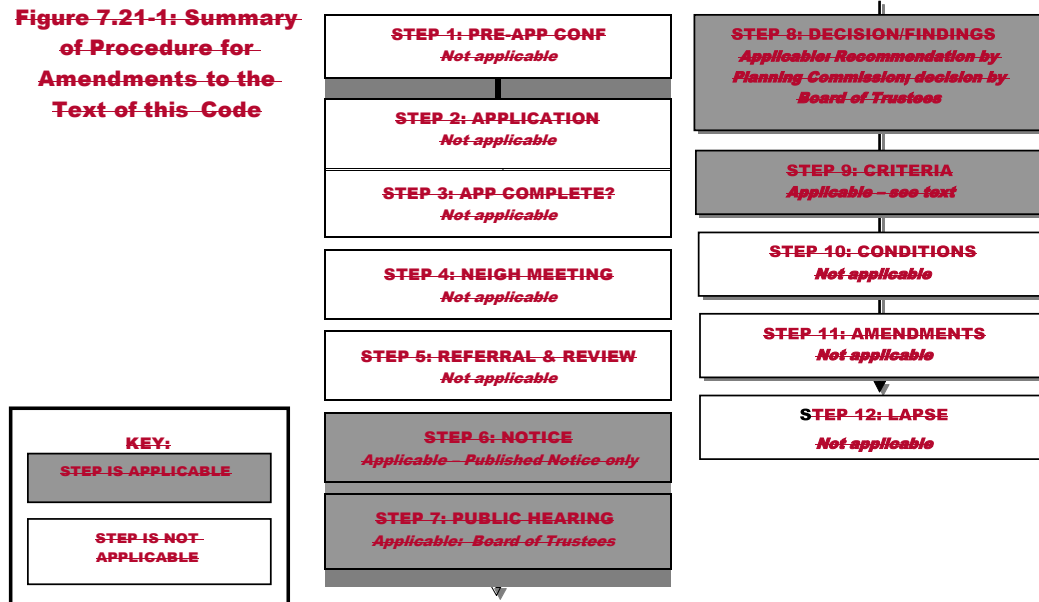


Trustees shall vote to approve, approve with amendments, or deny the proposed amendment, based on the applicable standards of this Section. The Board of Trustees also may refer the proposed amendment back to the Planning Commission for further consideration. Amendments to the text of this UDC shall be approved in the form of ordinances.

**c. Records of Amendments**

A record of amendments to the text of this UDC in a form convenient for the use of the public shall be maintained in the office of the Town Clerk.

**Figure 7.21-1: Summary of Procedure for Amendments to the Text of this Code**



**9. Step 9 (Approval Criteria)**

Applicable, as follows: Recommendations and decisions on text amendments may be approved if the Board of Trustees finds that all of the following approval criteria have been met:

- The proposed amendment will promote the public health, safety, and general welfare;
- The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
- The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

**10. Step 10 (Conditions of Approval)**

Not applicable.

**11. Step 11 (Amendments)**

Not applicable.

**12. Step 12 (Lapse)**

Not applicable.

**10.7.2219 APPEALS**

**B. Appeals of Administrative Decisions**

**1. Purpose and Scope**

Appeals to the Board of Adjustment from the decisions of the Town's staff are permitted

under this UDC. ~~It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this UDC shall be presented first to the appropriate Department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Board of Trustees in connection with this UDC shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.~~

## 2. Decisions That May Be Appealed

An asserted error in any order, requirement, permit, decision, determination, refusal, or interpretation made by ~~the Director~~~~any Town staff~~ in interpreting ~~and/or~~ enforcing the provisions of this UDC may be appealed to the Board of Adjustment, unless otherwise provided in this UDC.

## 3. Filing of Appeal; Effect of Filing

- a. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by ~~an~~ the order, requirement, permit, decision, or determination ~~of the Director~~~~that is the subject of the appeal, or by the Community Development Director on behalf of the Town.~~
- b. An application for an appeal shall be filed with the ~~Community Development~~ Director. Once the application is determined to be complete, the ~~Community Development~~ Director shall schedule the appeal for consideration at a public hearing before the Board of Adjustment. The ~~Community Development~~ Director ~~and the Staff from whom the appeal is taken~~ shall transmit to the Board of Adjustment all applications and other records pertaining to such appeal. The application shall be filed no later than 30 days after the date of the contested action.
- c. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the ~~Community Development~~ Director certifies to the Board of Adjustment that, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. ~~In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustment or by a court of law on notice to the Community Development Director or from whom the appeal is taken, with due cause shown.~~

## 4. Action by the Board of Adjustment

- a. Upon receiving the application materials from the ~~Community Development~~ Director, the Board of Adjustment shall hold a public hearing on the appeal.
- b. At the hearing, the Board of Adjustment shall adopt a resolution reversing, affirming, or modifying the contested action. In reversing, affirming, or modifying the contested action, ~~the Board of Adjustment shall have all relevant powers of the Town staff from whom the appeal is taken.~~
- c. The Board of Adjustment shall not reverse or modify the contested action unless it finds that Town staff erred in the application or interpretation of the terms of this UDC or related policies adopted by the Town.
- d. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of at least 4 members.

## 5. Effect of Reversal or Modification

In the event that the Board of Adjustment reverses or modifies the contested action, all subsequent actions taken by Town staff with regard to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment.

### ~~C. Appeals from Planning Commission~~

#### ~~1. Appeals from decisions by the Planning Commission based upon this UDC shall be to the~~

~~Board of Trustees, unless otherwise provided in this UDC.~~

#### **D.C. Appeal from Board of Adjustment or Board of Trustees**

1. Appeals from decisions made by the Board of Adjustment or the Board of Trustees based upon this UDC shall be to the courts in accordance with C.R.C.P 106 (a) (4).

### **10.7.2320 PLANNED DEVELOPMENT (PD) ZONING**

#### **A. Purpose**

1. This Section makes available, pursuant to the Planned Unit Development Act of 1972, Article 67 of Title 24, C.R.S., a procedure to modify specific regulations of the UDC within a Planned Development (PD) zone district at the time of initial zoning for annexation or as a rezoning of a property from another zone district. ~~Within the PD zone district modification may be considered for any Sections of the UDC.~~
2. The PD zone district may be used when:
  - a. There is a special public benefit that does not coincide with standard zoning district requirements; ~~or,~~
  - b. A development proposal is unable to meet the standard zoning district requirements due to physical constraints of the property; ~~or,~~
  - c. A development proposal is unable to meet the standard zoning district requirements due to unique development design; or,
  - d. A development proposal is unable to meet the standard zoning district requirements due to a unique mix of land uses.
3. The PD zone district is not a general waiver of the UDC regulations. PD zone district modifications to the UDC regulations are to be based on creative and innovative design -and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zoning districts or through another modification process such as Alternative Equivalent Compliance ~~(Subsection 6.1.C) or the PUD Overlay District (Subsection 2.7.D).~~
4. PD zone district modifications shall be generally consistent with the overall land uses and objectives of the Town's Comprehensive ~~Master~~ Plan, Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
5. The flexibility permitted in a PD zone district shall be made in exchange for greater public benefits that would not have otherwise been achieved through development under another zone district.

#### **B. Applicability**

##### **1. General**

- a. The procedures of this Section, shall apply to all PD zone district applications ~~at initial zoning for annexation or as a rezoning of a property from another district.~~
- b. There shall be no minimum or maximum size required for a PD zone district ~~application.~~
- c. The PD zoning district specific regulations ~~shall be required to~~ be outlined in a Planned Development–Development Plan (“PD-DP”). The PD-DP shall comprehensively detail the layout and design of the entire PD zoning district in order to show conformance with the purpose of the PD zoning district; to illustrate where and how modification of specific UDC regulations will occur; and to delineate where and how a greater public benefit has been provided. ~~The PD-DP is required to be approved before development may occur.~~
- d. The ~~PD-DPPD zoning district application~~ may propose modifications to any Section of the UDC.:

- ~~i. Chapter 3: Use Regulations;~~
- ~~ii. Chapter 4: Dimensional Standards;~~
- ~~iii. Chapter 5, Section 5.4: Layout and Design of Subdivisions~~Generally~~; and,~~
- ~~iv. Chapter 6: Development and Design Standards.~~

- e. The provisions of the PD-DP shall govern the development within the PD zone district provided, however, that where the provisions of the PD-DP do not address a particular subject, the relevant provisions of the UDC, as amended, or any other applicable ordinance or regulation of the Town shall be applicable.

## C. Procedure for Review

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

### 1. ~~Step 1: (Pre-Application Conference)~~

~~Applicable. The Pre-Application conference content should additionally include a list, provided by the applicant, of all the proposed modifications of the UDC. Staff will review the applicant's proposed modifications and recommend whether or not the PD zoning district application is the most appropriate and efficient land use application for the applicant's need. Other UDC modification options available to an applicant, which may be recommended by staff, include the Alternative Equivalent Compliance process in Subsection 6.1.C. or the Planned Unit Development (PUD) Overlay district in Subsection 2.7.D.~~

### 2. ~~Step 2: (Development Application Submittal)~~

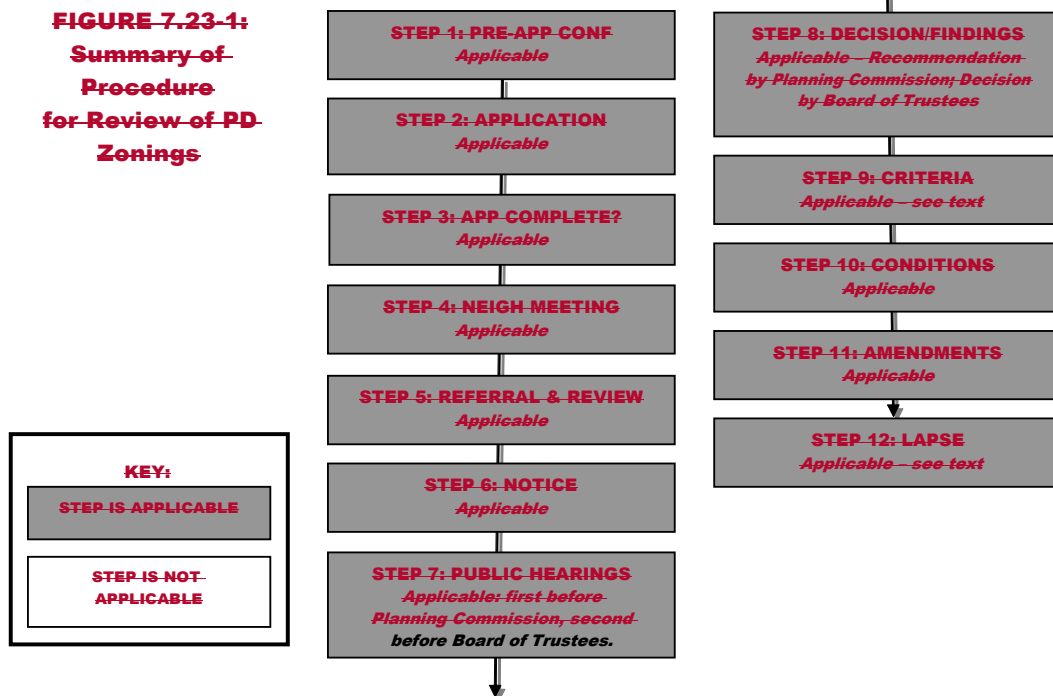
~~Applicable, the following additional development application submittal requirements shall also apply.~~

~~The PD zoning district application submittal shall include a PD-DP of maps and drawings with a written statement of intent for the district, development reports and other supporting submittal information as may be referenced in the User's Guide. The following submittal materials, insofar as applicable, shall be required and shall contain the minimum information specified in this Section. Applications for the PD zoning district shall provide application materials similar to what is submitted for a preliminary plat application. Applications that include residential (other than single-family), public and institutional, commercial or manufacturing and light industrial land uses shall additionally provide application materials similar to what is submitted for a site plan application. The Community Development Director may waive submittal information below if the anticipated impact of the proposed development is minimal or the submittal information is not relevant to the specific application.~~

- ~~a. An ALTA land title survey of existing conditions.~~
- ~~b. A native tree and vegetation survey.~~
- ~~c. Copies of Special Agreements (oil/gas surface use agreements, conveyances, restrictions, or covenants).~~
- ~~d. A written statement that contains information regarding:
 
  - ~~i. The character and development concept for the PD.~~
  - ~~ii. A comparative chart that lists the UDC regulation that is requested to be modified and the proposed modified PD regulation that will replace it.~~
  - ~~iii. Justification statement for each requested modification to the UDC regulations.~~
  - ~~iv. Identification of the greater public benefit provided within the PD zone district.~~~~

- ~~v. A development schedule that identifies timing and phasing of development.~~
- ~~vi. General consistency of the development with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.~~
- ~~vii. General compatibility with, and effect on, surrounding properties.~~
- ~~viii. Provision for adequate, police, fire, and school services.~~
- e. A PD-DP that contains:
  - ~~i. The requested modifications to the UDC regulations.~~
  - ~~ii. A land use summary chart that identifies, by each land use type, the:~~
    - ~~(A) area and percent of total area;~~
    - ~~(B) number of lots;~~
    - ~~(C) number of dwelling units;~~
    - ~~(D) dwelling units per gross acreage;~~
    - ~~(E) square footage of non-residential;~~
    - ~~(F) minimum lot sizes;~~
    - ~~(G) minimum setbacks;~~
    - ~~(H) maximum building height;~~
    - ~~(I) principal and accessory uses permitted by right and by special-review use;~~
    - ~~(J) parks and open space dedication total;~~
    - ~~(K) private parks and open space total; and,~~
    - ~~(L) parking requirements.~~
  - ~~iii. Lot, block and tract layout.~~
  - ~~iv. Existing and proposed easements.~~
  - ~~v. Existing and proposed street right-of-ways.~~
  - ~~vi. Utility plan.~~
  - ~~vii. Grading and drainage plan.~~
  - ~~viii. Oil/gas plan for plugged and abandoned, existing, and proposed facilities, easements, and setbacks.~~
  - ~~ix. Natural and scenic resource protection plan.~~
  - ~~x. Landscape plan.~~
  - ~~xi. Park, open space and trails plan.~~
  - ~~xii. General location and size of all existing and proposed structures.~~
  - ~~xiii. Building floor plans and architectural elevations.~~
  - ~~xiv. Parking, loading, and vehicular and pedestrian circulation.~~
  - ~~xv. Signage.~~
  - ~~xvi. Photometric plan (single-family residential excepted).~~
- f. Development Reports:

- ~~i. Drainage report.~~
  - ~~ii. Traffic impact report.~~
  - ~~iii. Geological/soils report.~~
  - ~~iv. Endangered species report.~~
  - ~~v. Cultural resources report.~~
  - ~~g. Additional Provisions:~~
    - ~~i. The Town may require additional reasonable provisions as appear necessary or desirable for the protection of adjoining or nearby properties and to fully evaluate the proposed modifications to the UDC regulations.~~
- ~~3. Step 3: (Determination of Application Completeness)~~  
~~Applicable.~~
- ~~4. Step 4: (Neighborhood Meeting)~~  
~~Applicable.~~
- ~~5. Step 5: (Application Referral, Review and Staff Report)~~  
~~Applicable.~~
- ~~6. Step 6: (Notice)~~  
~~Applicable.~~
- ~~7. Step 7: (Public Hearing)~~  
~~Applicable. Two Public Hearings are required. The first hearing shall be held by the Planning Commission, and the second hearing shall be held by the Board of Trustees.~~



## 8.2. Step 8: (Decision and Findings)

Applicable, the following additional procedures shall apply:

### a. Planning Commission Review and Recommendation

The Planning Commission shall hold a Public Hearing on the ~~PD zone district~~ application. The Planning Commission shall recommend to the Board of Trustees approval ~~of the PD zone district application~~, approval with conditions, or denial. The ~~Community Development~~ Director shall forward the recommendation to the Board of Trustees.

**b. Board of Trustees Action**

The Board of Trustees shall hold a Public Hearing on the ~~PD zone district~~ application and shall approve, approve with conditions, or deny the ~~PD zone district~~ application.

**c. Official Zoning Map**

~~A~~ ~~PD-DPs~~ approved in accordance with the provisions of this Section shall be referenced on the Official Zoning Map.

**d. Recording of Decision**

Following approval ~~of the PD zone district application~~, the Town shall record the PD-DP, ~~and other appropriate associated documents~~, in the office of the appropriate County Clerk and Recorder. The applicant shall be responsible for all required recording fees.

**e. Successive Applications**

Following denial of a PD zone district application, no new application for the same or substantially the same PD zone district ~~application~~ shall be accepted within 1 year of the date of denial.

**9.3. Step 9: (Approval Criteria)**

Applicable, the Planning Commission and Board of Trustees shall review the PD zone district application ~~considering and will base their recommendation or decision based on their findings related to~~ the following approval criteria:

- a. The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.
- b. The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard ~~zon~~ing districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C ~~or the PUD Overlay District in UDC Subsection 2.7.D~~.
- c. The PD ~~zon~~ing district will promote the public health, safety, and general welfare.
- d. The PD ~~zon~~ing district is generally consistent with the Town's ~~of Erie~~ Comprehensive ~~Master~~ Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
- e. Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.
- f. The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.
- g. A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.
- h. The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.
- i. The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.
- j. Proposed uses will be compatible in scale with uses on properties in the vicinity of



the PD zone district.

- k. The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.
- l. Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.
- m. The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.

#### **10. Step 10: (Conditions of Approval)**

~~Applicable.~~

#### **11.4. Step 11: (Amendments)**

Applicable, as follows: Amendments shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Amendments shall be recorded in accordance with the procedures established for the initial approval.

#### **12. Step 12: (Lapse)**

~~Applicable, as follows:~~

- ~~a. The PD-DP and other appropriate associated documents to the approved PD zone district shall be recorded within 120 days of approval. Upon written request by the applicant or staff, the Community Development Director may grant 2 extensions for a maximum of 60 days each due to unique circumstances that make it impracticable to file the documents.~~

- ~~b.a. Development in an approved PD zone district shall commence within 5 years from the date of recordation of the PD-DP, unless such time is extended by an ordinance adopted by the Board of Trustees. If development does not commence within 5 years, the Town shall initiate proceedings to revoke the PD-DP from the PD zone district. The revocation of the PD-DP shall be heard before the Planning Commission, wherein the Planning commission shall make a recommendation to the Board of Trustees. The revocation of the PD-DP shall then be heard by the Board of Trustees at a Public Hearing where a final determination shall be made. The Public Hearings shall be subject to the Published Notice (Subsection 7.2 F.3.) and Posted Notice (Subsection 7.2 F.5.) requirements as well as the Public Hearing requirements of Subsection 7.2 G. The sole purpose of the Public Hearings is to determine whether or not development activity has commenced on the property. If development has not commenced, the Board of Trustees shall revoke the PD-DP by ordinance. For the purposes of this Step 12 process, "development" shall mean the issuance of a building permit for construction of a walled and roofed building intended as shelter for a use or occupancy permitted within the PD zone district. If a PD-DP has been revoked by the Board of Trustees, the property will remain zoned as a PD zone district without a PD-DP. Development of the property, as a PD zone district, will require a new PD-DP that shall be reviewed and processed in the same manner as required for the original application.~~