

ARTICLE XI

APPROVAL PROCESS, VESTING OF PROPERTY RIGHTS, AND ENFORCEMENT

Sec. 16-6-10. Purpose and Intent.

This Article is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the Town by:

- A. Encouraging new subdivision developments to relate to the Town's historic development pattern.
- B. Promoting compact, well-defined, sustainable neighborhoods that enhance the Town's character.
- C. Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles.
- D. Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring that streets facilitate safe, efficient, and pleasant walking, biking, and driving.
- E. Providing a variety of lot sizes and housing types in every neighborhood.
- F. Protecting sensitive natural and historic areas and the Town's environmental quality.
- G. Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus, recreation, light, and air, and for the avoidance of congestion of population.
- H. Providing open spaces for adequate storm water management.
- I. Providing adequate spaces for educational facilities.
- J. Providing protection from geologic hazards and flood-prone areas.
- K. Ensuring compliance with this Code, the Design Principles and Development Standards (Article 4), and consistency with the Comprehensive Plan, to the extent such consistency is provided for herein.
- L. Regulating such other matters as the Board of Trustees may deem necessary in order to protect the best interests of the public.

Sec. 16-6-20. General Provisions.

A. The provisions of this Article shall apply to any and all development and use of land within the municipal boundaries of the Town, unless expressly and specifically exempted or provided otherwise in these Regulations. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of these Regulations in conjunction with the Zoning Code. Certain uses may also be undertaken only with prior and proper approval or authorization pursuant to the terms of this Code. All development and uses shall comply with

the applicable terms, conditions, requirements, standards and procedures established in these Regulations in conjunction with the Zoning Code.

B. Except as herein provided, no building, structure, or land shall be used and no building, structure, or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved, or structurally altered except in conformance with the regulations herein specified for the zone district in which it is located, nor shall a yard, lot, or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

C. These regulations establish procedural and substantive rules for obtaining the necessary approval to develop land, use land, and construct buildings and structures. Development and use applications will be reviewed for compliance with the Comprehensive Plan (as provided herein) and with adopted regulations, policies, and other guidelines.

Sec. 16-6-30. Administration.

All plats, plans and dedications of public areas and easements require approval by the Town. This approval shall be done on the plat via specific language in the dedication statement or shall be done through a separate instrument of dedication per direction of the Town.

Sec. 16-6-40. Types of Applications.

All applications submitted will fall into one of three categories: major application, minor application, or administrative application. Each application process is outlined in this Article.

A. Major applications.

1. Major applications are applications that require a neighborhood meeting, have a public hearing before the Planning Commission and Board of Trustees, except Appeals and Variances, which are heard by the Board of Adjustment. Appeals from any order, requirement, decision, or determination made by an administrative official charged with enforcement of this Code are heard by the Board of Adjustment.

2. The following applications are major applications:

- a. Annexation
- b. Zoning
- c. Planned Unit Development
- d. Preliminary plat
- e. Preliminary development plan
- f. Vacation of right-of-way/easement
- g. Appeals and Variances

- h. Land Use Code amendment
- i. Comprehensive Plan amendment
- j. Location and Extent

B. Minor applications.

1. Minor applications are applications that require a neighborhood meeting, have a public hearing before the Planning Commission, and a public hearing before the Board of Trustees. Appeals from any order, requirement, decision, or determination made by an administrative official charged with enforcement of this Code are heard by the Board of Adjustment.

2. The following applications are minor applications:

- a. Final plat
- b. Final development plan
- c. Minor subdivision
- d. Conditional use

C. Administrative applications.

1. Administrative applications are applications that require a neighborhood meeting and are generally approved by the Director. Appeals of a denial of an administrative application are heard by the Board of Adjustment.

2. The following applications are administrative applications.

- a. Site plan
- b. Subdivision amendment
- c. Minor modification
- d. Temporary use
- e. Change of Use
- f. Alternative Compliance

Sec. 16-6-50. General Application Procedures.

A. Pre-Application meeting.

1. Purpose and intent. The purpose of the pre-application meeting is to provide an opportunity for the Applicant and the Town to discuss the development proposal to:

- a. Communicate the required application(s) and the timing of multiple application submittals;

- b. Provide the Applicant with application materials and inform the Applicant of submittal requirements, including any supplemental requirements.;
- c. Obtain a waiver of any application submittal requirements based on a determination made by the Director;
- d. Provide the Applicant with an approximate time frame for the review process;
- e. Discuss compliance with the applicable development standards;
- f. Determine the number and timing of any required neighborhood meetings; and
- g. Refer the Applicant to other departments, agencies, or entities to discuss significant issues prior to application submittal.

2. **Applicability.** Unless waived, a pre-application conference is required for all major, minor and administrative applications. The Director may grant a waiver from the requirement for a pre-application conference upon finding in writing that the on-site and off-site impacts of the proposed development are likely to be minimal.

3. **Attendance.** The Applicant and Town staff or outside reviewing agency representative typically participate in the pre-application conference.

4. **Request for a Pre-Application Meeting.** To request a pre-application conference, the Applicant shall fill out a pre-application form and submit it to the Planning Department. A general description of the proposed development is required. Dependent on the complexity of the proposal, additional documentation may be required.

5. **Effect of the Pre-Application Meeting.** The opinions presented during a pre-application conference are informational only and do not represent a commitment on behalf of the Town regarding the acceptability of the development proposal.

6. **Timely Application Submittal Required.** If a development application is not submitted within 180 calendar days of the pre-application meeting, the Applicant shall schedule and attend another pre-application meeting before submitting an application.

B. Neighborhood Meeting

1. **Intent and Purpose.** To facilitate resident participation early in the development review process, the Town requires neighborhood meetings between Applicants and residents of neighborhoods potentially affected by the development proposal.

2. **Applicability.** Unless waived, neighborhood meetings are required for all major, minor and administrative applications. The Director may waive a neighborhood meeting if it is determined that the development proposal would not have significant neighborhood impacts. The Director may wait until after the application has

been submitted and reviewed to determine if a neighborhood meeting is appropriate based on the anticipated impacts of a development. The Director will determine the applicability of this subsection to a development proposal at the pre-application conference.

3. Timing and Number of Neighborhood Meetings

- a. When required, at least one (1) neighborhood meeting shall be held after the pre-application conference, but before submittal of a formal application. At the Director's discretion, additional pre-application or post-application neighborhood meetings may be required based on consideration of the proposed development's mix of uses, density, complexity, potential for adverse impacts, or the need for off-site public improvements created by the development.
- b. For applications that have been in the review process for over one (1) year, one (1) additional neighborhood meeting shall be required at the beginning of each additional year, unless the Director determines more meetings are required based on consideration of the proposed development's mix of uses, density, complexity, potential for adverse impacts, or the need for off-site public improvements created by the development.
- c. Applicants' failure to hold and complete all required neighborhood meetings shall delay review of the application or shall result in an inactive application.

4. Notice of Neighborhood Meeting

- a. The Applicant is responsible for hosting neighborhood meetings. The applicant shall give written notice of the neighborhood meeting according to **Section 4.5.6**. The meeting may be held digitally online or in-person. If available and appropriate, the neighborhood meeting should be convened at a place in the vicinity of the proposed development.

5. Content of Neighborhood Meeting.

- a. The Applicant or Applicant's representative shall present a summary of the development proposal and be available to answer questions and receive comments from persons attending the meetings. In the event that no one attends the meeting for which proper notice was given, the Applicant shall still have satisfied the requirements for that neighborhood meeting.

6. Summary of Neighborhood Meeting.

- a. A written summary of the neighborhood meeting(s) shall be provided by either Town staff or the Applicant. The written summary shall be included in the reports provided to both the Planning Commission and the Board of Trustees. At a minimum, the written summary shall include the following information:
 - i. The substance of the comments and questions;
 - ii. How the Applicant has addressed or intends to address the comments and questions; and
 - iii. Comments and questions the Applicant is unwilling or unable to address and why.

C. Application submittal and completeness check.

1. An application will be considered complete if it is submitted in the required form, includes all submittal information (see Administrative Development Guide for each application type), including all items or exhibits specified during the pre-application meeting, and is accompanied by the applicable fees. In addition, an application will be considered complete only if the information contained therein is adequate to enable staff to ultimately determine whether the proposed development activity will comply with this Code's substantive requirements. Only complete applications, as set forth in this provision, will be considered an "application" pursuant to C.R.S. § 24-68-101, et seq.
2. Each application will be reviewed for completeness within the timeframe listed in the Administrative Development Guide.
 - a. If the application is determined to be complete, the application will then be processed under this Article.
 - b. If the application is determined to be incomplete, the application will be returned to the Applicant as "incomplete" with information identifying how the application is deficient.

D. Review and Initial Comments to Applicant

1. After receipt of a complete application, the plans will be distributed to Town Staff and applicable referral entities. The Town reserves the right to determine the appropriate referral entities on an individual application basis. The application will be reviewed for technical accuracy, compliance with this Land Use Code, and other relevant regulations and ordinances. It is the responsibility of the Applicant to demonstrate through the application compliance with the Land Use Code and other relevant Town plans and regulations.,

2. Referral entities will be given a set number of days to provide comments to the project planner as set forth in the Administrative Development Guide. Comments provided by referral entities shall be communicated to the applicant in written or redlined plan form.

E. Revised application submittal

1. After the initial comments are received by the Applicant, the Applicant shall revise the development application as necessary to respond to all received comments and shall submit the revised application package to the Planning Department. The Applicant is encouraged to work with Town staff and referral agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented and communicated to both Town staff and applicable entities. The revised application shall include the Applicant's response to each comment raised by Town staff and referral entities.
2. The Applicant shall submit the revised application and related materials to the Planning Department within one hundred twenty (120) days. If a revised application is not received within this time frame, the Applicant will be notified that the lack of submittal constitutes a withdrawn project unless a revised application is received within an additional sixty (60) days. Whether or not notice was provided, if a revised application is not submitted and no extension has been approved by the Director in the allowed one hundred eighty (180) days, the application shall be considered withdrawn. Any resubmittal of the application will be treated as a new application.
3. Shorter timeframes for additional reviews over two (2) reviews may be granted by the Director.
4. The application shall be reviewed until Town staff finds it is complete enough to move forward to the public hearing process, unless the Applicant makes a request to the Director to move forward to public hearing.
5. The project planner shall communicate with the Applicant when scheduling the public hearing dates.

F. Consolidated development applications

1. Multiple development applications for the same development proposal may be consolidated for submittal and review, as determined by the Director.

- a. Annexation and initial zoning applications cannot be consolidated with subdivision and site plan applications.
- b. Site plan applications may be submitted and processed concurrently with final plat applications, but a site plan application may only be approved after the final plat is approved.
- c. Subdivision applications may not be processed concurrently with final or preliminary development plans or with planned unit development zoning documents.
- d. The Applicant may request, subject to the Director's approval, consolidated processing and review of final plat or plan with the preliminary plat or plan. Both will be reviewed according to the preliminary plat or plan approval process (a major application), as outlined in this Article. Additionally, all concurrent plats/plans must meet the review criteria of preliminary plat or plan. Unless concurrent review is approved, the Town will not accept applications for final plat or plan approval before preliminary plat or plan application approval.

2. The expected time frame and approval process for a consolidated application will follow the longest time frame and approval process required among the application types.

G. Director Authority to Refer Applications to Planning Commission and Board of Trustees

1. Whenever the Director is authorized to take final action on an application, the Director may instead refer the application to the Planning Commission and Board of Trustees for their review and action, based on the Director's determination that the proposed application's complexity, projected impacts, or proximity to conflicting land uses merits such action. The Director may also refer the application to the Planning Commission and the Board of Trustees when there is a disagreement with the Applicant over the applicability of, or compliance with, any design or development standard set forth in this Code.
2. Written notice of such referral will be sent to the Applicant within seven (7) days of the Director's decision to refer the application. The application and written notice of the referral will be sent to the Planning Commission and Board of Trustees according to **Section 4.10.7.b below.**

H. Mailed Written Notices

1. All mailed written notices required under this Code shall:
 - a. Indicate the time and place of the public hearing, meeting, or action;

- b. Describe the property by street address and/or parcel number, if available, and nearest cross streets;
 - c. Describe the nature, scope, and purpose of the application or proposal being advertised;
 - d. Indicate that interested parties may appear at a public hearing and, if applicable, speak on the matter; and
 - e. Indicate where additional information can be obtained.
2. The area of notification is dependent on the type of development application as follows:
 - a. Major application – one thousand (1000) feet
 - b. Minor application – five hundred (500) feet
 - c. Administrative application – three hundred (300) feet
3. The Director may expand or contract the required notification area based on consideration of the proposed development's mix of uses, density, complexity, potential for adverse impacts, or the need for off-site improvements created by the development.
4. Mailed written notices shall be mailed by:
 - a. By U.S.P.S. First Class mail to all property owners within the required notification areas at the mailing address listed by the Weld County Assessor's Office.
 - b. By U.S.P.S. First Class mail to all neighborhood associations, organizations, or groups whose defined boundaries lie within required notification areas.
 - c. By certified mail return receipt requested or by a nationally recognized overnight courier to all owners of subsurface mineral rights in the subject property as required by C.R.S. § 24-65.5-101, et seq.
5. Mailed written notices to property owners within the specified notification area are required to be sent out no later than fifteen (15) days before the public hearing, meeting, or action. The following milestones require written notices to be sent:
 - a. Neighborhood meeting.
 - b. Notice of application submittal.
 - c. Setting of public hearing dates.
6. Mailed written notices from the Applicant to mineral interest owners:
 - a. Are required to be sent out no later than fifteen (15) days before the initial public hearing.

- b. Require a certification to be submitted verifying that notices were sent no later than fifteen (15) days before the initial public hearing. This certification must be submitted to the Planning Department no later than fifteen (15) days before the public hearing.
- c. Fifteen (15) days prior to the Board of Trustees date for a final plat, a certification must be submitted to the Planning Department verifying that notices were sent, a Surface Use Agreement has been recorded, the recordation number of the Surface Use Agreement, and stating how the applicant has complied with **C.R.S. § 24-65.5-101**, et seq. This certification must include a statement of authority for the signor of the certification.

I. Posted Notification

1. When the provisions of this Code require that notice be posted on the subject property, the Applicant shall:
 - a. Post the notice on weatherproof signs that have been approved by the Town;
 - b. Place the signs on the property that is the subject of the application;
 - c. Ensure that the signs remain in place and legible during the period leading up to the public hearing or, in the case of administrative applications, during the period leading up to the decision-making body's final action.
2. The size of the sign shall meet the requirements of the Town.
3. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents and passers-by. At least one (1) sign shall be posted on each street frontage of the subject property.
4. Applicants shall be responsible for removing the signs after the public hearing or final action.
5. Required timing:
 - a. Notice of Application – All such notices shall be posted as soon as reasonably possible after the Town has certified that an application is complete.
 - b. Notice of Public Hearing – All such notices shall be posted no later than fifteen (15) days before the hearing.
 - c. Upon posting the notification on the property, the Applicant shall certify in writing that required notice was posted according to the requirements of this section. Failure to submit such certification shall postpone Town action on the application. Failure to submit the certification a second time shall result in withdrawal of the application.

J. Published Notice

1. When the provisions of this Code require that notice be published, the Director will be responsible for preparing the content of the notice and will ensure that notice is published in a newspaper of general circulation. Published notice shall appear in the newspaper no later than fifteen (15) days prior to the public hearing or action.

K. Types of Public Notice Required

1. Unless otherwise expressly provided in this Code, public notice shall be provided as follows:

Table 6-1 Public Notice Requirements

Public Notice Requirements			
Type of Application	Notice Required		
	Written	Published	Posted
Major	Yes	Yes	Yes
Minor	Yes	Yes	Yes
Administrative	Yes	No	Yes

L. Document Recording

1. The following applications shall have entitlement documents recorded with the County Clerk and Recorder:
 - a. Annexation
 - b. Zoning (original and re-zoning)
 - c. Planned Unit Development
 - d. Final Plat
 - e. Minor Subdivision
 - f. Subdivision Amendment
 - g. Final Development Plan
 - h. Comprehensive Plan Amendment

Sec. 16-6-60. Major Application Review Procedure.

All applications classified as major applications are outlined in **Section 4.4.1**. The following development review procedure will apply to all major applications unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in **Section 4.7**.

A. Core Major Application Development Review Procedure

1. Pre-Application meeting. See Section XX
2. Neighborhood meeting. See Section XX
3. Application submittal and completeness check. See Section XX
4. Notice of application and posting of property.
 - a. Notices of application must be sent upon certification that an application is complete.
 - b. The applicant shall mail written notice according to the required distance outlined in Sec. XXX and post notice according to the requirements of Section XX.
5. Review and Initial Comments to Applicant. See Section XX
6. Revised application submittal. See Section XX
8. Notice of public hearing and posting of the property. See Section
 - a. Notices of public hearing must be sent to the surrounding property owners according to the required distance and timeframe outlined in sec. XXX.
 - b. The applicant shall post notice on the property according to the requirements of Section XX.
9. Public Hearing at Planning Commission.
 - a. The Planning Commission shall hear all major applications at a public hearing. Recommendations of the Planning Commission are forwarded to the Board of Trustees for consideration.
 - b. ~~Submittal requirements.~~ See the Administrative Development Guide for all requirements.
10. Public Hearing at Board of Trustees.

- a. The Board of Trustees will hear minor and major applications at a public hearing following the public hearing of the Planning Commission.
- b. ~~Submittal requirements.~~ See the Administrative Development Guide for all requirements.

Sec. 16-6-70. Requirements and Standards for Major Applications.

A. Annexation.

1. An application for annexation shall follow the core procedure for review of major applications, **stated in Section 4.6. Additionally, the process shall follow the modifications outlined in Article XX of the Land Use Code and C.R.S § 31-12-101, et seq.**
2. Zoning.
 - a. Initiation of amendments to the zoning district map may be by the Board of Trustees, Town staff, the Planning Commission, or a real property owner in the area to be included in the proposed amendment. Zoning at the time of annexation is included as an amendment to the zoning district map.
 - b. ~~General Rezoning of Town.~~ The zoning district map may be changed or amended incidental to or as part of a general revision of the Town's zoning or zone districts. Whenever the zoning district map is in any way to be changed or amended, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of, the proposed change shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.
 - c. ~~Submittal requirements.~~ All zoning applications shall follow the Administrative Development Guide for application submittal requirements.
 - d. ~~Zoning review criteria.~~ For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the official zoning map shall not be amended except:
 1. To correct a manifest error in an ordinance establishing the zoning for a specific property;
 2. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;
 3. To bring the official zoning map into conformity with the policies and goals of the Comprehensive Plan; provided, that if a Comprehensive Plan update has not occurred in the five (5) years preceding the application date, the Board

specifically finds that the public health, safety, and welfare will be advanced by amending the official zoning map to conform to the Comprehensive Plan;

4. To provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and that specifically advances public health, safety, or welfare by optimizing the delivery of necessary services or amenities that the ~~Town~~ Board determines are a high priority;
5. To encourage development or redevelopment of an area that has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment in accordance with an amended official zoning map.
6. This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

e. Map amendment upon zoning establishment or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment, and the initials of the person who checked and approved the change to the map.

B. Planned Unit Development.

1. ~~Authority.~~ The authority for this Article is conferred by the Planned Unit Development Act of 1972 (C.R.S. § 24-67-101, et seq.).
2. ~~Purpose.~~ The planned unit development ("PUD") standards and procedures that are set out in this Article are intended to provide for the creation of a new zoning district (through a "PUD zoning document") that allows for a mix of land uses and development parameters that are not otherwise permitted or permissible within the other zoning districts that are established by this Code. Once approved by the Board of Trustees, the PUD zoning document establishes the land use and development standards for the subject property as a separate and unique zoning district. The purpose of the PUD is to permit greater flexibility regarding land use and facilitate creative and imaginative design for development, particularly (but not exclusively) regarding the implementation of special area plans that are adopted by the Board of Trustees, and the development of "qualified projects" as that phrase is defined by the Town of Frederick, Colorado Water Reservation and Allocation Policy.

3. Intent.
 - a. The standards and procedures of this Article are intended primarily for large-scale projects with multiple lots, a mix of land uses, and an extended build-out period; however, smaller-scale (even single lot) development that requires comparable flexibility to accommodate unique circumstances or allow for unique, high-quality design may also be processed and approved under this Article.
 - b. This Article is also intended to implement all of the purposes set out in C.R.S. § 24-67-102(1). (Ord. 1399 § 8, 2024)

4. Applicability, required consents, and transition.
 - a. ~~Applicability.~~ This Article applies to all existing and proposed PUDs. PUDs that were approved prior to the effective date of this Article, or that were in process on the effective date of the ordinance codified in this Article, are subject to the transition provisions of **Section 16.2(3)**.
 - b. ~~Required consents.~~ No property shall be rezoned to PUD without the written consent of the property owners within the PUD and the written subordination all lienholder interests. Amendments to PUDs do not require written consent of property owners whose properties are not included within the area of the amendment. PUDs may be abandoned or repealed in accordance with the Planned Unit Development Act of 1972, C.R.S. § 24-67-101, et seq.
 - c. Transition.
 1. Prior PUD zoning overlays without further approvals. The owner of property that was zoned with a PUD overlay prior to the effective date of the ordinance codified in this Article, but is not subject to an approved preliminary development plan ("PDP") may proceed with development review by way of one (1) of the following three (3) alternatives:
 - i. An application for PDP approval pursuant to the Land Use Code provisions that were in effect immediately prior to the effective date of the ordinance codified in this Article, unless such application is filed more than eighteen (18) months after the effective date of the ordinance codified in this Article, in which case this alternative shall not be available unless the subject property is located within the 25-52 East Subarea Plan boundary; or
 - ii. An application for PUD zoning document approval; or
 - iii. An application to rezone to a non-PUD zoning district.

2. Prior PDP approvals without FDP approvals. Property that is the subject of a PDP that was approved prior to the effective date of the ordinance codified in this Article, has not lapsed, and is not subject to an approved final development plan ("FDP") may proceed with development review by way of one (1) of the following three (3) alternatives:

- i. An application for FDP approval pursuant to the Land Use Code provisions that were in effect immediately prior to the effective date of the ordinance codified in this Article; provided, that such application is filed within eighteen (18) months after the effective date of the ordinance codified in this Article and is not within the 25-52 East Subarea Plan boundary; or
- ii. If the PDP includes all of the information required for a PUD zoning document (see Section 16.4(4)), an application for approval of a site plan, preliminary plat, or final plat pursuant to this Article; or
- iii. If the PDP does not include all of the information required for a PUD zoning document (see Section 16.4(4)), an application for amendment to the PDP to include such information, which amended PDP shall thereafter be considered a PUD zoning document.

3. Prior FDP approvals in general.

- i. An approved FDP may be implemented using a final plat, site plan, or building permit, as applicable.
- ii. In the event that an FDP and the PDP to which it relates fail to address a standard of this Code, the standard of this Code at the time of application for the final plat, site plan, or building permit, as applicable, shall be applied.
- iii. Amendment of prior FDP approvals. Amendments to prior FDP approvals may be approved by the Director if:
 - (1) The amendments qualify as minor modifications pursuant to Section 4.11(4); or
 - (2) The amendments eliminate or reduce the degree of subdivision regulation exceptions; or
 - (3) The amendments eliminate or reduce the degree of modifications to the underlying zoning district upon which the FDP was based.

iv. Amendments to prior FDP approvals may be approved by the Planning Commission if:

- (1) The FDP is substantially consistent with the approved PDP;
- (2) All PDP standards and conditions of approval have been adequately addressed on the FDP; and

xi. Revocation of prior FDP approval. The Board of Trustees may initiate the process to repeal the prior FDP approval if:

- (1) The project for which the FDP was established is not carried out pursuant to the approved FDP; or
- (2) Building activity for the area affected by the FDP has not commenced within a period of one (1) year after the effective date of the FDP approval, unless otherwise approved by the Director

5. Zoning documents.

- a. ~~Purpose.~~ A zoning document establishes standards for the development of property zoned PUD, including allowable land uses, housing products, bulk standards, and design standards. The zoning document shall address all of the land area that is proposed to be included in the PUD.
- b. Effect of zoning document.
 1. ~~Generally.~~ Once adopted, the zoning document establishes the zoning standards for the property that is the subject of the PUD. A zoning document approved under this Article establishes a PUD that is considered an individual "zoning district" for the purposes of this Code.
- c. Relationship of zoning document to other code standards.
 1. ~~Town of Frederick Land Use Code.~~ The PUD zoning document may include design and use standards that are different from those set out in this Code. However, where the PUD zoning document is silent with respect to any particular standard, development within the PUD shall conform to the design and use standards in this Code.
 2. Engineering design standards.
 - i. Development within the PUD shall conform to the Town of Frederick Standards and Specifications for Design and

Construction. However, the PUD zoning document may include alternative standards with respect to:

- (1) Street and alley cross-sections;
- (2) Intersection spacing (review is about safety);
- (3) Driveway spacing (review is about safety); and
- (4) Trails.

ii. Alternatives to the standards set out in the Town of Frederick Standards and Specifications for Design and Construction may be approved only if they are supported by a study by a qualified engineer that demonstrates to the Town Engineer's satisfaction, that the modification:

- (1) Will not compromise community mobility, accessibility, and public safety; and
- (2) Will not result in an increase in long-term costs to the Town with regard to operations, maintenance, and replacement.

3. CDOT standards. Modifications to CDOT standards on CDOT-controlled rights-of-way may be approved according to the standards set out in **Subsection (3)(b)(2)** of this Section; provided, that CDOT also authorizes the modification in writing.

4. Reconciliation of indirect conflicts. In the event that a PUD zoning document does not address an otherwise applicable standard that is set out in this Code or the Engineering Design Standards, the Code standard or the Town of Frederick Standards and Specifications for Design and Construction, as applicable, shall be applied unless the Director (with regard to Code Standards), or the Town Engineer after consultation with the Public Works Director (with regard to Engineering Design Standards), determines that such application would lead to a result that is:

- i. Obviously contrary to the approved design intent of the PUD zoning document;
- ii. Technically infeasible; or
- iii. ~~Absurd~~. Upon such a finding, Director or Town Engineer, as applicable, may approve deviations from the Code or Engineering Design Standards to the extent necessary to harmonize the Code or Town of Frederick Standards and Specifications for Design and Construction with the PUD zoning document, favoring full

application of the standards of the PUD zoning document, unless such application would create a hazardous condition.

d. Contents of PUD zoning document. See Administrative Development Guide for submittal requirements.

5. Standards for approval of PUD zoning document.

a. Generally. Standards for approval of a PUD zoning document are different for properties that are within the boundaries of an adopted sub-area plan than for properties that are not within the boundaries of an adopted sub-area plan.

b. Properties within adopted sub-area plan boundaries (except downtown). For properties within an area that is subject to an adopted sub-area plan (except downtown), the PUD zoning document may be approved if the Board of Trustees finds that it:

(1) Implements the sub-area plan with regard to the land that is the subject of the PUD zoning document application; and

(2) The approval of the PUD zoning document to implement the sub-area plan creates a net public benefit when compared to the development that is possible under non-PUD zoning districts, considering:

(a) The character, design, and use objectives of the sub-area plan;

(b) The location, quality, character, and function of common open space or recreational amenities;

(c) The stewardship of natural resources and the mitigation of flood risks;

(d) The affordability of housing and the creation of new or expanded economic opportunities;

(e) The development quality and design aesthetics; and

(f) The efficiency in layout and provision of roads, utilities, and other infrastructure.

(3) Where the boundaries of the PUD are shared with existing or approved residential development, or when existing or approved residential development is across a street that is sixty (60) feet or less in right-of-way width, the PUD zoning document provides for buffers and/or transitions in land use, density, intensity, and building patterns along the boundaries of the PUD zoning district to appropriately address the impacts of noise, dust, light, and shadows created by development within the PUD on the existing or approved residential development.

c. Properties not within adopted sub-area plan boundaries. For properties that are not within an area that is subject to an adopted sub-area plan, the PUD zoning document may be approved if the Board of Trustees finds that development pursuant to the PUD zoning document:

(1) Will be in general conformity with the Comprehensive Plan; provided, that:

(a) If a Comprehensive Plan update has not occurred in the five (5) years preceding the application date, the Board of Trustees must specifically also find that the public health, safety, and welfare will be advanced by adopting the PUD zoning document to conform to the Comprehensive Plan; or

(b) If a Comprehensive Plan update is underway on the date of the application, the Board of Trustees must specifically also find that the PUD zoning document, on balance, will not undermine the implementation of the updated Comprehensive Plan.

(2) Will provide a net public benefit when compared to the development that is possible under non-PUD zoning districts, considering:

(a) For all planning areas:

i) The stewardship of natural resources and the mitigation of flood risks;

ii) The development quality and design aesthetics; and

iii) The efficiency in layout and provision of roads, utilities, and other infrastructure

(b) For planning areas that include residential uses:

i) The quantity or quality of common open space or recreational amenities; and

ii) The affordability of housing

(c) For planning areas that include nonresidential uses, the creation of new or expanded economic opportunities that will have a positive impact on the fiscal health of the Town or the lifestyle of its residents.

(3) Where the boundaries of the PUD are shared with existing or approved residential development, or when existing or approved residential development is across a street that is sixty (60) feet or less in right-of-way width, the PUD zoning document provides for buffers and/or transitions in land use, density, intensity, and building patterns along the boundaries of

the PUD Zoning District to appropriately address the impacts of noise, dust, light, and shadows created by development within the PUD on the existing or approved residential development.

d. Private streets and modification of sidewalk requirements.

(1) Private streets within PUDs may be approved only if:

(a) Their location and connections to the public street system does not interfere or conflict with the existing, planned, or prioritized street or trail network set out in the adopted Comprehensive Plan, Transportation Master Plan, and Parks, Open Space, and Trails Master Plan;

(b) Their geometry is supported by a traffic study, and they are designed in a manner that the Town Engineer confirms is durable (in consideration of the proposed use of the streets), and appropriate to accommodate safe circulation and travel and snow removal and/or storage;

(c) Access easements are provided for public safety, public utility, and emergency services purposes, and if secured with gates, on-demand access is provided for emergency service providers.

(2) Requirements for sidewalks (whether public or private) shall not be waived or modified by PUD zoning documents unless the waiver or modification applies only in residential areas with very low residential density and/or in areas where pedestrian connectivity is provided in an alternative location so that it is safer and more efficient.

Sec. 16.5. Review procedures.

1. Review and approval procedures for PUD zoning documents.

a. Generally. PUD zoning documents are processed as provided in Section 4.6, Major Application Review Procedure, except as modified by this Division.

b. Expeditious Hearings Required – Continuances.

(1) Any required public hearing on a PUD zoning document shall be conducted expeditiously and concluded when all those present and wishing to testify have done so.

(2) Unless the applicant waives such limitation (or limitations), no public hearing shall continue for more than forty (40) days from the date of commencement without the written consent of the applicant, and any continuation of a public hearing shall be to a date certain.

c. Approval by ordinance required. The approval of a PUD zoning document shall be in the form of an ordinance.

d. Conditions of approval.

(1) The Board of Trustees may impose conditions on the approval of a PUD zoning document to ensure compliance with the standards for approval set out in Section 16.4(5). Such conditions shall have a rational nexus to the anticipated impacts of the proposed development and shall be roughly proportional to the degree of said impacts.

(2) All PUD zoning documents that provide for or anticipate common open space that is not dedicated to the Town shall specify that a property owners' association or C.R.S. Title 32 metropolitan district will maintain the common open space.

2. Amendments to, modifications of, and release of PUD zoning documents.

a. Generally. PUD zoning documents shall be amended, modified, or released using the standards and procedures that are used for their initial approval, and the additional standards of Subsection (2)(c) of this Section.

b. Additional standards. Except in the limited circumstances set out in C.R.S. 24-67-106(3)(b)(5), no substantial modification, removal, or release of the provisions of the PUD zoning document by the Town shall be permitted except upon a finding by the Board of Trustees, that the modification, removal, or release is consistent with the efficient development and preservation of the entire PUD, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person.

c. Effect on private rights. No modification, removal, or release of the provisions of the PUD zoning document by the Town shall affect the rights of the residents, occupants, and owners of the PUD to maintain and enforce certain provisions of the Plan, but only to the extent permitted by State law. Residents and owners of the planned unit development may, to the extent and in the manner expressly authorized by the provisions of the Plan, modify, remove, or release their rights to enforce the provisions of the Plan, but no such action shall affect the right of the Town to enforce the provisions of the Plan.

3. Administrative adjustments when implementing PUD zoning documents.

a. Generally. Applicants for site plan or building permit approvals pursuant to adopted PUD zoning documents may seek administrative relief from the strict application of the terms of the

PUD zoning document without amending the PUD zoning document. An application for an administrative adjustment from a PUD zoning document may be filed for all or a portion of the land area within a PUD zoning district.

b. De minimus adjustments. Adjustments to the requirements set out in a PUD zoning document may be administratively approved if the Director determines that the adjustments represent a de minimus departure from the requirements of the approved PUD zoning document.

c. Minor adjustments. Minor adjustments to the requirements set out in a PUD zoning document may be administratively approved if the Director determines that the minor adjustment will allow for the applicant to overcome a practical difficulty that was not anticipated by the PUD zoning document, will not compromise the design intent of the PUD zoning document, will not create noticeable impacts on adjacent landowners; and

(1) The minor adjustment does not exceed a twenty percent (20%) increase or decrease in lot width, lot depth, lot area, or building setbacks; and

(2) The minor adjustment does not exceed a ten percent (10%) increase in building coverage or building height; and

(3) The minor adjustment does not reallocate more than twenty percent (20%) of the approved dwelling units or nonresidential floor area (as may be applicable) from one planning area to another, and the reallocation of dwelling units or floor area does not increase impacts on existing or approved residential uses outside of the PUD zoning district.

Preliminary plat.

a. *Preliminary plat purpose.* The purpose of the preliminary plat is to provide the Town with an overall master plan for the proposed development.

b. See the Administrative Development Guide for application submittal requirements.

b. *Preliminary plat review criteria.* The Town shall use the following criteria to evaluate the applicant's request:

(1) The preliminary plat provides for a functional system of land use and is consistent with the criteria set forth in this Code.

(2) The application is consistent with the approved sketch plan and incorporates the Planning Commission's recommendations and conditions of approval.

(3) The land use mix within the project conforms to the Town's zoning district map and furthers the following planning objectives:

- (a) The proposed development promotes the Town's small-town, rural character, or implements a Board-approved sub-area, corridor, or urban renewal plan, however titled;
- (b) Proposed residential development adds diversity to the Town's housing supply;
- (c) Proposed commercial development will benefit the Town's economic base;
- (d) Parks and open space are incorporated into the site design, as appropriate to the proposed principal use or uses of the land;
- (e) The proposed project protects the Town's environmental quality; and
- (f) The development enhances cultural, historical, educational, and/or human service opportunities.

(4) The utility and transportation design is adequate, given existing and planned capacities of those systems.

(5) Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.

(6) There is a need or desirability within the community for the applicant's development, and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.

c. Approval and conditional approval of a preliminary plat shall be effective for one (1) year unless otherwise approved by the Board of Trustees. If the plat is denied, a new preliminary plat application that is substantially similar may not be heard by the Planning Commission for a period of one (1) year from the date of denial unless otherwise approved by the Planning Commission. If a final plat is not submitted within said time limit or an extension has not been granted, a preliminary plat must again be submitted and approved before action may be taken on a final plat.

5. *Preliminary development plan.*

a. *Preliminary development plan purpose and application.* The purpose of a preliminary development plan is to outline the proposed standards associated with a

specific planned unit development overlay district. The standards of this Subsection shall be applied only as provided in **Division 16.2.**

b. Preliminary development plan review criteria. The following review criteria will be used to evaluate a preliminary development plan application:

- (1) The proposed benefits offset the proposed exceptions to the zoning and subdivision standards, and such exceptions are in the best interest of the public health, safety, and welfare of the community.
- (2) The proposed development plan does not conflict with the restrictions on development plans, and the proposed zoning is compatible with the surrounding land uses.
- (3) The development plan proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health, and general welfare.
- (4) The uses and densities in the proposed development plan are compatible, and will be effectively integrated with adjacent neighborhoods that now exist or are proposed in the future.
- (5) The proposed development plan is in general conformance with the Comprehensive Plan.

Vacation of Right-of-Way/Easement.

a. Vacation of right-of-way/easement purpose. The vacation of a right-of-way or easement application process is used to vacate unnecessary easements and rights-of-way. The vacation of a right-of-way or easement shall be in accordance with **C.R.S. § 43-2-301, et seq.**

c. After final approval, title to vacate a right-of-way shall be transferred to the abutting property owners in accordance with C.R.S. § 43-2-303 by quitclaim deed. The underlying zoning of the abutting property shall be extended to the area being transferred.

d. Vacation of right-of-way/easement review criteria:

- (1) The right-of-way or easement being vacated is not needed in the short or long term.
- (2) If necessary, the right-of-way or easement will be replaced. To replace the right-of-way or easement, the vacation application shall be accompanied by a development application that proposes a new right-of-way or easement.

(3) The applicant is relocating all public facilities or utilities within the right-of-way or easement.

(4) The public and surrounding properties will not be negatively impacted by the vacation.

7. *Appeals and variances.*

a. *Purpose.* The Board of Trustees sitting as the Board of Adjustment, or a separately constituted Board of Adjustment, as appointed by the Board of Trustees in compliance with C.R.S. §§ 31-23-307(4) and 31-23-203(3), will hear and decide appeals from any order, requirement, decision, or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment will hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good or impair the intent and purpose of this Code.

b. *Appeal application.* Any aggrieved person of interest may appeal a denial of a building or other development permit or any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of the Land Use Code, when the order, requirement, decision, interpretation, or determination being appealed is based upon the Land Use Code.

(1) An appeal to the Board shall be made within thirty (30) days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation, or determination by an administrative official of the Town, pursuant to the Land Use Code. Failure to make a timely appeal shall be considered a waiver of the appellant's rights to appeal to the Board of Adjustment.

(2) The applicant shall file a Land Use Application with the Planning Department and pay the fee set by the current fee schedule.

(3) The application shall include an additional page setting out all sections of the Land Use Code applicable to the application, and the outcome desired by the applicant with regard to the order, requirement, decision, interpretation, or determination being appealed and justification supporting such outcome.

c. *What may be appealed.*

Only those provisions relating to the administration of the Land Use Code may be appealed to the Board of Adjustment. An alleged error in the administration and interpretation of any engineering design and construction standards or building code may not be appealed to the Board of Adjustment.

c. *Variance application.* Any any owner of, or person having an interest in, the affected property, may apply to the Board of Adjustment for a variance from the dimensional requirements, design or performance standards, and other special physical requirements contained in this Land Use Code.

(1) *Variance requests.* Applicants for variances shall submit the following to the Planning Department. If an applicant wishes to seek a variance in conjunction with another application, the applicant shall submit the following to the Planning Department in conjunction with the other application:

(a) The applicant shall file a Land Use Application with the Planning Department and pay the fees set by the current fee schedule;

(b) Explanation letter, identifying the variance being requested;

(c) A citation of the portion of this Code from which relief is requested and explaining what exceptional condition, practical difficulty, or unnecessary hardship exists in relation to the dimensional requirements, design or performance standards, and other special physical requirements contained in this Land Use Code that the applicant seeks a variance from; (d) A letter addressing how the variance, if granted, will not be detrimental to the public good or impair the intent and purpose of this Code.

(3) *Board of Adjustment public hearing and action on appeal or variance request.* The Board of Trustees, sitting as a Board of Adjustment, shall make a decision on appeal and variances at a regular meeting of the Board of Trustees.

(a) The Appellant, or the Applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board.

(b) On an appeal, the Board shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse, or amend the decisions of the applicable Town administrative official within the constraints of the powers granted to the administrative official. Town administrative officials do not have the power to grant variances, and the Board does not have the power to grant a variance through the appeal process.

(c) The Board may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Code.

(d) The Board may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.

(e) No single decision of the Board sets a precedent. The decision of the Board shall be made on the particular facts of each case.

(f) Variances granted by the Board of Adjustment shall be recorded with the County Clerk and Recorder at the expense of the Applicant.

d. *Appeal criteria for approval.* The Board, in hearing an appeal under the Land Use Code, shall consider:

(1) The technical meaning of the provision being appealed;

(2) Evidence of the manner in which the provision has been interpreted in the past; the Board shall not consider evidence of the manner of enforcement of the provision in the past;

(3) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and

(4) The intent of the provision in implementing the Comprehensive Plan; provided, that if a Comprehensive Plan update has not occurred in the five (5) years preceding the application date, the Board may consider the level of benefit that will be created by granting the appeal against the level of risk to current Town planning priorities that the Board determines may be created by granting the appeal.

In approving a requested interpretation, the Board shall provide a written record of its findings, including determinations of current planning priorities pursuant to Subsection (7)(d)(4) of this Section, if any, and the staff shall use it to propose amendments that address future interpretation problems.

e. *Variance criteria for approval.* The Board shall not grant a variance to this Code that:

(1) Permits a land use not allowed in the zoning district in which the property is located;

(2) Is in the public right-of-way or on public property;

(3) Alters any definition of this Code;

(4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Code;

(5) Is based on physical conditions or circumstances of the property so general, common, or recurring in nature that granting a variance is indicative of the need for an amendment to the Code itself, which would then be applicable to all properties similarly affected; or

(6) Is based exclusively on findings of personal or financial hardship. Convenience, profit, or caprice shall not constitute undue hardship.

f. In order to grant a variance to this Code, the Board shall find that all the following have been satisfied:

(1) That there are unique physical circumstances or conditions such as irregularity, narrowness, or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property;

(2) That, because of these unique physical circumstances or conditions, the literal interpretation of the Land Use Code means that the property cannot be reasonably developed or used in compliance with the provisions of this Code;

(3) That, due to such unique physical circumstances or conditions, the strict application of this Code would create a demonstrated hardship;

(4) That the demonstrable hardship is not self-imposed;

(5) The relief requested is not based solely upon economic hardship;

(6) Granting of the variance requested will not confer on the applicant any special privilege denied by the Land Use Code for other land in the same zone district;

(7) The special circumstances applicable to the property have not been created by voluntary action or negligence by any person presently having an interest in the property;

(8) That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;

(9) That the variance, if granted, will not change the character of the zoning district in which the property is located;

(10) That the variance, if granted, is in keeping with the intent of this Code; and

(11) That the variance, if granted, will not adversely affect the health, safety, or welfare of the residents of the Town.

g. *Conditions.* The condition of any variance authorized shall be stated in writing in the minutes of the Board of Adjustments with the justifications set forth.

h. *Reversion of approval.* If at the expiration of one (1) year, a building permit has not been issued for the structure for which the variance was approved or the use associated with the

variance has not been established, the variance shall expire and the use of the property shall be controlled by this Land Use Code without action by the Board of Adjustment.

i. Notice. Public notice of an appeal or variance submitted independent of any other application shall be completed by:

(1) Publishing notice according to Section 4.5.8.

(2) Written notice shall be provided to adjacent property owners at least fifteen (15) days prior to the date of the Board of Adjustments hearing.

9. *Land Use Code amendment.*

a. *Initiation of amendments to text.* The Board of Trustees may, from time to time, amend, supplement, change, or repeal the regulations and provisions of this Code. Amendments to the text of the zoning code may be initiated by the Board of Trustees, Town staff, or Planning Commission, or by written application of any property owner or resident of the Town.

b. *Criteria for text amendments to zoning code.* For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:

(1) To correct a manifest error in the text of this Code;

(2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;

(3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

10. *Comprehensive Plan amendment.*

a. The Planning Commission is the final decision maker on all requests to amend the Comprehensive Plan. Following a public hearing at the Planning Commission, the decision will be presented to the Board of Trustees in a public meeting.

b. *Review criteria.* The Comprehensive Plan may be amended pursuant to the following criteria:

(1) The amendment improves the implementation of one or more of the goals, policies, and strategies of The Town of Frederick Comprehensive Plan, 2024.

(2) The amendment will not pose a detrimental impact on existing or planned Town facilities, services, or transportation facilities.

(3) The amendment will not interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2024.

(4) The amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

Location and Extent

Purpose and intent.

The Location and Extent review process affords the Town an opportunity to review projects proposed by public or quasi-public entities. This includes publicly or privately-owned utilities, transportation districts, and special districts where funding is provided by taxpayers and considered to be political subdivisions of the state. The purpose of the Location and Extent review is to evaluate the proposed project in relation to applicable goals and policies of the adopted Frederick Comprehensive Plan, and to discuss the Town's reasonable expectations for land use and development within the Town.

Review procedure.

~~New facilities.~~ All new Location and Extent reviews require a land use application and public hearing before the Planning Commission and Town Board of Trustees.

~~Modifications to existing facilities.~~ For project proposals with modifications or alterations to existing facilities equaling a fifty (50) percent change to the building footprint or impervious surface of the site shall follow the public hearing process per the requirements of sec. XXX. For modifications or alterations to existing facilities equaling less than a fifty (50) percent change to the building footprint or impervious surface of the site the Director shall determine if the administrative application process in Sec. XX shall be followed.

~~Submittal requirements.~~ The applicant shall submit an application per the requirements found in the Administrative Development Guide.

Approval criteria.

- a. The project is compatible with the existing and allowable land uses in the surrounding area.
- b. The project is in general conformance with the Comprehensive Plan and other applicable master plans.
- c. The project is in general conformance with the intent of the Land Use Code.

- c. The project identifies and minimizes adverse impacts to the health, safety, and welfare of the inhabitants of the surrounding areas and of the Town.
- d. The project exhibits the availability of infrastructure and services.

Sec. 4.8. Minor Application Review Procedure.

All applications classified as minor applications are outlined in **Section 4.4.1**. The following development review procedure will apply to all minor applications unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in **Section 4.7**.

A. Core Minor Application Development Review Procedure:

1. Pre-Application meeting. See Section XX
2. Neighborhood meeting. See Section XX
3. Application submittal and completeness check. See Section XX
4. Notice of application and posting of property.
 - a. Notices of application must be sent upon certification that an application is complete.
 - b. The applicant shall mail written notice according to the required distance outlined in Sec. XXX and post notice according to the requirements of Section XX.
5. Review and Initial Comments to Applicant. See Section XX
6. Revised application submittal. See Section XX
8. Notice of public hearing and posting of the property. See Section
 - a. Notices of public hearing must be sent to the surrounding property owners according to the required distance and timeframe outlined in sec. XXX.
 - b. The applicant shall post notice on the property according to the requirements of Section XX.
9. Public Hearing at Planning Commission.
 - a. The Planning Commission shall hear all major applications at a public hearing. Recommendations of the Planning Commission are forwarded to the Board of Trustees for consideration.

b. Submittal requirements. See the Administrative Development Guide for all requirements.

10. Public Hearing at Board of Trustees.

a. The Board of Trustees will hear minor and major applications at a public hearing following the public hearing of the Planning Commission.

b. Submittal requirements. See the Administrative Development Guide for all requirements.

B. Specific Requirements and Review Standards for Minor Applications.

1. Final plat.

a. ~~Purpose.~~ The purpose of the final plat is to complete the subdivision of land consistent with the technical standards outline in this Code.

b. Submittal requirements. See Administrative Development Guide.

c. Final plat review criteria. The Town shall use the following criteria to evaluate the Applicant's request:

1. The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications, and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.
2. The development will substantially comply with the community design principles and development standards as set forth in Article 4 of this Code.
3. All applicable technical standards have been met.
4. An updated title commitment dated current to within fourteen (14) days of the Board of Trustees meeting.

2. *Final development plan.*

a. *Final development plan purpose and application.* The purpose of a final development plan is to define the standards associated with a specific planned unit development overlay district. The standards of this Subsection shall be applied only as provided in Division 16.2.

b. Submittal requirements. See Administrative Guide.

c. *Final development plan review criteria.* The Town shall use the following criteria to evaluate the Applicant's request:

(1) The final development plan is substantially consistent with the preliminary development plan as approved by the Board of Trustees.

(2) All preliminary development plan conditions of approval have been adequately addressed on the final development plan.

d. *Standards not open to modification.* The following community design principles and development standards are considered absolute minimum standards and are not open to modification:

(1) Road standard (cross-section) for local streets with attached sidewalk;

(2) Requirement of one (1) street tree of two-inch caliper for each forty (40) feet of frontage on both sides of the street (except for rural roads and alleys);

(3) Dedication of the full width of right-of-way for all platted streets; and

(4) Provision of handicap parking spaces.

e. *Compliance with the final development plan.* The Board of Trustees may initiate the process to repeal the ordinance establishing the development plan if:

(1) The project for which the development plan was established is not carried out pursuant to the approved final development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final development plan from time to time prior to completion of the proposed development; or

(2) Building activity for the area affected by the development plan has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.

3. *Minor subdivision.*

a. *Generally.* The minor subdivision process may be used in lieu of the preliminary and final plat processes (See Sections 4.7(4) and 4.9(1)) if the Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties, and not more than ten (10) new lots, outlots, or blocks (in any combination) are created.

b. *Minor subdivision purpose.* The purpose of a minor subdivision is to complete the subdivision of land consistent with the Town's technical standards.

c. *Minor subdivision review criteria.* A minor subdivision shall meet the review criteria applicable to preliminary plat stated in Section 4.7(4).

d. *Limitations.* Plats approved using the minor subdivision process shall include the phrase “minor subdivision” in their titles, and property encompassed within a minor subdivision plat shall not be eligible for further minor subdivision if the cumulative effect of minor subdivisions including the property would be the creation of more than ten (10) lots.

4. *Conditional use.*

a. *Conditional use purpose.* In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the Table of Permitted Uses by Zoning District found in Section 3.4 of this Land Use Code.

b. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to ensure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

c. *Conditional use review criteria.* The Town shall use the following criteria to evaluate the applicant's request:

(1) The conditional use will satisfy all applicable provisions of this Code and subdivision regulations unless a variance is being requested.

(2) The conditional use will conform with or further the goals, policies, and strategies set forth in the Comprehensive Plan; provided, that if a Comprehensive Plan update has not occurred in the five (5) years preceding the application date, the Board may consider instead the impacts of the conditional use on public health, safety, and welfare, including but not limited to its anticipated impacts on the balance of land uses in the Town and the need for the conditional use in the context in which it is proposed.

(3) The conditional use will be adequately served with public utilities, services and facilities (e.g., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.

(4) The conditional use will not substantially alter the basic character of the district in which it is located or jeopardize the development or redevelopment potential of the district.

(5) The conditional use will result in efficient on- and off-site traffic circulation that will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.

(6) Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement, or other methods.

The applicant shall satisfactorily address the following impacts:

- (a) Traffic;
- (b) Activity levels;
- (c) Light;
- (d) Noise;
- (e) Odor;
- (f) Building type, style and scale;
- (g) Hours of operation;
- (h) Dust; and
- (i) Erosion control.

(7) The applicant has submitted evidence that all applicable local, state, and federal permits have been or will be obtained.

Sec. 4.10. Administrative Application Review Procedure.

All applications classified as administrative applications are outlined in Section 4.4.1. The following development review procedure will apply to all major applications unless variations or exceptions to the core procedure are expressly allowed in the particular application requirements stated in Section 4.7.

Core Administrative Application Development Review Procedure

1. *Step 1: Pre-Application Conference. See Section XX*
2. *Step 2: Neighborhood Meetings. See Section XX*

3. *Step 3: Application Submittal. See Section XX*
4. *Step 4: Notice of Application and Posting of Property. See Section XX*
5. *Step 5: Review and Initial Comments to Applicant.*
6. *Step 6: Revised application submittal Submission of Revised Application.*
7. *Step 7: Additional reviews and sufficiency.*
8. *Step 8: Final decision by Planning Director.*
 - a. The Planning Director will take final action and either approve, approve with conditions, or deny the application. The Planning Director will notify the Applicant of the final action and advise the Applicant, as applicable, that the Applicant must satisfy or accept all conditions of approval prior to issuance of a building permit.
 - b. *Referral to Planning Commission and Board of Trustees.*
 - (1) The Planning Director may refer all decision making to the Planning Commission and Board of Trustees as outlined in Section 4.5.4.

Sec. 4.11. Specific Requirements and Review Standards for Administrative Applications.

1. *Site plan.*
 - a. Intent and purpose. The site plan is needed in order to apply for a building permit for all multi-dwelling, non-residential, and mixed-use, developments. The site plan shows how the lot will be developed so that the Town can ensure that the site design will be in compliance with all Town regulations.
 - b. Submittal requirements. All site plans shall follow the submittal requirements found in the Administrative Development Guide.
 - c. Site plan applications may require development agreements to identify the public and private improvements necessary and associated costs. The agreements must meet the requirements identified in **Section 4.9.1.b.(3).(m) and (o)**. The Town Engineer will determine when an agreement is required.
 - d. *Site plan review criteria.* A site plan must meet the following review criteria:
 - (1) All of the information required on a site plan is shown.
 - (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
 - (3) No buildings or structures infringe on any easements.

(4) The proposed site grading is consistent with the requirements of the Weld County Tri-Area Sanitation District's Standard Requirements for Storm Drainage Design Criteria and Construction Standards for the I-25 Corridor Master Drainage Plan Godding Hollow and Tri-Town Basins South Weld County, Colorado.

(5) The density and dimensions shown conform with the density and dimensional standards in Section 3.5 of this Code or the approved development plan requirements.

(6) The applicable community design principles and development standards have been adequately addressed and the proposed improvements conform with Article 2.

e. *Amendments to approved site plans.*

(1) Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character or density of an approved site plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

(2) Changes to approved site plans that exceed the ten-percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new site plan application. Such amendments shall require Administrative review and approval to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

f. *Review procedures for eligible wireless communication facilities (WCFs) requests.*

(1) Upon receipt of an application for an eligible facilities request pursuant to this Section, the Planning Director will review such application to determine whether the application qualifies as an eligible facilities request.

(a) The application must indicate whether the application results in a substantial change.

(b) The application must include information pertaining to whether the project violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

(c) The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

(2) The application must include the following:

(a) The applicant's and surface owner's names, addresses, signatures, and designation of agent, if applicable.

(3) *Time frame for review.* Subject to the tolling provisions of Subsections (1)(f)(4)(a) and (1)(f)(6) of this Section, within sixty (60) days of the date on which an applicant submits an application seeking approval under this Section, the Town shall approve the application unless it determines that the application is not covered by this Subsection.

(4) *Tolling of the time frame for review.* The sixty (60) day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Planning Director determines that the application is incomplete:

(a) To toll the time frame for incompleteness, the Town must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;

(b) The time frame for review begins running again when the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

(c) Following a supplemental submission, the Town will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection (1)(f)(4)(a) of this Section. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(5) *Failure to act.* In the event the Town fails to act on a request seeking approval for an eligible facilities request under this Section within the time frame for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(6) *Interaction with Telecommunications Act, 47 U.S.C. § 332(c)(7).* If the Town determines that the applicant's request is not an eligible facilities request as delineated in this Article, the presumptively reasonable time frame under § 332(c)(7), as prescribed by the FCC's shot clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under § 332(c)(7) reviews.

(7) *Decision.* Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing and supported by substantial evidence related to regulations and

restrictions, as detailed herein, in a written record. The applicant shall receive a copy of the decision.

g. Design standards for WCFs. *Cross reference with Article 4 WCF standards*

2. *Subdivision amendment.*

a. *Generally.* The subdivision amendment process may be used in lieu of the preliminary and final plat processes (See 4.7.4 and Section 4.9.1 above) if the following conditions apply and the Planning Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties:

- (1) Three (3) or fewer new lots or blocks are created;
- (2) Variances or subdivision exceptions are not required or requested;
- (3) There is no public right-of-way dedication required or requested; and
- (4) The property for which the subdivision amendment is requested was not the subject of a minor subdivision or subdivision amendment approval during the prior one (1) year.

b. *Subdivision amendment purpose.* The purpose of a subdivision amendment is to complete the subdivision of land consistent with the Town's technical standards.

c. *Subdivision amendment review criteria.* All subdivision amendment plats except Boundary/Lot Line Adjustments shall comply with the following criteria to evaluate the Applicant's request:

(1) A subdivision amendment shall meet the review criteria applicable to preliminary plat stated in Section 4.7.4 above.

d. The Town will use the following criteria to evaluate an Applicant's request for a Boundary/Lot Line Adjustment:

- (1) The adjustment does not increase the number of lots or parcels or create new lots or parcels.
- (2) The adjustment affects only two adjacent lots.
- (3) The adjustment does not affect a recorded easement without the prior approval of the easement holder.
- (4) The adjustment is no greater than ten (10) feet from the originally platted boundary or lot line.
- (5) Any adjacent rights-of-way will not be changed.

- (6) The adjustment will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use.
- (7) The adjustment complies with all other applicable requirements of this Land Use Code and all other applicable regulations and requirements.
- (8) No more than one boundary/lot line adjustment is allowed within any one (1) year time period for the same properties.
- (9) The adjustment is referenced to the platted lot line in the newly written deeds for both lots (submitted with the application).
- (10) All affected property owners agree to the adjustment in writing.
- (11) After the adjustment, both lots and the improvements thereon satisfy all applicable provisions of this Land Use Code and applicable building or fire codes, including but not limited to lot size and width, setbacks, and fire separation, unless otherwise waived, modified, or varied under the provision of this Land Use Code.

3. *Plot plan.*

a. *Plot plan purpose.* The plot plan is needed in order to apply for a building permit for any building or structure constructed on a single-family home or duplex lot. The plot plan shows where the proposed building or structure will be located on the lot so that the Town can make sure that the proposed location will be in compliance with all Town regulations.

b. In addition to the submittal requirements found in Appendix A, an application for a plot plan must include:

- (1) Square footage of the proposed building.
- (2) Distance from the proposed building/s to all lot lines.
- (3) Elevations of:
 - (a) The finished floor for the house and garage.
 - (b) The ground ten (10) feet away from the house and garage.
 - (c) The lot corners.
- (4) Height of all proposed buildings.
- (5) Street trees (right-of-way landscaping).

c. *Plot plan review criteria.* The plot plan must meet the following review criteria:

- (1) All of the information needed on a plot plan is shown.
- (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- (3) No buildings or structures infringe on any easements.
- (4) The proposed site grading is consistent with FHA standards (if insured by FHA); otherwise it shall meet the Town's approval.
- (5) The density and dimensions shown conform with the density and dimensional standards (Section 3.5) or the approved development plan requirements.
- (6) The applicable community design principles and development standards (Article 2) have been adequately addressed.

4. *Minor modification.*

a. *Applicability.* The Planning Director may grant minor modifications to approved site plans, site-specific development plan

(3) *Minor modifications.*

A. Purpose: This section allows for minor medications from otherwise applicable land use standards. Minor modifications are intended to be allowed when the unlikelihood of any adverse effects on nearby properties or the neighborhood makes it unnecessary to complete a formal variance process.

B. Applicability:

1. As part of the review of any land use application under this title, the Town Board, the Planning Commission, or the Director may approve minor modifications of up to a maximum of ten (10) percent from the following general development and zone district standards, provided that the applicable approval criteria are met:

- a. Minimum lot area requirements;
- b. Setback requirements;
- c. Subdivision design and improvement standards; and
- d. Quantitative development standards set forth in Article 4

2. Exceptions: Notwithstanding the foregoing, no minor deviation shall result 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; or
- e. A change in conditions imposed on the original approval of any plat, site plan, or special review use.

C. Procedure: The final decision-making body on a land use application may approve a minor modification at the time the land use application is finally approved.

D. Approval criteria: A minor modification may only be approved if all of the following criteria are satisfied:

1. The minor modification is generally consistent with the Town's comprehensive plan and the stated purpose of this LUC;
2. The minor modification meets all applicable building and safety codes;
3. The minor deviation does not encroach into a recorded easement;
4. The minor modification will not have significant adverse impacts 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 minor modification is necessary to compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general, or to accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing standard.

5. *Temporary use. Cross reference to Article 2.*

a. *General.* Operation or establishment of a temporary use or structure shall be conditioned upon full prior compliance with the provisions stated in this Subsection.

b. *Review procedure.* All applications for temporary use shall follow the core procedure for review of administrative applications, stated in Section 4.10, except for the following modifications:

(1) *Permit required.* An approved temporary use shall be issued a temporary use or building permit that shall include the duration of the approval and shall include or reference all conditions of approval.

(2) *Conditions of approval.* In approving a temporary use, the Planning Director may impose conditions including but not limited to control of nuisance factors (e.g., glare, noise, smoke, dust), provision of security and safety measures, and limitations on hours of operation, storage, and parking, provided such conditions are reasonably necessary to:

(a) Satisfy the review criteria of this Subsection and the specific purposes of the zoning district in which the temporary use will be located;

(b) Protect the public health, safety, and general welfare; or

(c) Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.

c. The application shall include a written statement describing the proposal and addressing the following points: Administrative Development Guide.

(1) *Traffic.* Demonstrate how the proposed site is adequately served by streets having sufficient width and improvements to accommodate the type and quantity of traffic that such temporary use will or could reasonably generate;

(2) *Parking.* Demonstrate that adequate parking is available to accommodate vehicular traffic to be reasonably generated by such use will be available either on-site or at alternate locations.

(3) *Screening.* If required, provide a description of on-site screening, necessary to mitigate impacts of the temporary use on adjacent properties or rights-of-way.

(4) *Landscaping.* If required provide a description of landscaping, including weed removal, based on the Planning Director's determination of need, ultimate use, existing character, and existing surrounding uses.

(5) *On-site lighting.* Provide a description of all on-site lighting that will be installed and maintained in order to prevent glare subject to the outdoor lighting provision of Section 2.21.

(6) *Trash removal.* Provide a description of the storage and removal of all trash, refuse, and debris occurring on the site, which the owner or operator of a temporary use shall be responsible for. Furthermore, all trash storage areas shall be screened from view of adjacent rights-of-way and the site must be maintained in a clean and safe manner.

d. *Review criteria.* An application for a temporary use or structure shall demonstrate compliance with the general standards stated in this Subsection and all of the following criteria:

(1) The proposed site for the temporary use or structure is adequate in size and shape to accommodate the temporary use.

(2) The proposed temporary use will be located, operated, and maintained in a manner consistent with the provisions of the Land Use Code.

(3) The operation of the requested use at the proposed location and within the time period specified will not create adverse impacts on surrounding properties or neighborhoods.

(4) To the maximum extent feasible, site design, including but not limited to location of parking, structures, and lighting, shall assure compatibility with surrounding uses.

(5) Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.

(6) The applicant or operator shall be responsible for obtaining any other required permits, such as Health Department permits.

(7) Permanent alterations to the site are prohibited.

e. *Time limits on permits.* Temporary use permits shall be valid for a specified period of time.

(1) The Applicant may request an extension beyond the approved time limit by requesting the extension prior to the expiration of the initial time limit. The request for an extension shall be scheduled for review in the same fashion as the original application, as specified in this subsection.

(a) *Review Criteria.* The following review criteria shall be used to evaluate requests for extensions of approved temporary uses:

i) The Applicant, owner, and operator have complied with the conditions of the original approval and permit.

ii) The temporary use has operated and will continue to operate in a way the satisfies all the review criteria stated in Section 4.11.6.c above; and

iii) The Applicant demonstrates a need for the requested extension.

(2) *Conditions to approval of an extension of time.* The extension may be conditioned upon design or physical alterations to the temporary use that the Planning Director determines are necessary to achieve a greater degree of compatibility with surrounding uses and properties.

f. *Building Code and other compliance – Certificate of Occupancy.* All temporary uses shall be required to comply with all applicable provisions of this Land Use Code and the building, fire, and other codes adopted by the Town, and shall obtain a Certificate of Occupancy, as applicable, prior to initiation of any temporary use.

Change of Use.

A. Applicability.

1. The change of use process is intended to allow the Town to ensure compliance with all current land use regulations and building and fire code requirements, and to allow the Town to consider and address potential impacts related to building and site design, fire protection and emergency access, lighting, noise, parking, signage, multi-modal access and safety, and other impacts affecting the public health, safety, or welfare.
2. For changes in use between land use categories per Article 2, Table X or change of occupancy per the Town building code, a change of use permit is required when a property, building, or structure is proposed to include a different land use than the approved or existing use, and building, structure or site changes are required to conform to land use code or municipal code requirements for the new use.

B. Review and approval

1. A change of use review shall be considered an administrative application but shall not be required to follow the core procedures listed in section XXX.
2. An **approved** change of use shall be issued a change of use permit through the Community Development Department that shall reference all conditions of approval.
3. In **approving** a change of use, the **Director may impose** reasonable conditions to comply with the approval criteria.

C. Approval Criteria. The proposed change of use shall comply with the following criteria:

1. The change of use is consistent with the comprehensive plan and the purpose of the land use code and zoning district; conforms to any previously approved concept plan, subdivision plat, PUD plan, and site plan; and complies with all applicable statutes, codes, ordinances and regulations.
2. The change of use complies with applicable Town standards, including street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services, and does not adversely impact on- and off-site traffic circulation or parking areas, public utilities or services, drainage, landscaping or other existing improvements;
3. The change of use includes an appropriate transportation plan, including multi-modal transportation access, and is integrated and connected, where appropriate, with adjacent development through-street connections, sidewalks, trails and similar features.
4. The land use, site and building layout and design, and access are compatible with surrounding properties.

5. The change of use will not adversely affect the natural environment, or the adverse impacts of the use will be mitigated to the maximum extent feasible.

6. The change of use does not result in any safety or hazard issues.

7. The applicant agrees to all conditions of approval.

D. Submittal requirements.

Refer to the Administrative Guide for change of use application submittal requirements.

Alternative Compliance. See Article 4 Section XX.

Sec. 16-6-XX. Vesting of Property Rights.

Sec. 5.1. Purpose.

The purpose of this Article 5 is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended, which establishes a conditional period of vested property rights for a landowner to undertake and complete development of real property under the terms and conditions of an approved site specific development plan. No vested rights shall be created within the Town except through a site specific development plan.

Sec. 5.2. Definitions.

As used in this Article, unless the context otherwise requires:

1. *Landowner* means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.
2. *Property* means all real property subject to land use regulation by the Town.
3. *Site specific development plan* means and is limited to the final plat of a subdivision or a final site plan of a Planned Unit Development (also known as a “final development plan”) when approved by the Board of Trustees by ordinance or resolution duly adopted, as applicable to the application type.
4. *Vested property rights* shall mean the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Sec. 5.3. Creation of Vesting Rights.

1. Request for site specific development plan approval.

a. For those developments for which the landowner wishes to establish vested property rights, the landowner shall request the vesting approval in writing at least thirty (30) days prior to the date approval of the final plat or final development plan is scheduled to be considered by the Board of Trustees.

b. Failure of the landowner to request approval within the timeframes established in this section shall render the subject plat or plan not a site specific development plan, and no vested property rights shall be deemed to have been established.

c. To the extent Article 68 of Title 24, C.R.S., as amended, addresses subject matter not governed by this Code in relation to vesting of property rights, such statutes shall govern.

2. Notice and hearing. No site specific development plan shall be approved or amended until after a public hearing called for that purpose, preceded by notice of such hearing published as provided by law at least fifteen (15) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.

3. Approval, conditional approval, effective date, amendments, referendum, and review.

a. A site specific development plan shall be deemed approved upon the effective date of the ordinance or resolution, as applicable, granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan, including any amendments thereto.

b. The Board of Trustees may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.

c. In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of the term of a vested property right, shall be the date of the original site specific development plan approval, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its written approval of the amendment.

d. The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site specific development plan approval and establishment of vested property rights.

4. *Notice of approval.*

a. Each map, plat, site plan, or other document constituting a site specific development plan shall contain the following notice: "Approval of this plan may create a vested property right. Approval was granted for (enter number) years effective (enter date)." Failure to include this statement shall invalidate the creation of the vested property right.

b. For developments where vesting is granted pursuant to this section, after approval of a final plat or final development plan, the landowner shall prepare an amended final plat or final development plan, as appropriate, and record the same with the Weld County Clerk and Recorder. Such amended final plat or final development plan shall include the notice described in paragraph a. of this subsection 4, and contain signatures of all affected property owners, mortgagees, and/or lienholders as identified by an updated title commitment.

c. In addition, the Town shall publish a notice describing generally the type and intensity of the use approved, the specific parcel of property affected, and stating that a vested property right has been created. The notice shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the Town.

Sec. 5.4. Duration of vested property right.

1. A property right that has been vested as provided in this Article shall remain vested for a period of three (3) years.

2. At no time shall the vesting period extend beyond eight (8) years following the original date of approval of the site specific development plan.

3. The Board of Trustees may, in its sole discretion, grant vested property rights up to a period of a total of eight (8) years following the original date of approval when warranted in light of all relevant circumstances, including but not limited to:

a. The size and phasing of the development

b. Economic cycles

c. Market conditions

4. Extension of the period of vested rights beyond three (3) years may be accomplished only through entry into a development agreement.

5. The vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the Board of Trustees in the written ordinance or resolution, as applicable, approving such amendments.

Sec. 5.5. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of real property.

Sec. 5.7. Limitations.

Nothing in this Code is intended to create any vested property right, except for implementation of the provisions of Article 68 of Title 24, C.R.S., as amended, and the modifications to statute contained in this Code. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article 5 shall be deemed to be repealed and the provisions hereof no longer effective.

Sec. 16-6-XX. Enforcement and Penalties.

1. *Responsible enforcement entity.* The Board of Trustees or its designee shall be responsible for enforcing the provisions of this Code. Any criminal enforcement shall be by the issuance of a summons and complaint to Municipal Court by those designated with authority by the Town Manager.

2. *Authorization for inspections.* Upon presentation of proper credentials, the Chief Building Official, Planning Director, Community Service Officer, Neighborhood Services Coordinator, or person charged by the Town Manager with managing enforcement of the Land Use Code, or their designee, may enter any building, structure, real property, or premises to ensure compliance with the provisions of this Code. Such inspection shall be carried out during normal business hours unless there is an emergency.

3. *Violations and enforcement procedures.*

a. *Violations.* It shall be a violation of this Code to undertake any of the following activities:

(1) *Activities inconsistent with Code.* Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, moving, or using any building, structure, sign, or land, or engaging in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including all required approvals;

(2) *Land-disturbing activities inconsistent with Code.* Excavating, grading, cutting, clearing, depositing fill or other materials, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite approvals required by this Code or other applicable regulations;

(3) *Nonconforming uses inconsistent with Code.* Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign, except in compliance with this Code;

(4) *Making lots or setbacks nonconforming.* Reducing or diminishing the lot area, setbacks, or open space below the minimum required by this Code;

(5) *Increasing intensity of use.* Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code;

(6) *Activities inconsistent with permit.* Engaging in any development, use of land, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, or other form of authorization required to engage in such activity; or

(7) *Activities inconsistent with conditions of approval.* Failure to comply with any terms, conditions, or limitations placed by the Board of Trustees upon any final development plan, subdivision plat, permit, or other form of authorization.

b. *Penalty for violations.* Any person, including but not limited to the officers and agents of a corporation responsible for its actions or inaction, and the partners or members of a partnership, firm, or joint venture, either as owner, lessee, occupant, or otherwise, who violates or causes the violation of any of the provisions of this Code, shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed or permitted or continues. Any person found responsible for a violation of this Code shall be subject to fines only, as provided in Sections 1-72 and 10-7 of the Municipal Code.

c. *Civil remedies and enforcement powers.* In addition to criminal prosecution for violations, the Community Service Officer, Chief Building Official, Planning Director, Town Engineer, Board of Trustees, Neighborhood Services Coordinator, or person charged by the Town Manager with

managing enforcement of the Land Use Code, shall have the following civil remedies and powers to enforce this Code.

(1) *Notice of violation and corrective action order.*

(a) *Nonemergency violations.* In the case of violations of this Code that do not constitute an emergency or require immediate attention, the Town may choose to serve the property owner, agent, occupant, or applicant for any relevant permit, written notice of the nature of the violation and required corrective action to be taken (“Notice of Violation and Corrective Action Order”). Such notices shall be served in person, by certified U.S. mail (return receipt requested), or by posting notice on the premises. The notice shall specify the Code provisions allegedly in violation and shall state that the individual has a period of time from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken. The period of time granted for correction shall not exceed thirty (30) days. The notice shall also state any appeal and/or variance procedures available pursuant to this Code.

(b) *Emergency violations.* In the case of violations of this Code that constitute an emergency as a result of safety or public concern or violations that will create increased problems or costs if not remedied immediately, the Community Service Officer, Chief Building Official, Planning Director, Town Engineer, Board of Trustees, or person charged by the Town Manager with managing enforcement of the Land Use Code, may use the enforcement powers available under this Article without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, or occupant, or to the applicant for any relevant permit.

(c) *Extension of time for correction.* The Town may grant an extension of the time to cure an alleged violation, up to a total of ninety (90) days, if the Town finds that, due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within thirty (30) days.

(2) *Deny/withhold permits.*

(a) The Planning Director or Chief Building Official may deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

(b) Where a property owner, agent, or other person has a record of an outstanding or past serious violation of this Code, the Planning Director, Chief Building Official, and/or Board of Trustees is/are authorized to deny or withhold all permits, certificates of occupancy, or other

forms of authorization for any use or development activity undertaken by such person until the outstanding violation is corrected. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

(c) The denial or withholding of a permit by the Director, Chief Building Official, or Town Engineer, if on the basis of provisions of the Land Use Code, may be appealed to the Board of Adjustment as provided in Section 4.7.7. of this Code. The denial or withholding of a permit by the Chief Building Official, if on the basis of provisions of the Town's adopted building codes, as amended, may be appealed as provided for in such building codes.

(3) *Revocation of permits.*

(a) *Public hearing required.* The Board of Trustees may revoke any development permit or other authorization, other than building permits, after notice and a public hearing.

(b) *Notice of public hearing.* The public hearing on the revocation of a development permit or other authorization shall be conducted during a regular or special meeting of the Board of Trustees not less than seven (7) days nor more than fourteen (14) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent, or other person to whom the development permit was issued, upon deposit of said notice in the U.S. mail, by certified mail, return receipt requested, addressed to the last known address of said person. Additional methods of service may also be utilized to give notice of the public hearing.

(c) *Findings.* Following the public hearing, the Board of Trustees, upon a finding of the following, may revoke any development permit or other authorization:

- i) There is a departure from the approved plans, specifications, or conditions of approval;
- ii) There is a violation of any provision of this Code;
- iii) The development permit was obtained by false representation; or
- iv) The development permit was issued in error.

(d) *Notice of revocation.* Written notice of revocation shall be served upon the owner, owner's agent, applicant, or other person to whom the permit was issued by certified mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction at or use of the property shall proceed after service of the revocation notice.

(4) *Stop work order.*

(a) *Issuance of stop work order.* The Planning Director, Town Engineer, Chief Building Official, Community Service Officer, Board of Trustees, Neighborhood Services Coordinator, or person charged by the Town Manager with managing enforcement of the Land Use Code, may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a development permit, building permit, or other form of authorization. The stop work order shall specify the Code provisions allegedly in violation. Service of the order shall be given to the person the Town believes is responsible for the work that must be ceased in person, by certified U.S. mail (return receipt requested), or by posting notice on the premises. Service of the order shall also be made by certified U.S. mail (return receipt requested) to the record owner of the property upon which the work that must be ceased is occurring. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to the applicable code.

(b) *Timing/notice.* The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the thirty-day period specified in Paragraph (3)a.1 above. The stop work order shall also indicate that failure to comply with the order may subject the violator to criminal liability in the form of fines as penalty for the violation.

(c) *Penalties for violation of stop work order.*

(5) *Abatement or injunctive relief.* The Board of Trustees, through the Town Attorney, may initiate injunction, abatement proceedings or other appropriate legal action in the District Court or other court of competent jurisdiction to abate, remove or enjoin such violation and to recover damages, costs and reasonable attorney's fees incurred in the abatement and removal of such violation.

d. *Remedies cumulative.* The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law and may be exercised in any order.

e. *Continuation of prior enforcement actions.* Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

f. *Appeals of enforcement actions.* Appeals of any order, requirement, decision or determination made by an administrative official in the enforcement of this Code shall be made to the Board of Adjustments in accordance with the provisions of Section 4.7.7 of this Code.

g. *Liability of Town.* This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection, by reason of the failure to inspect or reinspect, by reason of issuing a building permit, or by reason of pursuing or failing to pursue an action for injunctive relief.

(6) *Administrative Citations.*

(a) *General Intent.*

i) The Board of Trustees finds that the enforcement of the Frederick Land Use Code is an important public service, and that code enforcement is vital to the protection of the public's health, safety, and quality of life. The Board of Trustees further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with the Code.

ii) This section provides for an administrative enforcement process and administrative penalties that may be imposed for violation of any provision within the Frederick Land Use Code.

iii) The purpose of this section is to encourage prompt compliance with the Code and prompt payment of any penalties.

(b) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

Administrative Hearing Officer shall mean a person appointed by the Town Manager to hear and determine administrative citation appeals. The Manager may appoint an employee of the Town or another person possessing qualifications acceptable to the Manager as a hearing officer to hear and receive evidence and render a decision on the law and the facts. The hearing officer may not have personally determined the factual issues in controversy prior to any hearing or official decision making, and may have no personal or financial interest in the outcome of the hearing.

Code shall mean all provisions of the Frederick Land Use Code.

Enforcement Official shall mean an employee or agent of the Town authorized to enforce the ordinances of the Town.

Manager shall mean the Town Manager or the Manager's designee.

Responsible party shall mean a person or entity who has violated the Code or, in the case of property violations, the responsible party may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this section. *Town* shall mean the Town of Frederick.

(c) *Authority.*

i) Any responsible party violating provisions of the Code may be issued an administrative citation by an enforcement official as provided in this section.

ii) Notwithstanding any other provision of the Frederick Municipal Code or Land Use Code, responsible parties cited under the provisions of this section shall have only the appeal rights granted herein and according to applicable law.

iii) Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate administrative citation may be issued. However, once an administrative citation has been issued for a violation of the Code, no additional administrative citation shall be issued for the same violation for ten days or, if the responsible party appeals, until after the appeal has been heard at the municipal level and the responsible party has not complied with an administrative enforcement order of the Administrative Hearing Officer within ten days of its issuance or such other time as the Administrative Hearing Officer has specified.

iv) A civil penalty assessed by means of an administrative citation may be collected by any means allowed by law.

v) Enforcement actions are intended to be cumulative in nature. The Town may pursue one or more civil, criminal, and administrative action, fees, fines, sentences, penalties, judgments, and remedies, and may do so simultaneously or in succession. The enactment of this administrative remedy shall in no way interfere with the Town's right to prosecute violations as criminal offenses.

(d) *Procedures for Issuance of a Notice of Violation and Administrative Citation.*

i) Whenever the enforcement official determines that a violation of the Code exists, the enforcement official shall give a notice of violation and order to correct ("notice of violation") to the responsible party. The notice of violation shall be in writing and shall describe with reasonable detail the violation so that the responsible party may properly correct it. The notice

of violation shall provide a reasonable time for correction given the circumstances of the violation, but not more than 30 days unless approved by the Manager.

ii) The notice of violation shall be served as follows:

a) The enforcement official shall attempt to issue the notice of violation to the responsible party at the site of any violation. If the responsible party is not able to be located, a copy of the notice of violation shall be left with any adult person residing or working at the site, or if no adult person is found at the site and the violation occurred on private property or on property for which the responsible party has responsibility, then a copy of the notice of violation shall be posted in a conspicuous place on the property of the responsible party. In the case of violations occurring on property for which the responsible party is not the owner, the notice of violation shall be sent to the most recent mailing address available to the Town for that responsible party.

b) The enforcement official shall also send the notice of violation via first class mail to the record owner of the property.

c) The notice of violation shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth (5th) day after mailing of the notice of violation.

iii) If after service of the notice of violation, the code violation is not timely corrected, an enforcement official may issue an administrative citation to a responsible party.

iv) Service of administrative citation on a responsible party shall be made in the same manner as the notice of violation as described in subparagraph (B) herein, except that the enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the administrative citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative and subsequent proceedings.

(e) Contents of Administrative Citation.

i) The administrative citation shall state the date and location of the violations, and the approximate time the violations were observed. To the extent possible, the administrative citation shall identify the property in violation by address or legal description.

ii) The administrative citation shall state the Code sections violated and describe the violations.

- iii) The administrative citation shall describe the action required to correct the violations.
- iv) The administrative citation shall require the responsible party to correct the violations within a reasonable time given the circumstances, but in no case more than 30 days unless approved by the Manager, and shall explain the consequences of failure to correct said violations.
- v) The administrative citation shall state the amount of penalty imposed for the violations.
- vi) The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.
- vii) The administrative citation shall identify the rights and procedures for appealing the administrative citation.
- viii) The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party if it can be obtained.

(f) Appeal of Administrative Citation.

- i) A person served with an administrative citation may file a notice of appeal in person or by mail, postmarked within ten calendar days from the service of the administrative citation. Compliance with this time limit shall be a jurisdictional prerequisite to any appeal brought under this section. Failure to comply with such time limit shall be deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the administrative citation has been provided.
- ii) The notice of appeal shall be made in writing, filed with the Town department identified on the administrative citation, and contain the following information:
 - a) The reasons the appellant believes the administrative citation is objectionable, incorrect, or illegal;
 - b) The amount and type of claim or dispute involved, and the time during which it accrued or occurred;
 - c) The name, address, and telephone number of the appellant;

d) If the appellant is to be represented by a legal representative or corporate agent, the name, address, and telephone number of the said representative; and

e) The signature of the appellant, legal representative, and/or corporate agent.

iii) A processing fee of \$35.00 shall be paid simultaneously with the filing of the notice of appeal. The processing fee is not refundable, except as provided in Subsection 1-23-8(1).

iv) If, in the opinion of the Manager or the Manager's designee, the appeal meets all of the requirements of subsections (A)-(C) of this section, the Manager shall forward the notice of appeal to the appointed Administrative Hearing Officer.

v) If, in the opinion of the Manager or the Manager's designee, the appeal does not meet all of the requirements of subsections (A)-(C) of this section, the Manager shall promptly return the appeal and notify the appellant of what requirements the appeal fails to meet.

vi) As soon as practicable after receiving the written notice of appeal, the appointed Administrative Hearing Officer shall schedule a date, time, and location for the hearing, unless, if requested by the appellant and in the sole discretion of the Administrative Hearing Officer, it is submitted on written brief with supporting material for decision without a hearing.

vii) Written notice of the date, time, and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least ten calendar days prior to the date of the hearing.

(g) *Procedures and Standards at Administrative Citation Appeal Hearings.*

i) The procedure and format of the administrative citation appeal hearing shall follow procedures as set forth herein.

ii) Administrative citation appeal hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required by the Administrative Hearing Officer or requested by any party. The request must be in writing. Failure to request discovery shall not be a basis for a continuance.

iii) The parties to an administrative citation appeal hearing shall be the responsible party and the Town.

iv) The Town bears the burden of proof at an administrative citation appeal hearing to establish the existence of a violation of the Code. In the case of an abatement hearing, the Town bears the burden of proof to establish the existence of a public nuisance.

v) The standard of proof to be used by the Administrative Hearing Officer in deciding the issues at an administrative citation appeal hearing is by a preponderance of the evidence.

vi) The Administrative Hearing Officer shall render written decisions, accompanied by findings of fact and conclusions based thereon.

vii) All witnesses shall be sworn or shall affirm their testimony in the manner required in courts of record.

(h) *Duties and Powers of the Administrative Hearing Officer.*

i) The Administrative Hearing Officer shall determine whether appeals of administrative citations are valid. In doing so, the Administrative Hearing Officer shall determine whether the administrative citation under appeal was issued in compliance with the requirements of Town ordinances. In each case, the Administrative Hearing Officer shall be charged with performing all functions relating to the final determination and order, and entertaining petitions or motions made in writing. The Administrative Hearing Officer shall perform those duties and functions necessary and incidental to determining the matter, administering oaths, hearing all evidence, examining all documents, ruling on evidentiary questions, and generally conducting the hearing as a quasi-judicial proceeding.

ii) In the discretion of the Administrative Hearing Officer, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the appeal; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence, and other matters as requested by the Administrative Hearing Officer.

iii) All hearings or, when an appeal is submitted for determination based on written argument and written facts and figures, all examination of such written petitions and papers, shall be conducted by the Administrative Hearing Officer assigned to conduct the hearing or to examine the written material submitted.

iv) The admissibility of evidence shall be encouraged, and the Administrative Hearing Officer shall consider all evidence that is of probative value. The Administrative Hearing Officer may utilize their experience, technical competence, and specialized knowledge in the evaluation of evidence presented.

v) Copies, photographs, and photocopies may be admitted into evidence or substituted in evidence in place of original documents.

vi) Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the Administrative Hearing Officer.

vii) Whenever it appears that an appeal is not properly before the Administrative Hearing Officer, or that the appellant for some other reason lacks jurisdiction or standing, the case may be dismissed on the motion of any party or the Administrative Hearing Officer.

viii) The written decision of the Administrative Hearing Officer shall be known as an administrative enforcement order.

ix) The parties may enter into a stipulated agreement, which must be signed by both parties. Upon approval and acceptance by the Administrative Hearing Officer, this agreement shall be entered as the administrative enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

x) The Administrative Hearing Officer may uphold the administrative citation and all penalties, or dismiss the administrative citation and all penalties, or may waive or conditionally reduce the penalties assessed by the administrative citation. The Administrative Hearing Officer may also impose conditions and deadlines to correct the violation or require payment of any outstanding penalties.

xi) If the Administrative Hearing Officer dismisses the administrative citation and all penalties due to the Town's failure to satisfy its obligations under this section, the appellant's \$35.00 processing fee shall be promptly refunded.

xii) The Administrative Hearing Officer has continuing jurisdiction over the subject matter of an administrative citation appeal hearing for the purposes of granting a continuance, ordering compliance by issuing an administrative enforcement order, ensuring compliance of that order, modifying an administrative enforcement order, or, where extraordinary circumstances exist, granting a new hearing. The Administrative Hearing Officer may schedule subsequent review

hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative enforcement order.

(i) *Failure to Attend Administrative Citation Appeal Hearing.* Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

j) *Failure to Comply with Administrative Enforcement Order.* It is unlawful for a responsible party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order to fail to comply with the order. Any person who fails to comply with a final administrative enforcement order shall be guilty of a violation of the Frederick Municipal Code, and upon conviction thereof shall be punished as specified in Sections 1-72(a) and 10-7(e) of the Frederick Municipal Code. Prosecution for failure to comply with a final administrative enforcement order shall not commence until the time to appeal such order has lapsed.

(k) *Penalties Assessed.*

i) If the responsible party fails to correct the violation, subsequent administrative citations may be issued for violations of the same code section. The penalties assessed for each administrative citation issued for violations of the same code section or sections shall be established by the Manager, but shall not exceed the following amounts, regardless of the number of violations per citation:

a) First administrative citation: \$150.00.

b) Second administrative citation: \$500.00.

c) Third or subsequent administrative citation: \$1,000.00.

ii) Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the Town.

iii) All penalties assessed shall be payable to the Town of Frederick. Payment of the full amount of the penalty must be received in person or postmarked within ten calendar days of the date of issuance of the administrative citation or administrative enforcement order, or within the time specified on the administrative enforcement order.

(l) Failure to Pay Penalties.

i) The failure of any responsible party to pay the civil penalties assessed by an administrative citation or administrative enforcement order within the time specified on the citation or order, respectively, may result in the imposition of a late fee of \$25.00 and interest at a rate of ten percent per annum.

ii) In the event of failure to pay all penalties assessed, the Manager may refer the matter for collection by whatever means are available to the Town.

iii) In the case of violations associated with specific real property, the Town shall have as security for the collection of such late fees, penalties, interest, and administrative costs a lien upon such real property. These amounts may be assessed and collected as specified Section 1-76 of the Frederick Municipal Code.

iv) Any action or other process provided by law may be maintained by the Town to recover or collect any amounts, including late fees, penalties, interest, and administrative costs, owing under this section.