

**CITY OF FOUNTAIN**  
**SUBDIVISION REGULATIONS**

**Adopted**  
**April 22, 2008**  
**Ordinance #1412**





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City of Fountain  
Subdivision Regulations  
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## **16.20 ADMINISTRATIVE PROVISIONS**

**16.20.010 Short Title.** This Title shall be known and may be cited as the “Subdivision Regulations of the City of Fountain, Colorado.” For purposes of this Title, “these regulations” shall mean the Subdivision Regulations.

**16.20.020 Purpose.** The subdivision of land is the first step in the process of urban development. The arrangement of land parcels for residential, commercial, industrial, recreational, utility and other public purposes will determine to a large degree the qualities of health, safety, convenience, environment and general welfare of the City.

These regulations are designed, intended, and should be administered in a manner to:

- Implement the City's Comprehensive Development Plan; specific area plans; resource, utility and other master plans; Planned Unit Development (PUD) ordinances; and other development policies and ordinances, as such may be amended from time to time;
- Establish adequate and accurate records of land subdivision;
- Protect and provide for the public health, safety, and general welfare of the citizens of the City;
- Establish reasonable standards of design and procedures for subdivisions and re-subdivisions of land to further the orderly layout and use of land;
- Harmoniously relate the development of land to the existing community and facilitate the future development of adjoining tracts;
- Provide for adequate, safe and efficient public utilities and improvements; and provide for other general community facilities and public places;
- Ensure adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities;
- Preserve important natural features, vegetation and viewsheds;
- Protect the community from fire, flood and other dangers;
- Provide for proper design of stormwater drainage and streets;
- Ensure the cost of improvements, which primarily benefit the tract of land being developed, be borne by the subdivider of the tract; and
- Make certain that public facilities are available and will have a sufficient capacity to serve a proposed subdivision.
- Coordinate timely agency review of subdivisions and associated improvements.

**16.20.030 Preemption and Authority.** In adopting these regulations, the City invokes its powers as a home rule municipality and preempts and supersedes any statutory provisions regulating the subdivision of land within the boundaries of the City.

### **16.20.040 Jurisdiction.**

- A. *Area Inside City Limits.* The territorial jurisdiction under this Title shall include all land located within the corporate limits of the City of Fountain, Colorado.
- B. *Area Outside City Limits.* All layouts of proposed subdivisions outside the City, but within the territorial limits, established under C.R.S. § 31-23-212, as amended, shall be submitted to the Planning Commission for its recommendations relating to subdivision design, traffic circulation, and the City’s Comprehensive Development Plan.

**16.20.050 Effective Date.** The effective date of this ordinance shall be five days from the date of final publication subsequent to passage on second reading by Council in accordance with City Charter.

**16.20.060 Restrictions, Limitations, and Prohibitions.**

- A. *Plat Required.* Any person, firm, partnership, corporation, or other entity, or any authorized agent thereof, dividing or proposing to divide land so as to constitute a subdivision as defined herein shall be subject to the provisions of this Title; and a plat for the subdivision of such land shall be submitted to, and approved by, the City pursuant to the provisions of this Title.
- B. *Unlawful to Transfer Land in Violation of this Title.* It shall be unlawful for the owner, or an agent of the owner, of any land to transfer, sell or agree to sell any unsubdivided land or lands by reference to, exhibition of, or by use of a plat of a subdivision before such plat has been approved by the City and recorded in the office of the El Paso County Clerk and Recorder unless the transaction is exempted under Section 16.20.080. The description of such lot, tract, or parcel by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring, shall not exempt the transaction from such penalties or other remedies provided in this Title. Both the grantor and grantee named in an instrument of conveyance prohibited under this Title shall be subject to the penalties contained in Section 16.20.130; provided, however, that it shall be an affirmative defense that the grantee in such transaction either had no knowledge of the transaction, or did not authorize, consent or acquiesce to the recordation of the instrument of conveyance. In a security instrument, the party granting the security interest in a transaction shall be subject to such enforcement and sanctions.
- C. *Building Permits and Certificates of Occupancy.* Building permits and certificates of occupancy shall only be issued in accordance with the requirements of Section 16.20.070.
- D. *Construction Exempt from Requirements of this Title.* Specific types of minor construction are exempt from compliance with this Title and shall not cause a property to be platted in accordance with this Title. Minor construction is limited to: interior remodel; or repair or modification of other structural elements exterior to, but attached as part of the structure, such as roofing, windows, doors, siding, porch, stoop and stairway; or accessory buildings smaller than 120 square feet in area; or new construction limited to decks and patio covers; or other construction determined to be minor by the Subdivision Administrator. In addition, legal lots of record (i.e., parcels created on or before July 23, 1973) shall be exempt from the requirement to plat to obtain a building permit provided the proposed construction complies with the City of Fountain Zoning Ordinance.
- E. *Grading and Construction of Improvements.* No subdivision grading operations or construction of improvements shall be undertaken until the final plat is recorded and construction plans for all improvements are stamped accepted by the City Engineer and a Subdivision Improvements Agreement (SIA) and required surety is in place, unless otherwise authorized and controlled by a development agreement approved by the Subdivision Administrator with adequate surety to cover all costs associated with: site restoration and erosion, dust and stormwater control measures; and any proposed modifications to existing public infrastructure including the repair of such existing public infrastructure. Surety shall be considered adequate if the surety is sufficient to cover one

hundred and twenty (120) percent of the projected costs identified and is provided in a form approved by the City Attorney. The subdivider shall not initiate grading or construction of improvements within the proposed or approved subdivision until: (1) the City Engineer has stamped the construction plans accepted, all required permits and approvals have been obtained from outside agencies with jurisdiction over the project or any component thereof; the development agreement or SIA has been executed and recorded, the required surety has been posted; and the preliminary plat has been approved by the City and a final copy of the preliminary plat integrating all requested changes has been filed with the Subdivision Administrator by the subdivider, approved by the Subdivision Administrator and signed by the Planning Commission Chairman; or (2) the City Engineer has stamped the construction plans accepted, all required permits and approvals have been obtained from outside agencies with jurisdiction over the project or any component thereof; the SIA has been executed and recorded, the required surety has been posted; and the final plat has been approved by the Subdivision Administrator and filed for recording in the office of the El Paso County Clerk and Recorder.

Any work performed in advance of final plat approval and recording is completed at risk by the subdivider. The City is under no obligation to approve the final plat. All actions undertaken by the subdivider shall be subject to the inspection, open trench and other provisions concerning public and private improvements in Section 16.23 of this Title. In no case shall construction begin prior to preliminary plat approval.

- F. *Conformance of Plat Required.* No concept plan, preliminary plat or final plat of a subdivision shall be recommended for approval by the Subdivision Administrator or Planning Commission, or approved by the Subdivision Administrator, Planning Commission, or Council unless it conforms to the provisions of this Title.
- G. *Street Improvements and Maintenance.* The City shall withhold all public street improvements and maintenance from all rights-of-way which have not been accepted for maintenance by the City.
- H. *Withdraw of Approval.* The City may suspend or withdraw any approval of a plat or may require certain corrective measures be taken following a determination that the information provided by the subdivider upon which such approval was based is substantially false or inaccurate or that new significant information has been brought to their attention. Suspension of approval may occur at any step in the platting process and shall be affected by resolution of the Council adopted at a public meeting. A written notice from the Subdivision Administrator shall be served upon the subdivider, setting out a clear and concise statement of alleged facts and directing the subdivider to appear before the Council no less than ten (10) days nor more than thirty (30) days after the date of notification. The Council shall determine at the public meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to their attention, and shall have the power, if the Council determines there is a violation of any of the provisions of this Title, to suspend or withdraw any approval of the plat. If the plat was previously recorded, due notice that the plat has been withdrawn and the plat voided shall be recorded in the office of the El Paso County Clerk and Recorder by the Subdivision Administrator.
- I. *No Changes or Erasures.* No changes, erasures, modifications or revisions shall be made on the final plat after the approval by the City, except as may be required as a condition of

the approval or may be made in accordance with the plat vacation and amendment procedures established by these regulations. The Subdivision Administrator may approve the correction of minor or typographic errors.

- J. *Ad Valorem Taxes Paid Prior to Approval.* No plat for subdivided land shall be approved unless all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid.

**16.20.070 Issuance of Building Permits/COs Prior to Platting or Improvements.**

- A. *No Building Permits or Certificate of Occupancy Issued Until Improvements Installed.* Until all improvements described as required by Section 16.20.070.B or as otherwise specifically required under any applicable development agreement or SIA are completed, the City shall not be obligated to authorize the issuance of any building permit for private improvements within the subdivision. Until all improvements as required in Section 16.20.070.C or as otherwise specifically required under any applicable subdivision improvement agreement are completed and formally accepted for ownership and maintenance by the City, the City shall not be obligated to authorize the issuance of any certificate of occupancy for any habitable structure.
- B. *Required Improvements for Building Permits.* The minimum acceptable improvements to a subdivision that must be completed before the issuance of a building permit will be granted include, but are not limited to, the following: (1) sanitary sewer, accepted by applicable sanitation district or municipality; (2) potable water system to include distribution system and fire protection accepted by the City of Fountain or applicable district; (3) storm sewer system to include collection infrastructure and detention facilities; (4) curbs and gutters; (5) all weather surface roadway approved by the City of Fountain Fire Department and City Engineer; (6) temporary stop signs and street identification signs; (7) temporary survey monumentation of boundaries, lot lines, right-of-way, etc.; and (8) electric and natural gas service.
- C. *Required Improvements for Certificate of Occupancy.* The minimum acceptable improvements to a subdivision that must be completed and accepted, where the improvement will be owned and maintained by the City, by the City of Fountain before the issuance of a Certificate of Occupancy will be granted include, but are not limited to, the following: (1) electric service; (2) natural gas service; (3) complete paving of streets; (4) permanent monumentation of boundaries, lot lines, row, etc.; (5) permanent signage as required by the approved signage plan; (6) detention ponds, retaining walls, and any other special items necessary to support the development of the subdivision and associated infrastructure; (7) sidewalks; (8) water stop box inspection; and (9) franchised telecommunication and cable television services, where applicable
- D. *Platting Required before Issuance of Building Permit.* Except as otherwise provided by Section 16.20.060.D, no building permit shall be authorized for issuance for construction on land for which a plat conforming to the requirements of this Title has not been approved by the City and recorded in the office of the El Paso County Clerk and Recorder. Such construction is considered a subdivision
- E. *Permit Issuance by City Employees or Contract Agencies.* All departments, officials and public employees of the City or those departments, officials and public employees under

contract who are vested with the duty or authority to issue permits shall ensure their actions conform to the conditions of these regulations and shall issue no permit, certificate or license for any purposes in conflict with the provisions of these regulations, and any permit, certificate or license so issued shall be null and void.

**16.20.080 Divisions, Conveyances and Transactions Exempted.** The following conveyances and transactions are permitted notwithstanding the prohibitions of Section 16.20.060:

(1) divisions of land created by order of any court in this state, or by operation of law, or which could be created by any court in the State of Colorado pursuant to the law of eminent domain including divisions of property by testamentary or intestate provisions or judgments of foreclosure; (2) divisions of land created by a lien, mortgage, deed of trust or any other security instrument; (3) divisions of land created by a security or unit of interest in any investment trust regulated under the laws of the State of Colorado or any other interest in an investment entity; (4) divisions of land which create cemetery lots; (5) divisions of land created by the granting, purchase, conveyance or separation of land for public purposes, including condemnation for any public purpose or the establishment of rights-of-way; (6) divisions of land that create easements or other conveyances of less than fee interest including an interest, or interests, in oil, gas, minerals, or water which are now or hereafter severed from the surface ownership or real property; (7) divisions of land created by the acquisitions of an interest in land in the name of a husband and wife, or other persons in joint tenancy, or as tenants in common; and any such interest shall be deemed as only one interest; (8) street vacations; and (9) divisions of land created for agricultural purposes into parcels of thirty-five (35) acres or more, does not require the opening of any new street or the use of any new public easement of access, does not obstruct, or is not likely to obstruct, natural drainage; does not adversely affect, or is not likely to adversely affect, the establishment of any freeway, major street, primary highway, or arterial street, and does not adversely affect the execution or development of any plat, any subdivision approved by the Council or otherwise adversely affect the orderly subdivision of contiguous property.

**16.20.090 Platting Waiver.** The Council may waive, by resolution, the requirement to plat for proposed divisions of less than thirty-five (35) acres subject to the following criteria: (1) no development permits (applications for zoning, subdivision or building) are being requested at this time; (2) the plat waiver request and accompanying legal description and drawing of the proposed division have been submitted to the City; (3) the division will not hinder the property's ability to comply with an existing development agreement, PUD zone obligations, and other City plans and policies; or (4) there is a benefit to the public that results from the platting waiver.

**16.20.100 Relief from Subdivision Regulations.** In conjunction with a request for preliminary plat or final plat, a subdivider may request relief from these regulations in accordance with the following procedures. Only the Planning Commission and Council shall have the authority to grant relief from the requirements of these regulations. As a result, if relief is first requested in association with a final plat, action concerning the final plat shall be held in abeyance until final action concerning the request for relief has been taken by the Planning Commission or Council.

A. *Request for Relief.* The request for relief shall be submitted in writing to the Subdivision Administrator for consideration by the Planning Commission and Council. The request for relief shall indicate the nature and extent of the requested relief supported with reasons for the request. The request for relief shall be heard concurrent with the preliminary plat request. If the request for relief is submitted as part of a final plat application, no action on the final plat shall be taken by the Subdivision Administrator until the Planning Commission and Council have taken action on the request for relief.

B. *Consideration and Approval of Relief.*

- (1) *Relief from a Public Infrastructure Standard.* Where the relief requested involves public infrastructure, the Planning Commission shall recommend approval, approval with conditions, or denial of the request for relief to Council. The Council shall take final action to approve, approve with conditions or deny the request for relief. Approval of relief shall be based on finding that an unusual topographical or other exceptional condition not caused by action of the subdivider requires such relief, and that granting relief will not adversely affect the general public, nor have the effect of nullifying the intent and purpose of these regulations. In no case shall any relief be more than a minimum change in requirements; and in no case shall it be in conflict with the City of Fountain Zoning Ordinance or objectives of the Comprehensive Development Plan. In granting relief, the Planning Commission may recommend and the Council may require such conditions which, in its judgment, will substantially secure the objectives of the standards and requirements affected. In granting a request for relief, the Planning Commission and Council shall find substantial conformance to the following applicable review criteria:
  - (a) The relief will not be detrimental to the public good or to the surrounding properties.
  - (b) There are unusual topographic, soil, access, location, shape, size, drainage, or physical features of the site.
  - (c) The conditions upon which the relief request is based are unique to the property for which the relief is sought and are not applicable to other property in the area.
  - (d) The strict application of the requirements of this Title will constitute substantial hardship or practical difficulties to the subdivider or the purposes of this Title may be served to a greater extent by an alternative proposal. Financial hardship, by itself, shall not be considered grounds for granting relief.
  - (e) The relief is consistent with the intent and the purpose of this Title.
  
- (2) *Relief from a Standard Not Related to Public Infrastructure.* Where the relief requested does not involve public infrastructure, the Planning Commission shall approve, approve with conditions, or deny the request for relief. Approval of relief shall be based on finding that an unusual topographical or other exceptional condition not caused by action of the subdivider requires such relief, and that granting relief will not adversely affect the general public, nor have the effect of nullifying the intent and purpose of these regulations. In no case shall any relief be more than a minimum change in requirements; and in no case shall it be in conflict with the City of Fountain Zoning Ordinance or objectives of the Comprehensive Development Plan. In granting relief, the Planning Commission may require such conditions which in its judgment will substantially secure the objectives of the standards and requirements affected. In granting a request for relief, the Planning Commission shall find substantial conformance to the following applicable review criteria.:
  - (a) The relief will not be detrimental to the public good or to the surrounding properties.
  - (b) There are unusual topographic, soil, access, location, shape, size, drainage, or physical features of the site.

- (c) The conditions upon which the relief request is based are unique to the property for which the waiver is sought and are not applicable to other property in the area.
  - (d) The strict application of the requirements of this Title will constitute substantial hardship or practical difficulties to the subdivider or the purposes of this Title may be served to a greater extent by an alternative proposal. Financial hardship, by itself, shall not be considered grounds for granting relief.
  - (e) The relief is consistent with the intent and the purpose of this Title.
- C. *PUD and Relief.* To allow maximum flexibility and to encourage creative design in a PUD, the Council, after Planning Commission review, may modify the standards set forth in this Title, provided however, that unusual circumstances exist or the design of the PUD development offers alternative amenities and standards that are in the public interest and not detrimental to surrounding properties, and which do not have the effect of nullifying the purpose and intent of this Title. Where alternative standards are not approved as part of a PUD and the plat fails to meet the requirements of this Title or where the plat fails to meet a requirements of the PUD, relief shall be requested by the subdivider and reviewed by the Planning Commission and Council as prescribed in Sections 16.20.100.A and 16.20.100.B

**16.20.110 Deviations from Public Works and Utilities Design and Construction Specifications.** Deviations from the adopted public works standards shall be processed in accordance with the procedures outlined in the Public Works and Utilities Design and Construction Specifications.

**16.20.120 Appeals.** The subdivider or any aggrieved party may appeal any administrative decision of the Subdivision Administrator to the Planning Commission and any decision of the Planning Commission to the Council as provided for in these regulations. Approval with conditions may be considered a denial for purposes of appeal. Any appeal must be made in writing to the Subdivision Administrator within fifteen (15) days of the Subdivision Administrator's or Planning Commission's action.

**16.20.130 Penalties for Noncompliance.** It shall be unlawful to fail to comply with any provision of these regulations. Any person who fails to comply with any provision of these regulations shall be guilty of a separate offense for each and every day during any portion of which any failure to comply is committed, continued, or permitted by any such person. The City may enjoin any pending transaction which upon its recordation would violate Section 16.20.060 by action for injunction brought in any court of competent jurisdiction.

**16.20.140 Enforcement.** This Title shall be enforced by the Subdivision Administrator or a representative duly authorized by the Council.

- A. *Authority to Enter.* For the purposes of enforcing this Title, the Subdivision Administrator is authorized to enter and inspect any building, structure, or tract of land under development in the incorporated areas of the City with the authorization by the property owner. An application for subdivision signed by the subdivider shall constitute authorization to enter and inspect any building, structure, or tract of land under development in association with such application. In the event the property owner does not authorize the Subdivision Administrator to enter and inspect any building, structure or tract

of land under development, the Subdivision Administrator may apply to the municipal court for issuance of an appropriate warrant to allow such entrance and inspection.

- B. *Written Notice.* When the Subdivision Administrator has knowledge of any alleged violation of this Title on a particular property, the Subdivision Administrator shall issue a written notice requiring the correction of such alleged violation within thirty (30) days, or such shorter or greater period of time as shall be identified by the Subdivision Administrator.
- C. *City Attorney Action.* If the alleged violation has not been corrected within thirty (30) days or the applicable time period specified in the notice, a copy of the file shall be forwarded to the City Attorney for further legal action as determined appropriate by the City Attorney. The Subdivision Administrator shall be advised of any actions taken.
- D. *Withholding Building Permits.* The City may enforce this Title by authorizing the Pikes Peak Regional Building Department to withhold the issuance of building permits.

**16.20.150 Injury.** This Title shall not be construed to hold the City in any manner responsible for any injury to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as herein set forth or the forbearance by the City to proceed.

**16.20.160 Severability.**

- A. *Provision Declared Invalid.* If any provision of this Title is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that specific provision held to be invalid as expressly stated in such judgment. Such decision shall not affect, impair or nullify this Title as a whole or any other part thereof, but the rest of this Title shall continue in full force and effect.
- B. *Application of Provision to Tract of Land Declared Invalid.* If the application of any provision of this Title to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that specific tract of land immediately involved in the controversy, action or proceeding in which judgment or decree of invalidity was rendered. Such decision shall not affect, impair or nullify this Title as a whole or the application of any provision thereof, to any other tract of land.

**16.20.170 Review Fees.** The Council shall establish a schedule of fees, to be paid by all subdividers (with the exception of City departments or agencies) to cover anticipated expenses incurred by the City in the review and hearing of the proposed application or request for approval of a subdivision, amendment, replat, exemption or other process provided for herein. All fees are nonrefundable.

**16.20.180 Impact Fees and Cost Recovery** The Council may adopt impact fees. Any person seeking a building permit for the construction of any residential unit or nonresidential building within an area subject to impact fees shall pay the applicable impact fees prior to the issuance of a building permit for said residential unit or nonresidential building unless the impact fee is

specifically authorized to be collected and has been collected at time of platting in accordance with the ordinance adopting said impact fee.

The Council may also approve a Cost Recovery Agreement for any offsite facilities and compel a benefited property owner to pay a pro-rata share for regional improvements serving the development in accordance with Section 16.23.070.

**16.20.190 Authority of the Subdivision Administrator.** The Subdivision Administrator shall have the authorities specifically granted in this Title including but not limited to the following: (1) review final plat applications and proposals for compliance with this Title, the City of Fountain Zoning Ordinance and the Comprehensive Development Plan, and take action to approve or deny a final or administrative plat in accordance with the provisions of this Title; (2) review concept plan, and preliminary or final plat applications for compliance with this Title, the City of Fountain Zoning Ordinance and the Comprehensive Development Plan, and make recommendations to the Planning Commission and Council in accordance with the provisions of this Title; (3) review requests for waivers or relief from this Title and make recommendations to the Planning Commission and Council; (4) initiate, review, or recommend amendments to this Title to the Planning Commission and Council; (5) enforce the provisions of this Title; (6) execute SIAs, development agreements or other official documents or agreements as specifically authorized by City Charter for the purposes of enforcing the provisions of this Title; (7) authorize the vacation of easements in conformance with these regulations; and (8) coordinate the inter-agency review sequence, including distribution of applications and supporting documents to review agencies, collection of review agency comments and forwarding these comments to applicants and convening initiation and completion meetings to confirm conformance to review agency standards.

**16.20.200 Authority of the Planning Commission.** The Planning Commission shall have the authorities specifically granted in this Title including but not limited to the following: (1) review applications and proposals for compliance with this Title, the City of Fountain Zoning Ordinance and the Comprehensive Development Plan, and make recommendations to the Council or take action to approve or deny an application as specifically provided for by this Title; (2) review requests for waivers and relief from this Title and make recommendations to Council or take action to approve or deny an application as specifically provided for by this Title; (3) hear appeals of a decision or action of the Subdivision Administrator; and (4) initiate, review or recommend amendments to this Title to the Council.

**16.20.210 Authority of the Council.** The Council shall have the authorities provided in this Title and any other specific or implied powers including but not limited to the following: (1) review applications and proposals for compliance with this Title and conformance with the Comprehensive Development Plan, and approve, conditionally approve or deny them in accordance with this title; (2) void plats, subdivision improvement agreements or other official documents or agreements if it is found that there has been a misrepresentation of fact which impacts the design or legal or physical status of the subdivision; (3) grant requests for waivers and relief from this Title; (4) hear appeals of a decision or action of the Planning Commission; (5) modify and amend this Title; (6) enforce the provisions of this Title; and (7) sign SIAs, development agreements, or other official documents or agreements.

**16.20.220 Referral to Appropriate Agencies.** The Subdivision Administrator shall refer copies of preliminary and final plats for review and comment to all persons, departments and agencies as determined appropriate by the Subdivision Administrator. Failure of a reviewing agency to

inform the Subdivision Administrator of its comments within the specified review period, not to exceed twenty-one (21) calendar days, may be interpreted to indicate there are no objections to the plat.

**16.20.230 Computing Time Periods.** In computing any time period prescribed in this Title, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

**16.20.240 Interpretation.** In the interpretation and application of the provisions of this Title, the following shall govern:

- A. *Provisions are Minimum Requirements.* In their interpretation and application, the provisions of this Title shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, morals, convenience, prosperity and welfare. This Title shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
- B. *Application of Overlapping Regulations.* Whenever both a provision of this Title and any other provisions of this Title or any provision of any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
- C. *Relationship to Private Agreements.* This Title is not intended to abrogate any easement or any other private agreement or restriction; provided, however, that where the provisions of this Title are more restrictive or impose higher standards or requirements than such easement, covenant or other private agreement or restriction, the provisions of this Title shall govern.
- D. *Existing Permits.* This Title is not intended and shall not abrogate or annul any permits issued or agreements made before the effective date of the ordinance codified in this Title, and shall not apply to applications submitted to the City under the provisions of Ordinance Numbers 422, 653, and 1245. However, an applicant who has submitted an application under the provisions of Ordinance Numbers 442, 653 or 1245 may elect to finish processing the application upon written notification to the City under the provisions of this Title.

**16.20.250 Rules of Construction.** The following rules of construction shall be used to interpret this Title: (1) the particular controls the general; (2) in case of any difference of meaning or implication between the text of this Title and the captions for each Section, the text shall control; (3) the word “shall” is always mandatory and the word “may” is permissive; (4) words used in the present tense include the future, unless the context clearly indicates the contrary; and (5) words used in the singular include the plural, and words used in the plural include the singular, unless the context clearly indicates the contrary.

**16.20.260 Definitions.** The following terms, as used in this Title, shall have the meanings hereinafter designated, unless the context specifically indicates otherwise, or unless such meaning is excluded by express provision:

- A. *Adjoining Property Owners.* The owner of property which abuts any property line of the property under review, or if separated by intervening public streets, alleys, other public rights-of-way, railroad right-of-way would abut the subject property if lot lines were extended across the intervening land area until intersecting another property line.
- B. *Alley.* Public right-of-way or easement located at the side or rear of lots and providing a secondary means of vehicular access to the property. An alley shall not be considered a street as defined herein.
- C. *Block.* An area of land containing one (1) or more lots or tracts, bordered on all sides, at the time of platting, by streets, public land, private open space, waterway, subdivision boundary, different zone district or different pattern of platting or development within a subdivision.
- D. *City.* The City of Fountain, Colorado.
- E. *City Attorney.* The City's general counsel or attorney as authorized by resolution, contract or other Council action, who performs the legal functions as set forth in this Title.
- F. *City Engineer.* The City's designated engineer who, as a city employee or as authorized by contract, performs the engineering functions as set forth in this Title.
- G. *Commercial Building Pad.* The areas of a lot, parcel or site which will be occupied by commercial buildings, and includes any other structure or improvement attached, adjoining or adjacent thereto. Like a townhome, commercial building pads, as a form of ownership, includes individual ownership of the land, and may include shared ownership of common elements, such as a central courtyard, that would have shared ownership. Unlike townhomes, the commercial building is not required to share common walls.
- H. *Common Open Space.* A parcel of land, an area of water or a combination of land and water within the site designated and intended primarily for the use of residents, occupants and owners of a lot or unit within a subdivision or planned unit development.
- I. *Comprehensive Development Plan.* The Comprehensive Plan of the City of Fountain adopted by the Planning Commission and all subsequent amendments thereto.
- J. *Concept Plan.* An early step in the subdivision review and approval process used to evaluate project feasibility, design characteristics, and relationship of a proposed subdivision to adjacent properties.
- K. *Condominium.* A type of ownership in real property where all of the owners own the property, common areas and buildings together, with the exception of the interior of the unit to which each individual holds title. Often mistakenly referred to as a type of construction or development, it is actually a type of ownership.
- L. *Condominium Map.* A map of certain described lands prepared in accordance with this Title as an instrument for describing the location and nature of the common elements and the individual condominium units along with specified supporting materials required by this Title.

- M. *Construction Plans.* The maps or drawings accompanying a final plat submittal showing the specific location and design of public and private improvements to be installed within the boundaries of the subdivision. Construction plans must conform to the City's adopted Public Works and Utilities Design and Construction Specifications.
- N. *Conveyance.* The transfer of title to real property including condominiums, commercial building pads, townhomes, land, or other forms of real estate.
- O. *Council.* The Fountain City Council.
- P. *County.* El Paso County, Colorado.
- Q. *Cul-de-sac.* A short street having only one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.
- R. *Dedicated Land.* Land transferred to the City by platting, title, deed or other legal method approved by the City Attorney. This land shall be used for public purposes, such as school sites, fire stations, parks, open space or such other uses or facilities as approved by the Council or indicated within approved development guides or plans.
- S. *Development.* The construction on land of improvements for residential, institutional, commercial, industrial, transportation, flood control, recreation, and similar uses, in contrast to use of the land for growing crops, grazing of farm animals, and other agricultural pursuits. The term also applies to vacant land which has been or is being prepared for development by such steps as installation of water and sewer lines, construction of access streets, and construction of a railroad spur or branch tracks.
- T. *Development Agreement.* A contractual agreement between the City and subdivider entered into in conjunction with approval of a preliminary plat to allow the subdivider to initiate construction of a subdivision at risk, in advance of final plat approval.
- U. *Development Review Team (DRT).* The lead subdivision reviewers from City departments and external agencies responsible for reviewing and providing comment concerning subdivision applications.
- V. *Drainage Criteria Manual.* A document adopted by Council resolution or ordinance to establish design criteria and specifications for drainage facilities.
- W. *Drainage Plan and Report.*
  - (1) *Drainage Plan and Report, Final (Final Drainage Report).* A study in a form and content specified in the Drainage Criteria Manual and Public Works and Utilities Design and Construction Specifications.
  - (2) *Drainage Plan and Report, Preliminary (Preliminary Drainage Report).* A report in a form and content specified in the Drainage Criteria Manual and Public Works and Utilities Design and Construction Specifications.

- X. *Easement*. An interest in real property generally established in a real estate document or on a recorded plat to convey or dedicate the use of land for a specialized or limited purpose without the transfer of fee title.
- Y. *Easement, Drainage*. A grant to the City of the right to control development of a drainage way or an area subject to periodic flooding including detention and retention basins. Development on such easements shall be restricted to uses that would not interfere with the flow of the water or act as a barrier for debris.
- Z. *FEMA (Federal Emergency Management Administration)*. The federal agency responsible for administering the National Flood Insurance Program and federal response to declared natural disasters.
- AA. *Floodplain*. That land inundated by water in the case of a flood of a one-hundred year frequency as delineated by the flood insurance rate maps (FIRM) and the floodplain ordinance of the City.
- BB. *Improvements*. All public and private infrastructure improvements determined necessary by the City to support the development of land for the purposes intended including, but not limited to, curb and gutter, asphalt pavement, concrete pavement, streets of all types, sidewalks, pedestrian and bike paths, traffic signals, street lights, highways, freeways, rights-of-way, easements, access rights, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities, water lines, sewer facilities, electric lines, gas lines, telecommunications facilities, parks and open space, drainage facilities, etc.
- CC. *Improvements, Public*. Public improvements are those rights-of-way, easements, access rights, and physical improvements which, upon formal acceptance by the City, may become the responsibility of the City for ownership, maintenance and repair and are intended to be for the use and enjoyment of the public. Public improvements shall include, but not by way of limitation, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, sidewalks, pedestrian and bike paths, traffic signals, street lights, highways, freeways, rights-of-way, easements, access rights, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities including necessary structures, channels, water lines, and all other improvements determined by the City to be public improvements.
- DD. *Land Analysis Report (LAR)*. A report containing both mapped and written information, required to be submitted with the preliminary plat identifying the extent of and impact upon the property's natural features and environmental constraints that addresses proposed mitigating measures, where appropriate. This report includes the geologic and hazards evaluation, soils report, wildlife report, wetlands report, wildfire hazard, and other information concerning the site necessary to evaluate the proposed subdivision. Where a particular parameter does not apply, the report shall identify how a determination was made that the parameter does not apply. The intent of the report should be to identify all potential issues associated with the development of the property and, where appropriate, identify how the proposal mitigates these issues or why an issue has been dismissed.
- EE. *Landowner*. All persons having legal title to or sufficient proprietary interest in the land proposed to be subdivided.

- FF. *Legal Description*. A written metes and bounds description of the boundary of a parcel of real property for the purpose of perpetuating location and title. The description must recite all ties and monuments, recorded or physical, which will determine the correct position of the boundary, all references to adjoining lands by name and record and a full dimensional recital of the boundary courses in succession which shall be mathematically correct. The description must be accompanied by an exhibit or map illustrating all pertinent information as described in the narrative.
- GG. *Letter of Map Amendment (LOMA)*. The document issued by FEMA that authorizes an amendment to the currently effective flood insurance rate map (FIRM), which establishes that a property is not located in a floodplain. A LOMA is issued only by FEMA. A LOMA is sought when it appears that a property is mapped incorrectly.
- HH. *Letter of Map Revision (LOMR)*. The document issued by FEMA with an accompanying copy of an annotated flood insurance rate map (FIRM), this acknowledges changes in the base flood elevation, floodplain boundary, or floodway based on post-construction or revised conditions. LOMRs are issued upon completion of a project. Most projects obtain a Conditional Letter of Map Revision (CLOMR) prior to construction to ensure that the proposed facility will meet FEMA criteria. Obtaining a CLOMR is a way to guarantee that unforeseen issues do not prevent the issuance of a LOMR. In accordance with the City's floodplain regulations, a floodplain development permit is required prior to filling, construction within or altering the floodplain. A CLOMR indicates that a LOMR will be issued by FEMA upon compliance with the conditions.
- II. *Lot*. A unit into which land is divided on a subdivision plat or deed with the intention of separate ownership or use. A lot is intended for development with habitable structures, residential or commercial, and is distinguished from a tract or right-of-way, separately defined herein.
- (1) *Lot, Corner*. A lot of which at least two (2) adjacent sides abut upon a public right-of-way, street easement or public or private street (other than an alley) except the combination of a front and rear side (see double frontage).
  - (2) *Lot, Double Frontage*. A single lot having the front and the rear thereof abut two (2) public rights-of-way, street easements or public or private streets (other than an alley), and does not include a corner lot.
  - (3) *Lot, Flag*. A lot, the building area of which does not abut a public right-of-way, street easement or public or private street (other than an alley), but is connected thereto by a narrow strip of land which is a part of the lot.
  - (4) *Lot, Reverse Corner*. A corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
  - (5) *Lot, Super*. A large platted lot designed to be replatted, at a later date, into townhome lots, pad lots, or condominiums.
  - (6) *Lot, Townhouse (or Commercial Building Pad)*. A lot intended for conveyance with a dwelling unit or commercial space where the units or spaces share common walls and

an undivided common area. In the case of commercial buildings, common walls are not required.

JJ. *Lot Line.*

- (1) *Lot Line, Front.* The boundary of a lot that separates a lot from any street, but not including alleys. Corner lots have as many front lot lines as there are street frontages.
- (2) *Lot Line, Rear.* The boundary line of a lot that is most nearly opposite the front line of the lot.
- (3) *Lot Line, Side.* Any boundary line of a lot, other than a front lot line or rear lot line.

KK. *Lot Line Adjustment.* A rearrangement of lot lines that does not increase the number of lots within a block or other subdivision unit or area, and that does not affect any streets or alleys, or create any new public easements within the area, and that meets all the minimum requirements of this Title and the City of Fountain Zoning Ordinance. A property boundary adjustment may vacate public easements if they are included in the submittal.

LL. *Lot Line Vacation.* An administrative procedure which, when approved and recorded, vacates an interior lot line. This procedure may be used for up to ten platted lots.

MM. *Major Street Plan.* The adopted street plan for the City of Fountain to depict existing and proposed state highways, arterials, and collectors, including the functional classification of such streets.

NN. *Mobile Home Park.* Any tract of land for the accommodation of mobile homes and held in single ownership or unified control.

OO. *Offsite.* Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the subdivider.

PP. *Open Space.* Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land of the subdivision. The types of lands and reasons for preservation include, but are not limited to the following: (a) lands that may be needed for the health and safety of the community including areas required for the recharge of groundwater, reservoirs and surrounding lands, lands with vegetation ensuring better air quality, high wildfire danger zones, steep slopes, floodplains, buffers around airports and similar facilities; (b) lands that might be a resource for the community including farmland, rangeland, lakes, streams, rivers, wetlands, forests, mines, etc.; (c) lands that might be ecologically valuable areas such as habitat for animals and plants, unique ecosystems, etc.; (d) lands that could provide a diversity of activities for the public such as areas with outstanding historical, educational, cultural, or archaeological value, areas providing access to lake shores, beaches, or rivers and streams; (e) lands that may provide view sheds or aesthetically pleasing experiences; or (f) lands that may provide or act as community separators providing a buffer between communities. Privately-owned landscaped areas, undeveloped portions of a lot, and rights-of-way are not considered open space.

- QQ. *Park*. An area set aside and intended for use as open areas, fields, play fields, trails, national areas, historic areas, and wildlife areas or other areas.
- (1) *Park, Community*. A park that provides opportunities for community-wide activities and facilities. Community parks are generally 30-100 acres in size and provide a balance between programmed sports facilities and other community activities (urban forests and gardens, water features, performance areas, festival spaces, plazas, etc.).
  - (2) *Park, Neighborhood*. A park that provides nearby recreation and leisure opportunities within walking distance of residential areas. Neighborhood parks are generally 5-12 acres in size and provide multipurpose areas for court games and a multipurpose play field, etc.
- RR. *Park Board*. The City of Fountain Park and Recreation Advisory Board.
- SS. *Planned Unit Development (PUD)*. A property designated by the City of Fountain Zoning Ordinance and official zoning map as a Planned Unit Development District.
- TT. *Planning Commission*. The Planning Commission of the City of Fountain.
- UU. *Plat*.
- (1) *Plat, Final*. A map of certain described lands prepared in accordance with this Title as an instrument for describing real estate along with specified supporting materials required by this Title.
  - (2) *Plat, Preliminary*. A map of a proposed subdivision and specified supporting materials prepared in accordance with this Title to permit evaluation of the proposed subdivision prior to detailed engineering and design.
  - (3) *Plat, Subdivision*. A map of a platted subdivision recorded for the purpose of creating land parcels which can be identified uniquely by reference to such map.
  - (4) *Plat, Townhome (or Commercial Building Pad)*. A map of certain described lands prepared in accordance with this Title as an instrument for describing the location and nature of the common elements and the individual townhome units (or commercial units or pads) along with specified supporting materials required by this Title.
  - (5) *Plat, Vacation*. A map vacating a plat for land previously subdivided.
- VV. *Platting*. The process of preparing a map of land to be subdivided in accordance with the terms of this Title, and the subsequent approval and recording of such map pursuant to the provisions of this Title.
- WW. *Public Works and Utilities Design and Construction Specifications*. A comprehensive set of standard details, design criteria, and specifications approved by Council ordinance to establish minimum requirements, including, but not limited to streets, utilities and structures related or appurtenant thereto, and drainage structures. In the lack of such standard details, design criteria, and specifications, the Subdivision Administrator or the City Engineer may use the latest editions of the following for the design and construction of

subdivision facilities: City of Fountain Water Distribution System Design & Construction Specifications Manual, City of Colorado Springs Public Works Design Manual, City of Colorado Springs Subdivision Design Criteria, City of Colorado Springs Drainage Criteria Manual Volumes I and II, El Paso County Engineering Criteria Manual, and Colorado Department of Transportation specifications and construction standards. Other standards adopted by special districts or public utilities also apply although not specifically adopted by Council including the Fountain Sanitation District Specification and Regulations Manual and the Widefield Water and Sanitation District Rules and Regulations.

XX. *Regional Building Department.* The Pikes Peak Regional Building Department.

YY. *Right-of-Way.* A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

ZZ. *Street.*

(1) *Street, Private.* A street that is privately owned and maintained.

(2) *Street, Public.* A street which is dedicated and accepted for public use and is maintained by the City or other public entity.

AAA. *Subdivider.* Any person, firm, partnership, corporation, or other entity, or any authorized agent thereof, dividing or proposing to divide land so as to constitute a subdivision as defined herein. For the purposes of this Title, a subdivider is considered to be the owner of the land or an authorized agent of the owner.

BBB. *Subdivision.* The term subdivision includes: (1) the division or resubdivision of a lot, tract, or any parcel of land into two or more lots, plats, sites, parcels, separate interests, or interests in common or other division of land for the purpose, whether immediate or future, of sale, lease or development; or the use of land or the conversion of a building or structure for condominiums, apartments, or other multiple-dwelling or office units unless such land, building or structure is included in an approved subdivision and is within a zone district that authorizes the same or greater density; (2) the combining of two or more contiguous parcels of land into one or more larger parcels, or more than one separate interest; and (3) the construction or erection of any building or other structure on any parcel of land which is not included in an approved subdivision plat. For purposes of this subsection, the term construction or erection includes any increase in the gross square footage of an existing building or structure, or the remodeling of an existing building or structure, the cost of which exceeds fifty (50) percent of the replacement cost of such building or structure.

CCC. *Subdivision Administrator.* The chief administrative officer of the City government as set forth in the City Charter, or his duly authorized representative.

DDD. *Subdivision Improvements Agreement (SIA)*. A contractual agreement between the City and subdivider entered into in conjunction with approval of a final plat or at such time as construction of a subdivision is initiated.

EEE. *Surety*. A financial guarantee provided by the subdivider and in a form approved by the City Attorney, at the time of final plat is filed or upon initiation of construction of a subdivision, and as stipulated in the SIA for the purpose of guaranteeing the provision of improvements which may include an irrevocable letter of credit, negotiable certificate of deposit, cash, or other type of assurance.

FFF. *Townhome*. One of a row of homes sharing common walls. Differing from condominiums, townhomes, as a form of ownership, includes individual ownership of the land, and may include shared ownership of common elements, such as a central courtyard, that would have shared ownership.

GGG. *Tract*. A parcel of land that is created for the purposes of common ownership and use by two (2) or more property owners; ownership and use by association or government entity; or an impermanent status where property intended for further division can be platted and transferred.

HHH. *Traffic Analysis Report*. A report addressing the traffic impact of a subdivision or development, including an analysis of trip generation, a.m. and p.m. peak flows, level of service, and proposed street improvements required by such development. Such report may also be required to include cumulative traffic impacts of a project if subdivision plats are proposed in phases for a development (See Appendix A for details).

## 16.21 PLATTING PROCEDURES AND REQUIREMENTS

**16.21.010 General Requirements.** Subdivisions shall be reviewed and approved in accordance with the procedures set forth in this Title.

**16.21.020 Description of the Subdivision Types.** Processing of applications for the subdivision of land shall be based on whether the subdivision is classified as a minor subdivision, major subdivision, subdivision plat amendment or correction, subdivision vacation, or subdivision replat (includes a condominium, commercial building pad or townhome subdivision). A subdivision of land may be classified as more than one type of subdivision (e.g., subdivision plat vacation and major subdivision that replats the subject property). Where a subdivision is classified as two or more subdivision types, the subdivision applications may be processed concurrently although each subdivision type may be required to be approved in a specific sequence (e.g., a subdivision plat vacation would need to be approved before a major subdivision that replats the subject property).

A. *Minor Subdivision.* A minor subdivision is any subdivision that:

1. Involves the division of a parcel into fewer than ten (10) lots or changes the configuration of fewer than ten (10) lots or tracts; and
2. Does not involve the dedication of additional public land or rights-of-way, except dedications required to expand or alter existing rights-of-way; and
3. Does not involve the vacation of previously dedicated rights-of-way; and
4. Does not involve the replat or resubdivision of a previously platted minor subdivision or the platting of the remainder of a of the parent parcel from which a minor subdivision was platted. .

B. *Major Subdivision.* A major subdivision is any subdivision that:

1. Involves the division of a parcel into ten (10) or more lots or the reconfiguration of ten (10) or more lots; or
2. Involves the establishment of a super lot for the purpose of creating a condominium, commercial building pads or townhome subdivision by a future administrative action; or
3. Does not otherwise qualify as a minor subdivision, amendment or correction, vacation, or replat.

C. *Amendment or Correction.* A subdivision amendment or correction is any subdivision that:

1. Removes a plat note or restriction;
2. Involves the combination of two (2) or more lots or parcels into a single building lot or lots;
3. Adjusts a boundary or lot line or a building envelope; or

4. Releases easements created by a plat.

D. *Vacation*. A subdivision vacation is any subdivision that involves vacation of:

1. All or a portion of a plat;
2. A previously dedicated right-of-way or public road; or
3. A lot line.

E. *Replat*. A subdivision replat is any subdivision that:

1. Creates a new plat for previously platted land where the previous plat will be vacated and where the action does not qualify as an amendment, correction, or vacation.
2. Creates a subdivision that:
  - a. Involves the conversion of building units into individual units for sale or exchange as condominiums or other separate forms of ownership;
  - b. Does not convey separate title to an identifiable portion of the site;
  - c. Involves a parcel that otherwise meets all the requirements of a legal building site; and
  - d. Does not require any changes in the physical development onsite or offsite as a result of the conveyance.
3. Creates a condominium, commercial building pad, or townhome subdivision where the development concept was approved as part of the original super lot plat.

#### **16.21.030 General Description of Subdivision Process.**

A. *Intent*. The intent of the subdivision processes and procedures is to ensure that those actions involving a change in the configuration of lots, parcels, or tracts result in the creation of lots, parcels or tracts that: (1) conform to the requirements of City codes, rules, regulations and ordinances; (2) are adequately served by utilities and other municipal services; (3) have safe and convenient access; and (4) are adequately described and surveyed for the purpose of sale.

B. *Overview of Process*. The review and approval process is designed to ensure efficiency and effectiveness. Where the review and approval process involves more limited discretion, the review and approval process is handled administratively to reduce processing time. The primary focus of the process is on the preliminary plat. Generally, any decisions involving more discretionary judgment are made at the time of preliminary plat. As a result of the focus on the preliminary plat process, final plats may be processed administratively if they are generally consistent with the preliminary plat and fulfill all conditions of approval associated with the preliminary plat approval. There are six general stages of the

subdivision review and approval process. Depending on the nature of the proposed subdivision, some or all will apply.

1. *Pre-Application and DRT Meeting.*

(a) *Pre-Application Meeting.* Persons desiring to subdivide land are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. It may be appropriate for the subdivider to request a pre-application meeting in advance of each stage of the subdivision review and approval process involving the submittal of an application and associated documents.

(b) *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator shall require the subdivider to attend a DRT meeting to discuss the proposed subdivision. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. This step occurs early in the design process to provide direction, identify expectations, and establish clear lines of communication. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for concept plan, preliminary plat or final plat. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.

2. *Concept Plan.* A subdivider is encouraged to use the concept plan review process to test ideas and alternative development plans, to test variations in design not specifically provided for by this part or other rules and regulations, to identify any potential issues early in the process, or to simply gauge public and City acceptance of a proposed subdivision. The concept plan is an optional stage of any subdivision process, but is recommended in the case of large or complex subdivisions or as a tool in the annexation process. The concept plan is also used to review townhome and condominium subdivisions at the time of preliminary plat of the super lot, and should be filed concurrently with the preliminary plat application where the development concept is known.

3. *Preliminary Plat.* The preliminary plat review process provides an opportunity for the subdivider to obtain approval of the lot layout and general design of the subdivision from the Planning Commission prior to completing detailed engineering. The preliminary plat process verifies the conformance of the proposed subdivision with City standards, codes, rules, regulations and ordinances and the City's Comprehensive Plan. The process helps to identify issues that must be addressed to ensure conformance with all municipal requirements prior to final plat and recording, identifies needed improvements, and facilitates resolution of any complex issues associated with the proposal.

4. *Final Plat.* The final plat review process: (1) documents conformance of the proposed subdivision with all City standards, codes, rules, regulations and ordinances; (2) ensures the design of proposed infrastructure meets the requirements of the Public Works and Utilities Design and Construction Specifications; (3) determines conformance with any applicable preliminary plat; and (4) reviews the legal documentation associated with the subdivision to ensure that lots, tracts and parcels are adequately described for the purposes of sale, and assignment of ownership and maintenance of public and private infrastructure.
5. *Document Recording.* The document recording process is the process by which the required subdivision documentation is compiled for filing the plat for recording in the office of the El Paso County Clerk and Recorder. The materials are reviewed for conformance with the final plat approval, executed by City officials, and filed for recording by the Planning Department in the office of the El Paso County Clerk and Recorder. This step may occur before, concurrent with, or subsequent to the construction of improvements. No lots may be sold until the plat is recorded. A SIA with the required surety is required prior to filing the plat for recording where improvements have not been completed and approved by the City Engineer for preliminary acceptance by the City. Improvements may not be formally accepted by the City Engineer for maintenance by the City until the final plat is filed with the Subdivision Administrator for recording in accordance with Section 16.21.090.H.
6. *Construction and Acceptance of Public Improvements.* The construction of improvements and acceptance of public improvements is the process by which all required services, roads and other facilities necessary to support the development of lots within the proposed subdivision are installed by the subdivider and accepted by the City. The process requires the review and acceptance of construction drawings by the City Engineer, inspections by the City Engineer, and acceptance of public improvements by the City Engineer. Construction may only be initiated where construction plans have been stamped approved by the City Engineer and all other requirements of Section 16.020.060.E have been met. In accordance with Section 16.020.060.E, a SIA or development agreement with the required surety is required prior to initiating construction of a subdivision or any improvements associated therewith unless otherwise authorized by the Subdivision Administrator. Surety releases shall be made by the City Engineer based on percent of improvements complete at the request of the subdivider, but no more than three (3) surety releases shall be approved in any calendar year. No improvements may be final accepted by the City until approvals of all facilities to be owned and operated by special districts or public utilities have been received by the City Engineer.

C. *Public Notice.*

1. *Courtesy Notice to Adjacent Property Owners and Neighborhood for Major Subdivision.* Notice is generally provided to all property owners within 400 feet of a proposed major subdivision at the time of concept plan (if any) and preliminary plat. The notice shall provide a description of the proposal including a copy of the concept plan or preliminary plat and time and date of the first scheduled Planning Commission meeting at which the application will be reviewed. The notice is provided as a courtesy to property owners. No public hearing is held concerning a concept plan or preliminary

plat. The subdivider is responsible for sending the notice by first class mail and providing a copy of the notice and mailing list to the Subdivision Administrator. The notice shall be sent as soon as possible once the subdivider is informed of the meeting date by the Subdivision Administrator, but no fewer than seven (7) days before the meeting.

2. *Public Notice to Adjacent Property Owners and Neighborhood for Vacation of Right-of-Way or Public Improvements.* Notice is provided to all potentially-affected property owners of any subdivision action that will result in the vacation of right-of-way, public infrastructure or other public dedications. The notice shall provide a description of the proposal including a map showing the location and extent of the vacation and time and date of the first scheduled Planning Commission meeting at which the vacation will be reviewed. A public hearing is held concerning vacation of right-of-way, public infrastructure or other public dedications by both the Planning Commission and Council. At the hearing, the Planning Commission and Council shall take input and comments from the public. The subdivider is responsible for sending the notice by first class mail and providing a copy of the notice and mailing list to the Subdivision Administrator. The notice shall be sent as soon as possible once the subdivider is informed of the meeting date by the Subdivision Administrator at least fifteen (15) days in advance of the public hearing before the Planning Commission. Notice of the public hearing shall also be published in a newspaper of general circulation within the City at least 10 days prior to the hearing.
3. *Courtesy Notice to Adjacent Property Owners and Neighborhood for Other Subdivision Requests.* Notice may be provided, at the discretion of the Subdivision Administrator to all property owners within 400 feet of a proposed subdivision at the time of concept plan (if any), preliminary plat or final plat for minor subdivisions, plat amendments, corrections, vacations, or other subdivision actions for which notice is not specifically required. The notice shall provide a description of the proposal and time and date of any scheduled meeting at which the subdivision application will be reviewed by the Planning Commission, if known, or a date by which the Subdivision Administrator anticipates taking action on the application. The notice is provided as a courtesy to property owners. No public hearing or meeting may be held concerning these other subdivision requests. If required by the Subdivision Administrator, the subdivider is responsible for sending the notice by first class mail and providing a copy of the notice and mailing list to the Subdivision Administrator. The notice shall be sent as soon as possible once the subdivider is informed of the meeting date or date of proposed action by the Subdivision Administrator, but no fewer than seven (7) days before the meeting or date of proposed action.

**16.21.040 Major Subdivision Process.** The major subdivision process is most commonly a five step process that includes: (1) pre-application meeting and DRT meeting; (2) review and approval of a preliminary plat; (3) review and approval of a final plat, (4) document recording; and (5) construction of improvements and acceptance of public improvements. At the discretion of the subdivider, the process may be expanded to include the review of a concept plan.

- A. *Pre-Application Meeting.* A pre-application meeting is required for all major subdivisions in advance of filing an application for concept plan or preliminary plat. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide

preliminary recommendations. The subdivider can request a pre-application meeting in advance of each step of the subdivision review and approval process.

- B. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for concept plan, preliminary plat or final plat.
- C. *Concept Plan Review-Optional Except for Super Lot.* A concept plan, when associated with a major subdivision, is reviewed by the Planning Commission. The concept plan provides the subdivider with an opportunity to present a proposed subdivision before making substantial investment in design to determine if the proposed subdivision is acceptable or if there are issues that need to be addressed in the design process in advance of submitting an application for preliminary plat. The concept plan is also used to review townhome and condominium subdivisions at the time of preliminary plat of the super lot. No formal action is required for a concept plan except in the case of a super lot where the concept plan becomes a component of the preliminary plat approval.
- D. *Preliminary Plat Approval.* The preliminary plat for a major subdivision is reviewed and approved by the Planning Commission. The Planning Commission may approve or deny the preliminary plat with or without conditions. The Planning Commission's decision may be appealed to the Council by the subdivider or any aggrieved party.
- E. *Final Plat Approval.* The final plat may be approved administratively by the Subdivision Administrator when the preliminary plat has been approved by the Planning Commission or Council. The Subdivision Administrator's decision concerning a final plat may be appealed to the Planning Commission, and subsequent to the Planning Commission's decision to the Council by the subdivider or any aggrieved party. The Subdivision Administrator has the option of referring the final plat to the Planning Commission for action when: (1) issues cannot be resolved including those issues raised by a referral agency or other party noticed of the action; (2) where the final plat fails to substantially conform to the approved preliminary plat and any associated conditions; (3) where relief from a requirement of this Title or a deviation from the Public Works and Utilities Design and Construction Specifications is required that was not approved as part of the preliminary plat; or (4) there are known complex or controversial issues associated with the proposed subdivision.
- F. *Document Recording.* Upon approval of the final plat and all associated documents by the Subdivision Administrator, the final plat shall be filed for recording in the office of the El Paso County Clerk and Recorder. All final plat materials shall be executed by the subdivider and submitted to the Subdivision Administrator including all recording fees, SIA and surety. Once all materials have been received and determined to be in conformance with the approved plat and these regulations, the Subdivision Administrator shall cause the subdivision plat and any associated materials to be executed by the required City officials and recorded. The final plat shall be recorded prior to the transfer of title to any lot within the boundaries of the subdivision.

- G. *Construction Improvements and Acceptance of Public Improvements.* The subdivider may initiate construction of the subdivision improvements only after the construction plans are stamped accepted by the City Engineer and the requirements of Section 16.020.060.E have been met. The City Engineer shall not approve the construction plans until the preliminary plat has been approved. After some or all of the required improvements have been completed, the City Engineer may approve the improvements, accept public improvements, release surety, and authorize issuance of building permits in accordance with Section 16.20.060, 16.20.070, and Section 16.23 of these regulations.

**16.21.050 Minor Subdivision Process.** The minor subdivision process is most commonly a three step process involving: (1) pre-application meeting, (2) review and approval of a final plat, and (3) document recording. At the discretion of the subdivider, the process may be expanded to include Planning Commission review of a concept plan, preliminary plat or both. In some cases, the process may also include the construction of improvements and acceptance of public improvements.

- A. *Pre-Application Meeting.* A pre-application meeting is required for all minor subdivisions in advance of filing an application for concept plan or preliminary or final plat depending on how the subdivider plans to initiate their application. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. The subdivider can request a pre-application meeting in advance of each step of the subdivision review and approval process.
- B. *Concept Plan Review-Optional.* A concept plan, when associated with a minor subdivision, is reviewed by the Planning Commission. The concept plan provides the subdivider with an opportunity to present a proposed subdivision before making substantial investment in design to determine if the proposed subdivision is acceptable or if there are issues that need to be addressed in the design process in advance of submitting an application for final plat. The Planning Commission takes no formal action on a concept plan.
- C. *Preliminary Plat Review.* As with a concept plan, when an application for preliminary plat is submitted for a minor subdivision, it is reviewed and approved by the Planning Commission. The Planning Commission may approve or deny the preliminary plat with or without conditions. The Planning Commission's decision may be appealed to the Council by the subdivider or any aggrieved party.
- D. *Final Plat Approval.* The final plat for a minor subdivision may be approved administratively by the Subdivision Administrator. The Subdivision Administrator's decision concerning a final plat for a minor subdivision may be appealed to the Planning Commission, and subsequent to the Planning Commission's decision to the Council by the subdivider or any aggrieved party. The Subdivision Administrator has the option of referring a final plat to the Planning Commission for action when: (1) issues cannot be resolved including those issues raised by a referral agency or other party noticed of the action; (2) where relief from a requirement of this Title or a deviation from the Public Works and Utilities Design and Construction Specifications is required; or (3) there are known complex or controversial issues associated with the proposed subdivision.
- E. *Document Recording.* Upon approval of the final plat and all associated documents by the Subdivision Administrator, the final plat shall be filed for recording in the office of the El

Paso County Clerks and Recorder. All final plat materials shall be executed by the subdivider and submitted to the Subdivision Administrator including all recording fees, and any required SIA and surety. Once all materials have been received and determined to be in conformance with the approved plat and these regulations, the Subdivision Administrator shall cause the subdivision plat and any associated materials to be executed by the required City officials and recorded. The plat shall be recorded prior to the transfer of title to any lot within the boundaries of the subdivision.

- F. *Construction Improvements and Acceptance of Public Improvements.* The subdivider may initiate construction of the subdivision improvements only after the construction plans are stamped accepted by the City Engineer and the requirements of Section 16.020.060.E have been met. The City Engineer shall not approve the construction plans until the preliminary plat has been approved. After some or all of the required improvements have been completed, the City Engineer may approve the improvements, accept public improvements, release surety, and authorize issuance of building permits in accordance with Section 16.20.060, 16.20.070, and Section 16.23 of these regulations.

**16.21.060 Vacation, Replat, Amendment, and Correction Process.** The vacation, replat, amendment, and correction processes vary depending on the specific type of subdivision proposed. In most cases, when the action does not result in the vacation of public rights-of-way or infrastructure, or result in a change to or the creation of ten (10) or more lots (except in the case of a townhome plat or condominium map), the process is a two step process that involves: (1) the administrative review and approval of a final plat or other required documents by the Subdivision Administrator; and (2) document recording. Where public rights-of-way or infrastructure will be vacated or ten (10) or more lots will be created, the process involves more steps depending on the specific action proposed. In all cases involving public right-of-way or infrastructure vacation, a preliminary or final plat or other required documents are subject to review and approval by the Planning Commission and Council. Table 16.21.060-1 details the process involved and decision-making body for the various plat vacation, replat, plat amendment, and plat correction processes.

**Table 16.21.060-1 Vacation, Replat, Amendment, and Plat Correction Processes**

| Type of Plat  | Public Hearing                              | Decision Body   | Appeal   |
|---|---|---|--|
| <b>Plat Vacations</b>   |   |   |  |
| Vacation of plat with public infrastructure or dedications <sup>8</sup>   | Yes   | Planning Commission (recommendation), Council (action by ordinance) | District Court   |
| Vacation of plat without public infrastructure or dedications   | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| Lot line vacations <sup>7</sup>   | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| Roadway vacation <sup>8</sup>   | Yes   | Planning Commission (recommendation), Council (action by ordinance) | District Court   |
| <b>Plat Amendments or Correction</b>  |   |   |  |
| Amendment to, or removal of, plat restrictions or conditions  | No  | Subdivision Administrator <sup>2,4</sup>                            | 1 <sup>st</sup> appeal: Planning Commission                |
| Lot line adjustments  | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| Error corrections   | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| <b>Replat<sup>3</sup></b>   |   |   |  |
| Replat of 10 lots or more   | Processed as Major Subdivision <sup>3</sup> |   |  |
| Replat of fewer than 10 lots  | Processed as Minor Subdivision <sup>3</sup> |   |  |
| Condominium subdivision <sup>1,3</sup>  | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| Townhome plat <sup>1,3</sup>  | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| Commercial building pad plat <sup>1,3</sup>   | No  | Subdivision Administrator <sup>2</sup>                              | 1 <sup>st</sup> appeal: Planning Commission <sup>5,6</sup> |
| <sup>1</sup> Processed as a Major Subdivision if original final plat did not include approval of concept plan for townhome lots, commercial building pads, or condominiums.<br><sup>2</sup> The subdivision administrator has the option of referring any plat to the Planning Commission for action when issues cannot be resolved including those issues raised by a referral agency or other party noticed of the action.<br><sup>3</sup> A replat will also require a plat vacation, which may be processed concurrently.<br><sup>4</sup> Unless plat was originally approved by Council, in which case Council must approve amendment.<br><sup>5</sup> A decision by the Subdivision Administrator may be appealed to the Planning Commission by the subdivider or any aggrieved party. An approval with conditions is considered a denial for purposes of appeal<br><sup>6</sup> A decision by the Planning Commission may be appealed to the Council by the subdivider or any aggrieved party. An approval with conditions is considered a denial for purposes of appeal.<br><sup>7</sup> Where the removal of a lot line is desired for conformance with zoning only, a merger agreement may be executed by the owner and approved by the Subdivision Administrator as opposed to having to prepare the materials necessary for a lot line vacation.<br><sup>8</sup> A public hearing requires publication of the notice of public hearing in a newspaper of general circulation within the City at least 10 days prior to the hearing. |   |   |  |

**16.21.070 Concept Plan Procedures.** The concept plan is an optional process, except in the case of a proposed condominium, commercial building pad or townhome subdivision where it is required to accompany the preliminary plat for the major or minor subdivision creating the super lot to receive feedback and recommendations from the City to assist the subdivider in preparing a preliminary or final plat meeting the requirements of applicable City codes, rules, regulations and ordinances, and advancing the goals of the Comprehensive Development Plan. The process is informal and the level of detail included in the application and associated submissions may be

varied at the subdivider's discretion depending on what the subdivider desires to explore or achieve through the process. It is assumed that, as a minimum, the subdivider will include with the application, a sketch plan of the proposed subdivision that shows lot and road layout.

- A. *Intent.* Prior to preparing a preliminary or final plat, a concept plan may be prepared for review by the Planning Commission. The intent of a concept plan is to allow the subdivider to present a subdivision proposal at a very early stage to: (1) examine the feasibility of the project, design characteristics, and relationship of a proposed subdivision to adjacent properties, (2) identify possible issues that may affect the proposed development, and (3) gain insight about the design from the public, City staff, Planning Commission, or Council. This may include the location of geologic hazards, identification of environmentally sensitive areas and wildlife habitat areas, open space and parks, and general conformance with City codes, rules, regulations and ordinances, and Comprehensive Development Plan. The concept plan process may be used in association with any type of subdivision application to obtain advice concerning the proposed development from the decision-making body before preparing and submitting an application for preliminary or final plat. The concept plan may also be used to support other types of development applications such as a rezoning or annexation request. The concept plan should not be confused with the Overall Development Plan (ODP) in the PUD process, although the required drawings, sketches, or maps used may be the same in both cases.
- B. *Prerequisite.*
1. *Pre-Application Meeting.* Persons desiring to submit a concept plan are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations.
  2. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision prior to filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for concept plan.
- C. *Approval Standards.* No official action is taken on a concept plan. The recommendations and discussion concerning a concept plan are advisory only and non-binding on either the subdivider or the City.
- D. *Submittal and Review Process.* A complete application for a concept plan must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
1. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.070.E to the Subdivision Administrator including complete packets for each referral agency. Referral packets

with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.

2. Referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. The Subdivision Administrator shall prepare a review memorandum, schedule the concept plan for review by the Planning Commission, and notify the subdivider of the meeting date and time. A copy of the review memorandum and comments shall be provided to the subdivider. The subdivider shall provide courtesy notice in accordance with the notice provisions in Section 16.21.030.C.1.
3. The Planning Commission shall review the application, review memorandum, testimony from the subdivider, and public comments in considering the concept plan. The Planning Commission shall provide their concerns, ideas, issues, and recommendations to the subdivider. The information brought forth and discussed shall be documented in meeting minutes including any specific recommendations. The minutes shall serve as the City's official response to the subdivider concerning the proposed concept plan. A copy of the minutes shall be placed on file with the application.

E. *General Submittal Requirements.* General submittal requirements are as follows:

1. Completed and signed application.
2. The appropriate fee as set forth in the fee schedule.
3. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
4. Letter of intent describing the project. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the project, request and justification for approval of request; existing and proposed facilities, structures, roads, etc.; the basis for the proposed design including how site issues have been addressed in the design; description and justification for any waivers, relief or deviations from standards that are either required or desired; and a statement describing the conformance of the proposed subdivision with City codes, rules, regulations, ordinances and plans. The description of the project shall include the average lot size, the range of lot sizes, gross density, open space, and phasing.
5. A concept plan exhibit at a reasonable scale generally showing boundaries, easements, contour lines, zoning, floodplain, large stands of significant vegetation, wildlife habitat areas, proposed open space, existing and proposed streets, and the proposed lot layout.

6. A vicinity map at reasonable scale which indicates the proposed subdivision in relationship to platted and unplatted land and streets that are adjacent to or serve the proposed subdivision.
- F. *Expiration of Approval.* No formal action is taken to approve or deny the concept plan. The concept plan is advisory only and is not binding on the subdivider or City. As a result, the concept plan has no expiration, but generally should be considered as reliable information on which to base a preliminary plat application for no more than one (1) year. Where a concept plan is approved in association with the platting of a super lot, the concept plan shall be subject to the expiration provisions associated with the preliminary plat and shall be subject to no further expiration following the filing of the final plat of the super lot.

#### **16.21.080 Preliminary Plat Procedures.**

- A. *Intent.* The purpose of the preliminary plat step is to allow the City an opportunity to examine in detail all aspects of a proposed plat, including, but not limited to: compatibility with surrounding land uses and zoning; adequate water, utilities and other services; desirable open space areas; preservation of significant environmental features and viewsheds; protection from flooding and other geologic hazards; adequate land dedication for parks, schools and other public uses; and adequate streets and other types of access facilities for residents, businesses and emergency services. The preliminary plat must comply with the applicable PUD or other zone district regulations and requirements. The preliminary plat is also reviewed against design standards; the requirements of City codes, rules, regulations and ordinances; the City's Comprehensive Development Plan, and other master plans.
- B. *Prerequisite.* The preliminary plat is an optional step except in the case of a major subdivision where a preliminary plat is required to be approved in advance of the final plat. Where a concept plan has been considered in advance of the preliminary plat, the preliminary plat should generally take into consideration the recommendations and discussions associated with the concept plan.
1. *Pre-Application Meeting.* Persons desiring to submit a preliminary plat are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. Where a pre-application meeting was held in association with a concept plan, the Subdivision Administrator may waive the pre-application meeting.
  2. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for preliminary plat.

- C. *Approval Standards.* The Planning Commission will consider the comments of other agencies, governmental units, utilities, service companies before reaching a decision. A preliminary plat may be approved provided: (1) evidence has been presented that there is adequate water supply; (2) evidence has been presented that an adequate public sewage disposal system is available and, if other methods of sewage disposal are proposed that those systems comply with state and local laws and regulations; (3) soil and topographical conditions presenting hazards or requiring particular precautions have been identified by the subdivider and the proposed uses of the areas are compatible with such conditions; (4) proposed lots conform to City codes, rules, regulations, and ordinances governing size, length to depth ratio, width, frontage, access, etc.; (5) proposed park, trail and open space dedications meet the requirements of City code and are properly located and of the appropriate character to accommodate the proposed use (or cash-in-lieu of parkland dedication has been offered and is an appropriate and reasonable alternative to dedications); (6) adequate vehicular and pedestrian access has been made available; (7) necessary offsite improvements have been planned to accommodate the proposed development and provisions for their installation have been made; (8) the design of the subdivision appears to allow the design and installation of infrastructure meeting the requirements of municipal infrastructure standards; (9) no significant issues remain unresolved that would impact the ability to provide necessary services to the proposed subdivision or compromise the integrity of the proposed subdivision; and (10) that the proposed subdivision supports the City's Comprehensive Development Plan and other master plans.
- D. *Submittal and Review Process.* A complete application for preliminary plat must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
1. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.080.E to the Subdivision Administrator including complete packets for each referral agency. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  2. Referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts. The Subdivision Administrator shall prepare a staff report, schedule the application for review by the Planning Commission, and notify the subdivider of the meeting date and time. The subdivider is encouraged to meet with referral agencies and other interested parties to address concerns with the preliminary plat prior to the Planning Commission meeting. The subdivider shall provide courtesy notice in accordance with the notice provisions in Section 16.21.030.C.1.
  3. The Planning Commission will review the preliminary plat, the referral comments, the subdivider's testimony, the public comments, and the staff report. The Planning Commission's decision concerning the application will be based on presented

documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the preliminary plat approval standards outlined in Section 16.21.080.C. Nothing in this Title is intended to limit the authority of the Planning Commission to impose use, height, area, or bulk requirements or restrictions governing buildings and premises within a subdivision, so long as such requirements and restrictions do not authorize violation of the City of Fountain Zoning Ordinance, and the Council shall have the same authority.

4. If the Planning Commission denies the preliminary plat, the decision may be appealed to the Council in writing by the subdivider within fifteen (15) days of the Planning Commission's action by the subdivider or any aggrieved party. The request for appeal shall be submitted to the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before the Council. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Council, after considering all information presented including the staff report, application, written appeal, the Planning Commission's action and any testimony from the subdivider, Planning Commission members, staff, or public shall take action to either support the Planning Commission's action, modify the Planning Commission's action, overturn the Planning Commission's action, or refer the application back to the Planning Commission for reconsideration. Whenever a preliminary plat has been disapproved by the Council, the Planning Commission shall not reconsider the plat for a period of one (1) year from the Planning Commission's final action or disapproval. However, if the plat is modified so as to overcome the reasons for disapproval, the Planning Commission may consider the modified plat within the one (1) year time limitation. If the Council approves the preliminary plat with or without conditions, a copy of the approved preliminary plat and conditions of approval shall be signed by the Mayor and placed on file in the Planning Department which shall serve as the official record of the decision.
5. If the Planning Commission approves the preliminary plat, no Council review and approval shall be necessary. A copy of the approved preliminary plat and conditions of approval shall be signed by the Planning Commission Chairman and placed on file in the Planning Department which shall serve as the official record of the decision.

E. *General Submittal Requirements.* Preliminary plat submittal requirements are as follows:

1. Completed and signed application.
2. The appropriate fee as set forth in the fee schedule.
3. Letter of intent describing the project in detail. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the project, request and justification for approval of request; existing and proposed facilities, structures, roads, etc.; the basis for the proposed design including how site issues have been addressed in the design; description and justification for any waivers, relief or deviations from standards that are either required or desired; and a statement

describing the conformance of the proposed subdivision with City codes, rules, regulations, ordinances and plans. The description of the project shall include the average lot size, the range of lot sizes, gross density, open space, and phasing. The letter of intent is the opportunity for the subdivider to show how the proposal meets the criteria for approval; explain how the various competing regulatory requirements and site constraints were balanced to achieve a sound proposal; and describe in detail the construction and other commitments the subdivider is prepared to establish in the development of the subdivision. In most cases, the subdivider should consider addressing the discussions concerning the concept plan in the application for preliminary plat to show how the discussion was incorporated into the preliminary plat.

4. Complete legal description of the property prepared by a professional land surveyor where a previous survey has not been prepared that may be referenced and the description cannot be completed by an aliquot parcel description.
  5. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
  6. A vicinity map at reasonable scale which indicates the proposed subdivision in relationship to platted and unplatted land and streets that are adjacent to or serve the proposed subdivision.
  7. Where the preliminary layout covers only a part of the entire holding, a sketch of the prospective street system of the un-submitted part shall be furnished insofar as it affects the plat submitted for consideration of the overall street system.
  8. A map depicting proposed street connections to adjacent subdivided and unsubdivided lands showing how adjacent properties could be developed and how the extension of the street works from a design perspective both horizontally and vertically.
  9. Preliminary utility plan showing location and size of existing utilities within, or adjacent to the subdivision (including water, sanitary sewer, storm sewer, electric, gas) and containing such information as necessary to show generally how water, sanitary sewer, storm (sewer) water, electric, gas, telephone, and cable television services are to be provided. A "will serve" letter shall also be submitted.
  10. Plat exhibit meeting the requirements of Section 16.21.080.F.
  11. Development reports meeting the requirements of Section 16.21.080.G.
  12. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
- F. *Preliminary Plat Exhibit.* The preliminary plat exhibit shall be a neat, clear, permanent, legible, and reproducible document. Inaccurate, incomplete or poorly drawn plats shall be rejected.

1. *Sheet Size.* The sheet size shall be 24 inches by 26 inches or 24 inches by 36 inches, including a minimum one-half ( $\frac{1}{2}$ ) inch border. Reduced 11 inch by 17 inch copies shall also be provided.
2. *Scale.* The preliminary plat shall be drawn to a scale of one inch equals 100 feet (1" = 100') or a scale of one inch equals 50 feet (1" = 50') unless the Subdivision Administrator approves a larger or smaller scale. In the event a single sheet is not practicable, multiple sheets may be used if no lot is split between sheets and on each sheet:
  - a. Match lines are indicated; and
  - b. A composite drawing is provided that shows the entire subdivision, location of the match lines, sheet numbers, and the location of the sheet within the proposed subdivision by the shading in of the appropriate area on the composite drawing.
3. *Content of Plat.* The preliminary plat exhibit shall contain the following:
  - a. A title block and reference information pertaining to the subdivision, including:
    - (1) Name of proposed subdivision centered on the top of the plat and at the top of each sheet. On each sheet, a subtitle, in smaller lettering, shall indicate the quarter section(s)( $\frac{1}{4}$ ), section, township and range in which the subdivision is located. If the subdivision is a replat of a previously approved subdivision, the replat information shall be included in the subtitle. The name of the City, County and the State shall be included in the subtitle.
    - (2) Date of preparation, date of survey, north arrow, written and graphic scale located in the lower right hand corner of each sheet.
    - (3) Names, address, and telephone number of person(s) responsible for preparing the plat (e.g., licensed surveyor, licensed engineer or designer of the plat) located in the lower right hand corner.
    - (4) Date of submission with provisions for dating revisions located in the lower right hand corner.
    - (5) Vicinity map (scale of 1"=2000') showing the subdivision in relation to section lines and existing or proposed streets within one mile.
  - b. The location of property lines including location and boundaries of the subdivision if part of a larger area.
  - c. The location of burial grounds, railroad rights-of-way, watercourses, irrigation ditches and laterals, paleontological, archeological or historic sites or grounds, and other significant features within or adjacent to the tract to be subdivided.
  - d. Approximate location of land intended to be conveyed or reserved for public use or reserved in the deeds for the use of all property owners, residents, or general public and the proposed method of dedication and maintenance of such land to include, but not be limited to, parks, trails, open space; streets, bikeways, schools and school sites, utilities, and community and social service facilities. All locations or lands shall be identified as public or private.

- e. Approximate layout, dimensions, and area in square feet of each lot (sought) to be platted.
  - f. The approximate length of all street centerlines, radii of curves, type of curb, gutter and sidewalk.
  - g. Right-of-way lines, widths, locations, and street names of all existing and proposed streets within and immediately adjacent to, the property being subdivided, including the classification of each of the streets. Street names shall be approved by El Paso Teller E9-1-1 Authority. Alleys, greenways, bikeways, trails, and other transportation links shall also be indicated.
  - h. The approximate locations, dimensions, ownership and use designations of all proposed or existing easements.
  - i. Final total gross acreage, the total number of lots, gross density, net density and net acreage of the subdivision.
  - j. The net acreage of land to be dedicated for public streets; dedicated for other public uses; and developed for private uses and facilities including private parks, open space and recreation centers.
  - k. Approximate location of all areas of floodplain or storm water overflow and the location, widths, and direction of flow of all water courses including the one-hundred-foot (100') buffer from the floodplain.
  - l. Areas of geological hazards.
  - m. Existing and proposed location of bridges, culverts, and provisions for collection and discharge of surface drainage including detention facilities.
  - n. Accurate existing contours shall be shown at intervals of two (2) feet or less; contours at intervals of five (5) feet will be acceptable where the slope is greater than ten (10) percent. Contours shall be extended onto adjacent property for a distance of 200 feet or as otherwise needed to establish proper topographical relationships. The contours on adjacent properties may be projected or data available from the City may be used if access cannot be obtained.
  - o. Outline of buildings and structures that are not to be moved in the development of the subdivision.
  - p. Buffering proposed from collector and arterial streets and, where appropriate, adjacent uses.
  - q. Signature block for the Planning Commission Chairman.
- G. *Development Reports.* The subdivider shall submit a report or reports with supporting materials.

1. A Land Analysis Report (LAR) containing both mapped and written information identifying the extent of and impact upon the property's natural features and environmental constraints, and that addresses proposed mitigating measures which may include avoidance, replacement, proposed plat notes, etc. The LAR may take the form of a single report or multiple reports at the discretion of the subdivider. The intent of the report should be to identify all potential issues associated with the development of the property and, where appropriate, identify how the proposal mitigates these issues or why an issue has been dismissed. At a minimum the report shall include:
  - a. A discussion of site features depicted on the plat that may affect the evaluation of the proposed development. All significant natural and man-made features shall be identified, including major views into and out of the subdivision in any proposed industrial and commercial subdivisions. A written analysis shall be provided that summarizes the existing site features and constraints and addresses how the development of the site will occur in a manner that considers both the opportunities and constraints. The written analysis must address the site's physical constraints and hazards, along with proposed impact mitigation measures. The report shall also address wildlife, wetlands, soils, geologic hazard, wildfire hazard, and other issues. Where a particular parameter does not apply, the report shall identify how a determination was made that the parameter does not apply.
  - b. Evidence establishing soil suitability in the form of a report prepared by a professional engineer or professional geologist and information on the geological characteristics of the site prepared by a qualified professional. Significant natural features (e.g., drainage channels, bodies of water, rock outcroppings, ravines, ridge lines, buttes and bluffs) and geologic hazards (e.g., down slope creep, debris flow, flood hazards, rockfall hazards, underground mines, known areas of soil problems such as subsidence or shrink/swell, soil contamination, soil corrosiveness) that may require unusual mitigation during design and construction of structures and infrastructure.
  - c. Unless the City of Fountain has provided a commitment to serve, evidence that an adequate water supply is provided.
  - d. Evidence of the physical and legal capability to provide wastewater.
  - e. A discussion on the effect of the proposal on significant cultural, archaeological and historical resources and plans for the protection of such resources.
2. Preliminary drainage report including preliminary construction plans meeting the requirements of the Drainage Criteria Manual and Public Works and Utilities Design and Construction Specifications. Such report shall analyze, identify and substantiate assumptions made as specifically related to the drainage improvements required for the proposed subdivision, including any necessary offsite improvements. Comprehensive analysis and calculations for all proposed drainage facilities are required to be included in the report. Approximate location and size of rights-of-way and easements for drainage facilities should also be identified. The report must identify any proposed modifications to the floodplain. The report and design shall address full spectrum requirements.

3. A report describing the availability and adequacy of existing infrastructure and other necessary services, including fire and police protection, schools, recreation, utilities and open space.
  4. A traffic study describing the transportation network, establishing the availability and adequacy of the system in conformance with the Public Works and Utilities Design and Construction Specifications per the requirements in Appendix A.
  5. Preliminary construction plans for the subdivision (30% plans) may be submitted for review with the preliminary plat. If submitted, the City Engineer shall provide a timely review and constructive advice to the subdivider concerning the design in an effort to facilitate resolution of potential issues prior to the development of final construction plans. The review and acceptance of construction plans shall not delay the processing of the preliminary plat. The City Engineer may coordinate review of the construction plans through the DRT or through other methods determined appropriate by the City Engineer.
- H. *Effective of Approval.* If a preliminary plat application is approved by the Planning Commission, the final plat may be administratively approved by the Subdivision Administrator.
- I. *Post-Approval Requirements.* Prior to filing an application for final plat or initiating construction of the subdivision, the subdivider shall file a corrected preliminary plat meeting the requirements of Section 16.21.080.F and integrating all requested corrections, changes, and conditions of approval on its face. The corrected preliminary plat shall be reviewed by the Subdivision Administrator. If the corrected preliminary plat meets all the requirements of Section 16.21.080.F and integrates all requested corrections, changes, and conditions of approval, the Subdivision Administrator shall present the corrected preliminary plat to the Planning Commission Chairman for execution. Once executed the preliminary plat shall be considered the official record copy. Within ninety (90) days of the final action by the Planning Commission or Council to approve the preliminary plat, the subdivider shall file the corrected preliminary plat with the Subdivision Administrator. The subdivider shall have thirty (30) days to make any corrections still determined necessary by the Subdivision Administrator based on the Subdivision Administrator's review of the corrected preliminary plat. Failure of the subdivider to file the corrected preliminary plat within ninety (90) days of the final action by the Planning Commission or Council to approve the preliminary plat or to make the requested corrections to the corrected preliminary plat within thirty (30) days of receiving the requested corrections from the subdivision administrator shall invalidate the preliminary plat approval. If the preliminary plat action is invalidated, an application for preliminary plat shall be made following the procedures as if the request were for a new application.
- J. *Expiration of Approval.*
1. *Plat Validity and Extensions.* The preliminary plat shall be valid for a period of one (1) year from the date of approval. Prior to the end of the one (1) year period, the subdivider shall have submitted an application for final plat. The subdivider may request in writing, prior to the expiration of the approved preliminary plat, an extension of the approval period. Extensions may be granted annually provided there has been no change in surrounding land uses or in the regulatory provisions governing

development. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of twelve [12] months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council.

2. *Expiration of Approval.* Prior to the end of one (1) year if an extension has not been granted or up to the end of any extension period that has been granted, the subdivider shall have met all requirements of the subdivision plat process and a final plat shall have been filed for review and approval by the Subdivision Administrator. If a complete final plat application has not been filed with the Subdivision Administrator for all or a portion of the preliminary plat, the preliminary plat shall be considered to have expired. If the preliminary plat expires, an application for preliminary plat shall be made following the procedures as if the request were for a new application. No final plat shall be approved, where the preliminary plat has expired. The Subdivision Administrator may close the subdivision file without notice to the subdivider.
3. *Subdivision Phasing.*
  - a. *Partial Final Plats.* In the case of partial final plat submittal and approval, the approval of the remaining portion of the preliminary plat shall automatically result in an extension of one (1) year before another final plat must be submitted.
  - b. *Subdivision Specific Phasing Plan.* Where a subdivision is phased, a phasing plan for the subdivision may be approved as part of the preliminary plat approval. All final platting shall conform to the phasing plan and provided the phasing plan is met, the preliminary plat shall remain valid until all portions of the subdivision subject to the phasing plan are platted. The phasing plan shall include specific dates or triggers for platting each phase. In no case shall the phasing plan allow any final plat to remain unrecorded at the end of twenty (20) years of the date of approval of the preliminary plat. The phasing plan may be amended upon application by the subdivider. The amendment may be approved by the Subdivision Administrator at the discretion of the Subdivision Administrator for good cause shown. If the subdivider fails to plat in accordance with the phasing plan, the preliminary plat shall be considered to have expired. If the preliminary plat expires, an application for preliminary plat shall be made following the procedures as if the request were for a new application. No final plat shall be approved, where the preliminary plat has expired. The Subdivision Administrator may close the subdivision file without notice to the subdivider.
4. *Existing Preliminary Plats.* Where a preliminary plat was approved prior to the effective date of these regulations and no final plat application has been filed for review and approval by the Subdivision Administrator within one (1) year of the effective date of these regulations, the preliminary plat shall be considered to have expired. If the preliminary plat expires, an application for preliminary plat shall be made following the procedures as if the request were for a new application. No final plat shall be approved, where the preliminary plat has expired. The Subdivision Administrator may close the subdivision file without notice to the subdivider. For any preliminary plat approved

prior to April 1, 2008, the subdivider may request extensions in accordance with Section 16.21.080.J.1., provided the request for extension is filed prior to expiration of the preliminary plat.

5. *Existing Official Development Plans (ODP)*. Where an ODP was approved prior to the effective date of these regulations and the ODP was determined to also constitute the preliminary plat, the preliminary plat approval shall expire at such time as the ODP expires if no final plat is filed in advance of the expiration. If the ODP has no expiration, the preliminary plat approval shall have no expiration.

#### **16.21.090 Final Plat Procedures.**

- A. *Intent*. The final plat establishes legally described lot lines and conveys necessary easements and land to the City and other public agencies. The final plat is accompanied by a SIA. The final plat is required to substantially conform to all elements of the approved preliminary plat.
- B. *Prerequisite*. After the subdivider has received approval of the preliminary plat, the final plat may be prepared. The final plat may reflect the entire preliminary plat or any logical part thereof. The final plat shall be in substantial compliance to all elements of the approved preliminary plat if a preliminary was approved by the Planning Commission.
  1. *Pre-Application Meeting*. Persons desiring to submit a final plat are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. Where a pre-application meeting was held in association with a concept plan or preliminary plat, the Subdivision Administrator may waive the pre-application meeting.
  2. *DRT Meeting*. Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for final plat.
- C. *Approval Standards*. The Subdivision Administrator will consider the comments of referral agencies and the preliminary plat before reaching a decision. A final plat may be approved provided all standards are met as described in Section 16.21.080.C and the design conforms to the Public Works and Utilities Design and Construction Specifications. The Subdivision Administrator has the option of referring the final plat to the Planning Commission for action when: (1) issues cannot be resolved including those issues raised by a referral agency or other party noticed of the action; (2) where the final plat fails to substantially conform to the approved preliminary plat and any associated conditions; (3) where a waiver, relief or a deviation is required that was not approved as part of the preliminary plat, or (4) where the plat involves complex or controversial issues.

- D. *Submittal and Review Process.* A complete application for final plat must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
1. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.090.E to the Subdivision Administrator including complete packets for each referral agency. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  2. Referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider during the review of a final plat where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.
  3. Based upon the issues identified in the review, the Subdivision Administrator may forward the final plat to the Planning Commission for action. In either event, the Subdivision Administrator shall prepare a checklist of needed corrections and present the corrections to the subdivider.
  4. In the event the final plat is forwarded to the Planning Commission for review, the following steps shall be followed:
    - a. The Subdivision Administrator shall prepare a staff report, schedule the application for review by the Planning Commission, and notify the subdivider of the meeting date and time. The subdivider is encouraged to meet with referral agencies and other interested parties to address concerns with the final plat prior to the Planning Commission meeting. The subdivider shall provide courtesy notice in accordance with the notice provisions in Section 16.21.030.C.1., if required by the Subdivision Administrator.
    - b. The Planning Commission considering applicable codes, regulations, development standards and any other relevant written documents or plans adopted by the Planning Commission or Council, the pertinent comments of the participating City departments and divisions and other affected public agencies, and any approved preliminary plat and associated conditions of approval, shall evaluate the final plat and shall either approve, approve with conditions or deny the final plat. The Planning Commission's decision concerning the application will be based on presented documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the final plat approval standards outlined in Section 16.21.090.C. As part of the approval of the final plat the Planning Commission may permit or require that the final plat be divided into two or more development phases and may impose conditions upon each phase as necessary to ensure the availability of public services and orderly development of the

subdivision. Whenever a final plat has been disapproved by the Planning Commission, the final plat shall not be reconsidered unless the plat is modified so as to overcome the reasons for disapproval.

- c. If the Planning Commission denies the final plat, the decision may be appealed to the Council in writing by the subdivider within fifteen (15) days of the Planning Commission's action by the subdivider or any aggrieved party. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal before Council for consideration. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Council, after considering all information presented including the staff report, application, written appeal, the Planning Commission's action and any testimony from the subdivider, Planning Commission members, staff, or public shall take action to either support the Planning Commission's action, modify the Planning Commission's action, overturn the Planning Commission's action, or refer the application back to the Planning Commission for reconsideration. Whenever a final plat has been disapproved by the Council, the final plat shall not be reconsidered unless the plat is modified so as to overcome the reasons for disapproval. If the Council approves the final plat, a copy of the approved final plat and conditions of approval shall be signed by the Mayor and placed on file in the Planning Department, which shall serve as the official record of the decision.
  - d. If the Planning Commission approves the final plat, no Council review and approval shall be necessary. A copy of the approved final plat and conditions of approval shall be signed by the Planning Commission Chairman and placed on file in the Planning Department, which shall serve as the official record of the decision.
5. In the event the final plat is to be reviewed and approved by the Subdivision Administrator, the following steps shall be followed:
- a. The Subdivision Administrator, considering applicable codes, regulations, development standards and any other relevant written documents or plans adopted by the Planning Commission or Council, the pertinent comments of the participating City departments and divisions and other affected public agencies, and any approved preliminary plat and associated conditions of approval, shall evaluate the final plat and shall either approve, approve with conditions or deny the final plat. The Subdivision Administrator's decision concerning the application will be based on presented documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the final plat approval standards outlined in Section 16.21.090.C. As part of the approval of the final plat the Subdivision Administrator may permit or require that the final plat be divided into two or more development phases and may impose conditions upon each phase as necessary to ensure the availability of public services and orderly development of the subdivision. Whenever a final plat has been disapproved by the Subdivision Administrator, the final plat shall not be reconsidered unless the plat is modified so as to overcome the reasons for disapproval. If the Subdivision Administrator

approves the final plat, a copy of the approved final plat and conditions of approval shall be signed by the Subdivision Administrator and placed on file in the Planning Department which shall serve as the official record of the decision.

- b. The subdivider or any aggrieved party may appeal the decision of the Subdivision Administrator to the Planning Commission. If denied by the Planning Commission, the subdivider or any aggrieved party may appeal the Planning Commission's decision to the Council. All appeals shall be filed with the Subdivision Administrator in writing within fifteen (15) days of the action by the Subdivision Administrator or Planning Commission. The request for appeal shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. Once the request for appeal is complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before the Planning Commission or Council, as applicable. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission or Council, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator or Planning Commission's action and any testimony from the subdivider, staff, or public shall take action to either support the action, modify the action, overturn the action, or refer the application back to the Subdivision Administrator or Planning Commission for reconsideration. The action by the Planning Commission or Council action shall be by a majority vote. Whenever a final plat has been disapproved by the Planning Commission or Council, the final plat shall not be reconsidered unless the plat is modified so as to overcome the reasons for disapproval. If the Planning Commission or Council approves the final plat, a copy of the approved final plat and conditions of approval shall be signed by the Chairman or Mayor and placed on file in the Planning Department which shall serve as the official record of the decision.

E. *General Submittal Requirements.* General submittal requirements are as follows:

1. Completed and signed application.
2. The appropriate fee as set forth in the fee schedule.
3. Complete legal description of the property prepared by a professional land surveyor where a previous survey has not been prepared that may be referenced or the land cannot be accurately described by an aliquot parcel description.
4. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application. An ownership and encumbrances report (O&E) or title policy, report or commitment is recommended to allow a check of easements on the final plat and ensure that processing is not delayed at the time of post-approval review (Section 16.21.090.H.).

5. A vicinity map at reasonable scale which indicates the proposed subdivision in relationship to platted and unplatted land and streets that are adjacent to or serve the proposed subdivision.
6. Copy of computed closure sheet.
7. Final plat exhibit meeting the requirements of Section 16.21.090.F.
8. Construction plans in a 24 inches by 36 inches format prepared in accordance with the Public Works and Utilities Design and Construction Specifications including the design of roads, grading plan, utilities, drainage, erosion control and over lot grading, including, as applicable, a complete list and description of all required public improvements; specifications; estimated construction costs and quantities estimate; unit costs; time schedule; and typical road sections. The subdivider may elect at risk to process a final plat without submitting and obtaining acceptance of construction plans. The subdivider should be aware that any required changes to the final plat that result from the need to meet any standard or specification in accordance with the Public Works and Utilities Design and Construction Specifications, a standard of any other agency having jurisdiction, or the standards and specifications of any utility company required to serve the subdivision are the responsibility of the subdivider. Any changes to a filed plat require that the subdivider submit an application for a vacation and replat or other applicable form of amended plat. No construction may begin on any subdivisions improvements except as allowed pursuant to Section 16.20.060.E. until the construction plans are accepted by the City Engineer. No real property may be sold or conveyed until the construction plans have been accepted by the City Engineer and the recorded subdivision plat conforms to the construction plans. In addition, no building permits shall be issued until the recorded subdivision plat conforms to the accepted construction plans. Whenever a final plat is approved and allowed to be filed for recording without the acceptance of the construction plans by the City Engineer, a document approved by the Subdivision Administrator restricting the conveyance of any lots, tracts, parcels or other real property within the subdivision shall be filed for recording concurrently with the plat. Said document shall clearly indicate that: (1) construction plans have not been prepared by the subdivider and accepted by the City Engineer for the public and subdivision improvements associated with the subdivision; and (2) no lots, tracts, parcels or other real property may be conveyed until construction plans have been accepted by the City Engineer and the lots, tracts, parcels or other real property has been authorized for conveyance by the Subdivision Administrator. Said conveyance shall not be authorized until and unless construction plans have been accepted by the City Engineer, the recorded subdivision plat conforms to the accepted construction plans, and the surety required to secure all required improvements has been accepted by the City of Fountain. All costs associated with preparing an amended plat are the responsibility of the subdivider. The City is under no obligation to approve for recording any amended plat that departs substantially from the approved preliminary plat or any recorded final plat that may be required to meet the Public Works and Utilities Design and Construction Specifications, a standard of any other agency having jurisdiction, or the standards and specifications of any utility company required to serve the subdivision. The City is also under no obligation to vary or deviate from a standard or specification that cannot be met in order to validate the recorded subdivision plat. Nothing shall prohibit the subdivider from contracting for the conveyance of a lot, tract, parcels, or other real property within the boundaries of a

recorded subdivision plat, provided the subdivider clearly indicates the restrictions associated with said conveyance and that changes to the recorded plat may be required prior to conveyance which may affect the layout, gross and net area, orientation and other aspects of the property under contract.

9. Development reports per Section 16.21.090.G.
  10. A Conditional Letter of Map Revision (CLOMR) application for any proposed modifications to the floodplain. A Letter of Map Revision (LOMR) will be required to be submitted prior to release of surety where proposed construction will result in a change to the existing floodplain. A Letter of Map Amendment (LOMA) shall be required where the floodplain is depicted on the plat differently than on the Flood Insurance Rate Map.
  11. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
- F. *Final Plat Exhibit.* The final plat exhibit shall substantially conform to the approved preliminary plat and any conditions of approval. The final plat shall be prepared by or under the supervision of a registered professional land surveyor licensed by the State of Colorado for recording in the office of the El Paso County Clerk and Recorder in accordance with C.R.S. §§38-51-101 et seq. It shall be a neat, clear, permanent, legible and reproducible document. Inaccurate, incomplete or poorly drawn plats shall be rejected.
1. *Sheet Size.* The sheet size shall be 24 inches by 36 inches, including a minimum one-half ( $\frac{1}{2}$ ) inch border and shall meet the recording requirements of the El Paso County Clerk and Recorder. Reduced 11 inch by 17 inch copies shall also be provided.
  2. *Scale.* The final plat shall be drawn to a scale of one inch equals 100 feet ( $1'' = 100'$ ) or a scale of one inch equals 50 feet ( $1'' = 50'$ ) unless the Subdivision Administrator approves a larger or smaller scale. A townhome plat may be drawn at a scale of one inch equals 50 feet ( $1'' = 50'$ ). In the event a single sheet is not practicable, multiple sheets may be used if no lot is split between sheets and on each sheet:
    - a. Match lines are indicated; and
    - b. A composite drawing is provided that shows the entire subdivision, location of the match lines, sheet numbers, and the location of the sheet within the proposed subdivision by the shading in of the appropriate area on the composite drawing.
  3. *Content of Plat.* The final plat exhibit shall contain the following:
    - a. A title block and reference information pertaining to the subdivision, including:
      - (1) Name of proposed subdivision centered on the top of the plat and at the top of each sheet. On each sheet, a subtitle, in smaller lettering, shall indicate the quarter section(s)(1/4), section, township and range in which the subdivision is located. If the subdivision is a replat of a previously approved subdivision, the replat information shall be included in the subtitle. The name of the City, County and the State shall be included in the subtitle.

- (2) Date of preparation, date of survey, north arrow, written and graphic scale located in the lower right hand corner of each sheet.
  - (3) Name(s) and address (s) of the person(s) responsible for preparing the plat (e.g., licensed surveyor, licensed engineer or designer of the plat) located in the lower right hand corner.
  - (4) Date of submission with provisions for dating revisions located in the lower right hand corner.
  - (5) Vicinity map (scale of 1"=2000') showing the subdivision in relation to section lines and existing or proposed streets within one mile.
- b. Data determining the location, bearing and length of all lines and the location of all monuments that are sufficient to establish boundaries and locate the monuments including a description of all monuments, both found and set, that mark the boundaries of the property, and a description of all control monuments used in conducting the survey.
  - c. A statement by the land surveyor explaining how bearings were determined.
  - d. The lengths of all lines and the radii, internal angles, points of curvature, arc and chord lengths, and bearing.
  - e. All lot lines and other parcels of land with accurate dimensions in feet and hundredths of a foot with bearings or angles to street and alley lines.
  - f. A certified legal boundary description showing the location and dimension of all boundary lines and monuments of the property proposed to be subdivided expressed in feet and hundredths of a foot prepared by a professional land surveyor including the total acreage.
  - g. Certification by a professional land surveyor that the subdivision plat represents a survey made by the surveyor and that the monuments shown on the subdivision plat are accurate as located, that all dimensions and other details are correct and that all monuments will be set to establish property corners or control points as required by the City and State law. The certification shall include the title, name, address, seal, and signature of the professional land surveyor and date of certification and revision dates.
  - h. A number associated with each lot and block in the subdivision, beginning with the numeral 1 (one) and continuing consecutively throughout the property being subdivided, with no omissions or duplications. Tracts shall be given an alpha designation. (See Section 16.22.130 Plat Naming and Number Conventions and Standards).
  - i. The dimensions and areas of all proposed or existing lots within the subdivision including the address of each lot as provided by the Pikes Peak Regional Building Department.
  - j. Right-of-way lines, widths, locations, and street names of all existing and proposed streets within, and immediately adjacent to, the property being subdivided. Street names shall be approved by El Paso Teller E9-1-1 Authority.

- k. The locations, dimensions and use designations of all property proposed to be set aside for public and private facilities, including parks, trails, open space, recreation facilities, stormwater storage and drainage facilities, including the area of each tract to be set aside.
  - l. The locations, dimensions and use designations of all proposed or existing easements and rights-of-way showing when conveyed by reception number.
  - m. Areas of floodplain and a one hundred-foot (100') setback.
  - n. Names of all adjoining subdivisions with dotted lines of abutting lots. If the adjoining land is unplatted, it should be shown as such.
  - o. Lots that require special studies for development or that present significant hazards to development shall bear notation.
  - p. Labels reading "Not a part of this subdivision" and dashed lines delineating areas that do not constitute a part of the subdivision.
  - q. Dedication statements for streets, parks, trails, open space, schools, or other uses and dedication of public streets, alleys and easements to the City. All dedication language shall be in a form approved by the Subdivision Administrator.
  - r. Signature block for the Subdivision Administrator and City Clerk.
  - s. Acknowledgments of the execution of the plat by the property owner (statement of ownership and acknowledgment) before a notary public.
  - t. Certificates for execution for the County Clerk and Recorder.
  - u. Summary notes including:
    - (1) Notations of any restrictive covenants or other restriction to be recorded with the subdivision plat.
    - (2) A statement restricting access or waiving access rights to a major street, where required.
    - (3) Statement that maintenance of easements shall be the responsibility of the property owner.
    - (4) Any notes that were a requirement or condition of the preliminary plat approval or in the opinion of the Subdivision Administrator further the purposes of this Title.
    - (5) Any other notes determined necessary by the Subdivision Administrator.
- G. *Development Reports.* The subdivider shall submit a report or reports with supporting materials necessary for the review of the final plat. The report(s) shall substantially conform to the approved development report(s) including all detail of analysis from Section 16.21.080.G. Additional requirements are as follows:
- 1. Final drainage plan and report and erosion control plan in accordance with the requirements of the Drainage Criteria Manual and Public Works and Utilities Design

and Construction Specifications. Such report shall update and refine the analysis and facilities identified in the preliminary drainage report. The final drainage plan and report shall include all specific design details necessary to prepare construction plans including the identification of specific rights-of-way and easements for such facilities. The report must include the result of a detailed floodplain analysis if modifications are proposed.

2. Traffic analysis report, if not prepared as part of an application for preliminary plat unless waived by the City Engineer.
3. Geological hazards and soils report, if not prepared as part of an application for preliminary plat.

H. *Post-Approval Requirements.* Prior to recording the final plat in the office of the El Paso County Clerk and Recorder, the following requirements shall be completed:

1. The subdivider shall cause to have placed permanent reference monuments on the property in accordance with C.R.S. §§38-51-101 et seq. and as required by Section 16.22.140 Survey and Monumentation Standards.
2. When the final plat is ready for execution and recording, the following information and materials shall be submitted in final form:
  - a. The final plat exhibit meeting the requirements of Section 16.21.090.F. Two (2) photographic Mylar copies of the approved final plat and an electronic copy of the subdivision in a format approved by the City Engineer shall be submitted. The electronic copy requirement may be waived by the City Engineer, in which case the City Engineer may charge a fee for its preparation and integration into the City's geographic information system. The subdivision data must be in the Colorado Central State Plane NAD 1983 coordinate system or other coordinate system approved by the City Engineer. The final plat shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
  - b. Any information requested as part of the application for final plat corrected as required by Subdivision Administrator's conditions of approval for the final plat including construction plans in a 24 inch by 36 inch format meeting the requirements of the Public Works and Utilities Design and Construction Specifications and letters approving the construction plans from all special districts and public utilities except as otherwise provided in Section 16.21.090.E.8.
  - c. Executed SIA, cost estimates, and surety, in accordance with Section 16.23 of these regulations, to guarantee public improvements.
  - d. The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the final plat and other required recordations.
  - e. A title policy naming the City as an insured party, or attorney's certificate showing title free and clear of encumbrances on all property dedicated to the public as of the

date the materials are submitted for recordation. The title policy or attorney's certificate shall be dated no more than thirty (30) days in advance of the submittal date.

- f. An ownership and encumbrances report (O&E) or equivalent showing all interests in the property. The O&E shall be dated no more than thirty (30) days in advance of the submittal date.
  - g. A notarized ratification of plat statement or partial release signed by all lien holders or other parties necessary to convey unencumbered fee simple title to all property dedicated to the City or other public entity, if such parties are not signatory to the final plat.
  - h. Any supplemental information or legal documents to be recorded with the final plat including covenants and restrictions, homeowners association documents, deeds for all tracts to be deeded to homeowners association, etc.
  - i. A warranty deed or any cash-in-lieu for land dedication for parks or schools or other public lands as identified on the plat and rights-of-way outside and adjacent to the subdivision, if due at time of platting. Where fees have been deferred to time of building permit, a plat note shall indicate which fees are due at time of building permit.
  - j. Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
  - k. A Phase I Environmental Assessment for all tract or lands to be dedicated to the City of Fountain or any other public entity where there is reason to believe that an environmental issue may exist. . A Phase II Environmental Assessment shall be required where the Phase I Environmental Assessment identifies area of concern. When required, the Phase I or Phase II Environmental Assessment may be dated from the time of acquisition of the property provided no activities have occurred that in the opinion of the City Attorney could have resulted in environmental contamination.
  - l. Check or cash for street, bridge and drainage recovery fees and any other fees established by the City of Fountain and due at time of platting, if applicable.
  - m. Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.
3. Procedures for signing of the subdivision plat are as follows:
- a. Subdivision plats may be signed only after the City has determined that the subdivision plat and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the Subdivision Administrator in approving the final plat; (2) final plat approved by the Subdivision Administrator; and (3) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.

- b. Each applicable City official shall sign the final plat should it meet the conditions and requirements of this Title.
  4. Once the subdivision plat is signed, the City shall:
    - a. File the fully approved final plat for recording with the El Paso County Clerk and Recorder;
    - b. Simultaneously record the SIA together with any other legal documents required to be recorded by the City with the final plat; and
    - c. Mail a letter to the subdivider verifying that the documents have been filed for recording with the El Paso County Clerk and Recorder for recordation.
  5. Execution of the approved subdivision plat shall constitute the City's acceptance of any dedication, but does not obligate the City to accept for ownership and maintenance any such improvements located within such dedications.
- I. *Construction of Improvements.* Following approval of the final plat, the subdivider is responsible for constructing all improvements necessary to serve the subdivision in accordance with the SIA and Section 16.23 of this Title. All required improvements shall be constructed, approved and accepted in accordance with Section 16.23 of this Title.
  - J. *Expiration of Approval.* The approved final plat shall be effective for a period of three (3) years from the date of the Subdivision Administrator's approval or the date of approval of the final plat by the Planning Commission or Council, when applicable. Prior to the end of the three (3) years, the subdivider shall have met all requirements of the subdivision plat process and the plat shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved final plat, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of twelve (12) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council. Final plats that were approved by the Planning Commission or Council prior to the effective date of these regulations that have not been recorded shall be recorded within one (1) year of the effective date of these regulations. Failure to record an existing approved plat within one (1) year or obtain approval for an extension in accordance with the provisions provided herein shall expire. If the final plat approval expires prior to filing of the final plat for recording, a new application must be submitted.

**16.21.100 Vacation, Replat, Amendment and Correction Procedures.**

A. *Vacation of Plat with Public Infrastructure or Dedication.*

1. *Intent.* The Council is authorized to vacate roadways or other public infrastructure, which includes any public street, alley, lane, parkway, avenue, road, trail or other public way designated or dedicated on the subdivision plat as streets and other public rights-of-way by ordinance in accordance with C.R.S., §§43-2-301, et seq., and to vacate public easements in accordance with the City Charter. Such requests must be approved by ordinance (or resolution in the case of public easements) except where the Council has authorized the Subdivision Administrator and Planning Commission by this Title to vacate existing dedications where the existing public easements have not been used, no infrastructure has been built within existing public easements, and no plans have been adopted that rely upon the public easements in which case the vacation may occur concurrently with the filing of a new final plat approved by the Subdivision Administrator (e.g., Minor Subdivision) or Planning Commission (e.g., Major Subdivision).
2. *Prerequisite.*
  - a. *Pre-Application Meeting.* Persons desiring to submit a vacation plat are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations.
  - b. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for vacation plat.
3. *Approval Standards.* A platted street, public way, easement, public infrastructure, or portion thereof, shall not be vacated so as to leave any land adjoining said street, public way, easement, or public infrastructure without an established public street, private access easement connecting said land with another established public street, or utility easement for utility service. No vacation plat shall be approved unless: (1) the vacation is in accordance with the adopted standards and criteria, and the original conditions of approval of this Title and other applicable regulations, including setbacks for any existing structures or uses and area requirements for any lots; (2) the vacation does not include any lots or parcels created illegally; (3) the vacation does not impair any existing access or access easement, or create a need for a new access to or any new easement serving any adjacent lots or parcels; (4) the vacation does not require substantial alteration of existing improvements or create a need for any new improvements; (5) nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; (6) the vacation is in keeping

with the purpose and intent of this Title; (7) the approval will not adversely affect the public health and safety or the environment; and (8) the vacation plat will not leave any land without access or access easement to a public street or easement to utilities.

4. *Submittal and Review Process.* A complete application for vacation plat must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
  - a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.A.5 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  - b. Referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.
  - c. The Subdivision Administrator shall prepare a staff report, schedule the application for review by the Planning Commission, and notify the subdivider. Any known objector or beneficiary of any easement or public right-of-way shall be noticed of the meeting date and time by the mailing the known objector or beneficiary notice of the meeting at least ten (10) days in advance of the meeting. The subdivider shall provide notice in accordance with the notice provisions in Section 16.21.030.C.2.
  - d. The Planning Commission shall hold a public hearing to review the vacation, the referral comments, the subdivider's testimony, the public comments, and the staff report. The Planning Commission's decision concerning the application will be based on presented documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the vacation plat approval standards outlined in Section 16.21.100.A.3.
  - e. Following action by the Planning Commission, the Subdivision Administrator, in consultation with the City Attorney, shall prepare a vacation ordinance that specifies the legal description of the vacated plat and public infrastructure and dedications, and the reception number of the plat, and that makes reference to the recommendation of the special districts, utility companies and easement holders, and other beneficiaries as applicable. The Subdivision Administrator shall schedule the application and reference for public hearing before the Council. The City Clerk shall provide notice as required by Council policy and City Charter.
  - f. The Council shall evaluate the vacation plat request, referral agency comments, staff report, the Planning Commission recommendation and public testimony, and

shall approve, conditionally approve, table for further study, or deny the vacation plat request. The Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.

- g. In approving a vacation of any right-of-way, the Council shall adopt such vacation by ordinance.

5. *General Submittal Requirements.* Vacation plat submittal requirements are as follows:

- a. Completed and signed application.
- b. The appropriate fee as set forth in the fee schedule.
- c. Letter of intent describing the vacation plat to be made in specific terms and the reasons that the vacation plat is needed or desired. The following should generally be included in all letters of intent: description of the vacation plat, request and justification for approval of request; and a statement describing the conformance of the proposed vacation with City codes, rules, regulations, ordinances and plans.
- d. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
- e. Complete written description of the public infrastructure and dedications to be vacated including a legal description of all lands being vacated.
- f. Vacation plat (i.e., a reproduction of the subdivision on an 8.5 inches x 11 inches sheet of paper or another size approved by the Subdivision Administrator) including the abutting streets indicating the lots/streets/public easements vacated. A vicinity map shall be included (i.e., a reduction of the subdivision showing the location of the vacation in relation to the lots, or the area surrounding the street within a one-mile radius, superimposed on a current County or City Map).
- g. Letters from the following, stating their recommendation regarding the vacation and any existing facility they have over or across the land. Note that where letters cannot be obtained, notice provided in accordance with Section 16.21.030.C.2. shall be considered adequate.
  - (1) All special districts and utility companies providing maintenance of infrastructure within the rights-of-way or public easements proposed for vacation;
  - (2) All landowners abutting or using a right-of-way or easement proposed for vacation;
  - (3) City departments; and

- (4) All known easement beneficiaries.
  - h. A map identifying the area to be vacated and relationship to the abutting landowners including the names and addresses of all owners.
  - i. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.*
- a. *Vesting of Title.* Vesting of title upon vacation shall be in accordance with C.R.S. §43-2-302.
  - b. *Post Approval Submittals.* Prior to recording the vacation plat in the office of the El Paso County Clerk and Recorder, the following requirements shall be completed:
    - (1) The subdivider shall cause to have removed and placed permanent reference monuments on the property in accordance with C.R.S. §§38-51-101 et seq. and as required by Section 16.22.140 Survey and Monumentation Standards.
    - (2) When the vacation plat is ready for execution and recording, the following information and materials shall be submitted in final form:
      - (a) The vacation plat meeting the requirements of Section 16.21.100.A.5. The map shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
      - (b) The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the vacation plat and other required recordations.
      - (c) A notarized consent of vacation statement or partial release signed by all lien holders or other parties.
      - (d) Correction deeds.
      - (e) Any supplemental information or legal documents to be recorded with the vacation plat including changes or nullifications of covenants and restrictions, homeowners association documents, etc.
      - (f) Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
      - (g) Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.

c. *Recording.* Procedures for signing and recording of the vacation are as follows:

- (1) A vacation certificate shall be prepared by the Subdivision Administrator. The vacation certificate shall specify the affected plat, its reception number, the specific lots, easements or building envelope affected and reference the vacation plat, and the recommendations of the special districts/easement holders, as applicable. The vacation ordinance may serve as the vacation certificate.
- (2) The vacation certificate may be signed only after the City has determined that the vacation plat and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the City in approving the vacation; and (2) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.
- (3) Within thirty (30) days of receipt of all required materials, the Subdivision Administrator shall sign and record the vacation certificate, vacation plat, deeds and any other required materials in the office of the El Paso County Clerk and Recorder.

7. *Expiration of Approval.* The approved vacation plat shall be effective for a period of one (1) year from the date of the City's approval. Prior to the end of the one (1) year, the subdivider shall have met all requirements of the vacation process and the vacation plat shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved vacation, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of three (3) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider may appeal the decision of the Planning Commission to the Council. If the approval expires prior to filing of the vacation plat for recording, a new application must be submitted.

B. *Vacation of Plat without Public Infrastructure.*

1. *Intent.* The Subdivision Administrator and Planning Commission are authorized by Council through this Title to vacate any plat without public infrastructure or to vacate existing public easements where the existing public easements have not been used, no infrastructure has been built within existing dedications, and no plans have been adopted that rely upon the public easements in which case the vacation may occur concurrently with the filing of a new final plat.
2. *Prerequisite.*
  - a. *Pre-Application Meeting.* Persons desiring to submit a vacation plat are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide

a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations.

- b. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for vacation plat.
3. *Approval Standards.* An easement, or portion thereof, shall not be vacated so as to leave any land adjoining said street, public way, or easement without an established easement connecting said land with an established public street or utility easement for utility service. No vacation plat shall be approved unless: (1) the vacation is in accordance with the adopted standards and criteria, and the original conditions of approval of this Title and other applicable regulations, including setbacks for any existing structures or uses and area requirements for any lots; (2) the vacation does not include any lots or parcels created illegally; (3) the vacation does not impair any existing access or access easement, or create a need for a new access to or any new easement serving any adjacent lots or parcels; (4) the vacation does not require substantial alteration of existing improvements or create a need for any new improvements; (5) nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; (6) the vacation is in keeping with the purpose and intent of this Title; (7) the approval will not adversely affect the public health and safety or the environment; and (8) the vacation plat will not leave any land without access or access easement to a public street or easement to utilities
  4. *Submittal and Review Process.* A complete application for vacation plat must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
    - a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.B.5 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
    - b. Referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts. The subdivider shall provide notice in accordance with the notice provisions in Section 16.21.030.C.2.

- c. If no objections to the vacation plat are filed, the following steps shall be followed:
- (1) The Subdivision Administrator shall approve, approve with conditions or deny the vacation plat. The Subdivision Administrator shall document the decision including the reasons for the decision in the file which shall serve as the official record of the decision. The Subdivision Administrator shall notify the subdivider of the decision.
  - (2) If the Subdivision Administrator denies the vacation plat, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator. The Planning Commission's decision may be appealed in writing to the Council within fifteen (15) days by the subdivider or any aggrieved party.
- d. If a member of the public or any special district or utility objects to the vacation, then the following steps shall be followed:
- (1) The Subdivision Administrator shall prepare a staff report and schedule the application for review by the Planning Commission. The objector shall be notified of the meeting date and time by the mailing the objector notice of the meeting at least ten (10) days in advance of the meeting. The subdivider shall provide notice in accordance with the notice provisions in Section 16.21.030.C.1.
  - (2) The Planning Commission shall hold a public meeting to review the vacation, the referral comments, the subdivider's testimony, the public comments, and the staff report. The Planning Commission's decision concerning the application will be based on presented documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the vacation plat approval standards outlined in Section 16.21.100.B.3.
  - (3) Following action by the Planning Commission, the Subdivision Administrator, in consultation with the City Attorney, shall prepare a vacation ordinance that specifies the legal description of the vacated plat and public infrastructure and dedications, and the reception number of the plat, and that makes reference to the recommendation of the special districts, utility companies and easement

holders, as applicable. The Subdivision Administrator shall schedule the application and ordinance for public hearing before the Council. The City Clerk shall provide notice as required by Council policy and City Charter.

- (4) The Council shall evaluate the vacation plat request, referral agency comments, staff report, the Planning Commission recommendation and public testimony, and shall approve, conditionally approve, table for further study, remand to the Planning Commission or deny the vacation plat request. The Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.

5. *General Submittal Requirements.* Vacation plat submittal requirements are as follows:

- a. Completed and signed application.
- b. The appropriate fee as set forth in the fee schedule.
- c. Letter of intent describing the vacation plat to be made in specific terms and the reasons that the vacation plat is needed or desired. The following should generally be included in all letters of intent: description of the vacation plat, request and justification for approval of request; and a statement describing the conformance of the proposed vacation with City codes, rules, regulations, ordinances and plans.
- d. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
- e. Complete written description of the public infrastructure and dedications to be vacated including a legal description of all lands to be vacated.
- f. Vacation plat (i.e., a reproduction of the subdivision on an 8.5 inches x 11 inches sheet of paper or another size approved by the Subdivision Administrator) including the abutting streets. Indicate the lots/streets/public easements vacated. A vicinity map shall be included (i.e., a reduction of the subdivision showing the location of the vacation in relation to the lots, or the area surrounding the street within a one-mile radius, superimposed on a current County or City Map).
- g. Letters from the following, stating their recommendation regarding the vacation and any existing facility they have over or across the land:
  - (1) All special districts and utility companies providing maintenance of infrastructure within an easement proposed for vacation;
  - (2) All landowners abutting or using an easement proposed for vacation;
  - (3) City departments; and

- (4) All known easement beneficiaries.
  - h. A map identifying the area to be vacated and relationship to the abutting landowners including the names and addresses of all owners.
  - i. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.*
- a. *Post Approval Submittals.* Prior to recording the vacation plat in the office of the El Paso County Clerk and Recorder, the following requirements shall be completed:
    - (1) The subdivider shall cause to have removed and placed permanent reference monuments on the property in accordance with C.R.S. §§38-51-101 et seq. and as required by Section 16.22.140 Survey and Monumentation Standards.
    - (2) When the vacation plat is ready for execution and recording, the following information and materials shall be submitted in final form:
      - (a) The vacation plat meeting the requirements of Section 16.21.100.B.5. The map shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
      - (b) The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the vacation plat and other required recordations.
      - (c) A notarized consent of vacation statement or partial release signed by all lien holders or other parties.
      - (d) Correction deeds.
      - (e) Any supplemental information or legal documents to be recorded with the vacation plat including changes or nullifications of covenants and restrictions, homeowners association documents, etc.
      - (f) Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
      - (g) Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.
  - b. *Recording.* Procedures for signing and recording of the vacation are as follows:
    - (1) A vacation certificate shall be prepared by the Subdivision Administrator. The vacation certificate shall specify the affected plat, its reception number, the specific lots, easements or building envelope affected and reference the vacation plat, and the recommendations of the special districts/easement

holders, as applicable. The vacation ordinance may serve as the vacation certificate.

- (2) The vacation certificate may be signed only after the City has determined that the vacation plat and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the City in approving the vacation; and (2) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.
  - (3) Within thirty (30) days of receipt of all required materials, the Subdivision Administrator shall sign and record the vacation certificate, vacation plat, deeds and any other required materials in the office of the El Paso County Clerk and Recorder.
7. *Expiration of Approval.* The approved vacation plat shall be effective for a period of one (1) year from the date of the City's approval. Prior to the end of the one (1) year, the subdivider shall have met all requirements of the vacation process and the vacation plat shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved vacation, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of three (3) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council. If the approval expires prior to filing of the vacation plat for recording, a new application must be submitted.

C. *Lot Line and Easement Vacations.*

1. *Intent.* The intent of the lot line vacation process is to provide a simple administrative review process to vacate lot lines within a subdivision, in which the original subdivision is not substantially modified and additional lots are not created. As an alternative, the City may allow the execution of a combination of lots agreement to establish a zoning lot for purposes of compliance with zoning. It is the purpose of this procedure to alleviate platting costs for certain minor vacations where the purposes of this Title can be served by administrative actions. The procedures set forth shall apply to vacations of interior lot lines and vacations of public easements.
2. *Prerequisite.*
  - a. *Pre-Application Meeting.* Persons desiring to submit a lot line or easement vacation are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations.
  - b. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to

discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for lot line or easement vacation.

3. *Approval Standards.* The Subdivision Administrator may administratively approve any lot line vacation to an approved final plat including a reconfiguration of an easement upon finding that: (1) the lot line vacation is in accordance with the adopted standards and criteria, and the original conditions of approval of this Title and other applicable regulations, including setbacks for any existing structures or uses and area requirements for any lots; (2) the vacation does not include any lots or parcels created illegally; (3) the vacation does not impair any existing access or access easement, or create a need for a new access to or any new easement serving any adjacent lots or parcels; (4) the vacation does not require substantial alteration of existing improvements or create a need for any new improvements.; (5) nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; (6) the vacation is in keeping with the purpose and intent of this Title; (7) the approval will not adversely affect the public health and safety or the environment; and (8) where an easement will be vacated, the findings for approval of easement vacation in Section 16.21.100.B.3. shall be met.
4. *Submittal and Review Process.* A complete application for lot line vacation must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received. Where an easement will be vacated or vacated and relocated, the applicant shall provide letters not objecting to the vacation or vacation and relocation from all easement beneficiaries. If letters from easement beneficiaries cannot be obtained, a plat vacation application must be submitted and processed concurrently with the lot line vacation in accordance with Section 16.21.100.B.
  - a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.C.5 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  - b. If any referral agencies have been identified, referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.
  - c. The Subdivision Administrator shall approve, approve with conditions or deny the lot line vacation. The Subdivision Administrator shall document the decision

including the reasons for the decision in the file which shall serve as the official record of the decision. The Subdivision Administrator shall notify the subdivider of the decision.

- d. If the Subdivision Administrator denies the lot line vacation, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator. The Planning Commission's decision may be appealed in writing to the Council within fifteen (15) days by the subdivider or any aggrieved party.
5. *General Submittal Requirements.* Lot line vacation submittal requirements are as follows:
- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the lot line vacation to be made in specific terms and the reasons that the lot line vacation is needed or desired. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the lot line vacation, request and justification for approval of request; and a statement describing the conformance of the proposed lot line adjustment with City codes, rules, regulations, ordinances and plans.
  - d. Complete legal description of the property.
  - e. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
  - f. Lot line vacation plat (i.e., a certified boundary survey of the lots prepared by a professional land surveyor on an 8.5 inches x 11 inches sheet of paper, or another size approved by the Subdivision Administrator), that shows the existing and proposed lot and easements, with distances and bearings and a vicinity map (i.e., a

reduction of the filing showing the relationship of the lots to the filing), as determined appropriate or necessary by the Subdivision Administrator.

- g. A letter from all special districts and utility companies and City departments providing service to the lots, stating their recommendations regarding the lot line vacation.
- h. When an easement is realigned or vacated, a letter from all known beneficiaries, stating their recommendation regarding the request and any existing facilities they have over or across the land.
- i. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.

6. *Post-Approval Requirements and Recording.*

- a. *Post Approval Submittals.* Prior to recording the lot line vacation plat in the office of the El Paso County Clerk and Recorder, the following requirements shall be completed:
  - (1) The subdivider shall cause to have removed and placed permanent reference monuments on the property in accordance with C.R.S. §§38-51-101 et seq. and as required by Section 16.22.140 Survey and Monumentation Standards.
  - (2) When the lot line vacation plat is ready for execution and recording, the following information and materials shall be submitted in final form:
    - (a) The vacation plat meeting the requirements of Section 16.21.100.C.5. The map shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
    - (b) The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the vacation plat and other required recordations.
    - (c) A notarized consent of vacation statement or partial release signed by all lien holders or other parties.
    - (d) Correction deeds.
    - (e) Any supplemental information or legal documents to be recorded with the lot line vacation plat including changes to covenants and restrictions, homeowners association documents, etc.
    - (f) Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
    - (g) Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.

- b. *Recording.* Procedures for signing and recording of the lot line vacation are as follows:
    - (1) A lot line vacation certificate shall be prepared by the Subdivision Administrator. The lot line vacation certificate shall specify the affected plat, its reception number, the specific lots, easements or building envelope affected and reference the lot line vacation plat, and the recommendations of the special districts/easement holders, as applicable.
    - (2) The vacation certificate may be signed only after the City has determined that the lot line vacation plat and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the City in approving the vacation; and (2) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.
    - (3) Within thirty (30) days of receipt of all required materials, the Subdivision Administrator shall sign and record the lot line vacation certificate, vacation plat, deeds and any other required materials in the office of the El Paso County Clerk and Recorder.
  7. *Expiration of Approval.* The approved lot line vacation plat shall be effective for a period of one (1) year from the date of the City's approval. Prior to the end of the one (1) year, the subdivider shall have met all requirements of the vacation process and the lot line vacation plat shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved vacation, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of three (3) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council. If the approval expires prior to filing of the lot line vacation plat for recording, a new application must be submitted.
- D. *Amendment to, or Removal of, Plat Restrictions or Conditions of Approval.*
1. *Intent.* The Council is authorized to amend or remove plat restrictions or conditions of approval through a simplified review process where it is determined by Council that such restriction or condition is no longer necessary or applicable.
  2. *Prerequisite.*
    - a. *Pre-Application Meeting.* Persons desiring to submit an amendment are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations.



- (2) If the Subdivision Administrator denies the plat amendment, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator. The Planning Commission's decision may be appealed in writing to the Council within fifteen (15) days by the subdivider or any aggrieved party.
  - d. Where the condition or restriction was specifically required by the Planning Commission or Council and compliance or removal is a discretionary decision of the Council, the following steps shall be followed:
    - (1) The Subdivision Administrator shall prepare a staff report and schedule the application for review by Council. The subdivider shall provide courtesy notice in accordance with the notice provisions in Section 16.21.030.C.1., if required by the Subdivision Administrator.
    - (2) The Council shall evaluate the request, referral agency comments, staff report, and public testimony, and shall approve, conditionally approve, table for further study, or deny the request. The Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.
5. *General Submittal Requirements.* Plat amendment submittal requirements are as follows:
- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the request in specific terms and the reasons that the amendment or removal is needed or desired. The following should generally be included in all letters of intent: description of the request and justification for approval of request; and a statement describing the conformance of the proposed request with City codes, rules, regulations, ordinances and plans.
  - d. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or

title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.

- e. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.

6. *Post-Approval Requirements and Recording.* A plat change certificate shall be prepared by the Subdivision Administrator that identifies the change, the plat to be changed, its reception number and the necessary action. The plat change certificate shall be signed by the Subdivision Administrator and filed for recording in the office of the El Paso County Clerk and Recorder. All recording fees shall be the responsibility of the subdivider

E. *Lot Line Adjustments.*

1. *Intent.* The intent of the lot line adjustment process is to provide a simple administrative review process to adjust lot lines within a subdivision or replat several lots (e.g., three [3] lots into two [2]), in which the original subdivision is not substantially modified and additional lots are not created. Lot line adjustments may be used to adjust the boundaries between no more than ten (10) adjacent platted lots without the necessity of a vacation plat and replat when no additional lots are being created.
2. *Prerequisite.* Prior to submittal of a lot line adjustment application, the subdivider shall meet with the Subdivision Administrator to discuss the lot line adjustment, the procedures and submittal requirements. The Subdivision Administrator shall also identify the referral agencies that will need to review the application, if any.
3. *Approval Standards.* The Subdivision Administrator may administratively approve any lot line adjustment to an approved final plat including a vacation or vacation and reconfiguration of an easement upon finding that: (1) the lot line adjustment is in accordance with the adopted standards and criteria, and the original conditions of approval of this Title and other applicable regulations, including setbacks for any existing structures or uses and area requirements for any lots; (2) the adjustment does not include any lots or parcels created illegally; (3) the adjustment does not impair any existing access or access easement, or create a need for a new access to or any new easement serving any adjacent lots or parcels; (4) the adjustment does not require substantial alteration of existing improvements or create a need for any new improvements; (5) nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; (6) the lot line adjustment is in keeping with the purpose and intent of this Title; (7) the approval will not adversely affect the public health and safety or the environment; and (8) where an easement will be vacated, the findings for approval of easement vacation in Section 16.21.100.B.3. shall be met.
4. *Submittal and Review Process.* A complete application for lot line adjustment must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received. Where an easement will be vacated or vacated and

relocated, the applicant shall provide letters not objecting to the vacation or vacation and relocation from all easement beneficiaries. If letters from easement beneficiaries cannot be obtained, a plat vacation application must be submitted and processed concurrently with the lot line vacation in accordance with Section 16.21.100.B.

- a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.E.5 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  - b. If referral is required, referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts. The subdivider shall provide notice in accordance with the notice provisions in Section 16.21.030.C.3., if required by the Subdivision Administrator.
  - c. The Subdivision Administrator shall approve, approve with conditions or deny the lot line adjustment. The Subdivision Administrator shall document the decision including the reasons for the decision in the file which shall serve as the official record of the decision. The Subdivision Administrator shall notify the subdivider of the decision.
  - d. If the Subdivision Administrator denies the lot line adjustment, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator. The Planning Commission's decision may be appealed in writing to the Council within fifteen (15) days by the subdivider or any aggrieved party.
5. *General Submittal Requirements.* Lot line adjustment submittal requirements are as follows:

- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the lot line adjustment to be made in specific terms and the reasons that the lot line adjustment is needed or desired. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the lot line adjustment, request and justification for approval of request; and a statement describing the conformance of the proposed lot line adjustment with City codes, rules, regulations, ordinances and plans.
  - d. Complete legal description of the property.
  - e. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
  - f. Lot line adjustment map (i.e., a certified boundary survey of the lots prepared by a professional land surveyor on an 8.5 inches x 11 inches sheet of paper, or another size approved by the Subdivision Administrator), that shows the existing and proposed lot and easements, with distances and bearings and a vicinity map (i.e., a reduction of the filing showing the relationship of the lots to the filing), as determined appropriate or necessary by the Subdivision Administrator.
  - g. A letter from all special districts and utility companies and City departments providing service to the lots, stating their recommendations regarding the lot line adjustment.
  - h. When an easement is realigned or vacated a letter from all known beneficiaries, stating their recommendation regarding the request and any existing facilities they have over or across the land.
  - i. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.*
- a. *Post Approval Submittals.* Prior to recording the lot line adjustment map in the office of the El Paso County Clerk and Recorder, the following requirements shall be completed:
    - (1) The subdivider shall cause to have removed and placed permanent reference monuments on the property in accordance with C.R.S. §§38-51-101 et seq. and as required by Section 16.22.140 Survey and Monumentation Standards.

- (2) When the lot line adjustment map is ready for execution and recording, the following information and materials shall be submitted in final form:
  - (a) The lot line adjustment map meeting the requirements of Section 16.21.100.E.5. The map shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
  - (b) The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the map and other required recordations.
  - (c) A notarized consent of lot line adjustment statement or partial release signed by all lien holders or other parties.
  - (d) Correction deeds.
  - (e) Any supplemental information or legal documents to be recorded with the lot line adjustment map including changes to covenants and restrictions, homeowners association documents, etc.
  - (f) Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
  - (g) Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.
- b. *Recording.* Procedures for signing and recording of the lot line adjustment are as follows:
  - (1) A lot line adjustment certificate shall be prepared by the Subdivision Administrator. The lot line adjustment certificate shall specify the affected plat, its reception number, the specific lots, easements or building envelope affected and reference the lot line adjustment map, and the recommendations of the special districts/easement holders, as applicable.
  - (2) The lot line adjustment certificate may be signed only after the City has determined that the lot line adjustment map and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the City in approving the vacation; and (2) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.
  - (3) Within thirty (30) days of receipt of all required materials, the Subdivision Administrator shall sign and record the lot line adjustment certificate, lot line adjustment map, deeds and any other required materials in the office of the El Paso County Clerk and Recorder.
7. *Expiration of Approval.* The approved lot line adjustment map shall be effective for a period of one (1) year from the date of the City's approval. Prior to the end of the one (1) year, the subdivider shall have met all requirements of the lot line adjustment

process and the lot line adjustment map shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved lot line adjustment, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a maximum of three (3) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council. If the approval expires prior to filing of the lot line adjustment map for recording, a new application must be submitted.

F. *Error Corrections.*

1. *Intent.* The intent of the plat correction process is to provide a simple administrative review process to make corrections to subdivision plats and any associated documents due to errors or omissions; i.e., dimensions, road names, plat notes.
2. *Prerequisite.* Prior to submittal of a plat correction application, the subdivider shall meet with the Subdivision Administrator to discuss the correction, the procedures and submittal requirements since the submittal requirements and document filed may vary depending on the nature of the correction. The Subdivision Administrator shall also identify the referral agencies that will need to review the application, if any.
3. *Approval Standards.* The Subdivision Administrator may administratively approve any correction to an approved final plat or the any associated documents where the change is due to a minor error or omission including a minor reconfiguration of an easement upon finding that: (1) The correction is in accordance with the adopted standards and criteria, and the original conditions of approval; (2) nonconforming lots are not created, and in the case of nonconforming lots, the nonconformity is not increased; (3) the correction is in keeping with the purpose and intent of this Title; and (4) the approval will not adversely affect the public health, safety and welfare.
4. *Submittal and Review Process.* A complete application for plat correction must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
  - a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.F.5 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  - b. If referral is required, referral packets shall be mailed by the Subdivision Administrator. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider

where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.

- c. The Subdivision Administrator shall approve, approve with conditions or deny the plat correction. The Subdivision Administrator shall document the decision including the reasons for the decision in the file which shall serve as the official record of the decision. The Subdivision Administrator shall notify the subdivider of the decision.
  - d. If the Subdivision Administrator denies the plat correction, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and shall explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator. The Planning Commission's decision may be appealed in writing to the Council within fifteen (15) days by the subdivider or any aggrieved party.
5. *General Submittal Requirements.* Plat correction submittal requirements are as follows:
- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the correction to be made in specific terms and the reasons that the correction is needed or desired. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the correction, request and justification for approval of request; and a statement describing the conformance of the proposed correction with City codes, rules, regulations, ordinances and plans.
  - d. Complete legal description of the property.
  - e. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.

- f. Plat exhibit meeting the requirements of Section 16.21.090 or other form of map exhibit showing the correction, if determined appropriate by the Subdivision Administrator.
  - g. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.* A plat correction certificate shall be prepared by the Subdivision Administrator that identifies the error or omission, the plat to be corrected, its reception number and the necessary corrective action. The plat correction certificate shall be signed by the Subdivision Administrator and filed for recording in the office of the El Paso County Clerk and Recorder. Where the error or omission involves the survey information, the professional land surveyor responsible shall also sign the certificate. All recording fees shall be the responsibility of the subdivider.

G. *Street Vacation.*

1. *Intent.* The Council has authority to vacate roadways, which include any public street, alley, lane, parkway, avenue, road, trail or other public way designated or dedicated on a plat, conveyed by deed or recorded easement, or acquired by prescriptive use (common law dedication needed), whether or not it has ever been used as such by ordinance in accordance with C.R.S., §§43-2-301, et seq., and as authorized and required by the City's Charter including any associated public easements.
2. *Prerequisite.* Prior to submittal of a street vacation application, the subdivider shall meet with the Subdivision Administrator to discuss the vacation, the procedures and submittal requirements since the submittal requirements and document filed may vary depending on the nature of the vacation. The Subdivision Administrator shall also identify the referral agencies that will need to review the application, if any.
3. *Approval Standards.* A platted or deeded street, or portion thereof, or unplatted or undefined streets which have arisen by public usage shall not be vacated so as to leave any land adjoining said street without an established public street or private access easement connecting said land with another established public street.
4. *Submittal and Review Process.* A complete application for street vacation must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
  - a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.G.6 to the Subdivision Administrator including complete packets for any referral agencies, if any. Referral packets with all submittal information accurately folded and assembled shall be provided by the subdivider in unsealed manila envelopes addressed to appropriate referral agencies.
  - b. The referral agencies shall provide comment within twenty-one (21) days of receiving a complete submittal. A minimum of twenty-one (21) days after mailing

the referral packets to the referral agencies, the Subdivision Administrator shall review and compile the referral comments received. A DRT meeting may also be scheduled by the Subdivision Administrator or requested by the subdivider where significant issues have been identified or where agency comments conflict as a means of resolving the issues or conflicts. The subdivider may be invited to the DRT meeting scheduled to resolve issues or conflicts.

- c. The Subdivision Administrator shall prepare a staff report, schedule the application for review by the Planning Commission, and notify the subdivider of the meeting date. Any known objector or beneficiary of the public right-of-way to be vacated shall be noticed of the meeting date and time by the mailing the known objector or beneficiary notice of the meeting at least ten (10) days in advance of the meeting. The subdivider shall provide notice in accordance with the notice provisions in Section 16.21.030.C.2.
  - d. The Planning Commission will hold a public hearing to review the street vacation, the referral comments, the subdivider's testimony, the public comments, and the staff report. The Planning Commission's decision concerning the application will be based on presented documentation and any remarks along with compliance of standards, policies, regulations, and guidelines and the street vacation approval standards outlined in Section 16.21.100.G.3.
  - e. Following action by the Planning Commission, the Subdivision Administrator, in consultation with the City Attorney, shall prepare a vacation ordinance that specifies the legal description of the street vacated, and that makes reference to the recommendation of the special districts, utility companies, and other beneficiaries, as applicable. The Subdivision Administrator shall schedule the application and ordinance for public hearing before the Council. The City Clerk shall provide notice as required by Council policy and City Charter.
  - f. The Council shall evaluate the vacation request, referral agency comments, staff report, the Planning Commission recommendation and public testimony, and shall approve, conditionally approve, table for further study, or deny the vacation request. The Council's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.
5. *General Submittal Requirements.* Street vacation submittal requirements are as follows:
- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the street vacation to be made in specific terms and the reasons that the street vacation is needed or desired. The following should generally be included in all letters of intent: description of the street vacation, request and justification for approval of request; and a statement describing the conformance of the proposed street vacation with City codes, rules, regulations, ordinances and plans.
  - d. Complete written description of the street to be vacated.

- e. Vacation map (i.e., a reproduction of the street or access easement on an 8.5 inches x 11 inches sheet of paper or another size approved by the Subdivision Administrator including the written legal description). A vicinity map shall be included (i.e., a reduction of the subdivision showing the location of the street in relation to the lots, or the area surrounding the street within a one-mile radius, superimposed on a current County or City Map).
  - f. Letters from the following, stating their recommendation regarding the vacation and any existing facility they have over or across the land. Note that where letters cannot be obtained, notice provided in accordance with Section 16.21.030.C.2. shall be considered adequate.
    - (1) All special districts and utility companies providing maintenance of infrastructure within the rights-of-way or public easements proposed for vacation;
    - (2) All landowners abutting or using a right-of-way or public easement proposed for vacation;
    - (3) City departments; and
    - (4) All known easement beneficiaries.
  - g. A map identifying the area to be vacated and relationship to the abutting landowners including the names and addresses of all owners.
  - h. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.*
- a. *Vesting of Title.* Vesting of title upon vacation shall be in accordance with C.R.S. §43-2-302.
  - b. *Deeds and Recording.* Upon approval by the Council, the Subdivision Administrator shall, in consultation with the City Attorney, prepare any deeds required by the vacation. Within thirty (30) days, the Subdivision Administrator shall submit the vacation ordinance, vacation plat and deeds, if required, for recordation to the office of El Paso County Clerk and Recorder.

H. *Replat (Vacation and) and Townhome (including Commercial Building Pads).*

1. *Intent.* The intent of the replat provision is to allow the resubdivision of lands already platted. The replat involves the vacation of previously platted land with or without the requirement to file a vacation plat. Several forms of replat are recognized these include Major Subdivisions, Minor Subdivisions, Townhome Subdivisions, Commercial Building Pads, and Condominium Subdivisions. Condominium subdivisions or maps are governed by Section 16.21.100.I.
2. *Prerequisite.*
  - a. *Pre-Application Meeting.* Persons desiring to submit a replat are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. Where a pre-application meeting was held in association with a concept plan or preliminary plat, the Subdivision Administrator may waive the pre-application meeting.
  - b. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for replat.
3. *Approval Standards.* The approval standards for a replat are the same as those for a preliminary plat and final plat as specified in Section 16.21.080.C and 16.21.090.C. In addition, because a replat involves the vacation of all or a portion of a previously approved plat, the approval standards for a vacation plat also apply. If the vacation involves existing public infrastructure or dedications that are in use, the approval standards also include the approval standards identified in Section 16.21.100.A.3. If the vacation does not involve the vacation of public infrastructure or dedications that are in use, the approval standards include the approval standards identified in Section 16.21.100.B.3.
4. *Submittal and Review Process.* A complete application for replat must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received.
  - a. *Replats Processed as Minor or Major Subdivisions.* The replat application shall be processed as a Minor or Major Subdivision in accordance with Section 16.21.040 or 16.21.050 depending on the exact nature of the request. Notice shall be as required for the associated vacation and platting actions.
  - b. *Townhome or Commercial Building Pads.* Where a concept plan for a townhome or commercial development was prepared and approved as part of the super lot, the

townhome or commercial building pad plat may be processed administratively as a final plat even though the plat may result in the creation of more than 10 lots. Where no concept plan was approved when establishing the super lot, the townhome or commercial building pad plat shall be processed as a Minor or Major Subdivision in accordance with Section 16.21.040 or 16.21.050 depending on the exact nature of the request. Notice is as required for the platting action in the case of an administrative approval.

5. *General Submittal Requirements.* The submittal requirements shall be the same as those required for Preliminary and Final Plat in accordance with Section 16.21.080.D or 16.21.090.D depending on the exact nature of the request. Where an easement will be vacated or vacated and relocated, the applicant shall provide letters not objecting to the vacation or vacation and relocation from all easement beneficiaries. If letters from easement beneficiaries cannot be obtained, a plat vacation application must be submitted and processed concurrently with the lot line vacation in accordance with Section 16.21.100.B. Where a right-of-way will be vacated, the right-of-way shall be vacating using the procedures established in Section 16.21.100A or 16.21.100G. In addition to the information required by Section 16.21.080.D or 16.21.090.D, the following information shall be required:
  - a. Complete written description of the public infrastructure and dedications to be vacated including legal descriptions.
  - b. Vacation plat (i.e., a reproduction of the subdivision on an 8.5 inches x 11 inches sheet of paper or another size approved by the Subdivision Administrator, including the abutting streets. Indicate the lots/streets/public easements vacated.). A vicinity map shall be included (i.e., a reduction of the subdivision showing the location of the vacation in relation to the lots, or the area surrounding the street within a one-mile radius, superimposed on a current County or City Map).
  - c. Letters from the following, stating their recommendation regarding the vacation and any existing facility they have over or across the land:
    - (1) All special districts, utility companies, and other authorized users of right-of-way or public easements providing maintenance of infrastructure within the right-of-way or public easements;
    - (2) City departments;
    - (3) All landowners abutting or using a right-of-way or easement proposed for vacation; and
    - (4) All known right-of-way or easement beneficiaries.
  - d. A map shall be included identifying the area to be vacated and relationship to the abutting landowners including the names and addresses of all owners.

- e. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
  6. *Post-Approval Requirements.* All post approval requirements associated with a final plat shall apply to a final plat of a replatted subdivision as outlined in Section 16.21.090.H. In addition, all requirements associated with vacation outlined in Section 16.21.100.A.6, 16.21.100.B.6, or 16.21.100.G.6 depending on the nature of the vacation.
  7. *Expiration of Approval.* The approved preliminary and final replat shall be subject to the same expirations as all preliminary plats (Section 16.21.080.I) and final plats (Section 16.21.090.I).
- I. *Condominium Subdivision (Condominium Map).*
1. *Intent.* The purpose of this procedure is to provide review processes to ensure that the creation or conversion of condominium subdivisions will comply with the Building Code provisions of this Title, and other City codes and ordinances.
  2. *Prerequisite.*
    - a. *Pre-Application Meeting.* Persons desiring to submit a condominium map are required to meet with the Subdivision Administrator for a pre-application meeting, unless specifically waived by the Subdivision Administrator. The purpose of the meeting is to inform the subdivider of subdivision procedures and requirements, to provide a checklist of the items to be included with the subdivision application, and to provide preliminary recommendations. Where a pre-application meeting was held in association with a concept plan or preliminary plat, the Subdivision Administrator may waive the pre-application meeting.
    - b. *DRT Meeting.* Where determined necessary by the Subdivision Administrator, the Subdivision Administrator may require the subdivider to attend a DRT meeting to discuss the proposed subdivision in advance of filing an application. The subdivider may also specifically request to meet with the DRT. The DRT meetings provide the subdivider with the opportunity to interface with all members of the review team and to identify issues that need to be addressed. Where required by the Subdivision Administrator, attendance at the DRT meeting shall be considered a prerequisite to acceptance of any application for a condominium map.
  3. *Approval Standards.* The Subdivision Administrator may approve the condominium map upon the finding that: (1) the plat is consistent with the approved final plat and any associated concept plan or site improvement plan; (2) the property line boundaries are consistent with the approved final plat; (3) the condominium map is consistent with the approved final plat and any associated concept plan or site improvement plan; and (4) access has been provided for subsequent phases.
  4. *Submittal and Review Process.* A complete application for condominium map must be submitted to the Subdivision Administrator and shall not be considered accepted until all required information is received. Notwithstanding anything in this Title to the contrary, no requirement for public improvements, dedication of land to public use, or

other subdivision requirement shall be imposed as a condition of approval for a condominium subdivision or common interest community which would not be imposed upon a physically-identical development under a different form of ownership. This provision shall not be construed to prevent the City from imposing the review requirements of this Title upon any change of use, expansion of use, increase in intensity of use, or other change in a condominium or common interest community unrelated to its form of ownership.

- a. The subdivider shall submit a complete application with accompanying documents in accordance with the application package and Section 16.21.100.I.5 to the Subdivision Administrator.
  - b. The Subdivision Administrator shall approve, approve with conditions or deny the condominium map. The Subdivision Administrator shall document the decision including the reasons for the decision in the file which shall serve as the official record of the decision. The Subdivision Administrator shall notify the subdivider of the decision.
  - c. If the Subdivision Administrator denies the condominium map, the decision may be appealed in writing by the subdivider or any aggrieved party within fifteen (15) days of the Subdivision Administrator's action. The request for appeal shall be filed with the Subdivision Administrator and explain the nature of the appeal including the specific issues under appeal and provide written justification supporting the appeal. The appeal shall be accompanied by all required fees. After the request for appeal is determined to be complete, the Subdivision Administrator shall prepare a staff report and schedule the appeal for consideration before Planning Commission. The Subdivision Administrator shall notify the subdivider of the date and time of the hearing. The Planning Commission, after considering all information presented including the staff report, application, written appeal, the Subdivision Administrator's action and any testimony from the subdivider, staff, or public shall take action to either support the Subdivision Administrator's action, modify the Subdivision Administrator's action, overturn the Subdivision Administrator's action, or refer the application back to the Subdivision Administrator.
5. *General Submittal Requirements.* The condominium map submittal requirements are as follows:
- a. Completed and signed application.
  - b. The appropriate fee as set forth in the fee schedule.
  - c. Letter of intent describing the condominium map in specific terms. The following should generally be included in all letters of intent: name of the owner, subdivider and consultant, including addresses and telephone numbers; site location, size and zoning; description of the condominium map, request and justification for approval of request; and a statement describing the conformance of the proposed condominium map with City codes, rules, regulations, ordinances and plans.
  - d. Complete legal description of the property.

- e. Proof of ownership, which may be achieved by including a copy of the current deed showing the subdivider's name as owner; a current title insurance policy or title commitment no more than thirty (30) days prior to the date of application; or a copy of the current deed and a notarized letter of authorization from the landowner authorizing the subdivider to process and represent the subdivision application dated no more than thirty (30) days prior to the date of application.
  - f. Condominium map (i.e., a certified boundary survey of the lot prepared by a professional land surveyor on an 8.5 inches x 11 inches sheet of paper, or another size approved by the Subdivision Administrator) including the exact name of condominium subdivision; written and graphic scale, north arrow and date of preparation; location of the condominium subdivision by reference to streets, lots and blocks, lot lines and property lines to the hundredth foot (1/100'); zoning and existing densities on adjacent properties; required parking spaces and joint trash collection areas, floor plans, elevations and site plan as required to show separate ownership of all separate units; common elements and limited common elements labeled as such and numbered for ease of identification; number, type and floor area of units, common elements and limited elements, delineated in square feet and fractions thereof; proposed use for each unit; land area; percentage of open space; and floor area ratio; and statement of the total number of units shown on the proposed plat. All dimensions shall be to the nearest hundredth foot (1/100'). Land surveyor's certificate signed by a land surveyor registered by the State of Colorado and a vicinity map (i.e., a reduction of the filing showing the relationship of the lots to the filing), as determined appropriate or necessary by the Subdivision Administrator.
  - g. A copy of the condominium declaration and all associated homeowners association documents.
  - h. Such other items deemed necessary by the Subdivision Administrator to support review and approval of the application.
6. *Post-Approval Requirements and Recording.*
- a. *Prior to Recording Declaration.* Prior to recording a declaration which would convert a multiunit development to condominium units, the owner of such property shall demonstrate that the following provisions have been met.
    - (1) The structure subject to the proposed condominium conversion shall meet current off street parking requirements for the underlying zone district. Each residential condominium unit shall be considered a separate dwelling unit for purposes of determining parking compliance.
    - (2) A fire wall may be required between units as a condition of approval of any condominium plat involving a condominium conversion in accordance with the Building or Fire Code.
    - (3) Owners of properties proposed for condominium conversion shall notify all residential tenants in writing of the conversion at least ninety (90) days prior to

termination of any residential tenancy in accordance with C.R.S. §38 33 112, as amended. Copies of the notification shall be filed with the Subdivision Administrator as proof of notification.

- b. When the condominium map and declaration is ready for execution and recording, the following information and materials shall be submitted in final form:
    - (1) The condominium map meeting the requirements of Section 16.21.100.I.5. The map shall be signed by the owner(s) of record and professional land surveyor. The signatures of the owner or record and professional land surveyor shall be notarized.
    - (2) The appropriate fees as set forth in the fee schedule and fees established by the El Paso County Clerk and Recorder for recordation of the map and other required recordations.
    - (3) A notarized consent of condominium statement or partial release signed by all lien holders or other parties.
    - (4) Any supplemental information or legal documents to be recorded with the condominium map including declaration covenants and restrictions, homeowners association documents, etc.
    - (5) Tax certificate from the El Paso County Treasurer certifying that all taxes due have been paid.
    - (6) Other documents or information requested by the Subdivision Administrator to confirm conformance with any conditions of approval.
  - c. *Recording.* Procedures for signing and recording of the condominium map are as follows:
    - (1) The condominium map may be signed only after the City has determined that the condominium map and supporting materials required by this Title are in substantial conformance with: (1) all conditions established by the City in approving the condominium map; and (2) all other requirements of this Title and other applicable City codes, rules, regulations and ordinances.
    - (2) Within thirty (30) days of receipt of all required materials, the Subdivision Administrator shall sign and record the condominium map, declaration and any other required materials in the office of the El Paso County Clerk and Recorder.
7. *Expiration of Approval.* The approved condominium map shall be effective for a period of one (1) year from the date of the City's approval. Prior to the end of the one (1) year, the subdivider shall have met all requirements of the condominium process and the condominium map shall have been signed and recorded in the office of the El Paso County Clerk and Recorder. The subdivider may request in writing, prior to the expiration of the approved condominium map, an extension of the approval period. An application for extension shall: (1) show good cause for the extension; (2) be limited to a

maximum of three (3) months; and (3) be reviewed by the staff and approved by the Subdivision Administrator. Upon denial of an extension, the Subdivision Administrator's decision may be appealed to the Planning Commission by the subdivider or any aggrieved party. Upon denial by the Planning Commission of an extension, the subdivider or any aggrieved party may appeal the decision of the Planning Commission to the Council. If the approval expires prior to filing of the condominium map for recording, a new application must be submitted.

**16.21.110 Inactive Files.** Subdivision files become inactive when the subdivider is required to submit additional information, request a meeting date and has failed to do so, or no applicant activity and progress have occurred on the application for a period of more than six (6) months. When a subdivision file becomes inactive, the subdivision application shall become void. Submittal of a new subdivision application and fees shall be required to pursue the subdivision request.

A written application for an extension must show good cause for the extension along with an estimated time for submittal of the additional information or submittal of a request for a hearing date. The Subdivision Administrator may grant an extension of time, for no more than six (6) months, upon timely submission of a written application by the subdivider providing a) land development in the surrounding area has not changed, b) regulatory provisions governing the development have not changed, and c) the Subdivision Administrator determines that that the requested extension of time is for good cause. In determining if good cause for an extension exists, the Subdivision Administrator shall consider if the applicant has demonstrated good cause for an extension request based upon sufficient financial hardship or other sufficient hardship.

After granting an extension of time, the Subdivision Administrator may grant additional extensions of time of no more than six (6) months each if a written request in accordance with the criteria set forth in this section for extension is submitted prior to the expiration of the previous extension.

Whenever an application for an extension of time is submitted prior to a subdivision file becoming inactive the file shall remain active and the subdivision application shall remain in effect until the Subdivision Administrator approves or disapproves the application for an extension of time. Subdivision files may have several periods of inactivity throughout the subdivision process; provided that no period of subdivision file inactivity shall exceed six (6) months. In no case shall extensions of time be granted which together total more than twelve (12) consecutive months.

These provisions shall apply to all subdivision applications on file with the City and to any subdivision applications filed thereafter.  
(Amended 2/10/2009 Ordinance #1447)

## **16.22 SUBDIVISION DESIGN STANDARDS**

**16.22.010 Basis for Subdivision Design.** To achieve the intent and purpose of these regulations, a proposed subdivision shall substantially conform to all relevant design criteria and standards contained within this Title. Minimum standards for development are contained in the City of Fountain Zoning Ordinance, Public Works and Utilities Design and Construction Specifications, Building Code and in these regulations. Subdivisions shall also conform to all applicable special district and public utility standards including the City of Fountain Water Distribution System Design & Construction Specifications Manual, the Fountain Sanitation District Specification and Regulations Manual and the Widefield Water and Sanitation District Rules and Regulations.

The Comprehensive Development Plan expresses policies designed to achieve an optimum quality of development. If only the minimum standards are followed, as expressed by the various ordinances and codes regulating land development, a standardization of development will occur. Subdivision design shall be of a quality to carry out the purpose and spirit of the goals, policies and implementation strategies expressed in the Comprehensive Development Plan, and amendments thereto, and in these regulations.

### **16.22.020 General Requirements.**

- A. *Conformity with Zoning.* In addition to the standards set forth in this Title, all plats and maps shall comply with the City of Fountain Zoning Ordinance.
- B. *Continuation of Roads and Other Linear Facilities.* Subdivisions shall be designed to accommodate the continuation of streets, trails, pedestrian access, utilities and drainage facilities into adjacent property unless there is sufficient justification for an alternative design. The connection shall provide a logical, safe and convenient circulation link for vehicular, bicycle, pedestrian, or equestrian traffic with existing or planned circulation routes and, in particular, to destinations such as schools, parks and business or commercial centers.
- C. *Steep, Unsuitable and Poorly Drained Lands.* Steep land, unstable land, and areas having inadequate drainage shall be noted, and unless acceptable provisions are made for eliminating or controlling problems that may endanger health, life, or property, such areas shall not be platted for occupancy.
- D. *Natural Drainage Channels.* Any land in a natural drainage channel shall not be platted for occupancy unless adequate provisions to eliminate or control flood hazards are made and approved. These provisions shall be made to protect the health, safety, and welfare of the public, as well as to eliminate any flood hazard resulting from the development of the area. Development shall be carried out in conformity with plans as finally approved.

**16.22.030 Block Standards.** Block design shall conform to sound subdivision design principles; and the length, width and shape shall be determined with due regard to zoning district requirements as to lot size, topographic conditions, and the need for safe, convenient access and traffic circulation. Blocks shall not exceed fifteen hundred (1,500) feet in length. Whenever practicable, blocks along major streets shall not be less than one thousand (1,000) feet in length.

**16.22.040 Lot Standards.**

- A. *Size, Shape and Orientation.* The size, shape and orientation of lots shall be appropriate to the proposed subdivision location, and to the type of development contemplated, and shall conform to requirements of this Title and the City of Fountain Zoning Ordinance. All subdivisions shall result in the creation of lots that are developable and that have adequate building sites.
- B. *Contours and Natural Features.* The layout of lots and blocks should provide desirable settings for structures by making use of natural contours and maintaining existing views, affording privacy for the residents, and protection from adverse noise and vehicular traffic. Natural features and vegetation of the area should be preserved to the greatest extent possible.
- C. *Steep or Unsuitable Slopes.* Steep land or unsuitable slopes shall be avoided in accordance with Section 16.22.020.C. Appropriate engineering measures to ensure slope stability, occupant safety and erosion prevention shall be required where lots are proposed in areas having slopes in excess of 10 percent
- D. *Division of Lots or Subdivision by Municipal or School District Boundaries.* No subdivision or lot within a subdivision shall be divided by a City limit line or School District boundary.
- E. *Access of Lots to Street.* Each lot shall be provided with vehicular access to a dedicated public street. Access to and from the lot may occur by shared private driveway easement or private street. Residential lots should front only on Residential, Residential Collector, or Local streets including cul-de-sacs located on Residential, Residential Collector, or Local Streets (See Section 16.24.040 for street types). Commercial and industrial lots should front only on Industrial/Commercial Collectors/Local Streets. Lots designated to face Expressway, Community Arterial or Community Collector Streets shall provide adequate means for automobile turnaround within the lot. Direct lot access is not generally allowed from a Community Arterial or Community Collector Street, but may be granted where no other alternative exists. However, every effort shall be made in the design of a subdivision to minimize the number of accesses to a Community Arterial or Community Collector. No direct lot access is allowed from an Expressway. No more than four (4) lots may access a public or private street via a private driveway easement except where specifically designed as part of a commercial or industrial development where adequate provision for access by emergency service vehicles has been provided and maintenance is secured through maintenance agreements approved by the City Attorney,.
- F. *Use of Double Fronting Lots Limited.* Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of residential development from major streets or to overcome specific disadvantages or topography or orientation. An appropriate landscaped or fenced buffer shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right of access across a planting and screening easement. The City may require a permanent ornamental fence of a height and architectural design that will appropriately screen and be harmonious with the neighborhood and residential character.

- G. *Use and Design of Flag Lots.* Flag lots shall only be allowed where warranted by physical conditions of land form, existing lot pattern, or unusual size or shape of parcel(s). The narrow strip of land connecting the main portion of a flag lot to the street shall not be less than twenty (20) feet wide at any point so long as five-foot (5') side lot utility public easements are provided on property adjacent to the flag lot lines. If public easements are not provided on the adjacent lot, the stem portion of the flag lot shall be not less than twenty-five (25) feet in width. The narrow strip of land shall also provide for practical vehicular and utility access. The stem-portion of the lot may not be used to calculate the minimum lot area requirement of the zoning district. The length of the stem of the flag lot shall not exceed the length of the longest side of the flag portion of the flag lot. Wherever possible, flaglots should be avoided in favor of creating lots without frontage on a private or public road where access is provided via a shared private driveway easement. All driveways shall be consolidated to the maximum extent practicable.
- H. *Superlots.* If a tract is subdivided into parcels larger than ordinary building lots for purposes of future division or the creation of townhome or condominium plats, such parcels shall be arranged to allow the opening of future streets and logical further subdivision.
- I. *Orientation of Side Lot Lines.* The side lines of all lots should be at right angles or radial to the street upon which the lots front with a maximum divergence of up to ten (10) degrees at the front setback line, unless there are topographic features or areas of unusual vegetation warranting greater divergence from this standard or the most efficient use of land demands an alternative standard.
- J. *Zoning.* Lots and tracts shall be entirely within one (1) zone or use area.
- K. *Floodplain.* Tracts of land or portions thereof lying within the floodplain shall not be subdivided except for undeveloped open space until the subdivider has complied with requirements of the City of Fountain floodplain ordinance and Section 16.22.020.D.
- L. *Remnants of Land.* Substandard remnants of land shall be prohibited unless designated as tracts or adequate assurance is provided to incorporate the tracts into usable lots in future developments.
- M. *Special Tracts.* Special tracts of land that are included on a plat must have a special plat note describing the intended use, ownership, and perpetual maintenance responsibility for the tract.
- N. *Commercial Lots or Building Pads.* Commercial lots or building pads shall not be required to have frontage on a public street and may be platted as townhome or condominium subdivisions. Access may be provided by cross-lot access easements within a commercial development. All lots and building pads shall have legal access and shall be designed to accommodate the proposed use.
- O. *Lot Design Adjacent to Arterial and Collector Streets and Railroads.*
1. *Arterial and Collector Streets.* Restriction of access shall be required when a lot or tract adjoins a Community Arterial or Community Collector Street. Marginal access streets, reverse frontage with screen planting contained in a non-access reservation, deep lots, or similar treatment shall be required to reduce the impact of traffic on

residential properties and to avoid interference with the movement of traffic on thoroughfares. At a minimum, all plats having lots bordering a Community Collector or Community Arterial Street shall contain a note limiting or prohibiting ingress and egress to that street.

2. *Railroads.* Where a residential subdivision borders a railroad right-of-way, either a parallel street, lots with increased setbacks, or a landscaped buffer area may be required by the Planning Commission and the Council.

**16.22.050 Easements.**

- A. *Maintenance of Easements.* The property owner shall be responsible for the maintenance of all easements.
- B. *Required Public Utility and Drainage Easements.* Public utility and private drainage easements shall be provided not less than five (5) feet in width on both sides of all side lot lines and eight (8) feet in width on both sides of all rear lot lines. If the rear lot line adjoins an unplatted parcel under separate ownership, the utility easement for the rear lot line shall be twelve (12) feet in width. A public utility and improvement easement shall be provided not less than ten (10) feet in width along the front lot line. The ten (10) foot easement is in addition to the five (5) foot easement required by Section 16.24.040. Additional easements or tracts may be required to accommodate drainage from the subdivision and maintain drainage through the subdivision. In some cases, a special district or public utility may require additional easements or wider easements to accommodate utilities. Where a special district or public utility requires additional or wider easements to serve a proposed subdivision, the special district or public utility standard shall prevail. Where the special districts and utility companies serving a subdivision agree to an alternative easement layout, the Planning Commission or Subdivision Administrator may approve the alternative layout upon recommendation of the City Engineer at the time of preliminary or final plat.
- C. *Use of Easements by Lot Owner.* No buildings or structures shall be placed within an easement unless specifically authorized by the City of Fountain. Fences six (6) feet or less in height shall be allowed without City approval, but are subject to damage or removal by any entity authorized to use the easement. Such damage or removal shall not be the responsibility of the entity authorized to use the easement, but shall be the responsibility of the lot owner. However, the entity authorized to use the easement shall be responsible for making a reasonable attempt to restore the fence and other features within the easement to their original condition.
- D. *Site Distance Triangle Easements.* The appropriate traffic sight distance triangles easements shall be designated and dimensioned on the plat. Sight distance triangles shall be shown at the intersection of all roads and at the intersection of all commercial or private road, drives, and access points with public roads with 500 ADT or more. No buildings, structures, vegetation, or other items higher than three (3) feet in height shall be placed within a site distance triangle easement. Where the sight distance triangle easement is proposed to accomplish the required corner right-of-way chamfer in Section 16.24.040(C), the easement shall be dedicated as a public improvements and sight distance triangle easement and meet the minimum chamfer right-of-way standards in Section 16.24.040(C).

- E. *Private Access Easements.* Private access easements shall be a minimum of twenty-four (24) feet wide.
- F. *Cross Lot Access Easements.* Private cross access easements may be required across any lot fronting on an arterial or collector street to minimize the number of access points and facilitate access between and across individual lots. The location and dimension of said easement shall be determined by the City Engineer.
- G. *Easements for Maintenance of HOA or Metro District Facilities.* Homeowner association or metropolitan district facilities shall be placed in easements or tracts including walls, fences, landscaping, trails, pocket parks, detention ponds, drainage facilities, recreation facilities, signage, etc. All easements or tracts shall be large enough and provide adequate access for maintenance by the necessary type of equipment.
- H. *Depiction of Easements on Plat.* All required easements shall be placed on the final plat by plat note or graphic depiction which shall note the purpose and limitations on the use, ownership, and maintenance responsibilities associated with the easement. Further, all private drainage easements shall be marked private drainage easement on the plat along with a special plat note describing the perpetual ownership and maintenance responsibility for the private drainage easement noting that the City is not responsible for the maintenance of private drainage easements.
- I. *Irrigation Ditch Easements.* If an irrigation ditch runs through a proposed subdivision or development, the application shall be referred to the irrigation ditch company for review and comment. The Subdivision Administrator, Planning Commission and City Council shall consider the recommendations of the irrigation ditch company. If the subdivider and the irrigation ditch company agree to the scope of the irrigation ditch easement or other protective measures, a copy of the agreement shall be submitted to the City. The City may include those irrigation ditch easement or protective measures in the subdivision or development approval. (Amended Jul 28 2015 Ordinance No. 1657)

**16.22.060 Street Layout and Design.** Design and development of the street system shall conform to the requirements of this Title and the Public Works and Utilities Design and Construction Specifications. The City's functional street classification and design criteria, including design speeds and traffic volumes, right-of-way requirements, access conditions, planning characteristics, curb and gutter design, sidewalk width, street widths, travel lanes, parking lanes, street grades and other geometric parameters, are provided in the Public Works and Utilities Design and Construction Specifications.

- A. *Streets to Conform to Major Street Plan.* The general location and alignment of collector and arterial streets, intersections, and interchanges shall generally conform to the Major Street Plan and any amendments thereto. Whenever a tract of land to be platted embraces or abuts a major street designated on the Major Street Plan, such section of the major street shall be dedicated and constructed by the subdivider in the location and at the width indicated on the plan to the extent to which the subdivider is responsible for such dedication and construction in accordance with the findings of the traffic impact study. If the City does not have a Major Street Plan in effect at the time a plat is submitted, the requirements for major street dedications shall be established by the City Engineer, subject to review by the Planning Commission and Council. Where identified by a transit provider or school district, bus pullouts shall be provided. Where the subdivision traffic impacts do

not result in full dedication or construction of the major street, the City shall have the option to negotiate with the subdivider for the full dedication and construction which may be partially paid for by the City or the costs of which may be recovered by the subdivider through a cost recovery agreement. The City shall, at the City's sole discretion, have the option of acquiring any right-of-way or public easements at the time of approval of the subdivision necessary to implement the Major Street Plan.

- B. *Right-of-Way and Design to Conform to Major Street Plan.* Except in cases where the Major Street Plan specifies a greater or lesser width as a minimum, the minimum right-of-way, roadway, raised or landscaped median, planter strip, sidewalk and pedestrian way widths shall be as indicated in the Public Works and Utilities Design and Construction Specifications and Section 16.24.040.
- C. *Intersections at Right Angles.* Street intersections shall be at right angles (between 85 and 95 degrees), or as nearly so as topography and other limiting factors of good design will permit unless otherwise approved by the City Engineer. "T" or "cross" intersections shall be used whenever possible.
- D. *Cul-de-Sac Design and Length.* The design and overall length of a cul-de-sac shall be determined by topography, type of development, proposed density, and other physical factors which may warrant special consideration. However, unless otherwise specifically approved by the City of Fountain Fire Department, no cul-de-sac be over 500 feet long, as measured from the curb line at the furthest end of the cul-de-sac to the center line of the through street to which it connects.
- E. *Half Streets Not Allowed.* Half streets are discouraged. Half streets or portions of a street which do not permit at least two lanes of traffic shall not be allowed.
- F. *Alleys.* Where provided, alleys shall be fully improved to the specifications of the Public Works Design and Construction Standards. Alleys in commercial and industrial areas may be permitted when such alleys are necessary for traffic circulation or loading or unloading. Where proposed, alleys must be open at both ends of a block.
- G. *Temporary Dead-End Streets.* Dead-end streets shall only be permitted on a temporary basis. On streets which are stub-end streets designed to provide future connection with adjoining unsubdivided areas, there shall be provided a temporary turn-around at the stub-end or a temporary connection to another street if required by the City Engineer. If such a provision is required, the design for such stub-end or connecting street shall be approved by the City Engineer.
- H. *Private Streets.* Private streets are generally prohibited, except in mobile home parks, multi-family housing, including apartments, townhomes and condominiums, and planned unit development districts. Where private streets are allowed, provision shall be made to assure that all lots accessing private streets have a legal right to use such streets. Proposed private street design and construction standards shall be subject to approval by the City Engineer. Private streets should not be allowed where a public street has been extended. Private streets shall be delineated in a tract that contains just the street or may be located in a common tract in a multi-family or townhome development. Whenever private streets are shown on a plat, a special plat note is required stating the perpetual ownership and maintenance responsibility for the private streets.

- I. *Extension of Streets.* Existing streets, including streets shown on a valid preliminary plat, which adjoin a proposed plat shall be continued at equal or greater width and in similar alignment to streets proposed in the subdivision. Proposed streets shall be extended to the boundary lines of the property to be subdivided unless prevented by topography or other physical conditions, or unless such extension is not necessary for the connection of the subdivision with the existing street system, or is not the most advantageous for future development of adjacent tracts. Streets connecting to streets in an adjoining subdivision shall be of equal width in right-of-way and street section. The streets shall be stubbed regardless of the adjacent parcel's current status.
- J. *Street Classification and Layout.* Local and collector streets shall be laid out so that their use by major through traffic will be discouraged. Expected volumes on proposed streets should not exceed the range acceptable for their assigned classification.
- K. *Combined Access Points.* The provision of combined access points, to serve two (2) or more lots or business uses, is encouraged in commercial areas to minimize disruptions to traffic flow along the adjacent collector or arterial roadway.
- L. *Noise Mitigation from Streets.* Where a subdivision borders or contains a state or federal highway right-of-way or contains or is proposed to contain a major collector or arterial by the Major Street Plan, the City may require adequate provisions for reduction of noise. A parallel street, landscaping, screening, sound wall, easement, greater lot depth, increased rear yard setbacks and fencing, among others, are some appropriate measures for mitigating undesired noise and other highway impacts. A noise study may be required to determine what mitigation is appropriate. All proposed mitigation shall be placed in an easement or tract and be maintained by the homeowner association or metropolitan district.
- M. *Efficiency of Arterials Not Compromised.* The local roadway system should not detract from the efficiency of the arterial roadway system. Collector and local streets shall not intersect the same side of an arterial street at intervals of less than that allowed by the Public Works and Utilities Design and Construction Specifications, except as may be otherwise specified by an adopted access management plan for the arterial street. Ideally, local streets should not directly access arterial facilities.
- N. *Rail Crossings.* Where railroad crossings are proposed or are affected, provisions for grade separations, buffer strips and safety protection devices shall be provided by the subdivider or railroad as required. Obtaining approval from the affected railroad company and the Colorado Public Utilities Commission where applicable shall be the subdivider's responsibility.
- O. *Landscape Strip or Curb Lawn.* Where curbs with separated sidewalk are to be provided, the planting area or that unpaved portion of the right-of-way between the curb and the sidewalk shall be landscaped and maintained by the abutting property owners. Landscaping shall normally be limited to sod or seeding as determined by the subdivider or landowner, except that trees, shrubs or other plant materials may be used subject to City approval of the location and species of planting materials to be installed. Xeric landscaping is encouraged by the City of Fountain.

**16.22.070 Sidewalks.** Sidewalks shall conform to the Public Works and Utilities Design and Construction Specifications. Sidewalks shall meet ADA Guidelines. Pedestrian curb ramps shall be constructed at all pedestrian crosswalks at all intersections. Pedestrian curb ramps shall also be required where public sidewalks cross driveways with curbs. All sidewalks shall be a minimum of 5 feet in width. If determined necessary by the City Engineer, sidewalk widths may be required to be expanded in areas anticipated to carry higher numbers of pedestrian. Safe routes to schools shall be identified. Where off-site sidewalks are required to complete a safe route to school, the subdivider shall be responsible for its installation including all crosswalks and ramps where public easements or right-of-way exists. All identified safe routes shall be required to be completed at the time of approval of issuance of half of the building permits within any phase of the subdivision.

- A. *Sidewalks in Residential Areas.* Sidewalks shall be required on both sides of every street for all developments with a net density of two (2) dwelling units per acre or greater; for developments of less than two (2) dwelling units per acre, sidewalks are required on one side of every street. Sidewalks shall be required on both sides of every street as property is platted within three (3) blocks of any school site.
- B. *Sidewalks in Commercial Areas.* In commercial zones, sidewalks shall be required on both sides of every street.
- C. *Sidewalks in Industrial Areas.* Sidewalks are required on both sides of arterial streets in industrial zones and may be required along both sides of other streets when special circumstances warrant their installation such as high numbers of employees or the presence of mixed uses generating customer traffic.
- D. *Curb Ramps.* Pedestrian curb ramps shall be constructed at all pedestrian crosswalks at all intersections. Pedestrian curb ramps shall also be required where sidewalks cross driveways with curbs. All ramps shall meet Federal American's with Disability Act Standards.

**16.22.080 Perimeter Fences.**

The subdivider shall install a solid, opaque six-foot-high perimeter fence along all community and industrial/commercial collectors, community arterials or expressways adjacent to a residential subdivision within an easement or tract where lots will back to the collector, arterial or expressway street. A perimeter fence may also be required in industrial subdivisions.

Perimeter fences along arterials and expressways shall be constructed of durable material, such as stone, masonry, or architectural bloc. Perimeter fences along collectors shall be constructed of durable materials such as stone, masonry or architectural block or upon approval by the Planning Commission, other material such as vinyl or wood. Chain link fence shall not be permitted for perimeter. Perimeter fencing shall include brick or stone columns, a minimum of two (2) feet in width and depth, spaced a maximum of sixty-five (65) feet apart. In some cases, such as adjacent to parks or in special streetscape situations, fencing may be modified to include low profile, split rail, or wrought iron fencing. All horizontal-supporting structures shall be constructed toward the interior of the project or lot to reduce visibility of the support structures from streets and other public areas. Offsets in perimeter fences a minimum of five (5) feet in depth and approximately 300-400 feet long with a ten (10) feet long gap between perimeter fences for landscaping using trees and shrubs provided every 200 feet or less. An offset is a location where the perimeter fence is broken and a new section of perimeter fence is set toward the inside or outside of the perimeter fence on either side of the offset. Breaks in perimeter fencing for pedestrian walkways are

encouraged. Where a park or open space adjoins a collector or arterial street, perimeter fencing shall not be required. Perimeter fences shall be maintained in perpetuity by the homeowners association or metropolitan district. Alternative designs that meet the intent of this section may be approved by the Planning Commission or Subdivision Administrator in association with a Preliminary or Final Plat. A request to eliminate a perimeter fence shall be considered a variance and shall be approved by the Planning Commission at the time of Preliminary or Final Plat approval.

No more than fifty (50) percent of the building permits within any given phase of a subdivision shall be authorized for issuance prior to perimeter open space landscaping and perimeter fencing being completed in such phase. The Subdivision Administrator may issue an extension for installation of perimeter landscaping or fencing due to weather unfavorable to planting; such extension not to exceed nine (9) months. Financial surety shall be provided for all perimeter landscaping or fencing for which an extension is granted.

**16.22.090 Overlot Grading.**

- A. *Grading to Complement Topography.* Grading should complement the natural topography, land forms and vegetation of the site. Grading should be accomplished so as to leave a natural appearance to the land, rather than creating sharp breaks between grading planes.
- B. *Maximum Slopes and Retaining Walls.* Subdivision grading should maintain minimum slopes of two (2) percent and maximum slopes of three (3) to one (1). Retaining walls of a height greater than four (4) feet shall require design by a structural engineer. Areas of fill must be adequately compacted to ensure public safety.

**16.22.100 Drainage.** Drainage improvements shall be provided which protect public and private property and allow public and private improvements to function as intended. Developed flows shall not exceed historic flows for the one-hundred year storm event. All facilities shall be designed to meet the full spectrum of storm events.

- A. *Standards and Criteria.* All drainage shall be planned and designed in accordance with the Public Works and Utilities Design and Construction Specifications and these regulations. Drainage studies, plans and improvements shall be consistent with the approved Master Development Drainage Plan (MDDP) or Drainage Basin Planning Study (DBPS). Where a MDDP or DBPS covering the property does not exist, a MDDP or DBPS shall be developed by the subdivider and approved by the City prior to platting. Basin transfers will only be allowed with prior approval from the City.
- B. *Lands Subject to Flooding.* Land within a floodplain or land which is subject to inundation by a one-hundred year (100) flood shall not be platted for occupancy unless the flooding condition is alleviated in conformance with the City of Fountain Floodplain Ordinance. All development shall be setback a minimum of one hundred (100) feet from the floodplain. The floodplain setback area shall be shown as a “no build” area on the final plat. The plat setback limitation may be removed provided a study of the land area and surrounding land that may be impacted by potential development is conducted and determines that development within the setback area will not to cause any adverse effects to the development or to any other properties from either increased flood heights, flow velocities, flow duration, rate of rise of flood waters, channel stability or sediment transport; provided, however, that any development shall not be considered as causing an adverse effect to any

other properties by reason of increased flood heights if such development does not cause a rise of more than one-tenth (1/10th) of a foot in the base flood elevation of the floodplain. The study shall be produced by a geo-technical engineer licensed in the State of Colorado. Such study shall contain an analysis of potentially unstable slopes, faulting, or soil conditions, etc., that may be unfavorable to development. The study shall also contain, where appropriate, recommendations for special mitigation measures and engineering precautions that shall be taken to overcome those limitations. The floodplain shall be platted in a tract and shall be maintained by a homeowners association or metropolitan district.

- C. *Historical Flows Maintained.* Historical flow patterns and runoff amounts shall be maintained in such a manner that would preserve the natural character of the area and prevent property damage of the type generally attributed to runoff rate and velocity increases, diversion concentrations, or unplanned ponding of storm runoff.
- D. *Use and Design of Natural Swales and Ponds.* Surface drainage shall utilize, wherever possible and practical, natural swales and retention/detention ponds. Where possible, the bottoms of swales shall be lined with natural materials such as grass, rock, stones, sand or coarse gravel. Perimeter boundaries of retention/detention areas shall follow a configuration of natural land contours wherever possible to create a natural look to such areas.
- E. *Storm Sewers and Associated Drainage Facilities.* All storm sewers and drainage facilities such as gutters, catchbasins, bridges and culverts shall be installed and the land graded for adequate drainage as shown on the submitted and accepted plans, and shall be inspected and checked for adequacy with City standards by the City Engineer.
- F. *Erosion and Sediment Control.* In addition to permanent provisions, temporary erosion and sediment control measures are also required during construction operations in accordance with the requirements of the Public Works and Utilities Design and Construction Specifications and the City of Colorado Springs Drainage Criteria Manual, Volume I and II. The subdivider shall be immediately responsible for the protection and maintenance of all existing drainage facilities, including streets, until the improvements are completed and accepted by the City. Construction schedules are to be programmed to permit installation of required permanent sediment and erosion control structures as soon as possible. Finished slopes are to be protected with a vegetative cover, riprap, or other suitable means. The construction surety shall include provisions for enforcement of both the permanent and temporary erosion and sediment control facilities.

#### **16.22.110 Utilities.**

- A. *Water and Sewer.* Water and sewer shall be designed and constructed in accordance with the City's overall utility plans, the Public Works and Utilities Design and Construction Specifications, City of Fountain Water Distribution System Design & Construction Specifications Manual, the Fountain Sanitation District Specification and Regulations Manual and the Widefield Water and Sanitation District Rules and Regulations. Water and sewer lines shall be designed to permit the extension to all adjacent properties which may develop at a later time.
- B. *Dry Utilities.*

1. *General Requirements.* Utilities such as telephone, cable television , electric and gas services shall be installed in accordance with the standards of the special district or public utility , and all locations within public rights-of-way shall be approved by the City Engineer. These utilities shall be installed underground and shall be in place prior to street surfacing. Electric transmission lines of greater than 30KV capacity are exempt from this requirement due to the prohibitive cost of undergrounding such facilities. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, and other facilities necessarily appurtenant to such underground utilities may be placed above ground.
  2. *Notification of Utility Companies.* It shall be the subdivider's responsibility to contact all utility companies who hold a franchise agreement with the City concerning their intent to plat and to provide each such utility company a construction schedule in accordance with the specific requirements adopted by each utility company in accordance with the provisions of Section 16.23.100.
- C. *Construction of Utilities.* No utilities shall be installed until a final plat is approved and recorded, the City Engineer has stamped the construction plans for the subdivision accepted, a development agreement or subdivision improvement agreement has been executed, all required surety has be posted, and the special district or public utility has approved the construction plans for the utilities. Utilities may be installed at risk upon approval of the preliminary plat where the City Engineer has stamped the construction plans for the subdivision accepted, a development agreement or subdivision improvement agreement has been executed, all required surety has be posted, and the special district or public utility has approved the construction plans for the utilities.

**16.22.120 Terrain and Vegetation Preservation.**

- A. *Fit with the Landscape.* In the site planning and layout of any lot, consideration shall be given to the relationship of roads, lots and buildings to existing slopes, grades, natural vegetation and drainageways. All structures and roadways shall achieve a fit with the landscape that is not intrusive.
- B. *Disturbance of Drainageways.* Significant natural drainageways shall not be disturbed or re-routed except where of general benefit to the overall development and shall be subject to the review and approval of the City.
- C. *Unique Site Features.* Unique site features, whether topographic or vegetative, shall receive special consideration in any subdivision design. Such features shall be left undisturbed wherever practical in lot development.
- D. *Integration of Structures in Sloping Areas.* Lots and structures in sloping areas shall be designed to conform to the slope by means of stepped foundations or similar methods that will keep grading and site preparation to a minimum. In principle, structures shall accommodate slope in design rather than cause slope to accommodate structures.
- E. *Grading.* Grading shall be shaped to complement the natural land forms.

- F. *Visual Impacts.* Visual impacts of commercial and industrial development upon offsite residential areas shall be avoided or reasonably mitigated.
- G. *Wildlife Impacts.* Consideration shall be given to wildlife impacts in the layout of open space areas within the plat. All subdivision proposals involving sensitive lands should be referred to the State Division of Fish and Wildlife for information and comment on animal habitat preservation. Where designated threatened or endangered species are present, the subdivider must conform to all applicable state and federal restrictions and permitting requirements.

**16.22.130 Plat Naming and Number Conventions and Standards.** All plats or documents filed for the purposes of compliance with this Title shall conform to the following naming and numbering conventions.

- A. *Plat Naming.* Plats including preliminary plats and final plats shall be named in accordance with the following naming conventions.
  - 1. *First Application Filed Entitled to Name.* The first application which utilizes a specific name is exclusively entitled to use that name throughout the platting process. Plat names for final plats shall follow the name established by the preliminary plat or PUD.
  - 2. *No Duplication.* No plat shall receive approval if the name duplicates or could be confused with the name of a subdivision of record within the City of Fountain.
  - 3. *Multiple Filings within Same Preliminary plat or PUD.* Multiple plat filings within the same preliminary plat or PUD area shall utilize sequential filing or phase numbers consistent with the name of the preliminary plat or PUD, unless they represent distinctly separate land uses (e.g., residential and commercial).
  - 4. *Replat.* Replat names shall be consistent with the name of the original plat filing unless the land includes more than one plat name, and characterized by an alphabetic descriptor after the filing number, and shall reflect consistency with the order of the original filing.
- B. *Road Naming, Approval Required.* Road names shall be subject to the approval of the El Paso Teller E9-1-1 Authority, in coordination with the City.
- C. *Lot Numbering.*
  - 1. *Sequential Numbering.* The numbering of lots shall follow a sequential numbering pattern.
  - 2. *Lot Numbers Not Repeated in Same Block.* Lot numbers shall not be repeated within the same block.
  - 3. *Lot Numbering in Case of Vacation or Replat.* A vacation or a replat of lots or tracts shall conform to the following lot number conventions:
    - a. *Vacating Common Lot Line.* When vacating a common lot line between two lots, the original lot number followed by the letter “A” shall be used to number the new

lots (e.g., when vacating the common lot line between lot 1 and lot 2, the newly created lot shall be renumbered lot 1A).

- b. **Replat with Fewer Lots.** When replatting 3 lots into 2 lots, the original lot numbers followed by the letter “A” shall be used to number the new lots (e.g., when replatting lots 3, 4, & 5, into two lots, the new lots should be numbered lot 3A and 4A).
  - c. **Adjustment to Common Lot Line.** When adjusting the common lot line between two lots, the original lot numbers followed by the letter “A” shall be used to number the new lots (e.g., when realigning the common lot line between lots 7 and 8, the new lots should be numbered 7A and 8A).
  - d. **Replatting Entire Subdivision Filing.** When replatting an entire subdivision filing, the lots shall be numbered consecutively starting with the number “1”.
4. **Common Area Tracts Labeled.** Tracts that are common open space for the subdivision shall be labeled “Common Area Tract” followed by a consecutive letter designation beginning with “A”. Common area tracts shall be further identified as either buildable or nonbuildable.

*D. Addressing.*

1. **Assignment of Addresses.** Assignment of numeric addresses is the responsibility of the Building Official, in accordance with the Building Code.
2. **Address Correction.** Corrections to addresses shown on a final plat may be accomplished by an Affidavit of Correction, Plat Correction, Amended Plat or a Replat. The correction shall be approved by the Building Official.

**16.22.140 Survey and Monumentation Standards.**

- A. **Survey Closure Requirements.** An accurate and complete survey shall be made of the land to be divided. A traverse of the exterior boundaries of the subdivision and all blocks, lots and tracts, when computed from field measurements on the ground must close within a limit of one (1) foot to ten thousand (10,000) feet of perimeter. Boundaries shall be clearly indicated on the plat.
- B. **Lot Dimensions and Distances.** Bearings and angles and lengths shall be given for all lot lines. In cases where a lot line is a common line only one set of figures, adjacent to the line described, need be given if the lot descriptions are given to the same bearing, not a reverse bearing. If table data is used, each individual lot shall be separately described giving all bearings and angles and lengths making each lot close by data provided and a table shall be included on the same page as the plat. Should the plat drawing be of such a size as to preclude the data table then the drawing shall be developed in such a manner as to show a portion of the plat and its pertinent table on each sheet as required.
- C. **Curved Boundaries.** On curved boundaries and all curves on the plat sufficient data shall be given to enable the reestablishment of curves on the ground. Curve data shall include: (1) central angle; (2) radius; and (3) arc length.

- D. *Monuments.* All subdivisions and exemption plats shall be monumented in accordance with C.R.S. § 38-51-101 et seq. Subdivisions shall be tied by angles and distances to the nearest accepted monuments. All monuments shall be located and described. Information adequate to locate and trace all monuments shall be noted on the plat. Monuments shall meet the following at a minimum:
1. The external boundaries of the subdivision shall, prior to the recording of the plat, be monumented on the ground by reasonably permanent monuments solidly embedded in the ground.
  2. Affixed securely to the top of each monument shall be a durable cap bearing the State registration number of the land surveyor responsible for the establishment of the monument.
  3. Monuments shall be set not more than 1,400 feet apart along any straight boundary line, at all angle points, at the beginning, end, and points of change of direction or change of radius of any curved boundaries defined by circular arcs and at the end of any spiral curve.
  4. Wherever any block is bounded by streets, the monuments may be set on the centerlines of such streets or on offset lines as designated on the plat. Offset corners are the preferred means of monumentation.
  5. The corner of lots, tracts or other parcels of land, all aliquot corners and any line points or reference points which are set to perpetuate the location of any land boundary or easement shall be marked by permanent markers appropriately secured with a durable cap.
  6. If any corner falls within the traffic area of a street, road, or highway, the top of the monument shall be provided with a monument box, the top of which shall be set flush with the surface of the pavement. No corner pins shall be set within the corner ADA sidewalk ramp construction zone. Offset corners are a preferred method of monumentation within these zones. Any offsets shall be designated on the plat.
- E. *Supplemental Information to Submit with the Plat.* Closure sheets for the external boundary, blocks, lots and tracts of the subdivision, including the computed acreages for the entire subdivision, lots, and tracts shall be submitted to the Subdivision Administrator for review and approval prior to recording the plat.

## 16.23 SUBDIVISION IMPROVEMENTS

**16.23.010 General Requirements.** In association with each subdivision, the City shall determine the type, location and extent of necessary improvements, depending upon the characteristics of the proposed development and its relationship to surrounding areas. Improvements shall be made by the subdivider at the subdivider's expense according to plans and specifications prepared by a qualified professional engineer in accordance with the Public Works and Utilities Design and Construction Specifications, Building Code, and these and other applicable regulations. Underground placement of utility lines shall be required in all subdivisions. These may include both on and offsite improvements necessary to support the subdivision and the development of individual lots within the subdivision.

- A. *Completion for Improvements or Surety Required.* The improvements identified in Section 16.23.010.B shall be constructed and installed by the subdivider, or provisions made therefore, prior to recording the final plat thereof. In lieu of the completion of such improvements, the subdivider shall provide acceptable surety to secure to the City the actual construction of the improvements within such period as shall be determined by the Subdivision Administrator. In all cases, surety is required to secure stormwater quality and erosion protection measures prior to beginning construction or site grading in accordance with Section 16.20.060.E. Where construction plans have not been accepted prior to filing the final plat for recording, the subdivider shall not be required to provide surety until such time as construction plans are accepted and construction of improvements is authorized or the subdivider desires to release lots, tracts, parcels or other real property for conveyance.
- B. *Improvements Defined.* No subdivision shall be approved unless adequate provision has been made for all on and offsite improvements reasonably related to the needs generated by the subdivision. At a minimum, the following improvement shall be provided by the subdivider: (1) survey monuments; (2) sanitary sewers; (3) water lines; (4) telephone and electric lines; (5) gas lines; (6) storm water drainage facilities and erosion control facilities; (7) curbs and gutters; (8) sidewalks; (9) street paving; (10) fire hydrants; (11) street signs and traffic control devices; and (12) street lights. The City may require any other improvements determined to be reasonably related to the subdivision and necessary to support the development of the subdivision including a percent of the anticipated costs of offsite improvements.
- C. *Installation of Individual Wastewater Disposal Systems.* In areas where public wastewater systems are not accessible, individual wastewater disposal systems may be installed only after the approval of the Subdivision Administrator, local wastewater utility, and the El Paso County Health Department.
- D. *Standards and Conditions for Construction of Improvements.* Whenever improvements are required under this Title, the following provisions shall apply:
  - 1. *Cost of Improvements Obligation of Subdivider.* The cost of constructing all improvements associated with a proposed subdivision shall be borne by the subdivider; and the construction thereof shall be at the sole cost, risk, and expense of the subdivider.
  - 2. *Improvements to Meet Adopted Standards.* All required improvements shall be constructed in full compliance with the Public Works and Utilities Design and

Construction Specifications. Subdivisions shall also conform to all applicable special district and public utility standards including the City of Fountain Water Distribution System Design & Construction Specifications Manual, the Fountain Sanitation District Specification and Regulations Manual and the Widefield Water and Sanitation District Rules and Regulations. While the City Engineer shall make every effort to ensure that utility construction plans have been approved by the applicable entity before authorizing the construction of improvements, the City is under no obligation to enforce any special district or public utility standards.

3. *Construction Not Started Until Plans Accepted.* No grading or construction of improvements shall be started until the City Engineer has stamped the construction plans accepted and all other requirements of Section 16.20.060.E have been met.

**16.23.020 Review and Acceptance of Construction Plans.** No later than the time of final plat submittal, the subdivider shall submit construction plans and specifications for all required improvements to the City Engineer for review and acceptance. The construction plans shall be stamped accepted by the City Engineer prior to initiating construction and prior to final plat recordation. Cost estimates to be used for purposes of the required surety shall be based upon the accepted construction plans.

**16.23.030 Subdivision Improvements Agreement.** Prior to initiating construction or recording the final plat, the subdivider shall enter into a development agreement or SIA. The SIA shall identify the improvements required to be constructed, and shall provide the required surety to secure that the necessary improvements will be constructed to established standards in a timely manner. All mortgagees shall be required to subordinate their lien and interest in the property to the real covenants and restrictions of the SIA.

**16.23.040 Surety Requirements.**

- A. *Acceptable Surety.* Acceptable surety in the form of an irrevocable letter of credit, negotiable certificate of deposit, bond, cash or other type approved by the City Attorney shall be submitted with the SIA to secure and guarantee performance by the subdivider under the terms and conditions of said agreement. The amount of such surety shall be one hundred and twenty (120) percent of the cost of all improvements as estimated by the City Engineer plus the stormwater quality and erosion control surety required by Section 16.23.040.E.
- B. *No Sale of Lots or Building Permits as Surety.* In lieu of financial forms of surety, the City and subdivider may agree that the subdivider shall construct all improvements prior to the sale of lots and issuance of building permits in the subdivision. Upon completion of the improvements and the acceptance thereof by the City, the City may approve the recording of the plat, sale of lots and issuance of building permits in the subdivision. Regardless, financial surety shall be required to secure the stormwater quality and erosion control measures during construction including estimated restoration costs and an changes to existing infrastructure in conformance with the requirements of Section 16.20.060.E. Financial surety shall also be required to secure the improvements over the term of the warranty period.
- C. *Waiver of Surety Requirements.* With its approval of a final plat, the City Engineer may waive the surety required if it determines that only minimal improvements are required.

- D. *Partial Release of Surety.* As improvements are completed, the subdivider may apply for a reduction in the amount of surety being held by the City. The City Engineer may approve any such request. Acceptance shall not be required to reduce the amount of surety. At no time shall the total surety available to the City be less than twenty (20) percent of the City Engineer's estimate of the total cost of improvements.
- E. *Stormwater Quality and Erosion Control Surety.* In all cases, surety is required to secure stormwater quality and erosion control measures prior to beginning construction or site grading. Such surety shall be one hundred and twenty-five (125) percent of all estimated costs of implementing the proposed stormwater and erosion control measures as well as land revegetation and stabilization costs in the event the project is abandoned. The stormwater quality and erosion control surety shall not be released until such time as all lands disturbed by the action are fully revegetated and stabilized. Failure to maintain stormwater quality and erosion control measures in accordance with the approved plans and the City of Colorado Springs Drainage Criteria Manual Volumes I and II, as amended shall be termed a violation of the SIA. Written notice of such violation shall be provided to the subdivider by the City Engineer. If the violation is not repaired within seven (7) days of notice thereof, the City may correct said violation and may apply the surety to pay the cost of such repairs or may employ any other lawful remedy to secure correction or repair of such violation and recover any costs incurred by the City in doing so. The City may also repair any violation posing an immediate threat to the health, safety, or welfare of the public without providing seven (7) days notice and bill the subdivider for the reasonable costs of such corrections. The City may apply the surety to pay the costs of such corrections or may employ any other lawful remedy to secure correction or repair of such violation and recover any costs incurred by the City in doing so.

**16.23.050 Acceptance of Public Improvements.**

- A. *Request for Acceptance.* After completion of all improvements to be constructed pursuant to the SIA, the subdivider shall request in writing that the City Engineer issue a Certificate of Acceptance. At his discretion, the City Engineer may, by written notice, require that said request be accompanied by a letter from a professional engineer stating that said improvements have been completed and installed in accordance with the SIA, the accepted construction plans, and applicable design and construction specifications of the City. As-built drawings certified by said professional engineer shall be submitted for all improvements along with the required warranty surety prior to issuance of a Certificate of Acceptance. Subdivision improvements shall also conform to all applicable special district and public utility standards including the City of Fountain Water Distribution System Design & Construction Specifications Manual, the Fountain Sanitation District Specification and Regulations Manual and the Widefield Water and Sanitation District Rules and Regulations. While the City Engineer shall make every effort to ensure that utility have been constructed and approved by the applicable entity before issuing a Certificate of Acceptance, the City is under no obligation to enforce any special district or public utility standards.
- B. *City Engineer's Acceptance.* The City Engineer shall cause the improvements to be inspected. If the City Engineer determines that all public improvements are completed without significant defects and that they comply with the provisions of the Public Works

and Utilities Design and Construction Specifications, subdivision approval, and the SIA, the City Engineer shall issue a Certificate of Acceptance; and the surety shall be released.

- C. *Identification and Action Concerning Defects.* If the City Engineer determines that any improvements are not complete, or if they are complete, they contain significant defects, the City Engineer shall inform the subdivider in writing of the improvements requiring completion or repair and shall not issue a Certificate of Acceptance until the specified improvements are completed or repaired. Upon receipt of this written notice, the incomplete or defective improvements shall be completed or repaired within ninety (90) calendar days unless extended by the City Engineer. Request for a time extension shall be made in writing and shall be based on inclement weather or other similar circumstances beyond the subdivider's control.
- D. *Required Improvement Completion Date.* All improvements shall be completed by the subdivider by the date identified in the SIA which may be extended through an amendment to the SIA. If no certificate of acceptance has been requested prior to this date, the City may construct, complete, or repair any improvements required under such agreement and may apply any surety to pay the costs of completion, correction, or repair of such improvements. Upon completion, correction, or repair of such improvements, the City Engineer shall issue a Certificate of Acceptance.
- E. *Renewal and Expiration of Surety.* The subdivider shall be responsible for renewing or extending any surety that may expire prior to the completion and acceptance of all improvements. Failure of the subdivider to renew or extend (in a timely manner) any surety held by the City prior to its expiration date may result in the City drawing on such surety prior to its expiration date. In no event shall building permits be issued for lots in the subdivision if the surety has expired.

**16.23.060 Warranty Period for Improvements.** The subdivider shall warrant and guarantee that all improvements required in this Title are constructed in a workmanlike manner and as specified by the Public Works and Utilities Design and Construction Specifications, subdivision approval, and SIA. The warranty period for improvements shall run for a period of two (2) years from the date of acceptance by the City. The subdivider shall provide acceptable surety in the amount of twenty (20) percent of the City Engineer's estimate of the total cost of improvements to cover the warranty period for the improvements. The warrantee shall be released by the City Engineer after all obligations have been met. Upon the release of the warrantee surety, the improvements shall be considered to have been accepted by the City. The City Engineer shall not release the warrantee surety until approval of the improvements owned and operated by a special district or public utility have been received from all special districts and public utilities.

- A. *Actions during Warranty Period.* Within two (2) years from the date of issuance of a Certificate of Acceptance, the subdivider shall repair any defect in materials or workmanship discovered in any improvements for which a Certificate of Acceptance has been issued. Written notice of such defect shall be provided to the subdivider by the City Engineer. If such defect is not repaired within ninety (90) days of notice thereof, the City may correct said defect and may apply the surety to pay the cost of such repairs or may employ any other lawful remedy to secure correction or repair of such defect and recover any costs incurred by the City in doing so. If no defect is discovered within the warranty period, the surety shall be released by the City Engineer. The City may also repair any defect posing an immediate threat to the health, safety, or welfare of the public without

providing ninety (90) days notice and bill the subdivider for the reasonable costs of such repairs. The City may apply the surety to pay the costs of such repairs or may employ any other lawful remedy to secure correction or repair of such defect and recover any costs incurred by the City in doing so.

- B. *Failure to Correct Defect.* If, at the expiration of two (2) years from the date of issuance of the Certificate of Acceptance, the subdivider has failed to correct any defect of which notice has been mailed to him, the City shall retain the surety for ninety (90) additional days to allow for correction of each such defect and for a claim to be made by the City against such surety in the event that such defect has not been corrected within the time allowed. At the end of such ninety-day (90) period, the City shall release any surety against which no written claim has been made by the City Engineer.

**16.23.070 Cost Recovery for Regional and Other Improvements.**

- A. *Cost Recovery Agreements:* Notice to potentially benefited property owners that a Cost Recovery Agreement will be executed and filed for recording against their property shall be provided at least thirty (30) days prior to the meeting at which the Council will consider approving the Cost Recovery Agreement. The Cost Recovery Agreement shall include a depreciation schedule for all improvements which shall depreciate the improvements to zero (0) in year twenty (20). Interest shall also be calculated in the depreciation schedule. Interest shall be the average of the prime rate over the previous ten (10) years. Costs may be recovered at time of platting or at time of building permit authorization.
- B. *Regional Improvements.* In the event the subdivision will impact or utilize improvements which benefit other developed or developing areas ("regional facilities"), the SIA shall provide that in the event the applicable regional improvements are constructed at the time of approval of the final plat of any phase of the subdivision, or the City has received a commitment from a third party securing construction of such facilities, the subdivider, if determined to be a benefited property owner under Section 16.23.070 D may be required to pay a pro rata portion of the cost of the regional facilities. In all other instances, where the cost of the regional facilities is initially borne by the subdivider, the subdivider shall have a right to cost recovery. The subdivider's obligation to construct or participate in the cost of development of regional facilities must be secured as provided for other types of improvements, or as otherwise provided in a Cost Recovery Agreement approved by the City. This section does not affect water and sewer cost recovery which are controlled by their own ordinances, regulations, and standards.
- C. *Sharing of Street Improvement Costs.* When a subdivider constructs necessary street improvements which benefit properties other than the property being developed by extending such improvements offsite, the Council may agree through the approval of a Cost Recovery Agreement to collect a pro rata share of the cost of such improvements from any person who subdivides the other benefited properties within twenty (20) years after completion of such improvements and to refund such moneys collected to the subdivider making such improvements. Any subdivision plat of property within the benefited property shall not be approved until such pro rata share of the costs of such street improvements have been paid to the City for the benefit of the original subdivider. The subdivider's obligation to construct or participate in the cost of development of street improvements must be secured as provided for other types of improvements, or as otherwise provided in a Cost Recovery Agreement approved by the City.

- D. *Sharing of Drainage Improvement Costs.* When a subdivider constructs necessary drainage improvements which benefit properties other than the property being developed, either by oversizing or extending such improvements offsite, the Council may agree through the approval of a Cost Recovery Agreement to collect a pro rata share of the cost of such improvements from any person who subdivides the other benefited properties within twenty (20) years after completion of such improvements and to refund such moneys collected to the subdivider making such improvements. Any subdivision plat of property within the benefited property shall not be approved until such pro rata share of the costs of such drainage improvements have been paid to the City for the benefit of the original subdivider. The subdivider's obligation to construct or participate in the cost of development of drainage improvements must be secured as provided for other types of improvements, or as otherwise provided in a Cost Recovery Agreement approved by the City.
- E. *Determining the Benefited Area.* The City Engineer shall determine the benefited area of the regional, street, or drainage improvements for purposes of review and approval by the Council. The City may determine pro rata shares on the basis of front footage, acreage, traffic report, or on any other equitable basis for the specific type of improvement constructed.
- F. *Process for Documenting Eligible Costs for Recovery.* When the required regional, street, or drainage improvements have been completed, the subdivider shall certify the cost of such improvements with paid receipts to the City Engineer within one hundred and eighty (180) days after completion of construction. Such cost of improvements may include offsite right-of-way or land acquisition. Failure to provide such construction cost information shall relieve the City of any responsibility to assist in the collection of the pro rata share from other properties in the benefited area.
- G. *Recording of Cost Recovery Agreement.* All Cost Recovery Agreements shall be recorded in the office of the El Paso County Clerk and Recorder against the benefited properties.

**16.23.080 Disclaimer.** Although these regulations mandate the construction of improvements and that the subdivider furnish financial guarantees to secure such construction, the City does not warrant that the required improvements will be completed, in the event of the subdivider's default. The City, in its discretion, will determine which, if any, improvements are to be completed, considering the availability of funds from the financial guarantees, the status of completion and the need to mitigate public health and safety hazards.

**16.23.090 Private Improvements and Lands.**

- A. *Design and Construction Standards.* In the event that the subdivision, is proposed to contain property or facilities to be held in common ownership for private use and maintenance, and where the City has determined that a significant public interest in the facility's construction exists, the City may exercise its option to review the private facility construction plans, inspect construction activities and require improvement guarantees as part of the required SIA. Where deemed appropriate, the City may require that the private facility conform to the specifications for the corresponding public facility as outlined in the Public Works and Utilities Design and Construction Specifications. Such private facilities may include landscape areas and associated irrigation systems, recreational facilities, access drives, roadways and other types of common-use improvements.
- B. *Ownership and Maintenance.* For a subdivision that includes easements or tracts to be used for common facilities including common open space or areas, private roads, detention facilities, water facilities, water augmentation obligations, landscaping or other features requiring maintenance, the subdivider shall establish a homeowners association, metropolitan district or other entity approved by the City Attorney or Subdivision Administrator to be responsible for the maintenance. For subdivisions with three (3) lots or less, maintenance responsibility may be placed on the individual lot owners in the covenants without having to create a homeowners association, metropolitan district or other entity. Prior to recording the final plat for any subdivision with maintenance requirements, the subdivider shall provide the Subdivision Administrator with the appropriate legal documents (e.g., covenants, Titles of incorporation, bylaws, maintenance plan and agreements, etc.) necessary to create the homeowners association, metropolitan district or other entity and to place maintenance responsibility on said homeowners association, metropolitan district, other entity, or the individual lot owners. The homeowners association, metropolitan district, or other entity documents shall not allow for the dissolution of the entity or a change in any provision concerning the maintenance of said facilities without the approval of the Council and shall allow for the enforcement against the entity and assessment of costs for maintenance undertaken by the City after notice to the entity against individual lot owners.
- C. *Conveyance of Common Land.* Easements, lots or tracts to be owned and maintained by a homeowners association, metropolitan district or other entity shall be dedicated by both a statement on the final plat and warranty deed. A plat note concerning the responsibility for ownership and maintenance of the easements or tracts shall be included on the face of the final plat

**16.23.100 Open Trench Installations and Notice to Parties.** This section applies to excavation for any trench or opening of any trench located in an existing or proposed public right-of-way, public utility easement, or other public easement, for which telephone, telecommunications, internet, cable television, or in which similar other facilities are intended to or may be installed to provide a service to the subdivision (the “service providers”). These provisions do not apply to water, wastewater, natural gas or electric facilities. It is the City’s policy to encourage joint use of utility trenches by service providers with the cost shared among the participating service providers. Sharing of joint utilities trenches shall be subject to compliance with State regulatory agency and utility standards. During the development of the subdivision and prior to recording of the final plat for the property, the subdivider shall coordinate the excavation for any trench or opening of any trench with the service providers that will be providing service to the property. The subdivider shall provide written or electronic

notification to the service provider of the time and date which such excavation or open trench is anticipated to be available for installation of facilities by the service provider. The City shall make available the list of service providers requiring notification at the Planning Department. Any service provider that receives written or electronic notification of an open trench and fails to install its facilities at the date and time specified by the subdivider, and wishes to serve a subdivision where the trenches have been closed shall be responsible for its own trenching and associated costs and shall repair all public and private property to the condition which existed prior to such trenching.

## **16.24 DEDICATION STANDARDS**

**16.24.010 Purpose.** The purpose of this Title is to provide minimum standards for required land dedication. For a PUD, this Title shall apply only when the required land dedication has not been satisfied.

**16.24.020 Applicability.** The purpose of the City's land dedication requirements is to ensure that adequate sites are provided to the City to accommodate a variety of public facilities necessary to accommodate new growth. This Title contains the standards adopted by the City for determining the land dedication needs for schools, parks, water facilities, fire stations, police stations, and City administrative facilities. Where an open space and public land dedication plan including land dedication conveyance schedule, has been adopted for a PUD in accordance with the City of Fountain Zoning Ordinance, the provisions of that document shall replace and supersede the requirements herein. For all other subdivision proposals, the requirements spelled out in the following sections regarding land dedication or cash-in-lieu of land dedication shall apply. These dedication requirements shall apply to all new subdivisions and replats.

**16.24.030 General Requirements.** The subdivider shall convey and plat all land and public easements to the City as are necessary to serve the development with vehicular and pedestrian access and water, sewer, and stormwater utility services. The land required to be dedicated shall be dedicated at the time of final plat recordation whether or not the required dedications are located within the boundaries of the plat being filed for recording. In addition, all subdivisions shall comply with the school, park, water facility, fire station, police station, and City administrative facility land dedication requirements. Dedicated land shall be free of all liens and encumbrances, including any private covenant declarations.

### **16.24.040 Right-of-Way and Easement Dedication.**

- A. *Rights-of-Way and Public Easements Required at Time of Final Plat.* Every street, alley, walkway, drainage channel, reserve strip (or waiver of access rights), easement, and other right-of-way shown on the final plat intended for public use shall be offered for dedication at the time the final plat is filed. In addition, the subdivider shall provide rights-of-way and public easements for all onsite and offsite streets, utilities, sidewalks and appurtenant landscaping. The subdivider shall pay all acquisition costs. If any offsite rights-of-way or public easements are required, before approval of the final plat, one of the following must have occurred: (1) the City has received signed deeds for all offsite rights-of-way and public easements; or (2) the subdivider has executed a City contract for real property acquisition and deposited the estimated acquisition costs into a City trust account, and the subdivider has formally requested and the Council has approved a resolution of intent to use its powers of condemnation to acquire the rights-of-way or easements.
- B. *Minimum Right-of-Way Dedication Standards.* Concurrent with the recording of a final plat, right-of-way dedication is required for all subdivisions that abut or contain a street for which insufficient dedication has been secured. Right-of-way dedication requirements are listed in Table 16.24.040-1. The requirement to dedicate right-of-way shall be limited by Section 16.22.060.

**Table 16.24.040-1 Right-of-Way Dedications**

| Street Classification   | Right-of-Way Width (ft) <sup>1, 2</sup> |
|---|---|
| Expressways   | 160-210 <sup>5</sup>                    |
| Community Arterials   | 110-120 <sup>5</sup>                    |
| Community Collectors  | 80                                      |
| Industrial/Commercial Collectors/Locals   | 65                                      |
| Minor Residential Collectors  | 60                                      |
| Residential   | 60 <sup>4</sup>                         |
| Cul-de-Sac  | 100-150 <sup>3</sup>                    |
| Alley   | 24                                      |
| <sup>1</sup> Additional right-of-way for right turn lanes and second left turn lanes may be required based on the TIA at arterial and collector street intersections at the discretion of the City Engineer.<br><sup>2</sup> The City may require additional dedication of right-of-way for public purposes.<br><sup>3</sup> The width varies depending on the street classification.<br><sup>4</sup> This may also be accomplished with a fifty-foot (50') right-of-way and one ten-foot (10') public improvement and utility easements on each side of the right-of-way. This may alternative dedication may only be proposed where a 6" thick, 5½' wide attached sidewalk with mountable curb will be constructed. In this case, the ten-foot (10') public improvement and utility easement shall be considered to have fulfilled the requirements of Section 16.22.050.<br><sup>5</sup> The required right-of-way dedication varies depending on the number of lanes. |   |

- C. *Corner Right-of-Way Chamfers.* At the intersection of all public streets, the right-of-way dedication shall include a chamfer corner. The diagonal chamfer for corner lot lines adjacent to roadway intersections a minimum of fifteen (15) feet as measured along the two legs of the projected intersecting property lines. If a radial corner property line is desired in lieu of a diagonal, then the radial chamfer corner shall have a minimum twenty-five (25) foot radius. The chamfer line whether diagonal or radial must provide approximately twelve (12) feet clearance from the curb face to the chamfer property line in order to accommodate a standard ADA sidewalk ramp with level sidewalk landing area. In addition, The chamfer shall be sized to ensure that all property corner pins are outside of the corner ADA sidewalk ramp construction zone. This may also be accommodated by the placement of offset corners. No corner pins shall be set within the corner ADA sidewalk ramp construction zone. Note that the standard dimension represents the minimum chamfer corner. The required chamfer size may vary depending upon the roadway curb radius and the intersecting angle of the intersecting property lines in relationship with the intersecting roadway alignments. Where the sight distance easements required by Section 16.22.0505(D) fully encompass the required corner right-of-way chamfer and said easements are designated as public improvements and sight distance triangle easement, corner right-of-way chamfers shall not be required.
- D. *Minimum Easement Widths.* When sewer, stormwater or drainage, water, power, communications or other public utilities are constructed on private property, a public utility easement must be granted to the City. These easements are needed to establish rights for the City and other utility providers including, but not limited to, construction, operation, and maintenance access as needed to own and operate the facility. In addition, all private easements necessary to serve a subdivision shall be dedicated. The minimum required width of all easements shall conform to the requirements in Section 16.22.050. However, the width of the required easements are governed by factors such as the type of utility, its depth, size or diameter, the equipment needed for maintenance, etc. The minimum width

may be increased as determined necessary by the City Engineer or as otherwise required by the utility company.

**16.24.050 Park and Open Space Dedication Standards and Procedures.**

- A. *Requirement to Dedicate Park and Open Space Lands.* Whenever land is proposed for residential, commercial, office or industrial use, the subdivider shall provide land, cash-in-lieu of land dedication, or a combination of land and cash to meet the active and passive recreational demands generated by the proposed subdivision as identified in the City's parks and open space plans and studies. These lands must be suitable for neighborhood and community parks or open space, and typical facilities in terms of topography, size and location. Where a subdivision is of such a residential density or size, or commercial/office/industrial acreage as to not require the dedication of a full park site, the City shall require cash-in-lieu of onsite, or an appropriate offsite, park land dedication.
- B. *Dedication Standards.* Any land to be dedicated as a requirement of this Title shall be reasonably adaptable for use as park, open space, trail, or other recreational purpose. Factors used in evaluating the adequacy of proposed park areas shall include size, shape, topography, geology, flora, fauna, access, and location. Table 16.24.050-1 establishes the park and open space dedication requirement. The formula used to calculate the minimum amount of land dedication required is based on eight (8) acres/one thousand (1,000) population: two (2) acres/one thousand (1,000) population for neighborhood parks and six (6) acres/one thousand (1,000) population for community parks.

**Table 16.24.050-1 Park and Open Space Dedication Standards.**

| Type of Use   | Dedication Requirement   |
|---|--|
| <b><i>Single Family Residential</i></b>   |  |
| Neighborhood Park   | Dedication or cash-in-lieu requirement: .003 acres/person or .009 ac/du (based on 3.0 persons/hh) <sup>1</sup>   |
| Community Park  | Dedication or cash-in-lieu requirement: .0025 acres/person or .0075 ac/du (based on 3.0 persons/hh) <sup>2</sup> |
| Open Space  | As adopted by the Council <sup>3</sup>   |
| TOTAL   | Dedication or cash-in-lieu requirement: .0055 acres/person or .0165 ac/du  |
| <b><i>Multifamily Residential</i></b>   |  |
| Neighborhood Park   | Dedication or cash-in-lieu requirement: .003 acres/person or .0057 ac/du (based on 1.9 persons/hh) <sup>1</sup>  |
| Community Park  | Dedication or cash-in-lieu requirement: .0025 acres/person or .0048 ac/du (based on 1.9 persons/hh) <sup>2</sup> |
| Open Space  | As adopted by the Council <sup>3</sup>   |
| TOTAL   | Dedication or cash-in-lieu requirement: .008 acres/person or .0105 ac/du   |
| <p><sup>1</sup>Minimum onsite dedication: 5-acre site up to 25-acre site (if combined with elementary school), 10–12 acre site is optimum.</p> <p><sup>2</sup>Minimum onsite dedication: 30-acre site up to 100-acre site (if combined with secondary school), 60–80 acre site is optimum.</p> <p><sup>3</sup> As a condition of preliminary or final plat approval, the subdivider may be required to provide land, cash-in-lieu of land, or a combination of land and fees for open space pursuant to, and to implement, the provisions of the Comprehensive Development Plan or any adopted master plans regarding open space when and if such dedications and fees are adopted by the City. Where a subdivision is of such a residential density or size or as to not require the dedication of open space the City shall require cash-in-lieu of dedication. Where open spaces are shown in the Comprehensive Development Plan or an adopted master plan, the City may require a subdivider to reserve the identified open space for those uses, as a condition of approval of a preliminary or final plat. The reserved area must be of such a size and shape as to allow: (1) the balance of the property to develop in an orderly and efficient manner, and (2) the reserved area to be efficiently used or divided if it is not acquired by a public agency. The amount of land reserved may not render development of the remaining land economically unfeasible.</p> <p>The public agency for whose benefit an open space has been reserved shall at the time of final plat approval enter into an agreement to acquire the area within two years, or longer by mutual agreement. As part of such mutual agreement, all or a portion of the reservation may be credited against other required dedications at the discretion of Council.</p> <p>(Amended 7/28/14 Ordinance No. 1627)</p> |  |

- C. *Park Board Recommendation.* The Park Board shall, after review of master plans and a proposed subdivision, make recommendations to the Planning Commission and Council concerning the adequacy of provisions for park and open space needs in each subdivision application being considered. The Park Board shall consider the following criteria prior to making their recommendation: (1) the conservation and maintenance of the natural environment of the region; (2) the provision of park land facilities which, with minimal development, will serve the entire region and will support outdoor recreation programs including, but not limited to, interpretation of the natural and historic qualities of the region; (3) the placement of park lands in such a manner as to assist in combating air quality problems, enhancing the environment, and preserving community integrity in the most practical, attractive manner possible; (4) the determination of the place the park and

outdoor recreation facilities of the development occupy in the broad scope of the City park and trail system; (5) the assurance of the continuity of open space links, trails, and other major components of the open space system; (6) the determination of the population densities which will result from the proposed development and their relation to park and open space needs; (7) the assessment of the suitability of proposed land dedications for park and open space needs; (8) the examination of the size, shape, topography, geology, presence, and condition of ground cover and timber, condition of soil, drainage, location, access, and availability of water to lands proposed for park and open space uses; and (9) the assurance of the protection of natural and historical features, scenic vistas, watersheds, timber, and wildlife.

- D. *Dedication of Land Not Feasible.* When dedication of required park and open space lands is not deemed feasible or not in the public interest, the Council shall require the subdivider, in lieu thereof, to pay to the City cash-in-lieu of land dedication in accordance with Section 16.24.110. Said cash-in-lieu of park land dedication shall be paid by the subdivider prior to recording of the final plat or may be deferred to time of building permit on a per lot or dwelling unit basis.
- E. *Dedication of All Required Land Not Feasible.* When dedication of all of the required park and open space lands or when payment of all of required cash-in-lieu of land is not deemed feasible or not in the public interest, the Council shall require the petitioner to dedicate and to pay to the City a combination of land and cash-in-lieu of land in accordance with Section 16.24.110. The combination of land dedication and payment of cash-in-lieu of land shall not exceed the total amount of land or fees required in by this Title.
- F. *Trails.* Local trail linkages are considered part of the subdivision's overall circulation system. Trails may be required in addition to sidewalks where such access is needed to connect the subdivision to nearby schools and other similar facilities in a more safe and convenient manner. The Council may choose to credit regional trail right-of-way dedication towards a subdivision's park land dedication requirement.
- G. *Excess Park or Open Spaces Dedication.* Open space lands for passive recreation and parks for active recreation provide significant value to the community. The Council may choose to credit open space or park dedications towards a subdivision's park land dedication where such open space is deemed to have significant public value and such dedication is determined to be in the public interest. The amount of credit for excess open space or park dedication, up to a maximum of one-hundred (100) percent, shall be determined by the Council based upon the value of the open space or park to the community.
- H. *Credit for Private Park and Open Space.* When subdividers provide their own private land for parks, recreation areas and facilities, and open space, it has the effect of reducing the demand for local public parks and recreational services. Depending on the size of the development, a portion of the park and open space in a subdivision may, at the option of the Council, be provided in the form of private land-in-lieu of dedicated public parks and open space. Applications for credit for private parks and open space shall be considered by the Park Board, and its recommendations shall be forwarded to the Planning Commission and to the Council. The amount of credit for private parks and open space, up to a maximum of one hundred (100) percent, shall be determined by the Council based upon the following factors: (1) the extent to which such private land serves the overall park and recreation needs of the future residents of the subdivision; (2) whether the private land is reasonably

adaptable for park and open space purposes, taking into account the size, shape, topography, geology, accessibility, and location of the site and whether the operation and maintenance of such private land as park and open space is adequately provided for by recorded written agreement, conveyance, or restriction. In general, a substitution of private parks and open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the subdivider, as part of his obligation. Detailed plans of such areas, including specifications of facilities to be installed, must be approved by the City. Private park and open space credits can only be applied to areas within a development that specifically have a right to use the private park or open space.

- I. *Replat or Resubdivision.* If cash-in-lieu has been paid or land dedicated for any residential land being replatted or resubdivided, no land dedication or cash-in-lieu shall be required, unless as a result of such replat or resubdivision, residential density is increased. If residential density is increased, the subdivider shall pay the cash-in-lieu or dedicate land as applied only to the increase in the number of residential units.
- J. *Combining with Adjoining Developments.* Where the subdivision limits the amount of land that can be dedicated, such park land or open space that is to be dedicated may, when feasible, be combined with dedications from adjoining developments to produce usable park and open space areas without hardship on a particular subdivider.
- K. *Park Development.* The subdivider shall be responsible for improving the park in accordance with established standards. The standards for development shall be established by ordinance. Where raw land is dedicated and not improved as a neighborhood or community park, the Council shall require the subdivider, in lieu of improvements thereto, to pay to the City cash-in-lieu of park improvements. Said cash-in-lieu of park improvements shall be paid by the subdivider prior to recording of the final plat or may be deferred to time of building permit on a per lot or dwelling unit basis. The cost of improvements shall be set by the Council on a per acre basis based on a recommendation from the Park Board.
- L. *Park and Open Space Dedication Credits.* The Council may provide a subdivider credit for excess public park land and open space dedication in association with any excess dedication. The credits may be used to offset all or a portion of park land and open space dedication requirements within subsequent phases of a subdivision or in other proposed subdivisions within the City. Credits may not be taken or applied without Council approval. While it is the intent of Council in allowing park and open space credit for excess dedications to encourage a subdivider to dedicate important or critical park lands and open spaces, allowing the redemption of the credit in association with any particular subdivision or phase of a subdivision is solely at the discretion of Council. The use of a credit shall not have the affect of leaving an area of the City or a subdivision inadequately served by parks or open space. Credits may be transferred from one subdivider to another with the approval of Council.

#### **16.24.060 School Land Dedication Standards and Procedures.**

- A. *Requirement to Dedicate School Lands.* Whenever land is proposed for residential use, the subdivider shall provide land, cash-in-lieu of land, or a combination of land and cash to meet the school facility demands generated by the proposed development.

- B. *School District Recommendation.* The appropriate school district shall make recommendations to the City concerning the adequacy of provisions for school needs in each development proposal considered.
1. *Criteria.* The appropriate school district shall consider the following criteria prior to making their recommendations: (1) the determination of the population densities which will result from the proposed development and their relations to school needs; (2) the assessment of the suitability of proposed land dedications for school uses; (3) the examination of the size, shape, topography, geology, presence, and condition of ground cover, condition of soil, drainage, location, access, and availability of utilities to lands proposed for school uses; (4) the assurance of the protection of natural and historical features, scenic vistas, watersheds, timber, and wildlife; and (5) the demonstration of a present or future need for a school site.
  2. *Land Not Deemed Feasible or in Public Interest.* When dedication of all or portions of required school lands is not deemed feasible or in the public interest, the school district may recommend to the City one of the following options:
    - (a) *Future Land.* Guarantee of future land dedication may be requested by the school district when dedication of all or portions of required school lands is not deemed feasible or in the public interest in a particular phase of development. Prior to final plat approval, the subdivider and the school district shall enter into a written agreement in which the subdivider guarantees the future dedication of land for school sites. Said agreement shall be executed by the current owner(s) of the site(s) and the guarantor, who shall provide proof of ownership. The agreement shall include a legal description of the property to be dedicated in a subsequent phase of the subdivision and shall be recorded with the office of the El Paso County Clerk and Recorder. Said agreement shall be binding upon the subdivider's heirs, legal representatives, successors in interest, and assigns.
    - (b) *Cash-in-Lieu.* The requirement for the payment of cash-in-lieu of dedication in accordance with Section 16.24.110.
- C. *Dedication Standards.* Dedication of land, or the payment of cash-in-lieu thereof, or a combination of such dedication and such payment shall be made for school needs. The following formulas shall be used to calculate the minimum amount of land dedication required in residential subdivisions (See Table 16.24.060-1). These dedications shall serve as the basis for calculating any cash-in-lieu.

**Table 16.24.060-1 School Land Dedications-Unit Based Approach**

| Type of Unit   | Square Feet of Dedication per Unit <sup>3</sup> |
|--|---|
| Single family detached <sup>1</sup>  | 871   |
| Single family attached, multifamily or other types of residential units <sup>2</sup>   | 359   |
| <sup>1</sup> Single family detached unit: A residential dwelling unit completely separate of other units and situated on its own lot. A mobile home subdivision or manufactured home shall be included within this definition for dedication requirement calculation, as well as patio home or townhome where not attached.<br><sup>2</sup> Other residential units: All other types of residential units not included as single family detached units, including but not limited to attached single family homes, townhomes, condominiums, apartments, and mobile home parks.<br><sup>3</sup> Existing dwelling units shall be excluded from the calculation of the school land dedication requirement if they have previously been included in the calculation for school land dedication unless the lot on which the existing dwelling will be located allows for greater residential density in which case the dedication requirements shall be calculated based on the maximum potential residential density. |   |

- D. *Reductions in Dedications.* There is no land dedication for a public school site when the residential subdivision is zoned exclusively for nursing homes, retirement facilities, or similar proposals. In addition, a subdivider may propose limiting dedications for school sites where the subdivider can document to the satisfaction of the City and appropriate school district that the subdivision will generate fewer students than the standard on which the dedication requirements is based.
- E. *Minimum Site Size.* The minimum acreage for the dedication of school sites is based upon the following standards: ten (10) acres for an elementary school; twenty five (25) acres for a junior high school; and fifty (50) acres for high schools. Where a subdivision is of such a residential density as to not require the dedication of a full school site, the City shall require cash-in-lieu of dedication. The appropriate school district may recommend and the City may require where the total required dedication exceeds the minimum site area that all land dedications beyond the minimum school site size be contiguous. The appropriate school district may also request and the City may require the dedication of additional land to obtain a full site or site large enough to meet the appropriate school district’s intended use. Where the requested dedication exceeds the total dedication required, the appropriate school district is required to compensate the subdivider for the additional lands in the same manner and amount as cash-in-lieu is calculated pursuant to Section 16.24.110 or such other amount agreed to by the subdivider and appropriate school district.
- F. *Suitable Lands.* Dedicated sites shall be a single parcel suitable for school facilities in terms of topography, size and location. The dedicated school land shall be centrally located and provided with public access to adjacent street frontage and free from hazards that would threaten the safety of those using the land. The following land areas shall not be considered to fulfill the requirements of any required public school land area requirement:
- Rights-of-way or public easements.
  - Greenbelts, walkways, bikeways and trails.
  - Lakes, ponds, reservoirs.
  - Swamps and boggy lands.
  - Steep or rugged land areas.
  - Hazardous geological land areas and hazardous wildfire land areas.

- G. *Combining with Adjoining Developments.* Where the subdivision limits the amount of land that may be dedicated, such school land which is to be dedicated may, when feasible, be combined with dedications from adjoining developments to produce a usable school site without hardship on a particular subdivider.
- H. *Dedication and Conveyance of Land to School District.* If the appropriate school district determines that the dedication of land for school purposes is appropriate, the subdivider shall convey the property by warranty deed to the appropriate school district concurrent with the recording of the final plat.
- I. *Collection and Transfer of Cash-in-Lieu.* If the appropriate school district determines that cash-in-lieu of the dedication of land for school purposes is appropriate, said cash-in-lieu of land dedication shall be paid to the City prior to the recording of the final plat or may be deferred to the time of building permit in which case it shall be collected by the City at time of building permit. All cash-in-lieu collected by the City shall be paid to the appropriate school district on a quarterly basis by the City.
- J. *Replat or Resubdivision.* If cash-in-lieu has been paid or land dedicated for any residential land being replatted or resubdivided, no land dedication or cash-in-lieu shall be required unless as a result of such replat or resubdivision, residential density is increased. If residential density is increased, the subdivider shall pay the cash-in-lieu or dedicate land as applied only to the increase in the number of residential units.

**16.24.070 Land Dedication for Public Facilities.** As a condition of preliminary or final plat approval, the subdivider may be required to provide land, cash-in-lieu of land, or a combination of land and fees for fire stations, library sites, child day care, public art, or any other public facilities pursuant to, and to implement, the provisions of the Comprehensive Development Plan or any adopted master plans regarding such facilities when and if such dedications and fees are adopted by ordinance. These lands must be suitable for public facilities in terms of topography, size and location. Where a subdivision is of such a residential density or commercial/office/industrial acreage as to not require the dedication of a full site the City shall require cash-in-lieu of dedication. All cash-in-lieu shall be calculated in accordance with Section 16.24.110.

**16.24.080 Reservations for Public Facilities.**

- A. *General.* Where a recreational facility, fire station, library, or other public use is shown in the Comprehensive Development Plan or an adopted master plan, and the plan contains policies and standards for those uses, the City may require a subdivider to reserve sites for those uses, as a condition of approval of a preliminary or final plat.
- B. *Limitations.* The reserved area must be of such a size and shape as to allow: (1) the balance of the property to develop in an orderly and efficient manner, and (2) the reserved area to be efficiently used or divided if it is not acquired by a public agency. The amount of land reserved may not render development of the remaining land economically unfeasible.
- C. *Acquisition.* The public agency for whose benefit an area has been reserved shall at the time of final plat approval enter into an agreement to acquire the area within two years, or longer

by mutual agreement. As part of such mutual agreement, all or a portion of the reservation may be credited against other required dedications at the discretion of Council.

**16.24.090 Drainage Basin and Other Infrastructure Fees.** The Council may adopt drainage basin or other fees to fund infrastructure within all or certain portions of the City. Such fees shall be adopted by ordinance and shall be payable as specifically established in the ordinance authorizing the collection of the drainage basin or infrastructure fee.

**16.24.100 Use of Land and Cash-in-Lieu.** All land and cash-in-lieu dedicated or credited under the provisions of this Title shall be used for its intended public purpose (land for school, recreation and open space, fire, police or administrative facilities) to the mutual benefit of the residents of the subdivision, City and general public in accordance with the City's, schools district's, or other special district's adopted plans and policies for public uses and facilities. The City, school district, or special district may exchange land previously acquired for cash if in the opinion of the Council or governing board of the school district or special district, the public need for that specific public use would better be served at a different site.

**16.24.110 Calculating the Cash-in-Lieu.** The Council may adopt and apply a schedule of fees for cash-in-lieu based on the adopted land dedication rates and an established developed land value which may be based on a citywide appraisal of developed lands, on the County Assessor's average developed land value in the city, or some other acceptable method of determining land values. The rate shall be adjusted annually based on changes in land values. The cash-in-lieu schedule may be applied to all lands being subdivided on a per unit or per lot basis.

If the Council does not adopted a schedule of fees based on the dedication rates and an established developed land value, when cash-in-lieu of land area dedication is to occur, at the time of submittal of documents for a final plat, the subdivider shall submit an appraisal, purchase price or other indication of the actual market value of the buildable land area based on the approved preliminary or proposed final plat (i.e., value shall be based on anticipated market value after completion of platting and completion of all required public improvements). The actual value of the land shall be determined by mutual agreement between the subdivider and the Subdivision Administrator. In the event that the parties cannot agree on the actual value of the sites, an independent qualified appraiser shall be selected by mutual agreement of the disagreeing parties. Said appraiser's findings on the actual value of the total site shall be final and binding on all parties. A qualified appraiser shall be a member of the Appraiser Institute (M.A.I.) or an Accredited Rural Appraiser (A.R.A.). The subdivider shall pay the full cost of said appraiser. This method shall establish the base land value for purposes of establishing the cash-in-lieu due at time of platting. Where the fees are to be paid at time of building permit, the base land value and schedule of fees established at the time of platting shall be inflated annually by the average increase in land values within the City of Fountain as determined by a review of the County Assessor's data.

Developed land value is the value of the land following platting and completion of all public improvements.

## **16.25 CRITERIA FOR TRAFFIC IMPACT STUDIES**

**16.25.010 Introduction.** This appendix outlines the policies and requirements for the preparation of Traffic Impact Studies (TIS) for development proposals in the City of Fountain. These requirements exist to ensure consistent traffic analysis practices for developments being considered. The responsibility for evaluating the traffic impacts associated with a proposed development rests with the applicant. The applicant is responsible for retaining a qualified transportation professional to provide an accurate and complete accounting of probable traffic impacts related to the proposed development. The City of Fountain Planning and Public Works staff are responsible for review of traffic impact studies to ensure that the study is completed accurately and in accordance with these requirements.

**16.25.020 When a Traffic Impact Study is Required.** Unless waived by the City Engineer, the City requires a TIS for any new development proposal that could potentially have a significant impact (as determined by the City) on the transportation system. Any of the following may be considered significant impacts:

- Daily trip generation is projected to be 500 or more vehicles.
- Peak hour trip generation is projected to be 50 or more vehicles.
- Traffic from a development will impact adjacent residential neighborhoods.
- Driveway impacts on public streets related to turning movements or signal timing/progression.
- Offsite collector and arterial road links and intersections that are impacted by 10% or more (during either A.M. or P.M. peak hour).
- Significant citizen concern due to expected traffic impacts.

A TIS may also be required when a previously approved development changes or expands in such a way that the approved access to the site is affected or trip generation estimates increase by more than 20% over the original estimates. A TIS may also be required for each phase of a large phased development. In this situation, an overall TIS would be completed for the overall proposal followed by an addendum prior to the development of each phase.

**16.25.030 Traffic Impact Study Preparation and Review Process.** The Subdivider is responsible for contacting the Planning Division before a development application is submitted to determine if a TIS will be required. The need for a TIS will be determined as part of the pre-application conference.

Prior to the commencement of the TIS, a pre-submittal meeting must be held between the City Engineer and the transportation professional retained by the subdivider to discuss the scope of the study and the requirements for the study content and format. The pre-submittal meeting is intended to provide a firm base of cooperation and communication between the City, the subdivider, and the transportation consultant. At a minimum, topics discussed at such meetings will include study area, proposed land uses, trip generation, trip distribution, traffic projection year(s), intersections requiring analysis, signal timing assumptions and background traffic assumptions.

The subdivider shall submit the traffic impact study at the time that the development application is submitted. If the study fails to comply with the technical requirements and the scope of the study outlined in the pre-submittal meeting, the Subdivider will be advised in writing through the

City's normal development review process. A study must be submitted and accepted by the City before the Planning Commission schedules the project for consideration.

The City Engineer will review the draft study within twenty-one (21) working days of the date of submittal. If study revisions are needed, the City Engineer will normally review the revised study within ten (10) working days of submittal. A longer review period will be necessary if the Colorado Department of Transportation (CDOT) or other agencies are involved in the review process.

#### **16.25.040 Traffic Impact Study Requirements.**

- A. *Study Purpose and Site Description.* The study shall include a brief description of the development application proposal (i.e. annexation, rezoning, subdivision, site plan application etc.) It shall also include a brief description of the development proposal including the site location, the size of the land parcel, general terrain features, the types of land uses being proposed and the proposed access points.
- B. *Study Area.* The boundaries of the study area will be based on engineering judgment and an understanding of existing traffic conditions surrounding the site. The limits should be agreed upon at the pre-submittal meeting with staff. The boundaries of the study area shall be based on the size and extent of the proposed development and its relation to significant streets and intersections. Large developments may require a study area extending beyond one mile due to the magnitude of potential impacts. As a minimum, the study area will include:
- Adjacent streets.
  - Adjacent or nearest offsite arterial/arterial or arterial/collector intersections.
  - Site access points.
  - Internal roads.
  - Offsite collector and arterial road links and intersections that are impacted by 5% or more (during either A.M. or P.M. peak hour).
  - Continuity and adequacy of pedestrian and bicycle facilities to the nearest attraction (existing or planned);
  - Access to the most direct public transportation services facility or public transportation services route where public transportation services are available; and
  - Any pedestrian routes within 2 miles of a school.

A vicinity map that shows the site and the study area boundaries in relation to the surrounding transportation system must be included in the study. All arterial and collector streets in the study area and access points to the site should be shown on the map. Key intersections in the study area that will be analyzed in the study shall be identified at the pre-submittal meeting. The key intersections should be identified on the map.

- C. *Study Horizons.* Three study horizons are required for analysis: The current conditions, short term and long term. The current (existing) conditions should be analyzed to establish a baseline of traffic conditions.

The short-term horizon represents the planned opening year of the project. Both a background analysis and analysis with the project completed should be completed to assess the short-term impacts of the project. Assumptions about street improvements not

associated with the study project in the short term should be based on projects shown in the City's Capital Improvement Program or projects that have already been financially obligated to a subdivider.

The long term planning horizon represents conditions at 80% build out of the Fountain Planning Area as shown in the Fountain Comprehensive Development Plan (FCDP). For land uses in compliance with the FCDP this analysis should be completed using forecast volumes and roadway improvements as shown in the FCDP. For land uses that are not in compliance with the FCDP analyses for both the adopted land uses in the FCDP and the proposed land uses should be completed so that the impact of the land use change can be evaluated.

When an overall traffic impact study is completed for a phased development the study shall look at all three study horizons. Addenda for each phase of development should only look at the current conditions and the short-term horizon.

- D. *Analysis Time Periods.* Normally, the analysis time periods will be the weekday a.m. and p.m. peak hours. Under some circumstances the City may require analyses to occur at other times as appropriate.
- E. *Existing/Base Conditions.*
1. *Existing and Proposed Land Uses.* A complete description (including a map) of the existing land uses in the study area as well as their current zoning, shall be included in the study. In addition, the future uses of all vacant land within the study area that may be developed within the projection year of the project must be identified. For the short term horizon only land where development applications have been approved should be considered as developed within the projection year. For the long-term horizon, land uses shown in the FCDP should be assumed as developed within the projection year.
  2. *Existing and Proposed Transportation System.* The study shall describe the existing roadways and intersections in the study area including the road geometry and intersection traffic control. For the short-term horizon, assumptions about road improvements not related to the development shall be based on the City's Capital Improvement Program and on improvements already financially obligated to a subdivider. For the long-term horizon all improvements shown in the FCDP within the study area should be assumed.
  3. *Existing Traffic.* Current a.m. and p.m. peak hour traffic volumes shall be obtained for the roadways and intersections within the study area. "Current" means counts less than a year old. A map or series of maps of the existing roadway network shall be prepared showing the existing conditions and volume counts including lane geometry, traffic control, access points, turning movement volumes and calculated peak hour factors.

4. *Background Traffic.*

- (a) *Short Term Horizon.* For the short term horizon, background traffic shall be the sum of existing traffic volumes plus the addition of traffic from any not yet built but approved developments in the study area plus background traffic growth. Background traffic growth should be calculated from historical 24-hour volume counts in the City of Fountain in the vicinity of the proposed development. Staff will provide this information when it is available. The annual percentage of background traffic growth should be agreed upon at the pre-submittal meeting.
- (b) *Long Term Horizon.* For the long-term horizon, background traffic shall be based on the most recent traffic forecasts from the City's long range transportation model. Maps of both the short term and long term roadway network shall be prepared showing the projected conditions and projected volume counts including lane geometry, traffic control, access points, a.m. and p.m. peak hour turning movement volumes and calculated peak hour factors.

F. *Site Related Traffic.*

1. *Trip Generation.* A summary table listing each type of land use, the size or amount involved, the trip generation rates used and the resultant total trips must be provided. Trip generation rates shall be calculated using data contained in the latest edition of the Institute of Transportation Engineers' (ITE) Trip Generation Manual or from a local trip generation study following procedures prescribed in the ITE Trip Generation Manual. If a local trip generation study is used to determine the trip generation rate, documentation of the trip generation study and the resulting rate should be included in an appendix of the traffic impact study. The ITE Trip Generation Manual presents data on trip generation rates in various formats. A weighted average trip generation rate is shown. Also, when possible, a regression equation is presented that defines the line representing "best fit" of the data. Trip generation rates should be determined as outlined below.
- (a) Use Regression Equation When:
- a regression equation is provided.
  - the independent variable is within range of data and
  - either the data plot has at least 20 points; or
  - the R<sup>2</sup> is greater than or equal to 0.75, equation falls within the data cluster in the plot and the standard deviation is greater than 110% of the weighted average rate.
- (b) Use the Weighted Average Rate When:
- at least three data points.
  - independent variable is within range of data.
  - standard deviation is less than or equal to 110% of the weighted average rate.
  - R<sup>2</sup> is less than 0.75 or no equation provided.
  - Weighted average rate falls within data cluster plot.

(c) Collect Local Data When:

- study site is not compatible with ITE land use code definition.
- only 1 or 2 data points; preferably when five or fewer data points.
- independent variable does not fall within range of data.
- neither weighted average rate line or fitted curve fall within data cluster at size of development.

Trip making reduction factors may be used after first generating trips at full ITE rates. These factors fall into two categories: those that reassign some portion of generated trips to the background stream of traffic, and those that remove or move generated trips. In all cases, the underlying assumptions of the ITE Trip Generation rates must be recognized and considered before any reductions are claimed.

The first category is when trips to the proposed development currently exist as part of the background traffic stream, referred to as pass-by trips. Pass-by percentages identified by ITE or in other industry publications may typically be used. But, the source of the percentages must be identified and the City must approve use. Pass-by traffic must continue to be assigned to site driveways and access points, but is not additive to the background traffic stream. An appendix that illustrates the assignment of pass-by trips must be included in the report.

The second category for adjustments is for internal site trips, transit use, and transportation demand management (TDM) actions. Reductions of these types may be allowed if analytic support is provided to show how the figures were derived. The City must approve any reductions that are claimed. Optimistic assumptions regarding transit use and TDM actions will not be accepted unless accompanied by specific implementation proposals that will become a condition of development approval. Such implementation proposals must have a high expectation of realization within a 3-year period after project initiation.

2. *Trip Distribution.* The percentage of trips to/from the proposed development to/from destinations in the region must be clearly shown graphically in the report. The consultant shall be responsible for estimating trip distribution. Marketing studies, sub-area transportation studies, documented existing traffic patterns and professional judgment may be used to make trip distribution assumptions. Whatever method(s) are used, the procedures and rationale used should be fully explained and documented in the study.

Different trip distribution assumptions can be used for different land uses in mixed-use developments. If more than one set of distribution assumptions are made they should be shown on separate graphics.

3. *Trip Assignment.* Site generated traffic shall be assigned to the street system according to the trip distribution percentages determined in the previous step. The traffic assignment must be clearly shown graphically in the report.

G. *Analysis and Identification of Impacts.*

1. *Tasks:* The project impacts shall be determined through an analysis procedure that follows the sequence of tasks outlined below.

- Assessment of existing conditions.
- Assessment of short term background conditions.
- Assessment of short term conditions with the planned land use shown in the FCDP for the land being proposed for development (this task is only needed when the proposed development is requesting a land use amendment).
- Assessment of short term conditions with the proposed development.
- Assessment of long term background conditions.
- Assessment of the long term conditions with the proposed development when a land use amendment is being requested.

2. *Highway Capacity Analysis.* Assessment techniques for existing conditions, short term background and short term with the development will include a capacity and level of service (LOS) analysis for the key intersections identified in the study area during the identified analysis time periods. For signalized intersections the analyses shall be completed using the operational analysis methodology shown in the latest edition of the Highway Capacity Manual published by the Transportation Research Board. Both volume to capacity ratio (v/c ratio) and level of service for each movement shall be reported in a table or diagram for each signalized intersection analyzed. The overall intersection level of service shall also be reported. The City of Fountain's benchmark for traffic congestion states that all signalized intersections should be maintained at overall LOS C or better. In addition, the benchmark requires that all movements that have 5% or more of the total entering intersection volume should be maintained at LOS C or better and have a volume to capacity ratio less than 1.0. Therefore, any signalized intersections or movements at signalized intersections that exceed these thresholds should be noted.

The capacity and level of service analysis at signalized intersections shall be performed using the following assumptions:

- Peak hour factors should be calculated on an approach by approach basis from the turning movement count data collected for the analysis.
- Right turns on red should not be considered unless specific data documenting the percentage of turns on red is collected.
- Unless approved by the City at the pre-submittal meeting all arrival types shall be assumed to be type 3 as defined in the Highway Capacity Manual.
- Signal controller unit extension should be assumed to be 3.0 for through movements and 2.0 for left turn movements unless otherwise approved by the City.
- Start up lost time should be assumed to be 2.0 seconds unless otherwise approved by the City.
- Extension of effective green should be assumed to be 3.0 seconds unless otherwise approved by the City.
- Traffic signal timing parameters for the existing conditions will be the actual signal timing in effect unless determined otherwise by the City. Traffic signal timing parameters for the short term background conditions and the short term conditions with the development will use signal cycle lengths between 80 and 120 seconds. Cycle lengths and Individual green intervals will be calculated to provide the least overall intersection delay while maintaining all movements below benchmark thresholds whenever possible. Clearance intervals shall be the actual times currently in effect for all scenarios analyzed. Where different

signal phasing from the existing is used for the analysis this change shall be noted in the list of traffic impacts. Where traffic signals are part of a coordinated signal system or where proposed new signals are within a half mile of another signal the cycle lengths used for analysis should be the same at all intersections analyzed.

- Saturation flow rate will be assumed to be 1900 passenger cars per hour of green per lane (pcphgpl).
- Lane widths should be assumed to be 12 feet wide unless other data shows otherwise.
- 2% trucks should be assumed for all movements unless approved otherwise by the City.
- Saturation flow adjustment factors should be as per the Highway Capacity Manual.
- Where dual left turns exist or are proposed they shall be assumed to operate in a protected only mode.
- Free running right turns that are not effected by the signal timing should be excluded from the analysis.

3. *LOS Analysis Unsignalized Intersections.* Level of service analysis for unsignalized intersections shall be done in accordance with the methodology for unsignalized intersections in the latest edition of the Highway Capacity Manual. The results of the unsignalized intersection analysis should be shown in the table or diagram used for signalized intersection results. The following assumptions should be used for the analysis of unsignalized intersections:

- Duration of analysis period is assumed to be .25 hour.
- Peak hour factors should be calculated on an approach by approach basis from the turning movement count data collected for the analysis.
- 2% trucks should be assumed for all movements unless approved otherwise by the City.
- Saturation flow rate will be assumed to be 1700 pcphgpl.
- Critical gap and follow up time shall be in accordance with the values given in the Highway Capacity Manual.

4. *Long Range Assessment.* Assessment techniques for both long term background and long term with the proposed development will require analysis using the planning methodology for signalized intersections and the unsignalized intersection methodology for unsignalized intersections as outlined in the latest edition of the Highway Capacity Manual. The condition (i.e. under capacity, near capacity, over capacity etc.) for signalized intersections and the level of service for unsignalized intersections should be reported in a table or diagram. Assumptions for the long-range unsignalized intersection analysis shall be the same as for the short-term analysis. The following assumptions shall be used for the long-range signalized intersection analysis.

- A peak hour factor of 0.9 shall be used.
- Cycle lengths between 80 and 120 seconds shall be used.

5. *Access Evaluation.* Assessment techniques for existing conditions, short term background, short term with the development, long term background and long term with the development will also include an evaluation of each proposed access

point. Accesses should be considered intersections and included in the level of service/capacity analysis described above.

Safety is the top priority at access points. The City has developed standards for the spacing and design of access points to provide optimum safety. Accesses should be reviewed to ensure compliance with City (and CDOT if on a State Highway) standards. Proposed access points that do not meet the pertinent standards should be noted. In addition, all access points should be evaluated to determine what auxiliary lanes are required in accordance with City standards and the State Highway Access Code (where applicable).

6. *Evaluation of Signal Progression in Coordinated Signal Systems.* According to City Standards, intersections with the potential for signalization should be spaced no closer than one half mile. If a development proposes an access or intersection that is projected to be signalized and is less than a half mile from other signals or other planned signals a progression analysis shall be conducted to demonstrate that a new signal can be installed without negatively impacting progression.

The analysis shall consider all existing signals or possible future signals within one mile in each direction from the proposed signal location. On existing coordinated arterials, it must be demonstrated that the existing bandwidth in each direction can be maintained with the new signal installed. Where a new coordinated system will occur as a result of the new signal it must be demonstrated that a bandwidth of at least 45% can be achieved in each direction unless otherwise directed by the City.

The following assumptions shall be used for the progression analysis:

- A cycle length between 80 and 120 seconds should be used for analysis.
- Actual prevailing speeds on the arterial shall be used for travel speed in the analysis.
- Split assumptions shall be based on projected turning movement volumes and designed to maintain all movements with at least 5% or more of the total intersection traffic at LOS C or better and below v/c ratio of 1.0. Where pedestrian volumes are expected to be high (to be determined in the pre-submittal meeting), side street splits long enough to accommodate pedestrians shall be used assuming a 4.0 fps walking speed.
- Where left turn arrows are anticipated, protected/permissive phasing should be assumed unless dual left turns are projected. Then, protected only left turn phasing should be assumed.
- Lagging left turns will not be allowed for protected/permitted left turn phases.
- Any access where the required bandwidth cannot be achieved should be noted. Any such access shall remain unsignalized and have turning movements limited by driveway design and/or median islands to prevent the need for signalization. Time-space diagrams shall be included in an appendix to the study.

7. *Other Analysis.* Where the City deems it appropriate, other types of analysis may be required in the traffic impact study. Other types of analysis may include but are not limited to: Sight distance evaluation, transit and TDM opportunities, pedestrian/bicycle needs, environmental evaluations and evaluation of neighborhood impacts.

**16.25.050 Impact Mitigation Measures.**

- A. *Summary of Analysis.* A conclusions and recommendations chapter should be included in the traffic impact study. The results of the analysis should be summarized in this chapter. This summary should note all impacts to the transportation system and recommendations for site access, roadway improvements and travel demand strategies needed to maintain traffic flow safely and at a level of service in keeping with the City's congestion benchmark. In the event that the analysis indicates unsatisfactory levels of service or v/c ratio at any study intersection a description of proposed mitigation techniques or physical improvements to remedy deficiencies must be included. It should be noted if the recommended improvements are part of the City's Capital Improvement Program, are already financially obligated to another subdivider or if there is currently no funding dedicated for the improvements.
- B. *Transportation Demand Management.* If TDM measures are recommended to mitigate unsatisfactory traffic conditions a specific TDM Implementation Proposal shall be developed and presented to the City. If accepted, this Implementation Proposal will become a condition of approval of the land use action requested.
- C. *Evaluation of Proposed Improvements.* If unsatisfactory levels of service or v/c ratio are predicted by the study and recommendations are made for mitigation. Additional analysis must be presented which demonstrates the effectiveness of the mitigation.