

## **TITLE 10 – UNIFIED LAND USE CODE (ULUC)**

## **CHAPTER 9 ADMINISTRATION**

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## ARTICLE 10-9-1: OFFICIAL AND ADMINISTRATIVE BODIES ESTABLISHED AND AUTHORIZED

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### Section 10-9-1.1 City Council ("Council") PROCEDURE - PR

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- A. **Generally.** The City Council, referred to as "the Council," is established as the legislative body for the city in [Article III, \*Legislative Body\*](#), of the City Charter.
- B. **Powers and Duties.** The Council shall have the authority to make final decisions on the development review procedures denoted in [Section 10-9-3.10, \*Development Review Summary\*](#).

Effective on: 8/19/2021

### Section 10-9-1.2 Planning Commission ("Commission")

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- A. **Generally.** The Planning Commission, referred to as "the Commission," is generally an advisory body focused on monitoring and implementing the city's Comprehensive Plan, this Code, and other regulatory and policy documents.
- B. **Powers and Duties Related to this Code.** The Commission has the authority to make recommendations or final decisions on the development review procedures denoted in [Section 10-9-3.10, \*Development Review Summary\*](#), public hearings for certain floodplain projects, and appeals to Administrative Decisions as described in [Article 10-7-1, \*Floodplain Regulations\*](#), and [Article 10-7-2, \*Floodway Regulations\*](#).
- C. **Powers and Duties Not Related to this Code.** The Commission has the following powers and duties that are not directly related to this Code:
  1. ***Comprehensive Plan.*** The Commission shall recommend to the Council a Comprehensive Plan to guide future growth and development within the city including land uses, streets and transportation, parks and open space, pedestrian circulation, and urban design. Such Comprehensive Plan shall be subject to:
    - a. Approval by the Council with changes, if any;
    - b. Denial by the Council; or
    - c. Remand by the Council to the Commission with recommendations.
  2. ***Development Guidelines.*** The Commission may make and adopt design guidelines it deems necessary to guide development occurring within the city.

Effective on: 8/19/2021

### Section 10-9-1.3 Board of Adjustment ("Board")

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- A. **Generally.** The Board of Adjustment, established by the City Code, shall be referred to as "the Board."
- B. **Powers and Duties.** The Board shall have the authority to make final decisions on the development review procedures denoted in Section 10-9-3.10, *Development Review Summary*, in addition to those cited in Title 2, *Boards and Commissions*, Chapter 3, *Board of Adjustment*, of the City Code.
- C. **Limited Authority.** Nothing in this Section shall be construed to empower the Board to change the provisions of this Code, to effect changes in the Official Zoning Map, to add to the land uses permitted in any zone district, or to grant an extension or enlargement to that part of a structure or lot occupied by a nonconforming use.

Effective on: 8/19/2021

### Section 10-9-1.4 Historical Preservation Board ("HPB")

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- A. **Generally.** The Historical Preservation Board, referred to as "the HPB," is an advisory body focused on protecting and enhance historic buildings, sites, and neighborhoods in the city.
- B. **Powers and Duties Related to this Code.** The HPB shall have the authority to make recommendations or final decisions on the development review procedures denoted in Section 10-9-3.10, *Development Review Summary*.
- C. **Powers and Duties Not Related to this Code.** The HPB has the following powers and duties that are not directly related to this Code:
  - 1. *Surveys.* Conduct surveys and create inventories of properties and areas for the purpose of defining those of Historic Significance.
  - 2. *Recommendations to Council.* Review properties nominated for designation as a historic landmark or Historic District and make recommendations regarding historic designations to the Council.
  - 3. *Recommendations to National Register of Historic Places.* Review and provide comments and recommendations on nominations of properties to the National Register of Historic Places.
  - 4. *Education.* Assist in public education programs such as walking tours, brochures, a marker program for historic properties, lectures, and conferences.
  - 5. *Certifications.* Review proposals for new construction and any application for alteration, relocation, reconstruction, or demolition of a designated historic landmark or contributing and noncontributing property in a Historic District and issue Certificates of Appropriateness, Certificates of Economic Hardship, and Certificates of Demolition.
  - 6. *Advice.* Advise the Council on matters related to preserving the historic character of the city.
  - 7. *Guideline Recommendations.* Make recommendations to the Planning Commission on design guidelines for Historic Districts and historic landmarks.

Effective on: 8/19/2021

### Section 10-9-1.5 Community Development Director ("Director")

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- A. **Generally.** The administrator of this Code shall be the Community Development Director, referred to as "Director," as designated by the City Manager. The Director is responsible for processing applications and subsequently making either a final decision (in case of administrative review applications) or making a recommendation to another body (in case of all other applications) as prescribed in this Code. The Director may designate other city staff members to manage

applications through the review process, to be points of contact for applicants, and to perform such other duties as may be required in this Code.

**B. Powers and Duties.**

1. *Development Review.* The Director shall have the authority to make recommendations or final decisions on the development review applications denoted in Section 10-9-3.10, *Development Review Summary*.
2. *Administration.* The Director has authority to establish, amend, or revise application processes, procedures, and document format and submittal requirements as necessary without need for a public hearing. The Director shall be responsible for the general administration of activities necessary to implement this Code including, but not limited to, the following:
  - a. Preparing application forms, ordinances, and administrative guidelines as necessary for the convenience of the public;
  - b. Maintaining written records of all actions taken by the Board of Adjustment, Planning Commission, and Historical Preservation Board authorized by this Code; and
  - c. Recommending to the Council a schedule of fees for offsetting the reasonable costs of administering this title.

- C. Typographical and Scrivener's Errors.** Typographical and scrivener's errors that do not affect the intent or substance of the Code provisions or that cause them to be illogical obviously or apparently due to the error, may be corrected by the Director without need for a public hearing following approval of such request on the consent agenda of the Council. Scrivener's errors are errors of drafting the text of the Code that include inadvertent errors of codification, cross-reference, citations to other sections, tables of contents, ordinances, laws and office administrative manuals, manuals of practice cited by reference in the Code, misspellings, incorrect grammar, punctuation, syntax or ambiguous grammatical structure. Typographical errors are errors of preparation of the text for printing that include inversions of numbers or words, order of words, incorrect fonts or styles, and inverted, broken, or indistinct type characters.

Effective on: 8/19/2021

### Section 10-9-1.6 Chief Building Official

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- A. Generally.** The Chief Building Official shall review Construction Plans, issue Building Permits, and verify Building Code compliance for all construction in the city to the extent permitted by state law.

**B. Powers and Duties.**

1. *Development Review.* The Chief Building Official shall have the authority to make recommendations or final decisions on the development review applications denoted in Section 10-9-3.10, *Development Review Summary*.
2. *Other Powers and Duties.* The Chief Building Official shall:
  - a. Conduct and take action on all building permits and inspections to ensure that construction meets all city Building Codes and other applicable requirements, such as inspecting setbacks, foundation elevations, and fence and wall requirements set out in this Code;
  - b. Interpret the Building Code and other city ordinances, excluding this Code, as they relate to plans and permits;
  - c. Maintain all records as they relate to the Building Permit process and inspections, including materials and outcomes; and

- d. Arbitrate discrepancies regarding building plans, permits, and inspections.

Effective on: 8/19/2021

### Section 10-9-1.7 City Engineer

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- A. **Generally.** With respect to the administration of this Code, the City Engineer, or a designee, is responsible for verifying that all standards and quality assurance requirements are met for public infrastructure. The City Engineer also establishes and promulgates construction standards for public improvements, parking areas, and other infrastructure.
- B. **Powers and Duties Related to this Code.** The City Engineer shall have the authority to make recommendations or final decisions on the development review applications denoted in Section 10-9-3.10, *Development Review Summary*.

Effective on: 6/7/2021

### Section 10-9-1.8 Floodplain Administrator

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- A. **Generally.** The city's Director of Public Works, or designee, is hereby appointed the Floodplain Administrator (Administrator) and shall administer the provisions of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, in addition to other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) or the rules and regulations for regulatory floodplains in Colorado (Colorado Water Conservation Board.) The Administrator may designate an alternate to perform the functions of the Administrator during any period of unavailability.
- B. **Duties and Responsibilities of Administrator.** The Administrator shall have the authority to review, make recommendations and make final decisions on the development review applications denoted in Section 10-9-3.10, *Development Review Summary*. The Floodplain Administrator shall also have the following powers and duties:
  - 1. **Administration.** The Administrator shall be responsible for the general administration of activities necessary to implement Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, which shall include, but are not necessarily limited to:
    - a. Reviewing all applications for Building Permits for conformance with Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, and approving or disapproving such applications accordingly;
    - b. Preparing application forms, ordinances, and administrative guidelines as necessary for the convenience of the public;
    - c. Recommending to the Council a schedule of fees for offsetting the costs of administering the Floodplain Regulations (Revised 6-12-1992); and
    - d. Maintaining records of all actions taken related to floodplain decisions by the Director or Planning Commission authorized by Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*.
  - 2. **Development Application Review.** The Administrator shall also be responsible for review of the following development application activities:
    - a. Review whether public notice or public hearing is required for projects in both FEMA and non-FEMA floodplains;
    - b. Review all proposed Floodplain Development Permit applications to determine if the proposed development is located in the floodway, and ensure the provisions of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, are met;



- c. Review all proposed Floodplain Development Permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which approval is required, including determination of the need for a FEMA CLOMR or LOMR, and review of such applications;
  - d. Review all proposed Floodplain Development Permit applications to determine that the requirements of the Floodplain Regulations have been, or will be, met; and
  - e. Conduct inspections and issue Certificates of Compliance with the Floodplain Regulations, as set out in Section 10-9-6.1, *Certificate of Compliance*.
3. *Information to be Obtained and Maintained.*
  - a. Obtain and record the actual elevation of the lowest floor of all new or substantially improved structures within or adjacent to the floodplain, and record whether or not such structures contain a basement.
  - b. For all new or substantially improved floodproofed structures:
    1. Verify and record the actual elevation to which the structure was floodproofed; and
    2. Maintain records of required floodproofing certification.
  - c. Maintain for public inspection all records pertaining to Floodplain Development Permits, appeals, and Variances granted pursuant to this Code.
  - d. Maintain copies of CLOMR and LOMR applications and approved documents, if applicable.
4. *Alteration of Watercourses.*
  - a. In cases where alterations of watercourses are proposed, the Administrator shall:
    1. Notify the U.S. Army Corps of Engineers, the Colorado Water Conservation Board, the Mile High Flood District, and adjacent communities prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA; and
    2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
  - b. Discharges of dredged or fill material into a watercourse may require prior issuance of a permit by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act (33 USC 1344).
5. *Inspection.* Inspect all development at times during construction to ensure compliance with all provisions of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, including proper elevation of a structure.
6. *Interpretation of Boundaries.* Make interpretations, where needed, as to the exact location of the boundaries of a floodplain, or, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. Local decisions which may result in a change of boundary lines and/or base flood elevations are subject to review and confirmation by FEMA.
7. *Determination of Violation.* Whenever the Administrator determines that a violation of the Floodplain Regulations set out in Section 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, has occurred, may occur, or is threatened, the Administrator shall be responsible for placing a temporary or permanent hold on further development permits, approvals and actions to the extent necessary to prevent or remedy the violation, and for notifying affected city departments of this action. The hold shall remain in place until the property owner complies with the Floodplain Regulations.

Effective on: 9/17/2021



## ARTICLE 10-9-2: ADMINISTRATIVE PROVISIONS

### Contents:

- Section 10-9-2.1 Title and Authority
- Section 10-9-2.2 Jurisdiction
- Section 10-9-2.3 Applicability
- Section 10-9-2.4 Purposes
- Section 10-9-2.5 Effective Date
- Section 10-9-2.6 Abrogation and Conflicting Provisions
- Section 10-9-2.7 Transitional Provisions

### Section 10-9-2.1 Title and Authority

- A. **Title.** The title of this document is the Unified Land Use Code ("Code" or "this Code").
- B. **Authority.** Pursuant to the *Constitution of the State of Colorado, Article XX, Home Rule Cities and Towns, Section 6, Home Rule for Cities and Towns*, the principal authority for this Code is the Home Rule Charter of the City of Littleton adopted June 22, 1959, as may be amended from time to time.
- C. **Hierarchy of this Code.**
1. This Title is divided into Chapters, Articles, Sections, and Subsections. Subsequent levels such as Paragraphs and Subparagraphs may be used but are not named.
  2. The reference format used throughout this Title is as shown in Table 10-9-2.1.1, *References*.
  3. A reference, such as "this Chapter" or "this Section" means within the same Chapter or Section where such a reference appears.

Example Reference	Level	Refers to
This Title	Title 10	Title 10, <i>Unified Land Use Code</i>
This Chapter	Chapter 9	Title 10, Chapter 9, <i>Administration</i>
This Article	Article 10-9-2	Title 10, Chapter 9, Article 10-9-2, <i>Administrative Provisions</i>
This Section	Section 10-9-2.1	Title 10, Chapter 9, Article 10-9-2, Section 10-9-2.1, <i>Title and Authority</i>
This Subsection	Subsection F.	Title 10, Chapter 9, Article 10-9-2, Section 10-9-2.1, Subsection F., <i>Hierarchy of this Code</i>

Effective on: 8/19/2021

### Section 10-9-2.2 Jurisdiction

This Code shall apply within the corporate boundaries of the City of Littleton, Colorado, as may be extended or contracted from time to time, and to such other areas as may be authorized by law.

Effective on: 8/19/2021

### Section 10-9-2.3 Applicability

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- A. **Generally.** Except as otherwise provided, no building, structure, or land shall be used and no building, sign, or other structure shall be erected, reconstructed, structurally altered, or maintained except in conformance with the regulations specified in this Code.
- B. **Conformity.** The use of buildings and land within the jurisdiction of this Code is subject to all other local, state, or federal regulations, whether or not such other provisions are specifically referenced in this Code. References to other regulations or provisions outside of this Code are for the convenience of the user. The lack of a cross-reference does not exempt a land, building, structure, or use from other provisions.
- C. **Minimum Requirements.** In the interpretation and application of this Code, the provisions of this Code shall be held to be the minimum requirements necessary and shall be liberally construed for the promotion of public health, safety, and general welfare.
- D. **Development.** The following are considered "development" that is subject to the applicable requirements of this Code:
  - 1. The use of any building, structure, or land (including new uses, changes in use, expansions of existing uses, and material changes to the operational characteristics of existing uses);
  - 2. Construction, material alteration, repair, relocation, or demolition of infrastructure, structures (including, but not limited to, fences, retaining walls, signs, and towers), or buildings;
  - 3. Alterations of historic buildings and sites;
  - 4. Land clearing in anticipation of the construction of infrastructure, structures, or buildings for non-agricultural purposes;
  - 5. Any other disturbance of land, soil, vegetation, or waterways, including excavation, fill, or other alteration of land for construction or other purposes, but not including routine landscape maintenance; and
  - 6. Any division of land for land development, for sale or lease, whether by metes and bounds, subdivision, or other technique.
- E. **Exceptions or Exemptions.** All development within the city is subject to this Code, except:
  - 1. As may be specifically exempted in this Code; or
  - 2. As may be outside of the city's regulatory jurisdiction.

Effective on: 8/19/2021

### Section 10-9-2.4 Purposes

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- A. **Generally.** The standards and requirements in this Code are to promote the health, safety, convenience, order, prosperity, and general welfare of the city by using its home rule, constitutional, and statutory powers to:
  - 1. *Plan Implementation.* Implement the city's adopted Comprehensive Plan and other adopted plans which:
    - a. Reflect community values relative to the character, form, and aesthetic of development; and
    - b. Promote well-planned and fiscally responsible development.
  - 2. *Zoning.* Establish zoning districts and development standards that enhance opportunities for the use and development of property in accordance with community objectives.

- B. **Character.** This Code was created with consideration as to the character of each zoning district and its suitability for particular uses, with a view to conserving the value of buildings and land, and encouraging the most suitable use of land throughout the city in accordance with the city's Comprehensive Plan, as amended, and other adopted policy documents.
- C. **Application of Purpose Statements.** Purpose statements where they exist in this Code are intended to provide context for the standards of this Code and to assist with interpretation of substantive requirements if such interpretation is necessary. Purpose statements are not to be interpreted as independent criteria for development review.

Effective on: 8/19/2021

### Section 10-9-2.5 Effective Date

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- A. **Generally.** The effective date of this Code is [insert effective date], as amended.
- B. **Prior Regulations.** Except as otherwise noted in this Code or as provided in applicable State of Colorado statutes, on the effective date and thereafter, this Code shall supersede all prior regulations governing the development of land in the jurisdiction of this Code. All development applications filed on or after the effective date of this Code shall be processed in accordance with the requirements of this Code.

Effective on: 8/19/2021

### Section 10-9-2.6 Abrogation and Conflicting Provisions

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- A. **Abrogation.** It is not the intent of this Code to interfere with, abrogate, or annul any private easement, covenant, deed restriction, or other agreement between private parties, including development agreements executed pursuant to [C.R.S. Title 24](#), Article 68.
- B. **Conflicts.**
  - 1. *Private Agreements.* When the Director interprets provisions of this Code to impose a greater restriction than that imposed by a private agreement, the provisions of this Code shall control. When private agreements impose a greater restriction than those imposed by this Code, the private agreements shall control. The city has no duty to search for, administer, or enforce private agreements.
  - 2. *Public Restrictions.*
    - a. Where this Code conflicts with another applicable local, state, or federal law, whichever provision the Director interprets imposes the greater restriction controls.
    - b. Where the text of this Code conflicts with its tables or illustrative material, the text controls.
    - c. Where a table of this Code conflicts with an illustration, the table controls.

Effective on: 8/19/2021

### Section 10-9-2.7 Transitional Provisions

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- A. **Purpose.** The purpose of this Section is to establish the rights of applicants and landowners who:
  - 1. Have submitted a complete development application before the effective date of this Code; or
  - 2. Have obtained specific vested real property rights pursuant to state law or city regulations previously in effect.
- B. **Applicability.** This Section pertains to pending development applications submitted prior to the effective date of this Code.

- C. **Pending Applications.** Each development application submitted shall be evaluated only by the adopted ordinances, processes, and technical regulations in effect at the time that each complete application was submitted.
- D. **Approved Development Applications that Precede this Code.** Approved developments may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval is valid and has not lapsed.
- E. **Subdivisions.** All subdivision plats which, upon the effective date of this Code have been previously approved by the Council, are considered to be approved subdivisions as such requirements for approval exist in this Code.
- F. **Prior Conditions of Approval.** Except as set out in Section [10-1-1.2.A](#), *Planned Overlay District*, conditions of development approvals that were granted prior to the effective date remain in full force, regardless of the standards of this Code.
- G. **Right to Complete Construction.** This Code does not require any change in the plans or construction of any structure if:
  - 1. Part of an approved Site Plan that has not expired;
  - 2. A Building Permit for the structure was lawfully issued prior to the effective date of this Code;
  - 3. The Building Permit had not expired prior to the effective date of this Code; and
  - 4. Construction pursuant to the Building Permit was commenced and diligently pursued prior to the expiration of the permit and within 90 days of the effective date of this Code.

Effective on: 8/19/2021

## ARTICLE 10-9-3: COMMON DEVELOPMENT REVIEW PROCEDURES

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### Contents:

#### Section 10-9-3.1 Pre-Application Meeting

#### Section 10-9-3.2 Application Fees, Submittal, and Completeness

#### Section 10-9-3.3 Staff Review and Decisions

#### Section 10-9-3.4 Common Decision Criteria

#### Section 10-9-3.5 Public Notice

#### Section 10-9-3.6 Public Meetings and Hearings

#### Section 10-9-3.7 Post-Decision Provisions

#### Section 10-9-3.8 Appeals of Application Decisions

#### Section 10-9-3.9 Expired Approvals and Extensions

#### Section 10-9-3.10 Development Review Summary

### Section 10-9-3.1 Pre-Application Meeting PROCEDURE - PR

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- A. **Purpose.** The purpose of a pre-application meeting is to familiarize the applicant with the submittal requirements and review procedures, including all applicable standards, the feasibility of the proposed work, and any known constraints, hazards, or special conditions associated with the subject property.
- B. **Applications Requiring a Pre-Application Meeting.** Table 10-9-3.10.1, *Development Review Summary*, denotes the development review applications that require a pre-application meeting.
- C. **Conceptual Plan.** The applicant shall submit a Conceptual Plan as a basis for discussion prior to or at the pre-application meeting. The Conceptual Plan shall be of sufficient detail to accurately convey the concept, character, location, parcel size, and the size and scale of the proposed development. The applicant may submit additional materials at their discretion.
- D. **Requested Submittals.** At or following the pre-application meeting, city staff may request that the applicant provide additional materials at the time of application submittal as may be necessary to permit the informed exercise of judgment under the decision criteria for the application.
- E. **Disclaimer.** Outcomes of the pre-application meeting shall not imply, in whole or in part, any final decision on the application. The Conceptual Plan is not part of a formal application for approval of a development review application that requires a pre-application meeting and no comments made by the city in reaction to a Conceptual Plan shall be binding on the city's consideration of any subsequent application nor result in the vesting of any rights under this Code or state statute. The submission of a Conceptual Plan shall constitute a complete waiver of any and all legal claims that are based on, or arise from, Planning Commission or City Council review of, or comment upon, a subsequent related application.

Effective on: 8/19/2021

### Section 10-9-3.2 Application Fees, Submittal, and Completeness PROCEDURE - PR

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- A. **Applications Submittal.** Applications are authorized to be initiated and submitted to the city as follows:
  - 1. **Property Owner.** A property owner, including an agent or representative, may initiate and submit any type of application pursuant to this Code.

2. *Party Aggrieved by an Administrative Decision.* A party aggrieved by an administrative decision may initiate and submit the following types of applications:
    - a. Appeal of Administrative Decision; and
    - b. Variance.
  3. *Council.* The Council may initiate and submit the following types of applications:
    - a. Designation of Historic Landmarks and Districts;
    - b. Code Text Amendment; and
    - c. Rezoning or Zoning Map Amendment.
  4. *City Staff.* The Director or Public Works Director may initiate and submit the following types of applications:
    - a. Code Text Amendment;
    - b. Rezoning or Zoning Map Amendment;
    - c. Modifications to the Floodplain Overlay District; and
    - d. Extension, Modification, or Revocation of a PL-O.
- B. Forms and Fees.** Every development application required by this Code shall be submitted in a format established by the Director and shall include the corresponding application fee that is established by the Council.
- C. Application Procedures.** An application shall not be considered officially filed until the application is submitted, the application fee is paid, and the application is deemed complete in accordance with paragraph D, *Application Completeness Review*.
- D. Application Completeness Review.**
1. *Director Responsibility.* The Director shall review all development review submittals for completeness.
  2. *Meaning of Completeness.* The Director shall deem complete a submittal that contains:
    - a. *All Information.* All of the submittal information required in the application form;
    - b. *Certifications.* Documents or drawings that are prepared and certified by qualified professionals (where such certificates are required);
    - c. *Fee.* The application fee; and
    - d. *Additional Information.* Any additional information required as a result of a pre-application meeting, if applicable, and that is necessary to demonstrate compliance with all of the applicable requirements of this Code.
  3. *Incomplete Applications.*
    - a. *Director Duties.* If the Director determines that a submittal is not complete, the Director shall:
      1. Notify the applicant in writing with a list of all missing or incomplete items; and
      2. Provide a maximum of 45 calendar days for the applicant to resubmit the missing or incomplete items.
    - b. *Rejection.* If the missing or incomplete items are not submitted within the 45-day period, then the Director shall deem the application rejected and shall not accept the application for filing. After the Director rejects an application, a new application and fee shall be required if the applicant wishes to apply again.



c. *Not Considered Submitted.* Incomplete or rejected applications are not considered "submitted" or "filed". Complete applications are considered submitted on the date that the Director deems them complete.

E. **Concurrent Applications.** For development proposals requiring more than one type of development approval, plat, or permit required by this Code, concurrent application submittals may be considered at the risk of the applicant and at the discretion of the Director.

1. Decision-making bodies considering such concurrent applications shall make separate recommendations and decisions on each application based on the standards in this Code.
2. Timing of approvals and specified expirations of approvals shall be as stated in this Code for each application type; therefore, concurrent application processing is at the applicant's risk and does not guarantee expedited approvals of any application type.

F. **Successive Applications.** If an application is denied, no person may submit a subsequent application for the same or a substantially similar request within one year from the date of the final action upon the earlier application.

G. **Continuing Review Process.** Complete applications shall subsequently undergo the processes established in [Section 10-9-3.3, Staff Review and Decisions](#).

Effective on: 8/19/2021

### **Section 10-9-3.3 Staff Review and Decisions** PROCEDURE - PR

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A. **Applications Requiring Staff Review and Decisions.** Table [10-9-3.10.1, Development Review Summary](#), denotes that all development applications are required to undergo staff and referral agency review.

B. **Referral and Distribution.** The Director shall distribute the complete application to all applicable reviewing and recommending bodies and agencies in accordance with Table [10-9-3.10.1, Development Review Summary](#).

C. **Recommendations and Final Decisions.**

1. *Review and Comment.* For applications where the Director is not the final decision maker, the Director shall review the application and provide comments to the applicant, which may include required revisions.
2. *Staff Report.* For applications where the Director is not the final decision maker, the Director shall prepare a staff report and forward it to the applicable decision-making body.
3. *Review and Decide.* For applications where the Director is the final decision maker, the Director shall review and make a final decision on the application.

D. **Continuing Review Process.** Applications requiring a public hearing shall subsequently undergo the processes established in [Section 10-9-3.5, Public Notice](#), and [Section 10-9-3.6, Public Meetings and Hearings](#), as applicable.

Effective on: 8/19/2021

### **Section 10-9-3.4 Common Decision Criteria** PROCEDURE - PR

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A. **Generally.** In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable decision-making bodies shall consider the common decision criteria listed below. Additional decision criteria may apply and are enumerated in the specific review processes within this Chapter.

- B. **Applications Subject to Common Decision Criteria.** Table 10-9-3.10.1, *Development Review Summary*, denotes the development review procedures that have common decision criteria.
- C. **Written Findings.** Required findings for any decision on an application, based on common and specific decision criteria for an application, shall be in writing and shall be recorded in the minutes and records of the Board, Commission, Council, or other decision-making body, as applicable.
- D. **Burden of Proof or Persuasion.** In all cases, the burden is on the applicant to establish, by a preponderance of evidence, that an application meets all applicable decision criteria.

Effective on: 8/19/2021

### Section 10-9-3.5 Public Notice PROCEDURE - PR

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- A. **Generally.** Notice of public hearings required in this Code shall be provided in accordance with Table 10-9-3.10.1, *Development Review Summary*.
- B. **Applicability.** Table 10-9-3.10.1, *Development Review Summary*, denotes the development review procedures that require public notice.
- C. **Types of Notice.** All types of public notice shall comply with the requirements of this Section unless otherwise specified by state law or the City Charter. There are three primary types of notice:
  - 1. *Posted Notice.*
    - a. Posted notice, when required, shall be posted via a sign on the public right-of-way next to the property at issue for the public hearing. Where the land does not have frontage on a public street, signs shall be posted on the nearest public street with an attached notation indicating the location of the land subject to the application. Such signs are required to be posted in at least two conspicuous locations that are within 300 feet of the exterior boundaries of the affected land in conspicuous places at distances of no less than 200 feet apart. Signs shall be located so that the lettering is visible from the street.
    - b. The applicant shall pay a deposit equal to the cost of the sign for each sign obtained. The deposit shall be refunded to the applicant if the sign is returned in good condition to the Community Development Department within 30 days after the final hearing date.
  - 2. *Publication Notice.* Publication notice, when required, shall be published in a newspaper of general circulation in the city.
  - 3. *Notice by Mail.* Notice by mail, when required, shall be provided through the United States Postal Service (USPS) to all addresses, units, and property owners located within 700 feet of the subject property. If a common interest association has over 10 units, then notification shall be sent to the association's designee.
- D. **Content of Notice.** Regardless of whether the notice is posted, published, or mailed, the notice shall contain:
  - 1. The time and place of the public hearing;
  - 2. A brief description of the land which is the subject of the matter of the public hearing;
  - 3. The purpose of the public hearing;
  - 4. A statement that the public is invited to review and comment on the matter to be heard; and
  - 5. Contact information for the Community Development Department.
- E. **Timeframe to Provide Notice.** The city, when required to provide notice, regardless of the type of notice that is required, shall provide such notice 10 days prior to the public hearing unless otherwise specified by state law.

- F. **Constructive Notice.** Failure of a property owner to receive notice of a hearing shall not affect the validity of the final decision. For example, a mailed notice returned to the sender shall not prevent a decision-making body from holding a public hearing nor shall it prevent the body from making a recommendation or final decision for a given application.

Effective on: 8/19/2021

### Section 10-9-3.6 Public Meetings and Hearings PROCEDURE - PR

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A. **Generally.**

1. *Meetings and Hearings.* All public meetings and hearings related to applications in the Code shall be open to the public. However, not all decisions require public hearings. Therefore, recommendations and decisions that are authorized by this Code are classified as requiring a "public meeting" or "public hearing."
2. *Open Meetings.* All public meeting and public hearing business shall be conducted in accordance with the [State of Colorado Open Meetings Act](#) and other laws applicable to local public bodies.

B. **Procedures Requiring Public Meetings and Hearings.** Table 10-9-3.10.1, *Development Review Summary*, denotes the development review procedures that require public meetings and hearings.

C. **Neighborhood Meetings.**

1. *Site Plan.* As shown in Table 10-9-3.10.1, *Development Review Summary*, the applicant shall conduct a neighborhood meeting before submittal of the application and prior to a second submittal of plans for review.
2.
  - a. The applicant shall provide written notice as set forth in Section 10-9-3.5, *Public Notice*.
  - b. At the neighborhood meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, answer questions, respond to concerns neighbors raise about the application, and propose ways to resolve conflicts and concerns.
  - c. The applicant shall prepare a written summary of the meeting that includes a list of meeting attendees, a summary of attendee comments, and discussed issues related to the development proposal. The meeting summary shall be included or retained with the application materials and be made available to the public for inspection.

D. **Public Meetings.** Except for administrative decisions decided by staff, any application that does not require a public hearing prior to a recommendation or final decision requires a recommendation or final decision to be made during a public meeting.

E. **Final Action.** A decision-making body with authority to take final action on an application according to Table 10-9-3.10.1, *Development Review Summary*, may approve, approve with conditions or modifications, or deny an application.

F. **Approval with Conditions.**

1. *Ability.* At a public meeting or hearing, a decision-making body may attach special conditions to any decision it is authorized to make in order to ensure that the intent of this Code will be carried out.
2. *Requirements.* Approval of an application with conditions requires that the specific conditions and reasons for such conditions be stated in the minutes of the meeting. Such conditions are binding upon the applicant.

- G. **Continuing Review Process.** Applications decided upon at a public meeting or hearing may be subject to Section 10-9-3.8, *Appeals of Application Decisions*, through Section 10-9-3.9, *Expired Approvals and Extensions*.

Effective on: 9/17/2021

### Section 10-9-3.7 Post-Decision Provisions PROCEDURE - PR

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- A. **Generally.** Following the decision on an application, the recording of the decision shall occur and amendments may be made to the application following the information provided in this Section.
- B. **Approval with Conditions or Modification of Requests at Public Meeting or Hearing.**
1. *Modification.* An applicant may agree to modify an application, including, but not limited to, the plans and specifications submitted, in response to questions or comments by persons appearing at a public meeting or hearing or to suggestions or recommendations by the administrative body holding the meeting or hearing.
  2. *No Further Action.* Unless such modifications are so substantial that the administrative body determines that it cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised application materials, the administrative body may make a recommendation or conditionally approve the application with the requirement that the approval is not effective until the applicant submits materials reflecting the agreed-upon changes to the Director. An administrative body shall not accept any subsequent application and shall make no further approvals related to the subject property until the applicant submits the required modifications.
  3. *Referral.* In the determination of a decision-making body, modifications may be referred back to the recommending body for review, prior to further consideration.
- C. **New Application.** Modification of a decision other than by a timely appeal or post-decision review shall be accomplished by means of a new application.
- D. **Recording.**
1. *Copies.*
    - a. Following the applicable appeal period, the applicant shall provide one complete reproducible Mylar (if required by the applicable County Recorder's office) copy of the approved plat or plan documents, including all required signatures, and the applicable recording fee. Failure of the applicant to meet this submittal requirement prior to expiration, as set out in Table 10-9-3.10.1, *Development Review Summary*, shall cause the Final Plat or plan to become null and void and may be restored only by formal action of the applicable reviewing body unless a time extension is granted pursuant to Section 10-9-3.9, *Expired Approvals and Extensions*.
    - b. Recording shall be made by the city of all Site Plans and Master Development Plans and any Final Plat or replat including all required modifications and necessary signatures, and shall be recorded in the County Clerk and Recorder's office, at the applicant's expense.
  2. *Timing.* The recording shall occur prior to the issuance of any Building Permit for the same property.

Effective on: 8/19/2021

### Section 10-9-3.8 Appeals of Application Decisions PROCEDURE - PR

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- A. **Generally.** Unless otherwise specified in this Code, a party aggrieved or adversely affected by a decision by an administrative body or official may seek review of the decision in accordance with the procedures in this Section.
- B. **Appeals.**
1. *Appeal of a City Council (Council) or Board of Adjustment (Board) Decision.* Any decision of the Council or Board is final and subject only to judicial review by the district court with jurisdiction as provided and in accordance with applicable law.
  2. *Appeal of a Historical Preservation Board (HPB) Decision.* The applicant or property owner may appeal any decision of, or designation by, the HPB to the Council within 30 days of such decision or designation. After notice as provided in Section 10-9-3.5, *Public Notice*, of this Article, the Council shall hold a public hearing to consider the appeal. Council review shall be limited to whether the HPB has abused its discretion. The decision of the Council shall be a final order subject to appeal in accordance with subsection B.1 of this Section, above.
  3. *Appeal of a Planning Commission (Commission) Decision.* Any party aggrieved by or alleging an error in a final decision of the Commission may appeal to the Council within 30 calendar days of the Commission's decision.
  4. *Appeal of an Administrative Decision.* Any party aggrieved by or alleging error in a final decision of an administrative official on a matter addressed in this Code may appeal in accordance with Section 10-9-9.2, *Appeal of Administrative Decision*.

Effective on: 8/19/2021

### Section 10-9-3.9 Expired Approvals and Extensions PROCEDURE - PR

- A. **Generally.** Table 10-9-3.10.1, *Development Review Summary*, denotes the expiration period for all development review approvals.
- B. **Term of Approval or Permit.** Approvals shall expire at the end of the stated time period, unless:
1. A complete application for the next required approval in a sequence of approvals is submitted and pending upon the expiration of the period;
  2. Development has commenced and is being diligently pursued toward completion;
  3. For land use approvals, the approved use is established; or
  4. An extension is granted in accordance with paragraph C, *Renewal of Approvals*.
- C. **Renewal of Approvals.**
1. *Generally.* The Director may extend the expiration date of any application for a duration not to exceed one year by written request from the property owner according to the standards and procedures of this Section.
  2. *Timing of Application for Extension.*
    - a. Written requests for extensions shall be received no later than 30 days prior to the expiration of the approval.
    - b. Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances justify the request.
- D. **Extensions for Extraordinary Circumstances.** The Director may extend the expiration date of any approved development review applications in response to extraordinary circumstances, such as flood, fire, snowstorm, or other natural or human-made disaster that makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be by the Director.



**E. Public Hearing Extensions.**

1. *Applicability.* A public hearing is required for:
  - a. Extensions of an expiration date that are longer than those that can be granted by the Director in accordance with this Section; and
  - b. Second (and subsequent) extensions after the Administrative Extension.
2. *Decision-Making Body.* Extensions by public hearing shall be acted upon by the decision-making body that granted the original approval.
3. *Criteria.* Extensions may be granted after a public hearing if it is demonstrated that:
  - a. There is good cause for the request; and
  - b. The applicant has provided assurances that it will perform (or cause to be performed) the work authorized by the permit or approval within the extended term.

Effective on: 8/19/2021

**Section 10-9-3.10 Development Review Summary** PROCEDURE - PR

A. **Generally.** Table 10-9-3.10.1, *Development Review Summary*, compiles the review procedures for applications in this Code involved in the development review process. Detailed information about general procedures and applications are further discussed in this Article.

Table 10-9-3.10.1 Development Review Summary							
Development Application	Pre-App Required	Neighborhood Meeting	Review and Decision		Public Notice	Expiration (10-9-3.9)	Applicable Standards
			Review/Recommend	Decide			
CDD = Community Development Director; PC = Planning Commission; CC = City Council; HPB = Historical Preservation Board; BA = Board of Adjustment; [ ] = Public Hearing Required							
<b>Code and Zoning Amendments</b>							
Rezoning or Zoning Map Amendment (Sec. 10-9-4.1)	✓	✓	1st: CDD 2nd: [PC]	[CC]	Pu M Po	None	
Master Development Plan (Sec. 10-9-4.2)	✓	✓	CDD	CDD [PC] <sup>4</sup>	Pu M Po	2 years	Article 10-1-3
Vested Property Rights (Sec. 10-9-4.3)	✓		CDD	[CC]	Pu M Po	3 years <sup>5</sup>	
Code Text Amendment (Sec. 10-9-4.4)			1st: CDD 2nd: PC	CC	Pu	None	
Annexation (Sec. 10-9-4.5)	✓	✓	1st: CDD 2nd: [PC]	[CC]	Pu M Po, and as required by state law	None	



**Table 10-9-3.10.1  
Development Review Summary**

Development Application	Pre-App Required	Neighborhood Meeting	Review and Decision		Public Notice	Expiration (10-9-3.9)	Applicable Standards
			Review/Recommend	Decide			
CDD = Community Development Director; PC = Planning Commission; CC = City Council; HPB = Historical Preservation Board; BA = Board of Adjustment; [ ] = Public Hearing Required							
Amendment to the Future Land Use and Character Map	✓	✓	1st: CDD 2nd: PC	[CC]	M Po, and as required by state law		
<b>Site Development and Use Permits</b>							
Abbreviated Site Plan (Sec. 10-9-5.4)			CDD	CDD	None	None	
Conditional Use Permit (Sec. 10-9-5.1)	✓	✓	CDD	[PC]	Pu M Po	1 year	Sec. 10-1-1.4 Sec. 10-1-1.5
Major Plan Amendment (Sec. 10-9-5.2)	✓	✓	CDD	CDD [PC] <sup>4</sup>	M Po	Same as application being modified	
Minor Plan Amendment (Sec. 10-9-5.3)			Same as initial approval	Same as initial approval	None	Same as application being modified	
Site Plan (Sec. 10-9-5.4)	✓	✓	CDD	CDD	None	2 years	Article 10-1-3
Temporary Use Permit (Sec. 10-9-5.5)			CDD	CDD	None	180 days	Sec. 10-1-1.8
Zoning Certificate (Sec. 10-9-5.6)			CDD	CDD	None	180 days	Article 10-1-1
<b>Improvement Plans and Permits</b>							
Floodplain Certificate of Compliance (Sec. 10-9-6.1)			Floodplain Administrator	Floodplain Administrator	None	None	Article 10-7-1 Article 10-7-2
Construction Plans (Sec. 10-9-6.2)			City Engineer	City Engineer	None	2 years	LEDS
Access Permit (Sec. 10-9-6.3)			City Engineer	City Engineer	None	180 days	LEDS
Floodplain Development Permit (Sec. 10-9-6.4)			Floodplain Administrator <sup>3</sup>	Floodplain Administrator <sub>3</sub>	None	2 years	Article 10-7-1 Article 10-7-2
Grading Permit (Sec. 10-9-6.5)			City Engineer	City Engineer	None	2 years	

**Table 10-9-3.10.1  
Development Review Summary**

Development Application	Pre-App Required	Neighborhood Meeting	Review and Decision		Public Notice	Expiration (10-9-3.9)	Applicable Standards
			Review/Recommend	Decide			
CDD = Community Development Director; PC = Planning Commission; CC = City Council; HPB = Historical Preservation Board; BA = Board of Adjustment; [ ] = Public Hearing Required							
Sign Permit (Sec. 10-9-6.6)			CDD	CDD	None	180 days	Sec. 10-1-3.10 Article 10-2-5 Article 10-3-5 Article 10-4-5 Article 10-5-5
Subdivision Improvement Agreement (SIA) (Sec. 10-6-3.1)			City Attorney City Engineer	City Manager	None	Per agreement	Sec. 10-6-3.1
SIA Minor Modification (Sec. 10-6-3.1)			City Engineer	City Engineer	None	Per agreement	Sec. 10-6-3.1
<b>Subdivisions and Vacations</b>							
Administrative Plat (Sec. 10-9-7.1)			CDD	CDD	None	1 year <sup>1</sup>	CHAPTER 6
Final Plat (Sec. 10-9-7.2)			CDD	CDD	None	1 year <sup>1</sup>	CHAPTER 6
Preliminary Plat (Sec. 10-9-7.3)	✓		CDD	[PC]	Pu M Po	1 year <sup>2</sup>	CHAPTER 6
Technical Corrections to a Plat (Sec. 10-9-7.4)			CDD	CDD	None	1 year <sup>1</sup>	CHAPTER 6
Vacation Plat (Sec. 10-9-7.5)			CDD	[PC]	None	1 year <sup>1</sup>	CHAPTER 6
Vacation of Streets and Easements (Sec. 10-9-7.6)		✓ for streets	CDD	[CC] for streets; CDD for easements not involving public vehicular access	Pu M Po	1 year <sup>1</sup>	CHAPTER 6
<b>Historic Preservation Applications</b>							
Certificate of Appropriateness (Sec. 10-9-8.1)	✓		CDD	[HPB]	M Po	1 year	CHAPTER 8
Certificate of Demolition (Sec. 10-9-8.2)	✓		CDD	[HPB]	M Po	1 year	CHAPTER 8
Certificate of Economic Hardship (Sec. 10-9-8.3)	✓		CDD	[HPB]	None	1 year	CHAPTER 8

**Table 10-9-3.10.1  
Development Review Summary**

Development Application	Pre-App Required	Neighborhood Meeting	Review and Decision		Public Notice	Expiration (10-9-3.9)	Applicable Standards
			Review/Recommend	Decide			
CDD = Community Development Director; PC = Planning Commission; CC = City Council; HPB = Historical Preservation Board; BA = Board of Adjustment; [ ] = Public Hearing Required							
Designation of Historic Landmarks and Districts (Sec. 10-9-8.4)	✓	✓	CDD HPB	[CC]	Pu M Po	None	CHAPTER 8
<b>Relief, Appeals, and Interpretations</b>							
Administrative Adjustment (Sec. 10-9-9.1)			CDD	CDD	None	Same as application being modified	
Appeal of Administrative Decision (Sec. 10-9-9.2)			CDD	[BA]	M	None	
Floodplain Variance (Sec. 10-9-9.3)			Floodplain Administrator	[PC]	Pu M Po	2 years	Article 10-7-1 Article 10-7-2
Variance (Sec. 10-9-9.4)	✓		CDD	[BA]	M Po	None <sup>3</sup>	
Written Interpretation (Sec. 10-9-9.5)			CDD	CDD	None	None	
<p>Table Notes:</p> <ol style="list-style-type: none"> <li>None after recordation.</li> <li>If a Final Plat application is not submitted for the entire area subject to the Preliminary Plat, or for at least one phase of a multi-phase project subject to the Preliminary Plat.</li> <li>May require a public hearing by the Planning Commission in accordance with Article 10-7-1, <i>Floodplain Regulations</i>, and Article 10-7-2, <i>Floodway Regulations</i>.</li> <li>The Director, at the Director's discretion, may refer application to Planning Commission for a decision.</li> <li>Vested rights may be granted for a period longer than three years in the case where a development agreement is approved.</li> </ol> <p>-----            Pu = Published in newspaper 10 days prior to public hearing in accordance with Section 10-9-3.5            Po = Sign posted on property 10 days prior to public hearing in accordance with Section 10-9-3.5            M = Mailed notice to adjoining property owners or property owners within a specified distance of the subject property 10 days prior to public hearing in accordance with Section 10-9-3.5</p>							

Effective on: 9/17/2021

## ARTICLE 10-9-4: CODE AND ZONING AMENDMENTS

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### Contents:

**Section 10-9-4.1 Rezoning or Zoning Map Amendment**

**Section 10-9-4.2 Master Development Plan**

**Section 10-9-4.3 Vested Property Rights**

**Section 10-9-4.4 Code Text Amendment**

**Section 10-9-4.5 Annexation**

### Section 10-9-4.1 Rezoning or Zoning Map Amendment PROCEDURE - PR

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- A. **Generally.** This Section establishes the process for amending the Official Zoning Map.
- B. **Applicability.** A Rezoning or Zoning Map Amendment has the effect of changing the zoning district of a property on the Official Zoning Map from one zoning district to another.
- C. **Decision Criteria.** The Council may approve, approve with conditions, or deny a Rezoning or Zoning Map Amendment based on the following criteria:
1. *Consistency.* The proposed map amendment is consistent with the Land Use and Character Map of the Comprehensive Plan, or an adopted subarea plan, corridor plan, or other city policy, and consistent with the purpose statement of the proposed zoning district;
  2. *Compatibility.* The range of uses allowed by the proposed zoning district will be compatible with the properties in the immediate vicinity of the subject property;
  3. *Changed Conditions.* The character of the surrounding area is transitioning or being affected by other factors, such as traffic, a new school, adjoining uses, or environmental issues not contemplated by the Comprehensive Plan;
  4. *Traffic.* The traffic generated by the land uses permissible in the requested Zoning Map Amendment will not lead to undue congestion, noise, or traffic hazards; and
  5. *Adequate Public Facilities.* Facilities and services are available to serve the subject property without compromising provisions for adequate levels of service to other properties.
  6. *Natural Environment.* The district resulting from the requested Zoning Map Amendment will not cause harm to natural features on or adjacent to the subject property; and/or
  7. There was an error in establishing the current zoning.
- D. **Procedures.**
1. *Public Hearing and Recommendation.* The Planning Commission shall make a recommendation to the City Council. A public hearing shall subsequently be held by the City Council. Such hearings (and notice) shall be provided and conducted in conformance with the procedures set forth in Section 10-9-3.6, *Public Meetings and Hearings*.
  2. *Decision.* The Council shall approve, approve with modifications, or deny a Rezoning or Zoning Map Amendment.
- E. **Effect.** A Rezoning or Zoning Map Amendment is recorded as follows:
1. *Legal Description.* The ordinance shall include a legal description of the area rezoned and a map of the same;
  2. *Record.* The City Clerk will maintain a record of all ordinances that change the zoning classification of real property; and

3. *Map Update.* The Director shall update the Official Zoning Map to reflect the new zoning district for the subject property.

Effective on: 8/19/2021

## Section 10-9-4.2 Master Development Plan PROCEDURE - PR

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- A. **Generally.** A Master Development Plan provides a process for large-scale projects requiring coordinated infrastructure and improvements or any projects proposed for development in phases.
- B. **Applicability.**
  1. *When Required.* A Master Development Plan is required for:
    - a. Development with two or more single-family attached or multi-family residential, commercial retail and service, office, entertainment, recreation, and public or institutional uses;
    - b. A development site of greater than 10 acres in size;
    - c. Construction in two or more phases; and
    - d. Large-scale development with:
      1. More than 100,000 square feet of gross floor area in a single building, including big-box stores, supermarkets, wholesale stores, and multi-tenant shopping centers; or
      2. Two or more separate buildings and a combined square footage of 150,000 square feet.
  2. *Content.* A Master Development Plan is required to illustrate the nature and character of development, including:
    - a. *Context.* The context of the proposed development relative to adjacent development and the proposal for transitioning and buffering such development;
    - b. *Location, Scale, and Design.* The locations and types of residential, non-residential, and mixed land uses; their scale and design relationships; and methods to ensure compatibility between the various uses and adjacent lots;
    - c. *Density.* Minimum and maximum gross densities, block sizes, lot patterns, and heights of residential uses;
    - d. *Intensity.* Maximum gross floor areas, building coverage, and heights of non-residential and mixed uses;
    - e. *Parking and Circulation.* The proposed parking and circulation plans;
    - f. *Streets.* The patterns, functional classifications, and cross-sections of streets within and adjacent to the development, along with the network of pedestrian and bicycle improvements;
    - g. *Common Open Space.* General locations, means of continuity and connectivity, and the extent of common open spaces and amenities;
    - h. *Environmental Protection.* Areas of environmental protection and preservation, including floodplains and riparian areas, wetlands and water bodies, and vegetated areas; and
    - i. *Phases.* Phases and timing of development.
- C. **Decision Criteria.** The Council may approve, approve with conditions, or deny a Master Development Plan based on the following criteria:
  1. *Layout.* The subject property is laid out in an efficient manner relative to the natural and built environments and designed to achieve the aims of a compact, highly walkable environment;

2. *Building Form and Massing.* The placement, arrangement, size, and relationships of buildings relative to streets, pedestrian and civic spaces, and one another create an urban environment;
3. *Quality Design.* The design of buildings and hardscape and landscape areas help to establish visual interest, aesthetic appeal, and a unique identity for the development including human-scale amenities, integration of civic spaces for public interaction, and protection from the environmental elements;
4. *Walkability.* The connections within and between buildings, civic spaces, parking areas, transit stations and stops, and to surrounding development; the presence of amenities and other pedestrian improvements; and the proximity of origins and destinations both internal and external to the development are such that walking and bicycling are safe and viable modes of transportation;
5. *Undeveloped Space.* Together with the developed areas, the undeveloped spaces devoted to natural resource preservation, buffering of uses, and for passive and active use are connected and continuous throughout the development;
6. *Complete Streets and Parking.* The streets are designed for multiple purposes, including vehicular movement, on-street parking, and safe use of pedestrians and bicyclists, and the parking is well-distributed and designed to preserve an urban streetscape;
7. *Effect on Natural Environment.* The development will not create any significant adverse impacts on stormwater management facilities or the natural environment including water, air, vegetation, and other environmental features;
8. *Nuisance Mitigation.* The design is not likely to result in nuisances including, but not limited to, noise, dust, light, or vibrations;
9. *Phasing.* The development is phased in a manner that assures an adequate mixture of residential and non-residential land uses, as applicable, and allows for transition from the early phases to completion, relating to the intensity of uses and parking; and
10. *Crime Prevention.* Development design is consistent with Subsection 10-1-3.2.B, *CPTED (Crime Prevention Through Environmental Design)*.

**D. Procedures.**

1. *Review and Decision.* The Director shall review and approve, approve with conditions, or deny a Master Development Plan based on its merit relative to the criteria of this Section and all applicable standards of this Code.
2. *Public Hearing and Decision.* At the Director's discretion, a Master Development Plan may be forwarded to and decided by the Commission following public notice and a public hearing. The Commission shall then approve, approve with conditions, or deny the Master Development Plan.

- E. **Effect.** Upon approval, all subsequent plats, plans, and permits shall clearly demonstrate consistency and conformance with the adopted Master Development Plan. Requested modifications of the plan shall be according to Section 10-9-5.3, *Minor Plan Amendment*, or Section 10-9-5.2, *Major Plan Amendment*.

Effective on: 8/19/2021

**Section 10-9-4.3 Vested Property Rights** PROCEDURE - PR

- A. **Generally.** This Section provides the procedures necessary to implement C.R.S. Title 24, Article 68, *Vested Property Rights*, which purports to establish a Vested Property Right to undertake and



complete development and use of real property under the terms and conditions of a site specific development plan.

1. *Not Diminished.* Enactment of this Section is made in recognition of the General Assembly's declaration that Vested Property Rights are a matter of statewide concern. The Council declares, however, that all rights, powers, and prerogatives granted and reserved by the Constitution of the State of Colorado, the City Charter, and City Code are preserved and are not in any manner diminished by such enactment.
2. *Other Property Rights.* The property rights to be vested by the procedures established in this Section are limited to the right to develop and use real property as approved pursuant to this Section and this Code. Approval of Vested Property Rights, authorized by C.R.S. Title 24, Article 68, *Vested Property Rights*, or by this Section, shall not imply or be interpreted to mean that any other property rights including, but not limited to, ownership, minerals, water, mortgage liens, covenants, etc., are approved, amended, or otherwise affected.
3. *Conditions.*
  - a. *Health, Safety, and Welfare.* Nothing contained in this Code shall be construed to prohibit the city administration or the Council from recommending or imposing such terms and conditions on any Vesting Plan as may be reasonably necessary to protect the public health, safety, and general welfare of Littleton's citizens.
  - b. *Waiving Rights.* Notwithstanding the provisions of C.R.S. Title 24, Article 68, *Vested Property Rights*, Section 24-68-106, *Miscellaneous Provisions*, nothing in this Section shall preclude the owner from waiving Vested Property Rights granted by any other local government pursuant to an Annexation agreement between such owner and the city.
  - c. *No Waiver for City.* Any Vested Property Rights which may be established pursuant to C.R.S. Title 24, Article 68, *Vested Property Rights*, shall not preclude the city from applying all ordinances, resolutions, or the regulations of the city which are general in nature and are applicable to all parcels of real property which are subject to land use regulation by the city.
  - d. *Forfeiture of Rights.* Failure to abide by the terms and conditions set out in this Section, or in a Vesting Plan approved pursuant to this Section, shall result in the forfeiture of any property rights which may have been vested under this Section.

**B. Applicability.**

1. Vested Property Rights run with the applicable property and provide the landowner the right to complete the development and use of the property pursuant to the terms and conditions of the site specific development plan. Site specific development plans include only the following application types:
  - a. Master Development Plan;
  - b. Abbreviated Site Plan; and
  - c. Site Plan.
2. For multi-phase developments, a site specific development plan may include separate vesting periods for each phase of the development. The Council shall have the authority to review each phase for compliance with this Code, any associated development agreement or subdivision improvement agreement, and any other agreements between the developer and the city.
3. Vested Property Rights shall not be created except upon specific application for approval of such rights by an owner, as provided in this Section, and approval by the Council of a site

specific development Plan with Vesting Plan. Any owner may, but is not required to, apply for the creation of Vested Property Rights provided that, at least, the following conditions exist:

- a. *Location.* The subject property is located within the city;
  - b. *Permitted Uses.* Zoning exists to permit the use or uses for which vesting is sought. The vesting procedure set out in this Section shall not, under any circumstances, be construed as a means by which Variances, conditional uses, or changes in use, density, height limits, or other established development standards are warranted, varied, changed, waived or otherwise approved or amended; and
  - c. *Vesting Plan.* The owner has completed and submitted a proposed Vesting Plan, and notice and hearing requirements of this Section have been met.
- C. **Decision Criteria.** The Council may approve, approve with conditions, or deny Vested Property Rights based on findings that the request complies with the criteria established in Section 10-9-3.4, *Common Decision Criteria*.
- D. **Procedures.**
1. *Vested Property Rights Hearing.* Within 60 days after an application is determined complete by the Director, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*.
  2. *City Council.* The Council shall approve, approve with conditions, or deny the Vested Property Rights associated with the applicable Site specific development plan. Applications for site specific development Plans not otherwise requiring approval by the Council shall require Council approval at a public hearing wherever Vested Property Rights are requested.
  3. *Effective Date of Approval; Expiration.*
    - a. *Note Required on Site Specific Development Plan.* Each site specific development shall include the following note: "Approval of this document constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, and pursuant to this Section 10-9-4.3."
    - b. *Effective Date of Approval.*
      1. The effective date that Vested Property Rights shall be deemed to be created shall be the date on which the Council approves the Vesting Plan.
      2. For purposes of judicial review and referendum, the effective date that vested development rights are deemed to be created shall be the date of publication of a notice advising the general public of the approval and creation of Vested Property Rights. The owner shall cause such publication to be made, which shall occur not later than 14 days following the date of Council approval.
    - c. *Expiration.* Any Vested Property Rights which may have been approved pursuant to this Section shall be deemed to have expired and/or terminated should any of the following occur:
      1. A period of three years, or such lesser or greater period of time as may be specified in the Vesting Plan, has lapsed since the date of Council approval and no development has occurred on the subject property;
      2. Failure by the owner to conform with the terms and conditions of the Vesting Plan approved by the Council; or

3. Failure by the owner to publish notice of the creation of Vested Property Rights in a newspaper of general circulation within the jurisdiction within the required 14-day period following Council approval.
- d. *Subsequent Regulation Prohibited.* Any Vested Property Right, once established, shall not be subject to any subsequent zoning or land use action by the city which would alter, impair, prevent, diminish, or otherwise delay the development or use of the property set out by the approved Vesting Plan, with the following exceptions:
  1. *Consent.* With the consent of the affected owner(s);
  2. *Hazards.* Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of Vesting Plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
  3. *Compensation.* To the extent that the affected owner receives just compensation for all costs, expenses, and liabilities incurred by the owner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, and marketing, legal, and other consultant fees incurred after approval of the Vesting Plan by the Council, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.
- e. *Extension and Amendments.*
  1. *Extension.* No extension of the vesting period shall be granted unless such extension is approved by the Council following a public hearing. Such request for extension shall be filed by the owner together with all materials and fees required by this Section to be submitted for original approval. No extension shall be granted by the Council for a period greater than one year.
  2. *Amendments.*
    - i. Minor amendments to the approved site-specific Development Plan and Vesting Plan may be approved by the Director provided that none of the amendments would result in any of the following:
      - A. A change in permitted use;
      - B. An increase in total building coverage;
      - C. An increase in dwelling unit density or total commercial/industrial floor area;
      - D. An increase in building height;
      - E. An increase in traffic generation;
      - F. A reduction of approved private and/or common open space;
      - G. A reduction of approved off-street parking and/or loading space; or
      - H. A reduction of approved street right-of-way paving widths.
    - ii. All other applications for amendments to the approved site specific Development Plan and Vesting Plan must be submitted and reviewed under the same procedures set forth in this Section as required for original approval.
    - iii. Amendments to the site specific Development Plan and Vesting Plan approved pursuant to this Section shall not automatically extend the approved vesting period. Specific applications for the extension of an approved vesting period shall be required.

f. *Unconstitutionality.* Nothing in this Section is intended to create any Vested Property Rights. This Section only establishes the procedures necessary to implement the provisions of C.R.S. Title 24, Article 68, *Vested Property Rights*.

E. **Effect.** Approval of Vested Property Rights allows the applicant to develop and use the subject property under the regulations in effect at the time of vesting approval, unless expressly exempted by or otherwise stated in state law.

Effective on: 8/19/2021

## Section 10-9-4.4 Code Text Amendment PROCEDURE - PR

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A. **Generally.** The text of this Code may warrant amendment from time to time. In these instances, this Section establishes the process to change the text of this Code.

B. **Applicability.** This Section is applicable to Text Amendments initiated by the Commission, Council, or any other staff or decision-making body set out in Article 10-9-1, *Official and Administrative Bodies Established and Authorized*. A Text Amendment may transform a legally nonconforming situation into a conforming one. However, no Text Amendment shall be for the sole purpose of curing a violation of any part of this Code.

C. **Decision Criteria.** The Council may approve, approve with conditions, or deny a Text Amendment based on consideration of the following:

1. *Impact Mitigation.* The amendment is necessary to mitigate adverse impacts of the use and development of land on the natural or built environments, including, but not limited to, mobility, air quality, water quality, noise levels, stormwater management, and vegetation, or will be neutral with respect to these issues;
2. *Changing Conditions.* The amendment is necessary to address a changing condition that was not anticipated in the Comprehensive Plan or this Code;
3. *Community Need.* The amendment is necessary to address demonstrated community needs;
4. *Strategic Objectives.* The proposal advances the strategic objectives of the Council, such as fiscal responsibility, efficient use of infrastructure and public services, and other articulated city policies and objectives.
5. *Conflict.* When the amendment is ambiguous or conflicts with other provisions of the Code.

D. **Procedures.**

1. *Public Hearings and Recommendation.* A public hearing shall be held by the Planning Commission. The Commission shall make a recommendation to the Council, who shall subsequently conduct a public hearing. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*.
2. *Decision.* The Council shall approve, approve with modifications, or deny a Text Amendment.
3. *Non-Substantive Amendments.* Notwithstanding the other provisions of this Section, the Council may, by resolution, without being required to comply with any public notice requirement per either state law or Section 10-9-3.6, *Public Meetings and Hearings*:
  - a. Correct spelling or punctuation errors;
  - b. Modify cross-references (because another area of the City Code has been moved or amended);
  - c. Correct cross-reference errors; and
  - d. Other matters determined to be non-substantive by the City Attorney.

- E. **Effect.** Approval of a Text Amendment shall take effect upon the effective date of the ordinance approving the amendment.

Effective on: 8/19/2021

### Section 10-9-4.5 Annexation PROCEDURE - PR

- A. **Generally.** The Annexation procedure provides a mechanism to annex new land into the city.
- B. **Applicability.** This Section applies to all petitions and elections to annex new land into the city, or to disconnect lands previously annexed into the city.
- C. **Decision Criteria.** Annexations shall be reviewed for compliance with the following:
  - 1. Whether the Annexation complies with the procedures and provisions of C.R.S. § 31-12-101 et seq. (the Municipal Annexation Act of 1965) and Article II, Section 30 of the Colorado Constitution;
  - 2. Whether the Annexation complies with the city's Three-Mile Plan, as adopted and amended;
  - 3. Whether the Annexation is consistent with the city's Comprehensive Plan, as amended; and
  - 4. Whether the area being petitioned for Annexation has, or will have at the time of development, the capacity to serve residents of the area with adequate utilities, facilities, and public services.
- D. **Procedures.**
  - 1. *Public Hearing.* Annexations require approval by the Council following a public hearing pursuant to Section 10-9-3.6 and are subject to additional hearing, notice, and reporting requirements set forth in state statutes.
  - 2. *Information Required.* Annexation petitions shall include information as required by the city to evaluate whether and the extent to which the Annexation impacts the public health, safety, and welfare of the city.
  - 3. *Annexation Agreement.* Approval of Annexations requires an Annexation agreement to be approved by the city and executed by the landowner and developer, as applicable, prior to the final hearing on annexation. Such agreement shall be executed by the Council following approval of the Annexation.
  - 4. *Concurrent Review.* Annexations may be considered concurrently with code and zoning amendments, site development and use permits, and subdivisions, provided that no other application shall be approved prior to approval of the related Annexation ordinance and agreement are approved by the Council.
  - 5. *Disconnection Procedures.* Disconnections of land from the city shall be processed in accordance with C.R.S. §§ 31-12-501 to 31-12-503.
- E. **Effect.** Approval of an Annexation and Annexation agreement shall take effect upon the date of the ordinance approving such Annexation. Zoning shall be established on the annexed property no later than 90 days after the effective date of the Annexation ordinance. The Council shall annually review Annexation policies and the Three-Mile Plan to publicly update and document policy related to potential future Annexations.

Effective on: 8/19/2021



## ARTICLE 10-9-5: SITE DEVELOPMENT AND USE PERMITS

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### Contents:

Section 10-9-5.1 Conditional Use Permit

Section 10-9-5.2 Major Plan Amendment

Section 10-9-5.3 Minor Plan Amendment

Section 10-9-5.4 Site Plan

Section 10-9-5.5 Temporary Use Permit

Section 10-9-5.6 Zoning Certificate

### Section 10-9-5.1 Conditional Use Permit PROCEDURE - PR

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- A. **Generally.** A conditional use is a land use that is permitted within a district but which is subject to specific standards and a public meeting process to reduce the potential for incompatibility with other uses within or adjacent to the district. These uses commonly have the potential for various adverse impacts, such as traffic congestion, noise, or visual and aesthetic impacts, that could undermine the integrity of the district if unmitigated.
- B. **Applicability.** Designation as a conditional use means that the use is only allowed in a proposed location if all of the conditions applicable to the use are met, as set out in Section 10-1-1.3, *Land Use Matrix*; the criteria set out in this Section; and all applicable requirements of this Code or conditions of the Planning Commission.
- C. **Decision Criteria.** The Commission may approve, approve with conditions, or deny a Conditional Use Permit based on the following criteria:
1. *Proposed Benefits.* The proposed use and its contemplated size, intensity, and location will provide a use that is necessary or desirable for the neighborhood and community;
  2. *Harmful Effects.* The proposed use will minimize any harmful effects on any adjacent property or use;
  3. *Detrimental Impacts.* The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or to property, improvements, or potential development in the vicinity based on:
    - a. The nature of the proposed site, including its size, shape, and topography and the proposed size, location, and arrangement of structures;
    - b. The accessibility and patterns of pedestrian and vehicular traffic, including the type and volume of traffic, locations of ingress and egress, and the adequacy of off-street parking and loading; and
    - c. The provisions for landscaping, screening, common open space, service areas, lighting, and signage.
- D. **Procedures.**
1. *Public Hearing and Decision.* A public hearing shall be held by the Commission. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*.
  2. *Decision.* The Commission shall approve, approve with conditions, or deny the Conditional Use Permit.
  3. *Termination.* Any of the following shall terminate the right to operate a conditional use:



- a. *Change in Use*. Changing to a use permitted by right;
  - b. *Discontinuance*. Discontinuing the conditional use for a period of at least 12 months; or
  - c. *Violation*. Violating or failing to comply with the approved Conditional Use Permit after notice has been given by the city.
4. *Specifications Effective*. Unless a phased development plan is approved with the application, once any portion of a conditional use is utilized, all conditions pertaining to the conditional use shall become immediately effective.
  5. *Reinstatement*. The process for reinstatement of a terminated conditional use shall be the same as for original approval.
- E. **Effect**. Issuance of a Conditional Use Permit authorizes the filing and processing of an application for any required permits or approvals, such as a Building Permit, Certificate of Occupancy, or subdivision approval. A Conditional Use Permit does not authorize the establishment or extension of any use nor the construction, reconstruction, alteration, relocation, or demolition of any building or structure.

Effective on: 8/19/2021

## Section 10-9-5.2 Major Plan Amendment PROCEDURE - PR

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- A. **Applicability**. A modification is deemed "major" if:
1. *Parking, Loading, and Stacking*. Parking, loading, and stacking areas are reconfigured, are below minimum requirements, or will reduce the number of spaces by 10 percent or more;
  2. *Structures*. Changes will be made to the configuration of structures or the relationship of structures to the street or adjacent properties;
  3. *Grading, Traffic, or Drainage*. Substantial change, in the judgment of the City Engineer, is proposed to the grading, traffic circulation, or drainage plans;
  4. *Open Space*. Open space will decrease by more than 10 percent or will be altered from one type (for example, common green, playground, or plaza) to another;
  5. *Gross Floor Area*. The gross floor area of a non-residential or mixed-use building will increase by more than 10 percent; or
  6. *Density*. The approved residential density will increase by more than 10 percent.
- B. **Decision Criteria**. The Council may approve, approve with conditions, or deny a Major Plan Amendment based on findings as to whether the Amendment is:
1. *Changing Conditions*. Necessary because of changed or changing conditions on or adjacent to the property or is warranted because of the nature of such conditions;
  2. *No Special Benefit*. Fairly applied such that no special benefit is conferred that would not otherwise be conferred on other properties with similar conditions;
  3. *Density and Intensity*. Consistent with the nature of development and the density or intensity of land uses originally approved; and
  4. *Public Health, Safety, and Welfare*. Likely to result in a relative gain to the public health, safety, or welfare of the community.
- C. **Procedures**.
1. *Public Hearings and Recommendation*. A public hearing shall be held by the Commission. Such public hearing (including notice of such hearing) shall be provided and conducted in conformance with the procedures set out in Section [10-9-3.6](#), *Public Meetings and Hearings*.

2. *Decision.* The Commission shall approve, approve with conditions, or deny the Major Plan Amendment.

**D. Effect.**

1. *Approval.* Upon approval of a Major Plan Amendment, the city may issue Building Permits and other permits for development, construction, and other work in the area encompassed by the approved plan; provided, however, that no permits shall be issued unless the Director is satisfied that all conditions of approval and the requirements of this Code have been met.
2. *Denial.* If denied, the applicant may proceed with the Site Plan or Master Development Plan as originally approved.

Effective on: 8/19/2021

**Section 10-9-5.3 Minor Plan Amendment** PROCEDURE - PR

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- A. **Generally.** A Minor Plan Amendment allows an applicant to request and the appropriate decision-making body to authorize minor changes or adjustments to an approved Site Plan or Master Development Plan.
- B. **Applicability.** A Minor Plan Amendment is required when minor amendments to an approved Site Plan or Master Development Plan are requested to proceed with development.
- C. **Decision Criteria.** The decision-making body that made the initial approval of the subject Site Plan or Master Development Plan shall approve, approve with conditions, or deny a Minor Plan Amendment based on the following criteria:
  1. *Determining Eligibility.*
    - a. *Gross Floor Area (GFA).* The proposed adjustment or alteration does not exceed 10 percent of the previously approved gross floor area of the principal building;
    - b. *Height.* A request to increase building height does not exceed 10 percent of the height(s) approved as part of the original Site Plan or Master Development Plan;
    - c. *Position.* A shift in the position of a structure is less than 10 feet and does not violate a required building setback or a Building Code provision;
    - d. *Density.* The density of the project does not increase as a result of the change in gross floor area or height;
    - e. *Parking Area.* The number of parking spaces is not changed by more than 10 percent;
    - f. *Location of Ancillary Structures.* A shift in the location of ground- or roof-mounted utility equipment or meters, and other roof penetrations such as vents, chimneys, and skylights does not negatively affect the design and aesthetic of a building or the public view; and
    - g. *Exterior Materials.* A change in materials and colors is close in style, texture, color, and pattern to the originally approved materials and colors.
  2. *Violation.* The request for a Minor Plan Amendment does not violate a condition of approval of the original Site Plan or Master Development Plan or of any provision of this Code.
- D. **Procedures.**
  1. *Referral.* The Director shall refer the request for a Minor Plan Amendment to the departments and referral agencies for their written recommendations on the request.
  2. *Decision.* Upon receipt of their comments, the Director may approve, approve with conditions or deny the application for a minor amendment to an approved plan.

3. **Time Frame.** Approval of a Minor Plan Amendment shall be valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Minor Plan Amendment shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
4. **Options of Applicant.** Should the Minor Plan Amendment be denied, the applicant has the option to either:
  - a. Withdraw the request fully;
  - b. Modify the request and resubmit for review;
  - c. Appeal the decision to the Commission; or
  - d. Submit the request as a Major Plan Amendment.
- E. **Effect.** Approval of a Minor Plan Amendment authorizes an applicant to proceed with development according to the approved Site Plan or Master Development Plan and its amendments, as applicable.

Effective on: 8/19/2021

### Section 10-9-5.4 Site Plan PROCEDURE - PR

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- A. **Generally.** Approval of a Site Plan ensures that a proposed development complies with all applicable standards of this Code. A Site Plan is not required for any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- B. **Applicability.**
  1. **Full Site Plan.** A Site Plan is required for the development of single-family attached, multi-family, non-residential or mixed-use development, subject to the applicable standards set out in Article 10-1-3, *Design*, as well as the lot and building standards of each district.
  2. **Abbreviated Site Plan.** The Director may allow an abbreviated Site Plan if the following conditions, as applicable, have been met:
    - a. A change in use that does not involve new development or building additions;
    - b. The proposed construction or improvement is for an existing structure;
    - c. The size of a new proposed structure is less than 100 square feet;
    - d. There are no more than four dwelling units on the subject property;
    - e. An addition to an existing non-residential use is less than 2,500 square feet in gross floor area;
    - f. The proposed construction or improvement does not increase the required off-street parking or affect traffic access or circulation;
    - g. Landscaping is replaced by similar landscaping to an equal or greater extent;
    - h. Proposed changes will preserve natural features without changing the basic site layout;
    - i. A change in the type or design of lighting does not change the intensity of light at the property boundary;
    - j. The proposed construction or improvement does not require any Variances;
    - k. Changes are required by the city or a state or federal regulatory agency in order to conform with other laws or regulations; and
    - l. Construction of or an addition to a single-family dwelling, a duplex, or a twin home that is not within a mixed-use development.
  3. **Site Plan Not Required.** A Site Plan shall not be required for the following:

- a. Interior renovations to a building, provided the renovation does not require the addition of parking or loading spaces;
  - b. Reduction in size of a structure;
  - c. Demolition of a structure; and
  - d. Signs unless they are part of a new building or development requiring Site Plan approval.
- C. **Decision Criteria.** The Director may approve, approve with conditions, or deny a Site Plan based on:
1. *Prior Approvals.* Compliance with any prior approvals and all applicable development, design, and transition standards of this Code;
  2. *Comprehensive Plan.* Consistency with the Comprehensive Plan and all other applicable adopted plans;
  3. *Access.* Adequate provision of pedestrian, transit, and traffic access and on-site circulation;
  4. *Parking and Loading.* Sufficient space to accommodate required off-street parking and loading/unloading zones;
  5. *Design.* The location, arrangement, size, and design of buildings, lighting, signs, landscaping, and bufferyards that conform to the standards of the applicable district(s);
  6. *Scale.* The scale of the proposed use(s) in relation to one another and those on adjacent properties;
  7. *Adequate Level of Service.* An adequate level of service of existing or proposed public facilities;
  8. *Nuisances.* Sufficient protection for adjacent properties against noise, glare, unsightliness, or other objectionable features;
  9. *Access, Circulation, and Parking.* Adequate, safe, and convenient arrangement of access, pedestrian circulation, bicycle facilities, roadways, driveways, transit access (where applicable), off-street parking and stacking and loading spaces; and
  10. *CPTED.* Consistency with Subsection [10-1-3.2.B](#), *CPTED (Crime Prevention Through Environmental Design)*.
- D. **Procedures.**
1. *Review and Decision.* On receipt of a completed application for a Site Plan, the Director, together with other departments and referral agencies, shall review the plan to determine its compliance with the applicable provisions of this Code and any conditions of an approved conditional use or Variance. The Director shall determine if the proposed Site Plan satisfies the Site Plan approval criteria and if so, approve, approve with conditions or deny the Site Plan.
  2. *Plan Amendment.* Modifications of an approved Site Plan are deemed as either a Minor or Major Plan Amendment, as set out in Section [10-9-5.3](#), *Minor Plan Amendment*, and Section [10-9-5.2](#), *Major Plan Amendment*.
  3. *Time Frame.* Approval of a Site Plan shall be valid for the period of time set out in Table [10-9-3.10.1](#), *Development Review Summary*. Thereafter, the Site Plan shall expire or be granted an extension as set out in Section [10-9-3.9](#), *Expired Approvals and Extensions*.
- E. **Effect.** Upon approval of a Site Plan, the applicant may proceed with requests for other required approvals and permits.

Effective on: 8/19/2021

### Section 10-9-5.5 Temporary Use Permit PROCEDURE - PR

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- A. **Generally.** A Temporary Use Permit determines the appropriateness of temporary activities at a specific location and establishes standards necessary to ensure its suitability for the area proposed and compatibility with adjoining and adjacent land uses.
- B. **Applicability.** A Temporary Use Permit is required before establishing, constructing, or installing any temporary use or structure designated as requiring a permit as set out in Section 10-1-1.8, *Temporary Uses and Structures*.
- C. **Decision Criteria.** The Director may approve, approve with conditions, or deny a Temporary Use Permit based on findings as to whether the proposed temporary use or structure conforms to the standards set out in Section 10-1-1.8, *Temporary Uses and Structures*, and other requirements in this Code and the City Code.
- D. **Procedures.**
  - 1. *Review and Decision.*
    - a. The Director shall examine the application and plans and the premises upon which the proposed temporary use is to be conducted. A use requiring electrical service shall be reviewed by the Chief Building Official to determine compliance with the adopted electrical code as a condition of granting the Temporary Use Permit.
    - b. Upon a determination of compliance with this and other applicable codes, the Director may approve, approve with conditions, or deny the application.
  - 2. *Time Frame.* Approval of a Temporary Use Permit shall be valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Temporary Use Permit shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
- E. **Effect.** Approval of a Temporary Use Permit authorizes the temporary activities on the property that is subject to the permit.

Effective on: 8/19/2021

### Section 10-9-5.6 Zoning Certificate PROCEDURE - PR

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- A. **Generally.** A Zoning Certificate provides an important means for the Director to review and confirm that a new use, a change in use of any structure or land, or a change in a nonconforming use complies with the applicable district and standards of this Code.
- B. **Applicability.** A Zoning Certificate shall be required prior to establishing a use when such proposed use requires administrative approval but does not trigger a development application subject to review by the Historic Preservation Board, Planning Commission, or City Council or if the proposed use is the subject of a building permit for use of an existing structure.
- C. **Decision Criteria.** The Director may approve, approve with conditions, or deny a Zoning Certificate based on findings that the request demonstrates conformity with the provisions of this Code.
- D. **Procedures.** The Director shall review a written request for a Zoning Certificate and either approve and issue the Zoning Certificate or deny the request and state in writing the reasons for the action taken, including a list of regulations that would be violated by the proposed use.
- E. **Effect.** Issuance of a Zoning Certificate shall not authorize the establishment or extension of any use nor the development, construction, relocation, enlargement, structural alteration, or moving of any building or structure, but shall merely provide information necessary to the preparation, filing,



and processing of applications for any additional permits and approvals which may be required by this Code, including, but not limited to, a building permit or Certificate of Occupancy.

Effective on: 8/19/2021



## ARTICLE 10-9-6 IMPROVEMENT PLANS AND PERMITS

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### Contents:

**Section 10-9-6.1 Floodplain Certificate of Compliance**

**Section 10-9-6.2 Construction Plans**

**Section 10-9-6.3 Access Permit**

**Section 10-9-6.4 Floodplain Development Permit**

**Section 10-9-6.5 Grading Permit**

**Section 10-9-6.6 Sign Permit**

### Section 10-9-6.1 Floodplain Certificate of Compliance PROCEDURE - PR

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- A. **Generally.** A Certificate of Compliance confirms that a proposed development is in conformance with the provisions of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*.
- B. **Applicability.** A Certificate of Compliance is required when there is a proposal to use land or to alter, add to, modify, repair, rebuild or place a building that is subject to the floodplain and floodway regulations.
- C. **Decision Criteria.**
1. *Certification Required.*
    - a. The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor certifying that the construction of a development complies in all respects with the floodplain development standards.
    - b. Floodproofing measures require certification by a registered professional engineer or registered architect that floodproofing measures, by means other than filling, were designed to:
      1. Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
      2. Protect structures to the flood protection elevation;
      3. Anchor structures to foundations to resist flotation and lateral movements; and,
      4. Ensure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
  2. *Inspection and Certificate Required.* No certificate of occupancy shall be issued for any structure, manufactured home, or other use until an inspection by the Floodplain Administrator and a Certificate of Compliance has been issued by the Floodplain Administrator.
  3. *Certified Report Required.* Any person seeking a Certificate of Compliance for property located in a floodplain shall submit a certified report from a registered engineer competent in open channel hydraulics that the fill, building flood elevations, floodproofing measures, or other protective measures are complete and in compliance with Article 10-7-1, *Floodplain Regulations*.
- D. **Procedures.**

1. *Review and Decision.* If it is determined that the use and buildings are in compliance with the city's floodplain regulations, the Administrator shall issue a Certificate of Compliance.
2. *Time Frame.* Approval of a Certificate of Compliance shall be valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Certificate of Compliance shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
3. *Issuance of Certificate of Compliance.* If the report certifies full compliance with the Floodplain Regulations and with any conditions attached to the approval of a Floodplain Development Permit, the Floodplain Administrator shall issue the Certificate of Compliance within 10 days of receipt of the report.

**E. Effect.**

1. *Restricted Purpose of Certificate of Compliance.* A Certificate of Compliance is not, for any purpose, considered a Certificate of Occupancy, nor does it waive any requirements for building permits. (Revised 6-12-1992)
2. *Recording.* The specific elevation of the lowest floor (including basements), or the specific elevation to which the structure is floodproofed, shall be recorded on the Certificate of Occupancy.

Effective on: 8/19/2021

## Section 10-9-6.2 Construction Plans PROCEDURE - PR

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- A. **Generally.** Construction Plans provide for review of the detailed engineering drawings for all improvements required to serve a proposed development.
- B. **Applicability.** Construction Plans and specifications shall be submitted to the City Engineer for all existing and proposed streets, sidewalks, drainage, and utility improvements, and any other public improvements that are required or proposed to be constructed, reconstructed, improved, or modified to serve a proposed development.
- C. **Decision Criteria.** The City Engineer shall approve, approve with conditions, or deny Construction Plans based upon their compliance with the [Littleton Engineering Design Standards \(LEDS\)](#) and other applicable standards.
- D. **Procedures.**
  1. *Review and Responsibility.* The applicant's engineer of record is responsible for the completeness, accuracy, and conformance with city requirements of all construction documents. city review is limited to facts as presented on submitted plans. The city has no project engineering responsibility.
  2. *Decision.* The City Engineer shall approve, approve with conditions or deny the Construction Plans based upon their compliance with LEDS and other applicable standards.
  3. *Time Frame.* Approval of Construction Plans shall be valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Construction Plans shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
  4. *Field Corrections.* The city reserves the right to require corrections to actual conditions in the field which are found to be contrary to or omitted from submitted Construction Plans.
- E. **Effect.** Approval of Construction Plans authorizes the applicant to proceed with construction. However, no work shall commence on the installation of the proposed infrastructure improvements as shown on the Construction Plans until approved.

Effective on: 8/19/2021

### Section 10-9-6.3 Access Permit PROCEDURE - PR

- A. **Generally.** An Access Permit is required to preserve the traffic carrying capacity of the city's street network and to ensure compliance with the standards of this Code.
- B. **Applicability.** An Access Permit is required per the Littleton Engineering Design Standards (LEDS).
- C. **Decision Criteria.** The City Engineer may approve, approve with conditions, or deny an Access Permit subject to the following criteria:
1. *Site Plan or Master Development Plan.* The proposed driveway complies with the approved Site Plan or Master Development Plan;
  2. *LEDS.* The design of the driveway complies with the [Littleton Engineering Design Standards \(LEDS\)](#);
  3. *Access and Circulation.* The proposed driveway location adheres to the requirements of Subsection [10-1-3.9.B, Vehicular Access and Circulation](#);
  4. *Drainage.* The driveway does not block or divert surface water from its intended path;
  5. *Utilities.* The applicant has contacted all applicable utility providers in advance of any excavation and construction; and
  6. *Safety.* The City Engineer determines that the access will not create an unsafe condition for the traveling public.
- D. **Procedures.**
1. *Review and Decision.*
    - a. The application and accompanying information and data submitted by an applicant for an Access Permit shall be reviewed by the City Engineer. The application may also be reviewed by other departments or agencies to verify compliance with all applicable regulations, standards, and specifications.
    - b. If the City Engineer finds that the work described in an application for an Access Permit conforms to the requirements of all applicable standards and other pertinent laws, regulations, and ordinances, a Driveway Permit shall be issued to the applicant.
  2. *Time Frame.* Approval of an Access Permit shall be valid for the period of time set out in Table [10-9-3.10.1, Development Review Summary](#). Thereafter, the site Access Permit shall expire or be granted an extension as set out in Section [10-9-3.9, Expired Approvals and Extensions](#).
- E. **Effect.** Approval of an Access Permit authorizes the applicant to proceed with construction of the driveway(s) for which the permit was requested and issued.

Effective on: 8/19/2021

### Section 10-9-6.4 Floodplain Development Permit FP PROCEDURE - PR

- A. **Generally.** Any development within or modification of a special flood hazard area shall require the approval and issuance of a Floodplain Development Permit as set out in this Section.
- B. **Applicability.** A Floodplain Development Permit is required to:
1. File a plat for subdivision within a special flood hazard area;
  2. Modify a special flood hazard area; or

3. Develop or construct structures or improvements, or grade or otherwise alter the ground within a special flood hazard area.
- C. **Decision Criteria.** The Floodplain Administrator may approve, approve with conditions, or deny a Floodplain Development Permit based on consideration of the following:
1. *Danger to Life and Property.* The danger to life and property due to flooding or erosion damage;
  2. *Susceptibility to Flooding.* The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  3. *Sweeping of Materials.* The danger that materials may be swept onto other lands to the injury of others;
  4. *Compatibility.* The compatibility of the proposed use with existing and anticipated development;
  5. *Access.* The safety of access to the property in times of flood for ordinary and emergency vehicles;
  6. *Cost of Public Services.* The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
  7. *Floodwaters.* The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action expected at the site, where applicable, are manageable;
  8. *Necessity of Water.* The necessity to the facility of a waterfront location, where applicable;
  9. *Alternative Locations.* The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
  10. *Comprehensive Plan.* The relationship of the proposed use to the Comprehensive Plan for that area.
- A. **Procedures.**
1. *Application.* Application for a Floodplain Development Permit shall be submitted to the Public Works Department / Engineering Division's Floodplain Administrator. The application shall include plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations and existing and proposed structures in relation to areas of special flood hazard. Information regarding floodplain applications is contained in the city's [Storm Drainage Design and Technical Criteria Manual \(SDDTC\)](#).
  2. *Completeness.* Applications shall be determined by the Administrator to be complete and accurate to be accepted for processing.
  3. *Public Notice.* If the project requires approval of a FEMA Conditional Letter of Map Revision (CLOMR) prior to construction, then public notice to the affected property owners and residents shall be required as detailed by the National Flood Insurance Program requirements. In a non-FEMA floodplain, a proposed floodplain impact matching or exceeding that of the CLOMR requirements shall require the same public notice of affected property owners and residents.
  4. *Decision.* The Administrator shall approve, approve with conditions, or deny the application for a Floodplain Development Permit.
  5. *Time Frame.* Approval of a Floodplain Development Permit shall be valid for the period of time set out in Table [10-9-3.10.1, Development Review Summary](#). Thereafter, the Floodplain

Development Permit shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.

6. *Permit Revocation.*

- a. When the Administrator finds there are grounds for revocation, written notice by certified mail, return receipt requested, shall be given to the permittee at the address on the permit application. That notice may include a stop-work order requiring that any work currently underway be stopped immediately, and shall set out:
  1. The specific grounds upon which the Floodplain Development Permit may be revoked;
  2. The fact that there will be a hearing before the Administrator to seek the revocation of the permit;
  3. The date, time, and place of the hearing; and
  4. The fact that the permittee may appear in person or be represented by an attorney.
- b. After completion of the presentation of evidence by all parties, the Administrator shall make written findings and render a written order as to whether or not there are grounds for revocation of the Floodplain Development Permit. If so, the Floodplain Development Permit shall be revoked. The Administrator may take other lesser actions including, but not limited to, a temporary suspension of the permit, revision of the Floodplain Development Permit, or an addition of conditions.

- B. **Effect.** Approval of a Floodplain Development Permit authorizes an applicant to proceed to modify the floodplain as proposed and obtain building and Grading Permits pursuant to restrictions and design elevations of the Floodplain Development Permit.

Effective on: 8/19/2021

### Section 10-9-6.5 Grading Permit PROCEDURE - PR

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- A. **Generally.** A Grading Permit helps to reduce both erosion and sediment problems resulting from an increase of urban runoff from developed land.
- B. **Applicability.**
  1. *Required.* A Grading Permit shall be required, per the Littleton Storm Drainage Design and Technical Criteria Manual to ensure compliance with all provisions of this Code before any permit is issued or any improvement, grading, land-disturbing activity, or alteration of land, buildings, or other structures commences.
  2. *Exempt.* A Grading Permit is not required for routine landscape maintenance, removal of dead or diseased trees or shrubs, or the removal of vegetation to eliminate a potential fire hazard.
- C. **Decision Criteria.** The City Engineer may approve, approve with conditions, or deny a Grading Permit based on findings as to whether the application demonstrates compliance with all applicable city standards and demonstrates that the overall drainage pattern of the area will be maintained and the impact of grading on adjacent properties is minimized.
- D. **Procedures.**
  1. *Review and Decision.*
    - a. The application and accompanying information and data submitted by an applicant for a Grading Permit shall be reviewed by the City Engineer. The application may also be reviewed by other departments or agencies to verify compliance with all applicable regulations, standards, and specifications.



- b. If the City Engineer finds that the work described in an application conforms to the requirements of all applicable standards and other pertinent laws, regulations, or ordinances, a Grading Permit shall be issued to the applicant.
2. *Time Frame.* Approval of a Grading Permit shall be valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Grading Permit shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
- E. **Effect.** Upon approval of a Grading Permit, the applicant may proceed with the site preparation for a proposed development.

Effective on: 8/19/2021

### Section 10-9-6.6 Sign Permit PROCEDURE - PR SIGNS - S

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- A. **Generally.** A Sign Permit authorizes the placement of an attached, freestanding or temporary sign.
- B. **Applicability.** A Sign Permit is required before any sign is erected, constructed, enlarged, altered, repaired, moved, improved, converted, or demolished. A Sign Permit is not required for signs that are exempt from the regulations of this Code, as set out in Subsection 10-1-3.10.B, *Sign Allowances and Prohibitions*.
- C. **Decision Criteria.** The Director may approve, approve with conditions, or deny a Sign Permit based on findings that the permit application complies with any conditions established with the approval of a site plan or Master Development Plan and with the standards set out in:
  1. *Standards Applicable to All Districts.* As set out in Section 10-1-3.10, *Sign Standards*; and
  2. *Standards of Individual Districts.* Set out in:
    - a. Article 10-2-5, *DT Signs*;
    - b. Article 10-3-5, *CMU Signs*;
    - c. Article 10-4-5, *NB Signs*; and
    - d. Article 10-5-5, *BI Signs*.
- D. **Procedures.**
  1. *Application Review.* The Director shall examine the plans and specifications and the premises upon which the proposed sign is to be erected.
  2. *Chief Building Official Review.* An application for a Sign Permit requiring electrical service shall be referred by the Director to the Chief Building Official. The Chief Building Official shall examine the plans and specifications to determine compliance with the adopted electrical code as a condition of granting the Sign Permit.
  3. *Decision.* Upon receipt of comments, the Director may approve, approve with conditions or deny the application for a Sign Permit. The Director may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this Code.
  4. *Time Frame.* Approval of a Sign Permit shall be made in accordance with legal requirements and shall remain valid for the period of time set out in Table 10-9-3.10.1, *Development Review Summary*. Thereafter, the Sign Permit shall expire or be granted an extension as set out in Section 10-9-3.9, *Expired Approvals and Extensions*.
  5. *Inspection.* The Director may inspect the sign to ascertain whether the structure is secure and in conformance with the permit application.



E. **Effect.** Approval of a Sign Permit shall authorize the applicant to establish the sign that is subject to the permit.

Effective on: 8/19/2021

## ARTICLE 10-9-7 SUBDIVISIONS AND VACATIONS

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### Contents:

**Section 10-9-7.1 Administrative Plat**

**Section 10-9-7.2 Final Plat**

**Section 10-9-7.3 Preliminary Plat**

**Section 10-9-7.4 Technical Corrections to a Plat**

**Section 10-9-7.5 Vacation Plat**

### Section 10-9-7.1 Administrative Plat PROCEDURE - PR SUBDIVISION - SU

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- A. **Generally.** For the subdivision of a parcel into four or fewer lots, an Administrative Plat may be used to consolidate the processes of Preliminary and Final Plat review.
- B. **Applicability.** Any subdivision of land that complies with all of the following requirements shall be processed according to the provisions of this Section. Any proposed subdivision that does not comply with all of the requirements below shall be considered a major subdivision and shall be processed in compliance with the Preliminary Plat and Final Plat provisions of this Article. An Administrative Plat may include a request to:
1. *Minor Subdivisions.* Subdivide an existing lot or parcel into four or fewer new lots;
  2. *Condominium.* Develop a condominium plat subdivision;
  3. *Lot Line Adjustment.* Move, reconfigure, or revise an existing platted lot line;
  4. *Boundary Adjustment.*
    - a. Adjust a platted subdivision boundary between not more than two existing platted lots within two separate filings or subdivisions;
    - b. Adjust a platted subdivision boundary to include an adjacent unplatted parcel of land;
  5. *Easement Vacation.* Vacate an existing platted easement or building envelope on an existing platted lot, provided that the building envelope or easement was dedicated and designated through a plat and only affects not more than two lots and all benefitting utility providers' consent; or
  6. *Consolidation.* Consolidate platted lots.
- C. **Decision Criteria.** The Director may approve or deny an Administrative Plat based on the following criteria:
1. *Lots.* The proposed plat contains from one to four lots; and
  2. *Conformance with Subdivision Regulations.* The proposed plat conforms with the provisions of [CHAPTER 6, Subdivision Standards](#), and with the approved Preliminary Plat applicable to the subject property;
  3. *Street Access.* The subdivision abuts a dedicated and accepted public street and all lots in the subdivision have legal access to the public street; and
  4. *Number of Administrative Plats.* The lot or parcel has not been administratively platted more than two times after application for approval of a Preliminary and Final Plat.
- D. **Procedure.** The Director shall approve or deny the Administrative Plat.

- E. **Effect.** Approval of an Administrative Plat shall allow the applicant to file a copy of the approved Administrative Plat, which is considered a Final Plat, in the office of the County Clerk and Recorder within 30 days after the Director's approval.

Effective on: 8/19/2021

### Section 10-9-7.2 Final Plat PROCEDURE - PR SUBDIVISION - SU

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- A. **Generally.** A Final Plat serves as the official, recorded map of land proposed to be developed, showing the boundaries, lots, public and private streets, easements, and other significant facilities and features necessary to serve the development.
- B. **Applicability.** An application for a Final Plat may be submitted following approval of a Preliminary Plat or as part of an Administrative Plat application.
- C. **Decision Criteria.** The Director may approve or deny a Final Plat based on findings that the Final Plat conforms with the provisions of [CHAPTER 6, Subdivision Standards](#), and with the approved Preliminary Plat applicable to the subject property.
- D. **Procedures.**
  - 1. *Preparation.* The subdivider shall cause the preparation of a Final Plat of the proposed subdivision to be done by a Colorado registered land surveyor, duly registered to practice in Colorado.
  - 2. *Review and Recommendation.* The Director shall review the request and approve or deny the Final Plat.
  - 3. *Appeals.* Appeals of a Final Plat decision shall be heard by the City Council at a public hearing noticed pursuant to [Section 10-9-3.8, Appeals of Application Decisions](#).
- E. **Effect.** Approval of the Final Plat shall allow the applicant to file a copy of the approved Final Plat in the office of the County Clerk and Recorder within 30 days after the Director's approval.

Effective on: 8/19/2021

### Section 10-9-7.3 Preliminary Plat PROCEDURE - PR SUBDIVISION - SU

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- A. **Generally.** A Preliminary Plat provides sufficient information to evaluate and review the general design of a proposed subdivision, such as dimensions and locations of proposed lots and utilities, to ensure compliance with a Site Plan or Master Development Plan, as applicable, and the requirements of this Code prior to submittal of a Final Plat.
- B. **Applicability.**
  - 1. *Purpose.* A Preliminary Plat is required for the subdivision of land into five or more lots.
  - 2. *Preparation.* The subdivider shall cause the preparation of a Preliminary Plat of a proposed subdivision by a registered land surveyor. The plat shall comply with the provisions of this Code, of the City Code, and state law.
- C. **Decision Criteria.** The Commission may approve, approve with conditions, or deny a Preliminary Plat based on the following criteria:
  - 1. *Conformance.* The Preliminary Plat conforms to the Comprehensive Plan and all applicable requirements of this Code;
  - 2. *Zoning.* Any new lots created by the proposed subdivision shall meet the land area, open space, and yard requirements for the district in which the subdivision is located.
  - 3. *Standards and Specifications.* The proposed development conforms to the design and improvement standards in the [Littleton Engineering Design Standards \(LEDS\)](#);

#### D. Procedures.

1. *Review and Recommendation.* The Director and the Director of Public Works shall review the Preliminary Plat and make a recommendation to the Commission.
2. *Public Hearing and Decision.* The Commission shall approve, approve with conditions, or deny the Preliminary Plat. Notice of such hearing shall be provided to mineral estate owners in accordance with C.R.S. Title 24, Article 65.5.
3. *Appeals.* Appeal of the decision by the Commission on a Preliminary Plat shall be heard by the City Council and noticed pursuant to Section 10-9-3.8, *Appeals of Application Decisions*.

#### E. Effect.

1. *Next Steps.* Approval of a Preliminary Plat shall allow the applicant to proceed with the submission of Construction Plans and application for Final Plat approval.
2. *Grant of Approval.* Approval of the Preliminary Plat shall be deemed general approval of the subdivision's layout only and shall not constitute approval or acceptance of Construction Plans or a Final Plat.
3. *Validity.* The approval of a Preliminary Plat shall be as set out in Section 10-9-3.10, *Development Review Summary*.
4. *No Public Dedication.* Approval of the Preliminary Plat shall not constitute the acceptance of any public improvements or the creation and granting of any easements.

Effective on: 8/19/2021

### Section 10-9-7.4 Technical Correction to Plat

PROCEDURE - PR

SUBDIVISION - SU

- A. **Generally.** In addition to the applicable required procedures in Article 10-9-3, *Common Development Review Procedures*, the following specific provisions apply to Technical Corrections to Plats.
- B. **Purpose.** Corrections to plats shall be used only for the purpose of correcting one or more technical or scrivener's errors in an approved plat. Technical errors are matters such as an improperly located lot line, improper numbering of notes, errors in the signature block, spelling, grammatical, and typographical errors, and similar types of errors. Scrivener's errors are unintentional mistakes in drafting, such as an incorrect word, number, or letter or omitting a word or words.
- C. **Preparation.** The Director shall make and denote all applicable corrections on a previously approved plat.
- D. **Decision Criteria.** The Director may approve or deny a Technical Correction to Plat based on the following criteria:
  1. *Consistent with Final Plat.* The Technical Corrections to a Plat shall be consistent with the approved Final Plat except for those technical errors which are to be corrected; and
  2. *No Increase in Lots.* Technical errors shall not result in an increase in the number of lots contained on the approved Final Plat or the dedication or elimination of dedication of real property to the city.
- E. **Procedures.** A request for an Administrative Adjustment shall be reviewed and decided by the Director subject to the limitations and criteria of this Section.
- F. **Effect.**

1. *General Notes.* Contained within the general notes should be a purpose statement, the name of the plat that the correction supersedes, and any other notes which are pertinent to the Technical Corrections to a Plat.
2. *Recording.* Upon completion of Technical Corrections to a Plat, all pages of the previously recorded plat for which a correction is made shall be recorded in the office of the County Clerk and Recorder.
3. *Appeal.* There shall be no appeal of the decision of the Director in approving a Technical Correction to a Plat.

Effective on: 8/19/2021

## Section 10-9-7.5 Vacation Plat

PROCEDURE - PR SUBDIVISION - SU

- A. **Generally.** Subject to the provisions of this Section, a Final Plat may be vacated if development will not occur consistent with the approved plat and to provide for a replat of existing lots.
- B. **Applicability.** A Vacation Plat shall be filed for any land to be vacated which was originally subdivided by plat, contains public right(s)-of-way, and recorded in the office of the County Clerk and Recorder. A Vacation Plat may be initiated by any of the following:
  1. *Property Owner.* The owner(s) of the property covered by a plat may submit an application to vacate the plat at any time before any lot in the plat is sold;
  2. *All Lot Owners.* If lots in the plat have been sold, an application to vacate the plat shall be submitted by all owners of lots in the plat; or
  3. *City Council.* If the Council, on its own motion, determines that a plat should be vacated in the interest of and to protect the public's health, safety and welfare; and:
    - a. No lots within the approved plat have been sold within five years following the date the Final Plat was approved;
    - b. The owner has breached a subdivision improvement agreement, and the city is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or the property owner's successor; or
    - c. The plat has been of record for more than five years, and the Council determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety, and welfare, except that the vacation shall apply only to lots owned by the property owner or the property owner's successor.
- C. **Decision Criteria.** The Commission may approve or deny a Vacation Plat based on the following criteria:
  1. *Easements.* Vacation of the plat will not result in lots without adequate utility or drainage easements;
  2. *Rights-of-Way and Access Easements.* Vacation of the plat will not vacate street rights-of-way or access easements needed to access other property;
  3. *Public Facilities.* Vacation of the plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code; and
  4. *Comprehensive Plan.* Vacation of the plat is consistent with the Comprehensive Plan.
- D. **Procedures.**

1. *Preparation.* The applicant shall cause a Vacation Plat to be prepared as a Final Plat. A Vacation Plat shall be prepared by and have the seal of a Colorado registered land surveyor, duly registered to practice in Colorado.
2. *Review and Recommendation.* The Director shall review the request and make a recommendation to the Commission.
3. *Public Meeting and Decision.* Within 45 days after an application is determined complete by the Director, or within a time frame agreed upon by the applicant and Director, a public meeting shall be held by the Commission who shall approve or deny the Vacation Plat.

**E. Effect.**

1. On the execution and recording of the Vacation Plat, the previously filed plat shall have no effect.
2. Regardless of the action on the application, the owner(s) or subdivider shall have no right to a refund of any monies, fees, or charges paid to the city nor the return of any property or consideration dedicated or delivered to the city.
3. The plat is vacated when a signed, acknowledged Vacation Plat is approved and recorded in the manner prescribed for the original plat.
4. The Council, at its discretion, shall have the right to retain all or specific portions of road rights-of-way or easements shown on the Vacation Plat. However, the Council shall consider plat vacation upon satisfactory conveyance of easements and rights-of-way in a separate legal document using forms provided by the City Attorney.

Effective on: 8/19/2021



## ARTICLE 10-9-8 HISTORIC PRESERVATION APPLICATIONS

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### Contents:

#### Section 10-9-8.1 Certificate of Appropriateness

#### Section 10-9-8.2 Certificate of Demolition

#### Section 10-9-8.3 Certificate of Economic Hardship

#### Section 10-9-8.4 Designation of Historic Landmarks and Districts

### Section 10-9-8.1 Certificate of Appropriateness

PROCEDURE - PR

HISTORIC PRESERVATION - HP

- A. **Generally.** This Section provides for the preservation of historic resources and establishes criteria for proposed alterations to designated landmarks and buildings in historic districts.
- B. **Applicability.** Before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any designated landmark or property in a historic district (including non-contributing properties), the owner(s) shall submit the proposed work to the Director, as well as apply for any other permits, such as a Building Permit, required by the Code. This Section outlines the types of work that require a Certificate of Appropriateness, which shall be maintained in a chart, as described in [Section 10-8-4.2, Major and Minor Alterations Chart](#), by the Director.
  1. **Major Changes.** A Certificate of Appropriateness shall be obtained from the Historic Preservation Board (HPB) for work to a historic landmark or a property in a historic district for major changes. Major changes to a designated landmark or a property in a designated historic district shall be obtained from the HPB, which may include, but are not limited to:
    - a. Demolition of, relocation of, or addition to a principal structure;
    - b. New construction in a historic district;
    - c. Modification of or to the front or side façade of a principal structure, including chimneys, doors, stoops, and windows, or handrails on commercial structures; and
    - d. The demolition of existing or construction of new accessory structures.
  2. **Minor Alterations.** A Certificate of Appropriateness shall be obtained from the Director for work to a historical landmark or a property in a historic district that is minimally visible or not visible from public rights-of-way. The Director shall also review alterations to the exterior of accessory buildings. The Director shall reserve the right to request the HPB review of the application if he or she believes the proposed work will have a significant visual impact from the public rights-of-way or will have a significant impact on the integrity of the historic structure.
  3. **Exempt Changes.**
    - a. A Certificate of Appropriateness shall not be required for any change to the interior of a designated historic property or any building in a historic district. Changes that do not require a Certificate of Appropriateness include, but are not limited to, in-kind replacement of materials, painting of previously painted surfaces, routine maintenance, placement of window well covers on basement windows, replacement of handrails or guardrails on residential structures, or the planting or replanting of the landscape.
    - b. A Certificate of Appropriateness shall not be required to restore to its existing condition any building damaged by fire, vandalism, flood, wind, or any other act of God. The Director shall review any building permits to repair such damage to ensure that substantially similar materials of like kind and quality are used for the repair.

C. **General Decision Criteria.** A Certificate of Appropriateness may be approved, approved with conditions, or denied based on the following criteria.

1. *Federal Standards.* The proposed changes are in compliance with the Secretary of the Interior's [Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings](#) as adopted by the National Park Service.
2. *Littleton Design Standards and Guidelines.* The proposed changes are in compliance with the adopted design standards and guidelines documents, such as the [Downtown Littleton Historic Preservation Design Guidelines](#), as outlined in the Design Requirements section on the city's [Envision Littleton webpage](#).
3. *Original Features.* The proposed work preserves, rehabilitates, or reconstructs the original architectural features, and proposed new features are visually compatible with designated historic structure(s) located on the property in terms of design, finishes, material, scale, mass, and height.
4. *Compatibility.* If property is in a designated historic district, the proposed work is visually compatible with the development on abutting properties and those on the same block. The HPB shall consider characteristics such as setbacks and building scale.
5. *Character, Interest, and Value.* Aside from changes that do not require a Certificate of Appropriateness, as set out in paragraph B.6.a, above, the proposed work does not adversely affect the special character or historical, architectural, or aesthetic interest or value of a landmark or property in a historic district.
6. *Color and Materials.* The architectural style, arrangement, textures, paint colors especially if applied to brick or stone, and arrangement of colors and materials used on existing and proposed structures are compatible with the character of the existing landmark or property in a historic district.
7. *Exterior Features.* The proposed work preserves, enhances, or restores, and does not damage or destroy the exterior architectural features of a historical landmark or property in a historic district.

D. **Specific Criteria for the Relocation of a Historic Property.**

1. *General.*
  - a. The HPB may use the criteria of this Section in considering applications for Certificates of Appropriateness for relocating a historic property within or outside of a designated site or historic district or relocating a property into a historic district.
  - b. Applicants proposing to relocate a historic property shall provide:
    1. A professionally prepared estimate of costs of continued maintenance of the property in its current condition, of rehabilitation of site, and of relocation and rehabilitation;
    2. An engineer's or architect's report as to structural soundness;
    3. A professionally prepared estimate of the property's market value in its current location and current condition, of the market value of the property rehabbed on its current site, and of the site after relocation of the property; and
    4. Professionally prepared Site Plan and construction documents for the current site.
2. *Criteria.*
  - a. *Historic Property.* The following factors, evidence, and testimony shall be considered for moving a historic property from its site:

1. The Property cannot be preserved, restored, rehabbed, or reused on its current site to provide for any reasonable, beneficial use of the property regardless of any proposed development plan for the Property's site or adjacent properties;
  2. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the property proposed for relocation;
  3. If the property can be relocated without significant damage to its physical Integrity; and
  4. Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other city codes and ordinances.
- b. *New Location.* The following factors, evidence, and testimony shall be considered for moving the historic property to its the new location:
1. Whether the historic property is compatible with its proposed site and adjacent properties; and if the receiving site is compatible in nature with the historic property proposed to be moved;
  2. The historic property's architectural Integrity and its consistency with the character of the neighborhood of the receiving site;
  3. Whether the relocation of the historic property will diminish the integrity or character of the neighborhood of the receiving site; and
  4. If a relocation plan has been submitted and approved by the city, including posting a bond, to ensure the safe relocation, preservation, and repair (if required) of the property and site preparation and infrastructure connections.

**E. Procedures.**

1. *Application Submittal.* The Director shall review any building permit application received to determine whether the property is a landmark or located in a historic district and if so, whether the applicant has completed review by the HPB as required by this Section. A building permit shall not be issued after an application has been filed and proceedings are pending to designate a landmark or a property in a historic district.
  2. *Public Hearing.* Within 45 days after an application is determined complete by the Director, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the HPB. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*.
  3. *Decision.*
    - a. *Notification.* After the HPB approves, approves with conditions, or denies an application, the applicant shall be notified of the result and the status of their Certificate of Appropriateness. If the HPB denies the application, they shall include reasons for denial when notifying the applicant.
    - b. *Continuance.* The HPB may issue an order to continue the application process if the HPB would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is adjourned.
    - c. *Resubmittal.* The applicant may resubmit an amended application or reapply for a building permit that accounts for the recommendations of the HPB or appeal the application denial to the Council.
3. *Appeal of a Denial.*

- a. If a Certificate of Appropriateness is denied by the HPB, the applicant may appeal to the Council by filing a written notice with the City Clerk within 15 days after receipt of the HPB's denial.
- b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council.
- c. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.8, *Appeal of Application Decisions*.
- d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB public hearing, and any evidence, including new evidence, it deems relevant to the application.
- e. The Council shall apply the criteria in this Section in making its decision.
- f. The decision of the Council shall be final.

G. **Effect.** Approval of a Certificate of Appropriateness shall authorize the applicant to construct, reconstruct, alter, relocate, or demolish the building subject to the Certificate of Appropriateness. A Certificate of Appropriateness shall expire and be null and void if the activity for which the Certificate was issued is not commenced within one year of the date the Certificate was approved.

Effective on: 8/19/2021

### Section 10-9-8.2 Certificate of Demolition

PROCEDURE - PR

HISTORIC PRESERVATION - HP

- A. **Generally.** In addition to the criteria and procedures for reviewing alterations to a designated landmark or property within a designated historic district, the Historical Preservation Board (HPB) shall use the criteria in this Section to consider applications for the demolition of a landmark and contributing properties in a historic district.
- B. **Applicability.** It shall be unlawful for any historical landmark or property in a designated historic district to be wholly or partially demolished without having obtained a Certificate of Demolition. If a Certificate of Demolition is requested on any basis other than that of an imminent hazard or economic hardship, a Certificate shall not be issued until all criteria in this Section are met.
- C. **Decision Criteria.** The HPB shall approve, approve with conditions, or deny a Certificate of Demolition based on findings as to whether the application complies with the following:
  1. *Total Demolition.*
    - a. The structure proposed for demolition is not structurally sound;
    - b. The structure cannot be rehabilitated or reused on-site to provide for any beneficial use of the property;
    - c. The structure cannot be practically moved to another lot in Littleton;
    - d. In the case of an archeological site, whether archeological information can be recovered as part of the demolition process; and
    - e. The applicant demonstrates that the proposal mitigates, to the greatest extent practical, the following:
      1. Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur;
      2. Any impact on the historical importance of the remaining structure(s) on the property and adjacent properties; and
      3. Any impact to the architectural integrity of the remaining structure(s) on the property and adjacent properties.

2. *Partial Demolition.*

- a. Partial demolition is required for the preservation, restoration, or rehabilitation of the remainder of the historic property; and
- b. The applicant demonstrates that the proposal mitigates, to the greatest extent practical, the following:
  1. Any impact on the historic significance of the building(s), structure(s), or objects located on the property and adjacent properties; and
  2. Any impact on the integrity of the building(s), structure(s), or object(s) located on the property and adjacent properties.

D. **Procedure.**

1. *Public Hearing.* Within 45 days after an application is determined complete by the Director, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the HPB. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*.
2. *Decision.*
  - a. *Time Period.*
    1. If an application is approved or approved with conditions by the HPB, a Certificate of Demolition shall be sent to the applicant, Director, Chief Building Official, and any other person who has requested in writing to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing on the Certificate of Demolition.
    2. If the HPB denies an application, the denial of a Certificate of Demolition shall be sent, in writing, to the applicant, Director, Chief Building Official, and any other person who has requested in writing to receive the same within 30 days. Such denial shall state the reasons for the denial and the procedures for appeal to the Council.
  - b. *Continuance.* The HPB may issue an order to continue the application process if the HPB would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is adjourned.
  - c. *Resubmittal.* The applicant may resubmit an amended application or reapply for a building permit that accounts for the recommendations of the HPB or appeal the application denial to the Council.
3. *Appeal of a Denial.*
  - a. If a Certificate of Demolition is denied by the HPB, the applicant may appeal to the Council by filing a written notice with the City Clerk within 15 days after written receipt of the HPB's denial.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council.
  - c. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.8, *Appeals of Application Decisions*.
  - d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB hearing, and any evidence, including new evidence, it deems relevant to the application.



- e. The Council shall apply the criteria in this Section and the Secretary of the Interior's Standards in making its decision.
  - f. The decision of the Council shall be final.
4. *Certificate of Appropriateness for Proposed Development.* Applicants requesting a Certificate of Demolition for wholly or partially demolishing a designated historic building or structure shall also obtain a Certificate of Appropriateness for the proposed new development on the lot prior to the issuance of a Certificate of Demolition.
- E. **Effect.** Approval of a Certificate of Demolition shall authorize the applicant to demolish the building or structure that is subject to the certificate. A Certificate of Demolition shall expire and be null and void if the activity for which the certificate was issued is not commenced within one year of the date the certificate was approved.

Effective on: 8/19/2021

### Section 10-9-8.3 Certificate of Economic Hardship

PROCEDURE - PR

HISTORIC PRESERVATION - HP

- A. **Generally.** This Section provides means for an applicant to show that a denied Certificate of Appropriateness or Certificate of Demolition for a designated landmark or property in a historic district would result in an economic hardship.
- B. **Applicability.** Following denial of a Certificate of Appropriateness or a Certificate of Demolition, the owner(s) may apply for a Certificate of Economic Hardship by submitting an application to the Historical Preservation Board. Economic hardship does not include self-created hardships, willful or negligent acts by the owner(s), purchase of the property for substantially more than the market value, failure to perform normal maintenance and repair, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.
- C. **Decision Criteria.** The HPB may approve, approve with conditions, or deny a Certificate of Economic Hardship based on the following criteria:
1. *No Beneficial Use.* The property subject to an application for economic hardship cannot be put to any reasonably beneficial use; the owner(s) would suffer a substantial economic loss without the construction, reconstruction, alteration, relocation, or demolition; and the owner is not responsible for the hardship from which the owner is seeking relief;
  2. *Decrease in Value.* There would be a substantial decrease in the fair market value of the property as a result of the denial of a Certificate of Appropriateness or Certificate of Demolition;
  3. *Decrease in Investment.* There would be a substantial decrease in the financial return to the owner(s) of the property resulting from the denial of the Certificate of Appropriateness or Certificate of Demolition;
  4. *Structural Soundness.* The structural soundness of any structure(s) on the property makes them not suitable for restoration or rehabilitation;
  5. *Economic Feasibility.* Restoration, rehabilitation, or reuse of the existing structure or improvement is not economically feasible on the property in the case of a proposed demolition; and
  6. *Health and/or Safety Issues.* A noneconomic hardship is considered when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health or safety issues.
- D. **Procedures.**

1. *Public Hearing.* Within 60 days after an application is determined complete by the Director, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the HPB. Such public notice and hearing shall be conducted in conformance with the procedures set out in Section 10-9-3.6, *Public Meetings and Hearings*. At the public hearing, the HPB shall take testimony and other evidence presented by the owner and any other interested parties concerning the economic hardship that the owner would suffer without the proposed construction, reconstruction, alteration, relocation, or demolition being sought by the owner.
2. *Evidence.*
  - a. The owner shall submit evidence at the hearing to support the economic hardship which the owner alleges they would suffer if the Certificate of Appropriateness or Certificate of Demolition is not issued. Specific information and documentation to be presented by the owner at the hearing shall include, but not necessarily be limited to, the following:
    1. The amount paid for the property, the date of purchase, and party from whom the property was purchased, including a description of the relationship, if any, between the owner of record or applicant and the seller;
    2. The annual gross and net income, if any, from the property for the previous three years; itemized operating and maintenance expenses for the previous three years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three years;
    3. Remaining balance on any mortgage or other financing secured by the owner and the annual debt service, if any, during the previous three years;
    4. Real estate taxes for the previous three years and the assessed value of the property according to the two most recent assessed valuations by the county assessor for the county in which the property is located;
    5. All appraisals obtained within the previous three years by the owner in connection with the purchase, financing, or ownership of the property;
    6. Any listings of the property for sale or lease, price asked, and offers received, if any, within the previous two years;
    7. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
    8. Estimate of the cost of the proposed construction, reconstruction, alteration, relocation, or demolition, and an estimate of any additional cost that would be incurred to rehabilitate or renovate the existing property for continued use;
    9. Estimated market value of the property in its current condition, after completion of the demolition and proposed new construction, and after renovation of the existing property for continued use;
    10. Testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property; and
    11. Economic incentives and funding available through federal, state, city, or private programs.
  - b. The owner/applicant's purchase of the property without making the purchase contingent upon the owner obtaining necessary HPB approvals under this Code shall be deemed to

be conclusive evidence of the fact that the owner is responsible for the economic hardship if any.

3. *HPB Decision.*

- a. *Approval.* If the HPB finds that the owner has established a demonstrable economic hardship as a result of the denial of a Certificate of Appropriateness or Certificate of Demolition, the HPB shall issue a Certificate of Economic Hardship. In this case, the HPB shall also issue the Certificate of Appropriateness or Certificate of Demolition according to the procedures set out in Section 10-9-8.1, *Certificate of Appropriateness*, or Section 10-9-8.2, *Certificate of Demolition*. A Certificate of Economic Hardship shall be granted only to the owner(s) at the time the Certificate was issued. A Certificate of Economic Hardship shall not be transferable.
- b. *Denial.* If the HPB finds that the owner has not established a demonstrable economic hardship as a result of the denial of a Certificate of Appropriateness or Certificate of Demolition, the HPB shall deny the Certificate of Economic Hardship.
- c. *Notification of Decision.*
  1. If an application is approved or approved with conditions by the HPB, a Certificate of Economic Hardship shall be sent to the applicant. If approved with conditions, such conditions shall be stated in writing in the Certificate of Economic Hardship.
  2. If the HPB denies the application, the denial of the Certificate of Economic Hardship shall be sent to the applicant and shall state the reasons for the denial and the procedures for appeal to the Council.
- d. *Resubmittal.* The applicant may resubmit an amended application or reapply for a building permit that accounts for the recommendations of the HPB or appeal the application denial to the Council.
- e. *Continuance.* The HPB may also issue an order to continue the application process if the HPB would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is adjourned.

4. *Appeal of a Denial.*

- a. If a Certificate of Economic Hardship is denied by the HPB, the applicant may appeal the denial to the Council by filing a written notice with the City Clerk within 15 days after receipt of the HPB's denial.
- b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council.
- c. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.8, *Appeals of Application Decisions*.
- d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB hearing, and any evidence, including new evidence, it deems relevant to the application.
- e. The Council shall apply the criteria in this Section and the Secretary of the Interior's Standards in making its decision.
- f. The decision of the Council shall be final.

- E. **Effect.** Approval of a Certificate of Economic Hardship shall authorize the applicant to undertake the activity proposed in the request for a Certificate of Appropriateness or Certificate of Demolition.

## Section 10-9-8.4 Designation of Historic Landmarks and Districts HISTORIC PRESERVATION - HP

- A. **Generally.** This Section allows for the application of any persons to designate a historic landmark or district.
- B. **Applicability.** A property may be considered for designation as a landmark, and any geographically defined area may be considered for designation as a local historic district.
- C. **Decision Criteria.** The HPB may recommend approval, approval with conditions, or denial of Designation of Historic Landmarks and districts based on the following criteria:
1. *Consensual Designation.* If the owner(s) of property, or a majority of properties in a proposed historic district consent to the designation, a recommendation shall be based on the following:
    - a. It has value as a reminder of the cultural or archeological heritage of the nation, state, or city;
    - b. The location is a site of a significant national, state, or local event;
    - c. It identifies with a person or persons who significantly contributed to the development of the nation, state, or city;
    - d. It identifies as the work of a master builder, designer, or architect whose individual work has influenced the development of the nation, state, or city;
    - e. It has value as a building that is recognized for the quality of its architecture, and that retains sufficient elements showing architectural significance;
    - f. It displays characteristics of an architectural style of a period;
    - g. It has character as a geographically definable area possessing a significant concentration of sites, buildings, objects, or structures united by architectural style, by a plan, or by physical development; and
    - h. It has character as an established and geographically definable neighborhood united by culture or past events.
  2. *Non-Consensual Designation.* If the owner or owners of the property, or owners of a majority of the properties in a proposed historic district nominated for designation do not consent to the designation, the HPB may recommend and Council may designate a historic landmark or district without owner consent if it is shown that the property or district meets the criteria in C.1, above, and has overwhelming historic importance to the entire community. The term "overwhelming significance" shall, for purposes of this Section, mean that the property or district:
    - a. Possesses such unusual or uncommon significance that the structure's or district's potential demolition or major alteration would diminish the character and sense of place; or
    - b. Possesses superior or outstanding examples of the architectural, social, or geographic historic significance criteria outlined in the standards and criteria. The term "superior" shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.
- D. **Procedures.**
1. *Nomination and Application.* When a property is found to have the potential for designation to the Littleton Historic Register, an application shall be filed.
    - a. A nomination for listing in the Littleton Historic Register may be made by:

1. Owner(s) of a property or properties to be designated;
  2. A member or members of the HPB;
  3. A member or members of the Council; and/or
  4. Non-owners of a property or properties to be designated, in which case the applicant shall be a resident, owner of property, or have a place of business in the city.
- b. For landmark designation, where nominated by someone other than the owner(s), the Director or a member of the HPB shall contact the owner(s) of such property or properties nominated for designation, outlining the reasons and effects of a listing in the Littleton Historic Register.
  - c. For historic district designation, the application for designation must include consent from a minimum of 25 percent of the property owners within the proposed district. Prior to scheduling the designation hearing for the proposed historic district, the applicant must submit written consent to the establishment of the district from a minimum of 51 percent of the property owners within the district. Note that each property shall only be given one vote, and if one person owns more than one property within the proposed district, they are limited to one vote.
  - d. Applications shall not be processed until complete. Incomplete applications shall be returned to the applicant with a request for additional information.
2. *Designation Hearing.*
- a. Between 30 and 60 days after an application is deemed complete, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the HPB.
    1. At least 10 days prior to the hearing, the Director shall provide notice of the date, time, and location of the public hearing to the applicant; the owner(s) of record; the owners of adjacent properties; and, if known, to other persons having a legal or equitable interest in the properties or district nominated for designation.
    2. At least 10 days prior to the hearing, a legal notice indicating the nature of the hearing; the property involved; and the time, date, and place of the scheduled public hearing shall be published in the city's publication of record.
    3. The notice shall be posted at the property's physical location at least 10 days prior to the hearing. In the case of a historic district, multiple signs shall be posted at appropriate locations serving as boundaries of the proposed district.
  - b. At least five of seven members of the HPB shall be present at the hearing in order to establish a quorum. In the event of vacancies on the HPB, then two-thirds of HPB members shall constitute a quorum. If a quorum is missing, the Chairperson of the HPB may set a new date for a special hearing or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.
  - c. A hearing may be continued if the time, date, and place of the continuation are established and announced to those present when the current session is adjourned.
  - d. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained in this Code shall be construed to prevent the HPB from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.
  - e. Transcripts of hearings are not required; however, the HPB's records shall include the name and address of each speaker; the organization or person the speaker represents, if



any; whether or not the speaker is an owner or holder of some interest in the property or district nominated for designation, or represents such owner or holder; and a summary of each statement, including the speaker's interest in the property or district. Written reports and presentations shall be incorporated into the record of the hearing.

3. *HPB Review.*

- a. The HPB shall review the application for conformance with the criteria for designation and with the purposes of this Code.
  1. Prior to the hearing, the Director shall review the proposed designation and provide the following information to the HPB with respect to:
    - i. Its consistency with the goals and policies of the Comprehensive Plan;
    - ii. The proposed landmark or historic district's significance and criteria, as defined in [Section 10-8-3.2, Criteria](#);
    - iii. For a proposed historic district, the suggested period of significance and list of contributing and non-contributing properties within the district;
    - iv. Other planning considerations as may be relevant to the proposed designation; and
    - v. Public comments received regarding the proposed designation.
  2. The Director shall provide written comments and recommendations regarding the proposed designation to the HPB before the hearing according to the timing of the general packet submittal.
- b. The HPB may recommend approval, approval with conditions, or denial or issue an order to continue the nomination process.
  1. The HPB shall notify, in writing, the Council and applicant of their recommendation, including how the application meets the criteria for historic significance and integrity as described in [Section 10-8-3.2, Criteria](#). If the recommendation was to approve with conditions, the notification shall include suggested changes such as, but not limited to, suggesting changes to the period of significance of a proposed historic district or the contributing and non-contributing features on a proposed historic property. If the HPB recommends denial of the application, the written notification shall state the reasons for the denial.
  2. The HPB may issue an order continuing the nomination process if the HPB finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is adjourned. In no case shall a hearing be continued more than 30 days without the expressed consent of the applicant.

4. *City Council Proceedings.*

- a. After receipt of recommendation from the HPB, the Council shall hold a public hearing to consider adopting, by ordinance, the property, properties, or historic district properties qualifying for designation.
- b. The Council shall review the application for conformance with this Code and [CHAPTER 8, Historic Preservation](#).
- c. The Council shall, by ordinance, approve, approve with conditions, or deny the proposed application for designation and shall issue written findings based on the HPB's recommendations.

- d. The Director shall provide a copy of the results of the Council's final action to the applicant(s).
5. *Recording of Designation.* Within 30 days of the effective date of an ordinance designating a historic landmark or a historic district for preservation, the Director shall record the ordinance with the office of the County Clerk and Recorder.
6. *Records.* The Director shall maintain a current record of:
  - a. Pending proposed designations;
  - b. Designated historic districts and a list of contributing and non-contributing properties within the historic district; and
  - c. Designated landmarks.
7. *Limitation on Resubmission and Reconsideration of a Proposed Designation.* Whenever Council denies a proposed designation, an application that is the same or substantially the same shall not be submitted for at least one year from the effective date of the final action on the denied application, unless the denial was based on a request for additional information.
8. *Amendment of Designation.*
  - a. Designation of a historic property as a landmark or a series of properties as a historic district may be amended to add contributing and non-contributing features to or remove them from a historic property designation, or to add properties to or remove them from a historic district under the procedures of this Section.
  - b. Upon the HPB's recommendation to amend a designation, the HPB shall promptly notify the owner(s) of the historic property or in a historic district. The Director shall prepare a resolution, including the legal description of the affected historic property or historic district stating notice of the amendment, and schedule the resolution for Council review. Upon Council adoption, the resolution shall be recorded.
9. *Revocation of Designation.*
  - a. If a historic landmark or historic district has been altered to a degree that it no longer retains its historic integrity, the owner of the landmark or owners of the historic district may apply to the HPB for a revocation of the designation, or the HPB shall recommend revocation of the designation to the Council in the absence of the owner's application to do so. The revocation application shall be reviewed under the same procedures described in this Section.
  - b. Upon the HPB's decision to revoke a designation, the owner(s) of the historic landmark or of all properties in the historic district shall be notified in writing. The Director shall prepare a resolution including the legal description of the affected historic landmark or historic district stating notice of the revocation, and scheduling the resolution for Council review. Upon adoption by the Council, the resolution shall be recorded.
- E. **Effect.** Approval of a designated historic landmark or district shall authorize the filing and processing of an application for any required permits or approvals including, but not limited to, a Certificate of Appropriateness or Certificate of Demolition. Approval shall not authorize the establishment or extension of any use nor the construction, reconstruction, alteration, relocation, or demolition of any building or structure.

Effective on: 8/19/2021

## ARTICLE 10-9-9 RELIEF, APPEALS, AND INTERPRETATIONS

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### Contents:

#### Section 10-9-9.1 Administrative Adjustment

#### Section 10-9-9.2 Appeal of Administrative Decision

#### Section 10-9-9.3 Floodplain Variance

#### Section 10-9-9.4 Variance

#### Section 10-9-9.5 Written Interpretation

### Section 10-9-9.1 Administrative Adjustment PROCEDURE - PR

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- A. **Generally.** An Administrative Adjustment allows insignificant changes or modifications to certain standards of a proposed development that may be approved by the Director.
- B. **Applicability.**
1. *Warrant.* An Administrative Adjustment may be warranted in circumstances when there are practical difficulties in applying the development standards for a project that otherwise complies with the standards of this Code.
  2. *Limitations.*
    - a. An Administrative Adjustment shall only be considered for the following:
      1. Area of a platted lot that does not meet the minimum requirements of the applicable district;
      2. Minimum lot width at the front setback line;
      3. Setbacks of the principal structure;
      4. Setbacks of parking and vehicular use areas;
      5. A 10 percent or less reduction in parking or loading spaces;
      6. Spacing of driveway access points;
      7. Landscaping and buffering where there are physical constraints; and
      8. Building frontage requirements in the CM district.
    - b. An Administrative Adjustment shall not be considered for changes in the uses permitted by the underlying district or adopted plan.
- C. **Decision Criteria.**
1. *Outside of PL-O District.* The Director may approve, approve with conditions, or deny an Administrative Adjustment subject to the following criteria:
    - a. The requested adjustment does not exceed 10 percent of the minimum requirements;
    - b. A hardship, if any exists, under which the adjustment is sought, was not created by the owner or occupant of the subject property, nor was it suffered as a result of a violation of this Code or any other applicable code of the city;
    - c. The adjustment shall be the minimum necessary to grant relief from a demonstrated hardship; and
    - d. The adjustment shall not substantially impair the permitted use or development of adjoining property.

2. *Adjustments in the PL-O District.* The Director may approve an Administrative Adjustment to standards applicable to a development approved under regulations in effect prior to the adoption of this Code, subject to the following criteria:
  - a. There shall be no more than a 10 percent increase in total building coverage;
  - b. There shall be no more than a 10 percent increase in residential density or non-residential or mixed-use gross floor area;
  - c. There shall be no more than a 10 percent increase in maximum building height(s);
  - d. Projected increases in traffic volume shall be within the design capacities of the existing or planned public street system;
  - e. Existing or planned internal and adjacent public utilities shall have adequate capacities to serve the proposed Administrative Adjustment;
  - f. Existing or planned common open space shall meet the minimum requirements;
  - g. Off-street parking shall meet the minimum requirements;
  - h. Public street rights-of-way and paving widths shall be acceptable to the City Engineer, Police Chief, and the Fire Marshal of the Littleton Fire Protection District / South Metro Fire Rescue; and
  - i. The originally approved plan shall remain in effect until its expiration or termination.
- D. **Procedures.** A request for an Administrative Adjustment shall be reviewed and decided by the Director subject to the limitations and criteria of this Section.
- E. **Effect.** Approval of an Administrative Adjustment enables the applicant to proceed in securing all other required approvals and permits. An Administrative Adjustment provides no assurance of subsequent approvals of other requests for Administrative Adjustments.

Effective on: 8/19/2021

## Section 10-9-9.2 Appeal of Administrative Decision PROCEDURE - PR

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- A. **Generally.**
  1. *Purpose.* An Appeal of an Administrative Decision provides a vehicle for appeal of any final decision of the Director, Chief Building Official, City Engineer, or Floodplain Administrator
  2. *Burden of Proof.* The Board of Adjustment (Board) shall presume the appealed final decision to be valid. The appellant shall present a preponderance of evidence and have the burden to justify a reversal of the decision being appealed.
- B. **Applicability.** An application for an appeal may be submitted when it is alleged that there is an error in any requirement, decision, or determination made by an Administrative Official in the administration of this Code, that is not subject to review by any other board or the Commission or Council.
- C. **Decision Criteria.**
  1. *Generally.* Except for applications for which this Code specifies another appeal authority, The Board may reverse or affirm, wholly or partly, or may modify the requirement, decision, or determination of an Administrative Official and, to that end, shall have all of the powers of the Administrative Official from whom the appeal is taken. The appeal shall specifically indicate which approval criteria are the basis for the appeal.
  2. *New Evidence.* The Board shall not consider new evidence that was not available to the Administrative Official at the time of the Administrative Official's initial decision.

3. *All Decisions.* An Appeal of an Administrative Decision may be reversed or affirmed, in whole or in part, or modified based on findings by the Board making the final decision that:
  - a. The administrative decision was correct considering the written record of the case and the evidence presented; and
  - b. The decision reflects the requirements contained in this Code.
4. *Floodplain Decisions.* In considering an appeal of a decision regarding Article 10-7-1, *Floodplain Regulations*, or Article 10-7-2, *Floodway Regulations*, the Planning Commission shall consider all pertinent technical data contained in the flood insurance study, other relevant storm drainage studies; the standards specified in this Code and the Storm Drainage Design and Technical Criteria Manual (SDDTC), together with the following:
  - a. Potential danger from debris being conveyed to other properties and causing damage or injury to others;
  - b. Potential hazard to life and property due to increased flooding or erosion;
  - c. Potential risk of damage to the proposed development, its contents, and to the owners/occupants of the affected property;
  - d. Anticipated contribution of the proposed use to the community;
  - e. Necessity for the use to be placed in the location proposed, specifically in a floodplain;
  - f. Feasibility of placing the proposed use in alternate locations;
  - g. Compatibility of the proposed use with existing and proposed development in the general area;
  - h. Relationship of the proposed use to the Comprehensive Plan and/or floodplain management programs;
  - i. Routine and emergency access to the property under flooding conditions;
  - j. Expected conditions created by flooding on the property including, for example, elevation, velocity, duration, and erosion potential; and
  - k. Costs to the government of providing relief during and after a flood event including, for example, repair or replacement of utilities, streets, or bridges.

**D. Procedures.**

1. *Notice of Appeal.* Within 30 calendar days from the date of a final decision of an Administrative Official, an application for an appeal may be submitted, in writing, by any person aggrieved by a decision or by any official or department of the city affected by the decision. In the notice, the appellant (applicant) shall set out all grounds for the appeal. In no event shall the appeal be heard later than 60 days after the submittal of a complete application.
2. *Burden of Proof.* The Board shall presume the appealed final decision to be valid. The appellant (applicant) shall present a preponderance of evidence and have the burden to justify a reversal or modification of the decision being appealed.
3. *Public Hearing.* The Board shall conduct one or more public hearings, as necessary, to receive evidence and testimony and to decide an appeal. The hearing(s) shall be noticed in accordance with Section 10-9-3.5, *Public Notice*.
4. *Vote.* The Board shall make its decision to approve or deny the appeal based on the criteria in this Section.

**E. Effect.**



1. *Stay of Proceedings.* An appeal of any order, requirement, decision, or determination shall stay all proceedings unless the Director certifies that a stay would cause imminent peril to life or property.
2. *Final Decision.* The Board shall have the final decision-making powers of the Administrative Official from whom the appeal is taken. Further appeals of the Board's decision shall be heard by the court with jurisdiction.
3. *No Variance.* A decision on an appeal of an administrative decision cannot grant or issue a Variance.
4. *Flood Boundary.* A decision may support, reverse, or remand an order or determination of a boundary of the special flood hazard area.

Effective on: 8/19/2021

### Section 10-9-9.3 Floodplain Variance FP PROCEDURE - PR

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- A. **Generally.** A Floodplain Variance provides limited relief from the requirements of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, where strict application of a particular requirement would create an unnecessary hardship by preventing the use and development of land in a manner that is otherwise allowed under this Code.
- B. **Applicability.**
  1. *Public Interest.* The Administrator may grant, in specific cases, Variances to the requirements of Article 10-7-1, *Floodplain Regulations*, and Article 10-7-2, *Floodway Regulations*, which do not conflict with the public interest.
  2. *Unnecessary Hardship.* Variances may be granted when, due to exceptional and extraordinary circumstances, the literal enforcement of these regulations will result in unnecessary hardship.
- C. **Decision Criteria.** The Floodplain Administrator may approve, approve with conditions, or deny a Floodplain Variance based on the following criteria.
  1. *For all Properties.*
    - a. *Base Flood Elevation.* The Variance does not result in an increase of the base flood elevation within any designated floodway;
    - b. Consideration shall be given by the Administrator to all relevant technical data, and to the factors stated in Section 10-9-9.1, *Administrative Adjustment* (Revised 6-12-1992; amd. Ord. 19, Series of 2012; Ord. 15, Series of 2016); and
    - c. Variances may be issued for the preservation, rehabilitation, or restoration of historic structures without regard to the procedures set forth elsewhere in this Code, upon a determination that the variance is the minimum necessary to preserve the historic character and design of the structure and the proposed rehabilitation or repair will not preclude the structure's continued designation as a historic structure.
  2. *For Properties One-Half Acres or Less.* For new construction and substantial improvements on lots of one-half acre or less which are contiguous to, and surrounded by, existing development constructed below the base flood elevation, provided the following criteria are met:
    - a. A showing of good and sufficient cause warranting a Variance request;
    - b. A determination that failure to grant the Variance would result in unnecessary hardship to the applicant; and

- c. A determination that the granting of a Variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, or conflict with other existing local laws or ordinances;
- d. Variances shall only be issued upon determination that the Variance is the minimum necessary to afford relief considering the flood hazard (Revised 6-12-1992).

**D. Procedures.**

1. *Application.* Any person requesting a Variance to the requirements of Article 10-7-1, *Floodplain Regulations*, or Article 10-7-2, *Floodway Regulations*, shall file an application with the Administrator, which shall conform to the requirements of Section 10-9-6.4, *Floodplain Development Permit*.
2. *Floodplain Administrator Action.* The application shall be reviewed by the Administrator, who shall approve, approve with conditions, or deny the application.
3. *Filing of All Variance Actions.* All final actions related to Floodplain Variances shall be filed with the Administrator. The permanent record of such actions shall include minutes, transcripts, technical reports, notification to applicants, and all data considered by the Administrator. Any action to approve a Floodplain Variance shall be reported to FEMA.
4. *Notice to Applicant.*
  - a. The applicant shall be notified in writing by the Administrator that:
    1. The approval of a Floodplain Variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance; and
    2. Construction below the base flood elevation increases risks to life and property.
  - b. Such notification shall be maintained with the permanent record of all Variance actions as required above.

- E. Effect.** The issuance of a Floodplain Variance shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall authorize the preparation, filing, and processing of an application for any permits or approvals which may be required by the city, including, but not limited to, a Floodplain Development Permit, building permit, Certificate of Occupancy, and subdivision review.

Effective on: 8/19/2021

**Section 10-9-9.4 Variance** PROCEDURE - PR

- A. **Generally.** A Variance is a discretionary action that enables the city to grant relief from certain standards of this Code.
- B. **Applicability.**
  1. *When Required.* A Variance is required to approve a deviation from a standard of this Code that is greater than that allowed by an Administrative Adjustment pursuant to Section 10-9-9.1, *Administrative Adjustment*.
  2. *Prohibitions and Exceptions.* Some requests for relief are not within the jurisdiction of the Board, and are, therefore, either prohibited or not subject to this Section. These requests are:
    - a. *Use and Sign Type Variances.* Variances are prohibited that would allow a use or a sign type in a district in which such use or sign type is prohibited.
    - b. *Variances to Other Laws or Regulations.* Variances to state or federal laws are prohibited unless such authority is expressly granted to the city.

- c. *Conditions of Approval.* An applicant may seek modifications to conditions of approval with a new application submittal.
  - d. *Parking Credits and Reductions.* Adjustments to the amount of parking spaces required may be authorized in accordance with Sec. 10-1-3.7.A, *Parking and Loading*.
- C. **Decision Criteria.** The Board may approve, approve with conditions, or deny a Variance based on the following criteria:
- 1. *All Variances.*
    - a. A Variance will not adversely affect the public health, safety, and welfare;
    - b. A Variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district;
    - c. Strict interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;
    - d. The Variance requested is the minimum necessary that will make possible a permitted use of the land, building, or structure;
    - e. The hardship, if any, under which the Variance is sought, was not created by the owner, occupant, or agent of the owner of the property in question; and
    - f. The hardship is not based solely on the cost of complying with the regulation but is based on the particular physical surroundings, shape, or topographical conditions of the subject property.
  - 2. *Sign Variances.*
    - a. In addition to the criteria for all Variances, a Variance from the sign standards as set out in Article 10-2-5, *DT Signs*; Article 10-3-5, *CMU Signs*; Article 10-4-5, *NB Signs*; or Article 10-5-5, *BI Signs*, shall find that:
      - 1. There are special circumstances or conditions, such as the existence of buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent public right-of-way that substantially restrict the effectiveness of the sign in question. Such special circumstances or conditions shall be peculiar to the particular business or enterprise to which the applicant desires to draw attention, and do not apply in general to all businesses or enterprises in the area;
      - 2. The Variance would be generally consistent with the purposes of this Code and, specifically, would not be injurious to the neighborhood in which the business or enterprise to which the applicant desires to draw attention is located; and
    - b. The Board may grant a Variance subject to any conditions which it deems necessary or desirable to make the sign or any component or device associated with said sign, which is permitted by the variance compatible with the purposes of this Code.
  - 3. *Variances for a Qualified Individual with a Disability.*
    - a. Upon compliance with all of the other provisions of this Code, the Board shall have the authority to grant Variances from the provisions of this Code to any person who establishes their status as a qualified individual with a disability and who requires a reasonable accommodation from the provisions of this Code when such accommodation may be necessary to afford the individual equal opportunity to use and enjoy a dwelling. In considering the reasonableness of any requested accommodation, the Board may consider such matters including, but not necessarily limited to, the following:
      - 1. The nature of the individual's disability;

2. Whether there is an alternative which better or equally serves the needs of the individual that results in less of a Variance to the Code standard in issue;
3. Whether the requested Variance reasonably relates to the individual's ability to use and enjoy a dwelling;
4. The negative impacts, threats to public health, safety and welfare, or hardships placed on adjoining properties or property owners should the individual's request be granted; or
5. Any hardship placed on the city or adverse impacts which would result in the legitimate goals of this Code should the individual's request be granted.

b. In order to approve a Variance, the Board shall make affirmative findings on all the applicable decision criteria.

4. *Variance of the Floodplain Regulations.* Floodplain Variances shall be processed according to Section 10-9-9.3, *Floodplain Variance*, of this Code.
5. *Historic Structures.* Variances may be issued for the preservation, rehabilitation, or restoration of historic structures without regard to the Decision Criteria of this Section.

**D. Procedures.**

1. *Review and Recommendation.* An application for a Variance shall be submitted to the Director, who shall review the application and determine its completeness. After determining that the application is complete, the Director shall review the application and prepare a staff report, which may include a recommendation based on the criteria set out in this Section. A copy of the report shall be mailed to the applicant at least five days prior to the public hearing on the application.
2. *Public Hearing.* After due notice as set out in Section 10-9-3.5, *Public Notice*, the Board shall hold a public hearing on the Variance application. At the public hearing, the Board shall consider the application, the staff report, relevant supporting materials, and the public testimony given at the public hearing.
3. *Decision.* After the close of the public hearing, the Board shall vote to approve, approve with conditions or deny the Variance. A supermajority (three-fourths) vote is required to approve a Variance request.
4. *Notice of Decision.* The Director shall provide a copy of the decision to the applicant by mail within 10 days of the Board's decision.

**E. Effect.**

1. *Particular Variation.* Issuance of a Variance shall authorize only the particular variation that is approved in the Variance request.
2. *Property Ownership.* A Variance shall run with the land and not be affected by a change in ownership.
3. *Other Approvals.* Development authorized by the Variance shall not be carried out until the applicant has secured all other development approvals required by this Code. Approval of a Variance does not guarantee that the development shall receive subsequent approval for other development review applications unless the relevant and applicable portions of this Code or any other applicable provisions are met. If a building permit is required for the development activity subject to the Variance application, then the Variance shall expire two years after the Variance decision if such building permit is not approved.

Effective on: 9/17/2021

## Section 10-9-9.5 Written Interpretation PROCEDURE - PR

- A. **Generally.** A Written Interpretation provides an official administrative interpretation of the terms, provisions, or requirements of this Code.
- B. **Applicability.** An applicant for a permit or approval may request a Written Interpretation to clarify the meaning and effect of a term, provision, or requirement on an application. The Director may also prepare Written Interpretations and render an opinion without a request from an applicant based on knowledge of recurring issues and ambiguities.
- C. **Decision Criteria.** The Director may issue a Written Interpretation based on:
1. *Basis of Decision.*
    - a. *Materials or Scenario.* The materials provided or scenario posed by the applicant;
    - b. *Word Meanings.*
      1. The plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in a dictionary of common usage;
      2. The provisions of [CHAPTER 12, Word Usage](#); and
      3. Any technical meanings of words used in the provision, subject to interpretation and in context with the meaning of the provision.
    - c. *Current Regulations and Policies.* The text of this Code, the Official Zoning Map, the Comprehensive Plan, and any other relevant regulations, policies, or plans.
    - d. *Purpose Statements.* The purpose statement for the applicable Article, Section, or Subsection of this Code that is subject to interpretation;
    - e. *Other Interpretations.* Other interpretations rendered by the Director associated with the same or related provisions of this Code;
    - f. *Legislative History.* The legislative history of the provision, subject to interpretation; or
    - g. *Other Sources.* Sources outside of the Code that provide additional information on the provision in question, such as technical or professional literature.
  2. *No Legal Advice.* No Written Interpretation shall be construed as legal advice.
- D. **Procedures.** After a request for interpretation has been submitted, or after the Director initiates an interpretation, the Director shall:
1. Review and evaluate the request in light of the decision criteria listed above;
  2. Consult with other staff, as necessary; and
  3. Render an opinion.
- E. **Effect.** For purposes of an appeal, a Written Interpretation is deemed a final decision. An appeal of a Written Interpretation shall take place in accordance with [Section 10-9-9.2, Appeal of Administrative Decision](#).

Effective on: 8/19/2021