

CHAPTER 17

Subdivisions

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ARTICLE I

General Provisions

Sec. 17-1. Procedure.

(a) All plans and plats submitted pursuant to this Chapter shall be submitted to the Town with a written application for approval. The Board of Trustees shall, as soon as practical, submit the plan to its Planning Commission. The Planning Commission shall review the plan for compliance with this and all other ordinances and the Planning Commission shall, within two (2) months from the first regular meeting after receiving the plan, send the plan and the Planning Commission recommendation to the Board of Trustees.

(b) The Board of Trustees shall approve or disapprove the plan within sixty (60) days after its next regular meeting following the action of the Planning Commission.

(c) The Board of Trustees may reject the plan for failure to comply with this Chapter. The Board of Trustees may also reject any plan on the grounds that it may downgrade the environment of the Town or that it may downgrade the quality of life in the Town. (Ord. 131 §X, 1978)

Sec. 17-2. Interpretation.

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

(1) The provisions herein contained shall be regarded as minimum requirements for the protection of the public health, safety and welfare.

(2) Whenever a provision of this Chapter and any provision in any other law of the Town covers the same subject matter, whichever is the most restrictive or imposes the higher standard or requirement shall govern. (Ord. 131 §X, 1978)

Sec. 17-3. Definitions.

As used in this Chapter, the following words shall be construed to have the meanings defined below:

(1) *Block* means a parcel of land bounded on all sides by a street or streets.

(2) *Comprehensive plan* means a plan for guiding and controlling the physical development of land use and circulation facilities in the Town and any amendment or extension of such a plan.

(3) *Consumer* means any person contacted as a potential purchaser, lessee or renter as well as one who actually purchases, leases or rents property in the subdivision.

(4) *Dedication* means a grant by the owner of a right to use land to the public in general, involving a transfer of property rights, and an acceptance of the dedicated property by the appropriate public agency.

(5) *Easement* means a dedication of land for a specified use, such as providing access for maintenance of utilities.

(6) *Lot* means a parcel of land intended for transfer of ownership or building development, having its full frontage on a public street.

(7) *Person* means an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity including a joint venture or affiliated ownership. The word *person* also means a municipality or state agency.

(8) *Plat* means a map, drawing or chart upon which the subdivider presents proposals for the physical development of a subdivision, and which he or she submits for approval and intends to record in final form.

(9) *Reservation* means a legal obligation to keep property free from development for a stated period of time, not involving any transfer of property rights.

(10) *Right-of-way* means the width between property lines of a street.

(11) *Street* means a way for vehicular traffic, further classified and defined as follows:

a. *Arterial streets* are those which permit the relatively rapid and unimpeded movement of large volumes of traffic from one (1) part of the community to another.

b. *Collector streets* are those which collect traffic from minor streets and carry it to arterial streets or to local traffic generators such as neighborhood shopping centers and schools. *Collector streets* include the principal entrance streets to a residential development, those streets linking such adjacent developments, and those streets providing circulation within such developments.

c. *Minor streets* are those used primarily for direct access to properties abutting the right-of-way. Minor streets carry traffic having an origin or destination within the development and do not carry through traffic.

(12) *Subdivider* or *developer* means any person, individual, firm, partnership, association, corporation, estate, trust or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein defined, including any agent of the subdivider.

(13) *Subdivision* means:

a. The division of a parcel of land into two (2) or more parcels, sites or lots for the purpose, whether immediate or future, of transfer of ownership or building development, provided that the division of land into parcels of more than five (5) acres which does not involve the creation of any new streets or easements of access shall be exempted; or

b. The improvement of one (1) or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the

opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders, or as easements for the extension and maintenance of public sewerage, water, storm drainage or other public utilities or facilities.

c. *Subdivision* does not mean or include any division of land for the sole purpose of conveying to the Town additional right-of-way for the widening or other improvement of any arterial street. (Ord. 131 §XI, 1978; Ord. 2002-09 §1)

Secs. 17-4—17-20. Reserved.

ARTICLE II

Applicability of Regulations

Sec. 17-21. Control.

These regulations shall be held to be minimum requirements and shall apply to those subdivisions of land where streets are constructed to give access to newly created lots. Any and all such subdivisions shall be submitted in the form of plats or plans to the Planning Commission and the Board of Trustees for their approval or disapproval. The dedication to public use of any street, utility system or site shall also be governed by these regulations. No final plat on a subdivision shall be approved and accepted by the Board of Trustees unless it conforms to the provisions of this Chapter. (Ord. 131 §II, 1978)

Sec. 17-22. Jurisdiction.

The territory within which these regulations are applicable shall include all land located within the legal boundaries of the Town, and all land located within three (3) miles of the corporate limits of the Town and not located in any other municipality for purposes of control with reference to the plan for major streets only. (Ord. 131 §II, 1978)

Sec. 17-23. Fees.

There shall be required a fee for each plat submitted for approval. The following fees shall be paid prior to the submission of such plats to the Planning Commission:

- (1) Preliminary plats – as set forth in the Town's fee schedule.
- (2) Final plat - actual cost incurred by the Town, which shall be recovered prior to signing of final plat.
- (3) All construction supervision fees shall be paid by the subdivider.
- (4) The fee required by the County Recorder to record the final plat shall be paid by the subdivider.

(5) A park fee shall be paid to the Town prior to approval of the final plat. This fee shall be no more than that set forth in the Town's fee schedule per lot and funds from this fee shall be used only for the development of land dedicated to the Town under Article VII of this Chapter.

(6) Drainage fee.

a. All undeveloped property shall be charged a minimum fee as set forth in the Town's fee schedule for the first ten thousand (10,000) square feet of lot area or fraction thereof if less than ten thousand (10,000) square feet regardless of use.

b. In addition to said fee as set forth in the Town's fee schedule, if said property is used for commercial or industrial use, the fee shall be as set forth in the Town's fee schedule per square foot of lot area that exceeds ten thousand (10,000) square feet.

c. In addition to said fee as set forth in the Town's fee schedule, if said property is used for any other use than Subparagraph b above, the fee shall be as set forth in the Town's fee schedule per square foot of lot area that exceeds ten thousand (10,000) square feet.

Such drainage fees shall be deposited in a separate Town account and shall be used only for providing and improving storm drainage systems of the Town. Additional specific fees may be charged over the basic fees for additional loads and costs placed on the drainage system of the Town. (Ord. 131 §II, 1978)

Sec. 17-24. Land use deposit.

(a) Deposit required. No territory within the Town shall be annexed, subdivided or developed without compliance with the Subdivision Regulations of the Town published in pamphlet form. Subdivisions of five (5) or fewer lots may be approved without full compliance with the Subdivision Regulations by summary procedure designated by the governing body. Any person, corporation or entity desiring to annex or subdivide any parcel of land or territory within the Town into more than five (5) separate lots or parcels shall first deposit with the treasurer of the governing body a land use deposit. The land use deposit for annexation shall be in the amount as set forth in the Town's fee schedule, which shall be deposited at the time of filing the annexation petition. The land use deposit for development, whether by subdivision, site plan or other development form, shall be as set forth in the Town's fee schedule and shall be made at the time of the first land use filing, whether outline development plan, preliminary plan or development proposal, regardless of how denominated. No action shall be taken on any land use application until the deposit has been paid to the Town Treasurer.

(b) Accounting. A land use development deposit shall be accounted for separately by the Town Treasurer and shall be deposited in a separate interest-bearing money market account. Interest shall accrue to the depositor. The deposit shall be maintained until the proposed land use has been completed and approved and the infrastructure has been accepted by the Town. The Town will not access the deposit unless expenses invoiced to the depositor remain unpaid for a period of sixty (60) days. Any invoices which are disputed by the developer and have been reviewed and paid by the Town must be paid within sixty (60) days. At the depositor's request, if the invoice is determined to be inaccurate, the Town will credit any improper withholding to the developer.

(c) Application of deposit. The land use deposit shall be held by the Town to guarantee the payment of expenses incurred by the Town for review of the development proposals, and shall include, but not be limited to, review of development proposals, including costs and fees incurred for review by the Town planner, engineer, Town Attorney, any water attorney, water engineer, traffic engineer, public hearing expenses, recording expenses, reproduction of materials or maps or any other consultant required to be engaged by the Town as a result of the proposed development, subdivision or annexation and any development fees set forth in the Town Fee Schedule or other development costs incurred by the Town.

(d) Withdrawal or completion. At any time sixty (60) days after termination, completion or withdrawal of any land use application, and by giving written notice to the Town of such termination, completion or withdrawal, the Town shall release the deposit to the depositor, minus any expenses, costs or invoice amounts which remain due to the Town.

(e) Property owner to sign acknowledgement. At the time of filing any annexation petition, outline development plan, preliminary plat, site plan or any other land use proposal, the Town shall tender to the land owner, developer or subdivider an agreement for payment of land use application fees, which agreement shall set forth the terms of this Section and shall be signed by the landowner, developer or subdivider acknowledging the requirements of this Section and accepting the terms hereof.

(f) Project suspension. In the event the land use development deposit described in this Section is not paid when due, all further consideration of any application by the Town or Town staff shall terminate. In the event the deposit has been fully consumed and no new deposit has been made, all further consideration of any application by the Town, Town staff or Planning Commission shall terminate.

(g) Construction. This Section shall not be construed to impose any new fee, but shall be construed to be a deposit to ensure collection of all annexation or development costs incurred by the Town.

(h) Collection costs. If any owner, subdivider or developer fails to pay fees as required herein, fails to pay any fee described herein when lawfully due, or fails to post a deposit when required, such amount shall draw interest at the prime interest rate as published in the *Wall Street Journal* plus ten percent (10%). All court costs, attorneys' fees or expenses of collecting any amount due to the Town shall be paid by the owner, developer or subdivider. (Ord. 2001-04 §3)

Secs. 17-25—17-40. Reserved.

ARTICLE III

Procedure

Sec. 17-41. Preapplication procedure.

(a) Prior to the filing of application for approval of a preliminary plat, the subdivider may, at his or her option, submit to the Planning Commission an outline development plan as specified in Section

17-61 of this Chapter. This procedure shall not require a formal application, fee or filing of plat with the Planning Commission.

(b) The Planning Commission shall review the outline development plan to determine its general acceptability and compliance with the objectives and standards of these regulations, and shall hold conference with the subdivider to discuss desirable modifications of the plan. (Ord. 131 §III, 1978)

Sec. 17-42. Conditional approval of preliminary plat.

(a) Upon formal application, the subdivider shall submit to the Planning Commission ten (10) copies of a preliminary plat, together with supplementary material as specified in Section 17-62 of this Chapter. The preliminary plat shall be submitted together with written application for conditional approval at least twenty (20) days prior to the Planning Commission meeting at which it is to be considered.

(b) Upon receipt of the preliminary plat, the Planning Commission shall transmit copies to public agencies having jurisdiction, and utility companies, who shall examine the plan and report their recommendations thereon to the Planning Commission.

(c) The Planning Commission shall review the preliminary plat for compliance with these regulations and negotiate with the subdivider on the type and extent of improvements to be installed and on modifications deemed advisable.

(d) Within forty-five (45) days following submittal, the Planning Commission shall inform the subdivider of its approval or disapproval stating the conditions of approval, if any, or if disapproved, stating the reasons therefor. Any conditions must be met before submittal of a final plat.

(e) The Planning Commission shall have authority to require changes in the preliminary plan when those changes will more fully meet the purposes of this Chapter, and the comprehensive plan shall ensure that any subdivision approved will promote the good of the comprehensive plan. (Ord. 131 §III, 1978)

Sec. 17-43. Approval of final plat.

(a) A final plat, containing the information specified in Section 17-63 of this Chapter, shall be submitted to the Planning Commission within twelve (12) months after approval of the preliminary plat; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(b) The final plat as submitted shall conform substantially with the preliminary plat as approved, and may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. In the case of partial submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of twelve (12) months before another phase of the plat shall be submitted in final form.

(c) Following review, the Planning Commission shall act to approve or disapprove the final plat and send its recommendations to the Board of Trustees for its approval or disapproval of the final plat. If the plat is disapproved, the reasons therefor shall be stated in writing and a copy furnished to

the subdivider. Upon approval and recording of the final plat with the County Clerk and Recorder, and upon the developer's compliance with the provisions of the subdivision agreement, if any, and upon compliance with all other regulations and ordinances regarding subdivisions, the appropriate municipal agencies shall issue building permits for structures within the subdivision. (Ord. 131 §III, 1978)

Sec. 17-44. Suspension, withdrawal or termination of plat approval.

(a) Authority. The Board of Trustees may suspend or withdraw its approval of a plan or plat or may require corrective measures if it determines that the subdivider provided information upon which an approval was based that he or she knew or should have known was materially false or misleading or that he or she knowingly failed to disclose information that causes the information which was disclosed to be materially false or misleading. Suspension of approval may occur at any step in the subdivision process before final approval of the final plat.

(b) Notice and hearing. Before any such action may be taken, the Board of Trustees shall mail written notice to the subdivider, first class postage prepaid, notifying him or her of the possible suspension or withdrawal stating the alleged basis for it, and notifying the subdivider to appear if he or she so desires at a specified public meeting of the Board of Trustees, to be held not less than ten (10) days nor more than thirty (30) days after the date of the notice, to show cause why the specified approval should not be suspended or withdrawn, or corrective measures ordered.

(c) Action. After giving the subdivider an opportunity to be heard, the Board of Trustees shall determine the matter and, upon good cause being shown, may suspend or withdraw any approval or require specified corrective measures to be taken. Adoption and approval of a resolution taking such action shall be deemed the final decision of the Board of Trustees. Any interested person aggrieved by action of the Board of Trustees pursuant to this Section may appeal to the District Court in and for Weld County, Colorado, pursuant to Rule 106(a)(4), C.R.C.P., within the time therein provided.

(d) Expiration of plat approval. Following notice and an opportunity for hearing as provided herein, the Board of Trustees may vacate an approved plat or any portion thereof covering an area of not less than five (5) acres if there has been no substantial reliance on the plat within such area for a period of not less than five (5) years after recordation of the plat and next preceding the issuance of the notice, all as provided in this Section. For purposes of this Section:

(1) *Noticed area* means the lands covered by the plat or portion thereof proposed for vacation pursuant to this Section.

(2) *Ownership parcel* means a group of contiguous platted lots or blocks, disregarding intervening unopened streets, held in common ownership as of the date of the notice provided in Subsection (e) below. It includes such intervening platted but unopened streets.

(3) *Substantial reliance on the plat* means:

a. A division of any ownership parcel by the location of dwellings, lawful at the time of construction, based upon the plat, which have been continuously occupied, used and maintained in reasonable reliance on the plan, or

b. The construction and maintenance of roadways or other public improvements serving discrete areas within the ownership parcel, which areas were established or divided based upon the plat in reasonable reliance thereon.

(e) Notice. If reasonable cause exists to believe that a plat or some portion thereof should be vacated pursuant to this Section, the Board of Trustees may give written notice to all persons holding record ownership, deed of trust and mortgage interests in each ownership parcel within the noticed area, as those interests then appear in the records of the Weld County Clerk and Recorder. Such notice shall describe the ownership parcel, advise that the platted lot and block boundaries and intervening streets with it are being considered for vacation, state the date, time and place of a public hearing at which the Board of Trustees will consider the matter and notify such persons that they may appear if they so desire to show cause why such lot and block boundaries and intervening streets within their ownership parcel should not be vacated. The public hearing shall be held not less than thirty (30) days after notice is given. Notice shall be given by first class mail, postage prepaid, to each interested person at the address given for him or her in the recorded instrument evidencing his or her interest or to the Weld County Assessor and by publication two (2) times in a newspaper of general circulation in the Town, with the second such publication occurring not less than fifteen (15) days before the date of the public hearing.

(f) Burden of proof. An interested person shall have the burden of proving that within the ownership parcel in which he or she has an interest there has been substantial reliance on the plat within a period of not less than five (5) years after recordation of the plat and next preceding the notice.

(g) Authority to vacate. In portions of the noticed area where the Board of Trustees finds that within a period of not less than five (5) years after recordation of the plat and next preceding the notice there has been no substantial reliance on the plat, it shall leave the lot and block boundaries between ownership parcels intact and may vacate platted lot and block boundaries and unopened streets within and adjacent to ownership parcels.

(h) Method of vacating. If the Board of Trustees finds that within a period of not less than five (5) years after recordation of the plat and next preceding the notice there has been substantial reliance on the plat within an ownership parcel, it may leave the lot and block boundaries affecting a division of such ownership parcel resulting from such reliance intact and vacate remaining lot and block boundaries and unopened streets within each accepted division. Each accepted division shall be deemed a separate ownership parcel.

(i) Access. No action pursuant to this Section shall leave an ownership parcel without platted access to a public street or highway which has been accepted for maintenance by the Town, the County or the State, nor shall the Board of Trustees vacate any streets without reserving rights-of-way for existing utility facilities of which it has knowledge. The Board of Trustees has full discretion to decline to vacate any street within a noticed area and to reserve, such right-of-way or easement interests in any vacated street as it deems in the best interest of the Town.

(j) Vacation by ordinance. Any action to vacate lot or block boundaries of public streets pursuant to this Section shall be by ordinance which clearly describes the ownership parcels remaining within the noticed area and each portion of each street vacated. A certified copy of the ordinance shall be duly recorded in the office of the Weld County Clerk and Recorder on or after the

effective date thereof. Adoption and approval of the ordinance taking such action shall be deemed the final decision of the Board of Trustees. Any interested person aggrieved by action of the Board of Trustees pursuant to this Section may appeal to the District Court in and for Weld County, Colorado, pursuant to Rule 106(a)(4), C.R.C.P., within the time therein provided. After the adoption of any ordinance enacted pursuant to this Section, the division of any ownership parcel identified in said ordinance shall be deemed a subdivision within the meaning of this Section and shall require approval of the Board of Trustees as provided herein. No failure to act or delay by the Board of Trustees in acting pursuant to this Section shall be deemed to waive or estop the Board from acting at a future time, nor shall such failure or delay vest any rights in the owner of any property within the Town. (Ord. 2001-04 §4)

Secs. 17-45—17-60. Reserved.

ARTICLE IV

Plats and Data

Sec. 17-61. Outline development plan and data.

The outline development plan and data shall contain the following information presented in generalized and schematic form:

(1) Location map. The location map shall be prepared on a published sheet map or zoning map and shall indicate clearly the relationship of the proposed subdivision to the surrounding area within one-quarter ($\frac{1}{4}$) mile of the subdivision's boundaries. The map shall show existing development including major streets; existing public sewers, public water supply and storm drainage systems; major land use concentration; principal places of employment; and community facilities such as schools and parks. The location map shall include a title, scale, north arrow and date. (Scale not less than 1" = 600').

(2) Sketch plan. The sketch plan may be a free hand drawing at suitable scale (not less than 1" = 200') in a legible medium, and shall clearly show the following: the proposed layout of streets and lots in relation to topographic conditions and natural landscape features on the site; the proposed location and extent of major open spaces and public sites; general locations of utilities easements and installations; proposed land uses; and, if construction of buildings is proposed, indication of building types, with approximate location of major buildings exclusive of single-family residential dwellings.

(3) General development information. This information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required in subsections (1) and (2) above, and shall include information on existing covenants and land characteristics, and information describing the development proposal, such as number of residential lots or dwelling units, typical lot width and depth, price ranges of lots and dwelling units, proposed protective covenants, and proposed utilities and street improvements. (Ord. 131 §IV, 1978)

Sec. 17-62. Preliminary plats and data.

Preliminary plats and data shall include the following information:

(1) Topographic data. The topographic survey shall be required as a basis for the preliminary plat. Such survey shall be prepared by a land surveyor, engineer or land planner. As an alternative, the topographic data may be compiled by photogram metric methods. The survey shall include existing conditions on and adjacent to the tract as follows, except when otherwise specified by the Planning Commission. (At a scale of not less than 1" = 100').

a. Ground elevations on the tract, based on the United States Geological Survey datum plan or an approved datum plan by the Planning Commission. Contours shall be at two-foot intervals.

b. Outer boundary lines (approximate).

c. Easements: location, width and purpose.

d. Streets on and adjacent to the tract: name, right-of-way width and location; type, width and elevation of and surfacing; curbs and gutters, sidewalks and culverts.

e. Utilities on and adjacent to the tract: location, size and invert elevations of sanitary sewers; for storm drainage facilities not on or adjacent to the tract, indicate the direction and distance to, size and invert elevation or nearest extensions of such utilities.

f. Subsurface conditions on the tract: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions.

g. Other conditions on the tract: water courses, marshes, rock outcroppings, groves of trees, isolated trees six (6) inches or more in diameter, existing buildings and other significant features.

h. Other conditions on immediately adjacent land: approximate direction and gradient of ground slope, including any embankments; character and location of buildings, railroads, power lines, towers and other nearby land; uses or adverse influences; owners of adjacent unplatted land (for adjacent platted land refer to subdivision plat by name, recordation date and number).

i. Zoning on and adjacent to the tract.

j. Location map or vicinity sketch.

k. Name of proposed subdivision; legal description; names and addresses of owners, subdividers, designers and engineers; date; scale; North arrow; acreage within tract.

(2) Preliminary plat. The preliminary plat may be drawn with scaled dimensions and need not be an engineering drawing with calculations or dimensions and survey closures. The preliminary plat shall be prepared at a scale of not less than one (1) inch equals one hundred (100) feet, and

shall show all existing conditions required in Section 17-61 above, topographic data and all development proposals, including the following:

- a. Location and dimensions of all existing highways, streets, alleys, utility easements, drainage areas, irrigation ditches and laterals and all other significant features.
 - b. Street and alleys: dimensions and location of right-of-way and pavement widths, approximate grades and gradients, and centerline radii of all curves.
 - c. Location, dimensions and purpose of all other proposed easements and rights-of-way to be reserved or dedicated for public use.
 - d. Location and size of existing utilities within and adjacent to the subdivision, including water, sewer, electricity, gas and telephone.
 - e. Proposed utility system, including water, sewer, electricity, gas, telephone and any other services that shall supply the subdivision.
 - f. Lot lines, lot numbers and block numbers.
 - g. Location and acreage of sites, if any, to be dedicated for parks, playgrounds or other public uses.
 - h. Location and acreage of sites, if any, for multifamily dwellings, shopping centers, community facilities, industry or other use exclusive of single-family dwellings.
 - i. Site data, including number of residential lots and typical lot size.
 - j. Name of proposed subdivision, names and addresses of owners, subdividers, designers and engineers, date, scale, North arrow and certificates.
- (3) Draft of proposed covenants, whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.
- (4) Such additional information as may be required by the Planning Commission in order to determine that the subdivision is capable of being constructed without an adverse effect on the surrounding area.
- (5) Application for rezoning, if required for the development of the subdivision.
- (6) Approval or denial, preliminary plan. A preliminary plan may be approved by the Planning Commission unless it finds that the preliminary plan fails to meet the requirements specified herein or that the proposed subdivision is detrimental to the public health, safety or general welfare as set forth in this Section as follows regarding health, safety and welfare. Before approving the preliminary plan, the Planning Commission shall determine that the subdivision:
- a. Will be served by a public water system and will not create an unreasonable burden on the existing water supply.

b. Will be served by a public sanitation system or on-lot sewage disposal system that will not result in water pollution. In making this latter determination, the Planning Commission and Board of Trustees shall consider: the amount of rainfall received by the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and the effect of effluents; the presence of streams as related to effluent disposal; the applicable health and water resources department regulations.

c. Will not cause soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

d. Will not cause air pollution. In making this determination, they shall consider the elevation of land above sea level; land topography; prevailing winds or the absence thereof; local and regional airsheds; increase in sources or quantity of emission, as well as quality of such, and such other items as are deemed pertinent.

e. Will not cause unreasonable highway congestion or unsafe conditions with respect to use of the highways existing or proposed; will not cause unreasonable burden on the ability of a school district to provide educational services; will not place an unreasonable burden on the ability of the Town to provide water, sewage, fire, police, hospital, solid waste disposal and other services.

f. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas; will not have an undue adverse effect on wildlife and their habitat, on the preservation of agricultural land and open space.

(7) Denial of preliminary plan shall be in writing and shall state the specific reasons therefor. Reasons for denial may include the Town's desire to restrict growth. The subdivider may within six (6) months resubmit his or her plan along with an affidavit which shall state that previous deficiencies have been corrected; this resubmission shall be without an additional fee. Reapplication after six (6) months shall require a new application fee. (Ord. 131 §IV, 1978)

Sec. 17-63. Final plat and data.

The final plat and supplementary data shall contain the following information:

(1) Final plat. The final plat shall be an engineering drawing prepared to normal engineering tolerances of accuracy with calculated rather than scale dimensions. The exterior lines of the final plat shall join or close. The plat shall be drawn in permanent ink on a reproducible linen or Mylar with outer dimensions of twenty-four (24) inches by thirty-six (36) inches and shall be at a scale of one (1) inch equals one hundred (100) feet. The final plat may constitute the entire approved preliminary plat or any logical portion of the approved preliminary plat proposed for immediate recording. The final plat shall conform to the approved preliminary plat and shall include all changes and additions as required by the Planning Commission and shall show the following:

a. Primary control points, or descriptions, and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

b. Tract boundary lines, right-of-way lines of streets, easements and other right-of-way and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field which must balance and close within a limit of one (1) in ten thousand (10,000). No final plat showing plus or minus dimensions will be approved.

c. Total acreage and surveyed description of the subdivision.

d. Name and right-of-way width of each street or other right-of-way.

e. Location, dimensions and purpose of any easements.

f. Numbers to identify each block, lot and/or site.

g. Purpose for which sites, other than residential lots, are dedicated or reserved.

h. Location and description of all monuments both found and set.

i. Names of record owners of adjoining unplatted land.

j. Reference of recorded subdivision plats or adjoining platted land by record name, date and number.

k. Signature and seal of registered land surveyor certifying to accuracy of survey and plat, including a statement explaining how bearings, if used, were determined.

l. Signature block for certification of approval by the Planning Commission and the Board of Trustees, with signatures by the Chairman of the Planning Commission and the Mayor.

m. Certification of title showing that the applicant is the land owner.

n. Statement by the subdivider dedicating streets, rights-of-way, easements and public sites.

o. Title under which the subdivision is to be recorded.

(2) Other documents required at the time of submission of the final plat shall be:

a. Complete engineering plans and specifications for all public facilities to be installed, including water and sewer utilities, streets and related improvements, bridges and storm drainage.

b. Agreements made with ditch companies when needed.

c. Clearance record showing approval by the utility companies.

d. A consumer full disclosure statement, which shall include:

1. Name and address of each person having an interest in the subdivision or development and the extent of such interest.

2. A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances, deed restrictions and covenants applicable thereto.

3. A statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of lots, dwellings or structures.

4. In the case of a subdivision, development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality.

5. Copies of all forms of conveyance to be used in selling or leasing lots, dwellings or structures.

6. Such certified and uncertified financial statements of the developer as the Planning Commission and Board of Trustees may require, and such other information, documents and certifications as the Planning Commission and Board of Trustees may require as being reasonably necessary or appropriate for the protection of consumers.

After acceptance of the final plat by the Town, the subdivider shall give and explain a copy of the consumer full disclosure statement to every consumer at least forty-eight (48) hours prior to the signing of an agreement or contract concerning property in the subdivision. Failure to so use the consumer full disclosure statement shall result in revocation of final plat approval; and, additionally, such agreement or contract shall be voidable at the option of the consumer within the period allowed by the statute of limitations of the State if based on fraudulent representation, material omission, less than forty-eight (48) hours disclosure, or failure to give and explain.

e. A performance bond drawn and posted in favor of the Town, which bond shall be of sufficient amount to assure completion of all required improvements.

f. Protective covenants in form for recording.

g. Such other certificates, affidavits, enforcements or deductions as may be required by the Planning Commission or Board of Trustees in the enforcement of these regulations. (Ord. 131 §IV, 1978)

Sec. 17-64. Minor subdivisions.

(a) The following minor subdivision procedure may be used for a subdivision application meeting one (1) or more of the following requirements:

(1) The subdivision is a replat of an approved final subdivision plat which does not increase the number of lots or increase density, and which does not result in a material change in the extent, location or type of public improvements, easements, arrangement of streets, open space or utilities;

(2) The subdivision is a division of a parcel into not more than four (4) lots; each lot has access to an accepted and maintained public street; the subdivision will not require the dedication of streets, alleys or easements, or the construction of improvements as set forth in Article VI; and each lot will meet the requirements of the Town's zoning regulation without the necessity for a variance and no variance has been granted with the three (3) each previous years; or

(3) The subdivision is of a lot, previously created by an approved final subdivision plat, which is split or subdivided into no more than four (4) lots and the lots created by the split comply with the applicable requirements of the Town's zoning regulations.

(4) The subdivision is a division of a parcel or lot into not more than four (4) lots, one (1) or more of which are to be conveyed to the Town. The approval of any subdivision under this Section may be conditioned upon conveyance to the Town of such lot or lots.

(b) A minor subdivision plat shall not be approved if the property is within any parcel or lot, any part of which has been subdivided by a minor subdivision within the three (3) years preceding the date of the current application. This Section shall not apply to a subdivision creating a lot or lots pursuant to Subparagraph (a)(4) above.

(c) A subdivider may apply through the minor subdivision procedure set forth in this Section by submitting to the Town Planner a written minor subdivision application, the subdivider's certification to the Town that all required improvements are installed, available and adequate to serve each lot of the minor subdivision, a final plat in accordance with Section 17-63 above and such other information as may be required by the Town Planner. The Town Planner and Town Engineer shall review the request to determine whether it complies with the requirements of this Section for a minor subdivision.

(d) If the Town Planner and Town Engineer determine that the proposed subdivision complies with the requirements of this Section, they shall approve the request for minor subdivision review and submit the application to the Planning Commission. The Town Planner and Town Engineer may waive any final plat requirement set forth in Section 17-63 above to the extent they determine such requirement to be unnecessary or inapplicable to the minor subdivision plat.

(e) The Planning Commission may, following notice and hearing, either approve, disapprove or conditionally approve the plat subject to compliance with any minimum design standards, to dedication of additional right-of-way or easements or to the installation of additional improvements. The subdivider has the burden of proving that the criteria of Subsection (a) above have been met.

(f) The Planning Commission shall submit the plat together with recommendations to the Board of Trustees. The Board of Trustees may approve, disapprove or refer the plat back to the Planning Commission for further study. Following plat approval by the Board of Trustees, the Town shall record the plat in the office of the Weld County Clerk and Recorder in accordance with state statute. (Ord. 2002-09 §2)

Sec. 17-65. Notice.

(a) Notices of the time, place and subject matter of all hearings pertaining to land use, particularly hearings pertaining to preliminary plat, preliminary development plans, final plat, final development plans and minor subdivision plats, shall be published once in a newspaper of general circulation in the Town at least ten (10) days prior to the hearing date of the Planning Commission and the ten (10) days prior to the hearing date of the Board of Trustees.

(b) The applicant shall, at least ten (10) days before the date of the Planning Commission hearing and at least ten (10) days before the date of the Board of Trustees hearing, mail by regular mail notice of such meeting to all owners of legal or equitable interest in the land and owners of adjoining property within one hundred (100) feet of the outside boundaries of the property as shown by the application, and shall file proof of such mailing with the Town Clerk a minimum of ten (10) days prior to the date of the scheduled hearings.

(c) Notice of the application and the holding of such hearings shall be posted on the property by the applicant, with posting signs supplied by the Town, at least ten (10) days in advance of such hearing. Postings shall be placed so as to be facing the most heavily traveled street bordering the subject property. Proof of such posting shall be provided to the Town Clerk a minimum of ten (10) days prior to the date of the scheduled hearings. (Ord. 2002-09 §3)

Secs. 17-66—17-80. Reserved.

ARTICLE V

Design Standards

Sec. 17-81. General site considerations.

(a) A proposed subdivision shall be in general compliance with respect to adequate dedication and/or reservation of major street rights-of-way, major utility easements and open spaces for schools and recreation areas.

(b) A proposed subdivision shall not, by reason of its location or design, cast an undue burden on public utility systems and community facilities on or adjacent to the tract. Where extension and enlargement of public utility systems and community facilities is necessary, the subdivider shall make provision to off-set higher net public cost or earlier incursion of public cost necessitated by the subdivision. Due consideration shall be given to difference between anticipated public costs of installation, operation and maintenance and anticipated public revenue derived from the fully developed subdivision in determining added new public cost.

(c) No land shall be subdivided in areas where soil, subsoil or flooding conditions are a potential danger to health and safety.

(d) Drainage areas wherever possible shall be left in a natural state, and no encroachment shall be made on the natural channel. A plan to prevent water pollution shall be submitted and adhered to

wherever any modification of topography is required during construction within one hundred (100) feet of any stream, ditch or drainage channel.

(e) Provision shall be made to preserve groves of trees, streams, unusually attractive topography and other desirable natural landscape features. Provision shall be made for the perpetual maintenance of such features through private covenants or other means acceptable to the Planning Commission and Board of Trustees.

(f) A proposed subdivision shall be designed in such manner as to be coordinated with adjoining subdivisions with respect to the alignment of street rights-of-way and utility and drainage easements and open spaces.

(g) Where a subdivision borders a railroad right-of-way, freeway, arterial or collector street, a landscaped buffer area shall be provided for adequate reduction of noise. (Ord. 131 §V, 1978)

Sec. 17-82. Streets.

(a) Arrangement of streets.

(1) The arrangement, extent, width, type and location of all streets shall be designed in relation to existing or planned streets, to topographic conditions, to public convenience and safety, and to the proposed use of land to be served.

(2) Local streets shall be arranged so that their use by through traffic will be discouraged.

(3) Major arterial streets shall not be intersected by local streets. Collector streets shall not intersect major arterial streets at intervals of less than one thousand three hundred twenty (1,320) feet.

(4) Streets shall be extended to the boundaries of the property, except where such extension is prevented by topography or other physical conditions; or where the connection of streets with existing or probable future streets is deemed unnecessary for the advantageous development of adjacent properties.

(5) Where future extensions of a street is anticipated, a temporary turnaround having a minimum outside diameter of eighty (80) feet shall be provided.

(b) Closed-end streets.

(1) The maximum allowable length of closed-end streets in single-family residential and multifamily residential developments shall be six hundred (600) feet.

(2) Closed-end streets shall be provided with circular turnarounds having a minimum outside right-of-way diameter of one hundred twenty (120) feet, and a minimum pavement diameter of ninety (90) feet in order to permit free movement of emergency vehicles.

(c) Intersections.

(1) Streets shall intersect as nearly as possible at right-angles. Intersecting street centerlines shall be within twenty degrees (20°) of the perpendicular for a distance extending at least one hundred (100) feet in each direction from a street intersection.

(2) Right-angle street intersections shall be rounded with a minimum radius of twelve (12) feet at the intersection of local streets with collector streets and a minimum radius of thirty (30) feet at the intersection of collector streets with arterials.

(3) If an intersection occurs at an angle other than a right-angle, it shall be rounded with a curve of a radius acceptable to the Planning Commission.

(d) Half-streets. The dedication of a half-street shall not be accepted unless:

(1) The subdivider obtains for the Town a dedication from the abutting landowner of the other one-half (½) of the street;

(2) The subdivider obtains from the said abutting landowner an agreement in a form satisfactory to the Town which guarantees the cost of the improvements and construction of the same on the half-street within a time suitable to the Town; and

(3) The subdivider guarantees the construction of the improvements on the half-street which he or she is dedicating.

(e) Perimeter streets. When the plat dedicates a street which ends on the plat or is on the perimeter of the plat, the subdivider shall convey the last foot of the street on the terminal end or outside border of the plat to the Town as fee simple and such shall be designated as outlot(s); the Town shall put the same to public use for public road and access purposes when, within its sole and absolute discretion, it deems advisable.

(f) Right-of-way, pavement and sidewalk widths. Minimum width in feet, by street type:

<u>Type</u>	<u>Right-of-way</u>	<u>Pavement</u>	<u>Sidewalk</u>
Major arterial	100	48 (divided)	5
Minor arterial	80	44*	5
Collector	60	40*	5
Local	50	36*	4
Alley ¹	20	15	--

* Measured from flow line of gutter to flow line of gutter.

¹ Where permitted or required by the Planning Commission

(g) Horizontal alignment.

(1) Where street centerlines deflect from each other at any point by more than fifteen (15) degrees, they shall be connected by horizontal curves having minimum radii as follows:

Local streets	100 feet
Collector streets	200 feet
Arterial streets	400 feet

(2) A tangent not less than one hundred (100) feet long shall be provided between reverse curves on collector and arterial streets.

(3) Cross streets which cannot be directly aligned at intersections shall be separated by a horizontal offset of not less than one hundred twenty-five (125) feet between centerlines provided that this requirement shall not apply to the alignment of short, opposing closed-end streets.

(h) Vertical alignment.

(1) No vertical grade shall be less than two-tenths percent (0.2%) in order to facilitate adequate drainage.

(2) Maximum percent of street grade, except as provided below*:

Local streets	8%
Collector streets	7%
Arterial streets	5%

* Where a horizontal curve occurs on a grade of over five percent (5%), the maximum allowable percent of grade on the curve shall be reduced by one-half percent (0.5%) of each fifty (50) feet that the curve radius is less than four hundred (400) feet.

* Street grades shall not exceed four percent (4.0%) for a distance extending at least forty (40) feet in each direction from a street intersection.

(i) Street names. Names of new streets shall not duplicate names of existing streets, provided that new streets which are extensions of, or which are in alignment with existing streets, shall bear the names of such streets.

(j) State Highway 34. All subdivision plats and street plans shall be approved only when such plats and plans are in conformance with the requirements of Chapter 11, Article II, the State Highway 34 Access Control Plan and the intergovernmental agreement implementing the State Highway 34 Access Control Plan. (Ord. 131 §V, 1978; Ord. 2003-O03 §2)

Sec. 17-83. Utilities easements.

(a) Subdivisions shall be platted with utility easements of a minimum width of sixteen (16) feet, eight (8) of which shall be on each side of common rear lot lines where said lines abut. On perimeter of rear lots, easement width shall be a minimum of ten (10) feet. Side lot easements where necessary for street light runs, etc., shall be a minimum of five (5) feet in width. Said easements shall be graded to within six (6) inches of final grade before utility facilities are installed.

(b) Where a subdivision is traversed by a watercourse, drainageway or stream, there shall be provided a perpetual drainage easement conforming substantially with the lines of such watercourse, and of such width as necessary and adequate to carry off the predictable volume of storm water drainage from a five-year frequency storm.

(c) In general, utility systems shall be arranged and located in such manner as to avoid cross connections, minimize trenching and adequately separate incompatible systems. (Ord. 131 §V, 1978)

Sec. 17-84. Blocks.

(a) The lengths, widths and shapes of blocks shall be determined with due regard to the following:

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

(2) Requirements of Chapter 16 of this Code as to lot sizes and dimensions.

(3) Needs for convenient access and control and safety of vehicular and pedestrian traffic circulation.

(4) Limitations and opportunities of topography.

(b) Maximum block length between intersecting streets shall be one thousand five hundred (1,500) feet. (Ord. 131 §V, 1978)

Sec. 17-85. Lots.

(a) Lot size, width, depth, shape and orientation and minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.

(b) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.

(c) Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.

(d) Each lot shall be provided with satisfactory access to an existing public street.

(e) Double frontage and reverse frontage lots shall not be permitted except where essential to provide separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantages or topography and orientation.

(f) A planting screen easement, across which there shall be no right of access, shall be provided along the property line of lots abutting an arterial street. A statement dissolving right of access from individual lots to the arterial street shall be included with the final plat.

(g) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets. (Ord. 131 §V, 1978)

Secs. 17-86—17-100. Reserved.

ARTICLE VI

Required Improvements

Sec. 17-101. General regulations.

(a) The subdivider or developer shall enter into an agreement with the Town to guarantee construction of all required improvements, including streets, curbs and gutters, driveways, sidewalks, storm drainage system, sanitary sewerage, potable water system, street lights and street trees.

(b) Under such agreement, the subdivider shall post a performance bond or certified check, which bond or check shall be drawn in favor of the Town in an amount equal to the estimated cost of construction of improvements. Cost estimates for construction of improvements shall be made by the Town Engineer.

(c) The performance bond or certified check posted by the subdivider or developer shall not be released until final construction of improvements has been completed, inspected at the subdivider's expense, and approved and accepted by the Town.

(d) The improvements required by the following subsections shall be provided in each subdivision or development proposed, and to the extent determined by the Planning Commission and Board of Trustees. Required improvements shall be designed in accordance with the detailed design standards and specifications deemed necessary by the Town, and shall be constructed in accordance with the approved plans and profiles and the construction requirements and specifications of the Town.

(e) No improvements shall be made until all plans, profiles and specifications have been reviewed and approved by the Town.

(f) No improvements shall be accepted by the Town until "as-built plans" have been submitted to the Town. "As-built plans" shall show all utility locations. (Ord. 131 §VI, 1978)

Sec. 17-102. Street improvements.

Standards for street improvements will, from time to time, be set, modified or repealed by resolution by the Board of Trustees and shall comply at a minimum to the following:

(1) Grading. Street right-of-way shall be graded as necessary to provide adequate surface drainage and convenient access to lots or sites.

(2) Pavement base. The pavement base shall be properly drained and constructed of suitable materials so as to support the contemplated traffic load.

(3) Pavement. Pavement shall be constructed of asphalt or concrete of sufficient thickness to support the contemplated traffic load. Streets shall be paved to the widths required under Section 17-82(f) of this Chapter.

(4) Alleys. If alleys are provided, they shall be paved.

(5) Curbs and gutters. All streets shall be provided with concrete curbs and gutters for the pavement edging. Such curbs and gutters shall be designed as an integral part of the pavements.

(6) Driveways and accessways. Where appropriate to the type of development proposed, driveways or accessways shall be provided for vehicular access to each structure or parking or loading area. Driveways and accessways provided shall be of adequate width and constructed with suitable subgrade, base, drainage and surfacing to be durable under the use contemplated.

(7) Sidewalks and walkways. Sidewalks and walkways shall be provided where necessary or appropriate for the safety and convenience of pedestrians. Width of sidewalks shall be as specified in Section 17-82(f) of this Chapter. Sidewalks and walkways shall be durably constructed, with all-weather surfacing, and shall be adequately lighted and maintained for the use contemplated.

(8) Street name signs. Easily legible street name signs shall be installed at street intersections or as necessary for convenient identification of streets. (Ord. 131 §VI, 1978)

Sec. 17-103. Utilities improvements.

(a) Storm drainage system.

(1) Storm drainage shall not be permitted to empty into any sanitary sewerage system.

(2) On-site detention of all storm drainage shall be required.

(3) A final drainage report will be required which is to be prepared by an engineer knowledgeable in the field of hydrology and licensed to practice within the State. This report shall be complete in nature and shall reveal a design which basically follows the guidelines as set forth below:

a. All property intended for residential use shall be designed for two-year and one-hundred-year storm return periods. (Streets shall carry a two-year storm without overtopping the curb and gutter, and all permanent improvements shall be protected from inundation due to a one-hundred-year storm.)

b. All property intended for commercial, business or industrial use shall be designed for five-year and one-hundred-year storm return periods. (Streets shall carry a five-year storm without overtopping the curb and gutter and all permanent improvements shall be protected from inundation due to a one-hundred-year storm).

c. The drainage report shall show and include the following:

1. Calculated flow quantities at each intersection for the minor storm;

2. Flow quantities entering and leaving property, along with final disposition of these quantities;

3. All drainage basins and subbasins contributing to flows through the property with design acreages noted; inundation line for one-hundred-year storm;

4. All design data with all calculations;

5. Plan, profile and design sheets for any other drainage facilities required by the Town Engineer and Board of Trustees.

(4) Where reasonable, storm retention sites shall be constructed and landscaped to have aesthetic and/or recreational value. Plans for drainage sites shall be subject to approval by the Planning Commission.

(b) Sanitary sewerage system. The sanitary sewerage system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. The sanitary sewerage system shall be of sufficient size and design to collect all sewage from all proposed or probable structures within the subdivision or development.

(c) Potable water system. The potable water system provided shall connect to an existing public water system and shall consist of water mains directly connected to using structures by means of lateral branches. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

(d) Fire hydrants. Fire hydrants shall be installed at street intersections and at other points as necessary to assure that no building is located more than five hundred (500) feet from the nearest fire hydrants.

(e) Underground electric power and telephone distribution systems.

(1) Electric power and telephone connections and wire shall be placed below the surface of the ground in raceways and conduits. Transformers, switching bases, terminal boxes, meters cabinets, pedestal ducts and other facilities necessarily appurtenant to such underground connections shall not be located on power poles, but shall be placed on or under the surface of the ground, and where placed on the surface shall be adequately screened and fenced as necessary for safety and concealment.

(2) Electrical transmission and distribution feeder lines and communication trunk and feeder lines may be placed aboveground.

(f) Street lights. Ornamental street lighting and associated underground street lighting supply circuits shall be installed. The minimum requirement shall be seven thousand (7,000) lumen lamps at a maximum spacing of four hundred (400) feet. The street lighting plan specifying the number, kind and approximate location of street lights must be included on the final plat. (Ord. 131 §VI, 1978; Ord. 2000-4 §1)

Sec. 17-104. Reference monuments.

Permanent reference monuments of stone or concrete, at least thirty-six (36) inches in length and six (6) inches square or round with suitable center point, shall be located and placed within the subdivision or development as required by the Board of Trustees. Iron pin monuments at least twenty-four (24) inches long and flush with the surface shall be placed at all points on boundary lines where there is a change in direction, at all block and lot corners, and at other points as required by the Board of Trustees. (Ord. 131 §VI, 1978)

Sec. 17-105. Maintenance of required improvements.

Adequate provisions for the satisfactory maintenance of streets and utilities improvements, including easements, shall be made by dedication of such improvements to the Town. Prior to acceptance by the Town, the improvements to be dedicated shall be inspected and approved by the Board of Trustees. (Ord. 131 §VI, 1978)

Sec. 17-106. Recommended improvements prior to issuance of building permits.

The following improvements shall be installed by the developer and approved by the Town prior to the issuance of a building permit.

- (1) Survey monuments. As required by the Town Engineer.
- (2) Sanitary sewers. The subdivider shall provide adequate lines and stubs to each lot.
- (3) Water mains. The subdivider shall provide adequate mains and stubs to each lot.
- (4) Fire protection. Hydrants shall be required according to Town and Fire Protection District guidelines.
- (5) Storm drainage. The subdivider shall provide storm sewers, culverts and bridges where required.
- (6) Streets and alleys. Streets and alleys shall be graded and base construction completed. (Ord. 131 §VI, 1978)

Sec. 17-107. Required improvements prior to final approval under Uniform Building Code.

- (a) Sidewalks. As required by Town specification.
- (b) Street signs. As required by Town specifications.
- (c) Utilities (telephone, electric service and gas lines). No curb, gutter or sidewalk shall be installed until all utilities are installed.
- (d) Streets and alleys. In cases where a previously existing street which has not been brought up to Town specifications is located within the subdivision, such street shall be paved with curb and gutter installed in order to meet Town specifications.

(e) Other. All other improvements or dedications required as a condition of approval of the plat shall be completed and dedicated. (Ord. 131 §VI, 1978)

Secs. 17-108—17-120. Reserved.

ARTICLE VII

Dedication and Reservation of Land

Sec. 17-121. Dedication.

(a) Dedication of land, free of all liens and encumbrances, for park and recreation areas, shall be required in each new subdivision or other designation of the Town. The subdivider shall allocate and convey no less than eight percent (8%) of the gross land area, exclusive of street, alleys and utility easements of the proposed subdivision for such public purposes. Specific sites to be dedicated for parks shall be subject to approval by the Planning Commission and Board of Trustees upon consultation with appropriate public agencies having jurisdiction. At the option of the Town, the subdivider shall in lieu of such conveyance of land pay to the Town in cash an amount equal to the value of eight percent (8%) of the gross land area before subdivision. The equivalent cash valuation, when acceptable, shall be based upon an appraisal by a competent, independent appraiser selected by the Town and the subdivider. The proceeds of any equivalent cash payment shall be placed in a separate Town account and shall be used only for the acquisition and improvement of land for public park and recreation areas.

(b) Dedication of land within a subdivision shall be required where easements for storm drainage, sewerage or other public utilities are necessary to permit agencies and utility companies to maintain utilities and render services to the subdivision. (Ord. 131 §VII, 1978)

Sec. 17-122. Reservation.

(a) Reservation by covenant, in lieu of dedication, may be permitted in some cases such as a planned unit development where land is to be used for recreational or amenity purposes by the property owners.

(b) Reservation of land within a subdivision may be required for the duration of the preliminary plat approval in order to afford the appropriate public agency the opportunity to coordinate its acquisition of public land with the development of the subdivision. An agreement shall be entered into between the subdivider and the public agency regarding the timing and method of acquisition. (Ord. 131 §VII, 1978)

Sec. 17-123. Land dedication for school sites.

(a) Dedication of land or cash payments in lieu thereof for school purposes shall be required for each new annexation, subdivision, planned unit development, special use permit, planned unit development site plan or other development approval within the Town. Property previously annexed or for which subdivision approval has been granted, but having in its subdivision improvements

agreement or annexation agreement agreed to comply with this Article herein shall comply with this Article.

(b) A subdivider, owner or developer shall be required to allocate land or make cash payments in lieu thereof for the appropriate value in accordance with any agreement entered into between Weld County School District RE-7 and the Town, and such payment shall be made pursuant to the current methodology as indicated in such intergovernmental agreement.

(c) The amount of land required to be dedicated or cash paid in lieu of such land dedication may from time to time be modified upon receipt by the Town from the District of updated methodology for the calculation of such dedication or fees in lieu of such dedication.

(d) The specific site of any land dedication shall be determined by the School District at the time of final plat approval. In the event the School District determines that payment of cash in lieu of land dedication is the method that complies with this Section, then such cash-in-lieu may be paid in gross at the time of final plat approval. In the event payment is not made in gross, then the cash-in-lieu payment shall be collected at the time of issuance of the building permit. All funds collected pursuant to this Section shall be paid directly to Platte Valley School District RE-7 at P.O. Box 485, Kersey, Colorado 80644, prior to the issuance of such permit. (Ord. 2001-06 §1)

Sec. 17-124. Exemptions.

This Article shall apply to all new residential construction within the Town, except construction which will not have an adverse affect on the School District's ability to provide adequate educational opportunities. The following shall be exempt from this Article:

- (1) Alteration or expansion of a residential dwelling unit not exceeding a net increase of one thousand (1,000) square feet of the existing dwelling unit.
- (2) Replacement of a residential dwelling unit in which the replacement does not exceed a net increase of one thousand (1,000) square feet of the dwelling unit being replaced.
- (3) Construction of a nondwelling unit, accessory building or structure.
- (4) Construction of any nonresidential building or structure.
- (5) Nursing homes or assisted living facilities designed exclusively for the elderly or disabled.
- (6) Town-approved planned residential developments that are subject to recorded covenants restricting the age of the residents of said dwelling units such that the dwelling units may be classified as "housing for older persons" pursuant to the Federal Fair Housing Amendments Act of 1988. (Ord. 2001-06 §2)

Secs. 17-125—17-140. Reserved.

ARTICLE VIII

Variances and Modifications

Sec. 17-141. Procedure.

Application for variances or modifications of these regulations shall be submitted to the Planning Commission. Such application shall include a statement setting forth the nature and extent of the requested variance or modification, together with evidence supporting need for such variance. (Ord. 131 §VIII, 1978)

Sec. 17-142. Criteria for grant of variances or modifications.

(a) Hardship. Where the Planning Commission and the Board of Trustees find that extraordinary hardships may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the subdivider made such variance necessary; and that the granting thereof will not have the effect of nullifying the intent and purpose of these regulations.

(b) Planned unit development. The requirements and standards of these regulations may be modified by the Planning Commission in the case of the plat and program for a planned unit development which, in the judgment of the Planning Commission, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. 131 §VIII, 1978)

Sec. 17-143. Conditions.

In granting variances and modifications, the Planning Commission and the Board of Trustees may require such conditions as will, in its judgment, secure substantially the objectives of the requirements and standards so varied or modified. (Ord. 131 §VIII, 1978)

Secs. 17-144—17-160. Reserved.

ARTICLE IX

Vested Property Rights

Sec. 17-161. Definitions.

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

Site specific development plan means for all developments the final approval step, irrespective of this Chapter, which occurs prior to building permit application; provided, however, that if the landowner wishes said approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner must so request at least twenty (20) days prior to the

date said approval is to be considered. Failure to so request renders the approval not a *site specific development plan*, and no vested rights shall be deemed to have been created. The Board of Trustees may by agreement with the developer designate an approval other than described above to serve as the site specific development plan approval for a specific project.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan, within three (3) years of approval of such plan, unless there is an agreement between the Town and the developer for a shorter or longer duration. (Ord. 1999-6 §1)

Sec. 17-162. Notice and hearing.

No site specific development plan shall be approved until after a public hearing before the Board of Trustees for the final decision. Notice of such hearing shall be published once at least seven (7) days prior to the hearing. Such notice may, at the Town's option, be combined with the notice required by Section 31-23-304, C.R.S., for zoning modifications or with any other notice. At such hearing, interested persons shall have an opportunity to be heard. (Ord. 1999-6 §2)

Sec. 17-163. Application requirements.

Any applicant for a site specific development plan shall provide all submittals required for final plat approval as set forth in this Code, Subdivision Regulations or other regulations and requirements of the Town. No applicant shall be required to provide a sketch plan as defined in Section 30-28-101(8), C.R.S., a final architectural plan, public utility filings or final construction drawings and related documents specifying materials and methods for construction of improvements. (Ord. 1999-6 §3)

Sec. 17-164. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of the development requirements pertaining to the development and use of property. (Ord. 1999-6 §4)

Sec. 17-165. Amendments.

In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments for purposes of duration of a vested property right shall be the date of approval of the original site specific development plan unless the approval action specifically finds to the contrary and incorporates such findings in the approval of the amendment. (Ord. 1999-6 §5)

Sec. 17-166. Notice of approval.

Each map, final plat, site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan creates a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the

site specific development plan, in a newspaper of general circulation within the Town. (Ord. 1999-6 §6)

Sec. 17-167. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay a fee as set forth in the fee schedule, together with all costs occasioned to the Town as a result of the site specific development plan review, including publication costs and public hearing costs, if a separate public hearing is necessary. (Ord. 1999-6 §7)

Sec. 17-168. Limitations.

Nothing in this Article is intended to create any vested property right, but only intended to implement the provisions of Article 68 of Title 24, C.R.S. (Ord. 1999-6 §8)

Secs. 17-169—17-180. Reserved.

ARTICLE X

Miscellaneous

Sec. 17-181. Improvements agreement.

The Town may require a subdivision improvements agreement whereby the Board of Trustees may require that the subdivider agree to comply with all of the plans shown on the plat. The Town may further require that the subdivider furnish suitable collateral or bond to ensure that the subdivider will complete all improvements according to design and time specification. If the subdivider fails to comply with all plans and specifications, the Town may use the collateral or bond to complete the construction in the property manner. (Ord. 131 §IX, 1978)

Secs. 17-182—17-200. Reserved.