

CHAPTER 3. REVIEW PROCEDURES AND STANDARDS

TABLE OF CONTENTS

§ 3.1	GENERAL PROVISIONS	3-1
	A. Authority to File Applications.....	3-1
	B. Applications.....	3-1
	C. Incomplete Applications or Insufficient Fees	3-1
	D. Required Times for Action and Inaction.....	3-1
	E. Concurrent Review.....	3-2
	F. Application Processing Schedule.....	3-2
	G. Permitted Scope of Action by Decision-Makers.....	3-2
	H. Continuation of Hearings	3-2
	I. Submittal Requirements.....	3-2
	J. Modifications and Amendments.....	3-2
§ 3.2	STANDARD DEVELOPMENT REVIEW PROCEDURE	3-3
	A. Step 1: Pre-Application Conference.....	3-3
	B. Step 2: Application Timing and Certification of Completeness.....	3-4
	C. Step 3: Staff Review and Report.....	3-4
	D. Step 4: Estes Valley Planning Commission Action or Recommendation	3-4
	E. Step 5: Board Review and Action	3-5
	F. Summary Table — Standard Development Review Process by Application Type	3-5
	G. Flow Chart of Standard Development Approval Procedure.....	3-6
§ 3.3	CODE AMENDMENTS	3-7
	A. Initiation	3-7
	B. Private-Party-Initiated Applications for Code Amendments (Rezoning)	3-7
	C. Procedures for Approval	3-7
	D. Standards for Review.....	3-7
	E. Effect of Approvals and Lapse	3-7
	F. Applications for Building Permits During Consideration of Application for Amendment to this Code	3-8
§ 3.4	PLANNED UNIT DEVELOPMENTS	3-8
	A. Applicability	3-8
	B. Consolidation with Subdivision Approval	3-8
	C. Procedures for Approval of a PUD Plan	3-8
	D. Standards for Review.....	3-8
	E. Effect of Approvals.....	3-9
§ 3.5	SPECIAL REVIEW USES.....	3-9
	A. Procedures for Approval of Special Review Uses	3-9
	B. Standards for Review.....	3-9
	C. Lapse	3-9
§ 3.6	VARIANCES	3-9
	A. Applicability	3-9
	B. Procedure for Approval of Variances.....	3-9
	C. Standards for Review.....	3-10
	D. Lapse	3-11
§ 3.7	MINOR MODIFICATIONS	3-11
	A. Applicability	3-11
	B. Procedure for Approval of Minor Modifications.....	3-12
§ 3.8	DEVELOPMENT PLAN REVIEW	3-12
	A. Purpose	3-12
	B. Applicability	3-13

	C. Development Plan Approval Procedures	3-13
	D. Standards for Review	3-14
§ 3.9	SUBDIVISIONS	3-14
	A. Purposes	3-14
	B. Applicability	3-14
	C. Procedure for Approval of Subdivisions (Except Minor Subdivisions).....	3-14
	D. Minor Subdivisions	3-14
	E. Standards for Review	3-15
	F. Effects of Approval	3-15
§ 3.10	VESTED RIGHTS	3-15a
	A. Purpose	3-15a
	B. Site Specific Development Plan Approval	3-16
	C. Other Provisions Unaffected	3-16
	D. Limitations	3-16
	E. Estes Park Urban Renewal Authority Review	3-16
§ 3.11	TEMPORARY USES AND STRUCTURES	3-16
	A. Applicability	3-16
	B. Procedures for Approval of Temporary Uses and Structures	3-17
	C. Standards for Review	3-17
	D. Conditions of Approval	3-17
	E. Time Limits on Permits	3-17
§ 3.12	USE CLASSIFICATION REQUESTS	3-17
	A. Purpose and Applicability	3-17
	B. Procedures for Use Classification Request	3-18
	C. Standards for Review	3-18
	D. Official Record of Use Classification Determinations	3-19
§ 3.13	PUBLIC FACILITY/USE LOCATION AND EXTENT REVIEW	3-19
	A. Purpose	3-19
	B. Applicability	3-19
	C. Procedure for Location and Extent Review	3-19
	D. Standards for Review	3-20
§ 3.14	SEPARATE LOT DETERMINATIONS	3-20
	A. Purpose and Applicability	3-20
	B. Procedures for Separate Lot Determination	3-20
	C. Standards for Review	3-21
	D. Official Record of Separate Lot Determinations	3-22
§ 3.15	GENERAL NOTICE PROVISIONS.....	3-22
	A. Newspaper Notice of Public Meetings	3-22
	B. Written Notice of Public Meetings	3-22

CHAPTER 3. REVIEW PROCEDURES AND STANDARDS

§ 3.1 GENERAL PROVISIONS

The following general provisions shall apply to all applications under this Code:

- A. **Authority to File Applications.** An application for development review or approval under this Code shall be filed by the record owner(s). The Boards or the EVPC may initiate Code amendment action under this Code with or without an application from property owner(s) who may be affected.
- B. **Applications.** Applications required under this Chapter shall be submitted on forms provided by the Staff in such numbers as required by the Staff. Applications shall be accompanied by a nonrefundable fee established by the Boards to defray the costs of processing applications and by any required escrow funds.
- C. **Incomplete Applications or Insufficient Fees.** Applications shall be reviewed for completeness within eight (8) working days of filing. If the Staff determines that the application is complete, the application shall then be processed. If the Staff determines that it is incomplete, they shall return the application to the Applicant as incomplete and specify the specific ways in which the application is deficient. No further processing of the incomplete application shall occur until the deficiencies are corrected. Any application that is not accompanied by the required fee shall be found incomplete. Fees shall not be required with applications initiated by the Staff, Planning Commission or Boards. (Ord. 8-05 #1)
- D. **Required Times for Action and Inaction.**
 1. *General Rule--Deemed Denial.* Except as set forth in subsections D.2 and D.4 below, whenever the provisions of this Chapter require that reviewers or the Decision-Making Body take action on an application within a specified period of time and such action is not taken within that time limit or within a permitted extension of such time limit, such inaction shall be deemed a denial of the application unless the Applicant agrees to an extension of the time period.
 2. *Exceptions--Subdivisions and Planned Unit Developments--Deemed Approval.* Failure of the reviewers or Decision-Making Body to take action on a subdivision or PUD application within any time frame required by this Chapter, or other time frame agreed to by the Applicant at the time of the application filing or during the application's review, shall be deemed an approval of the application unless the Applicant agrees to an extension of the time period in writing.
 3. *Extensions of Time Periods for Review.* Except as set forth in subsection D.4 below, reviewers or the Decision-Making Body shall have the discretion to extend the time periods set forth in this Chapter up to a maximum of sixty (60) days without consent of the Applicant, for review and final decision on a development application. Such extension shall be allowed when the projected size, complexity, anticipated impacts or other factors associated with the proposed development clearly justify such extension of time.
 4. *Extensions of Time Periods for Review--Subdivisions and Planned Unit Developments.* Time frames for action on a subdivision or PUD application may be extended by the reviewers or Decision-Making Body when necessary to receive recommendations or reports from a reviewing agency, but no such extension shall exceed thirty (30) days

unless the reviewing agency notifies the reviewer or Decision-Making Body that it needs more time to complete its recommendation. All other extensions of the time periods set forth in this Chapter for review and action on subdivision or PUD applications may be extended by the reviewers or Decision-Making Body only if the Applicant agrees in writing to an extension of time.

- E. **Concurrent Review.** At the election of the Applicant and with the concurrence of the Staff, applications for different types of development approvals may be processed concurrently whenever possible to expedite total review and processing time for a project.
- F. **Application Processing Schedule.** The Staff may promulgate a processing schedule for each application.
- G. **Permitted Scope of Action by Decision-Makers.** The Decision-Making Body holding the public meeting or hearing may approve the application, approve the application with conditions or deny the application.
- H. **Continuation of Hearings.** A public hearing may be continued to a later date without again complying with the notice requirements of this Chapter, provided that the continued hearing is set for a specific date and time. No public hearing on a subdivision or planned unit development application shall be continued for more than forty (40) days without the written consent of the Applicant.
- I. **Submittal Requirements.**
 - 1. *General.* Submittal requirements for each type of development application are set forth in Appendix B to this Code.
 - 2. *Waivers Pursuant to Pre-Application Meetings.* At or following a pre-application conference, Staff may waive certain submittal requirements set forth in Appendix B to this Code in order to reduce the burden on the Applicant and to tailor the requirements to the information necessary to review a particular application. Staff may waive such requirements where it finds that the projected size, complexity, anticipated impacts or other factors associated with the proposed development or subdivision clearly justify such waiver. This discretion may only be exercised if a pre-application conference is held.
- J. **Modifications and Amendments.**
 - 1. *Minor Modifications to Approved Plans/Plats.* Minor modifications of approved development plans and subdivision plats may be authorized by Staff pursuant to §3.7, "Minor Modifications," below.
 - 2. *Amendments to Approved Plans/Plats.* Any change or modification to an approved development plan or subdivision plat that does not qualify as a minor modification pursuant to this Chapter shall be submitted as a new application for approval of a plan/plat and shall follow the applicable procedures as set forth in this Chapter.

(Ord. 8-05 #1, 6/14/05)

§ 3.2 STANDARD DEVELOPMENT REVIEW PROCEDURE

All development applications are subject to the following five-step "standard" review procedure, unless variations or exceptions to the standard procedure are expressly provided for in the particular development application requirements set forth in this Chapter.

Standard Development Review Process	
Step 1	Pre-Application Conference
Step 2	Application/Completeness Certification
Step 3	Staff Review and Report
Step 4	Estes Valley Planning Commission Action or Recommendation
Step 5	Board of Trustees/Board of County Commissioners Review and Action

A. Step 1: Pre-Application Conference.

1. *Purpose.* The purposes of the pre-application conference are to provide an opportunity for the Applicant and the Staff to discuss the review process schedule and submittal requirements, the scope of the project and compliance with this Code.
2. *Applicability.* A pre-application conference is mandatory for the following applications:
 - a. Special review uses;
 - b. Development plans;
 - c. Rezoning applications;
 - d. Preliminary subdivision plat;
 - e. Preliminary PUD plans;
 - f. Variances;
 - g. Minor subdivisions; and
 - h. Annexations.

Staff may waive the pre-application conference on the ground that the proposed development is not complex and will not have any significant impacts on services, roads, natural resources or adjacent property. (Ord. 18-02 #2)

3. *Scheduling.* The pre-application conference shall be scheduled by the Applicant with Staff at least fourteen (14) days prior to the date of submission of any related application.
4. *Submittal Requirements.* All Applicants shall submit a sketch plan to the Staff for review no later than five (5) days prior to the scheduled pre-application conference. See Appendix B to this Code for sketch plan submittal requirements.

B. Step 2: Application Timing and Certification of Completeness.

1. Except for variances, all development applications shall be submitted to Staff a minimum of fifty-five (55) days prior to the next regularly scheduled EVPC meeting at which the application will be reviewed. See §3.6 regarding variances. Staff shall have the discretion to shorten submittal time frames. (Ord. 8-05 #1)

2. Within eight (8) working days of submittal, the Staff shall either certify the application as complete and in compliance with all submittal requirements or reject it as incomplete and notify the Applicant of any deficiencies. See §3.1.C above. (Ord. 8-05 #1)
- C. **Step 3: Staff Review and Report.** No later than fourteen (14) days prior to EVPC meeting, Staff shall refer the development application to the appropriate review agencies, review the development application and prepare a staff report. No changes to the development application or any accompanying plans or information shall be permitted after submittal, except for any changes or additional information requested by the Staff during their review. (Ord. 8-05 #1)
- D. **Step 4: Estes Valley Planning Commission Action or Recommendation.**
1. *Public Hearings or Meetings Required.*
 - a. General Rule. Except as provided in subsection 1.b below, within forty-five (45) days from the date that a submitted application is certified as complete, the EVPC shall review the application at a public meeting or hearing as required by this Code or applicable law.
 - b. Authority to Hold Application for Later EVPC Review. Notwithstanding the time for action requirements set forth in subsection 1.a above, whenever an extraordinary number of applications are submitted, such that the Staff is unable to complete their review adequately prior to the next regularly scheduled EVPC meeting, the Staff shall be authorized to hold an application until the next subsequent processing period for EVPC review. Once the application is placed on the official agenda for a public meeting or hearing before the EVPC, all other time requirements for review pursuant to this Section and Chapter shall apply.
 2. *Compliance with EVPC's Conditional Approvals.*
 - a. EVPC Final Actions. When the EVPC is the Decision-Making Body, approval of an application shall not become final and appealable until all conditions of approval have been complied with. (See Chapter 2 above.) Acceptance of all conditions of approval and compliance, where feasible (e.g., required revisions to plans and drawings), shall be completed by the Applicant within thirty (30) days of the EVPC's action.
 - b. EVPC Recommended Actions. When the EVPC is a reviewing body only, conditions of EVPC-recommended approval that require revisions to the submitted application, plans or drawings shall be completed by the Applicant within thirty (30) days of the EVPC's action. (See Chapter 2 above.) A revised application shall be a condition precedent to placing the application on the Board's agenda. (See Step 5 below.)
- E. **Step 5: Board Review and Action.**
1. *Board Action Required.* Within thirty (30) days from the date that the Board receives the application, including any revisions, the Board shall hold a public hearing and consider the development application, the staff report, the Planning Commission's recommendation and the evidence from any public meeting. The Board shall take final action by either approving, approving with conditions or denying the development or land use applications based on its compliance with the appropriate review standards.
 2. *Compliance with Board's Conditions.* Board approval of an application shall not become final and appealable until the Applicant complies with or accepts all conditions of approval. Compliance with conditions of approval (e.g., required revisions to plans

and drawings), shall be completed by the Applicant and submitted to the Staff within thirty (30) days of the Board's action, unless a longer time is requested by the Applicant and agreed to by Staff.

F. Summary Table—Standard Development Review Process by Application Type.

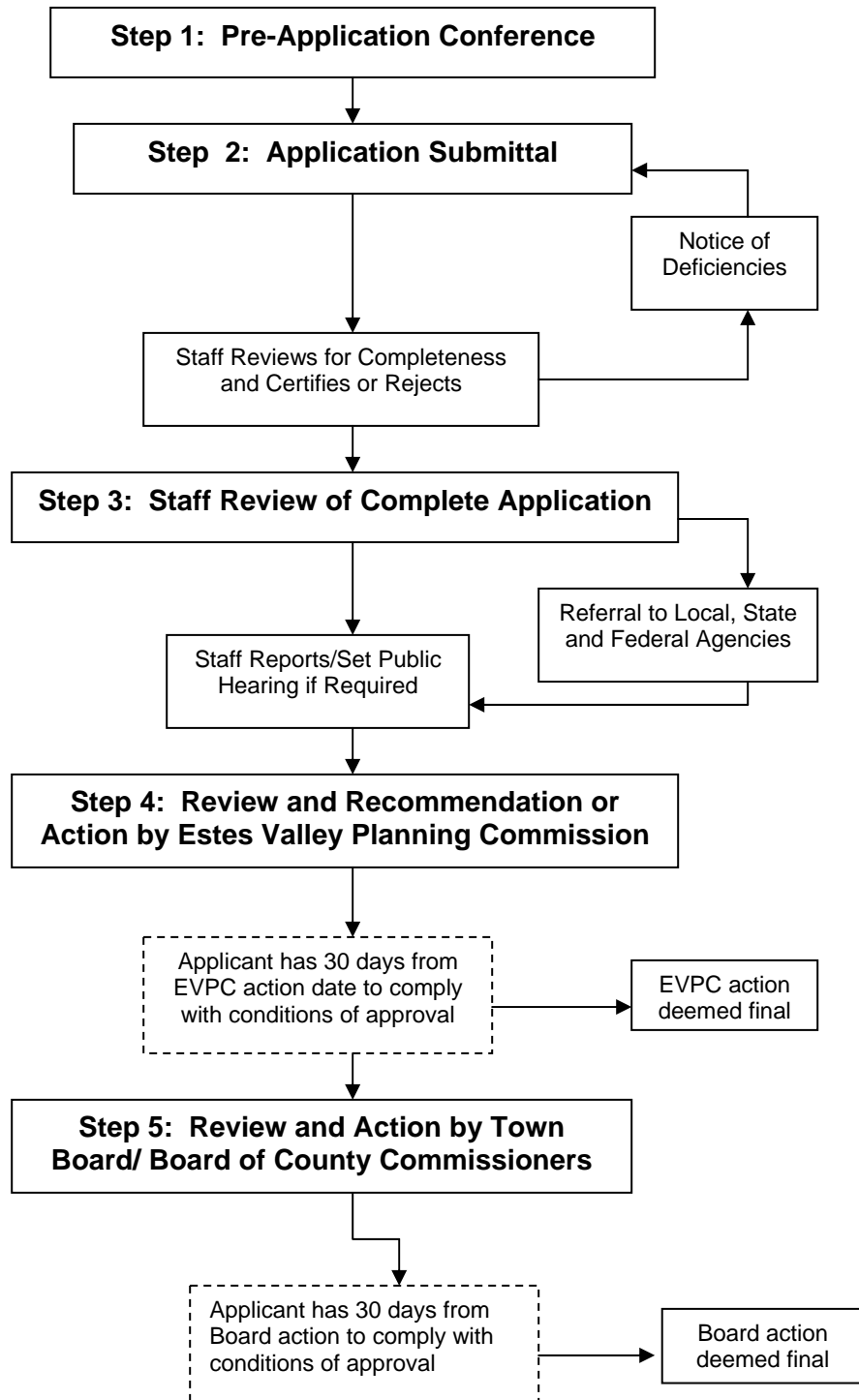
	Step 1 Pre-Application Conference	Step 2 Application/ Completeness Certification	Step 3 Staff Review & Report	Step 4 EVPC Action	Step 5 Board Action
Code Amendments- Text/Map	<u>M</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Preliminary Subdivision	<u>M</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Final Subdivision	<u>V</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>A</u>
PUD-Preliminary Plan	<u>M</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
PUD-Final Plan	<u>V</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>A</u>
Special Review Uses	<u>M</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Variances (Ord. 18-01 #5)	<u>M</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>BOA</u>
Minor Modifications	<u>V</u>	<u>A</u>	<u>A-SR</u>	<u>A-SR</u>	<u>N/A</u>
Development Plan Review	<u>M</u>	<u>A</u>	<u>A-SR</u>	<u>A-SR</u>	<u>APP</u>
Use Classification (Ord. 8-05 #1)	<u>V</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>APP</u>
Separate Lot Determinations (Ord. 8-05 #1)	<u>V</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>APP</u>
Temporary Use Permits	<u>V</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>N/A</u>
Minor Subdivision (Ord. 18-01 #5)	<u>M</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Annexations (Ord. 18-01 #5)	<u>M</u>	<u>A</u>	<u>A</u>	<u>N/A</u>	<u>A</u>

"V" = Voluntary "M" = Mandatory "A" = Applicable "N/A" = Not Applicable

"APP" = Appeals "BOA" = Board of Adjustment "SR" = Special Requirements (Refer to Text)

G. Flow Chart of Standard Development Approval Procedure.

STANDARD DEVELOPMENT AND REVIEW PROCEDURE



(Ord. 18-01 #5, 10/23/01; Ord. 18-02 #2, 12/10/02; Ord. 8-05 #1, 6/14/05)

§ 3.3 CODE AMENDMENTS

- A. **Initiation.** Applications for text or Official Zoning Map amendments may be initiated by the following:
1. By motion of the Estes Valley Planning Commission;
 2. By request of either Board; or
 3. By application for a rezoning by the owner(s) of the property for which the amendment is requested.
- B. **Private-Party-Initiated Applications for Code Amendments (Rezoning).** All applications for text or Official Zoning Map amendments initiated pursuant to §3.3.A.3 above shall comply with the following requirements:
1. *Development Plan Required.* All applications seeking to amend this Code to allow a change from one (1) zone district to a different zone district or seeking to amend this Code by changing the permitted uses in any zone district shall be accompanied by a development plan. This requirement may be waived by Staff if it finds that the projected size, complexity, anticipated impacts or other factors associated with the proposed development or subdivision clearly justify such waiver.
 2. *Contents of Development Plan.* See Appendix B to this Code for submittal requirements.
 3. Within one (1) year from the effective date of this Code, any property owner may apply for rezoning on the basis that an error in the original zoning was made. Staff may waive the development plan requirements based upon the nature of the proposed request. Applicant must submit a statement of request setting forth information, data and reasons why the error exists.
- C. **Procedures for Approval.** All applications for text or Official Zoning Map amendments shall follow the standard development approval process set forth in §3.2 of this Chapter.
- D. **Standards for Review.** All applications for text or Official Zoning Map amendments shall be reviewed by the EVPC and Board(s) for compliance with the relevant standards and criteria set forth below and with other applicable provisions of this Code.
1. The amendment is necessary to address changes in conditions in the areas affected;
 2. The development plan, which the proposed amendment to this Code would allow, is compatible and consistent with the policies and intent of the Comprehensive Plan and with existing growth and development patterns in the Estes Valley; and
 3. The Town, County or other relevant service providers shall have the ability to provide adequate services and facilities that might be required if the application were approved.
- E. **Effect of Approvals and Lapse.** When a development plan is required by this Section, if an Applicant fails to apply for a building permit and commence construction or operation with regard to the rezoning approval consistent with such development plan within one (1) year from the effective date of the amendment, such development plan shall automatically lapse and become null and void. At its discretion, the Board may institute rezoning proceedings pursuant to the procedures and standards set forth in this Section to rezone the affected land areas.
- F. **Applications for Building Permits During Consideration of Application for Amendment to this Code.**

1. Whenever an ordinance or resolution has been introduced before the Boards that involves a change in zoning from a less restricted district to a more restricted district, or to set forth prohibited uses in any existing zone district, no building permit shall be issued for a period not to exceed one hundred twenty (120) days from the date of the introduction of such zoning amendment when such building permit would authorize the construction of a building or the establishment of a use that would become nonconforming under the contemplated zoning amendment.
2. If such ordinance or resolution is not adopted within one hundred twenty (120) days, the appropriate public entity is authorized to accept applications and issue building permits regardless of the pendency of such amendment.

§ 3.4 PLANNED UNIT DEVELOPMENTS

- A. **Applicability.** Planned Unit Developments may be approved in any zoning district in which this Code expressly permits such projects (See Chapter 9), subject to the standards set forth in this Code and the approval procedures set forth in this Section.
- B. **Consolidation with Subdivision Approval.** Where applicable, the Applicant shall consolidate an application for Preliminary PUD Plan approval with an application for preliminary subdivision plan approval, and shall consolidate an application for Final PUD Plan approval with an application for final subdivision plat approval. Such consolidated application shall be submitted in a form that satisfies both the planned unit development requirements of this Code and the provisions, including submittal requirements, governing subdivisions.
- C. **Procedures for Approval of a PUD Plan.** The PUD is first approved in preliminary form and then approved in final form. Approval of preliminary and final Planned Unit Development plans shall follow the same procedures as approval of preliminary and final subdivision plats. See §3.9 below for the subdivision approval process.
- D. **Standards for Review.** All applications for Planned Unit Developments shall demonstrate compliance with the requirements and review standards set forth below and in Chapter 9, "Planned Unit Developments," and with all other applicable provisions of this Code.
 1. *Preliminary PUDs.* An application for approval of a Preliminary PUD Plan, together with submitted plans and reports, shall be reviewed for conformance with the following standards:
 - a. The PUD shall be consistent with and implement the planning goals, policies and objectives as contained in this Code and in the Comprehensive Plan;
 - b. Adverse impacts on adjacent properties, including but not limited to traffic, noise and visual impacts, shall be mitigated to the maximum extent feasible;
 - c. The PUD shall be integrated with adjacent development through street connections, sidewalks, trails and similar features;
 - d. Except as provided in Chapter 9 below, all district, development and subdivision standards set forth in Chapters 4 (Zoning Districts), 7 (General Development Standards) and 10 (Subdivision Standards) shall be met; and
 - e. As allowed in Chapter 9 below, certain standards may be modified or varied upon a finding that the proposed PUD incorporates creative site design such that it represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards, including but not limited to improvements in open space provision and

access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads and other utilities and services; or choice of living and housing environments.

2. *Standards for Review for a Final PUD Plan.* A Final PUD Plan application, together with all submitted plans and reports, shall be reviewed to determine their compliance with the approved preliminary PUD plan, including all recommended conditions.

E. Effect of Approvals.

1. *Effect of Approval of a Preliminary PUD Plan.* The provisions set forth in §3.9.F below applicable to a preliminary subdivision plan shall apply to a preliminary PUD plan.
2. *Effect of Approval of a Final PUD Plan.* The provisions set forth in §3.9.F below applicable to a final subdivision plat shall apply to a final PUD plan. A final PUD plan shall be recorded as the final subdivision plat, as per §3.9.F below.

§ 3.5 SPECIAL REVIEW USES

- A. **Procedures for Approval of Special Review Uses.** Applications for approval of a special review use shall follow the standard development approval process set forth in §3.2 of this Chapter.
- B. **Standards for Review.** All applications for a special review use shall demonstrate compliance with all applicable criteria and standards set forth in Chapter 5, "Use Regulations," of this Code and the following requirement:

The application for the proposed special review use mitigates, to the maximum extent feasible, potential adverse impacts on nearby land uses, public facilities and services, and the environment.

C. Lapse.

1. Failure of an Applicant to apply for a building permit and commence construction or operation with regard to the special review use approval within one (1) year of receiving approval of the special review use shall automatically render the decision null and void.
2. If a legally established special review use is abandoned or discontinued for a period of one (1) consecutive year or more, then the decision originally approving such special review use shall automatically lapse and be null and void.

§ 3.6 VARIANCES

- A. **Applicability.** The BOA shall hear requests for variances where it is alleged that the provisions of this Code inflict unnecessary hardship and practical difficulties upon the Applicant.
- B. **Procedure for Approval of Variances.** Applications for approval of variances shall follow the standard development approval process set forth in §3.2 of this Chapter, except for the following modifications:
1. *Step 2: Application Timing.* Applications for variances shall be submitted to Staff a minimum of forty-two (42) days prior to a regularly scheduled meeting of the BOA. Staff shall have the discretion to shorten submittal timeframes. (Ord. 8-05 #1)
 2. *Step 4: Review and Action by the BOA.* The staff report on an application for a variance shall be forwarded to the BOA. The BOA shall review the application, staff

report and public meeting testimony and take final action by either approving, approving with conditions or denying such application. The BOA's decision on the application shall be final.

C. **Standards for Review.** All applications for variances shall demonstrate compliance with the standards and criteria set forth below:

1. Special circumstances or conditions exist (e.g., exceptional topographic conditions, narrowness, shallowness or the shape of the property) that are not common to other areas or buildings similarly situated and practical difficulty may result from strict compliance with this Code's standards, provided that the requested variance will not have the effect of nullifying or impairing the intent and purposes of either the specific standards, this Code or the Comprehensive Plan.
2. In determining "practical difficulty," the BOA shall consider the following factors:
 - a. Whether there can be any beneficial use of the property without the variance;
 - b. Whether the variance is substantial;
 - c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
 - d. Whether the variance would adversely affect the delivery of public services such as water and sewer;
 - e. Whether the Applicant purchased the property with knowledge of the requirement; and
 - f. Whether the Applicant's predicament can be mitigated through some method other than a variance.
3. No variance shall be granted if the submitted conditions or circumstances affecting the Applicant's property are of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
4. No variance shall be granted reducing the size of lots contained in an existing or proposed subdivision if it will result in an increase in the number of lots beyond the number otherwise permitted for the total subdivision, pursuant to the applicable zone district regulations.
5. If authorized, a variance shall represent the least deviation from the regulations that will afford relief.
6. Under no circumstances shall the BOA grant a variance to allow a use not permitted, or a use expressly or by implication prohibited under the terms of this Code for the zone district containing the property for which the variance is sought.
7. In granting such variances, the BOA may require such conditions as will, in its independent judgment, secure substantially the objectives of the standard so varied or modified.

D. **Lapse.** Failure of an Applicant to apply for a building permit and commence construction or action with regard to the variance approval within one (1) year of receiving approval of the variance shall automatically render the decision of the BOA null and void.

(Ord. 18-02 #4, 12/10/02; Ord. 8-05 #1, 6/14/05)

§ 3.7 MINOR MODIFICATIONS

A. Applicability.

1. *Staff Minor Modifications to Approved Final Plans.* Staff may grant minor modifications to approved development plans (including approved development plans for rezonings), final PUD plans and final subdivision plats, provided that the Staff finds that such modification advances the goals and purposes of this Code and results in more effective environmental or open space preservation or relieves practical difficulties in developing a site.

In no circumstance, however, shall the Staff approve a modification that results in:

- a. An increase in overall project density;
- b. A decrease in lot size;
- c. A change in permitted uses or mix of uses;
- d. An increase in building height;
- e. An expansion of established limits of disturbance greater than ten percent (10%);
or
- f. An increase in the ratio of floor area to lot area (FAR).

2. *Minor Modifications from General Development and Zone District Standards.*

- a. Staff Authority to Grant Minor Modifications. Staff may grant minor modifications up to a maximum of ten percent (10%) from the following general development and zone district standards, provided that the Staff finds that such modification advances the goals and purposes of this Code and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site:

- (1) Minimum lot area and dimensional requirements; (Ord. 8-05 #1)
- (2) Yard and building setback requirements;
- (3) General development standards set forth in Chapter 7; or
- (4) Subdivision design standards set forth in Chapter 10.

- b. EVPC Authority to Grant Minor Modifications. The EVPC may grant minor modifications up to a maximum of twenty-five percent (25%) from the following general development and zone district standards, provided that the EVPC finds that such modification advances the goals and purposes of this Code and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site:

- (1) Minimum lot area and dimensional requirements; (Ord. 8-05 #1)
- (2) Yard and building setback requirements;
- (3) General development standards set forth in Chapter 7; or
- (4) Subdivision design standards set forth in Chapter 10.

- c. Exceptions to Authority to Grant Minor Modifications. In no circumstance shall the Staff or EVPC approve a modification of a general development or zone district standard that results in:

- (1) An increase in overall project density;
 - (2) A change in permitted uses or mix of uses;
 - (3) An increase in building height; or
 - (4) An increase in the ratio of floor area to lot area (FAR).
3. In determining "practical difficulties," Staff and the EVPC shall consider and apply the factors set forth in §3.6.C of this Code.
 4. In granting such minor modifications, the Staff or the EVPC may require conditions that will secure substantially the objectives of the standard so varied or modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

B. Procedure for Approval of Minor Modifications.

1. *Minor Modifications from General Development or Zone District Standards.*
 - a. Staff-Approved Minor Modifications. At any time prior to submittal of the staff report to the EVPC (Step 3 of the standard development review procedure), the Staff may initiate or approve a minor modification from the general development or zone district standards of this Code.
 - b. EVPC-Approved Minor Modifications. At any time before it takes action on a development application (whether as a review body or Decision-Making Body), the EVPC may initiate or approve a minor modification from the general development or zone district standards of this Code.
 - c. Noted on Pending Application. Staff shall specify any approved minor modifications from development or zone district standards and the justifications for such modification on the pending development application for which the modifications were sought.
2. *Minor Modifications to Approved Plans/Plats.* Minor modifications to an approved development plan, final PUD plan or final subdivision plat shall be noted on a revised plan/plat, which shall be plainly marked as "Amended" and submitted to the Staff. The Staff shall note the terms of the approved modification or amendment directly on the amended plan and affix his signature and the date of approval.

(Ord. 8-05 #1, 6/14/05)

§ 3.8 DEVELOPMENT PLAN REVIEW

- A. **Purpose.** The purpose of the development plan review process is to ensure compliance with the zoning standards and provisions of this Code, while encouraging quality development in the Estes Valley reflective of the goals, policies and objectives found in the Comprehensive Plan.
- B. **Applicability.** All development set forth in Table 3-3 below shall be required to submit a development plan for review pursuant to the procedures and standards set forth in this Section. See also §7.1.B, which requires development plans for all new development on land with slopes steeper than thirty percent (30%) or on land containing ridgeline protection areas. No development, excavation, site preparation or construction activity, including tree/vegetation removal or grading, shall occur on property subject to this Section until a development plan has been approved.

**Table 3-3
Development Plan Review Requirements**

Determining Factor	Staff Review [1]	EVPC Review
All Nonresidential Development, Except Accommodations Development, in any Zoning District (Ord. 8-05 #1)		
Number of Parking Spaces	10 – 20	21 or more
Construction of Gross Floor Area	2,000 - 10,000 sq. ft.	More than 10,000 sq. ft. (Ord. 8-05 #1)
Major alterations that also entail alteration to the number of parking spaces, the configuration of parking, ingress, egress, water, sewer, drainage or lighting on the premises (Ord. 8-05 #1)	2,000 - 10,000 sq. ft.	More than 10,000 sq. ft. (Ord. 8-05 #1)
All Residential or Accommodations Development (Ord. 8-05 #1)		
Number of New Dwellings, Guest Units and/or RV pad/campsites (Ord. 8-05 #1)	3 – 10	11 or more
Major alterations that also entail alteration to the number of parking spaces, the configuration of parking, ingress, egress, water, sewer, drainage or lighting on the premises (Ord 18-01 #7; Ord. 8-05 #1)	3-10 dwellings, guest units and/or RV pad/campsites (Ord. 8-05 #1)	11 or more dwellings, guest units and/or RV pad/campsites (Ord. 8-05 #1)

Note to Table 3-3:

[1] All Special Review Uses shall be subject to Planning Commission and Board review and approval of development plans. (Ord. 8-05 #1)

(Ord. 18-01 #6, 7; Ord. 8-05 #1)

C. **Development Plan Approval Procedures.** Applications for development plan approval shall follow the standard development approval process set forth in §3.2 of this Chapter, except for the following modifications:

1. *Step 3: Staff Review and Report.* All development plans subject to staff review shall be reviewed by Staff, who shall take final action by either approving, approving with conditions or denying the application. Staff action on a development plan shall not be final and appealable until the Applicant complies with or accepts all conditions of approval.
2. *Step 4: EVPC Review and Action.* All development plans subject to EVPC review, as shown in Table 3-3 above, shall be reviewed by the EVPC, who shall take final action by either approving, approving with conditions or denying the application.

D. **Standards for Review.** The Staff and EVPC shall review development plan applications and all submitted plans and reports, and evaluate them according to the following standards:

1. The development plan complies with all applicable standards set forth in this Code; and
2. The development plan is consistent with the policies, goals and objectives of the Comprehensive Plan and any other relevant land use, parks and trails, capital improvement and other similar plans.

(Ord. 18-01 #6, 7, 10/23/01; Ord. 8-05 #1, 6/14/05)

§ 3.9 SUBDIVISIONS

- A. **Purposes.** The purpose of the subdivision review process is to ensure compliance with the subdivision standards and provisions of this Code, while encouraging quality development in the Estes Valley reflective of the goals, policies and objectives found in the Comprehensive Plan.
- B. **Applicability.** All subdivisions shall be subject to the approval procedures set forth in this Section.
- C. **Procedure for Approval of Subdivisions (Except Minor Subdivisions)**
1. *General.* Subdivisions are approved in two (2) stages: first, a preliminary subdivision plan is approved, and second, a final subdivision plat is approved and recorded. The Board of Trustees or the Board of County Commissioners is the entity with final approval authority for both preliminary and final subdivision plats, depending on the location of the property.
 2. *Procedure for Approval of Preliminary Subdivision Plats.* Applications for preliminary subdivision plat approval shall follow the standard development approval process set forth in §3.2 of this Chapter.
 3. *Procedure for Approval of Final Subdivision Plats.* Applications for final subdivision plat approval shall follow the standard development approval process set forth in §3.2 of this Chapter, except that Step 4 (EVPC Review and Action) shall not apply.
- D. **Minor Subdivisions.**
1. *Defined.* Minor subdivisions shall be defined as follows:
 - a. Frontage Lots. Division of one (1) or more lots, tracts or parcels of land into a total of not more than four (4) lots shall also be a minor subdivision, provided that each resulting lot fronts onto an existing street, and that the subdivision entails no extension of public facilities. No more than a total of four (4) lots shall be created out of a lot, tract or parcel or set of contiguous parcels in the same ownership using the minor subdivision procedure. Frontage Lot subdivisions shall be titled as a "Subdivision." (Ord. 18-01 #8; Ord. 8-05 #1)
 - b. Boundary Adjustments. Division of one (1) or more lots, tracts or parcels of land for the purpose of adjusting boundary lines between such lots, tracts or parcels of land and adjacent lots, tracts or parcels of land, which adjustments do not create additional lots or building sites for any purposes, shall be considered a minor subdivision for review procedure. Boundary Adjustments shall be titled as a "Boundary Line Adjustment" for properties not within a platted subdivision or "Amended Plat" for properties within a platted subdivision. The final map shall clearly indicate the original boundaries of each lot and shall contain the following statement: (Ord. 8-05 #1)

"Boundary lines indicated on this map are adjustments of former boundary lines of the property depicted hereon. Such adjustments do not create additional lots or building sites for any purposes. The area added to each lot shown hereon by such adjustment is to be considered an addition to, shall become a part of, and shall be conveyed together with, each lot as shown." (Ord. 8-05 #1)
 - c. Land Consolidation Plats. Unplatted contiguous legal lots approved for single-family residential development can be combined with a land consolidation plat.

Land Consolidation Plats shall be titled as a "Land Consolidation Plat." The final plat shall clearly indicate the original boundaries of each lot and shall contain the following statement: (Ord. 8-05 #1)

"Boundary lines indicated on this map are adjustments of former boundary lines of the property depicted hereon. Such adjustments do not create additional lots or building sites for any purposes." (Ord. 8-05 #1)

2. *Hazard Areas.* Except Land Consolidation Plats, areas with geologic hazards as defined by §7.7 of this Code shall not be eligible for the minor subdivision process. (Ord. 18-01 #9; Ord. 8-05 #1)
 3. *Procedure for Approval of Minor Subdivisions.* Applications for minor subdivision approval shall follow the standard development approval process set forth in §3.2 of this Chapter, except that Land Consolidation Plats shall not be subject to review by the Planning Commission. Land Consolidation Plats shall follow the review timeframe established for Final Plats. (Ord. 18-01 #10; Ord. 8-05 #1)
 4. *Submittal Requirements.* Boundary Line Adjustments and Amended Plats involving exchange of land shall require deeds describing the resultant parcels, signed and dated by owners, and dated and sealed by a Notary Public, to be submitted with the Mylars. (Ord. 18-01 #11; Ord. 8-05 #1)
 5. *Modifications and Waivers.* The Community Development Director, or designee, shall have authority to grant modifications and/or waive standards set forth in Chapter 10 in conjunction with a Boundary Adjustment or Land Consolidation Plat. Approval of requested modifications and/or waivers shall require that the Director finds that approval of such modification and/or waiver: (Ord. 8-05 #1)
 - a. Advances the goals and purposes of this Code; (Ord. 8-05 #1)
 - b. Either results in less visual impact, more effective environmental or open space preservation, relieves practical difficulties in developing a site or results in the use of superior engineering standards than those required by this Code; (Ord. 8-05 #1)
 - c. There will be no increase in the intensity of use; and (Ord. 8-05 #1)
 - d. There will be no increase in development and/or demand for services that necessitates compliance with EVDC standards. (Ord. 8-05 #1)
- E. **Standards for Review.** All subdivision applications shall demonstrate compliance with the standards and criteria set forth in Chapter 10, "Subdivision Standards," and all other applicable provisions of this Code. For minor subdivisions, the EVPC shall also find that approval will not be materially detrimental to the public welfare, injurious to other property in the neighborhood, or in conflict with the purposes and objectives of this Code.
- F. **Effects of Approval.**
1. *Effect of Approval of a Minor Subdivision.* Within sixty (60) days of the Board's approval of the minor subdivision, the developer shall submit the minor subdivision final plat for recording. If the minor subdivision plan is not submitted for recording within this sixty-day time period, the approval shall automatically lapse and be null and void. (Ord. 8-05 #1)
 2. *Effect of Approval of a Preliminary Subdivision Plan.*

- a. Within twelve (12) months from the date of the final approval of a preliminary subdivision plat, the developer shall submit an application for final subdivision plat for either all or at least one (1) phase of the proposed subdivision.
 - b. An approved final subdivision plat for any phase of the preliminary subdivision plan shall extend the life of the preliminary subdivision plan for an additional twelve-month period from the date the final subdivision plat is approved. If the original twelve-month period or any successive twelve-month period expires before a final subdivision plat is approved, then the preliminary plan approval automatically lapses and becomes null and void.
 - c. During the period in which an approved preliminary subdivision plan is effective, no subsequent change or amendment to this Code or any other governing ordinance or plan shall be applied to affect adversely the right of the Applicant to proceed with any aspect of the approved development in accordance with the terms of such preliminary subdivision plat approval. However, the Applicant shall comply with those local laws and regulations adopted subsequent to the approval of such preliminary subdivision if the Estes Valley Planning Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety or welfare.
3. *Effect of Approval of a Final Subdivision Plat.* Within sixty (60) days from the date of the Board's action on the final subdivision plat, the Applicant shall make all required revisions, if any (see §3.2.E above), and shall submit the final subdivision plat to the Town for recording. If the final plat is not submitted for recording within this sixty-day time period, the approval shall automatically lapse and be null and void. (Ord. 8-05 #1)

(Ord. 18-01 #8—11, 10/23/01; Ord. 8-05 #1, 6/14/05)

§ 3.10 VESTED RIGHTS

- A. **Purpose.** This Section is intended to implement the provisions of Article 68 of Title 24, C.R.S., as amended, establishing a vested property right to undertake and complete development and use of real property under the terms and conditions of an approved site specific development plan.
- B. **Site Specific Development Plan Approval.**
1. *Site Specific Development Plan Defined.* Final approval of a final subdivision plat (including a minor subdivision plat), final PUD plan, development plan and special review shall be considered approval or conditional approval of a "site specific development plan," as defined in §24-68-101 et seq., C.R.S., and shall result in a vested right for a period of three (3) years as provided in §24-68-101 et seq., C.R.S.
 2. *Hearing Required.* No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice shall be published at the time and in the manner required by §3.15 below, and may be combined with any other required notice.
 3. *Notice of Approval.*
 - a. Each map, plat or special review 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."
 - b. In addition, notice describing generally the type and intensity of the use approved, the specific parcel or parcels of property affected, and a statement that a vested

property right has been created shall be published once, not more than fourteen (14) days after final approval of the site specific development plan, in a newspaper of general circulation within the Estes Valley.

4. *Amendments to Site Specific Development Plans.* In the event amendments to a site specific development plan are approved pursuant to this Chapter, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Decision-Making Body specifically finds otherwise and incorporates such finding in its approval of the amendment.
- C. **Other Provisions Unaffected.** Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and/or use of the property.
- D. **Limitations.** Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of such article or a judicial determination that such article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.
- E. **Estes Park Urban Renewal Authority Review.** Review and action by the Town of Estes Park Urban Renewal Authority on proposals for development located within the Estes Park urban renewal area, as that area is defined in the Estes Park Downtown Redevelopment Program (adopted May 24, 1983, as amended), shall not constitute site specific development plan review or approval.

§ 3.11 TEMPORARY USES AND STRUCTURES

- A. **Applicability.** All temporary uses and structures shall obtain a Temporary Use Permit pursuant to the procedures set forth in this Section.
- B. **Procedures for Approval of Temporary Uses and Structures.** The procedure for an application for a temporary use or structure shall be as follows:
 1. *Step 1: Pre-Application Conference.* A pre-application conference is voluntary for temporary use/structure applications.
 2. *Step 2: Staff Review and Action.* Within thirty (30) days from the date a complete application is submitted, the Staff shall review the application according to the standards set forth in this Section, and make a final decision to approve, approve with conditions or deny the application.
- C. **Standards for Review.** The Staff shall review an application for a temporary use or structure and evaluate it for compliance with the general standards and specific use standards (as applicable) set forth in §5.3, "Temporary Uses and Structures," and in addition all of the following standards:
 1. The proposed site for the temporary use or structure is adequate in size and shape to accommodate the temporary use;
 2. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;
 3. Adequate parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations; and

4. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- D. **Conditions of Approval.** In approving a Temporary Use Permit, the Staff may impose conditions, including but not limited to control of nuisance factors (e.g., glare, noise, smoke, dust), provision of security and safety measures, and limitations on hours of operation, storage and parking, provided that such conditions are necessary to:
1. Achieve the general purposes of this Section and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the Comprehensive Plan;
 2. Protect the public health, safety and general welfare; or
 3. Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- E. **Time Limits on Permits.** Temporary Use Permits shall be valid for a specified period of time, not to exceed thirty (30) days, unless otherwise expressly provided for in §5.3 of this Code.

§ 3.12 USE CLASSIFICATION REQUESTS

A. **Purpose and Applicability.**

1. The use classifications set forth in Chapter 4, "Zoning Districts," and defined in Chapter 13, "Definitions," describe one (1) or more uses having similar characteristics, but do not list every use or activity that may appropriately fall within the classification. This Section shall apply to determine all questions or disputes whether a specific use is deemed to be within a use classification permitted in a zoning district.
2. The provisions of this Section shall not apply to permit any specific use that is expressly prohibited in a zoning district.
3. If, pursuant to this Section, a specific use cannot be clearly determined to be in a use classification permitted in the applicable zoning district, such use may be incorporated into the zoning regulations by a Code Amendment, as provided in §3.3 above.

B. **Procedures for Use Classification Request.** The procedure for an application to determine a use classification shall be as follows:

1. *Step 1: Pre-Application Conference.* A pre-application conference is voluntary for use classification requests.
2. *Step 2: Staff Review and Action.* Within thirty (30) days from the date a complete application is submitted, the Staff shall: (a) review the application according to the standards set forth in this Section; (b) consult with the Town or County Attorneys and other staff, as necessary; and (c) make a final determination as to whether the subject use shall be deemed to be within a use classification set forth in this Code and whether such use should be allowed in the applicable zoning district.
3. *Appeals.* Appeals from the Staff's determination on a use classification request shall be made to the respective Boards.
4. *Form of Determination.* All final determinations by Staff or the Boards shall be provided to the Applicant in writing and shall be filed in the official record of use classification determinations.

- C. **Standards for Review.** The following considerations shall be used to determine what classification a use is in and whether it is appropriate to allow such use as a principal use in the applicable zoning district:
1. The actual or projected characteristics of the subject use compared to the stated characteristics of each use classification allowed in the zoning district (see §13.2, “Use Classifications/Specific Use Definitions and Examples”);
 2. The relative amount of site area or floor space and equipment devoted to the use;
 3. Relative amounts of sales from the subject use compared to other permitted uses;
 4. The relative number of employees in each use;
 5. Hours of operation;
 6. Building and site arrangement;
 7. Vehicles used with the use;
 8. The relative number of vehicle trips generated by the use;
 9. Signs expected in conjunction with the use;
 10. How the use advertises itself;
 11. Whether the use is likely to be found independent of other uses on the site;
 12. Any other potential impacts of the subject use relative to other specific uses included in the classification and permitted in the applicable zoning district; and
 13. Whether the subject use is consistent with the stated intent and purposes of this Code and the zoning district in which it is to be located.
- D. **Official Record of Use Classification Determinations.** An official record of use classification determinations shall be kept on file in the office of the Town of Estes Park Community Development Director. The record shall be available for public inspection in the Estes Park Community Development Department during normal business hours.

§ 3.13 PUBLIC FACILITY/USE LOCATION AND EXTENT REVIEW

- A. **Purpose.** This Section implements §30-28-110(1), C.R.S., and is intended to provide an opportunity for review of the location and extent of specified public facilities and uses sought to be constructed or authorized within the Estes Valley, especially as to whether such public use is consistent with the Estes Valley Comprehensive Plan and this Code.
- B. **Applicability.**
1. *Applicable to Specified Public Uses.*
 - a. Location and extent review shall apply to the construction or authorization of all public schools, public safety facilities, trail heads, major utilities (whether publicly or privately owned) and all other public uses not specifically exempt from this Section. These public uses are listed in Chapter 4, “Zoning Districts,” (Tables 4-1 and 4-4) with the notation under the “additional regulations” column that Public Facility/Use Location and Extent review may be applicable.
 - b. Location and extent review shall also apply to the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale, lease or acquisition of any land for any public use subject to this Section.

2. *Exemption for Town Public Uses Located Within Town Limits.* Location and extent review shall not apply to any public road, park, trail, public street, way, ground, space or utility, or any other public facility or use other than a public building or structure, that is to be constructed, financed or owned by the Town of Estes Park on property located within the jurisdictional limits of the Town.

C. Procedure for Location and Extent Review.

1. *Public Schools.*

- a. Prior to acquiring land or contracting for the purchase of land for a school site, the board of education shall consult with and advise the Estes Valley Planning Commission, in writing.
- b. Prior to construction of any structure or building, the board of education shall submit a development plan for review and comment to the EVPC.
- c. The EVPC may request a public hearing before the board of education on the proposed site location or development plan. If the EVPC requests a hearing, the board of education shall promptly schedule the hearing, publish at least one (1) notice in advance of the hearing, and provide written notice of the hearing to the EVPC.
- d. The EVPC shall consider all information presented at the public hearing. If no hearing is requested, the EVPC shall consider all information provided by the board of education, and shall convey its findings and recommendations to the board of education.
- e. Failure of the EVPC to act within thirty (30) days after the date of official submission of the proposal or development plan shall be deemed an approval, unless a longer period for review is granted by the board of education.
- f. The authority to make final determinations as to the location of public schools and the authority to erect buildings and structures shall remain with the board of education.

2. *All Other Public Uses.*

- a. A proposed development plan shall be submitted to the EVPC for approval, pursuant to the development plan approval process set forth in §3.8 of this Chapter, prior to the construction or authorization of any public use that is subject to location and extent review.
- b. Failure of the EVPC to act within thirty (30) days after the date of official submission of the development plan shall be deemed an approval, unless a longer period is granted by the submitting board, body or official.
- c. If the EVPC disapproves the development plan, it shall communicate its reasons to the Board of County Commissioners or Board of Trustees, depending on the location of the proposed project. The respective Board is authorized to overrule such disapproval by a majority vote of its entire membership. Upon overruling, the Board may proceed with construction or authorization of the project, as applicable.
- d. If the project is not required to be authorized or financed by the Board of County Commissioners or Board of Trustees, or other County or Town official or board, the EVPC's disapproval may be overruled by the body or official having jurisdiction over the authorization and financing of the project. A vote to overrule by such body shall be by a majority vote of its entire membership. In the case of a utility

owned by an entity other than a political subdivision, the EVPC's disapproval may be overruled by the Public Utilities Commission by not less than a majority of its entire membership.

- D. **Standards for Review.** The EVPC and Boards shall review the extent and location of the proposed public use for its consistency with the goals, policies and objectives stated in the Comprehensive Plan and for its compliance with this Code.

§ 3.14 SEPARATE LOT DETERMINATIONS

A. **Purpose and Applicability.**

1. This Section shall be used to review all questions or disputes regarding separate lot determinations based on the definition set forth in §13.3.135.b. In determining whether or not the individual parcel was intended at the time of its creation to be separately owned, developed and otherwise used as a separate developable unit, the standards for review set forth in §3.14.C shall be considered, in addition to other relevant factors.

B. **Procedures for Separate Lot Determinations.** The procedure for an application for a separate lot determination shall be as follows:

1. *Step 1: Pre-application Conference.* A pre-application conference is voluntary for separate lot determinations.
2. *Step 2: Staff Review and Action.* Within thirty (30) days from the date a complete application is submitted, the Staff shall: (a) review the application according to the standards set forth in this Section; (b) consult with the Town or County Attorneys and other staff, as necessary; and (c) make a final determination as to whether the individual parcel in question is a lot.
3. *Appeals.* Appeals from the Staff's separate lot determination shall be made to the respective Boards.
4. *Form of Determination.* All final determinations by Staff or the Boards shall be provided to the Applicant in writing and shall be filed in the official record of separate lot determinations.

C. **Standards for Review.** In determining whether or not the individual parcel was intended at the time of its creation to be separately owned, developed and otherwise used as a separate developable unit, the following factors shall, where relevant, be considered, in addition to other relevant factors:

1. *Shape, size and physical character of the parcel.* For example, if the parcel in question will comply with the adequate public facilities requirements set forth in §7.12 of this Code and a principal structure can be built meeting all applicable setbacks, the individual parcel may have been intended to be separately owned, developed and otherwise used as a separate developable unit. Also, for example, if the shape, size or physical character of the parcel in question is not similar to lots in the same neighborhood, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit. Also for example, if the shape of the parcel indicates that it was intended to be used for physical access or for the provision of utilities, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit;

2. *Historic use of the parcel in question.* For example, if a principal structure was built over the boundary line in question, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit;
 3. *Historic property ownership patterns.* For example, if no portion of the parcel in question has been individually deeded into separate ownership from the remaining portion of the parcel at any time prior to May 5, 1972, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit;
 4. *Private restrictions in effect at the time the parcel was created.* For example, if private covenants in effect at the time of conveyance prohibited the creation of more than one (1) lot, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit;
 5. If no portion of the parcel in question was ever taxed separately by the Larimer County Tax Assessor, the individual parcel may not have been intended to be separately owned, developed and otherwise used as a separate developable unit;
 6. If the parcel in question is divided by a municipal or county boundary line, the individual parcel may have been intended to be separately owned, developed and otherwise used as a separate developable unit; and
 7. If the parcel in question was delineated on an unrecorded subdivision plat and created conformance with the applicable subdivision and zoning regulations, if any, in effect at the time of creation, the individual parcel may have been intended to be separately owned, developed and otherwise used as a separate developable unit.
- D. **Official Record of Separate Lot Determinations.** An official record of separate lot determinations shall be kept on file in the office of the Town of Estes Park Community Development Director during normal business hours. The record shall be available for public inspection in the Estes Park Community Development Department during normal business hours. (Ord. 18-02 #1, 12/10/02)

(Ord. 18-02 #1, 12/10/02)

§ 3.15 GENERAL NOTICE PROVISIONS

- A. **Newspaper Notice of Public Meetings.** At least fifteen (15) days' notice of scheduled public meetings before a reviewing agency or body shall be published in one (1) or more newspapers of general circulation in the Estes Valley. The notice shall specify the time and place of the meeting/hearing, and the specific nature of the matter to be heard.
- B. **Written Notice of Public Meetings.** Whenever a public meeting is required by a reviewing agency or body, the Staff shall be responsible for mailing written notice at least fifteen (15) days before the scheduled meeting to all landowners within one hundred (100) feet of the subject property. Failure to send this written notice shall not affect the review and decision concerning the development application.