

## CHAPTER 17

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## ARTICLE 1

### General Provisions

#### Sec. 17-1-10. Title.

This Chapter shall be referred to as the "Town of Lyons Subdivision Regulations," "Subdivision Regulations" or "this Chapter." (Prior code 10-1-1; Ord. 956 §1, 2014)

#### Sec. 17-1-20. Purpose.

(a) These regulations are designed and enacted to promote and protect the health, safety and general welfare of the people of the Town of Lyons and to provide for orderly growth and harmonious, efficient development.

(b) To further these ends, these regulations are intended to:

(1) Establish minimum uniform standards for subdivision design, including planning and engineering criteria, environmental factors, performance guarantees and planned unit development requirements;

(2) Assure the planning for and provisions of adequate and efficient water supplies, sanitation, electric service, drainage, fire protection, access, street systems and other health and safety requirements;

(3) Secure adequate sites for recreation areas, open space and other public facilities;

(4) Safeguard the interests of the public and the applicant, improve land records and boundary monumentation and ensure equitable processing of subdivision plats;

(5) Preserve natural vegetation and cover and promote the natural beauty of the area;

(6) Prevent ponding or erosion from surface and subsurface runoff;

(7) Prevent air, water, noise and visual pollution;

(8) Regulate development in areas of geological and topographical hazards, including but not limited to floodplains, areas of unstable or expansive soils, excessive slopes or slope areas or areas poorly suited for building or construction; and

(9) Protect against loss or injury from inappropriate use of the land. (Prior code 10-1-2; Ord. 956 §1, 2014)

#### Sec. 17-1-30. Authority.

These Subdivision Regulations are enacted in accordance with the authority conferred by Article 23 of Title 31, C.R.S. (Prior code 10-1-3; Ord. 956 §1, 2014)

**Sec. 17-1-40. Jurisdiction.**

These regulations are applicable within the following described areas:

- (1) All property located within the legal boundaries of the Town;
- (2) Property proposed for annexation to the Town; and
- (3) Property located outside of the legal boundaries of the Town and described in a Town-adopted intergovernmental agreement that requires application of these Subdivision Regulations to the subdivision of the property. (Prior code 10-1-4; Ord. 956 §1, 2014)

**Sec. 17-1-50. Applicability and exemptions.**

(a) Whoever divides, subdivides, re-divides, re-subdivides or participates in the division of a new or existing lot, tract or parcel of land into two (2) or more lots, parcels, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, development or use, shall make the transaction subject to the provisions of this Chapter and, therefore, a plat must be submitted to and approved by the Town according to the terms of this Chapter.

(b) These Subdivision Regulations shall not apply to the following:

- (1) A division of land to heirs through an estate proceeding conducted in accordance with law.
- (2) A division of land by virtue of the foreclosure of a deed of trust in accordance with law.
- (3) A division of land within a lawfully existing cemetery for the creation of cemetery plots.
- (4) Any property owned by or leased to the Town where the Town is an applicant for subdivision approval, unless the Board of Trustees elects to subdivide the property in accordance with all or any portion of this Chapter. (Prior code 10-1-5; Ord. 956 §1, 2014)

**Sec. 17-1-60. Interpretation.**

In the interpretation and application of the provisions of this Chapter, the following criteria shall govern:

- (1) The interpretation and application of the provisions of his Chapter shall be regarded as minimum requirements for the protection of the public health, safety and welfare.
- (2) This Chapter is not intended to modify, abrogate, amend or annul any vested property right lawfully established in accordance with federal or state law prior to the effective date of these Subdivision Regulations.
- (3) The use of *may* or *should* means permissive, recommended or advised but is not mandatory; the use of *shall*, *must* or *will* means compliance is mandatory and not voluntary or permissive.

(4) If a term or phrase is subject to more than one (1) reasonable interpretation, the more stringent or restrictive interpretation is intended.

(5) If two (2) or more provisions of this Chapter or other applicable law conflict, the more stringent or restrictive provision shall govern or control.

(6) Words in the present tense include the future, unless the context clearly indicates the future tense.

(7) Words used in the singular number include the plural and words using the plural number include the singular unless the context clearly indicates the contrary. (Prior code 10-1-13; Ord. 956 §1, 2014)

**Sec. 17-1-70. Severability and saving clauses.**

(a) If any section or article of this Chapter is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, only such unconstitutional, illegal or invalid section or article will cease to be effective and any such finding shall have no bearing on the effectiveness of the remaining portions of this Chapter.

(b) The amendment or repeal of any ordinance or part thereof by this Chapter shall not release, extinguish or modify, in whole or in part, any penalty or liability, or any right of the Town, incurred or obtained under the amended or repealed ordinance or part thereof. This Chapter, so amended or repealed, shall be treated and held as remaining in force or effect for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of any penalty, liability or any right of the Town, for the purpose of sustaining any judgment, decree or order which may be rendered in such proceedings, actions, acts, decisions, hearings and appeals pending before the Town, Board of Trustees, Planning and Community Development Commission, Board of Adjustments or any other decision-making body or officer and any court. (Prior code 10-1-17; Ord. 956 §1, 2014)

**Sec. 17-1-80. Definitions.**

As used in this Chapter, the following words shall be interpreted and defined in accordance with the provisions set forth in this Section and in accordance with the rules of interpretation provided by Section 17-1-60 above.

*Adjacent property* means any property having a common border with the subject property; provided that properties divided by a public or private street or alley shall be considered adjacent.

*Alley* means a secondary public or private way typically smaller in width than a local street, used primarily for vehicular service access to the rear or the side or properties. An alley does not include a local street.

*Applicant* means a person, partnership, joint venture, association, corporation, person in a representative or agent capacity, or other legal entity or legal representative seeking approval of an application submitted to the Town in accordance with these Subdivision Regulations, and such person or entity's successor in interest. An applicant is synonymous with subdivider and may

include the owner, subdivider, developer, builder or other person or entity engaged in the subdivision or development of property.

*Arterial street* means a primary public street or thoroughfare designed for faster moving, heavier traffic flow that is projected or planned to convey more than ten thousand (10,000) vehicles per day when all land served by the street is fully developed.

*Code* means the Lyons Municipal Code, as amended.

*Collector street* means a public street or thoroughfare designed to collect, direct and accommodate traffic generated from local streets or to distribute traffic from arterial streets and highways. A collector street is projected or planned to convey more than five thousand (5,000) vehicles per day when the land served by the street is fully developed.

*Comprehensive Plan* means the effective and adopted comprehensive or master plan for the Town as authorized and contemplated by Section 31-23-206, C.R.S., however identified or titled.

*C.R.S.* means the Colorado Revised Statutes, as amended.

*Documentation of ownership, liens and encumbrances* means documentary evidence acceptable to the Town reasonably establishing: (1) that the applicant is either the fee owner of the entire property proposed for subdivision or that the applicant possesses the legal authority to subdivide the property on behalf of the fee owner; and (2) the full names and mailing addresses of all other interest holders in the property. *Documentation of ownership, liens and encumbrances* shall include all of the following:

a. A written ownership and encumbrance report or title commitment prepared by a title company and dated not more than sixty (60) days from the date of the application submission to the Town;

b. A full and properly executed agreement or power of attorney acceptable to the Town Attorney that establishes the applicant's full authority to perform all actions required by these Subdivision Regulations and to subdivide the property on behalf an owner;

c. A listing of the owners of any surface, subsurface or above-surface rights, easements or other interests in the land, including the names and addresses of such owners, together with the book or film, page and reception number of each owner as recorded in the office of the County Clerk and Recorder; and

d. A listing of all liens and encumbrances against the subject property with the book or film, page and reception number of each lien or encumbrance as recorded in the office of the County Clerk and Recorder, including the names and addresses of all such lienholders.

*Easement* means a right to use or control the property of another for a designated purpose, such as drainage, utility or access, generally established by deed or dedication on a recorded plat.

*Floodway or floodplain* means those areas depicted as within the floodway and floodplain on the official mapping adopted by the Town and approved by the Colorado Water Conservation Board.

*Geologist* means a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists or an individual registered as a geologist by a state.

*Local street* means a public or private street or alley primarily designed for or limited to providing access to abutting properties, such as streets internal to a subdivision. A local street customarily serves less than five thousand (5,000) vehicles per day.

*Lot* means a described and identifiable unit of land illustrated or depicted on a subdivision plat with the intention of offering such unit for sale or lease in a single or undivided ownership. *Lot* may also mean parcel, site, property or any similar term. A lot is not an outlot.

*Outlot* means a described and identified unit of land illustrated or depicted as an outlot on a Town-approved plat. Except to the extent expressly and specifically stated on the final plat, an *outlot* is not a lot or building site, is not part of the plat and is not approved for any use whatsoever by the plat. Use and development of an outlot requires approval of a minor subdivision plat, final plat, lot consolidation or plat amendment, as applicable.

*Owner* means a person holding or vested with ownership of a fee simple interest in real property and, by virtue of such ownership, possesses the legal right to convey, grant or dedicate such property, or to otherwise bind future owners of such property through execution of a subdivision plat or other instrument affecting the property. Such term shall include a person acting on behalf of the owner by virtue of a fully executed and effective written power-of-attorney.

*Parcel* means contiguous land described and held or owned under one (1) recorded deed.

*Planned Unit Development (PUD)* means a zone district described in Chapter 16 of this Code that is implemented only following approval of both an application for PUD zoning in accordance with Chapter 16 and approval of a preliminary plan approved in accordance with this Chapter.

*Subdivider* means any person, partnership, joint venture, association, corporation, person in a representative capacity or other legal entity or legal representative who participates in any manner in the division of land for the purpose, whether immediate or future, of sale or development.

*Subdivision* means the division of a lot, tract, parcel or structure into two (2) or more parcels, building sites, tracts, lots or estates in land for the purposes, whether immediate or in the future, of sale or development. *Subdivision* includes resubdivision of a subdivided tract into a greater number of parcels, buildings sites, tracts, lots or estates in land.

*Subdivision improvements agreement* means a contractual agreement accepted and approved by the Town to secure the construction of public improvements and the conformance and performance by the owner and applicant of the terms and conditions of subdivision approvals required by this Chapter and which shall include provisions for financial security or collateral to secure the performance of the terms and conditions, such as, but not limited to, letters of credit,

performance bonds, property bonds, private or escrow agreements, loan commitments, liens on property, deposit of certified funds or other similar surety agreements.

*Town Planner* means the Town Planner employed or appointed by the Board of Trustees. Where the position of Town Planner is vacant, the Town Administrator shall assume the duties of the Town Planner unless otherwise directed by the Board of Trustees. (Prior code 10-2-1; Ord. 956 §1, 2014)

## **ARTICLE 2**

### **Administration**

#### **Sec. 17-2-10. No permit without subdivision approval.**

(a) Unless the property is exempt from application of these Subdivision Regulations pursuant to Section 17-1-50 above, no building or improvements shall commence within the subdivision nor shall any construction or building permit, occupancy permit, or other permit for any improvement be issued until such time as all approvals required by Chapter have been issued by the Board of Trustees, the plat or other required documentation is properly executed by the appropriate parties and all required documents are recorded with the County Clerk and Recorder.

(b) Unless otherwise expressly approved by the Board of Trustees, no certificate of occupancy shall be issued for any improvement or structure unless and until all improvements serving the improvement or structure required by these Subdivision Regulations, the applicable subdivision plat and any subdivision improvement agreement have been found substantially complete and accepted by the Town. (Prior code 10-1-6; Ord. 956 §1, 2014)

#### **Sec. 17-2-20. Review fees and reimbursement of review costs.**

(a) Applicant to Pay All Expenses: At the time of submission of any application for any type of subdivision approval described in this Chapter, the applicant shall pay to the Town the established fees and deposits for the purpose of the Town's review and processing of the application. The Board of Trustees may, by resolution or ordinance, adopt and amend from time to time a fee schedule for all applications and proceedings under these Subdivision Regulations.

(b) Reimbursement Agreement Required: At the time of submission of any application for any type of subdivision approval described in this Chapter, the applicant shall execute an Agreement for Payment of Development Review Expenses ("Agreement") in a form substantially similar to that included in Appendix 17-A to this Chapter. The terms, conditions and obligations of the Agreement are incorporated as requirements of this Chapter as if set forth in full in this Section. The final form of an agreement for a subdivision application shall be subject to review, revision and approval by the Town Attorney based on the particular circumstances of the proposed development and, following such approval, shall be presented to the Town Administrator for execution. The Town Administrator may, at his or her discretion, execute the Agreement on behalf of the Town or forward such Agreement to the Board of Trustees for its consideration. No application shall be deemed complete unless accompanied by a properly executed Agreement for Payment of Development Review Expenses, in the form set forth in Appendix 17-A to this Chapter.

(c) Separate Account. The Town shall maintain separate accounts of all monies expended as a result of the review of an application. Statements of expenses incurred will be made available to the applicant upon reasonable request.

(d) Additional Expenses. In the event the Town incurs expenses for the review of the applicant's request greater than the monies collected from the applicant, the applicant shall reimburse the Town for the additional expenses. Reimbursement shall be made by the applicant within ten (10) days of the date of the Town's submission of an invoice to the applicant for the additional expenses. Failure by the applicant to pay the invoice in full within the specified time shall be cause for the Town to cease processing the application and/or deny approval of the application.

(e) Waivers and Modification of Fees and Expenses. Upon written request by an applicant, the Board of Trustees may administratively waive, modify, adjust or refund any fee or expense associated with the processing of any application where the Board of Trustees determines that any one (1) or more of the following exist:

(1) The proposed subdivision and development will be restricted to providing residential housing opportunities not generally available within the Town or its surrounding area, such as, but not limited to: (a) housing designed and priced to provide ownership opportunities to individuals with incomes below the median annual income for the Boulder County area; (b) housing for elderly individuals; (c) housing for handicapped individuals, as defined by the Fair Housing Amendments Act, 42 U.S.C. § 3602, et seq.; and/or (d) group homes for elderly, disadvantaged or handicapped individuals.

(2) The proposed subdivision and development will be restricted to a land use that will directly and substantially advance one (1) or more significant goals and policies of the Comprehensive Plan.

(3) The proposed subdivision will significantly or substantially exceed applicable requirements for dedication of desirable public open space or useable public park area or provides a significant and substantial public benefit to the Town not otherwise required by this Code.

(4) The proposed subdivision is requested by a federal, state or local governmental or quasi-governmental entity and the Board of Trustees has determined that the project will substantially advance the health, safety and welfare of the Town. (Prior code 10-1-7; Ord. 956 §1, 2014)

**Sec. 17-2-30. Administrative forms and procedures.**

The Town Planner and the Town Administrator are authorized to promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Chapter. (Prior code 10-1-8; Ord. 956 §1, 2014)

**Sec. 17-2-40. False information, suspension of approval.**

(a) It shall be unlawful and a misdemeanor violation of this Code for any person to make, offer, represent, provide or state in writing or verbally to the Town, its boards, commissions, and employees any false, incorrect or inaccurate information as part of any application for approval when such

person knows or reasonably should have known of the falseness, incorrectness or inaccuracy of the information.

(b) In addition to any other remedy available to the Town, including civil or criminal prosecution, the Board of Trustees may suspend any approval issued in accordance with these Subdivision Regulations or may impose a subsequent condition of approval upon the applicant following a determination by the Board of Trustees that the information provided by the applicant or the applicant's agents or representatives upon which such approval was based was substantially false or wholly inaccurate and that correct or accurate information would have reasonably resulted in a basis for denial of the subdivision application. Any decision to suspend approval shall be made only at a regular or special meeting of the Board of Trustees. Prior to the meeting, a written notice from the Town shall be served upon the applicant, setting forth a clear and concise statement of alleged facts and directing the applicant to appear at the meeting to be held not less than five (5) days, nor more than fifteen (15) days from the date of mailing or hand-delivery of the notice to the applicant. The Board of Trustees shall determine at the meeting the nature and extent of any alleged false or inaccurate information and shall have the authority, upon good cause being shown, to suspend approval or impose a subsequent condition of approval necessary to bring the subdivision into conformance with these Subdivision Regulations and to correct the false or inaccurate information. Any suspension of approval shall be for a period not greater than thirty (30) days. During any period of suspension, the Town may pursue other remedies provided by these Subdivision Regulations, this Code or other applicable law. (Prior code 10-1-9; Ord. 956 §1, 2014)

**Sec. 17-2-50. Inspections and stop work orders.**

The Building Official and the Town Administrator are each individually authorized and empowered to cause any structure, use or tract of land to be inspected and examined for conformance with these Subdivision Regulations and to order, in writing delivered to the occupant, applicant, subdivider, owner or any person engaged or contributing to such violation, that the violation be remedied immediately. Any such order shall command that no work shall proceed on any building or other structure or tract of land covered by such order, except work necessary to correct such violation or to ensure the safety or security to adjacent, surrounding or neighboring properties. (Prior code 10-1-10; Ord. 956 §1, 2014)

**Sec. 17-2-60. Violations and enforcement.**

(a) Violations of Subdivision Regulations: It shall be unlawful and a misdemeanor violation of these Subdivision Regulations for any person to violate any provision of these Subdivision Regulations and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(b) Violation of Express Condition of Subdivision Approval: It shall be unlawful and a misdemeanor violation of these Subdivision Regulations for any person to fail to substantially satisfy or to breach a condition or requirement expressly imposed upon any approval of any application pursuant to these Subdivision Regulations and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(c) Enforcement. In addition to any judicial enforcement of a violation of these Subdivision Regulations as provided by this Section, the provisions of these Subdivision Regulations may also be

enforced at the direction of the Board of Trustees or the Town Administrator by use of any of the following methods, either individually or in combination:

- (1) Withholding of construction or building permits for all or any improvement within the subdivision or improvement proposed to serve the subdivision;
- (2) Withholding of certificates of occupancy for any structure within the subdivision;
- (3) To the greatest extent permitted by law, revocation or suspension of any license, permit or certificate issued to any property or applicant;
- (4) Inspection and ordering the removal or abatement of violations;
- (5) Issuance of a stop work order mandating the temporary suspension of any development activity within or associated with the subdivision;
- (6) Injunctive or other proceedings authorized by law in any court of competent jurisdiction;
- (7) Assessment of costs and expenses (including but not limited to costs and expenses for administrative actions, publication, attorneys' fees and court costs) incurred by the Town in enforcement of these Subdivision Regulations and the imposition of a lien for such costs and expenses against all or any portion of the property within the subdivision;
- (8) Enforcement in a court of competent jurisdiction of any contractual agreement executed by the owner or applicant associated with the subdivision; and
- (9) Demand for payment and the receipt and use of funds held by any person or financial institution which were deposited to secure the performance of the obligation or duty the Town seeks to enforce. (Prior code 10-1-11; Ord. 956 §1, 2014)

**Sec. 17-2-70. Unlawful sales of land.**

(a) Unlawful Sale of Land: Pursuant to Section 31-23-216, C.R.S., no owner or agent of the owner of any land located within a subdivision may transfer or sell, agree to sell or negotiate to sell any land by reference to or exhibition of or by use of a plat of a subdivision before said plat has been approved as a Final Plat by the Town and recorded or filed in the office of the County Clerk and Recorder. Any violation of this restriction shall be accompanied by a penalty of one hundred dollars (\$100.00), payable to the Town, for each lot or parcel so transferred or sold, or agreed or negotiated to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this Section. The Town may enjoin such transfer or sale or agreement by action for injunction brought in any court of competent jurisdiction and may recover the penalty by civil action in any court of competent jurisdiction.

(b) No Sale Without Prior Subdivision Approval. No person may transfer, sell, agree to sell or negotiate to sell any property within the Town which is not within a subdivision approved in accordance with law.

(c) Conditional Sale Contract Permitted. It shall not be a violation of this Section for any person to agree to sell by written contract property not located within an approved subdivision where the contract expressly conditions such sale upon the final approval of a subdivision plat by the Board of Trustees in accordance with these Subdivision Regulations.

(d) It shall be unlawful for any person to sell, convey, transfer or otherwise dispose of or divide any property within the Town where such sale, conveyance, transfer, disposition or division would result in the creation of a nonconforming lot or a nonconforming parcel of land as such term is defined in Chapter 16 of this Code. In addition to any other remedy available to the Town, the Town shall not recognize or permit the use of a lot or parcel created in violation of this Section unless and until such lot or parcel is properly subdivided and meets all applicable requirements of Chapter 16, this Chapter and this Code.

(e) Transfer of Title: Any transfer of title of any part or all of an approved subdivision shall carry with it all agreements, stipulations and conditions which are required by the Town for approval of the subdivision. (Prior code 10-1-12; Ord. 956 §1, 2014)

**Sec. 17-2-80. Administrative interpretations and decisions.**

(a) The Town Planner is authorized to issue written administrative decisions concerning the application of these Subdivision Regulations to specific property or subdivision applications. The Town Planner shall provide a copy of any administrative decision to the owner or applicant.

(b) The Town Planner is authorized to issue written general administrative interpretations applicable to two (2) or more properties or similarly situated properties concerning the requirements and application of these Subdivision Regulations. All general administrative interpretations shall be collected and retained by the Town Administrator and made available for public inspection. Following promulgation of each generally applicable administrative interpretation, a copy shall be provided to both the Planning and Community Development Commission and the Board of Trustees.

(c) Any general administrative interpretation or individual administrative decision may be appealed in accordance with these Subdivision Regulations. (Prior code 10-1-14; Ord. 956 §1, 2014)

**Sec. 17-2-90. Appeals of administrative interpretations and decisions.**

(a) Any party aggrieved by a written general administrative interpretation or administrative decision may petition for appeal by submitting a request for appeal to the Town Clerk, together with the payment of the applicable fee for administrative appeals, if any. The Board of Trustees shall hear and decide appeals where it is alleged by the appellant that there is an error in any final written administrative interpretation or administrative decision. Upon receipt of a request for appeal, the Town Clerk shall schedule the matter for consideration by the Board of Trustees at the next available Board of Trustees meeting as an "Administrative Appeal."

(b) Following receipt of a request for appeal, the Town Clerk shall cause notice of the date, time and place of the appeal hearing to be sent to the appellant and to the Town Planner. All appeals shall constitute administrative actions by the Board of Trustees and shall not be deemed quasi-judicial proceedings.

(c) At a meeting of the Board of Trustees, the Board of Trustees shall review the written administrative interpretation or decision and, if desired, may take comments from the appellant, the Town Planner and other interested persons. The Board of Trustees shall affirm, modify or reverse the administrative official's decision at the conclusion of the meeting. (Prior code 10-1-15; Ord. 956 §1, 2014)

**Sec. 17-2-100. Amendments and temporary suspension of regulations.**

(a) These regulations may be amended, revised or altered from time to time by ordinance adopted by the Board of Trustees. Except for amendments of a temporary nature as permitted by Subsection (b) below, any proposed amendment shall require administrative review and consideration by the Planning and Community Development Commission and, where possible, a recommendation by the Planning and Community Development Commission of its approval or disapproval of the proposed amendment. Prior to final approval of any amendment other than amendment of a temporary nature as permitted by Subsection (b), at least one (1) public hearing shall be conducted before either the Planning and Community Development Commission or the Board of Trustees.

(b) The Board of Trustees may provide by ordinance for the temporary delay, suspension or moratorium of the effect of all or any portion of these Subdivision Regulations where necessary to serve the health, safety and welfare of the Town. Any such ordinance shall not require administrative review and consideration of the Planning and Community Development Commission. (Prior code 10-1-16; Ord. 956 §1, 2014)

**Sec. 17-2-110. Major activity notice.**

Pursuant to Section 31-23-225, C.R.S., when a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the Board of Trustees shall send notice to the State Geologist and the Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision or building permit application associated with such proposed activity. Such notice shall be in a standard form, shall be promulgated as a rule and regulation prescribed by the State and shall contain such information as the State prescribes. (Prior code 10-1-18; Ord. 956 §1, 2014)

**Sec. 17-2-120. No guarantee of utility service.**

No approval of any application for subdivision or development approval, including but not limited to a minor plat, sketch plan, preliminary plan, final plat, plat amendment, planned unit development or variance, shall be construed to guarantee, reserve, ensure or provide any amount of water or wastewater treatment capacity for the approved subdivision or development. (Prior code 10-1-19; Ord. 956 §1, 2014)

## **ARTICLE 3**

### **Minor Subdivisions**

#### **Sec. 17-3-10. Definition of minor subdivision.**

*A minor subdivision* is the division of land that:

- (1) Divides a previously undivided parcel of land held in one (1) ownership into three (3) or fewer lots or outlots;
- (2) Does not divide property zoned as a Planned Unit Development;
- (3) Does not create or result in the creation of a lot or parcel of land that would violate or fail to conform to any applicable zoning or other standard, including but not limited to lot area, minimum frontage, building height, setbacks, street or private drive width, parking or access; and
- (4) Does not involve property that was previously subdivided in accordance with a minor subdivision procedure or process described in this Chapter or in Title 10 of the Lyons Municipal Code as such Code existed on June 1, 1999. (Prior code 10-3-1; Ord. 956 §1, 2014)

#### **Sec. 17-3-20. Review procedures.**

The procedures applicable to the processing of an application of a minor subdivision are provided in Article 10 of this Chapter. (Prior code 10-3-2; Ord. 956 §1, 2014)

#### **Sec. 17-3-30. Sufficiency of application.**

All plans, reports, maps and other information required for any plan or plat must be complete and legible and must be submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete. (Prior code 10-3-3; Ord. 956 §1, 2014)

#### **Sec. 17-3-40. Contents of minor plat application.**

All minor plat applications shall meet all submittals, materials and information requirements of a final plat contained in Section 17-4-90 of this Chapter, except that the applicant shall provide or satisfy the following:

- (1) The title of the subdivision plat shall prominently identify the proposed name of the subdivision together with the phrase "Minor Plat."
- (2) Evidence of ownership and encumbrances as defined by Section 17-1-80 of this Chapter or, in the alternative where no dedication of property to the public is proposed by the plat, all of the following:

- a. A copy of a recorded deed for all of the property described in the application evidencing that the applicant is the fee owner of the property;
- b. A written, executed and notarized statement of the applicant representing to the Town that he or she is the fee owner of the property; and
- c. A certified copy of documentation from the County Assessor or County Clerk and Recorder evidencing that the applicant is the owner of record of the property. (Prior code 10-3-4; Ord. 956 §1, 2014)

**Sec. 17-3-50. Number of plat application materials.**

The applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-3-5; Ord. 956 §1, 2014)

**Sec. 17-3-60. Standard for approval.**

Recommendation of approval or conditional approval of any minor plat by the Planning and Community Development Commission and any approval or conditional approval by the Board of Trustees shall require a finding that the applicant and the evidence presented to the Planning and Community Development Commission or the Board of Trustees established the following by competent and sufficient evidence:

- (1) The proposed subdivision meets or satisfies all applicable requirements of this Chapter.
- (2) The proposed subdivision conforms to all applicable requirements for the zone districts in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas and minimum lot sizes.
- (3) The proposed subdivision substantially conforms to all other applicable requirements of this Code and other Town ordinances and resolutions.
- (4) The proposed subdivision substantially conforms to the goals and policies of the Comprehensive Plan to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Community Development Commission or Board of Trustees to decide that such application or subdivision meets or fails to meet such goal or policy.
- (5) The proposed subdivision (both during and following construction and development) will not result in an unreasonable increase in the peak rate of discharge, a decrease in the quality of discharge or any significant change in the direction or location of the point of discharge of stormwater or surface water flows upon any adjacent or neighboring property. (Prior code 10-3-6; Ord. 956 §1, 2014)

**Sec. 17-3-70. Conditions for approval.**

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval and this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-3-7; Ord. 956 §1, 2014)

**ARTICLE 4**

**Major Subdivisions**

**Sec. 17-4-10. Definition of major subdivision.**

A *major subdivision* is any division of land that is not defined as a "minor subdivision," a "lot consolidation," a "plat amendment," a "plat vacation" or a "variance application" as these terms are defined by these Subdivision Regulations. (Prior code 10-4-1; Ord. 956 §1, 2014)

**Sec. 17-4-20. Major subdivision process generally.**

(a) A major subdivision requires the processing and approval of three (3) separate plans or plats: sketch plan; preliminary plan; and final plat. Full processing and approval by the Board of Trustees of all three (3) phases in accordance with this Article constitutes approval of a major subdivision.

(1) Sketch plan. The sketch plan is the first step of the three-step major subdivision approval process. Sketch plan approval requires public hearings held before the Planning and Community Development Commission and the Board of Trustees. The applicant must receive approval or conditional approval of a sketch plan in order to proceed to the preliminary plan phase. The sketch plan process will review, at a conceptual level, the feasibility and design characteristics of the proposal based on the standards set forth in this Chapter, Chapter 16 and this Code. Because the sketch plan is a conceptual review, additional technical engineering design material, survey work and preparation of other subdivision documents will be required at later steps in the subdivision process.

(2) Preliminary plan. The preliminary plan is the second step of the three-step major subdivision approval process. The applicant must have received sketch plan approval or conditional approval in order to proceed with the preliminary plan application. Preliminary plan approval requires public hearings held before the Planning and Community Development Commission and the Board of Trustees. The preliminary plan process will review the feasibility and design characteristics of the proposal based on the standards set forth in this Chapter, Chapter 16 and this Code. The preliminary plan process will also evaluate preliminary engineering design. The applicant must receive preliminary plan approval or conditional approval in order to proceed with the final plat application.

(3) Final plat. The final plat is the last step in the three-step subdivision approval process. An applicant must have received preliminary plan approval or conditional approval and the approval must be valid at the time of submission of the final plat application in order to proceed with the final plat process. Final plat review requires public hearings before both the Planning and

Community Development Commission and the Board of Trustees. No major subdivision shall be deemed finally approved until the Board of Trustees approves or conditionally approves the final plat and the final plat is properly recorded in the office of the County Clerk and Recorder. The final plat process will review the final engineering plans, the development agreement, homeowners' association covenants, the final plat itself and any other documents, reports or studies as may be necessary to ensure conformance with this Chapter, Chapter 16 and this Code.

(b) Combine Sketch and Preliminary Plans. Each of the three (3) major subdivision application steps shall be processed separately. However, the Town Administrator and Town Planner may jointly and administratively agree to permit the consolidation and concurrent processing of a sketch plan and preliminary plan where the Town Administrator and Town Planner both determine, following the pre-submittal meeting with the subdivider, that the issues associated with the proposed major subdivision are not substantial and that an adequate review of the anticipated impacts of the proposed subdivision can be accommodated during a consolidated and combined sketch plan and preliminary plan review. Sketch plan and preliminary plan review cannot be combined for a Planned Unit Development. (Prior code 10-4-2; Ord. 956 §1, 2014)

**Sec. 17-4-30. Review procedures.**

The procedures applicable to the processing of an application of a major subdivision are provided in Article 10 of this Chapter. (Prior code 10-4-3; Ord. 956 §1, 2014)

**Sec. 17-4-40. Sufficiency of applications.**

All plans, reports, maps and other information required for any plan or plat must be complete and legible and must be submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete. (Prior code 10-4-4; Ord. 956 §1, 2014)

**Sec. 17-4-50. Sketch plan; content of application.**

The applicant shall submit to the Town twenty-five (25) copies of all sketch plan application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. The following submittals, materials and information shall comprise a complete application for sketch plan review:

- (1) A completed application in the form approved by the Town Administrator.
- (2) Payment of all required application fees and any review fee deposit.
- (3) An executed Agreement for Payment of Development Review Expenses in the form required by Article 2 of this Chapter and set forth in Appendix 17-A to this Chapter.
- (4) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter.

(5) A legal description of the property proposed to be subdivided, prepared by a licensed registered Colorado land surveyor.

(6) A list of the names and mailing addresses of all owners of adjacent property to the property proposed for subdivision as this information appears of record with the County Assessor's office.

(7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Appendix 17-B to this Chapter.

(8) Site plan. A graphic conceptual representation of the proposed subdivision and the proposed development prepared on a base map at a scale not greater than one (1) inch equals two hundred (200) feet. The site plan shall include or illustrate:

a. A general vicinity map of the subdivision illustrating the subdivision's location within the Town;

b. A title that prominently identifies the proposed name of the subdivision together with the phrase "Sketch Plan."

c. If the sketch plan is submitted in support of a zoning or rezoning application for a PUD:

1. The title of the sketch plan shall also include the phrase "Planned Unit Development."

2. The sketch plan shall include information identifying all permitted land uses, setbacks, maximum heights, minimum and maximum lot sizes, proposed conditions or restrictions upon use, and other information governing the use of the property which is customarily associated with zone district restrictions or limitations.

3. The Sketch Plan shall include the following signature block:

BOARD OF TRUSTEES APPROVAL: The Board of Trustees by Ordinance No. \_\_\_\_ approved this Sketch Plan to accompany the zoning or rezoning of the Property as a Planned Unit Development (PUD) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Mayor or Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
Town Clerk

(Town Seal)

d. Location and type of natural features of the property, including watercourses, lakes, topography, one-hundred-year floodway and floodplain, rock outcrops and surface geology,

wildlife corridors and known wildlife foraging areas, scenic vistas and significant trees and vegetation.

e. Approximate location of all existing man-made structures, utilities, streets, driveways, ditches, fences or other physical improvements on the property or within one hundred (100) feet of the property proposed for subdivision.

f. Approximate location of recorded or apparent easements or rights-of-way on the property or within one hundred (100) feet of the property.

g. Proposed location of residential, commercial and/or industrial development and new improvements, including but not limited to buildings, access points, streets, alleys, pedestrian ways, parking areas, drainage ways and drainage detention areas, open space and parks and utilities.

h. Any other data or information essential to the evaluation as may be requested by the Town to enable an adequate conceptual evaluation of the proposed subdivision.

(9) Proposal summary. A narrative statement describing the existing conditions and the proposed subdivision and development including at least the following:

a. Total proposed development area in acres with a breakdown in percentages and amounts devoted to specific land uses.

b. Zoning districts of the property and of all adjacent properties.

c. Proposed zoning districts if a rezoning is being requested.

d. If zoned for residential use or proposed for rezoning to a residential use, an approximation of the number and types of dwelling units.

e. Anticipated providers of utilities (water, sewer, gas, electric, telephone).

f. Proposal for preservation, protection, alteration or removal of significant natural features and man-made characteristics of the site. (Prior code 10-4-5; Ord. 956 §1, 2014)

#### **Sec. 17-4-60. Preliminary plan; contents of application.**

The applicant shall submit to the Town thirty (30) copies of all preliminary plan application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. The following submittals, materials and information shall comprise a complete application for preliminary plan review:

(1) A completed application in the form approved by the Town.

(2) Payment of all required application fees and any review fee deposit.

(3) An executed Agreement for Payment of Development Review Expenses in the form required by Article 2 of this Chapter and set forth in Appendix 17-A to this Chapter.

(4) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter.

(5) A legal description of the property proposed to be subdivided prepared by a licensed registered Colorado land surveyor.

(6) A list of the names and mailing addresses, as this information appears of record with the County Assessor's office, of all owners of adjacent property to the property proposed for subdivision.

(7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Appendix 17-B to this Chapter.

(8) Preliminary plan. The preliminary plan shall be prepared at a scale of one (1) inch equals one hundred (100) feet and shall be prepared by, drawn, signed and stamped by a currently registered Colorado land surveyor. The size of the map sheet shall be twenty-four (24) inches by thirty-six (36) inches. Other scales may be authorized in writing by the Town Administrator for larger, lower density developments, provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one (1) plan sheet, additional plan sheets of the same size may be used with easily identifiable match lines. The preliminary plan shall include or illustrate:

a. A general vicinity map of the subdivision illustrating the subdivision's location within the Town and showing major streets.

b. A title that prominently identifies the proposed name of the subdivision, together with the phrase "Preliminary Plan." If the property described in the preliminary plan is zoned as a PUD, the title shall include the phrase "Planned Unit Development."

c. Topography at vertical intervals of five (5) feet where the average cross-slope of the subdivision is more than ten percent (10%) and at vertical intervals of two (2) feet where the average cross-slope of the subdivision is less than ten percent (10%). Elevation data shall be based on current United States Geological Survey datum and the benchmarks used shall be identified on the plan.

d. Date of preparation, map scale, north arrow and revision box.

e. Name, address and telephone number of the applicant, landowner, planner, engineer and surveyor.

f. Subdivision names and lot owners' names for property within any adjacent subdivisions, unsubdivided tracts with owner's names, and all public lands with the agency name; and the

approximate location of lot lines within adjacent subdivision for lots adjacent to the proposed subdivision.

g. Zoning classifications of property adjacent to the property proposed for subdivision.

h. Proposed names of any new streets.

i. Location and principal dimensions of all existing streets, pedestrian ways, alleys, easements, irrigation ditches and laterals, both of record and apparent from inspection of the property, within or adjacent to the proposed subdivision.

j. Location and size of existing utilities within or adjacent to the tract to be subdivided, including water, sewer, electricity, gas and phone lines (utilities may be illustrated on a separate map at a matching scale as used for the preliminary plan).

k. Locations of streams, ditches, ponds, lakes and other water features, including direction of flow, high water elevations and the location and extent of those areas subject to inundation by the one-hundred-year frequency storm.

l. Location and description of significant existing and proposed vegetation and landscaping.

m. Location and dimensions of all proposed lots, blocks, and outlots. Lots and blocks shall be numbered. All outlots shall be lettered in alphabetical order.

n. Location, dimensions and areas expressed in acres and as a percent of the total project area of all proposed streets, off-street parking areas, pedestrian ways, bike and equestrian ways, alleys, easements and other public ways, and building setback lines.

o. Location and dimensions in acreage and as a percent of the total of all property proposed to be set aside for park and/or open space purposes, or other private reservations.

p. Location and types of any existing structures.

q. Location, alignment, profiles and cut-and-fill slope intercepts for streets and driveways for subdivisions with any slope areas of ten percent (10%) or greater.

r. Location of proposed or required exterior lighting (street lights, parking lots) and signs, including subdivision monument or entry signs.

(9) Written statement. A written statement addressing the following:

a. Any additional or supplemental information necessary to meet the content requirements of the preliminary plan in Paragraph (2) above that is not thoroughly shown on the preliminary plan.

b. A description of the overall development concept, purpose and function of the proposed subdivision. If the property is or will be residentially zoned, the description shall include

representations concerning the proposed quality and styles of residential structures, anticipated sales price ranges and amenities.

c. Environmental considerations, including but not limited to unstable slopes and rockfall zones, related geologic factors, floodplains and wetlands, and alignment of structures and improvements to take into consideration climatic conditions and high groundwater areas.

d. Unique site characteristics not common to other properties, including any natural and man-made features and/or hazards that may affect the development.

e. A phasing plan and development schedule for the construction and/or installation of streets, utilities, buildings and landscaping.

f. A supplement to the drainage plan describing how the applicant proposes to mitigate potential drainage, erosion and water retention or storage problems that may result from development.

g. Statements explaining the nature of all easements and reservations, if any.

h. A parks and open space plan documenting types of space (public, private, common areas), proposed uses, development in sequence with the phasing plan and administrative and maintenance responsibilities.

i. A general description of the purpose and nature of covenants and homeowners' association or other contemplated private or contractual restrictions on the use, character and maintenance of the subdivision.

j. If the subdivision will permit commercial, business or industrial use, a description of the nature of the use, the trade area and anticipated employment base shall be submitted in sufficient detail to demonstrate the economic viability of the proposed use.

(10) Reports and studies. The following preliminary reports and studies shall be prepared by a qualified professional at the applicant's cost and submitted with the application:

a. Preliminary drainage report and grading plan. The drainage plan shall include a contour map marked to show existing drainage basins, flow patterns, concentration points, approximate runoff quantities and velocities and all existing natural and man-made features affecting site drainage and location of on-site and off-site surface water detention facilities and any easements for conveyance of surface water.

b. Preliminary soils report.

c. Preliminary utility plan for delivery of water, sewer and electric services to and throughout the property.

d. Preliminary traffic impact analysis, including an evaluation of the vehicular and pedestrian traffic patterns, together with estimated trips per day, for roads within the subdivision and for all routes leading from the subdivision and connecting to highway and arterial roads.

(11) Additional information. The applicant shall provide other information requested by the Planning and Community Development Commission or Board of Trustees that may be necessary to adequately review the proposal for conformance with the applicable requirements. (Prior code 10-4-6; Ord. 956 §1, 2014)

**Sec. 17-4-70. Final plat; contents of application.**

(a) The applicant shall submit to the Town thirty (30) copies of all final plat application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. A final plat application may be submitted for all or any logical portion of property described in an approved and valid preliminary plan. The following submittals, materials and information shall comprise a complete application for final plat review:

- (1) A completed application in the form approved by the Town.
- (2) Payment of all required application fees and any review fee deposit.
- (3) An executed Agreement for Payment of Development Review Expenses in the form required by Article 2 of this Chapter and set forth in Appendix 17-A to this Chapter.
- (4) Evidence of Ownership and Encumbrances as defined by Section 17-1-80 of this Chapter.
- (5) A legal description of the property proposed to be subdivided prepared by a licensed registered Colorado land surveyor.
- (6) A list of the names and mailing addresses, as this information appears of record with the County Assessor's office, of all owners of adjacent property to the property proposed for subdivision.
- (7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Appendix 17-B to this Chapter.

(b) Final Plat:

(1) The final plat shall be drafted at a scale of one (1) inch to one hundred (100) feet (1" = 100') by the use of permanent ink on a stable reproducible drafting medium with outer dimensions of twenty four (24) inches by thirty six (36) inches. Maps of two (2) or more sheets shall be referenced to an index map placed on the first sheet. Other scales may be authorized in writing by the Town Administrator for larger, lower density developments, provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one (1) plan sheet, additional plan sheets of the same size with easily identifiable match lines may be used.

(2) A title that prominently identifies the proposed name of the subdivision, together with the phrase "Final Plat." If the property described in the final plat is zoned as a PUD, the title shall include the phrase "Planned Unit Development."

(3) Date of preparation, map scale and north arrow.

(4) Name, address and telephone number of the applicant, land owner, planner, engineer and surveyor.

(5) Total acreage and surveyed description of the area. A check of the mathematical closure on the boundary lines, street rights-of-way, easements, lots, outlots and blocks of the final plat may be performed by the Town Engineer, at the Town Engineer's option. Any closure errors in excess of one one-hundredths (0.01) of a foot must be corrected prior to plat approval. No final plat showing plus or minus dimensions will be approved.

(6) Primary boundary survey control points with monument descriptions; all parcel lines dimensioned with lengths; curve data, including chord lengths and bearings; basis of bearings and relation to true meridian. The data shall be sufficiently complete to independently determine closures for rights-of-way, easements, boundaries, lots, outlots and blocks. All required boundary monuments shall be placed in the field before the final plat is recorded.

(7) Tract boundary lines, road right-of-way lines, easements and other sites with accurate bearings and dimensions, including chord lengths and bearings, central angles, arc lengths and radii of all curves.

(8) Name and right-of-way width of each street. Right-of-way widths are to be shown at each leg of an intersection, at point of curvature and point of tangent, at dead-ends and at angle points.

(9) Locations, dimensions and purposes of all easements.

(10) Number or letter to identify each lot, outlot and block. Lots and blocks shall be numbered. All outlets shall be lettered in alphabetical order.

(11) An identification of the streets, alleys, easements, parks, open space and any other public facilities shown on the plat to be dedicated to public use. No areas within the plat may be designated as areas of conditional, planned or future public acquisition. Dedications of public property not made on the final plat shall be made only by general warranty deed unless otherwise approved by the Board of Trustees.

(12) Names of all adjoining subdivisions with dotted lines of abutting lots. If the adjoining land is unplatted, it should be shown as such.

(13) Signature and seal of the registered land surveyor.

(14) A delineation of the extent of the one-hundred-year floodplain.

(15) All final plat approval certifications, plat language and recording information in the forms identified in Appendix 17-C to this Chapter.

(c) The following final studies and reports shall be prepared by a qualified professional at the applicant's cost and submitted with the application:

(1) Final drainage report and grading plan.

(2) Final soils and geology report.

(3) Final utility plan for delivery of water, sewer and electric services to and throughout the property.

(4) Final traffic impact analysis, including an evaluation of the vehicular and pedestrian traffic patterns, together with estimated trips per day, for roads within the subdivision and for all routes leading from the subdivision and connecting to highway and arterial roads.

(d) Additional Information Required:

(1) One (1) copy of any agreements, conveyances, restrictions or private covenants that will govern the use and maintenance of the subdivision and any common private open space or private subdivision amenity.

(2) Complete engineering plans and specifications sufficient to commence construction for all public facilities and improvements to be installed, including but not limited to:

a. Water and sewer improvements, including all sewer lift stations;

b. Streets and related improvements;

c. Bridges; and

d. Storm drainage, detention and erosion control improvements.

(3) One (1) copy of any agreement affecting the subdivision and public or private improvements made with ditch companies, railroad companies, utility providers and state, county or local governmental or quasi-governmental agencies.

(4) Written description of arrangements and financial institution commitments for providing financial guarantees and sureties for the timely completion of all public improvements.

(5) A preliminary or draft subdivision improvements agreement in the form required by Article 15 of these Subdivision Regulations and generally acceptable to both the subdivider and the Town Attorney, and which is capable of finalizing upon the conclusion of the public hearing and approval or conditional approval of the final plat by the Board of Trustees.

(e) Applicants are strongly encouraged to submit with the application additional information sufficient to demonstrate that the proposed subdivision will satisfy the standards for approval contained in Section 17-4-100 of this Chapter. (Prior code 10-4-7; Ord. 956 §1, 2014)

**Sec. 17-4-80. Standards for approval of major subdivision.**

Recommendation of approval or conditional approval of any stage of a major plat by the Planning and Community Development Commission, and any approval or conditional approval by the Board of Trustees, shall require a finding that the applicant and the evidence presented to the Planning and Community Development Commission or the Board of Trustees established the following by competent and sufficient evidence:

(1) All of the required prior approvals for the subdivision and development were issued and remain valid and effective:

a. For a sketch plan, no prior approval is required.

b. For a preliminary plan, a finding must be made that a sketch plan was approved or conditionally approved by the Board of Trustees not more than twelve (12) months prior to the date of submission of an application for preliminary plan approval or that the sketch plan is currently valid and effective as the result of the approval of an extension of the effective date of the sketch plan.

c. For a final plat, a finding must be made that a preliminary plan for the subdivision was approved or conditionally approved by the Board of Trustees not more than twelve (12) months prior to the date of submission of an application for final plat approval or that the preliminary plan is currently valid and effective as the result of the approval of an extension of the effective date of the preliminary plan.

(2) The proposed subdivision and development conforms to all applicable requirements for the zone district in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas, and minimum lot sizes.

(3) The proposed subdivision and development substantially conforms to all other applicable requirements of this Code and Town ordinances and resolutions.

(4) The proposed subdivision and development substantially conforms to the goals and policies of the Comprehensive Plan to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Community Development Commission or Board of Trustees to decide that such application or subdivision meets or fails to meet such goal or policy.

(5) The application:

a. For sketch plan approval meets or satisfies all applicable requirements of these Subdivision Regulations;

b. For preliminary plan approval, is in substantial conformance with the approved sketch plan and the preliminary plan meets or satisfies all applicable requirements of these Subdivision Regulations; or

c. For final plat approval, is in substantial conformance with the approved preliminary plan and the final plat meets or satisfies all applicable requirements of these Subdivision Regulations;

(6) Adequate capacity of water and wastewater utilities are currently available within the Town for the entire subdivision and development. Such finding shall require the following evaluation and determination:

a. The projected water and wastewater treatment demand created by the proposed subdivision will not result in a total actual loading (including infiltration) to exceed eighty percent (80%) of the Town's plant capacities. In making such determination, the Town shall consider:

1. The existing demand placed upon the treatment capacity from all users, whether within or outside of the Town;

2. The projected demand for the treatment capacity created by the anticipated completion of finally approved but yet uncompleted subdivisions;

3. The projected demand upon the treatment capacity created by existing subdivided property for which a water or sewer tap has been issued;

4. The projected demand created by other proposed subdivisions for which a completed application for approval has been submitted to the Town; and

5. Any improvements to the Town's water or wastewater facilities proposed by the applicant and acceptable to the Board of Trustees which will be undertaken and constructed at the applicant's cost and expense.

b. The Town shall maintain and shall make available to applicants and the public data and estimates of the Town's water and wastewater treatment capacities, existing demand for such capacities and the projected demand for such capacities. Such data and estimates shall include the estimated or projected demand for services generated by different land uses. Each applicant shall use such data and estimates in evaluating and determining the availability of capacity sufficient to serve the proposed subdivision, and each applicant shall submit to the Town a study or report which evaluates whether sufficient water and wastewater treatment capacities are available to serve the proposed development. Where an applicant disagrees with or refutes such Town-generated data or estimates, the applicant may also provide alternative studies, reports and evaluations which are based upon applicant-generated data and estimates.

(7) For any five-year and for any one-hundred-year storm event, the proposed subdivision (both during and following construction and development) will not result in an increase in the peak rate of discharge, a decrease in the quality of discharge or any significant change in the direction or location of the point of discharge, of stormwater or surface water flows upon any adjacent or neighboring property.

(8) For any final plat of property zoned for residential use, sufficient competent evidence establishes that the proposed number and kind of residential units are reasonably projected to be

constructed and absorbed into the market and occupied by owners or lessees within five (5) years of the date of subdivision approval. The opinion and evidence prepared by a real estate economist or other similar professional deemed qualified by the Town to evaluate economies and to assess residential market demand within the Lyons area shall be accepted as competent evidence to establish such a finding by the Planning and Community Development Commission or Board of Trustees. The Town may maintain a list of Town-approved qualified professionals for use by an applicant. Where the applicant selects a professional other than a Town-approved professional to provide an opinion of market demand, such professional's qualifications shall be subject to review and approval by the Planning and Community Development Commission and the Board of Trustees prior to acceptance of the opinion of such professional. (Prior code 10-4-8; Ord. 956 §1, 2014)

**Sec. 17-4-90. Conditions for approval.**

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval and this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-4-9; Ord. 956 §1, 2014)

**Sec. 17-4-100. Effect of approval of sketch plan.**

Approval or conditional approval of a sketch plan shall be valid for twelve (12) months following the date of approval or conditional approval by the Board of Trustees. Such period may be extended by the Board of Trustees for not more than six (6) additional months upon written request of an applicant only where the applicant establishes to the satisfaction of the Board of Trustees that the applicant is reasonably pursuing completion of a preliminary plan. (Prior code 10-4-10; Ord. 956 §1, 2014)

**Sec. 17-4-110. Effect of approval of preliminary plan.**

Approval or conditional approval of a preliminary plan shall be valid for twelve (12) months following the date of approval or conditional approval by the Board of Trustees. Such period may be extended by the Board of Trustees for not more than six (6) additional months upon written request of an applicant only where the applicant establishes to the satisfaction of the Board of Trustees that the applicant is reasonably pursuing completion of a final plat. (Prior code 10-4-11; Ord. 956 §1, 2014)

**Sec. 17-4-120. Effect of approval of final plat.**

(a) Recording of Final Plat: As soon as practicable following approval by the Board of Trustees, the fully executed original of the final plat and any applicable subdivision improvements agreement shall be filed and recorded by the Town Clerk in the office of the County Clerk and Recorder at the applicant's expense.

(b) No approval or conditional approval of a final plat and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the final plat is recorded with the County Clerk and Recorder.

(c) Unless otherwise expressly modified by an approved subdivision improvements agreement or other agreement between the owner and the Board of Trustees, final approval or conditional approval of a final plat shall be valid for three (3) years following the date of plat recordation and, thereafter, during any period for which a legally recognized vested property right inures to the subdivision. (Prior code 10-4-12; Ord. 956 §1, 2014)

## **ARTICLE 5**

### **Plat Amendment**

#### **Sec. 17-5-10. Definition of plat amendment.**

A *plat amendment* is any form of amendment or modification of an approved and recorded minor plat or a final plat that:

- (1) Does not create any additional lots or outlots;
- (2) Does not create or result in the creation of a lot or outlot that would violate or fail to conform to any applicable zoning or other standard, including but not limited to lot area, minimum frontage, building height, setback, street or private drive width, parking or access;
- (3) Does not reduce the amount of any dedicated or publicly owned land and, in the opinion of the Town Planner, does not significantly alter or impact the subdivision's access, parking or traffic circulation system; and
- (4) Either:
  - a. Eliminates or relocates one (1) or more lot lines within the subdivision; and/or
  - b. Modifies, amends, adds or deletes a restriction, limitation, condition or other obligation, right or duty stated on the minor plat or final plat. (Prior code 10-5-1; Ord. 956 §1, 2014)

#### **Sec. 17-5-20. Authority to seek plat amendment.**

An application for plat amendment may be initiated by the owners of record of all lots and outlots within the area directly affected by the proposed amendment. The *area directly affected by the proposed amendment* shall mean:

- (1) The properties that would be physically affected by an amendment to eliminate or relocate one (1) or more lot lines within the subdivision. Where a single lot line is eliminated or relocated, the area directly affected by the proposed amendment would customarily include the lots on each side of the lot line,
- (2) All properties which are directly benefited by the restriction, limitation, condition or other obligation, right or duty stated on the minor plat or final plat. In many instances, all properties within the subdivision are affected by a restriction, limitation, condition or other obligation, right or duty stated on the minor plat or final plat. (Prior code 10-5-2; Ord. 956 §1, 2014)

**Sec. 17-5-30. Plat amendment review procedures.**

The procedures applicable to the processing of an application of a Plat Amendment are provided in Article 10 of this Chapter. (Prior code 10-5-3; Ord. 956 §1, 2014)

**Sec. 17-5-40. Contents of plat amendment application.**

The following submittal, materials, and information shall comprise a complete application for a Plat Amendment:

- (1) A completed application in the form approved by the Town.
- (2) Payment of all required application fees and any review fee deposit.
- (3) An executed Agreement for Payment of Development Review Expenses in the form required by Article 2 of this Chapter and set forth in Appendix 17-A to this Chapter.
- (4) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter.
- (5) A legal description of the property proposed for plat amendment, prepared by a licensed registered Colorado land surveyor.
- (6) A list of the names and mailing addresses, as this information appears of record with the County Assessor's office, of all owners of adjacent property to the area directly affected by the proposed amendment.
- (7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Appendix 17-B to this Chapter.
- (8) For a plat amendment that eliminates or relocates one (1) or more lot lines within the subdivision, an amended plat shall be submitted with the application.
  - a. The amended plat shall be drafted at a scale of one (1) inch to one hundred (100) feet (1" = 100') by the use of permanent ink on a stable reproducible drafting medium with outer dimensions of twenty-four (24) inches by thirty-six (36) inches. Other scales may be authorized in writing by the Town Administrator for larger, lower density developments, provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one (1) plan sheet, additional plan sheets of the same size may be used with easily identifiable match lines.
  - b. A title that prominently identifies the name of the recorded subdivision, together with the phrase "Plat Amendment." If the property described in the recorded plat is zoned as a PUD, the title shall include the phrase "Planned Unit Development."
  - c. Date of preparation, map scale and north arrow.

d. Name, address and telephone number of the applicant, land owner, planner, engineer and surveyor.

e. Total acreage and surveyed description of the lots and area subject to the proposed amendment.

f. A clear illustration or description of the amendment proposed, using shading, crosshatching, highlighting or other techniques to accurately illustrate the proposed amendment.

(9) For a plat amendment that modifies, amends, adds or deletes a restriction, limitation, condition or other obligation, right or duty stated on the recorded plat, a written description clearly stating the proposed amendment in a form suitable for recordation with the office of the County Clerk and Recorder. The written description shall be subject to approval of the Town Attorney and, at a minimum, the written amendment shall include:

a. A title that prominently identifies the name of the recorded subdivision, together with the phrase "Plat Amendment." If the property described in the recorded plat is zoned as a PUD, the title shall include the phrase "Planned Unit Development."

b. The County recording information (book and page) of the original subdivision plat, and the recording information and titles of any other prior amendments of the original plat.

c. Date of preparation, name, address and telephone number of the applicant, land owner and any professionals (planners, engineers, surveyors) assisting in the plat amendment. (Prior code 10-5-4; Ord. 956 §1, 2014)

**Sec. 17-5-50. Number of plat application materials.**

The Applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches, where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-5-5; Ord. 956 §1, 2014)

**Sec. 17-5-60. Standards for approval of plat amendment.**

Recommendation of approval or conditional approval of any stage of a plat amendment by the Planning and Community Development Commission, and any approval or conditional approval by the Board of Trustees, shall require a finding that the applicant and the evidence presented to the Planning and Community Development Commission or the Board of Trustees established the following by competent and sufficient evidence:

(1) The proposed amendment meets or satisfies all applicable requirements of this Chapter.

(2) The proposed subdivision conforms to all applicable requirements for the zone district in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas and minimum lot sizes.

(3) The proposed subdivision substantially conforms to all other applicable requirements of this Code and all regulations promulgated by the Town.

(4) The proposed subdivision substantially conforms to the goals and policies of the Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Community Development Commission or Board of Trustees to decide that such subdivision meets or fails to meet such goal or policy.

(5) The proposed amendment would not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants.

(6) The proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of Town residents. (Prior code 10-5-6; Ord. 956 §1, 2014)

**Sec. 17-5-70. Conditions for approval.**

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval and this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-5-7; Ord. 956 §1, 2014)

**Sec. 17-5-80. Effect of approval of plat amendment.**

(a) Recording of Amended Plats: Within ten (10) working days of notification of an approval by the Board of Trustees, all amended plats shall be filed and recorded in the office of the Town Clerk and the County Clerk and Recorder at the applicant's expense.

(b) No approval or conditional approval of a plat amendment shall be deemed effective or finally approved until the amended plat is recorded with the County Clerk and Recorder. (Prior code 10-5-8; Ord. 956 §1, 2014)

**ARTICLE 6**

**Plat Vacation**

**Sec. 17-6-10. Definition of plat vacation.**

A *plat vacation* means any termination, elimination and vacation of a previously approved and recorded minor plat or final plat so as to return all of the previously platted property to an unplatted and unsubdivided condition. A plat vacation is not a vacation of a public street or right-of-way. (Prior code 10-6-1; Ord. 956 §1, 2014)

**Sec. 17-6-20. Authority to seek vacation of plat.**

An application for plat vacation may be initiated by:

(1) The Board of Trustees, with or without a recommendation by the Planning and Community Development Commission; or

(2) All owners of record or the duly authorized agent of any owner or record of all lots and outlots within the approved and recorded subdivision plat. (Prior code 10-6-2; Ord. 956 §1, 2014)

**Sec. 17-6-30. Plat vacation review procedures.**

The procedures applicable to the processing of an application of a minor subdivision are provided in Article 10 of this Chapter. (Prior code 10-6-3; Ord. 956 §1, 2014)

**Sec. 17-6-40. Contents of plan vacation application.**

All plat vacation applications shall meet the following submittal, materials and information requirements:

(1) Application in the form approved by the Town.

(2) Payment of all required application fees and any review fee deposit.

(3) An executed Agreement for Payment of Development Review Expenses in the form required by Article 2 of this Chapter and set forth in Appendix 17-A to this Chapter.

(4) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter.

(5) A legal description of the property proposed for plat vacation prepared by a licensed registered Colorado land surveyor.

(6) A list of the names and mailing addresses, as this information appears of record with the County Assessor's office, of all owners of property within the original subdivision plat that is subject to the proposed vacation, including all owners or beneficiaries of easements.

(7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Appendix 17-B to this Chapter.

(8) Notice of plat vacation. A written description unconditionally stating that the recorded subdivision plat is vacated and voided. The written description shall be in a form suitable for recordation with the office of the County Clerk and Recorder if the vacation is approved by the Town. The written description shall be subject to approval of the Town Attorney and, at a minimum, the written description shall include:

a. A title that prominently identifies the name of the recorded subdivision, together with the phrase "Plat Vacation and Termination."

b. The County recording information (book and page) of the original subdivision plat, and the recording information and titles of any other prior amendments of the original plat.

c. Date of preparation, name, address and telephone number of the applicant, landowner and any professionals (planners, engineers, surveyors) assisting in the plat vacation application.

For any property within the subdivision proposed for vacation zoned as a PUD, an application for rezoning shall accompany the plat vacation application requesting a rezoning to a zone district other than PUD. (Prior code 10-6-4; Ord. 956 §1, 2014)

**Sec. 17-6-50. Number of plat application materials.**

The applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-6-5; Ord. 956 §1, 2014)

**Sec. 17-6-60. Standards for approval.**

Approval or conditional approval of any plat vacation by either the Planning and Community Development Commission or the Board of Trustees shall require a finding that the applicant and the evidence presented to the Planning and Community Development Commission or the Board of Trustees established the following:

(1) Development of the property in accordance with the recorded subdivision plat will not permit efficient use of the platted property.

(2) Development of the property in accordance with the recorded subdivision plat will not advance the goals and objectives of this Code or the Comprehensive Plan.

(3) The proposed plat vacation would neither interfere with nor deny access via a public thoroughfare to existing structures within the recorded plat adjoining properties, utility services or other improvements.

(4) The proposed plat vacation would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant and it would not be detrimental to the public health, safety or welfare of Town residents.

(5) The proposed vacation substantially conforms to the goals and policies of the Comprehensive Plan to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Community Development Commission or Board of Trustees to decide that such subdivision meets or fails to meet such goal or policy. (Prior code 10-6-6; Ord. 956 §1, 2014)

**Sec. 17-6-70. Conditions for approval.**

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval and this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-6-7; Ord. 956 §1, 2014)

**Sec. 17-6-80. Effect of approval.**

(a) Within ten (10) working days of approval by the Board of Trustees, the notice of plat vacation shall be filed and recorded in the office of the County Clerk and Recorder at the applicant's expense.

(b) No approval or conditional approval of a plat vacation shall be deemed effective or finally approved until the approved notice of plat vacation is recorded in the office of the County Clerk and Recorder. (Prior code 10-6-8; Ord. 956 §1, 2014)

**ARTICLE 7**

**Lot Consolidation**

**Sec. 17-7-10. Purpose.**

The purpose of this Article is to establish an administrative subdivision process applicable to proposals to consolidate and combine lawfully subdivided lots into one (1) or more building sites (otherwise known as a *lot consolidation*). This Article is intended to provide for the more efficient processing of plats proposing lot consolidation without the need to undertake a formal public hearing process, provided that all requirements of this Article are satisfied. (Prior code 10-7-1; Ord. 956 §1, 2014)

**Sec. 17-7-20. Definition.**

A *lot consolidation* means any proposal and application that is determined by the Town Planner to meet all of the following criteria:

- (1) The proposal affects property that was previously subdivided into legally recognized lots in accordance with the requirements of this Code.
- (2) The proposal would consolidate property owned by the applicant only.
- (3) The proposal seeks to consolidate or combine two (2) or more contiguous and adjacent lots into a fewer number of lots by the vacation or elimination of one (1) or more lot lines.
- (4) The proposal does not propose the relocation or reconfiguration of previously established lot lines.
- (5) The proposal does not seek to consolidate or combine property into a lot that would be divided by a public or private road.
- (6) The proposal does not create or result in the creation of a lot or parcel of land that would not conform to any applicable zoning or other standard, including but not limited to lot area, minimum frontage, building height, setback, public or private road or private drive standards, parking or access; except that: if the previously subdivided lots proposed for consolidation are lawfully recognized nonconforming lots due to a failure to conform to the applicable minimum lot area requirement, the lot consolidation must result in a reduction by at least fifty percent (50%) of

the otherwise allowable density permitted for the previously subdivided lots. (Prior code 10-7-2; Ord. 956 §1, 2014)

**Sec. 17-7-30. Lot consolidation review procedures.**

All applications for lot consolidation shall be administratively reviewed by the Town Planner without notice or a public hearing and may be approved by the Town Planner in accordance with this Article. Following submission of a lot consolidation application and plat, the Town Planner shall determine whether the application and plat are complete as required by this Article. Following receipt of a completed application and plat, the Town Planner shall reach a final decision concerning the application within fifteen (15) days of the date of submission of the completed application and lot consolidation plat unless such deadline is waived by the applicant. A failure by the Town Planner to reach a final decision within fifteen (15) days shall be deemed an administrative decision to deny the application, which may be appealed as provided by Section 17-7-80 of this Article. (Prior code 10-7-3; Ord. 956 §1, 2014)

**Sec. 17-7-40. Sufficiency of application.**

All plans, reports, maps and other information required for any plan or plat must be complete and legible and must be submitted by the deadlines established by these Subdivision Regulations or deadlines established during the review process. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete. (Prior code 10-7-4; Ord. 956 §1, 2014)

**Sec. 17-7-50. Contents of application.**

All lot consolidation applications shall meet all submittals, materials and information requirements of a final plat contained in Subsection 17-4-70(b) of this Chapter, except that the applicant shall provide or satisfy the following:

- (1) The title of the plat shall prominently identify the name of the recorded subdivision, together with the phrase "Lot Consolidation."
- (2) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter or, in the alternative, all of the following:
  - a. A copy of a recorded deed for all of the property described in the application evidencing that the applicant is the fee owner of the property;
  - b. A written, executed and notarized statement of the applicant representing to the Town that he or she is the fee owner of the property; and
  - c. A certified copy of documentation from the County Assessor or County Clerk and Recorder evidencing that the applicant is the owner of record of the property.

(3) The following certificate of approval shall be substituted for and replace the certificate of approval of the Board of Trustees required by Appendix 17-C to this Chapter:

APPROVED by the Town of Lyons Town Planner and approved for recordation with the Boulder County Clerk and Recorder's Office pursuant to the Lyons Municipal Code this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Prior code 10-7-5; Ord. 956 §1, 2014)

**Sec. 17-7-60. Number of application materials.**

The applicant shall submit to the Town five (5) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-7-6; Ord. 956 §1, 2014)

**Sec. 17-7-70. Standards for approval.**

An application and plat for a lot consolidation shall be administratively approved by the Town Planner where the Town Planner finds:

(1) The proposed subdivision meets the definition of a "lot consolidation" contained in this Chapter.

(2) The lot consolidation plat meets all content requirements of this Chapter.

(3) The proposed lot consolidation fully conforms to all applicable requirements for the zone district in which the property is located, including but not limited to minimum lot size requirements; except that, if the previously subdivided lots proposed for consolidation are lawfully recognized nonconforming lots due to a failure to conform to the applicable minimum lot area requirements, the lot consolidation results in a reduction of the density within the platted area of at least fifty per cent (50%).

(4) The proposed lot configuration and arrangement do not, in the opinion of the Town Planner, create illogical or substantially unusable lot areas.

(5) The lot consolidation does not, in the opinion of the Town Planner, substantially and adversely affect adjacent lots or raise significant issues of policy which are not addressed by the Comprehensive Plan or this Code. (Prior code 10-7-7; Ord. 956 §1, 2014)

**Sec. 17-7-80. Town Planner's decision and appeal to Planning and Community Development Commission.**

(a) Upon a finding by the Town Planner that the proposed lot consolidation meets the standards for approval set forth in Section 17-7-70 above, the Town Planner shall cause a fully executed lot consolidation plat to be recorded with the County Clerk and Recorder at the applicant's expense.

(b) The Town Planner shall deny a lot consolidation application for failure to meet the requirements of Section 17-7-70. Any decision to deny an application shall be made in writing stating the specific reasons for denial, and the decision shall be promptly mailed to the applicant. The

applicant may appeal a denial by the Town Planner to the Planning and Community Development Commission by requesting an appeal in writing, delivered to the Town Planner not more than ten (10) days following the date of the applicant's receipt of the written notice of denial. The Planning and Community Development Commission shall administratively consider an applicant's timely request for an appeal at a regular meeting. Following consideration of the application and plat, the Planning and Community Development Commission may affirm the Town Planner's decision or, upon a finding that the application meets all the standards set forth in Section 17-7-70, the Planning and Community Development Commission may reverse the Town Planner's decision and order the Town Planner to approve the lot consolidation plat. In the event that the Planning and Community Development Commission orders the Town Planner to approve the application and plat, the Town Planner shall process and record the plat in accordance with Subsection (a) above. (Prior code 10-7-8; Ord. 956 §1, 2014)

**Sec. 17-7-90. Conditions for approval.**

The Town Planner may impose reasonable conditions upon any approval of a plat consolidation that are necessary to ensure continued conformance with the standards of approval or the County Land Use Regulations. (Prior code 10-7-9; Ord. 956 §1, 2014)

**ARTICLE 8**

**Variances**

**Sec. 17-8-10. Definition.**

A *variance* means a waiver, modification, reduction or other dispensation concerning a standard or requirement imposed by these Subdivision Regulations for an identifiable lot, block or property. (Prior code 10-8-1; Ord. 956 §1, 2014)

**Sec. 17-8-20. Authority to seek variance.**

An application for a variance may be initiated by:

(1) The Board of Trustees, with or without a recommendation by the Planning and Community Development Commission; or

(2) An owner of the property subject to the standard or requirement for which the variance is requested. (Prior code 10-8-2; Ord. 956 §1, 2014)

**Sec. 17-8-30. Variance review procedures.**

The procedures applicable to the processing of an application of a variance are provided in Article 10 of this Chapter. (Prior code 10-8-3; Ord. 956 §1, 2014)

**Sec. 17-8-40. Contents of variance application.**

All variance applications shall meet the following submittal, materials, and information requirements:

- (1) Application in the form approved by the Town.
- (2) Payment of all required application fees and any review fee deposit.
- (3) Evidence of ownership and encumbrances as defined in Section 17-1-80 of this Chapter or, in the alternative, all of the following:
  - a. A copy of a recorded deed for all of the property described in the application, evidencing that the applicant is the fee owner of the property;
  - b. A written, executed and notarized statement of the applicant representing to the Town that he or she is the fee owner of the property; and
  - c. A certified copy of documentation from the County Assessor or County Clerk and Recorder evidencing that the applicant is the owner of record of the property.
- (4) A legal description of the property upon which the variance is requested.
- (5) A list of the names and mailing addresses, as this information appears of record with the County Assessor's office, of all owners of adjacent property to the property that is subject to the proposed variance.
- (6) A detailed description of the variance requested, together with the section number of the standard or requirement to be varied. (Prior code 10-8-4; Ord. 956 §1, 2014)

**Sec. 17-8-50. Number of variance application materials.**

The applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-8-5; Ord. 956 §1, 2014)

**Sec. 17-8-60. Standards for approval of variance.**

Approval or conditional approval of any variance application by either the Planning and Community Development Commission or the Board of Trustees shall require a finding that the applicant and the evidence presented to the Planning and Community Development Commission or the Board of Trustees established the following:

- (1) Due to conditions unique to the site and not existing on other similarly situated properties, literal enforcement of the standard or requirement would place an unnecessary and unreasonable hardship upon the applicant.
- (2) The granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the neighborhood and surrounding area.
- (3) The proposed variance will not be adverse to the goals and policies of the Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are

sufficiently specific to permit the Planning and Community Development Commission or Board of Trustees to decide that the application meets or fails to meet such goal or policy. (Prior code 10-8-6; Ord. 956 §1, 2014)

**Sec. 17-8-70. Conditions for approval.**

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval, this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-8-7; Ord. 956 §1, 2014)

**Sec. 17-8-80. Approval and effect of variance.**

(a) Variances shall be approved only by written resolution of the Board of Trustees in a form approved by the Town Attorney. Within ten (10) working days of approval by the Board of Trustees, the resolution shall be filed and recorded in the office of the County Clerk and Recorder at the applicant's expense.

(b) No approval or conditional approval of a variance shall be deemed effective or finally approved until the approved resolution is recorded with the office of the County Clerk and Recorder.

(c) Unless otherwise expressly stated in the resolution granting a variance application, variances shall run with the property described in the application. (Prior code 10-8-8; Ord. 956 §1, 2014)

**ARTICLE 9**

**Survey Correction Plat**

**Sec. 17-9-10. Definition.**

A *survey correction plat* means any form of proposed amendment or modification of an approved and recorded subdivision plat:

(1) That is either:

a. Intended for the sole purpose of correcting one (1) or more evident and apparent typographical, spelling or other errors contained in a legal description which, in the opinion of the Town Planner, does not substantially or significantly alter the purpose and intent of original approved and recorded plat; or

b. Intended to correct survey errors in a plat caused by the surveyor's reasonable reliance upon incorrectly located monumentation or upon an inaccurate and officially recognized township plat map prepared prior to 1960; and

(2) That does not create any additional lots or outlots; and

(3) That does not reduce the amount or configuration of any dedicated or publicly owned land or land under public use. (Prior code 10-9-1; Ord. 956 §1, 2014)

**Sec. 17-9-20. Authority to seek survey correction plat.**

An application for a survey correction plat may be initiated by the owners of record of all lots and outlots directly affected by the proposed amendment. The *area directly affected by the proposed amendment* shall mean that the properties that would be physically and directly affected by the survey correction plat. Where a lot line is eliminated or relocated by the correction plat, the *area directly affected by the proposed amendment* would customarily include the lots on each side of the lot line. (Prior code 10-9-2; Ord. 956 §1, 2014)

**Sec. 17-9-30. Survey correction plat amendment review procedures.**

All applications for a survey correction plat shall be administratively reviewed by the Town Planner without notice or a public hearing and may be approved by the Town Administrator upon the recommendation of approval of the Town Planner. Within seven (7) days following submission of a completed survey correction application and plat, the Town Planner shall make a recommendation to the Town Administrator concerning the conformance of the application and the plat with this Article. Upon the recommendation of conformance by the Town Planner, the Town Administrator shall either approve or disapprove the application and plat within ten (10) days of the date of the Town Planner's recommendation unless such deadline is waived by one (1) or more of the applicants. A failure by the Town Administrator to reach a final decision within ten (10) days shall be deemed denial of the application. The Town Administrator's decision to disapprove the survey correction plan shall be an administrative decision for purposes of appeal. (Prior code 10-9-3; Ord. 956 §1, 2014)

**Sec. 17-9-40. Contents of application.**

All Survey Correction Plat applications shall meet all submittals, materials, and information requirements of a Final Plat contained in Subsection 17-4-70(a), except that the applicant shall provide or satisfy the following:

- (1) The title of the plat shall prominently identify the name of the recorded subdivision, together with the phrase "Survey Correction Plat."
- (2) A complete list of the names, addresses and telephone numbers of all the owners of property within the platted area of the survey correction plat.
- (3) The name, address and telephone number of one person who shall be the representative of all applicants and who shall be the contact person responsible for the processing of the application.
- (4) Evidence of ownership and encumbrances for all lots within the plat as defined in Section 17-1-80 of this Chapter or, in the alternative, all of the following:
  - a. A copy of all recorded deeds for all of the property described in the application evidencing that the applicants are the fee owners of all of the property described within the survey correction plat.
  - b. A written, executed and notarized statement of all applicants representing to the Town that they are the fee owners of the properties.

c. A certified copy of documentation from the County Assessor or County Clerk and Recorder evidencing that the applicants are the owners of record of the properties.

(5) The following certificate of approval shall be substituted for and replace the certificate of approval by the Board of Trustees required by Appendix 17-B to this Chapter:

APPROVED by the Town Administrator of the Town of Lyons and approved for recordation with the Boulder County Clerk and Recorder's Office pursuant to the Lyons Municipal Code this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Prior code 10-9-4; Ord. 956 §1, 2014)

**Sec. 17-9-50. Number of application materials.**

The applicant shall submit to the Town five (5) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) inches by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals. (Prior code 10-9-5; Ord. 956 §1, 2014)

**Sec. 17-9-60. Standards for approval.**

Approval of a Survey Correction Plat by the Town Administrator shall require an administrative finding that the application materials established the following:

(1) The proposed amendment meets or satisfies all applicable requirements of these Subdivision Regulations.

(2) The proposed subdivision conforms to all applicable requirements for the zone districts in which the property is located, including but not limited to, requirements for setbacks, height, floor and lot areas, and minimum lot sizes.

(3) The proposed subdivision substantially conforms to all other applicable requirements of the Lyons Municipal Code and all regulations promulgated by the Town.

(4) The proposed subdivision substantially conforms to the goals and policies of the Lyons Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of the Municipal Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning Commission or Town Board to decide that such subdivision meets or fails to meet such goal or policy.

(5) The proposed amendment would not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants.

(6) The proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of Town residents. (Prior code 10-9-6; Ord. 956 §1, 2014)

**Sec. 17-9-70. Conditions for approval.**

The Town Administrator may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval and this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents. (Prior code 10-9-7; Ord. 956 §1, 2014)

**Sec. 17-9-80. Effect of approval.**

(a) Recording of correction plats: Within ten (10) working days of approval by the Town Administrator, all correction plats shall be filed and recorded in the office of the Town Clerk and in the County Clerk and Recorder at the applicant's expense.

(b) No approval or conditional approval of a correction plat shall be deemed effective or finally approved until the plat is recorded with the office of the County Clerk and Recorder. (Prior code 10-9-8; Ord. 956 §1, 2014)

**ARTICLE 10**

**Application Review Procedures**

**Sec. 17-10-10. Applicability and purpose.**

This Article applies to each of the following subdivision processes described in this Chapter and describes the procedures identified as applicable to the subdivision process in Section 17-10-20 below:

- (1) Minor subdivision.
- (2) Major subdivision.
- (3) Lot consolidation.
- (4) Plat amendment.
- (5) Plat vacation.
- (6) Variance.
- (7) Survey correction plat. (Prior code 10-12-1; Ord. 956 §1, 2014)

**Sec. 17-10-20. Table of subdivision processes.**

The Table of Subdivision Processes sets forth the procedures applicable to each subdivision process identified in these Subdivision Regulations.



(3) The purpose of the preapplication meeting shall be to assist the subdivider in understanding the Town's subdivision processes and to permit the Town Planner to determine the applicable process and regulations for the proposed application. Upon request of the subdivider, the Town Planner shall provide to the subdivider a written determination concerning the appropriate procedure for the processing of the applicant's proposed application.

(b) Where a preapplication meeting is required by Section 17-10-20, no application shall be accepted or processed by the Town unless and until the preapplication meeting is held. (Prior code 10-12-4; Ord. 956 §1, 2014)

**Sec. 17-10-40. Completeness determination.**

Where an application requires a completeness determination in accordance with Section 17-10-20 above, the following process shall apply:

(1) Within ten (10) days following receipt of an application, the Town Planner shall administratively review the application and determine whether the application complies with the applicable application content requirements of these Regulations.

(2) All plans, reports, maps and other information required for any plan or plat must be complete and legible. A failure of the application to meet the requirements of these Subdivision Regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

(3) In the event that the Town Planner determines that the application complies with the applicable requirements, the Town Planner shall schedule the application for review in accordance with Section 17-10-20.

(4) In the event that the Town Planner determines that the application is incomplete, the Town Planner shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Town Planner determines that the applicant has remedied the application's deficiencies. (Prior code 10-12-5; Ord. 956 §1, 2014)

**Sec. 17-10-50. Agency referrals.**

Where an application requires agency referral in accordance with Section 17-10-20 of this Article, the following process shall apply:

(1) For purposes of any required agency referral to local agencies as required by Section 17-10-20, the phrase *local agencies* shall include:

- a. Police;
- b. Fire District;
- c. School District;

- d. Appropriate electric service provider (other than the Town);
- e. Appropriate telephone service provider;
- f. Lyons Park and Recreation Commission;
- g. Any affected irrigation or ditch company; and
- h. Any other county, regional, state or federal agencies that may be deemed by the Town Administrator or Town Planner as specially affected or interested.

(2) For purposes of any required agency referral to all agencies as required Section 17-10-20, the phrase *all agencies* shall include:

- a. All agencies identified as a local agency in Paragraph (1) above.
- b. Boulder County Land Use Department.
- c. Colorado Department of Transportation.

d. Any other county, regional, state or federal agency that may be deemed by the Town Administrator or Town Planner as specially affected or interested, including but not limited to the Board of County Commissioners, Colorado State Engineer, Soil Conservation Service, Colorado Geological Service, Denver Regional Council of Governments, Colorado State Forest Service and the Colorado Water Conservation Board.

(3) A copy of each application shall be referred by Town Staff to the appropriate agencies following a determination of application completeness by the Town Planner. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application.

(4) It is the responsibility of the agency or individual receiving the referral to define any potential conflict with the application and to return a written referral response to the Town within the time period specified in the referral letter. Any referral responses which are not received in a timely manner may not, at the option of the Town Planner, be included in the processing of the application. The lack of response from a referral agency to a request for referral comment shall be interpreted as "No Comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a timely agency comment shall not preclude the Planning and Community Development Commission or Board of Trustees from later seeking agency comment on a specific issue raised during the review process or any hearing.

(5) Failure to forward a referral of an application to an agency as required by Section 17-10-20 shall not constitute a material deviation from the subdivision application review process and shall not void or invalidate any action taken by the Planning and Community Development Commission or Board of Trustees. The requirement of agency referral shall be considered as a preferred, but discretionary, action by the Town. (Prior code 10-12-6; Ord. 956 §1, 2014)

**Sec. 17-10-60. Staff review.**

Where an application requires a completeness determination in accordance with Section 17-10-20 of this Article, the following process shall apply:

(1) Following the deadline set for return of agency responses to the Town, the Town staff shall administratively review the application, all supplemental materials and agency comments to determine if, in the opinion of the Town staff, the application is generally consistent with these regulations. The Town Planner and staff members shall transmit the Town staff's written findings by mail to the applicant.

(2) The Town staff shall also notify the applicant concerning the nature of any returned referrals which are critical of the plan or which recommend denial of the plan. Once the staff review is deemed completed by the Town Planner, the Town Planner shall schedule the matter for presentation to the Planning and Community Development Commission as may be required by Section 17-10-20. (Prior code 10-12-7; Ord. 956 §1, 2014)

**Sec. 17-10-70. Notice requirements.**

All public notices of hearings required by these Subdivision Regulations shall include the date, time, place and purpose of the hearing, a general description of the property affected and any other information deemed appropriate by the Town Clerk to apprise the public of the general nature of the action proposed. Notice shall be made when required in accordance with the requirements of Section 17-10-20 of this Article, and may include notice by publication, mailing or posting, or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public.

(1) Notice by publication. Where notice by publication is required for any public hearing by Section 17-10-20, notice of the hearing shall be published in a newspaper of general circulation within the Town at least fourteen (14) days before the date of the hearing.

(2) Notice by mailing.

a. Where notice by mailing is required for any public hearing by Section 17-10-20, notice shall be deposited in the United States mail, first-class postage prepaid, or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. mail or delivery to another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice, or invalidation of the hearing.

b. Where notice by mailing is required for any public hearing, mailed notice shall be addressed to owners of adjacent property as their names appear in the real property records of the County Assessor or County Clerk and Recorder. For purposes of determining addressees for mailed notice, the Town may rely upon the ownership information provided by the applicant as part of the application.

(3) Notice by posting,

a. Where notice by posting is required for any public hearing by Section 17-10-20, notice shall be posted on the property that is subject to the hearing in a location that is reasonably determined by the applicant to provide the greatest degree of visibility to members of the public. In most instances, the posting shall be made along the primary traveled public right-of-way adjacent to the property. Posting shall be initially made at least fourteen (14) days before the date of the hearing.

b. Failure of the posted notice to remain in place and visible during the entire posting period prior to the hearing shall not be deemed sufficient cause to require a postponement, re-posting or invalidation of the hearing where the applicant demonstrates at the hearing that reasonable efforts were employed by the applicant to ensure that the posted notice remained visible. Reasonable efforts may include routine visits to the property to ensure that the posted sign is visible and in good repair. Applicants are encouraged to maintain a "posting log" or other written record of the dates, times and condition of the posted notice. (Prior code 10-12-8; Ord. 956 §1, 2014)

**Sec. 17-10-80. Administrative presentation of application.**

Where an application requires an administrative presentation to the Planning and Community Development Commission or the Board of Trustees (the "reviewing body") in accordance with Section 17-10-20 of this Article, the following process shall apply:

(1) At a scheduled meeting of the reviewing body, the Town Planner and/or Town Administrator shall conduct an administrative presentation of the application. The purpose of the administrative presentation is to familiarize the reviewing body with the scope of the proposed subdivision application and the applicable process for review.

(2) The administrative presentation shall be conducted as an administrative or informational meeting, and the review shall not be conducted as a formal public hearing. Other than the form of notice of a public meeting required by the Colorado Open Meetings Act, Section 24-6-401, et seq., C.R.S., no public notice of the administrative presentation shall be required.

(3) No public testimony, statement by the applicant or other evidence shall be taken or considered by the reviewing body, and no decision, deliberation or statement of position or opinion concerning the merits of the proposed subdivision shall be made or conducted by the reviewing body. Individual members of the reviewing body may inform the Town Planner of issues or information that may be of interest or concern to the reviewing body at the time of formal application review and public hearing. The administrative presentation shall not be considered part of the public hearing record for the application. (Prior code 10-12-9; Ord. 956 §1, 2014)

**Sec. 17-10-90. Public hearings.**

Where an application requires a public hearing before the Planning and Community Development Commission or the Board of Trustees (the "reviewing body") in accordance with Section 17-10-20 of this Article, the following process shall apply:

(1) The Town Clerk shall set the date and time of the public hearing. Notice of the public hearing shall be issued in accordance with Sections 17-10-20 and 17-10-70 of this Article.

(2) At the public hearing, the reviewing body shall review the application for conformance with these Subdivision Regulations and the applicable review standards for the application. The public hearing shall be conducted in accordance with any adopted bylaws of the reviewing body.

(3) Any public hearing or other action of the reviewing body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.

(4) Following the conclusion of the public hearing, the reviewing body shall decide that the application be approved, conditionally approved or denied. For any preliminary plan or final plat, the date upon which the plat shall be deemed submitted to the Planning and Community Development Commission for purposes of Section 31-23-215(1), C.R.S., shall be the date at which the public hearing is concluded.

(5) The applicant for any subdivision approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by these Subdivision Regulations. Any decision by the reviewing body to approve or conditionally approve a subdivision plan, plat or other application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the Planning and Community Development Commission and Board of Trustees shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision. (Prior code 10-12-10; Ord. 956 §1, 2014)

#### **Sec. 17-10-100. Recording of plat and supporting documentation.**

Where the final decision by the Board of Trustees to approve or conditionally approve any subdivision application must be evidenced by the recordation of a plat or other documentation in accordance with Section 17-10-20 of this Article, the following process shall apply:

(1) Following approval or conditional approval of the application by the Board of Trustees, the applicant shall cause the fully executed plat or other documentation intended for recordation as part of the application approval to be delivered to the Town Clerk in a form acceptable for recordation by the County Clerk and Recorder.

(2) The Town Clerk shall review the form of the plat or documentation for completeness of all required signatures and notarizations. Where the plat or other documentation is determined by the Town Clerk to be complete and in the proper form for recordation, the Town Clerk shall cause the plat or other documentation to be recorded in the office of the County Clerk and Recorder.

(3) All costs of recordation shall be paid in advance or reimbursed to the Town by the applicant. (Prior code 10-12-11; Ord. 956 §1, 2014)

## ARTICLE 11

### Design Standards and Criteria

#### **Sec. 17-11-10. Purpose and scope.**

The character and environment of the Town will be greatly affected by the design of subdivisions. The residents within the area must have available to them safe and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, protect the view, minimize the need to reshape and excavate the land, and afford privacy for the residents and protection from noise and vehicular traffic. Natural features and vegetation of the area must be preserved if at all possible. Applicants are encouraged to orient structures in such a fashion as to take full advantage of climatic characteristics affecting heating, cooling, wind loads and alternative energy systems. (Prior code 10-13-1; Ord. 956 §1, 2014)

#### **Sec. 17-11-20. Design standards minimum requirements.**

Subdivision design shall demonstrate conformance with the requirements of this Article. The Board of Trustees may modify or waive any design standard as part of subdivision approval where the Board of Trustees finds that that an alternative or different standard proposed by the applicant will provide significantly greater protection of the public health, safety and welfare. Modification or waivers to these design standards shall not generally be granted by the Board of Trustees. (Prior code 10-13-2; Ord. 956 §1, 2014)

#### **Sec. 17-11-30. General site design standards and guidelines.**

(a) Subdivision design shall conform with all applicable standards for the zone district in which the property is located.

(b) Applicants shall demonstrate complete conformance with all applicable standards and procedures required by federal and state law, including but not limited to issuance of final or conditional permits or approvals from federal and state agencies such as the Environmental Protection Agency (EPA), state air quality control and state water quality control agencies, the United States Army Corps of Engineers, Federal Emergency Management Agency (FEMA), the Colorado Department of Transportation (CDOT) and the Colorado Public Utilities Commission. Applicants are strongly encouraged to obtain any necessary approvals or permits, or to secure written findings establishing exemptions from state and federal regulation, prior to submission of a subdivision application.

(c) Subdivision design shall minimize alteration of topographic and natural features of the site except where alteration is necessary to control surface drainage (e.g., creation of detention areas) and to avoid hazardous traffic conditions (e.g., to align intersections at right angles).

(d) Subdivision design shall demonstrate a consideration of the property's climatic conditions and solar exposure in an effort to reduce or minimize hazardous road conditions and hazardous conditions

on sidewalks resulting from the accumulation of ice and snow. (Prior code 10-13-3; Ord. 956 §1, 2014)

**Sec. 17-11-40. Block design.**

(a) The lengths, widths and shapes of blocks shall be designed with regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of uses contemplated.

(2) Lot sizes required by the property's zone district.

(3) The need for convenience and emergency access, circulation and traffic safety.

(4) Limitations and opportunities presented by the topography of the site.

(b) Block lengths shall not exceed six hundred (600) feet nor be less than four hundred (400) feet.

(c) Block design and layout shall provide for one (1) or more logical and reasonable pedestrian ways leading to established and planned routes connecting the subdivision to neighborhood schools, playgrounds, shopping centers and other public uses. (Prior code 10-13-4; Ord. 956 §1, 2014)

**Sec. 17-11-50. Lot design.**

(a) The lengths, widths and shapes of lots shall be designed with regard to:

(1) Provision of adequate building sites suitable to the type of uses permitted within the zone district.

(2) Accommodation of necessary public utilities and parking facilities.

(3) The provision of safe and efficient access based on the types of uses permitted within the zone district.

(4) Lot sizes required by the property's zone district.

(5) Limitations and opportunities presented by the topography of the site.

(b) Double frontage lots are prohibited except in the following circumstance:

(1) Where double frontage lot design is necessary to separate residential development from an adjacent highway, arterial street or collector street.

(2) Where access to the highway, arterial or collector street is prohibited from the lots.

(3) Where the subdivision design incorporates a fencing and/or landscaping plan that ensures a uniform and consistent design along the highway, arterial or collector street.

All double frontage lots shall have a lot depth of not less than one hundred thirty (130) feet.

(c) Reverse frontage lots (adjacent lots that permit or provide either access or front building orientation from different streets) are prohibited.

(d) Residential corner lots shall provide extra or additional lot size in order to permit appropriate building setback from and orientation to both streets.

(e) All lots shall be designed to provide an adequate and usable building site following application of the requirements of these Subdivision Regulations and the applicable zone district requirements. Where any portion of a lot includes a slope of more than twenty-five percent (25%) or a ridgeline, or lies within a floodplain or floodway area, any map or plat of the lot shall graphically identify the allowable building area or building site resulting from the application of these Subdivision Regulations and the applicable zone district requirements for the lot.

(f) The creation of a privately owned outlot shall be prohibited, except where such outlot is expressly limited by the subdivision plat to use as a location for private subdivision monument entry signage and the perpetual private maintenance of the outlot and signage is ensured through private covenants approved by the Town at the time of subdivision review and approval.

(g) Property lines of lots located at the corners of two (2) intersecting local streets shall be rounded by an arc having a radius of not less than fifteen (15) feet.

(h) Property lines of lots located at a corner of a collector or arterial street shall be rounded by a radius of at least twenty-five (25) feet. (Prior code 10-13-5; Ord. 956 §1, 2014)

**Sec. 17-11-60. Access to adequate public thoroughfare required.**

(a) All subdivisions shall be served by direct, uninterrupted and permanent access to an existing public thoroughfare capable of safely and efficiently handling both the existing demand upon such thoroughfare and the estimated vehicular traffic volume generated by the proposed subdivision.

(b) All major subdivisions shall be accessible from an existing highway, arterial street or collector street that meets all road standards for public streets provided by these Subdivision Regulations and this Code. Where the existing roadway system providing access to the major subdivision fails to meet the applicable standards, subdivision approval shall be denied until such time that the Town's scheduled capital improvement plan brings the roadway system into conformance with these Subdivision Regulations and this Code. In the alternative, the applicant may upgrade the roadway system at the applicant's expense as part of the public improvements necessary to serve the subdivision.

(c) Secondary Access Required: The street layout within a residential subdivision shall be designed to provide for at least two (2) means of public access to lots within the subdivision. This secondary access requirement shall not apply to lots within a subdivision that obtain access from a cul-de-sac street which is less than four hundred (400) feet in length or cul-de-sacs greater than four hundred (400) feet that are authorized by issuance of a variance to these Regulations. Both primary and secondary access shall be provided by paved public streets meeting all design and construction

standards applicable to such streets; provided, however, that the Board of Trustees may permit secondary access not meeting such standards where it is demonstrated that:

- (1) The secondary access is sufficient to permit access by emergency vehicles.
- (2) The secondary access will be regularly maintained, and will remain permanently available, for emergency vehicle use.
- (3) The secondary access will not be detrimental to the public health, safety and welfare. The Board of Trustees may waive the requirement for secondary access to any subdivision only upon a finding by the Board of Trustees that one (1) or more physical conditions associated with the subdivision, such as topography, property ownership patterns or existing development on adjacent property, prevent or preclude an opportunity for constructing secondary access and the absence of secondary access will not be detrimental to the public health, safety and welfare. (Prior code 10-13-6; Ord. 956 §1, 2014)

**Sec. 17-11-70. Streets and alleys.**

All streets and alleys shall meet the following design requirements:

- (1) All streets shall conform to the comprehensive street and highway plan of the Town.
- (2) All streets and alleys shall be dedicated to the public. Private streets or alleys are prohibited.
- (3) All streets and alleys shall be constructed and paved in accordance with the applicable construction standards for the Town. All streets and associated curbs, gutters and sidewalks shall be designed and constructed to allow for the safe and convenient movement of handicapped individuals and shall meet all federal and state requirements and standards for accessibility.
- (4) Alleys shall be open at both ends. Dead-end alleys are prohibited.
- (5) Street layout shall be designed to connect and relate in a logical and efficient manner to existing and planned roads. Street layout and design shall consider topographic conditions, soil conditions (particularly considering drainage and erosion factors) and public convenience, safety and aesthetics.
- (6) Intersections of streets shall be made at approximately right angles unless topographical or physical features prevent such an alignment.
- (7) Not more than two (2) streets shall intersect at any one (1) point.
- (8) Intersection visibility shall be unobstructed for a minimum of one hundred (100) feet.
- (9) The centerline of a new intersection along one (1) side of an existing street shall align with the centerline of any existing intersection on the opposite side of such street.

(10) The center of two (2) streets forming a three-way intersection shall be spaced not less than one hundred fifty (150) feet from the centerline of any other three-way or four-way intersection.

(11) Streets shall be leveled, whenever possible, to a grade of four percent (4%) or less for a distance of at least one hundred (100) feet when approaching all intersections.

(12) Access to a state highway shall occur only at intersections approved by the Colorado Department of Transportation in consultation with the Town Engineer.

(13) A cul-de-sac shall not exceed four hundred (400) feet in length as measured along the centerline from a point at the extended property lines of the adjacent lots at the open end and terminating at the farthest side of the circumference of the turnaround. All cul-de-sacs shall have an unobstructed turnaround diameter of at least one hundred (100) feet unless otherwise approved by the Planning and Community Development Commission and Board of Trustees at the time of subdivision approval. Surface drainage of a cul-de-sac shall be directed toward the intersecting street; except that a drainage easement may be provided through abutting lots where topographic conditions preclude the direction of drainage toward the intersecting street and reasonable provision is made to ensure continuing and perpetual maintenance of the easement through covenants or other property restrictions approved by the Town.

(14) Dead-end streets, with the exception of cul-de-sacs, shall be prohibited unless approved by the Town and designed to connect with a future street in an adjacent unplatted parcel. If a dead-end street is approved, a temporary turnaround may be required by the Board of Trustees where it is determined by the Board of Trustees that the temporary turnaround is desirable to facilitate the provision of emergency services and to promote the safe and efficient management of vehicular traffic. A temporary turnaround shall be established by the dedication of a public easement which shall burden the lots upon which the turnaround is located and which shall terminate upon the Town's acceptance of the through street as a public improvement.

(15) The dedication of less than the full width of a street within a subdivision plat shall not be accepted by the Town unless:

a. The dedication is made necessary as the result of a previous dedication of only a portion of the width of a street; or

b. The applicant obtains a public dedication from the abutting landowner of the remaining portion of the street, together with an irrevocable letter of credit (see Appendix 17-D to this Chapter) or other form of financial guarantee satisfactory to the Town which guarantees the cost of all improvements and construction of the full width of the street.

(16) Street and alley rights-of-way for all subdivisions shall meet the following standards:

<i>Street Type</i>	<i>ROW &amp; Utility Easement</i>	<i>Min. Centerline Curve Radius</i>	<i>Min. % of Grade</i>	<i>Max. % of Grade</i>
Arterial	80 feet	250 feet	0.5%	4%

street				
Collector street	70 feet	250 feet	0.5%	6%
Local street	64 feet	100 feet	0.5%	8%
Alley	20 feet	No curvature permitted	0.5%	6%

(17) Street names may be proposed by the applicant at the time of subdivision application. Final approval of street names shall be made by the Board of Trustees. Street addresses shall be assigned by the Town in accordance with the applicable numbering system. (Prior code 10-13-7; Ord. 956 §1, 2014)

**Sec. 17-11-80. Private driveways.**

(a) Private driveways shall meet the following requirements:

<i>Driveway Type</i>	<i>Min. Width of Access</i>	<i>Min. centerline Curve Radius</i>	<i>Max. % of Grade</i>
Driveway serving only 1 dwelling unit	12 feet	30 feet	12%
Driveway serving 2 or more dwelling units	16 feet	40 feet	12%

(b) All driveways shall be designed to match as nearly as possible to natural and existing topography of the site.

(c) All driveways greater than fifty (50) feet in length shall be constructed of and shall maintain an all-weather surface.

(d) All driveways shall be maintained in a condition which permits reasonable emergency vehicle access to the principal structures on the property.

(e) The design, maintenance and use of a driveway shall not result in or permit the tracking of mud or rock onto public streets.

(f) Cross-culverts shall be installed at locations where driveways cross natural drainageways or where a change in road grade is greater than two percent (2%). (Prior code 10-13-8; Ord. 956 §1, 2014)

**Sec. 17-11-90. Sidewalks and pedestrian access.**

(a) Sidewalks shall conform to the adopted construction standards and specifications of the Town. All sidewalks and associated curb and gutter shall be designed and constructed to allow for the safe and convenient movement of handicapped individuals and shall meet all federal and state requirements and standards for accessibility, including curb ramps. A median strip of grassed or landscaped area at least six (6) feet wide shall separate all sidewalks from the adjacent curb and gutter on all arterial streets, residential collector streets and residential local streets.

(b) Subdivision design and layout shall provide for one (1) or more logical and reasonable pedestrian access leading to established and planned routes connecting the subdivision to neighborhood schools, playgrounds, shopping centers and other public uses.

(c) Sidewalks shall be included within the dedicated rights-of-way of all roads in the following dimensions:

<i>Type of Street</i>	<i>Residential Zone Districts</i>		<i>Nonresidential Zone Districts</i>	
	<i>A</i>	<i>E, EC, R-1</i>	<i>R-2, R-3</i>	<i>C, B, LI, GI</i>
Local	Optional <sup>1</sup>	Both sides, 4 feet wide	Both sides, 5 feet wide	Both sides, 6 feet wide
Collector	Optional <sup>2</sup>	Both sides, 5 feet wide	Both sides, 5 feet wide	Both sides, 6 feet wide
Arterial	Optional <sup>2</sup>	Both sides, 5 feet wide	Both sides, 5 feet wide	Both sides, 6 feet wide

<sup>1</sup> Optional, but where provided, four-foot minimum width on either side of the street with concrete curbs.

<sup>2</sup> Optional, but where provided, five-foot minimum width on either side of the street with concrete curbs.

Sidewalks and pedestrian access requirements for property within a PUD zone district shall be determined by the Planning and Community Development Commission and Board of Trustees based on the uses, density, design and location of the PUD. (Prior code 10-13-9; Ord. 956 §1, 2014)

**Sec. 17-11-100. Public easements.**

(a) Public easements sufficient to provide reasonable service facilities for public utilities shall be dedicated on each subdivision plat and shall meet the following minimum standards:

- (1) At least fifteen (15) feet in width when located on one (1) side of a rear lot line; or
- (2) At least a total of twenty (20) feet (ten [10] feet on each side) when centered on a rear lot line; and
- (3) At least fifteen (15) feet (seven and one-half [7.5] feet on each side) along side lot lines.

(b) The use or uses for each public easement shall be designated on the plat. Where undesignated, the easement shall be available for all public uses. Whenever possible, easements should permit co-location of uses to minimize the need for multiple easements. The applicant is encouraged, in lieu of providing easements on each and every lot line, to propose a public easement layout plan for providing the necessary utilities in order to reduce the number and complexity of easements. The layout plan is subject to approval by the utility providers and by the Town.

(c) Sanitary sewer lines shall not be located along side lot lines or extend between lots, except where such location is determined by the Board of Trustees as the only reasonable alternative due to topographic or physical features of the property and a twenty-foot-wide easement for both the line location and future maintenance is provided on the plat.

(d) Lot layout shall provide positive surface water drainage away from structures. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed to prevent increases in historic flow, volume, frequency and concentration of storm drainage water from each lot to adjacent lots.

(e) Drainage easements shall be established for all drainage ways, channels, streams or irrigation ditches traversing a subdivision. The location of such easements shall conform substantially to the natural and historic lines of such watercourse and shall include additional reasonable width for maintenance purposes. Where a third party holds an ownership interest in a drainage way, channel, stream or irrigation ditch, the applicant shall obtain the owner's written consent to any modification or relocation of the drainage system.

(f) If a proposed drainage system or plan will convey water across private land located outside of the development or subdivision, the applicant shall secure the legal and permanent right to such use of land outside of the development or subdivision.

(g) Fire lanes shall be required where determined by the Town as necessary to protect the area. When required, all fire easements shall be at least sixteen (16) feet in width, have an all-weather surface acceptable to the Town and remain free of obstructions and available for access at all times.

(h) In nonresidential subdivisions, a "blanket easement" for utilities shall be provided by the subdivision plat unless building sites and easements are identified on the plat. (Prior code 10-13-10; Ord. 956 §1, 2014)

**Sec. 17-11-110. Steep slope protection.**

(a) Steep Slope Defined: A steep slope shall include any land area greater than two hundred fifty (250) square feet with an average slope greater than twenty-five percent (25%).

(b) Identification of Steep Slopes Required. Any application for subdivision shall graphically identify all steep slopes on the property.

(c) Steep Slope Mitigation and Reduction of Impact: Subdivision design shall prevent and avoid the location of any development or improvement within an area of a steep slope. Where such location of development or improvement cannot otherwise be reasonably avoided, the following mitigation measures shall be required:

(1) Preparation and submission to the Town with the application of a soils and geologic study prepared by a geologist containing recommendations for appropriate structure design.

(2) Minimization of the extent of disturbed areas and a plan for the re-vegetation of all disturbed areas immediately after development within the area or within the next growing season.

(3) Minimization of road cuts, retaining walls and road grades to avoid scarring of the steep slope area.

(4) Design of structures appropriate for the steep slope area, which may include reducing the footprint of the structure, construction or walk-out or garage-under structures, use of foundation walls as retaining walls or the location of structures as close to an access road as permitted or possible.

(5) Other reasonable conditions or safeguards deemed necessary by the board, commission or administrative staff person with final authority to approve the subdivision plat or application. (Prior code 10-13-11; Ord. 956 §1, 2014)

**Sec. 17-11-120. Ridgeline protection.**

(a) **Ridgeline Defined:** A ridgeline shall include any point or line within the property described in the subdivision where the top of a ridge meets the sky. A ridgeline is commonly considered the crest, peak or top of a hillside or knoll. Development of a structure upon a ridgeline would cause the structure to protrude above the ridgeline and result in the structure having a backdrop of the sky.

(b) **Identification of Ridgelines Required:** Any application for subdivision for property having more than fifty (50) feet of elevation change between the lowest and highest elevation points within the property shall identify all ridgelines within the property.

(c) **Ridgeline Development and Mitigation of Impact:** All development shall avoid the location of structures on ridgelines so that the highest point of any structure shall not protrude above the ridgeline. Where the location of structures on ridgelines cannot be avoided because no other alternative building site is available on the lot or property, all of the following mitigation measures shall be implemented to reduce impacts to ridgelines:

(1) Avoiding or reducing to the greatest degree possible the amount of development on or above the ridgeline.

(2) Minimizing the height of structures that protrude above a ridgeline. No structure shall protrude above the ridgeline by more than one (1) story or a maximum of twenty-five (25) feet.

(3) Use of building colors and building materials that reduce the visibility of the structure. All exterior siding and roofing materials shall be nonreflective.

(4) Limiting the use of artificial lighting on the property and structure to reduce the nighttime visibility of the structure. Exterior lighting shall be directed, sited and shielded in such a manner that the light source is not directly visible from adjacent properties.

(5) Installation of screening, such as large trees, shrubs and berms, that effectively reduce the visibility of the structure.

(6) Design of structures in locations which utilize natural vegetation and terrain to minimize visual impacts.

(7) Other reasonable conditions or safeguards deemed necessary by the Board of Trustees, Planning and Community Development Commission or administrative staff person with final authority to approve the subdivision plat or application. (Prior code 10-13-12; Ord. 956 §1, 2014)

**Sec. 17-11-130. Wetlands and riparian areas.**

(a) Wetlands Defined: For purposes of this Section, *wetlands* shall mean those areas which would constitute jurisdictional wetlands under criteria adopted by the United States Army Corps of Engineers. Nothing in this Section is intended to amend, modify or change any requirement imposed upon development by federal or state law or regulation.

(b) Wetlands Delineation Required: As part of any application and supporting documentation for approval of any phase of a major subdivision as defined by these Subdivision Regulations, the applicant shall provide documentation identifying the extent and location of all wetlands on the property proposed for subdivision. The extent and location of wetlands identified by the application shall either be approved by the Army Corps of Engineers or prepared under the supervision and approval of a professional qualified and experienced in the identification of wetlands using criteria approved by the Army Corps of Engineers for wetland delineation. Where an applicant claims that wetlands do not exist on any property proposed for subdivision, and where such property includes indicia or characteristics of possible wetland habitat (such as vegetation typically associated with wetland habitat), the Town Planner, Planning and Community Development Commission or Board of Trustees may require confirmation of the applicant's claim from the Army Corps of Engineers or a professional qualified and experienced in the identification of wetlands.

(c) Army Corps of Engineers Permit Required: Unless otherwise provided as a condition of approval of any major subdivision, a copy of a valid wetlands permit or other written authority for disruption of wetlands issued by the Army Corps of Engineers shall be required prior to approval of any phase of a major subdivision that includes wetland areas. Where applicable, a copy of any approved wetlands mitigation plan shall also be required prior to subdivision approval. Conformance with a mitigation plan may, at the Town's option, be incorporated into any site plan or development plan and made a condition of any subdivision approval or building permit.

(d) Activity in Wetlands Prohibited: No construction, earth disturbance or any development-related activity of any kind or type shall be conducted or allowed within a jurisdictional wetland unless approved by the Army Corps of Engineers.

(e) Reduction and Mitigation of Wetland Impacts: Reasonable efforts shall be undertaken and employed to reduce and mitigate the impact of development and construction activities upon existing and naturally occurring wetlands.

(f) Wetlands Buffer Required: Except where a greater width of buffer area is required by the Army Corps of Engineers, each application and plan for a major subdivision that includes wetland

areas shall establish and provide a minimum one-hundred-foot undeveloped buffer between any development activity and the delineated boundary or limit of such wetland areas. Buffer areas may include areas devoted to recreational activities.

(g) Wetlands Protection During Construction: Prior to commencement of construction on any property that includes wetland areas, the boundary or limits of such wetlands shall be field-located by a qualified professional in accordance with the applicable wetlands delineation criteria. Prior to commencing any construction within the property, silt fencing shall be installed outside of any wetlands in proximity to construction activities or susceptible to erosion from construction. The location and limits of silt fencing shall be identified on the construction plans. (Prior code 10-13-13; Ord. 956 §1, 2014)

## ARTICLE 12

### Public Improvements and Construction Standards

#### Sec. 17-12-10. Manual of Design Criteria and Standard Specifications.

(a) Adoption: The Town of Lyons hereby adopts by reference the design and engineering specifications entitled *Manual of Design Criteria and Standard Specifications for the Construction of Public Improvements* (the "Construction Design Manual"). The Construction Design Manual provides design and construction specifications for all public improvements, public facilities and public utility systems (collectively "improvements"). The Construction Design Manual shall apply to all construction of all public improvements required by this Code. A copy of the Construction Design Manual is available for public inspection and purchase at the office of the Town Clerk. Notwithstanding anything in this Code to the contrary, in the event that a conflict exists in the standards established by the Construction Design Standards and this Code or any adopted code made a part of this Code, the most stringent standard shall govern.

(b) Amendment: The Board of Trustees is authorized to amend, modify, repeal or otherwise change all or any provisions of the Construction Design Manual by resolution or ordinance. Any resolution or ordinance proposing an amendment of the Construction Design Manual shall specifically identify the section proposed for amendment and shall set forth the language of the proposed amendment in full. No resolution amending the Construction Design Manual shall be effective unless approved by at least four (4) members of the Board of Trustees. No ordinance amending the Construction Design Manual shall be effective unless approved by at least a majority of a quorum of the Board of Trustees.

(c) Standards for Other Public Improvements: For any public improvement or any aspect or element of a public improvement that is not addressed by the Construction Design Manual, the public improvement shall be planned, designed and constructed in accordance with the commonly recognized standards and practices employed by professional engineers within the Denver metropolitan area. Developers are strongly encouraged to contact the Town Engineer for assistance in the selection of the appropriate standards prior to commencing design of improvements not addressed by the Construction Design Manual. (Prior code 10-14-1; Ord. 956 §1, 2014)

**Sec. 17-12-20. Required public improvements.**

The developer of property within any subdivision shall provide at the developer's cost and expense for all engineering, design, preparation of construction documentation, construction and installation, and preparation of as-built drawings for all public improvements within the subdivision and necessary or desirable to serve the subdivision, including but not limited to:

(1) Permanent survey monuments and lot pins which shall be set in accordance with state and local law and at locations approved by the Town Engineer. Generally, such monuments shall be set at the surface of the ground not more than one thousand four hundred (1,400) feet apart along any straight boundary line, at all angle points, points of change in direction or change in radius of any curbed boundary and at public land corners. One-half-inch steel pins or larger shall be set at all lot corners. In addition, all public land corners (section and quarter corners) which are located beneath the pavement of proposed streets shall be monumented with suitable markers set in concrete and encased in a lidded metal box at least three-tenths (0.3) of a foot beyond the finished street surface. Affixed securely to the top of each such monument shall be the Colorado registration number of the responsible land surveyor.

(2) Curbs, gutters and sidewalks along all public streets (excluding alleys).

(3) Street grading and paving of all public streets and alleys.

(4) Street name signs and initial traffic signage within a subdivision.

(5) Bridges, culverts, drainage channels and other infrastructure required to span water bodies, watercourses, irrigation ditches and natural or man-made drainage areas.

(6) Street lighting.

(7) Stop lights and other traffic control devices where determined by the Town as reasonably necessary to ensure safe and efficient movement of vehicular traffic.

(8) All on-site and off-site public utilities necessary to provide or deliver service to the subdivision or development including, but not limited to:

a. Water lines;

b. Sanitary sewer lines;

c. Storm drainage improvements and storm sewer;

d. Fire hydrants;

e. Electric lines, transformers and other equipment necessary to serve the development and subdivision;

f. Natural gas lines and equipment necessary to serve the development and subdivision;

g. Utility systems and improvements required to be installed by service agencies other than the Town (e.g., special districts or other providers); and

h. Other public improvements deemed by the Town Engineer, Town Planner or Planning and Community Development Commission, with the concurrence of the Board of Trustees, as necessary to serve all or any portion of the development or subdivision based upon topography, subdivision layout or design, or other on-site characteristics of the subdivision or development. (Prior code 10-14-2; Ord. 956 §1, 2014)

**Sec. 17-12-30. Public improvements to be undergrounded.**

Water, sanitary sewer, storm sewer, telephone, electric, natural gas and other similar utility lines and services shall be placed underground. Transformers, switching boxes, terminal boxes, meters, roadway lighting, signal devices, gas regulators, distribution feeders, compressor stations or other similar facilities may be placed aboveground. Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with adopted encroachment requirements or within easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan. (Prior code 10-14-3; Ord. 956 §1, 2014)

**Sec. 17-12-40. Inspection and acceptance of improvements.**

(a) Progress Inspections: Upon completion of stages or phases of public improvements within any subdivision, the developer shall contact the Public Works Director or Town Clerk in writing and request progress inspections of the improvements. The Town Engineer shall use his or her best efforts to inspect improvements within forty-eight (48) hours of a request. Approval of stages or phases of public improvements shall be issued by the Public Works Director where the Public Works Director finds that the improvement or system is constructed in accordance with all applicable construction and design standards. Such approval shall be made in writing if requested by the developer.

(b) Final Inspections: Upon completion of the construction for a public improvement, the developer shall contact the Public Works Director or Town Clerk in writing and request a final inspection of the improvement. The Town Engineer shall use his or her best efforts to inspect public improvements within seventy-two (72) hours of a request. Approval of construction shall be issued by the Public Works Director where the Public Works Director finds that the improvement is constructed in accordance with all applicable construction and design standards and the improvement is ready for public use. Such approval shall be made in writing if requested by the developer.

(c) Final Acceptance. Upon written request of the developer, the Public Works Director shall issue final acceptance of a public improvement where the Public Works Director has made the following determinations:

- (1) The Director has issued a final approval of construction.
- (2) The public improvements are free and clear of all liens and encumbrances.
- (3) Complete "as-built" plans bearing the certification of a registered Colorado engineer have been submitted to the Director of Public Works by the developer.

(4) All applicable requirements for completion of the public improvements have been fully meet or satisfied.

Any acceptance by the Director of Public Works shall be made in writing, and the writing shall bear the date of final acceptance. The Director of Public Works shall not condition final acceptance of any improvement. The Director of Public Works may, at his or her discretion, require the approval of final acceptance to be made by the Board of Trustees. The Board of Trustees may issue conditional acceptance of public improvements.

(d) Bill of Sale or Other Ownership Documentation: The Town may demand that the developer provide an executed bill of sale or other documentation to evidence the transfer of ownership of public improvements from the developer to the Town. The form of bill of sale or other documentation shall be approved by the Town Attorney and may include a certification or warranty that the improvements are free and clear of liens and encumbrances. (Prior code 10-14-5; Ord. 956 §1, 2014)

#### **Sec. 17-12-50. Warranty of improvements and release of collateral.**

(a) Warranty of Improvements: All public improvements shall be warranted by the developer for a period of one (1) year commencing upon the date of the Director of Public Works' final acceptance. The warranty shall include warranty of design, equipment, labor and workmanship. Failure in design, performance, construction or installation of the improvement or system shall be promptly cured and repaired by the developer at the developer's cost and expense upon demand by the Town. In addition to any other remedy permitted by law, the Town may, at its election, apply any amount retained from collateral deposited by the developer toward the Town's repair or cure of the failure.

(b) Release of Collateral: Release of collateral following final acceptance of public improvements or public systems shall be made only in accordance with the subdivision improvements agreement. Where no provisions for release of collateral are contained in the agreement, release of collateral shall be authorized only by the Town Administrator or Board of Trustees, provided that collateral equal to a minimum of fifteen percent (15%) of the estimated cost of the improvements is retained during the period of warranty. Upon expiration of the period of warranty, any remaining collateral shall be released upon request of the developer.

(c) Damage to Improvements During Construction: Regardless of whether public improvements have been accepted by the Town or are under warranty by the developer, damages to public improvements resulting from ongoing construction and development activities shall be repaired by the developer at the developer's cost and expense. (Prior code 10-14-6; Ord. 956 §1, 2014)

### **ARTICLE 13**

#### **Subdivision Improvements Agreement**

#### **Sec. 17-13-10. Subdivision improvements agreement required.**

For any subdivision for which public improvements are to be constructed (either on-site or off-site), no subdivision approval shall be granted by the Town unless and until a subdivision

improvement agreement executed by the landowner, applicant and developer is completed and presented to the Board of Trustees for review and consideration. (Prior code 10-15-1; Ord. 956 §1, 2014)

**Sec. 17-13-20. Form of agreement.**

Each subdivision improvements agreement shall be in the general form approved by the Board of Trustees. The form of subdivision improvements agreement shall be adopted by resolution of the Board of Trustees and shall be subject to revision of the form as deemed appropriate by the Board of Trustees. At a minimum, a subdivision improvements agreement shall include the following:

(1) Provisions to ensure timely and proper financing and completion of the public improvements, including but not limited to collateral or financial security in the form of an irrevocable letter of credit (see Appendix 17-D to this Chapter), performance bond, property bond, private or escrow agreements, loan commitments, liens on property, deposit of certified funds or other similar surety agreement in a form approved by the Town Attorney. Where the amount of financial security is based upon the estimated cost of completion of the public improvements, the estimate shall be prepared by the developer and shall be subject to review and approval by the Public Works Director. For purposes of determining the amount of financial guarantee, the estimate of cost shall be increased by ten percent (10%) for improvements with a projected completion date of less than two (2) years from the date of subdivision approval and twenty percent (20%) for all other public improvements.

(2) Provisions to ensure the performance and enforcement of all terms and conditions of the agreement by the landowner, applicant, developer and their successors and assigns. (Prior code 10-15-1; Ord. 956 §1, 2014)

**ARTICLE 14**

**Dedication and Fee Requirements**

**Sec. 17-14-10. Water rights dedication requirements for annexation.**

(a) General Provisions: Before any land is annexed to the Town, there shall be conveyed, transferred or assigned to the Town a water right or quantity of water that will yield annually to the Town, in the judgment of the Board of Trustees after review and recommendation by the Town's Water Attorney, an amount of water as herein required based upon the type of land use proposed, the potential amount of water to be consumed and the area of the land to be annexed. The water to be transferred shall be subject to the following general provisions:

(1) Such rights shall be represented by stock in a duly recognized and existing irrigation company, by ownership of units of Northern Colorado Conservancy District water or by ownership of such direct flow contract rights as may be attached to the land and recognized by the courts through a valid adjudication of an existing water right that, in the opinion of the Town, are capable of being transferred and used by the Town.

(2) The quantity of water received from the water right furnished to the Town, if such right is a direct flow right, shall be computed from records contained in the office of the State Engineer. The amount of all direct flow water received from the water rights furnished to the Town, if said water is represented by shares of stock in an irrigation company, shall be computed on the basis of producing a dependable annual yield calculated as the average of the lowest three (3) consecutive years of utilization of that water right and based on not less than twenty (20) consecutive years of use. In computing the quantity of water received from all direct flow water rights, the conversion of direct flow to acre-feet shall be based on a flow of one (1) cubic foot per second of time being equal to a volume of two (2) acre-feet of water in a twenty-four-hour period.

(3) For the purpose of computing satisfaction of the water rights required by this Section, one (1) unit or share of "Big T" Big Thompson, "CBT," or more particularly known as Northern Colorado Water Conservancy District Water, shall be deemed to be equal to seven-tenths (.70) acre-foot of water.

(4) In lieu of said water and at the discretion of the Board of Trustees, a monetary equivalent of such water may be paid to the Town in an amount that is determined by the Board of Trustees to be equal in value to the water rights required.

(5) The landowner shall pay all expenses incurred in the process of transferring to the Town the water rights required by this Section.

(6) At the time land is annexed to the Town, the owner shall, by good and sufficient conveyance, grant, assign or decree, transfer to the Town all water rights appurtenant to the land being annexed; provided, however, that in no event shall the owner be required to transfer water rights in excess of the raw water requirements imposed upon annexation. In the event that additional water rights are available with the land, the Town shall have the first option to buy these additional water rights. The option period shall extend for a period of ninety (90) days from the final action on the ordinance annexing the property to the Town or from the date the required water rights are transferred to the Town, whichever shall occur last. The option price shall be that price, in existence on the date that the option is exercised, that the Town has accepted for cash in lieu of transfer of water rights, if such a price has been established and set. If no such price has been established, the option price shall be the price agreed upon between the parties. If no agreement is reached within fifteen (15) days, the price shall be the fair market value of the water rights and shall be determined by an independent appraisal of the water right performed at the Town's expense.

(b) Exclusions: Water may not be required for those parcels, tracts or portions of tracts that are not considered by the Town to be suitable for development because of excessive slopes, unstable geological conditions, waterways or other environmental constraints, provided that such areas are not to be irrigated from domestic water sources. Sites with excessive slopes shall be those areas with slopes greater than twenty five percent (25%). The Board of Trustees shall make the final determination as to what areas, if any, are to be excluded from the water rights requirement. In the event that such exempt areas are later considered suitable for development, no developmental approval or building permit shall be issued until water rights are transferred in accordance with the provisions of this Section or any subsequent modifications of this Section. All areas designated as not suitable for development shall be identified on the annexation map or subdivision plat with a

notation on the map that no building permits will be issued until water rights requirements are satisfied as per this Section.

(c) Leaseback Option: The Town may, at its option, lease the water rights back to the landowner if the Town does not require use of water at the time of annexation if the landowner desires to maintain all or a portion of the site in agricultural use. The Town shall reserve the right to terminate all such leases at a specified interval of time within thirty (30) days prior notice.

(d) Notwithstanding any of the foregoing or the provisions of Subsections (b) and (c) hereof, the Board of Trustees may, for good cause shown, increase, reduce or waive the amount of water rights required to be dedicated to the Town as a result of annexation.

(e) Requirements for Residential Development: The water rights dedication requirements for residential areas shall be as follows:

(1) In the A Agriculture District, the E Estate District, the EC Estate Countryside District and the R-1 Low Density Residential District, the water rights requirement shall be three (3) acre-feet per acre of land to be annexed.

(2) In the R-2 Medium Density Residential District, the water rights dedication shall be four (4) acre-feet per acre of land to be annexed.

(3) In the R-3 High Density Residential District, the water rights dedication shall be five (5) acre-feet per acre of land to be annexed.

The above water rights shall be provided prior to final approval by the Board of Trustees of the annexation application. However, the Board of Trustees may, at its discretion, agree to accept water at the time the property is subdivided. In addition, the Town shall have first right of refusal in purchasing all other water rights appurtenant to the land. In the event portions of the property tract or parcel are to be excluded from the calculation of the water rights requirement in accordance with this Section as stated above, this exclusion shall be noted on the annexation map or subdivision plan.

(f) Requirements for Business, Commercial or Industrial Development: All areas to be developed and zoned for business, commercial and industrial development shall dedicate and transfer one (1) acre-foot of water per acre of land annexed to the Town prior to final approval by the Board of Trustees of the annexation ordinance. However, the Board of Trustees may, at its discretion, agree to accept the water at the time the property is subdivided. In addition, additional water rights shall be required to be transferred to the Town prior to the issuance of a building permit based upon the type of use to be developed, tap size required and the potential consumption of water. The amount of additional water rights shall be based upon the ratio of the flow rate to the cross-sectional area of the tap as listed in the following schedule:

**Additional Water Rights Required**

<i>Tap Size Required for Specific Use<sup>1</sup></i>	<i>Additional Water Rights</i>	
	<i>Acre Maximum Metered Use (Feet)</i>	<i>Per Year (Gallons)</i>
¾-inch	1	270,000
1-inch	2	540,000
1½-inch	4	1,080,000
2-inch	7	1,890,000
3-inch	16	4,320,000
4-inch	28	7,560,000

<sup>1</sup> For tap sizes that are not listed above, the amount of additional water rights shall be established by the Town Administrator subject to the approval of the Board of Trustees.

(g) The Town shall have no responsibility to provide water in excess of the maximum gallons for the tap size. In the event the maximum number of gallons is exceeded, water service to the property shall be subject to termination unless additional shares are transferred to the Town. Water uses that require more than the maximum number of gallons of water per year as indicated on the schedule above shall be assessed an additional water service charge of two dollars and seventy-five cents (\$2.75) per one thousand (1,000) gallons in excess of the base amount. This shall be in addition to the normal monthly service charges.

(h) Whenever water use through a meter totals less than the annual maximums of gallons for the respective tap size, the difference between actual use and the maximum may be credited to any other meter on the same property and under the same ownership, subject to approval by the Board of Trustees. If approved, all water furnished through separate meters in the property may be combined for billing purposes and for determination of excess water use.

(i) The water required for fire protection shall not be included in the above maximum gallons of metered use. Taps for fire protection purpose for business, commercial or industrial uses may, at the discretion of the Board of Trustees, be permitted to bypass the meter. In such cases, the applicant shall make a written request to the Board of Trustees for permission. The application shall include detail plans showing the location of the proposed tap and the design of the fire protection system. If the tap is approved, the applicant shall be required to pay a tap fee in accordance with rates charged by the Town.

(j) Water rights transferred to the Town in excess of the required amounts, if accepted by the Town, shall be credited to the maximum annual use in the amount of one (1) acre-foot being equivalent to a use of two hundred seventy thousand (270,000) gallons.

(k) If a tap is increased to a larger size, the amount of additional water rights shall be the difference between the right required for the larger tap and the previously paid amount. For changes in the use of property that require a smaller tap, the Town shall not be required to refund water rights

previously transferred to the Town. However, uses that require substantially less water than the maximum meter use may receive the credits allowed in Paragraph (a)(6) above. (Prior code 10-16-1; Ord. 956 §1, 2014)

**Sec. 17-14-20. Water rights dedication for subdivisions.**

The requirements of Section 17-14-20 above shall apply to any final plat for a major subdivision pursuant to Article 4 of this Chapter, any minor plat for a minor subdivision pursuant to Article 3 of this Chapter, and any Planned Unit Development under Chapter 16, Article 4 of this Code filed on or after the effective date of this Section, except: (1) where the application of Section 17-14-10 would conflict with provisions of any subdivision improvements agreement or other development agreement; or (2) where the Board of Trustees, in its sole discretion, determines that the subdivision or PUD application in question will not negatively impact the Town's water supply in such a way as to require the dedication of water rights. When applied to an approved major or minor subdivision or an approved PUD not reviewed in connection with an annexation, the dedication to the Town of water rights required by Section 17-14-10 shall be made prior to the issuance of the first building permit for the approved development. (Prior code 10-16-2; Ord. 956 §1, 2014)

**Sec. 17-14-30. Public sites, reservations and dedications.**

(a) Dedications: Dedication of rights-of-way for public streets, utility easements and maintenance and other easements, water supply, water rights dedication, pump and sewer lift stations and other public interests required under the provisions of these Subdivision Regulations shall be made by the subdivider on the final plat unless otherwise directed by the Board of Trustees.

(b) Park and Open Space Land Dedication:

(1) In addition to any dedications or reservations required by and other applicable provisions of this Code or as determined by the Board of Trustees to be necessary for school sites or other public facilities and utilities, all properties to be divided by a major subdivision process shall dedicate land area for parks, recreational facilities and open space which will serve future residents.

(2) The dedication requirement for park and open space in all major subdivisions shall be fifteen percent (15%) of the total land area of the subdivision. Commercial and industrial subdivisions and the commercial or industrial portion of mixed-use subdivisions shall be exempt from this land dedication provision.

(3) The land to be dedicated to the Town shall be free of all liens and other encumbrances, and it shall be dedicated to the Town at the time the final plat of the subdivision is approved by the Board of Trustees. If a final plat of a subdivision is approved in phases, upon approval of each phase, the land or cash or combination thereof required by this Section shall be dedicated only for that phase or filing approved, except as otherwise agreed to by the applicant and the Board of Trustees and as recorded in the minutes of the Board of Trustees.

(4) The Board of Trustees may, at its discretion and after consideration of any recommendations it elects to seek, elect not to accept for dedication to the Town such open space or parklands as it deems unsuitable for the Town's present and future needs. The Board of

Trustees may instead require that said lands or a portion thereof be deeded to a homeowners' association or other organization to be used only for parks, recreational facilities or open space, with maintenance responsibility and all other liability remaining with that association, other organization or party approved by the Board of Trustees. Such arrangements shall be specified within the subdivision improvements agreement and affixed upon the final plat as a plat notation. These arrangements shall limit the purposes to which a homeowners' association or other organization can use or develop the lands to parks, recreational facilities or open space uses.

(5) The Board of Trustees may, at its discretion and after consideration of any recommendations it elects to seek, require the payment to the Town of cash in lieu of a proposed or required land dedication or portion thereof if, in the opinion of the Board of Trustees, one (1) or more of the following conditions are met:

- a. The proposed subdivision is of such a size or configuration not to require a new public facility;
- b. The proposed park, recreational facility, open space or other dedication is not of an appropriate size, configuration or location;
- c. The proposed park, recreational facility, open space or other dedication is not deemed to be an appropriate use for the proposed subdivision and/or for the other Town areas; or
- d. The proposed park, recreation facility, open space or other dedication does not make sufficient provision for active recreational activities.

Monies collected as cash in lieu of land shall be used to expand or upgrade existing parks or recreation facilities or create new facilities, or be held by the Town pending expansion or creation of new facilities at such locations as the Board of Trustees deems appropriate.

(6) The park and/or open space cash in lieu of land dedication shall be in addition to park dedication fees required in Chapter 18 of this Code.

(7) The amount of cash in lieu of land shall be based upon the estimated value of land in the area near the proposed subdivision, with the value not to exceed the current market value of the land that would otherwise have been dedicated to the Town. Current market value of the land shall be determined mutually by the subdivider and the Board of Trustees. Upon a failure to reach a satisfactory agreement between the Town and the subdividers, the current market value shall be determined by the subdivider obtaining an appraisal of the land by a qualified appraiser of his or her choice and at his or her expense and the Board of Trustees obtaining an appraisal of the same property by a qualified appraiser of its choice and at its expense. The average of these two (2) appraisals shall be deemed to be the current market value of the land in question.

(8) The following suitability factors and criteria shall be considered by all participating Town commissions, staff departments and the Board of Trustees in evaluating what lands shall be accepted for dedication for park, recreation facility or open space use, what, if any, facilities shall be constructed upon those lands, and when cash in lieu of dedicated lands shall be required:

- a. The compatibility of the proposed open space and/or parks and their intended uses with the policies, goals and objectives contained within the Comprehensive Plan and/or any Parks and Recreation Commission Plan adopted by the Board of Trustees.
- b. The suitability of the natural and man-made features of the land for the proposed uses of the open space and/or parks;
- c. The relative need within the subdivision and elsewhere in the Town for passive open space, active open space, open parklands and the physical facilities to provide for active recreational activities, including but not limited to ball and other playing fields, trails, picnic areas, playgrounds and related activities to serve the future residents of the subdivision or other Town residents;
- d. The location of the proposed open space and/or parks relative to areas where present and anticipated population patterns dictate the need for such facilities and their proposed uses;
- e. The potential for open space, walkways and trails that may link the development with other developments or activity areas so as to promote throughout the Town a rational, accessible and needs-oriented pattern of parks and open space; and
- f. The cost and convenience of municipal maintenance, tax base loss and liability for such open space, recreational facilities and/or parks as are proposed for dedication to the Town. (Prior code 10-16-3; Ord. 956 §1, 2014)

**APPENDIX 17**

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**APPENDIX 17-A  
AGREEMENT FOR PAYMENT OF DEVELOPMENT REVIEW EXPENSES**

**TOWN OF LYONS  
AGREEMENT FOR PAYMENT OF DEVELOPMENT REVIEW EXPENSES  
PURSUANT TO CHAPTER 17 OF THE LYONS MUNICIPAL CODE**

THIS AGREEMENT, is made and entered into by and between the TOWN OF LYONS, COLORADO, a Colorado statutory municipal Corporation, ("Town") and \_\_\_\_\_, hereinafter referred to as the "Applicant." The Applicant and the Town shall collectively be referred to as the "Parties." This Agreement shall be effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

**RECITALS AND REPRESENTATIONS:**

WHEREAS, the Applicant is the owner of, or represents that he or she is the authorized agent of the owner of, certain property situated in the Town of Lyons, Boulder County, State of Colorado, (the "Property") which is either legally described as or commonly known as: [check one]

- Legal Description Attached as Exhibit A
- Name or Title of Subdivision Plat or Property Address:

\_\_\_\_\_

WHEREAS, the Applicant desires to develop or to seek land use approval for the Property and has made an application ("Application") to the Town of Lyons for the review and consideration for approval by the Town of the following:

- Sketch Plan Application
- Preliminary Plan Application
- Final Plat Application
- Plat Amendment Application
- Planned Unit Development Application (including, if applicable, zoning, preliminary PUD plan, and final PUD plan)

For purposes of this Agreement, "Application" shall mean and include all documentation, data and information submitted to the Town in order to seek or obtain approval of development of or land use approval for the Applicant's Property, including but not limited to site plans, engineering and surveying documentation, engineering and other professional reports and studies, and any construction documentation required to authorize the construction of public or other improvements within the Property.

WHEREAS, the Parties hereto recognize that the land use application fees specified by the Municipal Code of the Town of Lyons cover the typical or standard administrative processing expenses of the Town for routine projects and these fees may not be, or are not likely to be, adequate to fully cover the Town's expenses in considering the Applicant's application and project, including but not limited to expenses incurred for legal and notice publications, engineering services, attorney fees, consultant

fees, reproduction and photocopying of materials, public hearing expenses, recording costs and inspections by Town staff to ensure the Applicant's compliance with the requirements of the approved plans and specifications;

WHEREAS, the Town has customarily incurred significant expenses associated with ensuring an applicant's compliance with design and construction specifications for public improvements, such as roads, drainage improvements and bridges, and these expenses oftentimes exceed the land use fees paid by the applicant as part of the customary review processes;

WHEREAS, Chapter 17 of the Municipal Code for the Town of Lyons requires that every applicant for annexation and subdivision and land use approval execute an agreement for the payment of Town expenses incurred in the processing and review of the applicant's application and that this requirement is based on the policy that the applicant is the party that should properly bear the costs of application, review, consideration and inspection associated with development; and

WHEREAS, the Applicant understands that the review and processing fees incurred by the Town are independent, separate and apart from the Town's decision to approve or deny the submitted application and that such fees are owed by the Applicant regardless of the Town's decision on the application or the Applicant's decision to postpone, abandon or terminate processing of the application.

NOW THEREFORE, in consideration of the premises and of the mutual promises and conditions hereinafter contained and the requirements of the Lyons Municipal Code, it is hereby agreed as follows:

#### 1.01 APPLICANT SHALL PAY ALL EXPENSES

The Applicant shall pay in accordance with this Agreement all expenses which are directly related to the Town's review, processing, consideration, and inspection (both preapplication approval and post-application approval) of the Application.

#### 2.0 "EXPENSES" DEFINED

2.1 Generally: For purposes of this Agreement, "expenses" shall include all expenses, costs, fees, assessments and other charges incurred by the Town and directly related to the Town's processing, review, consideration and inspection (both pre- and post-application approval) of the Application and the Property. Such expenses shall include, but shall not be limited to: legal and notice publication(s); engineering services (Town Engineer and/or other necessary engineering professional); land use planning services (Town Planner and/or other necessary planning professional); inspections and inspection services necessary to ensure compliance of the Applicant's approved development with the approved Application and construction documentation (but not including building permit inspections performed by the Chief Building Official to ensure compliance of the structures with construction codes adopted by the Town of Lyons where such fees are recovered through another fee payment program); fees and charges billed to the Town by other agencies and entities statutorily or legally required to review the Applicant's documentation and development (including state and federal regulatory agencies); attorneys' fees and charges (for the Town Attorney only, unless otherwise pre-approved by the Applicant); specialized consultant fees necessary to ensure Application or development

conformance with federal, state or local laws (e.g., water, wetlands, biological and geo-technical consultants); reproduction and photocopying of the Application and other supporting or necessary materials; public hearing, public meeting and administrative meeting expenses (including all costs of conducting a special meeting if requested by the Applicant); and inspections and review necessary to ensure and investigate compliance with applicable laws, ordinances, regulations and the Applicant's approved development and construction plans.

- 2.2 Applicant/Staff Meeting as an Expense: Where the Applicant demands or requests an administrative or formal meeting with Town staff members (e.g., Town Administrator, Public Works Director, Town Engineer, Town Planner, Town Attorney or other executive or administrative representatives of the Town), "expenses" shall include all costs incurred by the Town for the attendance of each staff member at the meeting, which shall be computed at the hourly fee customarily charged to the Town by such staff member or \$30.00/hour, whichever amount is greater. Hourly charges for consultation or meetings with "in-house" Town staff (e.g., Town Administrator, Public Works Director and Parks Director) shall not be charged to the Applicant unless: (1) the Town Administrator determines that the meeting is not in the best interest of the Town; and (2) the Town Administrator notifies the Applicant in writing that the cost for attendance of "in-house" staff members will be charged to the Applicant pursuant to this Agreement. The Town Administrator may modify, reduce or waive all or a portion of the expenses charged to the Applicant which are associated with a staff meeting or may set a maximum cost for any meeting. It is the express intent of this Paragraph that the Applicant shall bear and pay in full all expenses and costs of the Town in the processing of the Application and, if such Application is approved, for the Town's inspection and review of the development until such time that the development is complete in accordance with the approved Application.

### 3.0 FULL AND SEPARATE ACCOUNTING OF REVIEW EXPENSES

- 3.1 Separate Account and Accounting of Expenses. The Town shall maintain separate accounts of all expenses incurred for the Application. A current statement of expenses incurred will be made available to the Applicant within a reasonable time following the Applicant's request. The Parties understand that, due to customary delays in billing by the Town's outside consultants, a current statement may only include expenses billed to the Town as of the date of the Applicant's request.
- 3.2 Resolution of Disagreement Concerning Expenses. The Applicant may administratively contest an expense billed to the Applicant pursuant to this Agreement. The Applicant's contest shall be made in writing delivered to the Town Administrator within ten (10) days after the Applicant's receipt of notice of the billed expense. The written contest shall specify in detail the expense challenged and reason for the contest. The Town Administrator shall use his or her best efforts to review a timely written contest within five (5) business days and to promptly respond in writing to the Applicant by: (1) affirming the expense as appropriate under this Agreement; (2) deleting or rescinding the expense as inappropriate under the Agreement; or (3) modifying or reducing the expense with reasons for the modification or reduction. The Applicant may appeal the Town Administrator's decision to the Board of Trustees by delivering a written request for appeal to the Town Clerk within ten (10) days after the Applicant's receipt of the Town Administrator's decision. Such appeal shall be considered by the Board of Trustees as an administrative matter (no notice or hearing required to be provided to the Applicant) and the

Board of Trustees, following review of the Applicant's written contest and the Town Administrator's written decision in response, shall: (1) affirm the expense as appropriate under this Agreement; (2) delete or rescind the expense as inappropriate under the Agreement; or (3) modify or reduce the expense. The Board of Trustees' administrative decision shall be final. Review and processing of an Applicant's timely written contest shall not be an expense within the meaning of this Agreement.

#### 4.0 DEPOSIT ACCOUNT

The Applicant shall make all deposits for land use fees and expenses required by the Lyons Municipal Code at the time of Application submittal and shall maintain a deposit account with the Town ("Deposit Account"). The Town shall charge Expenses against the Deposit Account and shall deduct for payment the Expenses from the Deposit Account. At such time that the Expenses charged against the Deposit Account exceed ninety percent (90%) or more of the Deposit Account, and within ten (10) days of the Applicant's receipt of notice by the Town, the Applicant shall supplement the Deposit Account by making an additional deposit with the Town Clerk of an amount of at least fifty percent (50%) of the amount of the initial deposit for land use fees and expenses. The Town Administrator may reduce the amount of, or may waive, the Applicant's making of an additional deposit where the Administrator finds that the estimated or anticipated additional Expenses for the processing of the Application will not likely exceed the remaining balance held in the Deposit Account by the Town.

The Applicant shall be obligated to maintain a positive balance in the Deposit Account at all times. Failure by the Applicant to maintain a positive balance in the Deposit Account and to timely make an additional deposit within ten (10) days of notice by the Town in accordance with this Section shall constitute a material breach of this Agreement.

#### 5.0 APPLICATION TERMINATION

Except as otherwise precluded or prohibited by law or an agreement with the Town, the Applicant may terminate the processing of an Application at any time by delivering written notice to the Town. The Town shall immediately take all reasonable steps necessary to terminate the accrual of additional and continuing Expenses to the Applicant. In no event shall the Applicant be obligated to pay an Expense associated with work or service performed on the Application which is more than forty-eight (48) hours after the date and time of the delivery of the Applicant's notice of termination.

#### 6.0 LIEN AGAINST PROPERTY

To the extent permitted by law, expenses incurred by the Applicant in accordance with this Agreement, together with an amount equal to ten percent (10%) of the total expenses for the cost of collection, shall constitute a lien against the Property described in this Agreement and described in the Application. By this Agreement, the Applicant consents to the imposition of a lien and the cost of collection against the property and represents that the Applicant is authorized to so consent as the owner of the Property or as the authorized agent of the owner. The Town may seek enforcement of the lien in the same manner as real estate taxes against the Property.

## 7.0 ENFORCEMENT AND COLLECTION OF EXPENSES

In the event of the Applicant's breach of this Agreement, all amounts owing shall be due and payable immediately and such amount shall accrue interest at an amount equal to eighteen percent (18%) per annum until paid in full. In such event, the Town shall be entitled to and may invoke one (1) or more of the following remedies following the Town's mailing of a letter demanding payment in full to the Applicant:

- 7.1 Postponement, cessation and/or termination of the processing of the Application or any other land use application or approval related to the Property;
- 7.2 Denial of the Application;
- 7.3 Imposition of a condition upon approval that the Applicant pay all Expenses prior to issuance of further approvals, including building permits, for all or any portion of the Property;
- 7.4 Withholding, postponing and/or denying: (1) any building permits for any part or portion of the Property or for any improvement which serves or will provide service to the Property; (2) construction documentation review or approval; (3) grading, road cut or other construction or permit approval; and/or (4) the submission, receipt, processing or approval of any application or request by the Applicant or the Applicant's affiliates for any form of land use or construction application related in any way to the Property;
- 7.5 Refusal or denial of the acceptance of any other application for land use approval or development of any kind for the Property submitted by the Applicant or any other person;
- 7.6 Commencement of any remedy provided by law or equity, including an action for declaratory judgment, injunction and/or damages; and/or
- 7.7 Certification of the lien for collection to the appropriate officials for Boulder County.

## 8.0 NO IMPLICATION OF APPROVAL

The Applicant agrees to pay all Expense, regardless of whether the Town approves or denies the Application. The Applicant understands that the approval of the Application is not, and shall not constitute, consideration for the Applicant's payment in accordance with this Agreement. The Town shall not be estopped or otherwise limited or precluded from denial or conditional approval of the Application by the terms, conditions or obligations of this Agreement.

## 9.0 MISCELLANEOUS PROVISIONS

- 9.1 No Waiver: A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
- 9.2 No Waiver of Governmental Immunity: Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors or agents, or any other person acting on behalf of the

Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

- 9.3 Binding Effect: The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives and assigns thereof and shall constitute covenants running with the described properties. To the extent permitted by law, the Applicant and all future successors, heirs, legal representatives and assigns of the Applicant shall be jointly and severally responsible for all terms, conditions and obligations set forth in this Agreement. The Town may, at its discretion, record this Agreement with the Clerk and Recorder for Boulder County.
- 9.4 No Third Party Beneficiaries: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Applicant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the Town and Applicant that any person other than the Town or Applicant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- 9.5 Governing Law, Venue and Enforcement: This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising from this Agreement shall lie with any appropriate court within Boulder County, Colorado, or any appropriate court of appeal from such Boulder County Court.
- 9.6 Attorneys' Fees: If the Applicant breaches this Agreement, the Applicant shall pay the Town's reasonable costs of collection and costs and attorneys' fees incurred in the enforcement of the terms, conditions and obligations of this Agreement, whether or not legal proceedings are instituted.
- 9.7 Assignment and Release: All or part of the rights, duties, obligations, responsibilities or benefits set forth in this Agreement shall not be assigned by the Applicant without the express written consent of the Board of Trustees for the Town of Lyons. Any such written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities or benefits so assigned, and shall not be effective unless approved by resolution or motion of the Board of Trustees. No assignment shall release the Applicant from performance of any duty, obligation or responsibility unless such release is clearly expressed in such written document of assignment. Prior to approving any release of the Applicant, the Town may, at its sole discretion, require the party assuming any duty, obligation or responsibility of the Applicant to provide to the Town written evidence of financial or other ability or capability to meet the particular duty, obligation or responsibility being assumed by the party.
- 9.8 Paragraph Captions: The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

- 9.9 Severability: Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 9.10 Integration and Amendment: This Agreement represents the entire agreement between the parties, and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties.
- 9.11 Incorporation of Exhibits: Unless otherwise stated in this Agreement, exhibits, applications or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes.
- 9.12 Applicant Includes Agents: For purposes of incurring expenses, such as but not limited to requesting meetings and submitting reports and studies for Town review, the term "Applicant" shall include any authorized agent, consultant or other person acting on behalf of the Applicant.
- 9.13 Notices: Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail.

If to the Town:  
 Town of Lyons  
 Attn: Town Administrator  
 432 Fifth Avenue  
 P O Box 49  
 Lyons, CO 80540

If to Applicant:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

IN WITNESSES WHEREOF, the Town and the Applicant have caused this Agreement to be duly executed and effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

APPLICANT

By: \_\_\_\_\_ Date: \_\_\_\_\_

- Owner of Property
- Authorized Agent of Owner

Print Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_.

**Form of Sight Draft**

Date: \_\_\_\_\_

At sight, pay to the order of \_\_\_\_\_ [Beneficiary]  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

For value received and charge to the account of \_\_\_\_\_ [Name of Applicant].

Drawn under Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_.

To: [Name of Issuer] \_\_\_\_\_

\_\_\_\_\_  
[Signature of Beneficiary]

\_\_\_\_\_  
\_\_\_\_\_  
[Address of Issuer]

By: \_\_\_\_\_

(Prior code 10-19-2; Ord. 956 §1, 2014)





\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

(B) Surveyor's Certificate

**SURVEYOR'S CERTIFICATE:**

I, \_\_\_\_\_, do hereby certify that the survey of the boundary of \_\_\_\_\_  
\_\_\_\_\_ (Subdivision) was made under my supervision and  
the accompanying plat accurately represents said survey.

[Insert statement by the land surveyor explaining how bearings were determined.]

[Insert statement by the land surveyor indicating the type of monuments used.]

[Insert any required statement by the land surveyor certifying compliance with applicable  
provisions of the Colorado Revised Statutes]

\_\_\_\_\_  
(Signature of Registered Land Surveyor)  
(Land Surveyor's Seal]

(c) Mortgage Interest Holder(s) Consent to Dedication.

**MORTGAGEE CONSENT TO DEDICATION**

The undersigned holders of mortgage interests and liens against the property offered for  
dedication and transfer to the public and Town of Lyons consents and approves of such  
dedication and transfer and subordinates and releases its interests to such dedicated and  
transferred property.

In Witness Whereof, we do hereunto set our hands and seals this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
[Printed Name of Mortgage Interest Holder)

(If by corporation, president signs, secretary attests and corporate seal is affixed)

[Insert notarization conforming to applicable requirement of state law for mortgagee's place of  
execution)

(d) Board of Trustees Approval Certificate.

**TOWN OF LYONS APPROVAL CERTIFICATE:**

The Town of Lyons, Colorado, by motion of its Town Board of Trustees and following a recommendation of the Lyons Planning Commission did on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, adopt and approve the within plat and accept the dedications hereon made.

ATTEST:

\_\_\_\_\_  
Mayor or Mayor Pro Tem

\_\_\_\_\_  
Town Clerk

(Town Seal)

(If by corporation, president signs, secretary attests and corporate seal is affixed)

(e) County Clerk and Recorder Certificate

**COUNTY CLERK AND RECORDER'S CERTIFICATE**

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF BOULDER    )

I hereby certify that this plat was filed in my office at \_\_\_\_\_ o'clock \_\_\_ m. this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is duly recorded in Plan File \_\_\_\_\_.

By \_\_\_\_\_  
County Clerk or Deputy County Clerk

(f) Planned Unit Development Zoning Certificate (if applicable).

**TOWN CLERK'S CERTIFICATE:**

The undersigned Town Clerk for the Town of Lyons certifies that an application for the zoning or rezoning of the property described in this plat to a Planned Unit Development was approved by Ordinance No. \_\_\_\_\_ of the Town of Lyons, passed and adopted on final reading on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Town Clerk

(Prior code 10-19-1; Ord. 956 §1, 2014)

**APPENDIX 17-D  
FORM OF LETTER OF CREDIT AND SIGHT DRAFT**

Issuer's Letterhead

Irrevocable Standby Letter of Credit

Letter of Credit No. \_\_\_\_\_

Date: \_\_\_\_\_

Beneficiary Address

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Ladies and Gentlemen:

1. We hereby open in your favor, at the request and for the amount of \_\_\_\_\_, this irrevocable standby letter of credit in an aggregate amount not to exceed \$ \_\_\_\_\_, to be available for payment of your drafts drawn at sight on us and accompanied, in the case of each draft, by your signed written statement addressed to us stating:

The amount represented by the draft accompanying this statement is the amount required to be paid to Beneficiary on account of the default of \_\_\_\_\_, under the \_\_\_\_\_, dated \_\_\_\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_.

2. This credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by any document, instrument or agreement referred to herein, or in which this credit is referred to, or to which this credit relates; and no such reference shall be deemed to incorporate herein by reference any such document, instrument or agreement.

3. This credit shall expire on \_\_\_\_\_ [date], unless extended as provided herein.

4. It is a condition of this credit that it will be automatically extended without amendment for an additional period of twelve (12) months from the present and each future expiration date, unless, not less than sixty (60) days prior to the then-relevant expiration date, we notify both you and the Town of Lyons, 432 Fifth Avenue, P.O. Box 49, Lyons, Colorado 80540, by certified, return receipt mail that we elect not to extend this credit for any additional period. Upon your receipt of such a notification and the written consent of the Town of Lyons, Colorado, you may draw your sight draft on us prior to the then-relevant expiration date for the unused balance of this credit, which shall be accompanied by your signed written statement that you received notification of our election not to extend.

5. Drafts must be marked "Drawn under Irrevocable Standby Letter of Credit No. \_\_\_\_\_.

6. We hereby agree to honor each draft drawn under and in compliance with the terms of this credit if duly presented at our offices at \_\_\_\_\_ on or before the close of business on the expiration date.

7. This credit shall be governed by and construed in accordance with the laws of the State of Colorado.

OR

7. This credit shall be governed by and construed in accordance with the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500 (or the most recent version or revision) and, to the extent not inconsistent therewith, the laws of the State of Colorado.

Very truly yours,

Issuer: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

(Prior code 10-19-4; Ord. 956 §1, 2014)