



## PLANNING COMMISSION WORK SESSION

448 E. 1st Street, Room 190 Salida, Colorado 81201

Wednesday, July 15, 2020 - 6:00 PM

Email public comments to: [publiccomment@cityofsalida.com](mailto:publiccomment@cityofsalida.com)

Please register for the Board of Adjustment meeting: <https://attendee.gotowebinar.com/rt/1909092342220683277>

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### AGENDA

**CALL TO ORDER BY CHAIRMAN – 6:00 PM**

**DISCUSSION ITEMS**

1. Land Use Code Update - Installment 1

**ADJOURN**

*Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the Community Development Department at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2626 at least 48 hours in advance.*

# CLARION

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## MEMORANDUM

**TO:** Glen Van Nimwegen, Bill Almquist, and Kristi Jefferson, City of Salida

**FROM:** Matt Goebel and Paul Donegan, Clarion Associates

**DATE:** June 8, 2020

**RE:** Salida Land Use Code – Draft Installment 1

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We are pleased to submit for your review the second draft of the first installment of the new Salida Land Use Code (Chapter 16). Overall, this Module includes the following:

- Chapter 16-1: General Provisions
- Chapter 16-8: Administration and Procedures
- Chapter 16-10: Rules of Construction and Definitions

The remainder of this memorandum covers the major changes as presented in this module. These changes are based on our own observations and meetings with staff and other stakeholders, with particular focus on the recommendations provided in the Code Assessment Report, including:

- **Provide Clarity and Predictability.** Stakeholders and City staff indicated a strong desire to make the Code easier to use and understand. Removing vague language is one method of making the Code clearer. In this installment we aim to remove jargon and vague language and ensure that all key terms are defined.
- **Standardize and Reorganize the Code.** Throughout the Code, we recommend basic organizational and stylistic improvements such as including clear headings and subheadings, categorizing long lists of standards, and grouping similar information. These improvements will make information in the Code easier to find. The Land Use Code should also be reorganized to consolidate standards from similar articles and sections that are currently freestanding. For example, procedures and requirements for annexation are kept in Article VIII and procedures for Code amendments and appeals are housed in subsections of Article II, but both would logically be included alongside other procedures in Article III.
- **Relocate Forms and Submittal Requirements to an Administrative Manual.** The current Land Use Code includes several application forms and lists of submittal requirements. Although this locates relevant documents with corresponding regulations, it also increases the length of the Code, makes it harder to find what is needed in the Code, and requires a Code amendment to make changes to otherwise administrative materials. We recommend removing forms, certificates, and lists of submittal requirements and relocating them to an administrative



manual, where staff has more flexibility to make updates. The manual would be referenced where needed in the Code, so applicants know where to find these materials. During the drafting process, Clarion will identify specific provisions recommended for relocation to the manual and will make note of the same in the draft footnotes and/or commentary.

- **Establish a Site Plan Review Procedure.** The current system for evaluating development proposals involves three levels of review (administrative, limited impact, and major) based on the types of uses, the intensity of such uses, and the location/district in which that use is proposed. These variations of review are also carried through the other application review procedures. For example, a conditional use permit follows the limited impact review procedure, and a rezoning application follows the major impact review procedure. These distinctions were developed with the intent of streamlining the procedures but have resulted in confusion and complications especially as it relates to uses. We heard from multiple stakeholders that there are far too many applications that require review by the Planning Commission, resulting in an unpredictable process. Moving forward, we recommend simplifying the procedures by, in part, establishing a dedicated site plan review procedure, which would be intended simply to review whether or not a project complies with the code requirements (like parking and landscaping). For those uses that require an additional, subjective evaluation of compatibility on a particular site, we recommend retaining a conditional use permit procedure.
- **Modernize Planned Development Standards.** Unlike many communities, Salida has used Planned Developments (PD) sparingly, which is encouraged moving forward. However, the City should maintain and enhance the PD process (Article VII of the Land Use Code) for clarity and consistent application. We recommend the following improvements through the Code update:
  - Keep Planned Developments as an overlay district.
  - Clarify the Planned Development process.
  - Raise the minimum standards for Planned Development.
  - Differentiate minor and major amendments to an existing Planned Development.
- **Allow Minor Modifications.** Part of making a Land Use Code more predictable is creating a stronger structure and greater consistency within the Code. Many of the recommendations in this Assessment focus on that effort. However, because the Code is applied to real-world properties and structures, it must integrate opportunities for flexibility and relief from standards that would otherwise inhibit a desirable development proposal. We recommend providing flexibility for City staff and decision-makers through a minor modification tool -- a discretionary approval for adjustment of quantifiable development standards (e.g., up to a 10-percent deviation from a standard). In this installment, we do not provide a recommended adjustment value, but do provide some common types of standards that could be eligible for a minor modification. Following discussions with City staff, we propose further conversations on this regulatory tool and review of updated development standards prior to solidifying any possible minor modification standards.
- **Establish Common Review Procedures.** The first step to creating user-friendly review procedures is to ensure all review processes are consolidated in the new code. Article III of the current Land Use Code is the primary location for these regulations, but related procedures are located in Article II (public notice, amendments, and appeals), Article IV (conditional use permit, variances, and rezoning), Article VII (Planned Development procedures), Article IX (annexation), and Article XII (historic preservation procedures). Finally, the consolidated procedures article should include a summary table of review procedures featuring Code references, noticing requirements, and applicable review and decision-making bodies – serving as a one-stop reference point. All procedures should be organized and structured consistently to make it easy

for Code users to understand the steps required for approval. We recommend establishing common review procedures for all application types for consistency and to avoid repetition.

- **Draft Clear Approval Criteria.** A key issue that City staff and stakeholders raised is the lack of clear evaluation and approval criteria for reviewing development proposals. Many procedures in the current Land Use Code lack adequate requirements for findings or approval criteria by which City staff and decision-makers must use to review applications. Some procedures have vague criteria that require considerable interpretation. We propose creating clear and complete approval criteria for every application type to serve as a guide to applicants, City staff, and decision-makers.

We have attached two versions of the draft – with changes tracked and with changes accepted. Both versions are provided in both Microsoft Word and PDF format. The tracked changes are based on all modifications made from the first draft to show the type of substantive and minor changes we have made. We recommend using the clean Microsoft Word version to provide edits and commentary and using the PDF version for printing or distributing to ensure that all readers will view the document consistently (same page numbers, etc.).

### **Article 16-1: General Provisions**

This article includes material that sets the legal foundation for the entire document. Material is generally carried forward with no revision except where noted. It is drawn mostly from the existing Article I (General Provisions) and Article II (Enforcement), and Section 16-4-160 (Nonconformities), and 16-4-170 (Nonconforming Lots).

### **Article 16-8: Administration and Procedures**

This article describes the procedures for reviewing and approving development applications in Salida. The article begins with a summary table that provides a snapshot of the review procedures and the applicable review and decision-making authorities. Following that table is the common review procedures and then specific procedures for the various application types in the City.

#### **Common review procedures**

Common review procedures apply to most development application types. Common review procedures will help Salida avoid repetition in the Code and eliminate conflicting information among development applications. The remaining sections in this article describe the application-specific procedures, referring to common review procedures as appropriate and noting any modifications or additions. Each specific procedure includes a flowchart depicting the steps required for review and approval.

#### **Administrative/limited/major impact review not carried forward**

The current development review procedures are organized into categories based on the “impact” of a particular application type – administrative review, limited impact review, and major impact review. This new article is a substantial departure from that system because each application type is considered standalone. For example, a rezoning is just a rezoning application – not a “major impact review.” A conditional use approval is processed as a conditional use approval, not a “limited impact review.” This clearer approach will also lead to a simplified table of allowed uses.

#### **Decision-making authorities**

The term “Director” is used throughout this article and is defined in this draft as the Director of Community Development (or designee). Staff is commonly the designee, but it is good to maintain references to the Director as opposed to detailing that City staff will be responsible. This is a change from the current code that places a lot of responsibility on the “Administrator.” It is uncommon to assign administration of a

land use code to the City Administrator, since most activities fall within the purview of the Community Development Department. Descriptions and authority of the City’s other key decision-making authorities are provided in the final section of this article.

### **Administrative manual**

Throughout this Chapter we refer to an “administrative manual,” which is proposed to include the requirements for application submittal materials, application fees, any associated time periods for review, and other administrative or technical information that can live outside the Code. Having a separate manual allows those administrative materials to be updated more regularly without requiring a code amendment and reduces the overall bulk of the Code to focus more on land use regulations.

## **Chapter 18-10: Rules of Construction and Definitions**

This is the first installment of the definitions article, which will be built incrementally with each installment of the new code. This first installment includes definitions related to the administration articles.

The definitions are proposed to be located, here, at the end of the document, which is typical to reduce the length of Article 16.01, General Provisions, and make the entire code more user-friendly. This section will become longer as definitions are added for all proposed use categories, use types, and as development standards are drafted. Footnotes will be used to highlight specific definitions that we or staff think merit a definition. As the list becomes finalized (i.e., no edits to the definition or concept are likely) we can begin illustrating and including in future drafts throughout the course of the project.

### **General Comments**

#### **Grammar and Minor Corrections**

Throughout this module, we made several style, grammar, and formatting assumptions, such as consistent capitalization of headings and key terms, and spelling out numbers one through nine (numerals for 10 and higher). Any spelling errors, typos, or grammatical errors from the current regulations were corrected in this draft Code, often without footnote.

#### **Footnotes, Cross-References, and Commentary**

Numerous footnotes are included to highlight relocations, new or modified provisions, and to ask questions of staff. Please pay close attention to the footnotes as you review the draft. The cross-references are often hyperlinked to other sections within the document for ease of reference. Some of cross-references to material that is outside of the scope of the Land Use Code, in the proposed Administrative Manual, or to be addressed in a different module is highlighted and will be re-linked with the consolidated draft. Each key component of the draft Installment 1 begins with a shaded text commentary box drawing the reader’s attention to the primary purpose of the article and the major changes from the current Code. These commentary boxes provide context for review and will be removed prior to the consolidated adoption draft.

### **Next Steps**

Reviewers should consider the document with the following questions in mind:

- Is something missing from these articles that should have been included?
- Were provisions removed that should have been retained for one reason or another?
- Are there any provisions that are not clearly understood after a thorough read?

Following review and comments by City staff, City officials, and the general public, this document will be incorporated into a single consolidated draft with the other modules.



Chapter 16  
**Land Use Code (LUC)**

Installment 1: Administration and Procedures  
DRAFT June 2020

**CLARION**



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# Article 16-1: General Provisions

## 16-1-10 Title, Authority, and Effective Date

### (a) Title and Short Title<sup>1</sup>

This Chapter, as amended from time to time, shall be known and may be cited as the *City of Salida Land Use Code*. It may also be referred to within this document as the "Land Use Code," "Chapter 16," or "this Chapter."

### (b) Authority<sup>2</sup>

This Chapter is authorized by Section 31-23-101, *et. seq.*, C.R.S.; Section 29-20-101, *et. seq.*, C.R.S., Section 31-12-101, *et. seq.*, C.R.S., and Section 24-65-101, *et. seq.*, C.R.S., as amended.

### (c) Presumption of Validity<sup>3</sup>

All provisions of this Chapter are presumed to be valid and enforceable. In any challenge to the validity of any provision, the burden of proof shall rest with the person bringing the challenge.

### (d) Effective Date<sup>4</sup>

This Chapter shall become effective on <month/day/year>.

## 16-1-20 Purpose<sup>5</sup>

This Chapter is enacted for the purpose of promoting the health, safety, quality of life, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City by:

- (a) Lessening congestion in the streets and roads;
- (b) Securing safety from fires and other dangers;
- (c) providing light and air;
- (d) Avoiding undue congestion of the population;
- (e) Ensuring the efficient use of land;
- (f) Facilitating the adequate provision of transportation, water, wastewater, schools, and other public requirements;
- (g) Securing protection of the tax base; and
- (h) By other means in accordance with the City of Salida Comprehensive Plan.

## 16-1-30 Applicability<sup>6</sup>

### (a) Jurisdiction

This Chapter shall apply to all land and all land uses within the municipal boundaries of the City of Salida, Colorado.

<sup>1</sup> From 16-1-10. Revised to reference this document as "Code" or "this Code."

<sup>2</sup> From 16-1-20.

<sup>3</sup> From 16-1-50.

<sup>4</sup> New. Date to be filled in prior to adoption.

<sup>5</sup> Expands on current 16-1-30.

<sup>6</sup> Mostly new, often included in Clarion's recent codes, tailored for Salida.

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## (b) Compliance Required

- (1) No permit, certificate, or approval of any use that is subject to this Chapter shall be issued or granted by any department, agency, City official, or City employee without a finding of substantial compliance with this Chapter having been issued by the appropriate review authority.
- (2) Unless otherwise stated in this Chapter, no building or structure shall be erected, converted, enlarged, reconstructed, or altered without a determination of substantial compliance with this Chapter.
- (3) No lot of record shall be created by subdivision or otherwise unless it complies with this Chapter.

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## (c) Municipal Code

Whenever any provision of this Chapter conflicts with other provisions of the Municipal Code, the stricter provision, as determined by the City Attorney, shall govern.

### 16-1-40 Severability<sup>7</sup>

If any section, subsection, paragraph, clause, phrase, or provision of these regulations shall be adjudged invalid or held to be unconstitutional by a court of competent jurisdiction, the validity of these regulations shall not be affected in whole or in part, other than the provision adjudged to be invalid or unconstitutional.

### 16-1-50 Transition from Prior Regulations<sup>8</sup>

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#### (a) Development Approvals

Any development approved under regulations in effect prior to the effective date of this Chapter may be carried out under the terms and conditions of the approval and the development standards in effect at the time of approval, provided the approval has not expired and the development complies with any applicable standards of this Chapter regarding ongoing operations and maintenance. If the prior approval expires, is revoked, or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this Chapter.

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#### (b) Pending Applications

A development application that has been determined to be complete pursuant to Section 16-8-30(c)(6), *Determination of Application Completeness*, prior to the effective date of this Chapter may be decided under the regulations in effect when the application was determined to be complete, or may be reviewed and decided under this Chapter at the request of the applicant. Applications shall not be processed under a combination of prior regulations and this Chapter.

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#### (c) Prior Violations

If a development or activity in violation of the prior development regulations fully complies with this Chapter, it shall no longer be deemed a violation. Unpaid fees and/or penalties from prior enforcement of violations are still valid and shall remain the responsibility of the violator under the prior regulations.

### 16-1-60 Nonconformities<sup>9</sup>

#### COMMENTARY

This section is a comprehensive update and rewrite of the City's nonconformity provisions, which are mostly in 16-4-160 and -170 in the current code. There is a new section of general provisions relating to all types of nonconformities, and then additional detail for various types of nonconformities – uses, structures, and lots. A new section is proposed addressing nonconforming site features. Later in the project, nonconforming signs will be considered as part of the sign section update.

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<sup>7</sup> From 16-1-70.

<sup>8</sup> New.

<sup>9</sup> Expands on current 16-4-160 and 16-4-170.

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## (a) Purpose

The purpose of this section is to regulate and limit the development and continued existence of legal uses, structures, lots, and site features established prior to the effective date of this Chapter, and any future amendments, that no longer conform to the requirements of this Chapter. All such situations are collectively referred to in this section as “nonconformities.” While nonconformities may continue, the intent of this section is to curtail substantial investment in nonconformities to bring about their eventual elimination and to preserve the integrity of this Chapter and the stated policies of the City of Salida.

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## (b) Regulations Applicable to All Nonconformities

### (1) Determination of Nonconformity Status

The burden of establishing the existence of a legal nonconformity shall be solely on the owner of property containing the nonconformity.

### (2) Maintenance and Minor Repair

- a. Minor repairs or maintenance of nonconformities are permitted and encouraged, provided that the repairs and/or maintenance do not increase the nonconformity of any structure, use, or lot. Maintenance and repairs that qualify as “minor” include the following:
  1. Repairs necessary to maintain and to correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a building or structure, without expanding the building or structure;
  2. Maintenance of land to protect against and mitigate health and environmental hazards;
  3. Repairs that are required to remedy otherwise unsafe conditions; and
  4. Repairs necessary to comply with current building code requirements.
- b. Minor repairs and maintenance shall only be conducted in compliance with building code requirements and shall obtain the necessary permits pursuant to --- [x-ref municipal code section dealing with building code].

### (3) Cumulative Enlargements, Expansions, Repairs, and Replacements

Requests, applications, or permits to enlarge, expand, repair, and/or replace uses, buildings, structures, and site features after the effective date of this Chapter shall remain on record with the City. Any subsequent application or permit to enlarge, expand, repair, and/or replace uses, buildings, structures, and site features on the same property shall be cumulative to any prior request, application, or permit. The total square footage of such enlargements, expansions, repairs, and replacements shall be used to determine the applicability of the standards in this section.

### (4) Change of Ownership or Tenancy

Changes of ownership, tenancy, or management of property with an existing nonconformity may occur, but such nonconformities shall continue to be subject to the standards of this section.

### (5) Compliance to the Maximum Extent Practicable

Where compliance with the requirements of this section is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, hazard areas, or other significant environmental constraints, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Director.

## (c) Nonconforming Uses

### (1) Limitations on Continuation of Nonconforming Uses of Land or Structures<sup>10</sup>

- a. A nonconforming use may be extended throughout the same building, provided that:
  1. No structural alteration of the building (or portion of such building containing the nonconforming use in the case of buildings with multiple uses) shall be permitted unless it complies with Section 16-1-60(d)(1), *Additions to Nonconforming Building or Structure*, below;
  2. No additional dwelling units shall be permitted in the building; and
  3. No additional nonresidential units and/or uses shall be permitted.
- b. Any existing occupied single-family residential dwelling that is deemed to be a nonconforming use may make improvements to the main and accessory structures so long as improvements do not increase the degree of nonconformity or increase the height or building footprint.
- c. No additional structure not conforming to the requirements of this Chapter shall be erected in connection with the nonconforming use of land or structure.

### (2) Change of Use<sup>11</sup>

- a. A nonconforming use may be changed to another nonconforming use, provided the Director determines that the new use creates no greater impacts on surrounding properties and is no more intensive than the use it replaces, and no structural alterations to the building are required to accommodate such change. A nonconforming use that has been changed to a less nonconforming use pursuant to this subsection may not subsequently be changed back to a more nonconforming use.
- b. A nonconforming use, if changed to a conforming use, may not subsequently be changed back to any nonconforming use unless otherwise permitted by this Chapter.

### (3) Discontinuation of Nonconforming Use

Whenever a nonconforming use of land or a building has been discontinued for a period of one year, future use of land or building shall comply with this Chapter.

## (d) Nonconforming Structures

### (1) Additions to Nonconforming Building or Structure<sup>12</sup>

- a. A nonconforming structure may be extended or altered in a manner that does not increase its nonconformity or create a new nonconformity, but any structure or portion of a structure may be altered to decrease the nonconformity of the structure. No such change may further encroach into any already-nonconforming setback.<sup>13</sup>
- b. An extension to a nonconforming structure may be permitted by the Administrator to comply with the provisions of the Americans With Disabilities Act (ADA), provided that it is demonstrated that the only way to comply with the Act would be through an extension which increases the structure's nonconformity, and that the extension is the minimum necessary to comply with the Act.

### (2) Restoration Following Damage or Destruction<sup>14</sup>

A nonconforming structure that has been damaged or destroyed by fire or other causes may be restored to its original condition, provided that such work is commenced within six months of such event and completed

<sup>10</sup> New. This replaces the current 16-4-160(b), which groups together standards for nonconforming uses and structures. They are treated separately in this draft. Projects constructed prior to adoption of the inclusionary housing ordinance would not become nonconforming uses because the ordinance only applies to new development.

<sup>11</sup> New. Added to allow the development of "less nonconforming" uses at staff discretion. This is recommended to provide property owners with some flexibility and encourage the turnover of more incompatible uses. However, note that some communities prohibit change to another nonconforming use altogether.

<sup>12</sup> Based on 16-4-160(c).

<sup>13</sup> Second half of this sentence is new.

<sup>14</sup> Based on 16-4-160(d)(4). Authorization for extension by Director is new.

within 24 months of such event. By written request from the property owner, the Director may grant one extension of either the work commencement and/or the completion of work time period.

**(3) Movement of a Nonconforming Structure**

A nonconforming structure shall not be moved to another location unless it shall thereafter conform to the provisions of the zone district into which it is moved.

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**(e) Nonconforming Lots<sup>15</sup>**

- (1) A primary structure and customary accessory buildings and structures may be developed on a lot that is nonconforming as to minimum lot size or minimum lot frontage, provided that it can be located on the lot so that all other dimensional standards are met, or a variance from said dimensional standards is obtained pursuant to **Section ---**, and provided that the development complies with all other standards of this Chapter.
- (2) No lot that is conforming as to minimum lot size or minimum lot frontage may be reduced in size or subdivided in such a way that it creates a nonconforming lot, causes any structure or use to become nonconforming, or causes the nonconformity of any use to increase.

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**(f) Nonconforming Site Features<sup>16</sup>**

**(1) Applicability**

- a. For purposes of this subsection, the term “nonconforming site feature” includes any driveway, off-street parking or loading area, landscaping, buffer, screening, or exterior lighting element that lawfully existed per regulations in place prior to the effective date of this Chapter, as well as the lack of any such feature required by subsequently enacted City regulations.
- b. A nonconforming site feature may continue to exist even though it does not conform to current applicable standards of this Chapter, subject to the requirements of this subsection.
- c. No action shall be taken that increases the degree of the nonconformity of a site feature.

**(2) Nonconforming Parking**

**a. Continuation of Nonconforming Parking**

Any parking spaces or access to public rights-of-way lawfully existing on the effective date of this Chapter that are made nonconforming by virtue of enactment of this Chapter shall be allowed to continue, provided that:

1. Any change or expansion of any use or structure shall only be permitted if the additional number of parking spaces required by such change or expansion is provided in accordance with **Section --, Off-Street Parking and Loading**.
2. Nonconforming parking areas shall not be expanded, except pursuant to paragraph b., below.<sup>17</sup>

**b. Upgrading Nonconforming Parking**

1. Nonconforming off-street parking facilities shall be upgraded to comply with this Chapter’s minimum parking space requirements when the following development activities occur:
  - a) An addition to or expansion of one or more structures that, over a two-year period, would increase the total gross floor area of the structures by more than 50 percent; or
  - b) A remodeling of one or more structures that, over a two-year period, would cost more than 50 percent of the current assessed value of the structures.<sup>18</sup>

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<sup>15</sup> 16-4-170.

<sup>16</sup> New section for the city’s consideration. Many of the codes we draft increasingly adopt these types of sliding-scale standards to ensure that more substantial redevelopment projects invest some funds into upgrading nonconforming site features.

<sup>17</sup> **Review standard again following drafting of development standards (Installment 3).**

<sup>18</sup> This is measured by tracking building permits over a two-year period, going back from the date of application.

2. Nonconforming off-street parking facilities shall be upgraded to comply with this Chapter’s parking lot landscaping requirements pursuant to paragraph (3) below.

**(3) Nonconforming Buffers, Landscaping, Screening, and Exterior Lighting**

Nonconforming buffers, landscaping, screening elements, and exterior lighting shall be upgraded to comply with this Chapter’s applicable standards for such features if the site containing the nonconforming site feature is proposed for any of the following development activities:

- a. An increase in the total square footage of the vehicular use area, including parking, loading, circulation, and driveway areas;
- b. A structural addition that increases the combined total gross floor area of all existing structures by more than 500 square feet or 20 percent, whichever is less;
- c. Building elevation changes involving 50 percent or more of the exterior walls of a roofed structure on the property within a two-year period, excluding minor cosmetic maintenance such as painting, replacing lighting fixtures, or replacing awnings or signs;
- d. Any tenant change of a nonresidential structure that also involves substantial building elevation changes as determined by the Director, excluding minor cosmetic maintenance such as painting, replacing lighting fixtures, or replacing awnings or signs;
- e. Expansion of outdoor operations, storage, or display areas on a site containing nonconforming buffers or screening that increases the gross square footage of such areas by a certain percentage shall require upgrading to offset a corresponding percentage of the buffer or screening nonconformity.

## 16-1-70 Enforcement

### COMMENTARY

This section is a comprehensive update of the City’s enforcement provisions, which are mostly in 16-2-480, -90, and -100 of the current code.

#### (a) Purpose

This section establishes procedures through which the City of Salida seeks to ensure compliance with the provisions of this Chapter and obtain corrections for violations of this Chapter. This section also sets forth the remedies and penalties that apply to violations of this Chapter.

#### (b) Violations

Any person who violates any provision of this Chapter shall be deemed guilty of a code violation punishable in accordance with Section 16-1-70(e), *Penalties and Remedies*. Each of the following activities constitutes a violation of this Chapter:

**(1) Activity Inconsistent with this Chapter**

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any land, building, structure, or sign that is inconsistent with this Chapter.

**(2) Activity Inconsistent with a Permit or Approval**

Any development, use, or other activity that is in any way inconsistent with the terms or conditions of any permit or approval required to engage in such activity under this Chapter.

**(3) Illustrative Examples of Violations**

Examples of violations of this Chapter include, but are not limited to:

- a. Increase of the density or intensity of any use of land or structure except in accordance with the requirements of this Chapter;
- b. Reduction or diminishment of lot area, setbacks, vegetative buffers, open space, or other standards below the minimum requirements set forth in this Chapter;
- c. Creation, expansion, replacement, or change of a nonconformity inconsistent with this Chapter;

- d. Failure to install, improve, or maintain any public or private improvements required by the terms of any permit or approval;
- e. Failure to abide by conditions of any approval or agreements executed in association with an approval; and
- f. Failure to comply with applicable requirements for a certificate of occupancy or building permit.

**(4) Continuing Violations**

Any violation of this Chapter shall be considered a separate offense for each day during any portion of which any violation of this Chapter is continued past the date of the issuance of notice of violation, with each violation punishable in accordance with Section 16-1-70(e), *Penalties and Remedies*.

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**(c) Void Permits<sup>19</sup>**

**(1) Permits Issued that Conflict with this Chapter**

All officials of the City vested with the authority to issue permits shall comply with the provisions of this Chapter. No permit, certificate, or license for the use, construction, or occupancy of structures or land shall be issued that conflicts with the provisions of this Chapter.

**(2) Permits Issued Based on False or Erroneous Information**

- a. Any permit, certificate, or license issued for the use, construction, or occupancy of structures or land that is issued in reliance upon information knowingly and intentionally provided by the applicant to mislead and that is materially false or erroneous, whether provided in the application, in supporting documents, or in oral statements, is null and void and shall be revoked in the manner provided for below.
- b. In the event a permit is issued on erroneous information not knowingly and intentionally provided, the permit holder shall correct the erroneous information and shall bring the permit into compliance with the code. If such compliance is impossible or impracticable the permit shall be revoked.

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**(d) Enforcement Actions**

**(1) Responsibility for Enforcement**

This Chapter shall be administered and enforced by the Administrator, Director, Building Official, and City Engineer, or such other person as may be designated by the Director.

**(2) Zoning Complaints and Investigation<sup>20</sup>**

All zoning complaints shall be submitted to the Director in writing on forms supplied by the City. Each such complaint shall be signed by the complaining party. Upon receipt of a written complaint the Director or their designee shall investigate the complaint and provide a written response to the complaining party within 14 days from the date the complaint was submitted.

**(3) Persons Liable**

The owner, tenant, or occupant of any building or land, or any part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Chapter or a permit or approval issued pursuant to this Chapter, may be held responsible for the violation and be subject to the penalties and remedies provided in this section.

**(4) Procedures Upon Discovery of Violations**

- a. If the Director finds that any provision of this Chapter is being violated, the Director shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Director's discretion.
- b. If the person responsible for the violation does not take action to correct the violation within 30 days of the first notice, a final written notice shall be sent by certified mail with return receipt required to the owner of record of the subject property, or to the homeowners association, as applicable. The final

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<sup>19</sup> 16-2-80.

<sup>20</sup> 16-2-90.

written notice shall state the action the Director intends to take if the violation is not corrected and shall advise that the Director's decision or order may be appealed to the City Council, pursuant to Section 16-8-70(c), *Appeals*.

- c. Following an appeal to the City Council for failure to file a timely appeal of a decision, or notwithstanding the foregoing, when a delay would seriously threaten the effective enforcement of the Code, or pose a danger to the public health, safety, and welfare, the Director may immediately issue an order for compliance by personal service, posting of the property, or certified mail with return receipt required to the owner of record of the subject property, or to the homeowners association, as applicable, and seek enforcement through the municipal court as authorized below.

**(5) Continuation of Prior Enforcement Actions**

Nothing in this Chapter shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to previous regulations.

**(6) Process for Voiding Permits<sup>21</sup>**

Any permit that was issued pursuant to this Chapter shall be revoked only upon a minimum of 15 days written notice to the applicant. The decision-maker revoking a permit shall be the same as approved the permit. If the permit is being revoked by the Planning Commission or the City Council, the applicant shall be provided written notice of the time, date and location of the hearing sent by regular mail to the applicant not less than 15 days to the hearing. A permit revocation may be appealed as provided for in Section 16-8-70(c), *Appeals*.

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**(e) Penalties and Remedies<sup>22</sup>**

The Director, Building Official, City Attorney, or City Engineer, or such other person as may be designated by the Director, shall have the power to enforce this Chapter subject to the following penalties:

**(1) Fines**

Any violation of this Chapter shall be the provisions of Chapter 1, Article IV of this Code. Each day's continuing violation shall be a separate and distinct offense.

**(2) Administrative Citation<sup>23</sup>**

The City may issue an administrative citation as provided in Chapter 1, Article VII of this Code.

**(3) Deny, Withhold, or Revoke Entitlements**

- a. The issuing/approval authority shall have the power to deny, withhold, or revoke permits for violation of this Chapter or violations of any conditions of approval.
- b. The issuing/approval authority shall hold a hearing to determine the nature and extent of the alleged violation and shall have the power to deny, withhold, or revoke the permit issued to the violator, to require the violator to take corrective measures, or to direct employees or agents of the City to enter onto the premises and to take the corrective measures required by the authority, the cost to be borne by the violator. If the issuing/approval authority is the Director, then the hearing shall be held at the Planning Commission.
- c. Any entitlement or other form of authorization may be denied, withheld, or revoked after notice and a hearing, when the Director determines that:
  1. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
  2. The entitlement was established by false representation;
  3. The entitlement was issued in error; or
  4. There is any other violation of this Chapter.

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<sup>21</sup> 16-2-80(c).

<sup>22</sup> This is new material and generally intended to authorize a wider range of penalties and remedies than explicitly mentioned in the current code.

<sup>23</sup> 16-2-100(c).

**(4) Injunction or Mandamus<sup>24</sup>**

In case any building or structure is or is proposed to be erected constructed, altered, maintained, or used, or any land is proposed to be used, in violation of this Chapter, the City Attorney, at the direction of City Council, and in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or another appropriate action or proceeding to enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

**(5) Continuation of Prior Enforcement Actions**

Nothing in this section shall be construed to prevent the City from pursuing any other remedies it may have for violations of this Chapter.

**(6) Remedies Cumulative**

All remedies provided for in this section are cumulative, are not exclusive and shall be in addition to any other remedies provided by law.

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<sup>24</sup> 16-2-100(b).

## **Article 16-2: Zoning Districts**

*[To be submitted with Installment 2 – Districts and Uses]*

## **Article 16-3: Use Regulations**

*[To be submitted with Installment 2 – Districts and Uses]*

## **Article 16-4: Development and Design Standards**

*[To be submitted with Installment 3 – Development Standards]*

## **Article 16-5: Subdivisions**

*[To be submitted with Installment 3 – Development Standards]*

## **Article 16-6: Signs**

*[To be submitted with Installment 3 – Development Standards]*

## **Article 16-7: Historic Preservation**

*[To be submitted with Installment 3 – Development Standards]*

# Article 16-8: Administration and Procedures

## COMMENTARY

This article describes the procedures for reviewing and approving development applications in Salida. The article begins with a summary table that provides a snapshot of the review procedures and the applicable review and decision-making authorities. Following that table is the common review procedures and then specific procedures for the various application types in the City.

**Common review procedures.** Common review procedures apply to most development application types. Common review procedures will help Salida avoid repetition in the Code and eliminate conflicting information among development applications. The remaining sections in this article describe the application-specific procedures, referring to common review procedures as appropriate and noting any modifications or additions. Each specific procedure includes a flowchart depicting the steps required for review and approval.

**Administrative/limited/major impact review not carried forward.** The current development review procedures are organized into categories based on the “impact” of a particular application type – administrative review, limited impact review, and major impact review. This new article is a substantial departure from that system because each application type is considered standalone. For example, a rezoning is just a rezoning application – not a “major impact review.” A conditional use approval is processed as a conditional use approval, not a “limited impact review.” This clearer approach will also lead to a simplified table of allowed uses.

**Decision-making authorities.** The term “Director” is used throughout this article and is defined in this draft as the Director of Community Development (or designee). Staff is commonly the designee, but it is good to maintain references to the Director as opposed to detailing that City staff will be responsible. This is a change from the current code that places a lot of responsibility on the “Administrator.” It is uncommon to assign administration of a land use code to the City Administrator, since most activities fall within the purview of the Community Development Department. Descriptions and authority of the City’s other key decision-making authorities are provided in the final section of this article.

**Administrative manual.** Throughout this Chapter we refer to an “administrative manual,” which is proposed to include the requirements for application submittal materials, application fees, any associated time periods for review, and other administrative or technical information that can live outside the Code. Having a separate manual allows those administrative materials to be updated more regularly without requiring a code amendment and reduces the overall bulk of the Code to focus more on land use regulations.

## 16-8-10 Purpose and Organization of this Article<sup>25</sup>

- (a) The purpose of this article is to provide consistent, equitable procedures for the review of development applications to ensure that development will be in accordance with the standards of this Chapter.
- (b) This article describes the review and approval procedures for application for land use and development within the City, and is divided into the following sections:
  - (1) Section 16-8-30, *Common Review Procedures*, describes the standard procedures that apply to most development application types.
  - (2) Sections 16-8-40 through 16-8-70 contain specific information on each application type, including approval criteria and any additions or modification to the common review procedures.
  - (3) Section 16-8-80 describes the review and decision-making authorities, including the City Council, the Planning Commission, the Director, and other City officials.

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<sup>25</sup> Replaces current 16-3-10.

## 16-8-20 Summary Table of Development Review Procedures

Table 8-A lists the development applications authorized by this Chapter. For each type of application, the table indicates whether a pre-application conference is required, and the review and approval role of decision-makers.

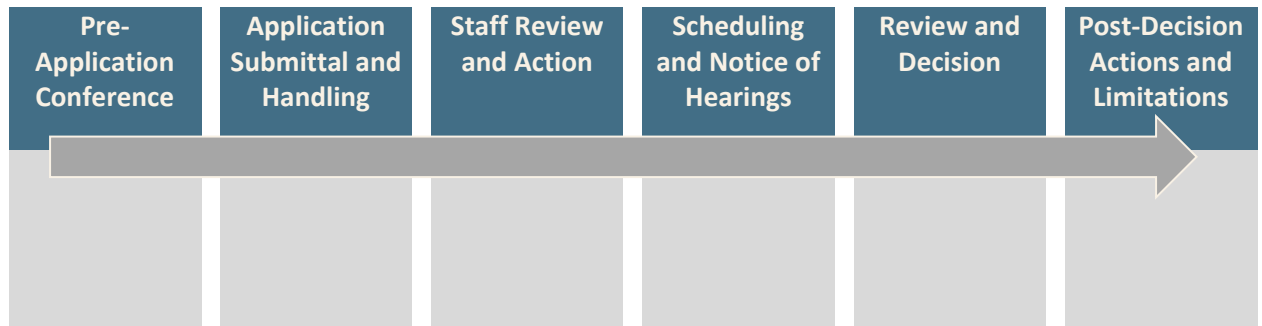
<b>Table 8-A: Summary of Development Review Procedures</b>					
R = review and recommendation; D = review and decision; A = appeal; * = public hearing required					
<b>Procedure</b>	<b>Code Section</b>	<b>Pre-Application Conference</b>	<b>Admin. Review</b>	<b>Planning Commission</b>	<b>City Council</b>
<b>Ordinance Amendments</b>					
Rezoning	16-8-40(a)	Required	R	R*	D*
Rezoning to Planned Development	16-8-40(b)	Required	R	R*	D*
Code Text Amendment	16-8-40(c)	Optional	R	R*	D*
Annexation	16-8-40(d)	Optional	R	R*	D*
<b>Development Permits</b>					
Minor Site Plan <b>NEW</b>	16-8-50(a)	Required	D	A	
Major Site Plan <b>NEW</b>	16-8-50(b)	Required	R	D*	A
Conditional Use Approval	16-8-50(c)	Required	R	D*	A
Change in Use Approval <b>NEW</b>	16-8-50(d)	Optional	D	A	
<b>Subdivisions</b>					
Minor Subdivision	16-8-60(a)	Required	D	A (if Director decides)	D* (if public dedication required)
Major Subdivision - Preliminary Plat <b>NEW</b>	16-8-60(b)	Required	R	R*	D*
Major Subdivision - Final Plat <b>NEW</b>	16-8-60(c)	Optional	D	A (if Director decides)	D* (if public dedication required)
Condominiumization	16-8-60(d)	Required	D	A	
Vacation of Plat, Right-of-Way, or Easement	16-8-60(e)	Required	R	R*	D*
<b>Historic Preservation</b>					
Landmark and District Designation	To be added	Optional	R	R*	D*
Certificate of Approval	To be added	Optional	R	D (HPC)	A
Demolition Permit	To be added	Optional	R	R	D
<b>Modifications and Appeals</b>					
Variance	16-8-70(a)	Required	R	D* serving in role as Board of Adjustment	
Minor Modification <b>NEW</b>	16-8-70(b)	Per concurrent application	<i>Review and decision by decision-making body(ies) considering concurrent application.</i>		
Appeals	16-8-70(c)	<i>Pursuant to specific appeals procedures.</i>			

## 16-8-30 Common Review Procedures

### (a) Purpose

This section describes the standard procedures and rules application to all development applications unless otherwise stated in this Chapter. Common review procedures include six steps, as shown below in Figure 8-1, not all of which are applicable to every development application. Application-specific procedures in Sections 16-8-40 through 16-8-70 identify additional procedures and rules beyond those in this section.

**Figure 8-1: Common Review Procedures<sup>26</sup>**



### (b) Pre-Application Conference<sup>27</sup>

**(1) Purpose**

The pre-application conference is intended to provide an opportunity for the applicant to meet with City staff to review submittal requirements, review procedures, and applicable Code standards associated with the proposed development.

**(2) When Required**

A pre-application conference is required for certain applications as listed in Table 8-A and is optional for all other applications.

**(3) Procedure**

**a. Request**

The application shall submit a request for a pre-application conference to the Community Development Department on a form prescribed by the Director.

**b. Required Information**

Prior to scheduling the pre-application conference, the applicant shall submit the following:

1. A written description of the proposed project;
2. Conceptual drawings showing the location, layout, and key elements of the proposed development;
3. Specific uses, location of uses, and densities proposed;
4. Proposed construction phasing if applicable; and
5. Location of required public improvements if applicable.

**c. Scheduling**

When required or requested by the applicant, the Director shall schedule pre-application conferences and notify appropriate staff and the applicant of the time and location of the meeting.

<sup>26</sup> Determination of application completeness is addressed as a part of Application Submittal and Handling. This will be called out in the procedure-specific timelines.

<sup>27</sup> Replaces and expands on the current standards in 16-3-70, pre-application conference for development review. The current process is required for limited and major impact review.

**d. Conference Determinations**

City staff attending the pre-application conference shall identify initial concerns or issues the applicant should address related to the scope, features, and potential impacts of the project as they relate to this Chapter. City staff shall also indicate the approval procedures required for the proposed project. The Director shall issue to the applicant a written summary of the issues and the approval procedures within ten days following the pre-application conference.<sup>28</sup>

**(4) Effect<sup>29</sup>**

Any information or discussions held as part of the pre-application conference shall not be binding on the City or the applicant. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition to a development approval.

**(c) Application Submittal and Handling<sup>30</sup>****COMMENTARY**

The current application submittal and review requirements are structured around a pre-determined public hearing or public meeting date. For example, the development plan submittal for a limited impact review “shall be submitted to the Administrator at least four weeks before the Planning Commission or Board of Adjustment meeting at which it is to be reviewed.” That type of system starts the clock on staff’s review without regard to the adequacy of the development plan and any subsequent back-and-forth that may be necessary to address known issues prior to the public hearing or public meeting. Most communities have general guidelines and policies on review timelines, but do not publish them in the land use code, knowing that some applications require more time than others depending on the applicant, the complexity of the project, and the current City workload. To provide more flexibility, this draft does not carry forward strict review timeframes except for the completeness determination.

**(1) Authority to Submit Application<sup>31</sup>**

- a.** A development application shall be submitted by:
  - 1.** The owner, contract purchaser, or any other person having a recognized property interest in the land on which the development or activity is proposed; or
  - 2.** A person authorized to submit the application on behalf of the owner, contract purchaser, or other persons having a recognized property interest in the land, as evidenced by a letter or document signed by the owner, contract purchaser, or another person.
- b.** If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter consenting to the application.
- c.** No application shall be submitted prior to attending a pre-application conference, if required pursuant to Table 8-A, *Summary of Development Review Procedures*.

**(2) Concurrent Review<sup>32</sup>**

When a proposed development involves multiple application types, the applications may be reviewed concurrently at the option of the applicant.

**(3) Application Content**

The application shall be submitted to the Director on a form established by the Director. The applicant bears the burden of demonstrating compliance with application requirements.

<sup>28</sup> Second sentence from 16-3-80(a). Updated to ten (working) days from one week.

<sup>29</sup> Existing section makes clear that pre-application conferences are not binding and staff are providing as much direction/information as possible.

<sup>30</sup> Expands on current processes within several application types in the current code.

<sup>31</sup> New.

<sup>32</sup> From 16-3-120, revised to exclude the statement that the final decision-making body on the more intensive application shall make the final decision on all applications. Instead, the order of the decisions will be identified during the pre-application conference.

**(4) Application Fees<sup>33</sup>****a. General**

Every land use and development application shall be submitted with the appropriate fees and charges for the type of application being submitted along with a cost reimbursement agreement in a form approved by the City Attorney. For purposes of this section, "land use and development application" shall include any and all applications filed pursuant to this Chapter, requests for pre-annexation agreements, and can-and-will-serve letters from developments in unincorporated Chaffee County, and Title 32 special district service plan reviews pursuant to C.R.S. §32-1-201, et seq. The amount of such fees and charges shall be established by resolution of the City Council, as may be amended from time to time, and available for review by the public at City Hall during normal business hours.

**b. Additional Fees for Outside Consultation**

1. In addition to the minimum application fees, if additional review by an outside professional is necessary to make a determination, the applicant shall also be charged the actual review costs and fees for outside professional services for review of the application. The minimum application fees shall be due and payable upon submission of the application. In addition, at the time of submittal of the application, the applicant shall deposit funds equal to two times the minimum application fee to be used as the initial payment to offset the costs of outside professional services for review of the application.
  2. After exhaustion of the initial deposit, statements for professional review services shall be mailed to the applicant, and payment of such amounts is due within 30 days of receipt of the statement. Interest shall be imposed at a rate of one and one-half percent per month on all balances not paid within 30 days of the date of the statement.
  3. All costs of providing notice, including publication, mailing, and posting, shall be borne by the applicant. Recording and filing fees imposed by the Chaffee County Clerk and Recorder, and others, as a result of the application, shall be advanced by the applicant prior to the documents being recorded.
- c.** Land use approval documents shall not be deemed effective until recorded in the real property records of Chaffee County (if required pursuant to the specific application type) and all fees and charges owed to the City are paid in full.
- d.** In the event the City is forced to pursue collection of any amounts due and unpaid, the City shall be entitled to collect attorney's fees and costs incurred in such collection efforts in addition to the amount due and unpaid. The City reserves the right to suspend review of an application, withhold approval, or postpone public hearings if an applicant fails to pay outstanding review fees as required. Delinquent charges may be certified to the County Treasurer and collected in the same manner as municipal taxes according to the procedure established in Chapter 4, Article VII of the Municipal Code.

**(5) Application Review Timeline**

The Director shall establish a review timeline for development applications and shall include that information in the Administrative Manual. The Director may amend the timeline to ensure effective and efficient review under this Chapter.

**(6) Determination of Application Completeness<sup>34</sup>**

- a.** Upon receipt of the submittal, the Director shall review the application for completeness in accordance with the pre-application checklist and the applicable requirements of this Chapter. Within ten days of the submittal, the Director shall determine if the application is complete and entitled to proceed.

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<sup>33</sup> From 16-2-10.

<sup>34</sup> The current code includes rigid timeframes for revising incomplete applications (e.g., one week for major impact review). Those timelines are intended to maintain the public meeting/hearing schedules. We did not carry those forward, and instead reserve the scheduling of public meetings and hearings until after the initial review of a complete application.

- b. In the event the Director determines that an application is incomplete, the Director shall notify the applicant in writing by stating the deficiencies.<sup>35</sup>

**(7) Abandoned Applications<sup>36</sup>**

If an application has not been resubmitted to address noted deficiencies within six months, then such application shall be deemed abandoned. Abandoned applications may require a new pre-application conference and may be subject to additional fees.

**(8) Minor Application Revisions<sup>37</sup>**

An applicant may revise an application after receiving notice of compliance deficiencies following staff review or on requesting and receiving permission from an advisory or decision-making body after that body has reviewed, but not yet acted on, the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by staff or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application, as determined by the Director. All other application revisions shall be processed as a new application.

**(9) Application Withdrawal<sup>38</sup>**

- a. After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Director.
- b. An applicant is not entitled to a refund of application fees for withdrawn applications. However, the Director may refund fees not expended during the first round of staff review if the application is withdrawn within 10 days of acceptance and prior to preparation or distribution of any official written comments.

## **(d) Staff Review and Action**

**(1) Department and Agency Referral Review<sup>39</sup>**

- a. The Director shall distribute the complete application to the appropriate staff and other internal and external review agencies per the Administrative Manual.
- b. Such review agencies shall provide comments to the Director within 14 days following the distribution.

**(2) Staff Review and Application Revisions<sup>40</sup>**

- a. Staff shall review the application and submit recommendations and comments to the applicant in a form established by the Director. The Director shall compile the comments from other reviewers and agencies and shall consider and incorporate such comments as necessary into the written summary of issues provided to the applicant.<sup>41</sup>
- b. Following receipt of staff comments, the applicant may request at their discretion a meeting with the Director to discuss staff recommendations and comments.
- c. An application shall not move forward for further review until the Director determines that the applicant has adequately addressed the City's recommendations and comments.

<sup>35</sup> A more specific withdrawal/refund schedule will be added to the administrative manual.

<sup>36</sup> New. There is currently no policy or standard practice for abandonment.

<sup>37</sup> New.

<sup>38</sup> New.

<sup>39</sup> The current timeframes for review agencies are currently 7 days for administrative review, and 10 days before the Planning Commission meeting for both limited and major impact reviews. For discussion purposes, this draft proposes a consistent 14 days following the distribution of the application.

<sup>40</sup> Mostly new. For several applications, the current code states that the administrator shall compile comments and prepare a summary of the issues for the Planning Commission. These new standards clarify the steps in the staff review process.

<sup>41</sup> This should not be a new step in the review process. The "Determination of Application Completeness" is not a full review, but just an intake check (i.e., is all required information provided, application fee, plan documents, etc.). This Staff Review step is the actual review of the application (e.g., review of proposed use, setbacks, height, etc.).

**(3) Applications Subject to Staff Recommendation****a. Staff Report<sup>42</sup>**

For applications subject to staff recommendation per Table 8-A, staff shall prepare a written staff report. Such report shall state whether the application meets the requirements of this Chapter and other applicable standards of the City and shall include a recommendation for consideration by the appropriate decision-making body.

**b. Distribution and Availability of Application and Staff Report**

The Director shall submit a copy of the staff report to the applicant and the advisory or decision-making body, and shall make the report and related materials available for public review within a reasonable timeframe to review prior to any public meeting, public hearing, or decision.

**(4) Applications Subject to Staff Approval****a. Decision<sup>43</sup>**

1. If an application is subject to staff review and final decision by the Director, the Director shall make the decision based on review standards applicable to the application type. The decision shall be in writing and if denied or approved with conditions, shall clearly state the reasons for denial or any conditions of approval.
2. If the Director requests changes or additional information during its review, the applicant shall submit copies of the required changes or information to the Director. The Director shall review the additional submittal with appropriate City departments and other agencies.

**b. Effect of Decision**

For administrative approvals, the Director's decision is final. Within ten days following any decision by the Director, the Director shall post notice of the decision on the City's website.

**c. Conditions of Approval**

Any conditions of approval shall be limited to the minimum conditions necessary to ensure compliance with the requirements of this Chapter and shall relate directly to the anticipated impacts of the proposed development or activity.

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**(e) Scheduling and Notice of Public Hearings<sup>44</sup>****(1) Scheduling Public Hearings**

- a. If an application is subject to a public hearing pursuant to Table 8-A, the Director shall schedule the public hearing for either a regularly scheduled meeting or special meeting of the decision-making body.
- b. The public hearing shall be scheduled to allow sufficient time to prepare a staff report pursuant to subsection 16-8-30(d)(3)a.

**(2) Notice of Public Hearings****a. General Requirements<sup>45</sup>**

Unless otherwise stated in this Chapter, for all actions requiring a public hearing pursuant to Table 8-A, the applicant shall provide public notice and shall demonstrate that such public notice conforms to the requirements of this subsection and the Administrative Manual.<sup>46</sup>

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<sup>42</sup> New.

<sup>43</sup> From current 16-3-60(e), revised for clarity.

<sup>44</sup> Builds on existing 16-2-30, revised as noted.

<sup>45</sup> From 16-2-30(a). Did not carry forward exception for major certificates of approval but instead we say "unless otherwise stated in this Code." When the historic preservation standards are included in installment 2, we may revisit this section.

<sup>46</sup> Updated to include reference to the Administrative Manual, where detailed instructions for postage, fees, on-site posing requirements, etc. can be provided.

**b. Responsibility of Party Seeking Hearing<sup>47</sup>**

1. The applicant or person seeking the public hearing shall be responsible for the accuracy and proper publication, mailing, and posting of notice, and shall bear the costs incurred by such notice.
2. The applicant shall provide certification that proper notice has been provided, including photographic evidence (for posted notices). The format of such certification shall be established by the Director. The applicant shall submit the certification to the Director prior to the scheduled public hearing.

**c. Notice Format and Content****1. Content of All Public Notice<sup>48</sup>**

All public notice types shall:

- a) Identify the application type;
- b) Describe the nature and scope of the proposal;
- c) Identify the location subject to the application, including address and legal description if available;
- d) Identify the date, time, and location of the hearing;
- e) Identify when and where the application may be inspected, including a phone number of the appropriate City agency; and
- f) Indicate if there will be an opportunity to appear and provide feedback during the hearing.

**2. Published Notice**

Except as otherwise required by law, notice of the hearing shall be published in a newspaper of general circulation within the City at least 15 days in advance of the hearing.

**3. Mailed Notice**

Except as otherwise required by law, notice shall be sent by first class mail to all property owners within 175 feet of the property in question at least 15 days in advance of the hearing.

**4. Posted Notice**

- a) The City shall provide any required sign(s).
- b) At least one notice sign shall be posted by the applicant on the subject property at least 15 days in advance of the hearing. The dimensions of the sign shall be at least 11 by 17 inches, and the materials to which the notice is affixed shall be upright, sturdy, and waterproof.<sup>49</sup>
- c) The Director may require additional signs based on the access and configuration of the subject property.<sup>50</sup>

**(3) Notice to Mineral Estate Owners and Lessees<sup>51</sup>**

The applicant shall provide notice by certified mail, return receipt requested, to all mineral owners and lessees on the subject property for development applications in accordance with C.R.S. §24-65.5-103. Such notice shall be provided not less than 30 days prior to the initial public hearing, or not less than 30 days prior to the final decision if the application does not require a public hearing. The burden of determining mineral estate owners and lessees shall be on the applicant.

<sup>47</sup> Mostly new. Updated to reflect current practice of City providing language. All other detailed requirements and fees can be included in the Administrative Manual.

<sup>48</sup> Expands on current 16-2-30(f).

<sup>49</sup> Revised to specify "at least one sign."

<sup>50</sup> New.

<sup>51</sup> Updated version of the current 16-2-30(d).

**(4) Constructive Notice<sup>52</sup>**

**a. Minor Defects in Notice Shall Not Invalidate Proceedings**

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.

**b. Failure to Receive Notice Shall Not Invalidate Action**

Failure of a party to receive written notice shall not invalidate subsequent action. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Chapter.

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**(f) Review and Decision**

**(1) Review and Decision by the Director**

Applications subject to administrative review and approval shall be decided by the Director in accordance with 16-8-30(d)(4), *Applications Subject to Staff Approval*.

**(2) Review and Recommendations or Decisions by Planning Commission or City Council**

- a.** Applications shall be subject to review, hearings, recommendations, and decisions in accordance with Table 8-A, *Summary of Development Review Procedures*.
- b.** If an application requires a public hearing, the decision-making body shall hold a public hearing in accordance with 16-8-30(e), *Scheduling and Notice of Public Hearings*, and Section 16-8-80, *Review and Decision-Making Bodies*.
- c.** The decision-making body shall consider the application, supporting materials, staff report, and any evidence presented during the public hearing (if required).
- d.** The advisory body shall recommend, and the decision-making body shall approve, approve with conditions, or deny the application based on the applicable approval criteria relevant to the application type. In making its recommendation, the body may continue the hearing to a date certain because additional information or changes are necessary to determine whether the application complies with this Chapter. The applicant may also request to continue the hearing to a date certain, but any subsequent requests for a continuance shall be at the discretion of the governing body. If the hearing is continued, the requested information shall be provided to the Director at least 14 days prior to the date of the continued hearing. Nothing shall prohibit the advisory or decision-making body from continuing a hearing more than once.<sup>53</sup>
- e.** If the application requires a quasi-judicial hearing, the recommendation or decision shall be based only on the record of the public hearing and shall be in writing, shall include findings of fact based on quality, material, and substantial evidence, shall reflect the determination of any contested facts, and shall state how the findings support compliance with the approval criteria.
- f.** The decision-making body shall clearly state the factors considered in making its recommendation or decision, as well as the rationale for such recommendation or decision.
- g.** Any recommendation or decision to deny an application shall specify the specific reasons, citing specific Code provisions and adopted policies of the City with respect to the proposed development.<sup>54</sup>

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<sup>52</sup> New.

<sup>53</sup> Continuing the hearing replaces the current provision found in the current code (e.g., 16-3-80(d)(2)) that gives the option of the decision-making body to "require changes or additional information which they find necessary to determine whether the proposed development complies with this Code." We did not carry forward the specific procedures for appealing the timeframes for continued hearings to the City Council, which establishes through code a culture of appeals. We think that with these modernized procedures and clearer standards generally, the need to continue hearings will be diminished.

<sup>54</sup> From 16-3-90(e)(2).

- h. The Director shall post notice of the decision on the City's website within ten days of any final decision made by the Planning Commission.

**(3) Conditions of Approval<sup>55</sup>**

- a. Where this Chapter authorizes a decision-making body to approve or deny an application subject to applicable criteria, the decision-making body may approve the application with conditions necessary to bring the proposed development into compliance with this Chapter or other regulations, or to mitigate the impacts of that development on surrounding properties and streets.
- b. Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the City. Such conditions may include those necessary to carry out the purpose and intent of the Comprehensive Plan, other adopted City policies, and this Chapter. No conditions of approval shall be less restrictive than the requirements of this Chapter, except where the Code expressly allows deviations.
- c. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts. The City shall bear the burden of determining such impacts.
- d. During its consideration, the decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body unless and until the decision-making body takes formal action to attach that condition to a development approval.
- e. The approving body may modify conditions recommended by the reviewing body prior to making a final decision on an application.
- f. Unless otherwise provided in this Chapter, any representations of the applicant in submittal materials or during public hearings shall be binding as conditions of approval.

**(4) General Approval Criteria<sup>56</sup>**

The following general criteria shall apply to the various application types submitted to the City for review and approval. If there is a conflict between these general criteria and the specific review criteria listed for a particular application type, then the specific review criteria shall control.

**a. Compliance with this Chapter**

The proposed use and development shall comply with the applicable standards in this Chapter, including but not limited to zoning districts, use regulations, and development standards, unless the standard is lawfully modified.

**b. Compliance with Other Applicable Regulations**

The proposed use and development shall comply with all other City regulations and with all applicable standards or requirements of federal, state, or other local government control of the property or the current or proposed use of the property.

**c. Compliance with Prior Approvals**

The proposed use and development shall be consistent with the terms and conditions of any prior land use approval, plan, or plat approval for all or part of the property that is in effect and not proposed to be changed. This criterion includes consistency with approved development phasing plans and the installation of public improvements.

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<sup>55</sup> New. The current code allows conditions of approval but does not provide any guidance or parameters. These are based on other recent Clarion codes but tailored for Salida.

<sup>56</sup> New. The intent of locating these here is so that they do not have to be repeated for multiple application types.

**d. Consistency with Adopted Plans**

The proposed use and development are consistent with applicable City policies of the Comprehensive Plan and other adopted City plans and policies.

**(5) Reasonable Accommodations Under the Fair Housing Amendments Act (FHAA)<sup>57</sup>**

- a. The City may approve any modification to accommodate requirements under the FHAA provided:
  - 1. The modification is the minimum change from the provisions of this Chapter necessary to comply with the FHAA; and
  - 2. The modification will not cause adverse impacts on the surrounding area.
- b. The City may approve a type of accommodation that is different than the applicant's request if the City deems such accommodation would satisfy the requirements of the FHAA and would result in fewer impacts on the surrounding area.
- c. The City may be required to approve requests for reasonable accommodations under the FHAA regardless of whether the request qualifies as a minor modification under subsection 16-8-70(b).

**(6) Accommodations Under Religious Land Use and Institutionalized Persons Act (RLUIPA)**

- a. The City may allow modifications to eliminate a substantial burden on religious exercise as guaranteed by RLUIPA, as amended.
- b. Under no circumstance may the City approve a modification that allows a use, structure, or activity in a zoning district where such use, structure, or activity is prohibited.
- c. The City may grant a waiver or partial waiver of the provisions of this Chapter to accommodate a person's free exercise of religion pursuant to federal or state law.

**(g) Post-Decision Actions and Limitations****(1) Notice of Decision<sup>58</sup>**

- a. Within 10 days after a final decision is made on an application, the Director shall provide written notification of the decision by personal delivery, electronic mail, or first-class mail to the applicant and shall make a copy of the decision available to the public on the City's website.
- b. If the decision was subject to a quasi-judicial hearing, the Director shall also provide written notification of the decision to the owners of the subject property and any other person that requested a copy of the decision prior to its effective date.

**(2) Appeal<sup>59</sup>**

A party aggrieved by final decisions may appeal the decision in accordance with the appeal procedures in 16-8-70(c).

**(3) Expiration of Approval<sup>60</sup>**

- a. An application approval shall be valid as authorization for the approved activity unless it expires in accordance with expiration time periods provided in this Chapter.
- b. A change in ownership shall not affect the established expiration time period of an approval unless otherwise stated in this Chapter.
- c. The Director may grant extensions of the expiration time period for up to one year following a written request that explains reasonable cause for such extension, prior to the expiration date. The Director shall

<sup>57</sup> We often include these standards for reasonable accommodations for FFHA (Federal Fair Housing Act) and RLUIPA (Religious Land Use and Institutionalized Persons Act), which require Cities to make reasonable accommodations.

<sup>58</sup> New. Updated to reflect Colorado Open Meetings Law allowing posting on the City website.

<sup>59</sup> New.

<sup>60</sup> New.

determine whether there is reasonable cause for the extension. Further extensions shall be subject to the approval by the decision-making body for the original application.

**(4) Format of Final Submissions<sup>61</sup>**

All final subdivision plats, development plans, record drawings, and annexation maps shall be submitted to the City on a method of data transfer acceptable to the City as detailed in the Administrative Manual. This requirement may be waived at the discretion of the Director.

**(5) Modification or Amendment of Approval<sup>62</sup>**

Unless otherwise provided in this Chapter, any substantial modifications to approved plans, permits, or conditions shall require a new application submitted and reviewed in accordance with the full procedure requirements applicable to the original application. The Director shall determine whether proposed modifications or amendments to an approval are considered substantial and may require further determination by the decision-making body of the original application.

**(6) Limitation on Subsequent Similar Applications<sup>63</sup>**

Following denial of an application, the decision-making body shall not decide on applications that are the same or substantially similar within one year of the denial. This waiting period may be waived by the decision-making body provided that there is substantial change to circumstances or new information is available related to the issues or facts considered during the previous review.

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**(h) Vested Property Rights<sup>64</sup>**

**COMMENTARY**

The vested rights procedures were largely carried forward from current 16-2-20, but modified throughout to allow the administrative approval of some site-specific development plans, such as the new minor site plan procedure. The ability to establish vested property rights without approval by the City Council requires further discussion with the City Attorney.

**(1) Purpose<sup>65</sup>**

The vested rights procedure provides the mechanism for approval of vested real property rights pursuant to state statutes C.R.S. Article 68 of Title 24, as amended. Nothing in this subsection is intended to create a vested property right, but only to implement state law.

**(2) Applicability**

- a.** For all site-specific development plans, a vested property right shall be deemed established upon the approval of the plan in accordance with this subsection and the applicable requirements of this Chapter. The following shall be considered site-specific development plans:
1. Minor site plan
  2. Major site plan
  3. Major Subdivision – Final plat
  4. Planned Development
- b.** The following are specifically excluded from, and shall not constitute, a site-specific development plan:
1. Variances
  2. Floodway or floodplain permits
  3. Temporary use approval<sup>66</sup>

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<sup>61</sup> From 16-3-130.

<sup>62</sup> Replaces and clarifies current 16-3-140, insubstantial changes or amendments to an approved development plan.

<sup>63</sup> New provisions to avoid applicants workshopping applications until they gain approval or following up immediately after an election.

<sup>64</sup> From 16-2-20.

<sup>65</sup> New.

<sup>66</sup> Did not carry forward “sketch plans” or “franchises.” Those terms are not used within the land use code except as they are listed as exclusions from vested rights.

4. Zoning or rezoning
  5. Final architectural plans
  6. Final construction drawings and related documents specifying materials and methods for construction of improvements.
- c. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City, including but not limited to building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes. Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of this Chapter pertaining to the development and use of property.<sup>67</sup>

### (3) Vested Rights Procedure

- a. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a site-specific development plan, following notice and public hearing by the City. A vested property right shall attach to and run with the applicable property and shall provide 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, in accordance with the zoning and development ordinances in effect at the time, as approved and amended.
- b. A site-specific development plan shall be deemed approved upon the effective date of the City's approval action.<sup>68</sup> In the event amendments to an approved site-specific development plan are proposed and approved, the effective dates of such amendments, for purposes of the duration of a vested property right, shall be the effective date of the approval of the original site-specific development plan, unless the City specifically finds to the contrary and incorporates such finding in its approval of the amendment.
- c. The City 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, and failure to abide by such terms and conditions may, at the option of the City Council, after public hearing, result in the forfeiture of vested property rights. This subsection shall be strictly construed.

### (4) Duration and Termination of Vested Property Rights<sup>69</sup>

- a. A property right that has been vested pursuant to this subsection and Article 68 of Title 24, C.R.S., shall remain vested for a period of three years. This vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the City.
- b. The City is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three years where warranted in the light of all relevant circumstances including but not limited to, the size and phasing of the development, economic cycles, and market conditions.
- c. Following approval or conditional approval of a site-specific development plan, nothing contained in this subsection or Article 68 of Title 24, C.R.S. shall exempt such a plan from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of the original approval.

### (5) Waiver of Vested Property Rights<sup>70</sup>

An applicant may waive a vested property right by separate agreement, which shall be recorded in the office of the Chaffee County Clerk and Recorder. Unless otherwise agreed to by the City, any landowner requesting

<sup>67</sup> From 16-2-20(i).

<sup>68</sup> Did not carry forward limitation to the City Council. This change would propose allowing vested rights approved administratively (through minor site plan and final plat). **LEGAL:** Because Salida is not home rule, further discussion is required on whether such vesting should be deliberated by City Council even if the associated application is administratively approved.

<sup>69</sup> From 16-2-20(f).

<sup>70</sup> From 16-2-20(g).

annexation to the City shall waive in writing any preexisting vested property rights as a condition of such annexation.

**(6) Effect of Vested Property Rights Precludes Some Land Use Limitations<sup>71</sup>**

A vested property right, once established as provided in this section and Article 68 of Title 24, C.R.S., as may be amended, precludes any zoning or land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved site-specific development plan, except:

- a. With the consent of the affected landowner;
- b. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of site-specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
- c. To the extent that the affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner after approval by the City, including but not limited to costs incurred in preparing the site for development consistent with the site-specific development plan, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest at the legal rate until paid. Just compensation shall not include any diminution in the value of the property caused by such action.

## 16-8-40 Ordinance Amendments

### (a) Rezoning<sup>72</sup>

**(1) Purpose**

The rezoning procedure is intended to allow the City to amend the Official Zoning Map for the City of Salida to reflect changes in policy, changed conditions, or to advance the public welfare of the City. The rezoning procedure should not be used when a conditional use, variance, or minor modification could be used to achieve a similar result. Changes to dimensional standards within a zoning district such as setbacks or building height should be processed as Code text amendments in accordance with subsection 16-8-40(c).

**(2) Applicability**

A rezoning may be approved by the City Council following review and recommendation by the Planning Commission. A rezoning to a Planned Development shall be processed in accordance with subsection 16-8-40(b).

**(3) Rezoning Procedure**

Figure 8-2 identifies the applicable steps from the common review procedures that apply to the review of rezonings. Additions or modifications to the common review procedures are noted below.

<sup>71</sup> From 16-2-20(h).

<sup>72</sup> Replaces current 16-4-210.

Figure 8-2: Summary of Rezoning Procedure



- a. **Pre-Application Conference**  
 A pre-application conference shall be held in accordance with subsection 16-8-30(b).
- b. **Application Submittal and Handling**
  1. **General**
    - a) The rezoning application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).
    - b) A rezoning application may be initiated by the City Council, the Planning Commission, the Director, or the owner of the real property subject to the proposed rezoning.<sup>73</sup>
    - c) When multiple parcels are proposed for rezoning, a separate application for each property shall be submitted unless the Director approves a consolidated application during the pre-application conference.<sup>74</sup>
  2. **Concurrent Review**  
 An applicant may request concurrent review of a development permit and/or subdivision approval with a rezoning application. The Director shall provide guidance on concurrent review during the pre-application conference.
- c. **Staff Review and Action**  
 The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).
- d. **Scheduling and Notice of Hearings**  
 The rezoning application shall be scheduled for public hearings before the Planning Commission and the City Council and noticed in accordance with subsection 16-8-30(e).
- e. **Review and Decision**
  1. **Planning Commission Review and Recommendation**  
 The Planning Commission shall review the rezoning application and recommend approval or denial in accordance with subsection 16-8-30(f) and the approval criteria below.
  2. **City Council Review and Decision**  
 The City Council shall review the rezoning application and act to approve or deny the rezoning in accordance with subsection 16-8-30(f) and the approval criteria below. Conditions are not attached to a rezoning decision.

<sup>73</sup> From 16-4-210(a).

<sup>74</sup> New.

**a) Rezoning Approval Criteria<sup>75</sup>**

- 1) In reviewing a proposed rezoning, the Planning Commission and City Council shall consider whether:
  - i. The proposed amendment is consistent with the Comprehensive Plan;
  - ii. The proposed amendment is consistent with the purpose of the zoning district to which the property is proposed to be designated; and
  - iii. The development allowed by the proposed zoning would be compatible with surrounding zoning districts, land uses, and neighborhood character;

OR

- 2) The applicant shall demonstrate that conditions affecting the subject parcel or the surrounding neighborhood have changed, or that due to incorrect assumptions or conclusions about the property, one or more errors in the Official Zoning Map boundaries have occurred.

**f. Post-Decision Actions and Limitations**

Post-decision actions and limitations in subsection 16-8-30(g) shall apply with the following modifications:

1. Following approval of a rezoning, the Director shall prepare an appropriate revision to the Official Zoning Map.
2. An owner of any property affected by a proposed rezoning may protest the rezoning pursuant to statutory requirements of C.R.S. §31-23-305.

**(b) Rezoning to Planned Development****COMMENTARY**

This new procedure replaces the current PD procedures in Article 7. As stated in the Land Use Code Assessment, the PD procedures need substantial modification and clarification. Dedication requirements, fees-in-lieu requirements, and specific design standards germane to the PD overlay will be included in later installments (development standards and districts and uses). This draft focuses solely on the approval procedures for PDs. This updated procedure retains the current system that applies PD by zoning overlay, relying on an underlying base zoning district as a starting point for negotiating standards. We did not carry forward the concept of an “overall development plan” nor a “major planned development.” Neither of those terms were defined in the current code. This simplified approach requires all PDs to be accompanied by a PD plan indicating either compliance with the underlying zoning district and land use code standards and clearly identifying any modified standards.

**(1) Purpose<sup>76</sup>**

The zoning classification of any parcel may be changed to a planned development (PD) pursuant to this subsection. The purpose of a rezoning to PD is to encourage innovation and achieve greater flexibility than allowed by the strict application of the Code while providing greater benefit to the City and to ensure efficient provision of services and utilities. The PD procedure should not be used when a conditional use approval, variance, minor modification, or rezoning to a base zoning district could achieve a similar result. Examples of how a PD may provide greater benefit to the City include:<sup>77</sup>

- a. Greater mix of uses and building types;
- b. Higher level of environmental protection;
- c. Improved design quality;
- d. Innovative and diverse housing types;

<sup>75</sup> Based on current 16-4-210(c).

<sup>76</sup> A simplified purpose statement from the current 16-7-10.

<sup>77</sup> These examples are based on the current PD plan evaluation criteria in 16-7-40(a).

- e. Historic preservation;
- f. Promotion of multi-modal travel; and
- g. Higher level of public amenities such as open spaces, parks, recreational areas, trails, and schools.

**(2) Applicability**

- a. An application to rezone to PD may be submitted for any contiguous area of three acres or more within any combination of zoning districts.<sup>78</sup>
- b. The PD zoning classification is established by overlaying the designation on land within an existing or newly created zoning district.

**(3) Rezoning to PD Procedure**

Figure 8-3 identifies the applicable steps from the common review procedures that apply to the review of rezonings to PD. Additions or modifications to the common review procedures are noted below.

**Figure 8-3: Summary of Rezoning to Planned Development Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

**1. General**

The rezoning application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. PD Plan Required**

An application for rezoning to PD shall include a PD plan. Approval of a PD plan is required prior to approval of a development permit in a PD district.

**3. Concurrent Review<sup>79</sup>**

- a) Development permit applications may be submitted concurrently with a PD application.
- b) A subdivision application submitted under subsection 16-8-50(c)(3)a may be reviewed concurrently with an application for rezoning to PD. A preliminary plat on a site covered by a proposed PD shall not be approved until after the rezoning to PD is approved.
- c) A vested rights application submitted under subsection 16-8-30(h) may be reviewed concurrently with an application for rezoning to PD.

<sup>78</sup> The City may wish to consider a minimum project size for rezoning to PD, such as 5 or 10 acres. After further consideration, we propose three acres as the minimum. The intent is to keep from using PDs on small individual projects, reserving the PD tool for larger sites where there is potentially more of a need to step outside of the base zoning tools.

<sup>79</sup> Replaces current 16-7-30.

- 4. Phased Development<sup>80</sup>**  
Development within a PD may be proposed to be phased. In such instance, the phasing shall be planned so that neither the initial phase nor subsequent phases will have an adverse impact on the PD or its surroundings.
- c. Staff Review and Action**  
The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).
- d. Scheduling and Notice of Hearings**  
The rezoning to PD application shall be scheduled for public hearings before the Planning Commission and the City Council and noticed in accordance with subsection 16-8-30(e).
- e. Review and Decision**
- 1. Planning Commission Review and Recommendation**  
The Planning Commission shall review the rezoning to PD application and recommend approval or denial in accordance with subsection 16-8-30(f) and the approval criteria below.
  - 2. City Council Review and Decision**  
The City Council shall review the rezoning to PD application and act to approve or deny the rezoning to PD in accordance with subsection 16-8-30(f) and the following approval criteria:
    - a) Rezoning to PD Approval Criteria<sup>81</sup>**  
In reviewing a proposed PD, the Planning Commission and City Council shall consider whether and to what extent the PD:
      - i.** Meets the general approval criteria in 16-8-30(f)(4) and the approval criteria for rezonings in 16-8-40(a)(3)e.2.a);
      - ii.** Addresses a unique situation, provides substantial benefit to the City, or incorporates innovative design that achieves a higher quality standard than could otherwise be achieved through strict application of a base zoning district;
      - iii.** Meets all applicable standards of this Chapter not expressly modified by the PUD application; and
      - iv.** Provides a variety of housing types and densities, if residential is proposed as part of the PD.
  - 3. Approval of PD Plan**  
The approved PD zoning and the approved PD plan along with associated exhibits are inseparable. A PD zoning shall not be established without the approval of a PD plan.
- f. Post-Decision Actions and Limitations**  
Post-decision actions and limitations in subsection 16-8-30(g) shall apply with the following modifications:
- 1. Effect of Approval**  
The regulations of this Chapter remain applicable to areas within a PD district unless expressly modified by the approved PD.

<sup>80</sup> Based on 16-7-40(c)(1) and 16-7-100.

<sup>81</sup> We did not carry forward the current criteria for PD plans from 16-7-40(b), which is currently a laundry list of all submittal requirements and standards that are either covered by the underlying zoning district parameters, use regulations, or development standards. Instead, because the PD is established as an overlay, all of the current code requirements apply unless modified by the PD. Many of those criteria will be included as broad standards for all development in Salida (such as efficient and connected transportation design) with subsequent installments. Submittal requirements associated with a PD plan should be included in the Administrative Manual.

**2. Expiration**

A PD shall remain valid until a PD is subsequently amended or rezoned to another zoning district.

**3. Recording and Map Revision**

- a) Following approval of a rezoning to PD, the Director shall prepare an appropriate revision to the Official Zoning Map to demarcate the PD overlay.
- b) The PD plan and zoning amendment shall be recorded with the Chaffee County Clerk and Recorder.

**4. Protest**

An owner of any property affected by a proposed rezoning may protest the rezoning pursuant to statutory requirements of C.R.S. §31-23-305.

**5. Amendment<sup>82</sup>**

- a) Except as provided below for minor amendments, an approved PD plan may only be amended pursuant to subsection 16-8-30(g)(5).<sup>83</sup>
- b) Minor amendments to an approved PD plan may be approved by the Director if the proposed amendment complies with the following criteria:
  - 1) The amendment shall not change the ratio of residential units to square feet of non-residential building square footage by more than ten percent.
  - 2) The number of residential units shall not be increased by more than ten percent.
  - 3) The gross square footage of non-residential building area shall not be increased by more than ten percent.
  - 4) The amendment shall not change the allowed uses listed in the approved PD plan.
  - 5) The number or location of vehicular access points shall not be changed in a way that negatively impacts public safety or the flow of traffic onto public streets.
  - 6) The numeric standards in the PD plan shall not be revised by more than would be allowed through subsection 16-8-70(b), *Minor Modification*.

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**(c) Code Text Amendment<sup>84</sup>**

**(1) Purpose<sup>85</sup>**

The code text amendment procedure is provided to revise the text of this Chapter to respond to changed conditions or changes in public policy, or to advance the general welfare of the City.

**(2) Applicability**

An amendment to the text of this Chapter may be initiated by the City Council, the Planning Commission, the Administrator, the Director, a resident of the City, or an owner of a business within the City.

**(3) Code Text Amendment Procedure**

Figure 8-4 identifies the applicable steps from the common review procedures that apply to the review of code text amendments. Additions or modifications to the common review procedures are noted below.

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<sup>82</sup> Builds on current 16-7-150, Modifications. Revised terminology from "insubstantial" and "substantial modifications" to "minor" and "major amendments."

<sup>83</sup> New.

<sup>84</sup> From current 16-2-40, revised as noted.

<sup>85</sup> New.

Figure 8-4: Summary of Code Text Amendment Procedure



- a. Pre-Application Conference**  
 Attendance at a preapplication conference is optional, but recommended, for a private applicant intending to submit an application to amend the text of this Chapter. If held, the pre-application conference shall be held in accordance with 16-8-30(b).
- b. Application Submittal and Handling**
  1. The code text amendment application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).
  2. The applicant shall submit a complete text amendment application to the Director containing the precise amended wording. The Director shall be responsible for submitting the application materials for an amendment initiated by the City Council or Planning Commission.
- c. Staff Review and Action**  
 The Director shall forward a report to the Planning Commission that summarizes the application's compliance with the applicable approval criteria in subsection 16-8-40(c)(4), below, and other applicable provisions of this Chapter. Technical comments and professional recommendations of other agencies and organizations may be solicited in preparing the summary report.
- d. Scheduling and Notice of Public Hearings**  
 The code text amendment application shall be scheduled for public hearings before the Planning Commission and the City Council and noticed in accordance with subsection 16-8-30(e).
- e. Review and Decision**
  - 1. Review and Recommendation by the Planning Commission**  
 The Planning Commission shall hold a public hearing to review the conformance of the application with the approval criteria in subsection 16-8-40(c)(4), below, and all applicable provisions of this Chapter. The Commission shall recommend that the City Council approve, approve with conditions, or deny the application, or shall remand the application to the applicant with instructions for modification or additional information or action.
  - 2. Review and Decision by the City Council**  
 The City Council shall consider the approval criteria in subsection 16-8-40(c)(4), below, and the recommendations of the Planning Commission at a public hearing. The City Council shall, by

ordinance, approve or deny the proposed amendment or shall remand it to the applicant with instructions for modification or additional information or action.

**f. Post-Decision Actions and Limitations**

Upon approval of the amendment and the filing, the Director shall cause the amended text of this Chapter to be officially codified.

**(4) Code Text Amendment Approval Criteria<sup>86</sup>**

In reviewing a proposed code text amendment, the Planning Commission and City Council shall determine that the following criteria are met:

- a. The proposed amendment is consistent with the general purpose and intent of this Chapter;
- b. The proposed amendment shall not conflict with any other applicable provisions of this Chapter, or the City shall repeal or amend provisions of this Chapter that are inconsistent, unreasonable, or out-of-date;
- c. The proposed amendment shall be consistent with the Comprehensive Plan;<sup>87</sup> and
- d. The proposed amendment shall preserve the public health, safety, general welfare, and environment and shall contribute to the orderly development of the City.

**(d) Annexation<sup>88</sup>**

**(1) Purpose<sup>89</sup>**

The following subsections establish the procedure for annexation.

**(2) Annexation Procedure<sup>90</sup>**

Figure 8-5 summarizes the steps of the annexation procedure. An applicant requesting annexation shall follow the following steps in addition to the procedure set forth at Section 31-12-101, et seq., C.R.S.

**Figure 8-5: Summary of Annexation Procedure**



**a. Pre-Application Conference**

Attendance at a preapplication conference is optional, but recommended, for a private applicant intending to submit a petition for annexation to the City. If held, the pre-application conference shall be held in accordance with subsection 16-8-30(b).

<sup>86</sup> From 16-2-50.

<sup>87</sup> Did not carry forward "...shall implement a new portion of the Comprehensive Plan or shall implement portions of the Comprehensive Plan which have proven difficult to achieve under the existing provisions of this Land Use Code."

<sup>88</sup> This procedure generally carries forward the current annexation procedures from Article 9.

<sup>89</sup> From 16-9-10.

<sup>90</sup> From 16-9-20.

**b. Application Submittal and Handling**

**1. Application Contents<sup>91</sup>**

The annexation application shall include:

**a) Letter of Intent**

The applicant shall provide a letter of intent addressed to the City Council to serve as a cover letter to the formal petition, introducing the applicant(s) to the City Council, requesting annexation of the petitioner's property and describing the development plans for the property, if it is annexed.

**b) Annexation Application Form**

The City's Annexation Application Form shall be completed, signed, and dated.

**c) Cost Reimbursement Agreement**

The application shall be accompanied a signed standard form Cost Reimbursement Agreement for the payment of development review expenses incurred by the City.

**d) Petition for Annexation**

The applicant shall submit a petition for annexation complying with the requirements of C.R.S. § 31-12-107. The City's standard form petition shall be utilized. Any deviation from the standard form petition will require review and approval by the City Attorney before the City accepts the petition for processing. The applicant is to provide a word processing file of this document if it deviates from the City's standard form petition. The petition shall include statements required by state law and in accordance with the Administrative Manual.

**e) Annexation Map**

All annexation petitions shall provide an annexation map. Such map shall be prepared in accordance with state law and the Administrative Manual.

**f) Waiver of Vested Property Rights<sup>92</sup>**

Per subsection 16-8-30(h), unless otherwise agreed to by the City, any landowner requesting annexation to the City shall provide record of waiver of any preexisting vested property rights.

**2. Annexation Fees<sup>93</sup>**

**a)** Each petition for annexation shall be accompanied by a fee intended to reimburse the City for the costs associated with the review of the annexation. In addition, the petitioner shall be required to pay the actual City review costs including, but not limited to, the costs of outside City consultants and City legal fees. All costs related to recording the annexation documents shall also be paid by the petitioner.

**b)** In addition to the review fees, additional fees are charged for park land dedication and water rights acquisition fees (or water dedications, if applicable). Some of the fees may be deferred pending the zoning and development of the annexed property. The City Council will make the final determination on required fees.

**c. Staff Review and Action**

**1.** The Director shall forward the complete application along with a report to the City Council that summarizes the application's compliance with the applicable review standards contained in the petition for Annexation, the Colorado Municipal Annexation Act of 1965, and other applicable provisions of this Chapter.

**2.** For annexations of more than ten acres, the City shall prepare an impact report concerning the proposed annexation at least 25 days before the date of the public hearing, unless the Chaffee

<sup>91</sup> From 16-9-40.

<sup>92</sup> New. Added from subsection 16-8-30(h), *Vested Property Rights*, per staff recommendation. However, this is not required by CRS.

<sup>93</sup> From 16-9-30.

County Board of County Commissioners waives this requirement. The report and procedures shall meet the standards established in CRS § 31-12-108.

3. The technical comments and professional recommendations of other agencies and organizations may be solicited in drafting the report.

**d. Scheduling and Notice of Public Hearings**

**1. Setting Hearing Date**

Upon receipt of the staff report from the Director, the City Council shall by resolution establish a date for a public hearing. The City Council shall also direct the Planning Commission to review the annexation map and all required supportive information and submit a written recommendation to the City Council.

**2. Public Notice**

Upon the establishment of a public hearing date, the City Clerk shall give appropriate notice in accordance with the Colorado Municipal Annexation Act of 1965. In addition, notice shall be provided as specified in subsection 16-8-30(e)(2).

**e. Review and Decision**

**1. Review and Recommendation by the Planning Commission**

The Planning Commission shall hold a public hearing to review the conformance of the application with the Colorado Municipal Annexation Act of 1965, and all applicable provisions of this Chapter. The Commission shall recommend that the City Council approve, approve with conditions, or deny the application, or shall remand the application to the applicant with instructions for modification or additional information or action.

**2. Review and Decision by the City Council**

Upon the submission of documentation in accordance with this subsection and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965, the City Council may consider the approval of an ordinance annexing the subject property to the City.

**f. Post-Decision Actions and Limitations**

Upon approval of the annexation ordinance and the filing and, if applicable, recordation of any documents required by the approval, the Director shall place the annexation on the Official Zoning Map.

**g. Concurrent Review**

Annexations may be considered concurrently with zoning and development permits; however, no development permit for land proposed for annexation into the City shall become effective until the related annexation is approved by the City Council.

## 16-8-50 Development Permits and Approvals

### COMMENTARY

The proposed site plan review procedures replaces the current development review system of “administrative,” “limited impact,” and “major impact” review. This draft introduces a two-tiered system for site plan review – minor site plans, reviewed and approved by the Director (administratively), and major site plans, reviewed and approved by the Planning Commission through a public hearing. Thresholds for distinguishing minor site plans from major site plans are included in Table 8-B. These thresholds, and the appropriate decision-making bodies are provided for initial discussion purposes.

### (a) Minor Site Plan

**(1) Purpose**

The minor site plan process allows the City to administratively evaluate smaller developments for compliance with the development and design standards of this Chapter. The minor site plan review procedure ensures that potential impacts are considered prior to an applicant submitting engineered construction plans or issuance of a building permit and certificate of occupancy.

**(2) Applicability**

**a. Exemptions from Site Plan Review<sup>94</sup>**

The following are exempt from the site plan review procedures, but are still subject to the standards of this Chapter and other federal, state, and local permit requirements including, without limitation, building permits and floodplain development permits:

1. A tenant finish or change in use that does not require any new development including but not limited to new or expanded buildings, additional parking areas, or grading of a site.
2. Conversion of a nonresidential building into residential dwelling units, up to five dwelling units maximum.
3. Alterations, repairs, or additions by less than 25 percent of the gross floor area.
4. Construction of a single-family detached dwelling or duplex allowed by right in the <Table of Allowed Uses>.<sup>95</sup>
5. Additions or accessory structures to any existing single-family detached dwelling or duplexes.
6. Accessory buildings, fences, hedges, or walls.

**b. Thresholds for Site Plan Review**

Table 8-B describes the applicable site plan review type (minor or major), unless exempted from the site plan review procedure in paragraph a, above.

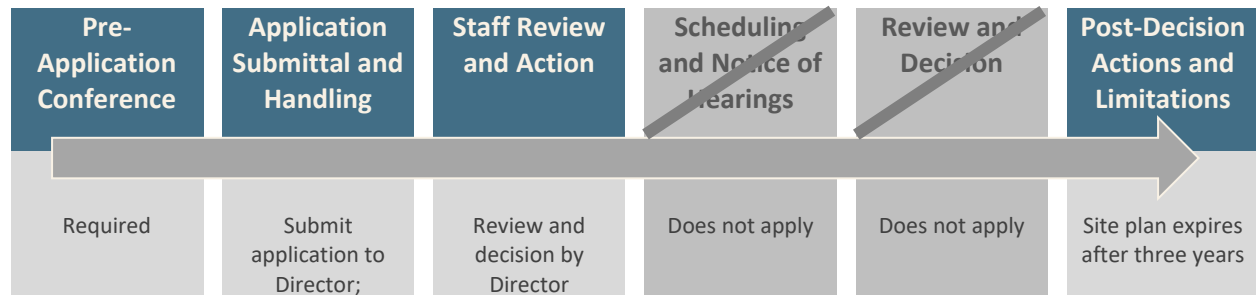
Table 8-B: Site Plan Review Thresholds		
Type of Development	Minor Site Plan	Major Site Plan
Residential	19 or fewer dwelling units <sup>96</sup>	More than 19 dwelling units
Nonresidential	20,000 square feet or less <sup>97</sup>	More than 20,000 square feet
Mixed-Use	19 or fewer dwelling units and 20,000 square feet or less of nonresidential	More than 19 dwelling units or more than 20,000 square feet of nonresidential

Note: Regardless of the thresholds in this table, any development that requires dedication of land to the City shall be deemed a major site plan.

**(3) Minor Site Plan Procedure**

Figure 8-6 identifies the applicable steps from the common review procedures that apply to the review of minor site plans. Additions or modifications to the common review procedures are noted below.

**Figure 8-6: Summary of Minor Site Plan Procedure**



<sup>94</sup> Expands on current 16-3-30, exemptions from development permits. The numbered exemptions (1-5) are new. We did not carry forward an exemption for uses marked "P" in the schedule of uses. The current uses marked "P" in the schedule of uses will be exempted in other ways. For example, home occupations are marked as a "P." Those are accessory uses that do not require other development and are therefore exempted by the first new exemption.

<sup>95</sup> Cross-reference to new table of allowed uses will be provided in consolidated draft.

<sup>96</sup> Current distinction between limited impact and major impact review is 20 dwelling units.

<sup>97</sup> Current distinction between limited impact and major impact review is 50,000 square feet.

application  
completeness  
review

**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

**1. General**

The minor site plan application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. Concurrent Review**

- a) A site plan application may be submitted and reviewed concurrently with a conditional use approval, a minor modification, variance, or subdivision plat.
- b) At the sole risk of the applicant, construction plans may be submitted concurrently with a site plan application. Such construction plans shall be submitted in accordance with the City's Standard Specifications for Construction and Design Criteria Manual.<sup>98</sup>

**c. Staff Review and Action**

The Director shall review the minor site plan application and approve, approve with conditions, or deny the minor site plan in accordance with subsection 16-8-30(f)(4) and the following approval criteria:

**1. Site Plan Approval Criteria**

In reviewing a proposed site plan application, the Director (for minor site plans) and Planning Commission (for major site plans) shall consider whether:

- a) The site plan is consistent with the general purpose and intent of this Chapter;
- b) The site plan is consistent with the standards of this Chapter; and
- c) The site plat is consistent with any previously approved plat, PD plan, or other previous land use approval applicable to the site.

**d. Post-Decision Actions and Limitations**

**1. Filing of Site Plan**

An approved site plan shall be officially filed with the Community Development Department within 60 days of its approval.

**2. No Building Permit or Certificate of Occupancy without Approval**

- a) No building permit shall be issued without approval of the site plan, unless exempted from site plan review under 16-8-50(a)(2)a.
- b) The building permit shall incorporate any conditions of approval associated with the site plan.<sup>99</sup>
- c) If the development includes construction of significant public improvements, a development agreement may be required to define the standards for construction, inspection, acceptance, and dedication of said public improvements prior to issuance of a building permit.<sup>100</sup>

<sup>98</sup> STAFF: Does the City have additional engineering regulations that should be referenced here?

<sup>99</sup> From 16-3-20(a).

<sup>100</sup> From 16-3-100(b). Did not carry forward the requirement to file a development plan within 60 days with the Community Development Department (16-3-100(a)) – since this new site plan procedure replaces that concept.

**3. Expiration of Approval<sup>101</sup>**

Unless vested rights are established, site plans shall expire if the applicant fails to submit a complete application for a building permit within three years after the approval date of the site plan, unless an extension is granted in accordance with subsection 16-8-30(g)(3)c. If the applicant makes timely application for a building permit, then the site plan shall remain in effect for as long as the building permit remains in effect after the three-year period has passed.

**4. Minor Changes Allowed**

Development authorized by an approved site plan may incorporate minimal changes from the approved site plan without a new application provided the Director finds that the proposed changes:

- a) Comply with the standards of this Chapter;
- b) Are necessary to meet conditions of approval; and
- c) Would not alter the function, form, use, or intensity of the property or result in additional demands on public infrastructure or impacts on adjacent properties more than the originally approved site plan.

**(b) Major Site Plan**

**(1) Purpose**

The major site plan process allows the City to evaluate larger and more complex developments for compliance with the development and design standards of this Chapter. The major site plan review procedure ensures that potential impacts are considered prior to an applicant submitting engineered construction plans or issuance of a building permit and certificate of occupancy.

**(2) Applicability**

The thresholds and exemptions listed in subsection 16-8-50(a)(2) for minor site plans shall apply to major site plans.

**(3) Major Site Plan Procedure**

Figure 8-7 identifies the applicable steps from the common review procedures that apply to the review of major site plans. Additions or modifications to the common review procedures are noted below.

**Figure 8-7: Summary of Major Site Plan Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

<sup>101</sup> Based on 16-3-20(b).

**b. Application Submittal and Handling****1. General**

The major site plan application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. Concurrent Review**

A site plan may be submitted concurrently with those plans and applications listed for minor site plans in subsection 16-8-50(a)(3)b.2.

**c. Staff Review and Action**

The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).

**d. Scheduling and Notice of Hearings**

The major site plan application shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with subsection 16-8-30(e).

**e. Review and Decision**

The Planning Commission shall review the major site plan application and approve, approve with conditions, or deny the major site plan in accordance with subsection 16-8-30(f) and the approval criteria listed for minor site plans in subsection 16-1-10(a).

**f. Post-Decision Actions and Limitations**

A major site plan is subject to the post-decision actions and limitations applicable to minor site plans in accordance with subsection 16-8-50(a)(3)d.

**(c) Conditional Use Approval****COMMENTARY**

We did not carry forward the current distinction between administrative conditional use approvals and conditional use approvals. This proposed conditional use approval is based on the current limited impact review but tailored to be specific to conditional uses. Conditional use approval set the standards for approval but may be denied by the decision-making body.

**(1) Purpose<sup>102</sup>**

The conditional use approval procedure provides a mechanism for the City to evaluate proposed land uses that are generally compatible with the permitted uses in a zoning district, but that require site-specific review of their location, design, intensity, density, and configuration because they have unique or varied operating characteristics or unusual impacts. This procedure is intended to ensure that the proposed development adequately mitigates anticipated impacts to ensure compatibility with surrounding areas.

**(2) Applicability**

A conditional use approval is required for land uses as specified in <Table XX.X: *Table of Allowed Uses*>. <sup>103</sup>

**(3) Conditional Use Approval Procedure**

Figure 8-8 identifies the applicable steps from the common review procedures that apply to the review of conditional use approvals. Additions or modifications to the common review procedures are noted below.

<sup>102</sup> Replaces current 16-4-110(a).

<sup>103</sup> Cross-reference to the new table of allowed uses will be provided in the consolidated draft. The table will indicate which uses require conditional use approval, similar to the current schedule of uses.

Figure 8-8: Summary of Conditional Use Approval Procedure



- a. Pre-Application Conference**  
A pre-application conference shall be held in accordance with subsection 16-8-30(b).
- b. Application Submittal and Handling**
  - 1. General**  
The conditional use approval application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).
  - 2. Concurrent Review**  
A conditional use approval may be submitted concurrently with a site plan, minor modification, variance, or subdivision plat.
- c. Staff Review and Action**  
The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).
- d. Scheduling and Notice of Hearings**  
The conditional use approval application shall be scheduled for a public hearing before the Planning Commission and noticed in accordance with subsection 16-8-30(e).
- e. Review and Decision**  
The Planning Commission shall review the conditional use approval application and approve, approve with conditions, or deny the conditional use approval in accordance with subsection 16-8-30(f) and the following approval criteria:
  - 1. Conditional Use Approval Criteria<sup>104</sup>**  
In addition to any use-specific standards applicable to the use that is subject to the conditional use approval, and in addition to the general approval criteria in subsection 16-8-30(f)(4), the application must comply with the following:
    - a)** The use shall be appropriate to its proposed location and disrupt or harm the prevailing uses and activities in the immediate vicinity;
    - b)** The use shall not cause undue traffic congestion, dangerous traffic conditions, or incompatible service delivery, parking, or loading problems. Necessary mitigating measures shall be proposed by the applicant;
    - c)** The operating characteristics of the use shall not create a nuisance, and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors or other emissions, vibrations, glare, and similar conditions;

<sup>104</sup> From 16-4-110(d).

- d) There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies that the use may cause; and
- e) The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

**f. Post-Decision Actions and Limitations**

Post-decision actions and limitations in subsection 16-8-30(g) shall apply with the following modifications:

**1. Expiration of a Conditional Use Approval<sup>105</sup>**

- a) The conditional use approval may contain conditions as deemed appropriate by the Director or Planning Commission in approving the permit. Within the one-year period, or other approved period, the permit holder must either obtain a site plan approval, begin construction, or establish the land use authorized by the conditional use approval, including any conditions attached to the conditional use approval.
- b) Failure to obtain a site plan approval, start construction, or establish such use within the one-year or other applicable time period shall result in automatic expiration of the conditional use approval. Once a conditional use is established, the conditional use approval shall not expire. However, any discontinuance of the use for a period of one year, for any reason, shall result in automatic expiration of the conditional use approval, unless otherwise provided in the permit or an extension is granted pursuant to subsection 16-8-30(g)(3).<sup>106</sup>
- c) The approval of a conditional use may or may not identify an initial term for the conditional use. Upon expiration of the term, if the permit is so limited, the conditional use approval shall automatically expire, unless an extension is granted pursuant to subsection 16-8-30(g)(3).

**2. Expansion or Enlargement<sup>107</sup>**

Expansion or enlargement of a conditional use approval shall require a new application, unless the Director determines that the expansion or enlargement:

- a) Is not expected to increase adverse impacts to the surrounding area or the City; and
- b) Will not require adjustments or modification of any standards greater than those allowed under the minor modification procedure in subsection 16-8-70(b).

**3. Revocation of a Conditional Use Approval<sup>108</sup>**

- a) All stipulations submitted as part of a conditional use approval and all conditions imposed by the Director or Planning Commission shall be maintained in perpetuity with the conditional use. If at any time the stipulations or conditions are not met or have been found to have been altered in scope, application, or design, the use shall be in violation of the conditional use approval.
- b) If and when any conditional use is determined to be in violation of the terms and conditions of approval, the Administrator shall notify the permit holder in writing and shall provide the permit holder with a 30 day period in which to abate the violation.
- c) If the violation of the conditional use continues after the 30 day period specified in the written request for abatement of the violation, the Director shall schedule a hearing before the Planning Commission. Notice of the hearing shall be provided to the approval holder in

<sup>105</sup> Based on current 16-4-120. Revised to include requirement that the applicant obtain a site plan. The City should recommend to applicants to file site plan applications concurrently with conditional use approval applications.

<sup>106</sup> Updated to clarify that an established and operable conditional use approval does not expire unless it is discontinued.

<sup>107</sup> New.

<sup>108</sup> From 16-4-130.

accordance with Section 16-2-30 of this Chapter. Following a proper hearing, the Planning Commission shall issue a decision either revoking or sustaining the conditional use approval.

- d) Appeals of the Planning Commission decision regarding revocation of the conditional use approval may be brought by the approval holder according to the procedure established at Section 16-2-60 of this Chapter.

**4. Transfer of Conditional Use Approval<sup>109</sup>**

Unless otherwise specified in conditions of approval, a conditional use approval may be transferred to another person to operate the same use, in the same buildings, on the same property, and under the same terms of the original conditional use approval.

**(d) Change of Use Approval**

**COMMENTARY**

This is a new procedure that formalizes the change of use process so that staff is made aware of changes in use to confirm compliance with zoning, use-specific standards, and any potential business licensing requirements. This was not discussed in the Assessment report, but after further consideration we think the City would benefit from this formal procedure.

**(1) Purpose**

The change of use approval procedure provides a mechanism for the City to evaluate new uses of properties and buildings and change in occupancy due to change of ownership or tenancy to ensure compliance with this Chapter.

**(2) Applicability**

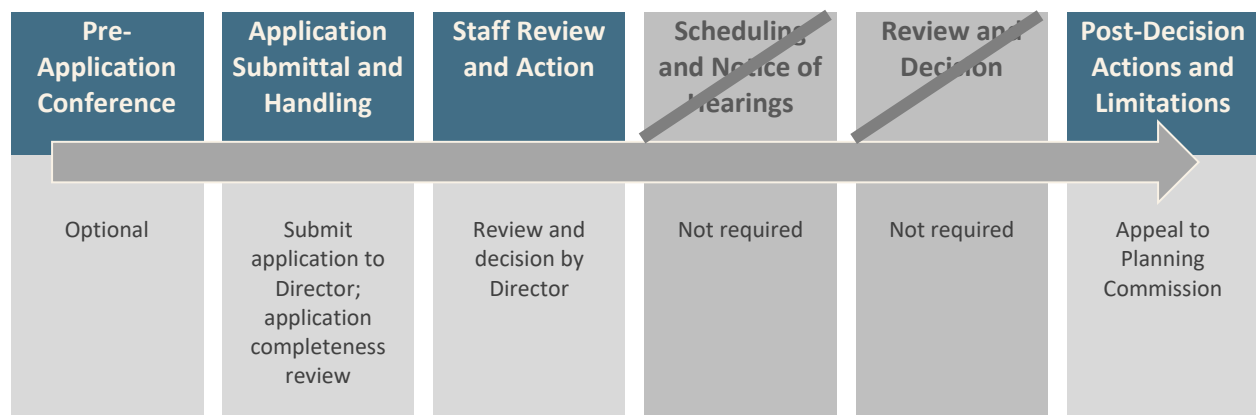
A change of use approval is required prior to:

- a.
- b. Changing the use of a vacant or occupied property or building; and/or
- c. Changing occupancy of a vacant or occupied property or building.

**(3) Change of Use Approval Procedure**

Figure 8-9 identifies the applicable steps from the common review procedures that apply to the review of change in use approvals. Additions or modifications to the common review procedures are noted below.

**Figure 8-9: Summary of Change in Use Approval Procedure**



**a. Pre-Application Conference**

A pre-application conference is optional. If held, the pre-application conference shall be held in accordance with subsection 16-8-30(b).

<sup>109</sup> New, based on the language in the current purpose statement in 16-4-110(a).

**b. Application Submittal and Handling**

The conditional use approval application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**c. Staff Review and Action**

**1. Review and Decision**

The Director shall review the change of use approval application according to the criteria below and the Director shall approve, approve with conditions, or deny the approval.

**2. Change of Use Approval Criteria**

In reviewing a change of use approval, the Director shall consider the general approval criteria in subsection 16-8-30(f)(4) and also whether the change of use adequately mitigates associated impacts with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor.

**d. Post-Decision Actions and Limitations**

**1. Effect of Approval**

A change in use approval authorizes a new use or change in occupancy of an existing property or building with any additional terms and conditions specified in the approval. The change of use approval shall clearly state that the proposed use complies with the provisions of this Chapter. For any change of use that requires a building permit, the change of use approval shall be issued prior to obtaining a certificate of occupancy.

**2. Revocation of a Change of Use Approval**

A change of use approval may be revoked by the Director if the use of the property or building is inconsistent with the authorized use specified in the change of use approval. In such case, the Director shall notify the approval holder in writing and provide 30 days from the date of the letter for the approval holder to bring the use into compliance with the change of use approval, and otherwise the approval shall be revoked.

## 16-8-60 Subdivision Approvals

### COMMENTARY

The subdivision approval procedures are carried forward from the current Article 6. In this draft, we only brought forward procedural information related to subdivisions, not any of the design or dedication requirements, which will be addressed in Installment 3 – development standards. As mentioned in the Assessment report, the subdivision procedures, much like the development permits, were modified to specify individual subdivision applications instead of simply referring to limited and major impact reviews (which were not carried forward in concept).

### (a) Minor Subdivision

### COMMENTARY

The current minor subdivision procedure is required to follow the limited impact review procedure. This proposed minor subdivision procedure combines the current minor subdivisions, amended plats, lot line adjustments, lot consolidations (elimination of lot lines), and duplex conversions. Language has been proposed to prevent “serial subdivision” in which an applicant uses multiple minor subdivisions to create a development that would otherwise require a major subdivision approval. In this draft we proposed an administrative procedure by which minor subdivisions are approved by the Director.

**(1) Purpose**

The minor subdivision procedure is used to evaluate proposed subdivisions that create few lots or involve minimal adjustments or corrections to previously recorded final plats.

**(2) Applicability**

a. The minor subdivision procedure shall apply when all the following are met:

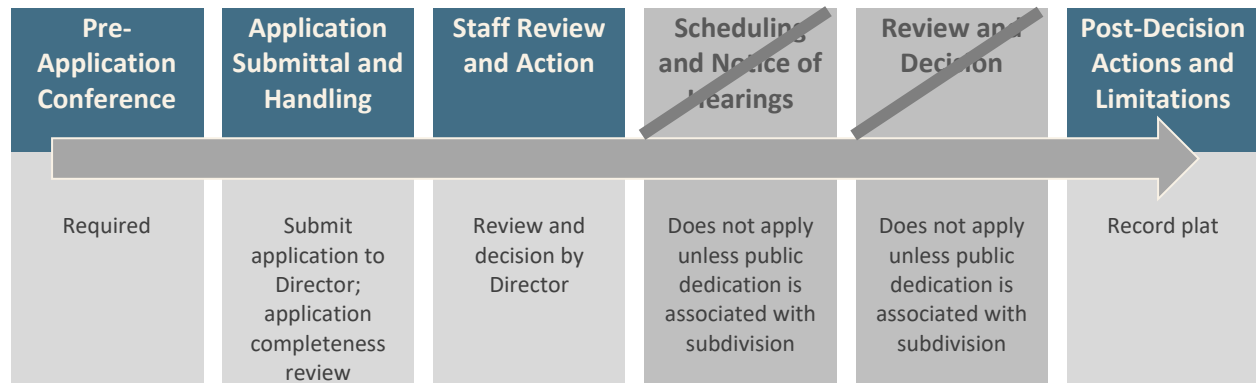
1. The properties are within an approved preliminary plat;

2. The proposed subdivision would create five or fewer lots or condominium units within a single plat;<sup>110</sup> and
  3. The proposed subdivision would not require land dedication or dedication of public improvements.
- b. The following are eligible to be processed as a minor subdivision provided paragraph a., above, is met:
1. Boundary or lot line adjustments to an approved final plat;
  2. Condominiumization of units within an existing building;
  3. An insubstantial change to an approved plat to address engineering or technical constraints with no material effect on the plat and no relocations of streets or rights-of-way;<sup>111</sup> or
  4. Correction of errors on an approved final plat.
- c. Any subdivision that requires dedication of right-of-way, public tracts, or public improvements to the City shall be submitted to the City Council for acceptance or denial of the dedication.
- d. Resubdivision of properties that have already been platted shall be processed as either a minor subdivision in accordance with this procedure or shall require a new application for a preliminary plat in accordance with subsection 16-8-60(b).<sup>112</sup>
- e. To prevent serial subdivision, an applicant may only be approved for one resubdivision of a single property.<sup>113</sup>

**(3) Minor Subdivision Procedure**

Figure 8-10 identifies the applicable steps from the common review procedures that apply to the review of minor subdivisions. Additions or modifications to the common review procedures are noted below.

**Figure 8-10: Summary of Minor Subdivision Procedure**



- a. **Pre-Application Conference**  
 A pre-application conference shall be held in accordance with subsection 16-8-30(b).
- b. **Application Submittal and Handling**
1. The minor subdivision application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).
  2. For lot line adjustments and lot consolidations, the owners of all affected properties whose lot lines are being amended shall provide written consent to the application.<sup>114</sup>

<sup>110</sup> Current qualifications are five or fewer separate parcels, lots, units, sites, tracts, or interests, plus utility mains must be available and in place to serve each lot such that only a service line is necessary.

<sup>111</sup> Addresses current 16-6-80, insubstantial change to recorded plat.

<sup>112</sup> From 16-6-40.

<sup>113</sup> New. Added to address staff concern about serial subdivision of properties to avoid more complicated review procedures.

<sup>114</sup> From 16-6-70(1).

3. To the extent that submittal information was submitted as part of the previous subdivision proposal and is adequate by current standards, the Director may waive submittal requirements at the request of the applicant.<sup>115</sup>

**c. Staff Review and Action**

The Director shall review the minor subdivision application and shall approve, approve with conditions, or deny the minor subdivision in accordance with subsection 16-8-30(f)(4) and the approval criteria in subsection 16-8-60(a)(4) below.

**d. Post-Decision Actions and Limitations**

Post-decision actions and limitations in subsection 16-8-30(g) shall apply. In addition, the Director shall record the minor subdivision plat with the Chaffee County Clerk and Recorder as soon as practicable.

**(4) Minor Subdivision Approval Criteria**

In reviewing a minor subdivision application, the Director shall consider the general approval criteria in subsection 16-8-30(f)(4) and also whether the minor subdivision:

**a. General**

1. Is consistent with the underlying zoning district(s);
2. Does not result in the creation of more than five lots;
3. Does not result in the creation of lots that cannot be built upon under this Chapter;
4. Does not affect a recorded easement without approval from the easement holder;
5. Provides all required in-lieu fees;
6. Meets inclusionary housing requirements; and
7. Will not limit the City's ability to effectively provide facilities or services to all lots involved.

**b. For Attached Dwellings<sup>116</sup>**

In addition to the criteria above, the following shall be met for all minor subdivisions proposed for single-family attached dwellings and duplex dwellings:

**1. Common Wall**

The building shall be divided only along code-compliant fire-resistant common walls into separate dwellings on separate lots.

**2. Separate Utilities**

Each of the dwelling units shall be served by separate utility service lines and meters, including water, sewer, electricity, and natural gas.

**3. Maintenance Agreement**

A common wall maintenance agreement shall be established and recorded to run with the land comprising the proposed attached dwelling lots.

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## (b) Major Subdivision – Preliminary Plat

### COMMENTARY

The preliminary plat and final plat procedures replace the current major subdivision procedure that requires processing as a major impact review.

<sup>115</sup> Based on current 16-6-40.

<sup>116</sup> These criteria are based on those from the current standards for duplex conversion subdivisions in 16-6-60. These would also apply to single-family attached dwellings (e.g., tri-plex, four-plex), which will be defined with the districts and use regulations in Installment 3. We did not carry forward the standards for zoning district and lot size requirements, which are already covered generally in the paragraph above. **STAFF:** One of the current requirements is that both duplex lots be approximately the same size. Because this new procedure is expanded beyond duplexes, that lot size standard doesn't really make sense. Is that an important standard to carry forward in Salida?

**(1) Purpose**

The preliminary plat procedure provides a mechanism for the City to review an overall plan for a proposed subdivision to ensure compliance with this Chapter, the Comprehensive Plan, and the adequate provision of facilities and services in the City.

**(2) Applicability**

- a. A preliminary plat is required if the proposed subdivision:
  - 1. Will result in more than five lots;
  - 2. Will include the dedication of public right-of-way, other public tracts, or public improvements for any subdivision not determined to be eligible to be processed as a minor subdivision; or
  - 3. Is not eligible to be processed as a minor subdivision.
- b. Resubdivision of properties that have already been platted shall be processed as either a minor subdivision in accordance with subsection 16-8-60(a) or shall require a new application for a preliminary plat in accordance with this procedure.<sup>117</sup>

**(3) Preliminary Plat Procedure**

Figure 8-11 identifies the applicable steps from the common review procedures that apply to the review of preliminary plats. Additions or modifications to the common review procedures are noted below.

**Figure 8-11: Summary of Preliminary Plat Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

**1. General**

The preliminary plat application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. Concurrent Review**

A preliminary plat may be submitted concurrently with a site plan, conditional use approval, minor modification, or variance.

**3. Resubdivisions**

To the extent that submittal information was submitted as part of the original subdivision proposal and is adequate by current standards, the Director may waive submittal requirements at the request of the applicant.<sup>118</sup>

<sup>117</sup> From 16-6-40.

<sup>118</sup> Based on current 16-6-40.

**c. Staff Review and Action**

The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).

**d. Scheduling and Notice of Public Hearings**

The preliminary plat application shall be scheduled for public hearings before the Planning Commission and City Council, noticed in accordance with subsection 16-8-30(e).

**e. Review and Decision**

**1. Planning Commission Review and Recommendation**

The Planning Commission shall review the preliminary plat application and recommend approval or denial in accordance with 16-8-30(f) and the approval criteria below.

**2. City Council Review and Decision**

The City Council shall review the preliminary plat application and approve, approve with conditions, or deny the plat in accordance with subsection 16-8-30(f) and the following approval criteria:

**a) Preliminary Plat Approval Criteria<sup>119</sup>**

In reviewing the preliminary plat application, the Planning Commission and the City Council shall consider the general approval criteria in 16-8-30(f)(4) and also whether the plat:

- 1) Complies with the applicable zoning district standards;
- 2) Complies with the applicable public dedication, in-lieu fees, and subdivision design standards required by Article 16-5: *Subdivisions*;
- 3) Shows location of public water and sewer system connections;
- 4) If proposed in phases, the plat proposes reasonable phasing for providing required infrastructure; and
- 5) Complies with the requirements of Article 16-9: *Inclusionary Housing*.<sup>120</sup>

**3. Conditions of Approval**

If the preliminary plat is approved with conditions, those conditions and the standards of this Chapter shall be met prior to approval of a final plat.

**f. Post-Decision Actions and Limitations**

**1. Expiration of Approval**

Preliminary plat approval shall automatically expire if a final plat has not been recorded within one year after the date of the preliminary plat approval, or an extension is granted in accordance with subsection 16-8-30(g)(3).

**2. Phased Final Platting**

Whenever a preliminary plat is approved for development of a subdivision in phases, the City Council may allow alternative timing for final plats for each phase following the first.

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**(c) Major Subdivision – Final Plat**

**(1) Purpose**

The final plat procedure completes the major subdivision process and provides a mechanism for the City to ensure compliance with the approved preliminary plat and applicable standards of this Chapter.

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<sup>119</sup> This simplified list of criteria replaces those from the current 16-6-120 that apply to all subdivisions. Most of those current review standards (floodplain, common areas, fees-in-lieu of parks, etc.) are design and dedication standards that will be addressed by the subdivision standards in Article 16.05 with Installment 2.

<sup>120</sup> From last sentence of 16-6-20 and from the general subdivision approval requirement in 16-6-120(13).

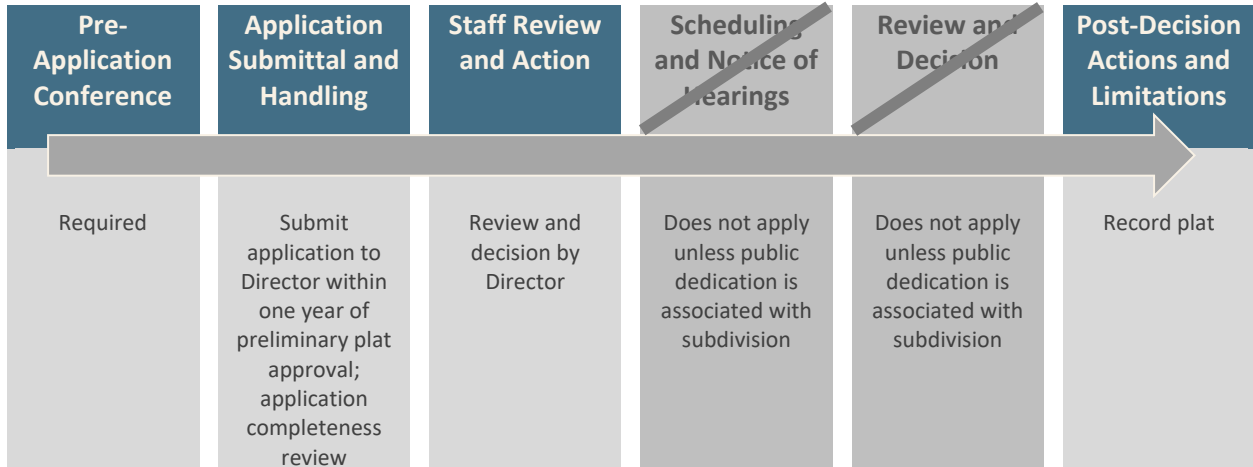
**(2) Applicability**

- a. The final plat procedure applies to all major subdivisions in the City unless otherwise stated in this Chapter.
- b. Any major subdivision that requires dedication of right-of-way, public tracts, or public improvements to the City shall be submitted to the City Council for acceptance or denial of the dedication.

**(3) Final Plat Procedure**

Figure 8-12 identifies the applicable steps from the common review procedures that apply to the review of final plats. Additions or modifications to the common review procedures are noted below.

**Figure 8-12: Summary of Final Plat Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

**1. General**

The final plat application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. Concurrent Review**

- a) A final plat may be submitted concurrently with a site plan, conditional use approval, minor modification, variance, or preliminary plat.
- b) If the applicant is seeking vested rights, such rights may be reviewed concurrently with the final plat and in accordance with subsection 16-8-30(h).

**c. Staff Review and Action**

The Director shall review the final plat application and shall approve, approve with conditions, or deny the final plat in accordance with subsection 16-8-30(f) and the following approval criteria:

**1. Final Plat Approval Criteria**

In reviewing a final plat application, the Director shall consider the general approval criteria in subsection 16-8-30(f)(4) and also whether:

- a) The final plat complies with the approved preliminary plat, including any conditions of approval; and
- b) The proposed development will comply with the City’s Standard Specifications for Construction and Design Criteria Manual and any other applicable technical standards and specifications adopted by the City.

**d. Post-Decision Actions and Limitations**

Post-decision actions and limitations in subsection 16-8-30(g) shall apply. In addition, the Director shall record the final plat with the Chaffee County Clerk and Recorder as soon as practicable.

**(d) Condominiumization<sup>121</sup>**

**(1) Purpose**

The condominiumization procedure provides a mechanism for the City to ensure that condominium subdivisions comply with this Chapter and state law.

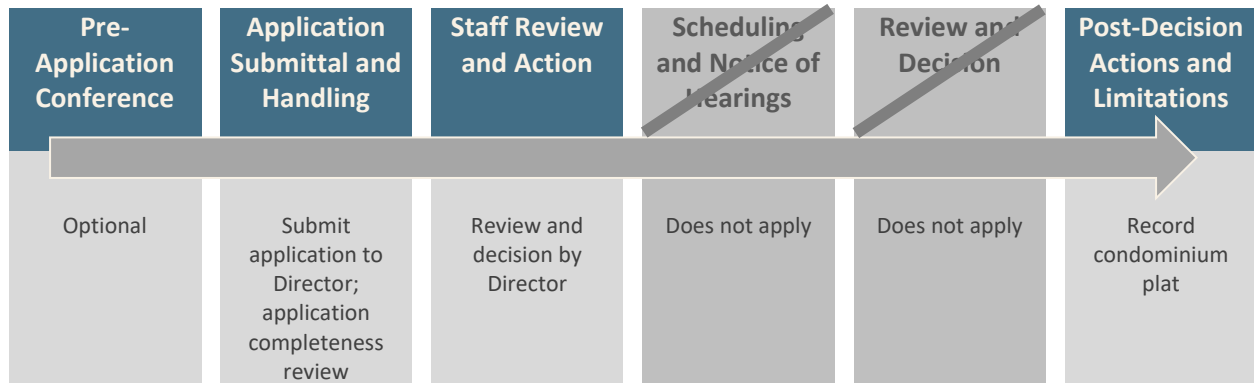
**(2) Applicability**

- a. Condominiumization resulting in the creation of new condominium units and the conversion of existing buildings into condominium units shall follow the procedure for a minor subdivision in subsection 16-8-60(a).
- b. Conversion of existing buildings into condominium units not meeting the eligibility requirements for processing as a minor subdivision shall follow this procedure.
- c. Any condominiumization requiring dedication of right-of-way, public tracts, or public improvements to the City shall be submitted to the City Council for acceptance or denial of the dedication.

**(3) Condominiumization Procedure**

Figure 8-13 identifies the applicable steps from the common review procedures that apply to the review of condominiumizations. Additions or modifications to the common review procedures are noted below.

**Figure 8-13: Summary of Condominiumization Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

**1. General**

The preliminary plat application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).

**2. Additional Submittal Requirements**

In addition to the subdivision submittal requirements listed in the Administrative Manual, an application for a condominium plat approval shall contain the following:

- a) Required parking spaces and joint trash collection areas;
- b) Floor plans, elevations, and site plan as required to show separate ownership of all separate units, common elements, and limited common elements;

<sup>121</sup> From 16-6-100, revised for consistency with other subdivision procedures.

- c) Number, type, and floor area of units, common elements, and other amenities delineated in square feet; proposed use for each unit; land area;<sup>122</sup>
- d) Statement of the total number of units shown on the proposed plat; and
- e) Documentation showing compliance with the standards and terms of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-201, et seq. as may be amended.

### 3. Concurrent Review

A condominiumization application may be submitted concurrently with a site plan, conditional use approval, minor modification, or variance.

#### c. Staff Review and Action

The Director shall review the application and approve, approve with conditions, or deny the condominiumization in accordance with subsection 16-8-30(d) and the following approval criteria:

##### 1. Condominiumization Approval Criteria

In reviewing the condominiumization application, the Director shall consider the general approval criteria in subsection 16-8-30(f)(4) and also the following:

- a) If applicable, the condominiumization complies with the requirements of Article 16-9: *Inclusionary Housing*;<sup>123</sup> and
- b) The condominiumization would not result in adverse impacts to the surrounding area or the City.

#### d. Post-Decision Actions and Limitations<sup>124</sup>

1. After buildings have been constructed and final "as-built" surveys have been completed, the applicant shall submit an amended condominium plat showing graphically and dimensionally the subdivision of buildings into volumetric spaces and the relationship of these spaces with the boundaries of the site and other appurtenances on the site.
2. Condominium plats shall comply with the requirements of C.R.S. §38-33.3-209, as may be amended, and may be approved and amended by the Administrator.
3. No individual condominium unit shall be sold into separate ownership until and unless a condominium plat has been approved by the City based upon an "as-built" survey of the unit boundaries and such plat has been recorded with the Chaffee County Clerk and Recorder. A plat note on the final subdivision plat for each condominium development shall be included to this effect.

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## (e) Vacation of Plat, Right-of-Way, or Easement<sup>125</sup>

### (1) Purpose

The vacation procedure provides a mechanism for vacating rights, interests, or title of the City in and to any subdivision plat, right-of-way, or easement located in the City.

### (2) Applicability

This procedure applies to any request to vacate any rights, interests, or title of any plat, right-of-way, or easement within the City.

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<sup>122</sup> Did not carry forward requirement to show floor area ratio, a measurement that will not likely be carried forward with the dimensional standards in Installments 2 and 3.

<sup>123</sup> From last sentence of 16-6-20 and from the general subdivision approval requirement in 16-6-120(13).

<sup>124</sup> Based on 16-6-100(d).

<sup>125</sup> Based on current 16-6-130.

**(3) Vacation Procedure<sup>126</sup>**

Figure 8-14 identifies the applicable steps from the common review procedures that apply to the review of vacations of plats, rights-of-way, or easements. Additions or modifications to the common review procedures are noted below.

**Figure 8-14: Summary of Vacation of Plat, Rights-of-Way, or Easement Procedure**



- a. Pre-Application Conference**  
A pre-application conference shall be held in accordance with subsection 16-8-30(b).
- b. Application Submittal and Handling**
  - 1. General**  
The vacation application shall be submitted, accepted, and may be revised or withdrawn, in accordance with 16-8-30(c).
  - 2. Additional Submittal Requirements**  
Applications shall include a scaled survey from a Colorado registered surveyor or engineer that indicates the rights-of-way and adjacent properties subject to the vacation.
- c. Staff Review and Action**  
The Director shall review the application and prepare a staff report and recommendation in accordance with subsection 16-8-30(d).
- d. Scheduling and Notice of Hearings**  
The vacation application shall be scheduled for public hearings before the Planning Commission and City Council and noticed in accordance with subsection 16-8-30(e).
- e. Review and Decision**
  - 1. Planning Commission Review and Recommendation**  
The Planning Commission shall review the vacation application and recommend approval or denial in accordance with subsection 16-8-30(f) and the approval criteria below.
  - 2. City Council Review and Decision**  
The City Council shall review the vacation application and approve, approve with conditions, or deny the plat in accordance with subsection 16-8-30(f) and the approval criteria below.
    - a) Vacation Approval Criteria**  
The Planning Commission and City Council shall consider the following in evaluating the vacation of a recorded plat, right-of-way, or easement:
      - 1)** No roadway shall be vacated if doing so would leave any adjoining land without a means of access to another public road.

<sup>126</sup> Revised to specify the procedure. The current code states that “An applicant requesting to vacate a recorded subdivision plat, public right-of-way, or dedicated easement shall use the same process by which it was originally approved.”

- 2) In granting a vacation, the City may reserve easements for the installation or maintenance of utilities, ditches, and similar improvements.
- 3) A subdivision plat, public right-of-way, or dedicated easement may be vacated if the vacation would be consistent with or implements the applicable intent statements, specific directions, and recommended actions of the Comprehensive Plan.
- 4) A subdivision plat may be vacated if none of its lots have been sold or transferred; or, if there have been sales or transfers, no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.

**f. Post-Approval Actions and Limitations**

**1. Record Vacation Plat**

The Director shall record the vacation plat indicating the vacated plat, right-of-way, or easement with the Chaffee County Clerk and Recorder as soon as practicable.

**2. Quitclaim Deed**

Whenever the City approves an application vacating a public right-of-way, the City shall provide abutting landowners with a quitclaim deed for the vacated lands. Each abutting landowner shall be deeded that portion of the vacated right-of-way to which the owner's land is nearest in proximity.

## 16-8-70 Flexibility and Relief

### (a) Variance<sup>127</sup>

#### COMMENTARY

The variance procedure was carried forward from current 16-4-180 but modified to clarify the approval criteria. We did not carry forward the "administrative variance" classification, which was replaced by the new proposed minor modification procedure in 16-8-70(b).

**(1) Purpose<sup>128</sup>**

The variance procedure provides authorization to deviate from the literal terms of this Chapter where strict application and enforcement of this Chapter would result in exceptional practical difficulty or undue hardship preventing the use of the land as otherwise allowed by this Chapter. A variance shall not be granted solely because of the presence of nonconformities in the zoning district or adjoining districts.

**(2) Applicability**

- a. Any property owner seeking relief from this Chapter may request a variance when the strict application of the Code would result in an undue hardship.
- b. Variances from the standards of the underlying zoning district shall be authorized only for height, floor area, lot coverage, lot size, setbacks, and parking requirements.<sup>129</sup>
- c. Establishment or expansion of a use otherwise prohibited in a zoning district shall not be allowed by variance.<sup>130</sup>

**(3) Variance Procedure**

Figure 8-15 identifies the applicable steps from the common review procedures that apply to the review of variance applications. Additions or modifications to the common review procedures are noted below.

<sup>127</sup> Based on current 16-4-180, revised as noted.

<sup>128</sup> From 16-4-180(a), revised for clarity.

<sup>129</sup> From 16-4-180(b), revised to remove "maximum" and "minimum" preceding the types of standard.

<sup>130</sup> From 16-4-180(d).

Figure 8-15: Summary of Variance Procedure



- a. Pre-Application Conference**  
 A pre-application conference shall be held in accordance with subsection 16-8-30(b).
- b. Application Submittal and Handling**
  - 1. General**  
 The variance application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c).
  - 2. Concurrent Review**  
 A variance application may be submitted as a standalone application or submitted concurrently with a site plan, conditional use approval, or subdivision plat.
- c. Staff Review and Action**  
 The Director shall review the application and prepare a staff report and recommendation in accordance with 16-8-30(d).
- d. Scheduling and Notice of Hearings**  
 The variance application shall be scheduled for a public hearing before the Planning Commission, serving in their role as the Board of Adjustment, and noticed in accordance with subsection 16-8-30(e).
- e. Review and Decision**
  - 1.** The Planning Commission, serving in their role as the Board of Adjustment, shall review the variance application and approve, approve with conditions, or deny the variance in accordance with subsection 16-8-30(f) and the approval criteria listed in subsection 16-8-70(a)(4) below.
  - 2.** The Planning Commission, serving in their role as the Board of Adjustment, shall make a decision based on the staff report and the record of the public hearing and shall be reduced to writing to include findings of fact based on competent, material, and substantial evidence presented, and shall state how the findings support compliance with the review criteria.
  - 3.** The Planning Commission, serving in their role as the Board of Adjustment, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety, and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.<sup>131</sup>

<sup>131</sup> From 16-4-180(f).

**f. Post-Decision Actions and Limitations<sup>132</sup>**

**1. Notice of Decision**

Within five days of the decision by the Planning Commission, notification of the decision shall be published on the City's website.

**2. Expiration of a Variance**

If the property owner has not commenced development or obtained the required permits to carry out the development for which the variance was required within three years of the variance approval, then the variance shall automatically expire. The Planning Commission, serving in their role as the Board of Adjustment, may grant an extension of up to three years upon request.

**3. Non-Transferable**

The variance shall apply only to the structure or property subject to the variance approval and shall not be transferable to any other property or structure.

**(4) Variance Approval Criteria<sup>133</sup>**

Variances from the requirements of this chapter shall be considered an extraordinary remedy. In reviewing and deciding on a variance application, the Planning Commission, serving in their role as the Board of Adjustment, shall determine that each of the following criteria are met:

- a. The applicant would suffer hardship as a result of the strict application of these regulations, which hardship is not generally applicable to other lands or structures in the same zone district because of considerations relating to the preservation of historic structures, the unusual configuration of the applicant's property boundaries, unique circumstances related to existing structures or topographic conditions;
- b. There are no reasonable design alternatives or alternative locations for structures that would eliminate or reduce the need for the requested variance, or decrease the scope or extent of the variance required, that do not involve unreasonable expense under the circumstances;
- c. The need for the variance does not result from the intentional, reckless or negligent actions of the applicant or their agent, a violation of any provision of this Chapter, this Code, any other code or ordinance adopted and in effect in the City or a previously granted variance;
- d. Reasonable protections are afforded adjacent properties;
- e. The variance is the minimum variance that will make possible the reasonable use of the land or structure; and
- f. The granting of the variance is consistent with the general purposes and intent of this Chapter.

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**(b) Minor Modification**

**COMMENTARY**

This new procedure expands on the current process for "administrative variances" in 16-4-180(c). The term variance is limited to only those approved by the Board of Adjustment (or the Planning Commission in Salida's case). This procedure grants the applicable decision-making authority to modify standards without requiring compliance with otherwise strict hardship criteria. Minor modification requests, unlike a variance request, may not be submitted as a standalone application. Therefore, the decision-maker may not always allow Director approval like the current administrative variance. Rather, the decision on a minor modification request would be made by the decision-maker for the associated application type (e.g., conditional use approval, site plan, subdivision plat).

This new procedure also broadens the types of standards that may be modified, beyond the limited options under the current administrative variances (historic and contextual setbacks). In this draft we proposed a table of allowable modifications for various dimensional and development standards; however, some communities instead include a blanket maximum percentage by which any eligible standard can be modified. The types of standards eligible for

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<sup>132</sup> New standards that we often include in modern codes.

<sup>133</sup> Builds on and clarifies the criteria in current 16-4-180(e).

modification may be revisited during the drafting process with Installments 2 and 3. The minor modification procedure is intended to apply only to quantifiable standards. Qualitative standards (e.g., building design, landscaping materials, amenities for common areas) will be considered during Installment 3 with the development standards, and methods to offer flexibility and relief to those standards may be achieved by other means such as built-in flexible alternative standards.

**(1) Purpose<sup>134</sup>**

The purpose of the minor modification procedure is to allow adjustments, modifications, or deviations from the dimensional or numeric standards of this Chapter to provide greater flexibility without requiring a variance or a formal zoning amendment. The minor modification procedure is not a waiver, but rather a modification up to a specified threshold when warranted.

**(2) Applicability<sup>135</sup>**

**a. Other Incentives are Prerequisite**

All available incentives and allowances in this Chapter shall be used before a minor modification may be considered.

**b. Table of Allowed Modifications**

Applications for minor modifications may only be considered for the standards listed in Table 8-C.

<b>Table 8-C: Allowed Minor Modifications</b>	
<b>Standard</b>	<b>Allowable Modification (maximum)</b>
<b>Lot and Building Standards</b>	
Lot size, minimum	To be added
Front setback, minimum	To be added
Side setback, minimum	To be added
Rear setback, minimum	To be added
Exceptions to setbacks <sup>136</sup>	To be added
Building height, maximum	To be added
Exceptions to building height	To be added
<b>Site Features and Development Standards<sup>137</sup></b>	
Fence or wall height	To be added
Parking spaces required	To be added
Landscaping area required	To be added

**c. Limitations on Minor Modifications**

The minor modification procedure shall not be used to:

1. Modify standards outside this Chapter;
2. Modify uses or activities allowed on a property;

<sup>134</sup> Replaces the current purpose statement of 16-4-180(c) which focused on the historic nature of many properties in Salida that may otherwise be nonconforming and the need to allow those properties to continue and to encourage restoration.

<sup>135</sup> We did not carry forward the standards for contextual or historic setbacks (16-4-180(c)(1) and (2)), which can be better addressed automatically by including contextual setback allowances within the districts and uses regulations (Installment 3). Contextual setbacks could be established based on immediately adjacent properties or by averaging setbacks on a block face, without the requirement of any minor modification or variance. Glenwood Springs, CO, and Sedona, AZ, are two recent examples where Clarion drafted contextual setback provisions as generally allowable exceptions to zoning district setback requirements.

<sup>136</sup> Installment 3 will include a section on "measurements and exceptions" that will identify automatically allowable encroachments into setbacks and projections over maximum building heights.

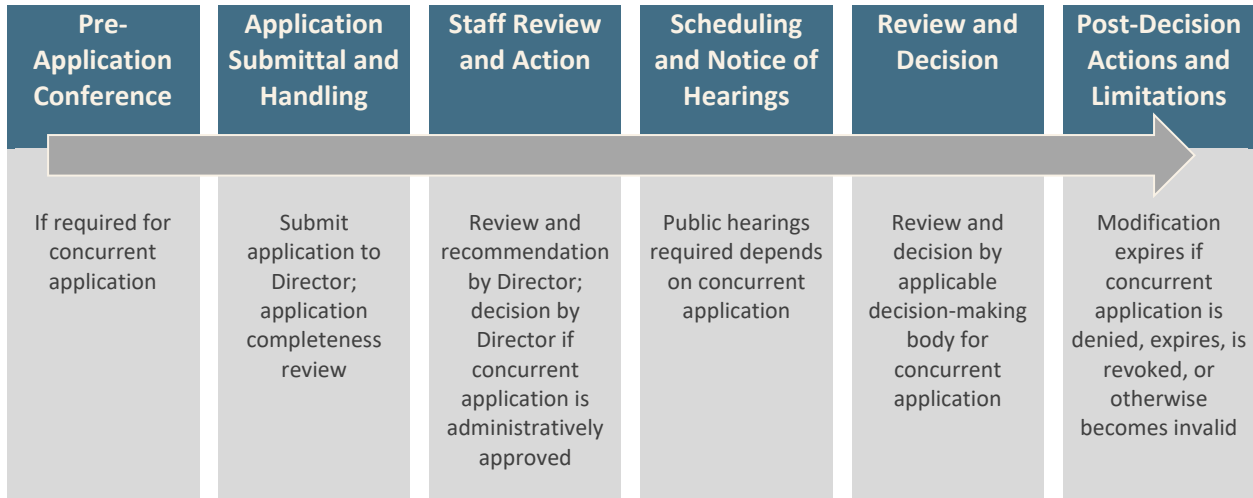
<sup>137</sup> These standards will be revisited with Installment 2 – Development Standards.

3. Modify standards where such modification is required by the FFHA or RLUIPA pursuant to §§16-8-30(f)(5) and (6);
4. Modify the standards that apply to a specific use or activity, including any dimensional and numerical standards established as a use-specific standard; or
5. Modify a standard that is already modified through a separate modification, variance, or other deviation.

**(3) Minor Modification Procedure**

Figure 8-16 identifies the applicable steps from the common review procedures that apply to the review of variance applications. Additions or modifications to the common review procedures are noted below.

**Figure 8-16: Summary of Minor Modification Procedure**



**a. Pre-Application Conference**

A pre-application conference shall be held in accordance with subsection 16-8-30(b) if the concurrent application associated with the minor modification application requires such conference.

**b. Application Submittal and Handling**

1. An application for a minor modification may only be submitted and reviewed concurrently with an application for a conditional use approval, site plan, or subdivision plat.
2. Each standard from Table 8-C shall be considered a separate request as it relates to the approval criteria in 16-8-70(b)(4), but multiple modifications may be considered in a single application.

**c. Staff Review and Action**

Where the concurrently reviewed application requires review and approval by the Planning Commission or City Council, the Director shall review the application and include a recommendation related to the minor modification in the staff report for the associated concurrent application.

**d. Scheduling and Notice of Hearings**

Where the concurrently reviewed application requires a public hearing, then the application shall be scheduled for a public hearing before the applicable decision-making body, and noticed in accordance with 16-8-30(e).

**e. Review and Decision**

1. Where the concurrently reviewed application requires review and approval by the Director, the Director shall review the application and shall approve, approve with conditions, or deny the minor modification based on the criteria in 16-8-70(b)(4).
2. Where the concurrently reviewed application requires review and approval by the Planning Commission or City Council, the Planning Commission or City Council, as applicable, shall review and decide the minor modification based on the criteria in subsection 16-8-70(b)(4).

**f. Post-Decision Actions and Limitations**

**1. Effect of Approval**

Approval of a minor modification authorizes only the specific modification of standards approved, and only to the subject property of the application.

**2. Expiration of Modification**

A minor modification shall automatically expire if the associated application is denied or if approval of the associated application expires, is revoked, or is otherwise deemed invalid.

**(4) Minor Modification Approval Criteria<sup>138</sup>**

In reviewing the minor modification request, the decision-making body shall consider whether and to what extent the modification:

- a. Will not result in incompatible development;
- b. Will not result in adverse impacts unless adequately mitigated; and
- c. Is of a technical nature and is required to:
  - 1. Compensate for an unusual site condition;
  - 2. Eliminate a minor inadvertent failure to comply with a Code standard; or
  - 3. Protect a sensitive resource, natural feature, or community asset.

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**(c) Appeals<sup>139</sup>**

**(1) Purpose**

The purpose of the appeals procedure is to define the circumstances by which persons may appeal a decision made by the Director or any Board or Commission other than the Board of Adjustment, Board of Appeals, and City Council.

**(2) Applicability**

- a. Appeals shall be as indicated in Table 8-A: *Summary of Development Review Procedures*, and Table 8-D: *Summary of Appeal Procedures*.
- b. Appeals of decisions made by the Board of Adjustment, Board of Appeals, and City Council shall be final and may not be appealed except to the courts in accordance with state law.<sup>140</sup>

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<sup>138</sup> These are new criteria that do not require a hardship be met as with the variance procedure.

<sup>139</sup> Based on current 16-2-70, revised as noted.

<sup>140</sup> Replaces current 16-2-70(a).

Table 8-D: Summary of Appeal Procedures			
Procedure	Code Section	Decision	Appeal
<b>Ordinance Amendments</b>			
Rezoning	16-8-40(a)	City Council	Courts
Rezoning to Planned Development	16-8-40(b)	City Council	Courts
Code Text Amendment	16-8-40(c)	City Council	Courts
Annexation	16-8-40(d)	City Council	Courts
<b>Development Permits</b>			
Minor Site Plan <b>NEW</b>	16-8-50(a)	Director	Planning Commission
Major Site Plan <b>NEW</b>	16-8-50(b)	Planning Commission	City Council
Conditional Use Approval	16-8-50(c)	Planning Commission	City Council
Change in Use Approval <b>NEW</b>	16-8-50(d)	Director	Planning Commission
<b>Subdivisions</b>			
Minor Subdivision	16-8-60(a)	Director/ City Council	Planning Commission/Courts
Major Subdivision - Preliminary Plat <b>NEW</b>	16-8-60(b)	City Council	Courts
Major Subdivision - Final Plat <b>NEW</b>	16-8-60(c)	Director	Planning Commission/City Council
Condominiumization	16-8-60(d)	Director	Courts
Vacation of Plat, Right-of-Way, or Easement	16-8-60(e)	City Council	Courts
<b>Modifications and Appeals</b>			
Variance	16-8-70(a)	Planning Commission (as Board of Adjustment)	Courts
Minor Modification <b>NEW</b>	16-8-70(b)	Per concurrent application	

**(3) Appeals Procedure**

Figure 8-17 identifies the applicable steps from the common review procedures that apply to the review of appeals. Additions or modifications to the common review procedures are noted below.

**Figure 8-17: Summary of Appeals Procedure**



**a. Pre-Application Conference**

The appellant may opt to attend a pre-application conference. In such case, the pre-application conference shall be held in accordance with subsection 16-8-30(b).

**b. Application Submittal and Handling**

The appeal application shall be submitted, accepted, and may be revised or withdrawn, in accordance with subsection 16-8-30(c), with the following modifications:

**1. Application Contents**

The appeal shall be in the form of a written letter of appeal delivered or postmarked to the Director within 15 days of the date the interpretation or decision was made. Such notice shall identify the date and nature of the order, decision, or interpretation at issue, and set forth in plain and concise language:

- a) The facts and reasons for the appeal, including any relevant citation to any rule, regulation, or Code section relied upon; and
- b) A copy of the order, decision, or interpretation being appealed if the same was issued in writing.

**2. Burden of Proof on Appellant**

The burden of proof on appeal shall rest with the appellant. Such proof shall include applicable specific section references within this Chapter and shall be provided at the time of application.

**(4) Staff Review and Action**

Upon receipt of the appeal, the Director shall schedule the appeal for a regular or special meeting of the appropriate body within 31 days of the filing of the notice to appeal.

**(5) Scheduling and Notice of Public Hearings**

- a. Written notice of the time, date, and location of the hearing shall be sent by regular mail to the appellant not less than 15 days prior to the hearing. In cases where a decision rendered during a public hearing is being appealed, notice shall be provided in accordance with subsection 16-8-30(e).
- b. An appeal stays all proceedings from further action on the subject decision unless the City Council determines that a stay would create adverse impacts to the health, safety, or welfare of the City or would cause imminent peril to life and property. Such determination shall be made only after written request to the Director and a public hearing with the City Council. The public hearing shall be held within 31 days of receipt of the request. Notice for such hearing shall be provided on the City's website.<sup>141</sup>

**(6) Review and Decision**

The applicable review and decision-making body shall consider the appeal during the scheduled hearing and consider the following:

**a. Evidence<sup>142</sup>**

Formal Rules of Evidence shall not be followed during hearings. The chairman shall have the power to decide what evidence is material to the appeal. Written documents presented at the hearing shall be made part of the record, and public testimony shall be taken if the appeal required public notice.

**b. Basis of a Decision**

Review of the decision being appealed shall be limited to the record established before and relied upon by the designated decision-making body. An appealing body shall not have the authority to override the provisions of this Chapter. Any decision shall include a basis for the decision and cite specific sections of this Chapter.

**c. Decision**

The appropriate appealing body shall hear all relevant evidence, and within a reasonable time and in no event more than 15 days thereafter, shall render its decision. The appealing body may reverse, modify, or confirm the order, decision, or interpretation.

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<sup>141</sup> New.

<sup>142</sup> The burden of persuasion on the appellant was relocated to the application submittal and handling since that is required as part of the application materials.

**(7) Post-Decision Actions and Limitations****a. Recording**

Audio recordings of the hearing shall be necessary. A written summary of the audio recording shall be made in a timely fashion following the hearing. Whenever a written verbatim transcript of such recording is requested by the appellant or when a transcript is furnished by the City pursuant to court order, the cost of preparing the transcript shall be borne in full by the appellant.

**b. Notice of Decision**

All decisions on appeal shall be reduced to writing, contain a concise listing of facts and reasons supporting the same, and shall be promptly mailed by regular mail to the appellant.

**c. Further Appeals<sup>143</sup>**

Any further appeals from the appropriate appeal decision-making authority shall be made to the courts in accordance with state law.

**16-8-80 Review and Decision-Making Bodies**

The review and decision-making bodies shall be established and shall have the power and authority according to Chapter 2 of the Municipal Code, *Administration and Personnel*. Decision-making bodies for applications in this Chapter shall be as indicated in Table 8-A: *Summary of Development Review Procedures*.

## Article 16-9: Inclusionary Housing

[To be submitted with *Installment 3 – Development Standards*]

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<sup>143</sup> New.

# Article 16-10: Rules of Construction and Definitions

## COMMENTARY

This is the first installment of the definitions article, which will be built incrementally with each installment of the new code. This first installment includes definitions related to the administration articles.

The definitions are proposed to be located, here, at the end of the document, which is typical to reduce the length of Article 16.01, General Provisions, and make the entire code more user-friendly. This section will become longer as definitions are added for all proposed use categories, use types, and as development standards are drafted. Footnotes will be used to highlight specific definitions that we or staff think merit a definition. As the list becomes finalized (i.e., no edits to the definition or concept are likely) we can begin illustrating and including in future drafts throughout the course of the project.

## 16-10-10 Rules of Construction<sup>144</sup>

Section 1-2-20 of this Chapter establishes rules that shall be observed and applied when interpreting the language of this Chapter, unless the context clearly requires otherwise.

## 16-10-20 Definitions of Use Categories and Use Types

[reserved – to be drafted with Districts/Uses]

## 16-10-30 Other Terms Defined

### Administrator<sup>145</sup>

The Administrator of the City, or their designee.

### Alteration, Large<sup>146</sup>

Any alteration or change of use to a mixed-use or nonresidential building that increases the gross floor area or lot coverage (by structures or impervious area) by 25 percent or more or increases the parking requirements on the property by more than 10 spaces, whether or not the parking spaces exist or need to be constructed.

### Alteration, Small

Any alteration to an existing residential building or an alteration or change of use to a mixed-use or nonresidential building that increases the gross floor area or lot coverage (by structures or impervious area) by less than 25 percent and does not increase the parking requirements on the property by more than 10 spaces. Construction of one or more dwellings in an existing building in the <C-2 zoning district><sup>147</sup> where the construction results in four or fewer dwelling units shall be considered a small alteration.

### Annexation<sup>148</sup>

The process of incorporating an unincorporated portion of Chaffee County into the boundaries of the City pursuant to the Municipal Annexation Act of 1965, Section 31-12-101, *et seq.*, C.R.S. and in accordance with the procedures in 16-8-40(d).

<sup>144</sup> Current 16-1-60.

<sup>145</sup> New.

<sup>146</sup> Discuss whether to use these existing terms “large and small alteration” as triggers in the new nonconforming site features section in Article 16.01.

<sup>147</sup> This reference will be updated with the new lineup of zoning districts.

<sup>148</sup> Revised to reference annexation procedure in this Code.

**Applicant<sup>149</sup>**

A person who submits a development application requesting approval of a permit or other permission authorized by this Chapter.

**Board of Adjustment**

The Board of Adjustment for the City of Salida.

**Block<sup>150</sup>**

A unit of land bounded by streets or by a combination of streets and parks, open spaces, rights-of-way, waterways, or any other barrier to the continuity of development.

**Building**

Any structure used or intended for supporting or sheltering any use or occupancy in accordance with the building codes as adopted by the City.

**Building Official<sup>151</sup>**

The municipal officer or agency charged with the responsibility of issuing construction and demolition permits and generally enforcing the provisions of the Building Code.

**Certificate of Approval or CA**

The official document/permit issued by the City Administrator approving and/or concerning, without limitation, the erection, moving, demolition, renovation, rehabilitation, remodeling, restoration, reconstruction, repair, or alteration of any historic landmark building, site or structure, or any building, site or structure within a designated historic district.

**Conditional Use Approval<sup>152</sup>**

The procedure to evaluate and approve a use that is generally compatible with the other uses permitted in a zoning district, but that requires site-specific review of its location, design, configuration, density, intensity, and operating characteristics, and may require the imposition of appropriate conditions in order to ensure compatibility of the use at a particular location, to mitigate its potentially adverse impacts and to ensure that it complies with all of the standards of this Chapter.

**Condominium<sup>153</sup>**

A common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**Condominium Unit**

A physical portion of a common interest community that is designated for separate ownership or occupancy and the boundaries of which are described or determined in the declaration.

**City Council**

The City Council of the City of Salida.

**Comprehensive Plan**

That plan and amendments to that plan for the City that provides objectives, guiding principles, and recommended actions to guide the current and long-range development of the City.

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<sup>149</sup> New.

<sup>150</sup> New.

<sup>151</sup> New.

<sup>152</sup> Revised from "conditional use" to "conditional use approval."

<sup>153</sup> New.

**Construction Plans<sup>154</sup>**

Technical engineered drawings demonstrating compliance with this Chapter, the building code, and the City's Standard Specifications for Construction and Design Criteria Manual.

**Demolition**

The total or partial destruction, disassembly, damage, razing, or tearing down of a structure or any portion of a structure. The term includes the removal of any material constituting part of the structure other than for purposes of ordinary maintenance or repair, which removal affects the exterior appearance of the structure or that reduces the stability or longevity of the structure. The term excludes the sudden or cataclysmic destruction of or damage to a structure due to acts of nature, including fire, earthquake, wind, excessive snow load, or flood.

**Demolition by Neglect**

Any total or partial destruction of or damage to a structure, or any portion of a structure, due to the failure of the owner or lessee to adequately maintain or repair the structure.

**Design Standards**

Local, state, or national criteria, specifications, or requirements referenced within this Chapter and used for the design of public or private infrastructure.

**Development<sup>155</sup>**

The construction, reconstruction, conversion, alteration, relocation, or enlargement of any building or structure; any mining, logging, excavation, or land disturbance; or any use or extensions of a use that alters the character of the property.

**Development Approval**

A permit issued by the City that certifies that a proposed development has undergone and completed the required development review procedures in accordance with 16-8-50. The development approval may include one or more conditions, which conditions shall apply to any future development or use of the land, regardless of ownership changes, unless a new development permit is obtained.

**Director**

The Community Development Director of the City, or their designee.

**Dwelling**

A building or a portion of a building containing one room, or several rooms connected together, including a separate bathroom and a single kitchen, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure.

**Dwelling Unit**

A building or portion of a building that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**FHAA<sup>156</sup>**

The federal Fair Housing Amendments Act of 1988.

**Lot**

A portion or parcel of land (whether a portion of a platted subdivision or otherwise) occupied or intended to be occupied by a building or use and its accessories, together with such yards, as are required under the provisions of this Chapter, having not less than the minimum area and off-street parking spaces required by this Chapter for a lot in the zoning district in which it is situated, and having frontage on any improved public street or on an approved private street.

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<sup>154</sup> New.

<sup>155</sup> New.

<sup>156</sup> New.

**Lot Area**

The number of square feet included within the boundaries of the lot, measured on a horizontal plane upon which the boundaries have been vertically projected.

**Materially Different<sup>157</sup>**

An application is considered materially different if it changes the means of access, the number of buildings, the number or size of lots, or an increase in the height or square footage of the proposed buildings relative to the previously submitted application or approved plan.

**Maximum Extent Practicable<sup>158</sup>**

The degree to which a project meets an adopted standard in which all possible efforts to comply with the standard or to minimize harmful or adverse impacts have been undertaken by the applicant, but full compliance cannot be achieved, and no feasible or practical alternative exists. Economic considerations may be taken into account, but shall not be the overriding factor.

**Minor Modification<sup>159</sup>**

A development approval authorizing limited deviations from certain dimensional and numerical provisions of this Chapter subject to the procedures in 16-8-70(b).

**Nonconforming Lot**

Any lot that was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but that does not conform to the standards of this Chapter for the zoning district in which the lot is located regarding minimum lot size or minimum lot frontage.

**Nonconforming Site Feature<sup>160</sup>**

Any site feature that was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but that does not comply with the standards of this Chapter for the zoning district in which the structure is located regarding driveways, off-street parking or loading areas, landscaping, buffer, screening, exterior lighting, or other site improvements.

**Nonconforming Structure<sup>161</sup>**

Any structure that was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but that does not comply with the standards of this Chapter for the zoning district in which the structure is located regarding minimum setbacks, maximum height, maximum lot coverage, maximum density or other district dimensional standards.

**Nonconforming Use**

Any use of a structure or land that was lawfully established pursuant to the zoning and building regulations in effect at the time of its development, but which use is not designated in this Chapter as a permitted or conditional use in the zoning district in which the use is located.

**Overlay Zone**

A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zoning district.

**Permitted Use**

A use that is allowed in a zoning district, subject to the restrictions applicable to that zoning district and all of the standards of this Chapter.

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<sup>157</sup> New.

<sup>158</sup> New.

<sup>159</sup> New.

<sup>160</sup> New.

<sup>161</sup> Revised to remove reference site features, which are covered by separate nonconforming site feature definition.

**Principal Use**

The purpose or function for which a lot, structure, or building is intended, designed, or constructed, or the activity which is carried out within said lot, structure, or building.

**Prohibited Use**

A use that is not permitted in a zoning district.

**Owner**

A person, firm, association, syndicate, joint venture, partnership, governmental unit, or corporation holding fee simple title to property.

**Ownership Parcel**

See *lot*, as defined in this Chapter.

**Parcel**

See *lot*, as defined in this Chapter.

**Planned Development<sup>162</sup>**

A development designed to accommodate varied types of development in patterns or layouts or incorporating a variety of use types or development features not otherwise permitted by this Chapter in a base zoning district. Planned developments are intended to provide additional benefit to the City in return for added flexibility and are negotiated through the Rezoning to PD procedures in 16-8-40(b).

**Planning Commission<sup>163</sup>**

The Planning Commission of the City of Salida.

**Plat**

A map delineating the subdivision of land, commonly showing lots, blocks, streets, and other features relevant to the development of land pursuant to this Chapter.

**Right-of-Way<sup>164</sup>**

Any area of land, including surface, overhead, or underground, granted by deed, easement, dedication, prescription, or lease, for construction and maintenance according to designated use, such as for streets and highways, drainage, irrigation, utilities, and other public services and improvements.

**RLUIPA<sup>165</sup>**

The Religious Land Use and Institutionalized Persons Act of 2000.

**Site Plan<sup>166</sup>**

A plan drawn to scale showing the uses and structures proposed for a lot or parcel. This definition also includes the evaluation of site plans in accordance with the procedures in 16-8-50(a) (minor site plans) and 16-8-50(b) (major site plans).

**Site-Specific Development Plan<sup>167</sup>**

A plan that has been submitted to the City by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right in accordance with state law and the procedures in 16-8-30(h).

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<sup>162</sup> New.

<sup>163</sup> New.

<sup>164</sup> New.

<sup>165</sup> New.

<sup>166</sup> New.

<sup>167</sup> Revised to reference state law and specific common review procedures for vested rights.

**Staff**

An employee of the Community Development Department.

**Structural Alteration**

An addition to or subtraction of parts from a structure, including walls, columns, beams, girders, foundation, doors, windows, or roof.

**Structure**

Any manmade item constructed or erected, that requires location on the ground or attached to something having a location on the ground, including but not limited to signs, buildings, and fences. Porches, slabs, patios, decks, walks, and steps that are uncovered and do not exceed 30 inches above grade are excluded from this definition.

**Subdivision**

The division of a lot, tract, or parcel of land into two or more lots, plats, sites, units, or other divisions of land for the purpose, whether immediate or future, of sale, transfer of ownership or building development; and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

**Tract<sup>168</sup>**

An area, parcel, site, piece of land, or property that is the subject of a development application. For subdivisions, the term is used for units of land created for and limited by deed restriction or dedication to a specific use, including access, utilities, open space, or community amenities and resources.

**Variance<sup>169</sup>**

An authorization of deviation from the standards of this Chapter where strict application of this Chapter results in a hardship due to circumstances of the lot and that is evaluated and decided in accordance with the procedures in 16-8-70(a).

**Vested Property Rights<sup>170</sup>**

The right to undertake and complete development and use of property under the terms and conditions of a site-specific development plan in accordance with state law and the procedures in 16-8-30(h).

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<sup>168</sup> New.

<sup>169</sup> New.

<sup>170</sup> Revised to reference state law and the specific procedures in this Code for vested rights.

# Article 16-11: Heading 1

## COMMENTARY

This section is included only for purposes of drafting and style manipulation. This "template" section will not be included in any documents intended for wider distribution.

## 16-11-10 Heading 2

Body 2

### (a) Heading 3

Body 3

(1) List 3

(2) **Heading 4**

Body 4

a. List 4

b. **Heading 5**

Body 5

1. List 5

2. **Heading 6**

Body 6

a) List 6

b) **Heading 7**

Body 7

1) List 7

2) **Heading 8**

Body 8

i. List 8