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CHAPTER 2: REVIEW AND APPROVAL PROCEDURES

2-10: REVIEW, DECISION-MAKING, AND APPEAL BODIES

This section describes all bodies involved in the review, approval, or appeal of land use and development applications and decisions in Pitkin County. A listed body may be a review body for certain types of decisions, a decision-making body for other types of decisions, and may be authorized to hear appeals in other types of decisions. The roles of each listed entity as the review, decision-making, or appeal body for specific types of decisions is summarized in Table 2-1.

2-10-10: THE BOARD OF COUNTY COMMISSIONERS

(a) General

The administration of this Land Use Code shall be within the power of the Board of County Commissioners (Board) and such power shall be executed in accordance with those delegations of authority established by this chapter and other provisions of this Land Use Code. The delegations of authority currently approved by the Board of County Commissioners are summarized in Table 2-1.

(b) Appeals

The Board of County Commissioners may hear appeals made by any individual, officer, department, board, or bureau of the County affected by the grant or refusal of a building permit or development permit, or by the decision of the Community Development Director based upon or made in the course of the administration or enforcement of provisions of this Land Use Code. No such appeal to the Board of County Commissioners shall be allowed for building use violations that may be prosecuted pursuant to C.R.S. 30-28-124(1)(b) and the implementing regulations for that statute. Appeals shall be conducted pursuant to Sec. 2-20-180.

2-10-20: PLANNING AND ZONING COMMISSION

(a) Establishment

There is hereby established the Pitkin County Planning and Zoning Commission:

- (1) The Planning and Zoning Commission shall consist of three (3) to nine (9) members and not more than four (4) alternates, as appointed by the Board.
- (2) Each member and alternate shall be a resident of the County.
- (3) The term of each member is three (3) years, with the terms of approximately one-third (1/3) of the members expiring each year.
- (4) This Commission may be called the "Planning and Zoning Commission" or "P&Z Commission" in this Land Use Code or in other official and unofficial documents and actions.

(5) The Planning and Zoning Commission shall annually elect a chairperson to serve a one-year term.

(6) The Board shall fill vacancies and shall remove a member for nonperformance of duty or misconduct as it deems appropriate in the exercise of its discretion. In the event that any regular member is temporarily unable to act owing to an absence, illness, conflict of interest, or any other cause, such position shall be filled during such temporary disability by an alternate member in accordance with the by-laws, if applicable, or by order of the chairperson.

(b) Conduct of Business:

(1) The Planning and Zoning Commission shall adopt and amend such by-laws establishing its organization, and procedures, as may be necessary. A copy of such by-laws shall be available in the Community Development Department.

(2) The Commission shall keep a record of its proceedings, which record shall be open to inspection by the public at reasonable times. The Commission shall consider any expert advice that may be provided by appropriate federal, state, county, and municipal officials, departments, and agencies and in particular, by the Director of the Division of Planning in the department of Local Affairs of the State of Colorado. All state officials, departments, and agencies having information, maps and data pertinent to County Planning and Zoning are authorized and directed to make the same available for the use of the County Planning and Zoning Commission as well as to furnish such other technical assistance and advice as they may have available for such purposes.

(c) Powers and Duties

The Planning and Zoning Commission shall have such authority to act as provided by State statute and by the Board of County Commissioners in this Land Use Code. Authority under state law includes, but is not limited to, the following as they may be amended from time to time: Chapter 28 of Title 30, Chapter 65.1 of Title 24, Chapter 67 of Title 24, Chapter 20 of Title 29, and Chapter 11 of Title 30. The powers currently delegated to the Planning and Zoning Commission by the Board of County Commissioners are summarized in Table 2-1.

2-10-30: BOARD OF ADJUSTMENT

(a) Establishment:

(1) There is hereby established the Pitkin County Board of Adjustment.

(2) The Board of Adjustment shall be composed of five members. The term of each member shall be two (2) years. The Board of County Commissioners shall establish staggered terms for the members.

(3) The Board of County Commissioners may in its discretion appoint up to five (5) alternate Board of Adjustment members.

(4) Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners.

(5) Vacancies on the Board of Adjustment shall be filled by the appointment of an alternate member who shall have served a minimum of one (1) year prior to appointment as a regular member. If there is no such alternate member, the Board of County Commissioners shall appoint other alternate members, as necessary. If there are no available alternate members, vacancies may be filled by the Board of County Commissioners in the same manner as original appointments.

(6) In the event that any regular member is temporarily unable to act owing to absence, illness, conflict of interest, or other cause, such position shall be filled during such temporary disability by an alternate member in accordance with the by-laws, if applicable, or by order of the chairperson.

(7) Each member and alternate shall be a resident of the County.

(b) Organization

The Board of Adjustment may adopt by-laws approved by the Board of County Commissioners to establish its organization and procedures. A copy of such by-laws shall be available in the Community Development Department. The Board of Adjustment shall elect a chairperson from its members to serve a one-year term.

(c) Conduct of Business:

Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment in its rules or by-laws may specify. The chairperson or acting chairperson may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing may issue subpoenas and enforce obedience by contempt proceedings. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

(d) Powers and Duties

The Board of Adjustment is authorized to hear requests for Variances from the structure height or yard or road setback provisions established by this Land Use Code, pursuant to the procedures established in Sec. 2-40-110. The powers currently delegated to the Board of Adjustment by the Board of County Commissioners are summarized in Table 2-1.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-10-30 amended (part) [Ord. 019-09, 06-24-09](#))

2-10-40: REDSTONE HISTORIC PRESERVATION COMMISSION (RHPC)

(a) Establishment

There is hereby established within Pitkin County government the Redstone Historic Preservation Commission (RHPC) to provide for the preservation and continued integrity of the historically designated area within one thousand (1,000) feet of the established boundary of the townsite of Redstone, the Redstone Castle properties, and of other designated structures, sites and objects, and to promote the educational, cultural, economic and general welfare of the public by preserving those qualities that relate to the history of Redstone, the State of Colorado, and the nation.

- (1) The Redstone Historic Preservation Commission shall consist of five (5) regular and three (3) alternate members, as appointed by the Board of County Commissioners.
- (2) Members shall have an interest in and knowledge of the Redstone community and history.
- (3) Each member shall have been a resident of the Crystal River Valley within the bounds of Pitkin County (from approximately nine (9) miles north of Redstone to approximately five (5) miles south) for a minimum of one (1) year.
- (4) Members should include a mix of backgrounds such as architecture, real estate, history, law, engineering and long-term residents.
- (5) Members should include a balance of property owners and renters.
- (6) Alternates shall act only in the event of the absence of the regular member. The chairman shall appoint any alternate present to act in the absence of a regular member.
- (7) Members shall serve for two (2) year terms, such that terms of four (4) members and the remaining four (4) members shall be completed in alternating years. Members may be reappointed for successive terms and each member shall serve until the appointment of his or her successor.
- (8) Members shall serve without pay.

(b) Organization

The RHPC shall develop and adopt by-laws to govern its operations. Such by-laws shall include provision for election of officers to include a chairperson, a vice-chairperson and a secretary (whose responsibility shall be to make and keep a thorough, accurate record of all RHPC proceedings).

(c) Powers and Duties

The powers and duties of the RHPC shall include, but not be limited to:

- (1) Assisting the Community Development Department reviewing an historic inventory of structures, sites and objects in the Redstone vicinity with respect to completeness and accuracy;
- (2) Assisting the Community Development Department in drafting guidelines and amendments thereto for alterations to existing structures and design of new construction in the historically designated Redstone area and designated sites and structures;
- (3) Recommending and preparing applications for designation of historically significant areas, structures or sites in the Redstone area at the County, State or Federal level, including provision of support material necessary to justify designation;
- (4) Reviewing applications consistent with the Village of Redstone Design Guidelines as required by Sec. 7-20-100 of this Land Use Code for erection, removal, construction, reconstruction, remodeling or demolition of structures or sites designated as historic and archaeological resource areas in the vicinity of Redstone;
- (5) Promulgating knowledge of and respect for historic preservation and, more specifically, knowledge of adopted guidelines and regulations to ensure such preservation.
- (6) The powers currently delegated to the RHPC by the Board of County Commissioners are summarized in Table 2-1.

2-10-50: COMMUNITY DEVELOPMENT DEPARTMENT

(a) Establishment

There is hereby established the Community Development Department, as a department of County government that operates in accordance with the operational, fiscal, employment and other policies and directives of the Board, including this Land Use Code. The Community Development Department includes, but is not limited to, the Planning and Zoning Office, Chief Building Official, and the Fee Administrator.

(b) Community Development Director

- (1) The Community Development Department's activities are under the control and direction of the Community Development Director, his or her designee, who is selected and serves in accordance with County policies. The Community Development Director reports to the County Manager. The Community Development Director shall administer and enforce this Land Use Code and has those powers and duties expressly assigned under this Land Use Code and otherwise delegated or assigned in accordance with County policy.

(2) The Assistant Director of Community Development and other staff of the Department shall have such duties as the Community Development Director delegates and such other powers and duties as are expressly assigned to it under this Land Use Code or in accordance with County policy. Unless a specific limitation is stated in this Land Use Code, the Community Development Director may delegate any of his or her authorities to staff under his or her control, subject to the requirement that the staff exercise such authority in conformance with the standards and criteria contained in this Land Use Code. Decisions made by staff under authority so delegated shall be treated as having been made by the Community Development Director.

(3) The Director of Community Development shall determine whether any proposed use or activity is included within a use category or use definition set forth in this Land Use Code, and shall retain a written record of such interpretations.

(c) Planning and Zoning

The Planning and Zoning Office is hereby established within the Community Development Department to implement and enforce this Land Use Code as established by this Land Use Code and the Community Development Director.

(d) Powers and Duties

The land use review and decision-making powers currently delegated to the Community Development Director by the Board of County Commissioners are summarized in Table 2-1.

(e) Fee Administrator

The Fee Administrator shall be designated from time to time by the Community Development Director. The Fee Administrator shall have those powers and duties related to the administration of development exactions and impact fees assigned from time to time by the Board of County Commissioners related to the administration of the County's development exaction and impact fee systems.

(f) Chief Building Official

The Chief Building Official shall have, in addition to those powers granted to such office pursuant to the adopted building code, such other powers delegated by the Community Development Director pursuant to this Land Use Code.

2-10-60: HEARING OFFICER

(a) Establishment

There is hereby established within the Community Development Department the position of Hearing Officer.

(b) Appointment

The Hearing Officer shall be appointed by, and serve at the discretion of, the Board of County Commissioners.

(c) Powers and Duties

The Hearing Officer shall hear and consider those matters referred by the Community Development Director pursuant to Sec. 2-30-20 I. All actions by the Hearing Officer shall take place at regularly scheduled and noticed public hearings. The powers currently delegated to the Hearing Officer by the Board of County Commissioners are summarized in Table 2-1.

(d) Decisions

The Hearing Officer shall render a decision at a public hearing. The Hearing Officer may approve, approve with conditions, or deny a development application. All decisions shall be placed in the public record with the Pitkin County Clerk and Recorder and shall be available to the public.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-10-60 (part) amended part [Ord. 019-09, 06-24-09](#))

2-10-70: AGRICULTURAL BUILDING REVIEW COMMITTEE

(a) Establishment:

There is hereby established within Pitkin County Government the Agricultural Building Review Committee to assist with the preservation of the rural character of the county by advising the Community Development Department to determine if agricultural buildings are designed to support an agricultural operation and are functional for agricultural uses.

- (1) The Agricultural Building Review Committee members shall be appointed by the Board of County Commissioners.
- (2) Members shall have an interest in and knowledge of agricultural operations and buildings.
- (3) Each member and alternate shall be a resident of the County.
- (4) The term of each member shall be two (2) years. The Board of County Commissioners shall establish staggered terms for the members. Members may be reappointed for successive terms and each member shall serve until the appointment of his or her successor.
- (5) The Board shall fill vacancies and remove a member for nonperformance of duty or misconduct as it deems appropriate in the exercise of its discretion. In the event that any regular member is temporarily unable to act owing to an absence, illness, conflict of interest, or any other cause, such position shall be filled during such temporary disability by an

alternate member in accordance with the by-laws, if applicable, or by order of the chairperson.

(b) Conduct of Business:

(1) The Agricultural Building Review Committee shall adopt by-laws to establish its organization and procedures; the Board of County Commissioners shall approve the by-laws. A copy of such by-laws shall be available in the Community Development Department. The Agricultural Building Review Committee shall elect a chairperson from its members.

(2) Meetings of the Agricultural Building Review Committee shall be held as specified in the by-laws. All meetings shall be open to the public. The Agricultural Building Review Committee shall keep a record of its proceedings, which record shall be open to inspection by the public at reasonable times.

(c) Powers and Duties

The powers and duties of the Agricultural Building Review Committee shall include, but not be limited to:

(1) Assisting the Community Development Department in reviewing building permit applications for agricultural buildings to determine if the agricultural buildings are designed to support an agricultural operation and are functional for agricultural uses.

(2) Assisting the Community Development Department in reviewing applications for additional exempt floor area for agricultural buildings to determine if the agricultural buildings are designed to support an agricultural operation and are functional for agricultural uses.

(3) Assisting the Community Development Department in reviewing Site Plan Review applications for agricultural buildings.

(4) The powers currently designated to the Agricultural Building Review Committee by the Board of County Commissioners are summarized in Table 2-1.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-10-70 added [Ord. 011-2011, 08-10-11](#))

2-20: GENERAL LAND USE PROCEDURES

2-20-10: REQUIREMENT FOR DEVELOPMENT PERMIT

(a) Requirement

No person may engage in any development within the unincorporated area of Pitkin County until obtaining a development permit, unless the proposed development qualifies for an exemption. All

development shall be in compliance with the effective development permit duly issued in compliance with this Land Use Code.

(b) Issuance

Applications that receive approvals or conditional approvals from the last decision-making body involved in the application qualify for a development permit. A resolution of approval or ordinance signed by the chairperson of the decision-making body and recorded with the County Clerk and Recorder shall constitute the development permit. In the case of Hearing Officer or administrative approval, the Hearing Officer or Community Development Director shall prepare and sign a development permit. All development permits, including but not limited to all approved Site Plans and Activity Envelopes, shall be recorded with the County Clerk and Recorder before a Building Permit may be issued.

(c) Administrative Modification

In the course of granting any development permit associated with a Site Plan Review completed after July 5, 2006, the Community Development Department shall be authorized to modify (increase or decrease) any numeric dimensional standards in Table 5-1 by ten (10) percent or less, except those related to residential density/floor area, non-residential floor area and maximum house size, with the agreement of the applicant.

(1) Standards

An administrative modification is a discretionary action that shall only be approved if the following standards are met:

(a) General

The requested modification is consistent with the character of development in the surrounding area, and will not result in incompatible development;

(b) Mitigates Adverse Impacts

Any adverse impacts resulting from the modification will be mitigated to the maximum extent practicable; and

(c) Technical Nature/Compensates for Unusual Aspect of Site

The modification is of a technical nature and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by neighboring landowners in general.

(2) Conditions of Approval

The Community Development Director may, in approving an administrative modification, impose such restrictions and conditions on such approval and use or development of the property that he or she determines are required to ensure compliance with the general goals, objectives, and policies of this Land Use Code to prevent or minimize adverse effects from the proposed modification.

(d) Effect of Pending Litigation or Appeal

(1) When an appeal that is commenced pursuant to section 2-20-180, or when litigation or any other action or proceeding that is filed in a court or other tribunal of competent jurisdiction, may result in the alteration, amendment or voiding of a previous determination or action pursuant to this land use code affecting developability, zoning, development regulations, construction, improvement, or other aspects of development affecting a parcel of land in Pitkin County, the filing of said appeal, litigation, or other action or proceeding shall operate as a stay, applicable to all entities of—

(a) The acceptance, processing or issuance of: any and all building applications or permits; development applications or permits; development approvals; or any other county action, which would permit or otherwise authorize construction, site work grading, land improvements, or creation of a vested right pursuant to this land use code.

(2) Except as provided in subsections (d)(3)-(5) of this section.

(a) The stay provided for under subsection (d) (1) of this section continues until the issuance of a final, non-appealable judgment or order in any such appeal, litigation, action, or other proceeding.

(3) On request of a party in interest and after notice and a hearing, the board shall grant relief from the stay provided under subsection (d) (1) of this section, such as by terminating, annulling, modifying, or conditioning such stay--

(a) For cause, including the lack of adequate protection of an interest in property of such party in interest, or a finding that the appeal, litigation, action, or other proceeding will not alter, amend or void a previous determination or action pursuant to this land use code as specified in subsection (d) (1).

(b) If the Board finds that the filing of the appeal, litigation, action, or proceeding that gave rise to the stay is part of a scheme to delay, hinder, or defraud an applicant or other party and that based on the evidence presented to the Board the appeal, litigation, action, or proceeding is frivolous or groundless.

(4) The stay under subsection D. 1. shall terminate on the date that is sixty (60) days after a request is made by a party in interest under subsection (d)(3), unless such sixty (60) day period is extended by the board after notice, and a hearing for such specific period of time as the board finds is required for good cause, as described in findings made by the board.

(5) Upon request of a party in interest, the community development director, with or without a hearing, shall grant such relief from the stay provided under subsection (d)(1) of this section as is necessary to prevent irreparable damage to the interest of a person or entity in

property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d)(3) or (d)(4) of this section.

(6) In any hearing under subsection (d)(3) or (d)(4) of this section concerning relief from the stay provided for under subsection (d)(1) of this section, the burden of proof shall be on the party or parties opposing termination or modification of the stay. "party" for the purposes of this subsection may include county staff.

(7) The community development director shall make the initial decision regarding whether the filing of appeals, litigation or other actions or proceedings shall operate as a stay pursuant to subsection (d)(1) of this section. The community development director's decision may be appealed to the board as provided for in subsections (d)(3)-(5) of this section. a decision by the board pursuant to subsections (d)(3)-(5) of this section shall be subject to judicial review pursuant to rule 106(a)(4) C.R.C.P.

(e) Prohibition of Commercial Agricultural Activity

(1) At the time a development approval, including subdivision or PUD is considered for any lot or parcel, an evaluation shall be conducted by the Community Development Department to determine if the resulting land use or character of the land is or will be essentially and primarily residential, commercial, or another use or character other than agricultural. If the development approval will change the primary and fundamental use from being agricultural, then a covenant prohibiting commercial agricultural activity shall be required as a condition of development approval.

(2) Factors to be considered by Community Development Department when evaluating the resulting land use or character of the land shall include but not be limited to: the size of the property, the valuation of the property and proposed improvements relative to the valuation of agricultural products produced on the property, the history of the property's use, the viability of any prospective agricultural use, the legal history of the property relative to subdivisions or other divisions, the potential for future subdivision, and the type of historical agricultural use of the property.

(3) The covenant may be released by the Board of County Commissioners if the circumstances which caused the covenant to be required change.

2-20-20: REQUIREMENT FOR BUILDING PERMIT

(a) Requirement

No person shall erect, construct, reconstruct, excavate for a foundation, alter or change the use of any building or other structure or improvements of land without obtaining a building permit from the Community Development Department unless proposed development qualifies for an exemption.

(b) Issuance

Following review of the building permit application, the Community Development Department shall issue a building permit to an applicant whose application complies with the development permit and the adopted building code.

2-20-30: PRE-APPLICATION MEETING FOR DEVELOPMENT REVIEW

(a) Applicability

Prior to the formal submission of certain types of applications, the applicant shall be required to schedule and attend a pre-application meeting with the Community Development Department. The types of applications subject to pre-application meeting requirements are indicated in Table 2-1. The Community Development Director may waive the requirement of a pre-application meeting, or may substitute a requirement for a pre-application communication other than a meeting, if the Director determines that based on past experience, the applicant is knowledgeable about the requirements, procedures, and criteria applicable to the type of application being submitted.

(b) Project Reviewed

During the pre-application meeting, the applicant or his or her representative shall describe the proposed development project or activity. The Community Development Department staff shall identify the procedural review requirements, applicable standards of this Land Use Code, vested rights procedures and referral agencies to be involved in the review process. The staff shall identify, pursuant to this Land Use Code and the Pitkin County Land Use Application Manual, the submission contents for the type of development application required to be submitted, the number of copies of each, and application fees due. Determinations made by the staff regarding the procedures, standards and submission contents are not binding upon the Hearing Officer, Planning and Zoning Commission or the Board of County Commissioners. At the conclusion of the conference, or within ten (10) working days, an applicant will be presented with or mailed, faxed or e-mailed a written summary of the meeting on a pre-application summary sheet. The applicant shall be required to submit the pre-application summary sheet with the application.

2-20-40: SUBMITTAL REQUIREMENTS

The Community Development Department is hereby authorized to establish submittal requirements, including without limitation any and all forms, documents, maps, supporting studies, or other documents, for each type of application shown in Table 2-1, in order to ensure that the County receives the information necessary to confirm compliance with the Pitkin County Comprehensive Plan and this Land Use Code. All application requirements shall be set forth in the Pitkin County Land Use Application Manual. All applications shall comply with such requirements unless waived or modified by the Community Development Department pursuant to this Land Use Code. Revisions to the Pitkin County Land Use Application Manual shall be reviewed and approved by the Board of County Commissioners at a public meeting. The Community Development Director shall cause notice of any revisions to the Pitkin County Land Use Application Manual to be published one time in a newspaper of general circulation in the County at least thirty (30) days prior to the public meeting.

2-20-50: APPLICATION PROCESSING AND REFERRAL FEES

(a) General

The Board of County Commissioners shall from time to time establish by ordinance fees for the review and approval of development applications, and for the referral of applications to other agencies or entities for review. Fee schedules shall be set forth in the Pitkin County Land Use Application Manual. No application shall be reviewed until the applicable fee has been paid.

(b) Fees for Combined Applications

Fees charged for the processing of application(s) that fall into more than one (1) type of application shall be cumulative. In the event that the fees that result from accumulation are found by the Community Development Director to be excessive in relation to the number of hours it is anticipated to require to process the application(s), the Community Development Department may waive or adjust the accumulation requirement based on the level of County staff effort involved.

(c) Request for Waiver

An applicant may request that the Board reimburse fees for projects serving a public purpose, proposed by a non-profit organization, or in order to dispute the fee charged. All fees must be paid at time of submittal and applicant may request reimbursement.

2-20-60: APPLICATIONS

(a) Combined Development Applications

Any development application that would involve multiple review procedures culminating in approvals from differing review bodies pursuant to the provisions of this Land Use Code shall be combined for review and approval by the highest review authority that would otherwise have been involved in the separate review procedures.

(b) Representations by Applicant

Any and all representations made by an applicant during the land use review process or in a land use application shall automatically become a condition of approval.

(c) Simultaneous Processing

Applications requiring more than one (1) type of approval shall be processed simultaneously until all approvals have been obtained or until any necessary approval has been denied, provided that all submitted applications are consistent and are related to the same proposed development or activity. Two (2) alternative applications for different developments or activities on a single parcel may not be processed simultaneously. An application for approval of an Activity Envelope may be included as part of an application for a Site Plan. If an Activity Envelope has previously been approved, an application for a Site Plan may be submitted simultaneously with an application for a building permit, but processing of the building permit application shall not begin until the Site Plan has been approved.

2-20-70: DETERMINATION OF COMPLETENESS

(a) Within ten (10) working days of the submission of a development application, the Community Development Director shall complete a preliminary review of the application to determine whether or not the application is complete. If the application is determined to be complete, the Community Development Director shall notify the applicant of its completeness. If the Community Development Director determines that the application is incomplete, a written notice shall be sent to the applicant or applicant's representative specifying the deficiencies. No further action will be taken on the application until the application's deficiencies are remedied by the applicant. If the application is not deemed complete within six (6) months of the notice of deficiency, the application shall be considered withdrawn. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Land Use Code. A review or decision-making body may require more materials or information to be supplied by an applicant.

(b) In the event of a property listed on the Pitkin County Historic Register, an application for a building permit or a development permit for exterior alterations, relocation or development shall not be considered complete unless accompanied by a Certificate of No Effect or a Certificate of Appropriateness. See Sec. 7-20-100 C.

(c) In the event of a property listed on the Pitkin County Historic Register or listed on the Pitkin County Historic Inventory and subject to a Historic Preservation Management Agreement, an application to demolish the structure shall not be considered complete unless accompanied by a Demolition Certificate. See Sec. 7-20-100 D.

2-20-80: SCHEDULING A PUBLIC HEARING

If Table 2-1 identifies the application as one for which a public hearing before a review or decision-making body is required, the Community Development Director shall schedule the application for a public hearing at the earliest available agenda date consistent with completion of (a) any required referral and comment pursuant to Sec. 2-20-90 and (b) public notification pursuant to Table 2-1 and Sec. 2-20-100. An applicant shall be sent a letter notifying him/her of the hearing date. Agenda dates will be assigned to complete applications based upon the order in which the applications have been certified as complete and numbered by the Community Development Director, unless determined otherwise by the Board. If public notice of a hearing is required, the Community Development Director shall cause public notice to be prepared pursuant to Sec. 2-20-100 and send a copy of the notice to the applicant. In addition, in the case of an application for subdivision pursuant to C.R.S. 30-28-101, et. seq., the applicant and the County shall mutually agree on a timetable for completion of review of the application, pursuant to C.R.S. 30-28-133.5.

2-20-90: REVIEW AND RECOMMENDATION BY STAFF

Staff review of all applications shall be subject to the following procedures, unless the application is for an Administrative Review and referrals and/or reports are determined to be unnecessary in light of the limited size or anticipated impacts of the proposed activity or development.

(a) Referral and Comment

Once the application is deemed as complete by the Community Development Director, the application shall be referred to those County, City, State and Federal agencies and neighborhood organizations selected by the Community Development Director for comments. All applications for subdivision of property located within two (2) miles of the boundaries of incorporated areas shall be referred to the municipality for referral comments, and all applications for rezonings, PUDs, and special review uses located within one-half (1/2) mile of the boundaries of incorporated areas shall be referred to the municipality for comments. Where the application is for approval of a subdivision, referrals shall be made to those organizations required by C.R.S. 30-28-136. The Community Development Department staff shall consider all referral comments in reviewing the development application.

(b) Report and Recommendation

The Community Development Department staff shall compile all comments and recommendations from referral agencies and shall make a report and recommendation concerning the development application to the appropriate review and/or decision-making body. The report shall state whether or not the application conforms to the appropriate review standards and whether it should be approved, approved with conditions, denied, or tabled for further consideration. The staff report shall be distributed to the review and/or decision-making bodies and the applicant at least one (1) working day prior to consideration.

2-20-100: PUBLIC NOTICE REQUIREMENTS

Unless another section of this Code specifically provides otherwise, for all decisions that require a public hearing or notice (as shown in Table 2-1), public notice shall be provided pursuant to this section.

(a) Development Applications

Prior to a public hearing on a development application or prior to the comment/objection deadline for certain administrative decisions, notice shall be provided to the public, pursuant to the terms of this section. Table 2-1 identifies the various types of land use applications, the review entity and stage of the public hearing, if applicable.

(1) Content

Every notice shall include:

(a) The name and mailing address of the applicant.

(b) The type of development application sought.

- (c) Date, time and place of the hearing, (if a hearing is required) or the last date on which comments regarding/objections the application will be received by the County (if a hearing is not required).
- (d) The address and legal description of the subject property if applicable.
- (e) A summary of the development application under consideration.
- (f) Identification of the decision-making body conducting the hearing (or making the decision, if no hearing is required).
- (g) Such other information as may be required to fully apprise the public of the nature of the application.

(2) Publication

Where Table 2-1 indicates that newspaper publication notice shall be given, the Community Development Director shall cause notice of the hearings to be published one time in a newspaper of general circulation in the County as follows:

- (a) For matters in which the Board of County Commissioners, Planning and Zoning Commission, Hearing Officer or Community Development Director is the decision-making body, at least fourteen (14) and no more than ninety (90) days prior to the hearings.
- (b) For matters in which the Board of Adjustment is the decision-making body, at least seven (7) and no more than ninety (90) days prior to the hearings.

(3) Posting

Where Table 2-1 indicates that posted notice shall be given:

- (a) Posting of notice shall be made by the applicant by posting a sign in a conspicuous place on the property subject to the development application. The form of the sign shall be obtained from the Community Development Department. The sign shall be placed on the property at least fifteen (15) days prior to the public hearing or the comment/objection deadline (if a hearing is not required), and shall be maintained in readable condition in the same location until the date of the public hearing or the comment/objection deadline.
- (b) The sign shall be made of suitable, waterproof materials, shall be not less than twenty-four (24) inches wide and thirty-six (36) inches high, and shall be composed of letters not less than one (1) inch in height.

(c) The applicant shall provide a signed and notarized affidavit in a form as specified by the Community Development Director attesting to the date that the sign was posted. A photograph of the posted sign must accompany the affidavit.

(d) It is the applicant's duty to ensure that required posted notice remains in place and in readable condition for the period specified above, to replace the posted notice if it is removed or becomes unreadable during that period, and to remove the sign within one (1) week after the public hearing or the comment/objection deadline (if a hearing is not required).

(4) Mailing

Where Table 2-1 indicates that mailed notice shall be given:

(a) The applicant shall obtain copy of the notice from the Community Development Department.

(b) At least thirty (30) days prior to a public hearing before the Hearing Officer, Planning and Zoning Commission or the Board of County Commissioners, at least seven (7) days prior to a public hearing before the Board of Adjustment, and at least two (2) weeks prior to the comment/objection deadline for an Administrative Review application, the applicant shall send the required form of notice to all owners of property within three hundred (300) feet of the property subject to the development application. If the application is for a subdivision or PUD, notice shall also be provided to the current mineral estate owners as required by C.R.S. 24-65-5. If the application is for approval of oil and gas extraction or mineral extraction, notice shall be provided to both the current surface owners and current mineral estate owners of the parcels of land within which the facility is proposed to be located, as well as the current surface owners of those parcels of land adjacent to the parcels within which the facility is proposed to be located.

(c) For purposes of the notice mailing, the applicant shall use the names and addresses on the current tax records of Pitkin County as they appeared no more than sixty (60) days prior to the date of the public hearing. It shall be the applicant's responsibility to obtain the required addresses.

(d) Notices shall be sent to adjacent property owners by first class, postage prepaid U.S. mail. The applicant shall deliver to the Community Development Department, prior to any scheduled public hearing, meeting, or any administrative decision that requires a public notice, an affidavit confirming that the required mailed notices have been completed in accordance with the provisions of this subsection (4).

(b) Appeals

In the case of an appeal to the Board of County Commissioners of an item that was decided by the Board of Adjustment, Planning and Zoning Commission or Hearing Officer at a public hearing or decided by the Community Development Director with public notice pursuant to Table 2-1:

(1) The Community Development Department shall cause notice to be published one (1) time in a newspaper of general circulation in the County at least one (1) week before the regular or special meeting of the Board of County Commissioners at which the appeal is to be considered. The notice shall specify the meeting agenda and location of the parcel of land that is the subject of the hearing.

(2) If the appellant is the applicant, the appellant shall cause a notice of the proposed appeal and the nature of that appeal to be posted on a sign placed on the property that is the subject of the hearing at least one (1) week before such hearing, and to remove the sign within one (1) week after the hearing. The form of the sign shall be obtained from the Community Development Department.

(3) If the appellant is the applicant, the appellant shall mail a notice of the appeal to all owners of property within three hundred (300) feet of the property subject to the development application at the appellant's expense, at least one (1) week prior to the meeting. In the event that property within three hundred (300) feet is held in common ownership, the notice shall be sent to the appropriate homeowners or condominium association. At the time the appeal is filed, the appellant shall supply the names and addresses of property owners within three hundred (300) feet from the current tax records of Pitkin County as they appeared no more than sixty (60) days prior to the date of the appeal hearing.

(4) If appellant is not the applicant, the appellant shall mail a notice of the appeal to the applicant and all owners of property within three hundred (300) feet of the property subject to the development application at appellant's expense, at least one (1) week before the date of the meeting at which the appeal will be heard by the Board of County Commissioners.

(c) Vested Rights

Creation of a vested right pursuant to Sec. 2-20-170 requires the publishing of a public notice pursuant to Sec. 2-20-170(g) of this Land Use Code.

(d) Costs

All costs of required notices shall be borne by the applicant or appellant. The applicant or appellant shall be required to reimburse the County for the cost of any published notices required in consideration of his appeal under the provisions of this Sec. 2-20-100.

(Code repealed and reenacted (all sections) by Ord. No. 014-D, 2006, 07-05-06; § 2-20-100 (part) amended [Ord. 025-07, 08-21-07](#); [Ord. 019-09 06-24-09](#))

2-20-110: CONDUCT OF PUBLIC MEETINGS AND HEARINGS

The procedures for the conduct of public meetings and hearings are described in the Pitkin County Land Use Application Manual. This section shall apply to all public hearings regarding the review of a development application by decision-making bodies.

2-20-120: ACTIONS BY DECISION-MAKING BODIES

(a) General

The decision-making body may approve, approve with conditions, or deny applications for development approval. The decision-making body shall approve or approve with conditions only those applications it finds to be in compliance with the standards of this Land Use Code and, if applicable, any conditions imposed during previous stages of the review and approval process.

(b) Continuance

The decision-making body may continue to a date certain any meeting and remand an application to the applicant for modification or further study if it finds there is insufficient evidence to take action. Where the application is for approval of a subdivision pursuant to C.R.S. 30-28-101 et. seq., the public hearing shall not be continued for more than forty (40) days from the original hearing date without the written consent of the applicant.

(c) Timeframe for Approval of Subdivisions

Where the application is for approval of a subdivision pursuant to C.R.S. 30-28-101 et. seq., any plat, plan, or agreement that has not been approved, conditionally approved, or denied within a certain time mutually agreed between the applicant and the County at the time of filing shall be deemed approved. Such time period may be extended by the County in order to receive a recommendation from an agency to which a plat or plan has been referred pursuant to C.R.S. 30-28-133.5, but such extension shall not exceed thirty (30) days unless the agency has notified the County that it will need additional time to complete its recommendation.

(d) Conditions on Approvals

Each review body shall be authorized to recommend and each decision-making body shall be authorized to impose such conditions upon any site-specific land use approval as may be necessary to carry out the general purpose and intent of this Land Use Code or the Pitkin County Comprehensive Plan. Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development and shall be based upon duly adopted standards. Any condition of approval that requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

2-20-130: IMPROVEMENT AGREEMENTS, DEVELOPMENT COVENANTS, AND PERFORMANCE GUARANTEES, AND CONSERVATION EASEMENTS

In the case of proposed subdivisions of land, PUD rezonings, or other instances where an application proposes the performance of duties after the date of approval, or where the County imposes conditions requiring the performance of duties after the date of approval, or where the Community Development Director or the County Attorney determine that assurances for the performance of those conditions is required, the following types of agreements, covenants, or guarantees may be required of the applicant. Where the application is for approval of a subdivision, requirements for guarantees of public improvements shall comply with the provisions of C.R.S. 30-28-137.

(a) Improvement Agreements

- (1) Prior to the submittal of any permit application or the recording of the final plat, the applicant shall submit to the Board and receive approval for an improvement agreement that meets the requirements of this section.
- (2) The improvement agreement shall constitute the applicant's agreement to construct the public improvements and common private improvements identified as requirements of project approval, and shall identify such requirements with particularity, including, where appropriate, deadlines for completion of construction and plans or drawings.
- (3) The improvement agreement shall provide that no property within the project may be sold, and no building permit application for construction may be submitted, until the improvements identified in the agreement have been completed. At the Board's discretion, the improvement agreement may also provide that property within the project may be sold and that building permit applications for construction may be submitted prior to completion of specified agreements if financial security in a form acceptable to the Community Development Director or designee is provided by the applicant as described below. This shall not preclude the sale of an entire project, provided that the purchaser is subject to the same limitations as imposed upon the applicant by this Land Use Code, by the project approval, and by the improvement agreement.
- (4) At the Board's discretion, in lieu of the limitations of subsection (3) above, the Board may allow permits to be issued and the final plat to be recorded where the applicant has provided financial security in a form acceptable to the Community Development Director or designee to assure the actual cost of construction of the required improvements, which costs shall be determined by the Board. Unless the Board determines otherwise, the improvement agreement shall require that sufficient financial security in a form acceptable to the Community Development Director or designee must be provided to secure completion of the improvements. Such financial security in a form acceptable to the Community Development Director or designee must be issued or confirmed by a Colorado bank acceptable to the Board. The financial security shall provide that it may be drawn upon by the Board upon presentation by the Board, subject only to the Board's affidavit that the applicant is in default of its obligations under the improvement agreement. The amount of security may be incrementally reduced as improvements are completed to the satisfaction of the Board. A financial security shall be in full force and effect until such time as the Board has determined that all improvements are satisfactorily completed.

(5) The improvement agreement shall provide that if the Board determines that any of the required improvements are not constructed as provided in the agreement, including reasonable provisions for the correction of deficiencies upon notice thereof, the Board may draw upon the financial security in a form acceptable to the Community Development Director or designee as may be necessary to complete the improvements in accordance with the specifications included in the improvement agreement.

(b) Development Covenants and Easements

(1) Prior to the submittal of any building permit application, and in lieu of, or in addition to, an improvement agreement, the County may require the applicant to execute and record development covenants obligating the applicant or property owner to perform any of the types of duties identified in subsection (a). above.

(2) In general, a development covenant may be required where the terms of the development approval impose conditions requiring the performance of duties after the date of approval, and the County wants to ensure that future purchasers of the property are aware of those obligations, or where the County prefers to obtain assurance that post-approval obligations will be performed through a recorded condition of development approval rather than a contractual agreement.

(3) Where a development covenant is required, it shall be in a form acceptable to the Community Development Director or designee and shall provide that (a) the County is an intended beneficiary of the covenant, (b) the County may enforce the terms of the covenant, and (c) the covenant may not be released or amended without the written consent of the County.

(4) If the Site Plan or development permit requires the execution of easements in favor of the County, such easements shall be executed and recorded prior to the submission of final plat applications or building permit applications.

(c) Performance Guarantee

(1) Prior to the submittal of any building application, the Community Development Director or designee may require an applicant to file a financial guarantee in a form acceptable to the Community Development Director or designee in order to ensure compliance with any or all requirements stipulated in the improvements agreement, a development covenant, or a development approval or permit.

(2) The financial guarantee, in the judgment of the Community Development Director or designee shall be sufficient to make reasonable provision for completion of said improvements in accordance with design and time specifications stated in the development approval or the improvements agreement.

(3) Ordinarily, a letter of credit from a commercial bank, savings and loan institution, insurance company or other qualified lending institutions licensed or authorized to do

business in the State of Colorado, or a letter from the Federal Housing Administration or Veterans Administration in a form satisfactory to the County Attorney, shall be required to satisfy the requirement for a performance guarantee. However, the Community Development Director or designee may approve other forms of financial security.

(d) Release of Performance Guarantee or Collateral

(1) As public improvements are made an applicant may apply to the Community Development Director or County Attorney for release of a section or all of the collateral deposited with the County.

(2) Upon inspection and approval the Community Development Director or County Attorney shall release collateral.

(3) If the Community Development Director, County Engineer or County Attorney determines that any of the required improvements are not constructed in substantial compliance with specifications, it shall furnish the applicant with a list of specifications and shall be entitled to withhold collateral sufficient to ensure substantial compliance.

(4) If the Community Development Director or County Attorney determines that the applicant will not construct any or all of the improvements in accordance with all of the specifications, the Board may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.

(e) Conservation Easements

Where transferable development rights (TDRs) are severed and sold from properties pursuant to Sec. 6-70, the County shall require the seller of the TDR to execute and record a conservation easement, in favor of the County or a third party designated by the County, preventing the property from which the TDR has been severed from being developed in the future. The County may also require a conservation easement in other cases where the terms of a rezoning or development approval or permit specify that certain portions of the property will not be developed in perpetuity.

2-20-140: RESUBMISSION OR REAPPLICATION AFFECTING SAME PROPERTY

(a) Purpose

A short time period is provided after the denial of an application for a development permit where further applications will not be accepted by the Community Development Department. This short time period is intended to allow the applicant or property owner and the decision-making body sufficient time to collectively and individually consider the options for the property without expending staff and public time on resubmissions and re-applications that have not been subject to adequate consideration and formulation.

(b) Standards

- (1) No application for a development permit shall be accepted by the Community Development Department after the denial of an application affecting the same property or any portion thereof for six (6) months after the date of denial.
- (2) The time period specified in this section shall be deemed to have commenced only after the denial of an application for a development permit and the exhaustion or expiration of time for all available administrative appeals.
- (3) Building permit applications are specifically excluded from the provisions of this section.

2-20-150: AMENDMENTS TO DEVELOPMENT APPLICATIONS AND PERMITS

(a) Applicability

This section establishes the procedures for minor and major amendments to development applications.

(b) Minor Amendments Defined

A minor amendment to any development application or permit is one that meets the following criteria, as determined by the Community Development Director:

- (1) Is consistent with action(s) taken during previous development approvals for the property; and
- (2) Does not change the use of the proposed development between residential, commercial and tourist accommodation uses; and
- (3) Does not change the basic character of the approved use of land on which the activity occurs, including basic visual appearance and method of operation; and
- (4) Does not constitute a new land development activity; and
- (5) Does not increase off-site impacts in the surrounding neighborhood; and
- (6) Does not endanger the public health, safety or welfare; and
- (7) Does not violate any Land Use Code standard; and
- (8) Does not substantially increase the need for on-site parking or utilities, or affect affordable housing generation; and
- (9) Does not increase the floor area of the use by more than five (5) percent or decrease the open space on the site by more than five (5) percent.

(c) Major Amendment Defined

A major amendment is any amendment that does not meet the definition of a minor amendment in subsection (b) above, or is otherwise determined by the Community Development Director to be a significant departure from the original development application or permit.

(d) Amendments Prior to Issuance of Development Permit

(1) Minor amendments to all development applications may be permitted during the land use review process pursuant to the procedures in this section, with the exception of amendments to GMQS applications, which shall be made pursuant to Sec. 2-40-40(b)(2).

(2) Major amendments shall require a new application of the same type required for the original approval.

(e) After the Issuance of a Development Permit

(1) Minor Amendments

A minor amendment to any development permit (except final subdivision plats or subdivision exemptions for which a separate process is outlined in Secs. 2-30-30) including SKI-REC and PUB master plans and special review approvals, intended to change an element or condition of a development permit may be approved administratively pursuant to the standards and criteria in Sec. 2-30-20.

(2) Major Amendments

(a) Major amendments to a development approval or permit approved through the Administrative Review process shall require a new application of the same type required for the original approval, and shall be reviewed and approved by the same decision-making body (Community Development Department staff or the Hearing Officer) that made the original approval, as shown in Table 2-1.

(b) Major amendments to a development approval or permit not approved through the Administrative Review process shall require a new application of the same type required for the original approval, and shall be reviewed through a One-Step process to the same decision-making body (Board of Adjustment, Planning and Zoning Commission, or Board) that made the original approval, as shown in Table 2-1.

(c) If the original approval required a notice and hearing, the notice and hearing requirements shall be repeated for the proposed amendment.

(d) In the event approval required a recommendation from any other board or commission, the proposed amendment shall be referred to the same board or commission for recommendation.

(e) If the proposed amendment is to a condition imposed as a result of comment from a referral agency, the proposed amendment shall be referred to that agency for comment.

(f) Special Procedure for SKI-REC Master Plans and Major Master Plan Amendments

In addition to the procedures identified in subsections (a) through (e) above, the special procedures in this section apply to the review of requests for approval of, or major amendments to, SKI-REC Master Plans.

(g) Special Procedure for PUB Zone District Master Plans and Major Master Plan Amendments

(1) General. Land development in the PUB (Public) zone district may occur pursuant to one of two options, these being the special review procedures and standards (see Sec. 2-40-20 and 2-30-30 and the standards of sub-section G. 2. below); or the master plan review procedures and standards (see Sec. 2-40-100 and the standards of sub-section (g)(3), below). All development in the PUB zone district shall also demonstrate compliance with the provisions of Sec. 6-30-120 as these provisions may apply to the proposal.

(2) Special Review Option. In the absence of an approved master plan or when an applicant pursues the special review option, use and dimensional standards applicable to development in the PUB zone district shall be as stated in Sec. 3-80-10.

(3) Master Plan Option. If the applicant chooses the master plan option, the following provisions shall apply:

(a) The master plan shall include suitable maps and text that comprehensively address all existing facilities and identify all proposed future site development that is to occur for at least the next five (5) years.

(b) The master plan shall demonstrate that the proposed development is consistent with the County Land Use Policies stated in Chapter 1 of this code, the adopted Pitkin County Comprehensive Plan and the applicable development standards contained in Chapter 7 of this code.

(c) The master plan shall demonstrate the compatibility of the proposed development with the surrounding neighborhood and shall justify the public need for the proposed activities and facilities.

(d) The master plan shall establish the property's use and dimensional standards.

(1) Uses shall be established in the form of a table that lists the uses permitted by the master plan, and the uses that are subject to further review. Further review shall mean that additional information must be provided and the use must receive necessary approvals (such as site plan review) before the use can be considered to be a permitted master plan use.

(2) The dimensional standards shall also be listed in table form. The dimensional standards that are applicable to the master plan shall be those listed in Sec. 3-80-10 (e) unless the applicant provides clear and convincing evidence that the use or building cannot function properly within the stated dimensions of that section, in which case the dimensional standard may be established in the master plan.

e. Minor and major amendments to PUB zone district master plans shall be reviewed according to the provisions of this Sec. 2-20-150 E.

(4) Federal Review

Master plans or amendments shall be submitted to the United States Forest Service (USFS) or other Federal agencies, as may be applicable, and then the Community Development Department.

(5) Concurrent Review

At the option of the applicant, a master plan or amendment application may be processed concurrently by the USFS and Pitkin County.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-20-150 amended (part) [Ord. 026-10, 11-17-10](#))

2-20-160: EXPIRATION OF DEVELOPMENT PERMITS AND APPROVALS

(a) Some types of development permits and approvals are unlimited in duration, while others lapse (i.e. expire) unless action consistent with the development approval or permit is commenced within a specified time, as evidenced by receipt by the County of a complete building or other development permit application. Table 2-1 identifies whether a lapsing period applies for each type of development permit or approval listed in that table.

(b) Provisions for lapsing of development permits and approvals differ from vested property rights in the following way:

(1) A development permit or approval that does not involve a Site Specific Development Plan (as defined in Sec. 2-20-170(b) below) remains in effect even though the applicant is not entitled to receive a vested property right.

(2) A development permit or approval for an Activity Envelope or Site Plan remains in effect until the end of the lapsing period even if the applicant chooses not to obtain a vested property right pursuant to Sec. 2-20-170.

- (3) A development permit or approval for a Site Specific Development Plan that does result in a vested property right remains in effect following the expiration of the vested property right, until the end of the lapsing period.
 - (4) For a development permit or approval that does not result in a vested property right pursuant to Sec. 2-20-170, and for a development permit or approval for which a vested property right has expired, the County may alter the terms and conditions applicable to the approval during the lapsing period. Only the creation of a vested property right provides assurance against changes in terms and conditions as set forth in C.R.S. 24-68-101, et. seq.
- (c) If performance within a defined lapsing period is prevented due to restrictions on the timing of construction set forth in Sec. 7-20-70(g), the lapsing period shall be extended so that activity or development consistent with the permit or approval must be commenced no later than sixty (60) days after the end of the restriction imposed by Sec. 7-20-70(g).
- (d) Development permits and approvals granted prior to July 5, 2006, or for which complete applications had been filed prior to July 5, 2006, shall nevertheless be subject to the lapsing periods stated in Table 2-1, but the lapsing period shall begin to run on July 5, 2006 or the date on which the development permit or approval is granted, whichever is later.
- (e) In County approved subdivisions and PUDs (not including subdivision exemptions), building or development envelopes approved through a 1041 Hazard Review process prior to July 5, 2006 do not lapse. After any vesting period has expired all development within the building or development envelope must conform to the provisions of this Code.
- (f) In non-County approved subdivisions, state exempt thirty-five (35) acre subdivisions, metes and bounds parcels, and subdivision exemptions, building or development envelopes approved through a 1041 Hazard Review process prior to July 5, 2006 lapse after ten (10) years from July 5, 2006. After any vesting period has expired all development within the building or activity envelope must conform to the provisions of this Code.

2-20-170: VESTED PROPERTY RIGHTS

(a) General

- (1) The approval or conditional approval of a Site Specific Development Plan results in the establishment of a vested property right pursuant to C.R.S. 24-68-101 et. seq.
- (2) The vested property rights procedures in this section shall apply to any Site Specific Development Plan approved on or after January 1, 1988. The procedures shall not apply to any Site Specific Development Plan or other land use application approved prior to January 1, 1988, and the law applicable on the date of approval shall apply to such projects.

(b) Site-Specific Development Plan

(1) Definition

For purposes of C.R.S. 24-68-101 et. seq., a Site-Specific Development Plan means:

- (a) A rezoning to a Planned Unit Development (PUD) zone district, either before or after the 5th of July, 2006.
- (b) Approval of a final subdivision plat issued by the Board, either before or after the 5th of July, 2006. In the case of a subdivision pursuant to Sec. 2-40-50, the detailed submission shall be the site specific development plan. In the case of an Affordable Housing Subdivision pursuant to Sec. 2-40-60, the final plat shall be the site specific development plan. In the case of an LIR-TR-2 Cluster Option Subdivision pursuant to Sec. 2-40-70, the combined detailed /final plat shall be the site specific development plan. In the case of a CD-PUD Zone District Residential or Commercial Agricultural Development pursuant to Sec. 2-40-80, the CD-PUD Development Plan shall be the site specific development plan.
- (c) A site specific approval under the County's powers to regulate Areas and Activities of State Interest/1041 Environmental Hazard Areas issued by the Board prior to the 5th of July, 2006.
- (d) An Activity Envelope approved pursuant to Sec. 2-30-20(g)(3) after the 5th of July, 2006.
- (e) A Site Plan approved pursuant to Sec. 2-30-20(g)(2) after the 5th of July, 2006.
- (f) A major amendment, as defined in Sec. 2-20-150(c), to an approved Site Specific Development Plan listed in subsections (a) through (e) above.

(2) Excluded Approvals

The following types of approvals shall not be Site-Specific Development Plans:

- (a) Any approval excluded from the definition of Site-Specific Development Plan by C.R.S. 24-68-101 et. seq.
- (b) Approval of a rezoning to a district other than a Planned Unit Development zone district.
- (c) A conceptual submission or any other plan for the subdivision of land other than a detailed submission or final plat as specified in subsection (1) above.
- (d) Any other approval not listed in subsection (1) above.
- (d) A minor amendment, as defined in Sec. 2-20-150(b) to an approved Site Specific Development Plan listed in subsection (b)(1) above.

(c) Term of Vested Property Right

(1) Three Year Term

If an applicant has requested and obtained a vested property right under C.R.S. 24-68-101 et. seq. that vested right shall expire three (3) years from the date of approval, unless extended pursuant to subsection (d) below.

(2) Development Agreements

A vested right, as defined in C.R.S. 24-68-101 et. seq., may be vested for a period longer than three (3) years through the use of a development agreement. A development agreement is an agreement between the County and the property owner providing that vested rights will be granted for a longer term in return for additional certainty or benefits granted by the property owner to the County regarding a specific final development of the property. For example, vested right for periods longer than the statutory three (3) year period may be considered if (a) the applicant makes commitments that the property will protect significantly more open space, or will provide significantly more affordable housing, than would otherwise be required by this Land Use Code, or (b) the proposed development will be completed in phases, and the County and applicant wish to agree on the timing of those phases and related infrastructure requirements. Development agreements shall not be used simply to extend the three (3) year vesting period when significant additional contributions of open space or affordable housing (beyond the requirement of this Land Use Code) are not made, and a phased development is not involved, or simply to provide additional flexibility in the timing of development.

(d) Extension or Reinstatement of Vested Property Rights for Site Specific Development Plans

The Board may approve an extension of vested property rights or reinstatement of forfeited or expired vested property rights, for a period of up to three (3) years, in accordance with this section. Unless explicitly stated in the resolution or decision of the Board authorizing the extension or reinstatement, the vested right shall be modified at the time of the extension to require that the approved development conform to the terms and provisions of this Land Use Code on the date of the extension or reinstatement. Any request for reinstatement of a vested right shall be made within one (1) year of the expiration of the vested right associated with a Site-Specific Development Plan. Reasonable conditions may be imposed by the Board when granting any such extension or reinstatement. A Site-Specific Development Plan may only receive one three (3) year extension.

(1) Criteria

In reviewing a request for the extension or reinstatement of vested property rights, the Board shall consider the following criteria:

- (a) The applicant's compliance with any conditions requiring performance prior to the date of application for extension or reinstatement of vested rights;

- (b) The progress made in pursuing the project to date including the effort to obtain any other permits, such as building permits, and the expenditures made by the applicant in pursuing the project;
- (c) The nature and extent of any benefits already received by the County as a result of project approval such as impact fees or land dedications;
- (d) The needs of the County and the applicant that would be served by approval of the extension or reinstatement request.
- (e) The Board shall also take into consideration the length of any appeal process or litigation and the subsequent effect of a lessened vesting period for property rights.

(2) Costs

In connection with any request for reinstatement of a vested property right after forfeiture or reinstatement of a suspended or revoked development approval, the Board shall determine the financial impacts of the investigation and may require the applicant to pay the reasonable costs of investigation and enforcement of the violation that caused the forfeiture.

(e) Effect of Later Amendments to Development Approval

(1) Effect of Minor Amendment

If an applicant obtains a vested right for a Site Specific Development Plan pursuant to this Sec. 2-20-170, and the applicant subsequently applies for a minor amendment of the Site Specific Development Plan, the approval, conditional approval, or denial of the proposed modification shall not affect the creation of the vested right or its term. The vested right shall still expire three (3) years following its initial approval notwithstanding the minor amendment. For purposes of this provision, a minor amendment is one that meets the definition in Sec. 2-20-150(b).

(2) Effect of Major Amendment

Approval or Conditional Approval

If an applicant obtains a vested right for a Site Specific Development Plan pursuant to this Sec. 2-20-170, and the applicant subsequently applies for a major amendment of the Site Specific Development Plan, the approval or conditional approval of the proposed amendment shall result in the termination of the original vested right and the creation of a new vested right that shall terminate three (3) years following its the approval of the amendment. For purposes of this subsection (2), a major amendment is one that meets the definition in Sec. 2-20-150(c).

(a) Denial

If the proposed major amendment is denied, then the original approval and vested right shall remain in effect and the vested right shall still expire three (3) years following its initial approval.

(b) Effect on Development Agreement

If the applicant has obtained vested rights through the approval of a development agreement, the vested right reflected in that agreement shall not be affected by approval or conditional approval of a major amendment, and the vested right shall expire on the date stated in the development agreement, unless the applicant applies for and receives approval from the Board for a replacement development agreement reflecting the major amendment and any adjustment in the term(s) of the vested right.

(f) Applicability of Other County Regulations

The establishment of a vested property right related to a Site Specific Development Plan shall not exempt the applicant from the requirements to obtain all other permits or approvals applicable to the proposed activity or development pursuant to this Land Use Code subsequent to the approval of the Site Specific Development Plan.

(g) Public Notice

As soon as practicable following the date of a Site Specific Development Plan approval or extension or reinstatement of a vested right, and in no event later than fourteen (14) days following such approval, the County Clerk or the Community Development Department shall cause a notice to be published in a newspaper of general circulation in Pitkin County advising the public of the approval and the creation of a vested property right. The property description shall be published with such notice. If the vested right is forfeited, notice of such forfeiture shall be made in like fashion, and notice of reinstatement shall be made in like fashion.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-20-170 (part) amended Ord. 024-09, 10-28-09)

2-20-180: APPEALS

(a) General

(1) Any applicant for a development permit or approval, or the County Attorney, Community Development Director, Planning and Zoning Commission, Board, or any other affected party, may appeal an approval, conditional approval or denial of a development application or any other decision made pursuant to this Land Use Code.

(2) Any adversely affected party, which shall include the Board of County Commissioners, may appeal any decision made pursuant to the calculation and payment of the employee housing impact fee.

(b) Limitation

- (1) Appeals shall be limited to decisions made in the application of this Land Use Code. Appeals of the adoption of this Land Use Code or any standard, criteria, requirement or provision of this Land Use Code may only be taken to the District Court pursuant to Colorado Rule of Civil Procedure 57.
- (2) The authority of the Board to appeal decisions shall be limited to decisions where the decision-maker identified in Table 2-1 is not the Board.
- (3) Decisions by the Board of County Commissioners in the application of this Land Use Code may not be appealed through the provisions in this section, but may instead be appealed to the District Court pursuant to Colorado Rule of Civil Procedure 106. Any affected party, including an applicant, property owner, or owner of contiguous property, may file an appeal.

(c) Appeals to Board of County Commissioners

An administrative decision made by the staff of Pitkin County, or a decision by any decision-making body (including the Board of Adjustment, Hearing Officer, or Planning and Zoning Commission) may be appealed to the Board of County Commissioners.

(d) Time Frame for Appeal

- (1) No appeal shall be considered unless a notice of appeal and brief written statement of the grounds for appeal is received by the Community Development Director not later than fifteen (15) working days of the decision.
- (2) If the decision being appealed was made by a decision-making body in a meeting or hearing that was recorded or transcribed, no appeal shall be considered unless a transcript of the recording is provided to the County, at the appellant's expense, within sixty (60) working days after the decision.
- (3) Within fifteen (15) working days after the receipt of a written request pursuant to subsection (1) above, or the transcript pursuant to subsection (2) above, whichever is later, an appeal meeting before the Board of County Commissioners will be scheduled by the Community Development Director. To the degree possible, appeals will be scheduled for the next regularly scheduled meeting of the Board that will allow required notices to be made pursuant to Sec. 2-20-100(b).

(e) Affect of Filing Appeal

If an appeal is filed pursuant to this section, processing of the development permit or approval that gave rise to the appeal shall be suspended until the Board has made a decision on the appeal. In cases where a lengthy appeal period is anticipated, the applicant may request and the Board may approve an exception allowing for the review and processing of the development permit or approval, provided that the outcome of that process shall incorporate the results of the appeal.

(f) Hearing

At the meeting on the appeal (which shall be a public meeting), the Board of County Commissioners shall review the record of the decision and shall provide the appellant an opportunity to discuss the grounds for the appeal and the basis for the alleged error in the decision. After the presentations from all adversely affected persons, the Board may hear from any other person(s) it deems appropriate.

(g) Criteria

An appeal is not a de novo consideration of the merits of the development application that gave rise to the appeal. The appeal body identified in Table 2-1 shall only reverse, modify, or remand a decision on appeal if it finds that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the application of the facts in the record to the standards of this Land Use Code.

(h) Decision on Appeal

(1) Actions

Based on the testimony heard at the meeting and the record, the Board may affirm, modify or reverse the decision, based on the criteria of subsection (g) above or may by resolution remand the matter to the individual or decision-making body that made the decision with directions for future action. In the case of an appeal of a GMQS scoring decision by the planning and zoning commission, the Board, in addition or in lieu of such actions, may rescore the project.

(2) Historic Preservation Demolition and Economic Hardship

Appeals from Administrative Review of applications for Demolition of properties listed on the Historic Register or listed on the Historic Inventory and subject to a Historic Preservation Management Agreement are subject to additional procedures and options as set forth in Sec. 7-20-100(d).

(3) Form

The Board's decision on each appeal shall be in the form of a resolution, and shall include findings of fact and the application of those facts to the relevant standards.

2-30: STANDARD REVIEW AND APPROVAL PROCEDURES

2-30-10: REVIEW AND APPROVAL PROCEDURES SUMMARY TABLE

Table 2-1 below summarizes the review, decision-making, and appeal bodies for each specific type of land use and building approval in Pitkin County. The following abbreviations are used:

R = Review Body Staff = Community Development Department Staff	D = Decision-Making Body ABRC = Agricultural Building Review Committee
A = Appeal Body RHPC = Redstone Historical Preservation Committee	< > = Public Meeting or Hearing Required BOA = Board of Adjustment
M = Mailed Notice Required P&Z = Planning and Zoning Commission	N = Newspaper (published) Notice Required BOCC = Board of County Commissioners
P = Posted (sign) Notice Required	

TABLE 2-1: Review and Approval Authority

Land Use Code Section	Public Notice	Pre-App. Required	Review, Decision-Making, and Appeal Authority							Lapsing
			Staff	ABRC	HO	RHPC	BO A	P&Z	BOCC	
Review Body; D = Decision-Making Body; A = Appeal Body; < > = Public Meeting or Hearing Required; M = Mailed Notice Required; N = Newspaper (published) Notice Required; P = Posted (sign) Notice Required O= Objection Body										
ADMINISTRATIVE REVIEWS Sec. 2-30-20										
Activity Envelope (Without Vested Right)		✓	D						A	10 years
Activity Envelope (With Vested Right)	P,M	✓	D						A	10 years
Agricultural Stand		✓	D						A	10 years
Activity Envelope and Site Plan Review at Building Permit for Ground Mounted Solar Energy Collectors	M,P		D					O	A	10 years
Building Permit		✓	D			R if in VR or VC or within 1000 ft				
Caretaker Dwelling Unit	P,M	✓	D						A	3 years
Certificate of Appropriateness for Historic Registry Property		✓	D						A	None
Certificate of No Effect for Historic Registry Property		✓	D						A	None
Demolition Certificate for Historic Properties		✓	D						A	None
Demolition Extensions		✓	D						A	6 months
Flexibility for Agricultural Support	P		D	R					A	3 years
GMQS Exemption Not Listed Elsewhere		✓	D						A	None
Minor Amendment to a Development Permit or Approval		✓	D = Original Decision-Making Body						A	Does Not Alter Original Lapsing

TABLE 2-1: Review and Approval Authority

Land Use Code Section	Public Notice	Pre-App. Required	Review, Decision-Making, and Appeal Authority						Lapsing	
			< > = Public Hearing Required							
			Staff	ABRC	HO	RHPC	BO A	P&Z	BOCC	
Major Amendment to a Development Permit or Approval Where Original Approval was by Administrative Review	Same notice as original review	✓	D or <D> = Original Decision-Making Body and Original Hearing Req't.						A	Same as Approval or Permit Amended
Satellite Reception Devices		✓	D						A	1 year
Signs			D						A	1 year
Site Grading, Earthmoving (> 50 cubic yards), Vegetation Removal, Grubbing and Clearing		✓	D						A	1 year
Site Plan (With Vested Right)	M,P	✓	D	R (for agricultural buildings only)					A	10 years
Solar Energy Collectors Totaling Less than or Equal to 200 Square Feet (Roof Mounted)			D						A	10 years
Solar Energy Collectors Totaling Greater than 200 Square Feet (Roof Mounted – Non Adjustable)	M,P		D					O	A	10 years
Solar Energy Collectors Totaling Less than 400 Square Feet (Roof Mounted – Adjustable)			D						A	10 years
Solar Energy Collectors Totaling 400 Square Feet or Greater (Roof Mounted – Adjustable)	M,P		D					O	A	10 years
Special Review for Commercial Recreational Use on County-owned property or roads if below thresholds established in Sec. 4-30-40(q)(3)(a)		✓	D						A	None unless stated in approval
Subdivision Exemption										
Lot Line Adjustments		✓	D						A	None
Minor Plat Amendments		✓	D						A	None
Temporary Land Use and Activities		✓	D						A	1 year
Special Events		✓	D						A	1 year
Transfer of Development Right (See also Sec. 2-40-30)										
Issuance of TDR Certificate for Sale from Sending Sites		✓	D						A	None
Use of TDR Certificate for Additional Floor Area on a Lot/Parcel within the Aspen Urban Growth Boundary		✓	D						A	None

TABLE 2-1: Review and Approval Authority

Land Use Code Section	Public Notice	Pre-App. Required	Review, Decision-Making, and Appeal Authority							Lapsing
			< > = Public Hearing Required							
			Staff	ABRC	HO	RHPC	BO A	P&Z	BOCC	
Use of TDR Certificate for Additional Floor Area on a Lot in a Subdivision in the Rural Area listed in Sec. 6-30-50(b)(2)(a)		✓	D						A	None
Water Crossing or Diversion		✓	D						A	None
ONE-STEP REVIEWS Sec. 2-30-30										
Designation to or Delisting from Historic Register	N,P,M	✓	R						<D>	None
Activity Envelope and Site Plan Review for Stream Restoration Projects	P,M	✓	R						<D>	10 years
Extension/ Reinstatement of Vested Rights		✓	R						D	
GMQS Exemption for One Additional Dwelling Unit on a Property Designated to the Historic Register)	N,P,M	✓	R						<D>	None
Change in Use of Historic Structure	N,P,M	✓	R						<D>	None
Civic or Institutional Use	N,P,M	✓	R						<D>	None
One Single Family Dwelling on 500* Acre Parcel	N,P,M		R						<D>	None
Historic Incentives for Historic Register Properties	N,P,M	✓	R						<D>	None
Location and Extent Review	N,P,M M	✓	R						<D>	None
Major Amendment to Development Permit or Approval	N,P,M	✓	R						D = Original Decision-Making Body	Same as Approval or Permit Amended
Non-Conforming Use or Structure, Restoration or Expansion with Minor Building Modifications	N,P,M	✓	R						<D>	1 year
Road and Easement Vacations	N,P,M	✓	R						<D>	None
Special Review Uses (See also Sec. 4-20 Use Table and Sec. 2-40-20)	N,P,M	✓	R						<D>	None unless stated in approval
Special Events Venue	N,P,M	✓	R						<D>	1 year
Special Review for Commercial Recreational Use on County-owned property or roads										None unless stated in approval
If below thresholds established in Sec. 4-30-40 (q)(3)(b)	N,P,M	✓	R		<D>				A	
If above thresholds established in Sec. 4-30-40(q)(3)(c)	N,P,M	✓	R						<D>	
Subdivision Exemption for Fully Developed Lands	N,P,M	✓	R						<D> A	None
New Lots in VC and VR Zone Districts	N,P,M	✓	R						<D> A	None

TABLE 2-1: Review and Approval Authority

Land Use Code Section	Public Notice	Pre-App. Required	Review, Decision-Making, and Appeal Authority							Lapsing
			< > = Public Hearing Required							
			Staff	ABRC	HO	RHPC	BO A	P&Z	BOCC	
Parcels for Community and Public Facilities and Open Space	N,P,M	✓	R						<D>	None
Separation of Platted Sub-Standard Size Lots (See also Sec. 9-20-030)	N,P,M	✓	R					<D>	A	None
Takings Determination		✓	R						D	Determined by remedy approved ¹
Transfer of Development Rights (See also Sec. 2-40-30)										
Issuance of TDR Certificate for Constrained Site	N,P,M	✓	R						<D>	None
Issuance of TDR Certificate(s) for Limited Development Conservation Parcels	N,P,M		R						<D>	
Use of TDR Certificate for Additional Floor Area on a Lot/Parcel in the Rural Area NOT listed in Sec. 6-30-50(b)(2)(a)	N,P,M	✓	R		<D>				A	None
Use of TDR Certificate for Additional Floor Area on a Lot/Parcel with a Base Square Footage Allotment Granted via Growth Management Competition	N,P,M	✓	R		<D>				A	None
Use of TDR Certificate to Create Development Right	N,P,M	✓	R						<D>	None
Variance of Height or Setback (See also Sec. 2-40-90)	N,P,M	✓	R				<D>		A	1 year
Variance for Historic Preservation Incentive (See also Sec. 7-20-100(g)(2)(b))	N,P,M	✓	R				<D>		A	1 year
Variance of Sign Setback or Number (See also Sec. 2-40-100)	N,P,M	✓	R				<D>		A	1 year
TWO-STEP REVIEWS Sec. 2-30-40										
Condominium and Cooperative Conversions, Timeshare Developments	N,P,M	✓	R					R	<D>	None
Conservation Development PUD (CD-PUD)	N,P,M	✓	R					R	<D>	None
Development in Areas Around Key Facilities (See also Sec. 7-90)	N,P,M	✓	R					R	<D>	5 yrs
GMQS Exemption for Construction of Affordable Housing Located Outside of the AH Zone	N,P,M	✓	R					R	<D>	None
GMQS Scoring & Allotments (See also Sec. 2-40-40)	N,P,M	✓	R					<D>	A and D	None

¹ For example, if an activity envelope is approved to remedy a takings, the approval will expire after 10 years.

TABLE 2-1: Review and Approval Authority

Land Use Code Section	Public Notice	Pre-App. Required	Review, Decision-Making, and Appeal Authority							Lapsing
			< > = Public Hearing Required							
			Staff	ABRC	HO	RHPC	BO A	P&Z	BOCC	
Land Use Code Amendments (See also Sec. 2-40-10)	N	✓	R					R	<D>	None
LIR or TR-2 Cluster Option Devt. (See also Sec. 2-40-70)	N,P,M	✓	R					R	<D>	None
P-I and SKI-REC Master Plans and Amendments (See also Sec. 2-40-80)	N,P,M	✓	R					R	<D>	None
Rezoning to Zone Districts Other Than a PUD Zone District (See also Sec. 2-40-10)	N,P,M	✓	R					R	<D>	None
Site Selection for Activities of Local and State Interest (See also Sec. 2-40-120)	N,P,M	✓	R					R	<D>	5 yrs.
Solar Farm	N,P,M		R					R	<D>	10 years
Subdivision Exemption for Major Plat Amendment	N,P,M	✓	R					R	<D>	None
SUBDIVISION IN LIR or TR-2 DISTRICT Sec. 2-40-70										
Detailed and Final (See also Sec. 2-40-70)	N,P,M	✓	R					R	<D>	None
AFFORDABLE HOUSING PUD AND SUBDIVISION PROCESS Sec. 2-40-60										
PUDs for AH/PUD Zone District and PUDs containing AH Units in Any Zone District (See also Sec. 2-40-60)										
Conceptual	N,P,M	✓	R					R	<D>	1 year
Final			R						D	None
PUD & SUBDIVISION PROCESS Sec. 2-40-50										
Subdivisions of Land and Rezoning to PUD zone districts (See also Sec. 2-40-50)										
Conceptual	N,P,M	✓	R					R	<D>	1 year
Detailed	N,P,M	✓	R					R	<D>	1 year
Final Plat			R						D	None

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; Table 2-1 (part) [Ord. 038-06, 12-06-06](#); [Ord. 21-07, 07-24-07](#); [Ord. 024-08, 07-23-08](#); [Ord. 024-09, 10-28-09](#); [Ord. 008-10, 06-09-10](#); [Ord. 010-11, 08-10-11](#); [Ord. 011-11, 08-10-11](#), [Ord. 002-13, 01-23-2013](#); [Ord. 006-15, 02-25-15](#)

2-30-20: ADMINISTRATIVE REVIEW PROCEDURE

(a) General

The Administrative Review procedure applies to decisions for which development permits may be the staff of the Community Development Department based solely on confirmation that the application complies with the standards contained in this Land Use Code.

(b) Applicability

The Administrative Review procedure is used for the types of decisions listed under Administrative Review in Table 2-1.

(c) Pre-Application Meeting

A pre-application meeting is required for Administrative Review applications. The Community Development Director may waive the requirement of a pre-application meeting, or may substitute a requirement for a pre-application communication other than a meeting, if the director determines based on past experience, the applicant is knowledgeable about the requirements, procedures and criteria applicable to the type of application being submitted.

(d) Initiation

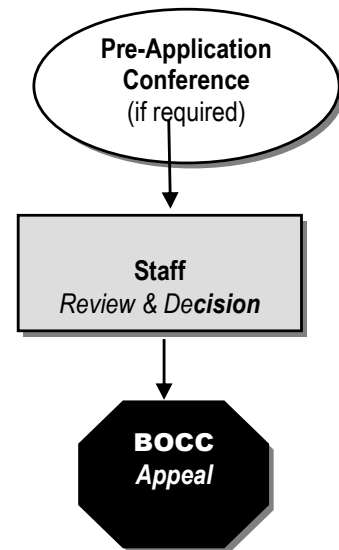
Applications for Administrative Review approval are initiated by filing the submission materials referenced in Pitkin County Land Use Application Manual with the Community Development Department. No application shall be reviewed until a determination of completeness has been made pursuant to Sec. 2-20-70.

(e) Relationship to GMQS and TDRs

Most applications for Administrative Review do not require receipt of a GMQS allocation and/or use of a TDR for approval (except for those applications specifically intended to create or use a TDR). Administrative Review of an Activity Envelope or Site Plan application is only available for a lot or parcel that has a development right attached to it.

(f) Staff Review and Decision

The application shall be reviewed by the Community Development Department and a decision to approve, approve with conditions, or deny the application shall be made consistent with the criteria listed in subsection (g) below. A denial of the application shall be in writing, and shall specify the approval criteria that have not been met.



Administrative Reviews

(g) Criteria for Approval

(1) General

In addition to the criteria in subsections (2) through (20) below, an application for administrative review shall be approved if it complies with (a) all applicable provisions of this Land Use Code, (b) all applicable Land Use Policies listed in Sec. 1-60, and (c) all prior development approvals applicable to the subject property.

(2) Site Plan

- (a) A Site Plan shall be approved if it complies with the criteria in subsection (1) above and any Activity Envelope previously approved for the property pursuant to Sec. 7-10-50. Where the property contains Constrained Areas, the Community Development Department staff shall follow those Priorities for Locating New Activity or Development listed in Sec. 7-10-60. If an Activity Envelope has not been previously established for the property pursuant to Sec. 7-10-50, one shall be established as part of the Site Plan Review process. Use of TDRs for additional floor area to increase house size above the base maximum outlined in Table 5-1 may be subject to special review approval, if required in Sec. 6-30-509(b), and shall be reviewed through the Site Plan process. Certain development may be exempt from Site Plan Review, pursuant to Sec. 7-10-30.
- (b) The Community Development Director may approve a Site Plan or Activity Envelope, subject to the following procedures:
 - (1) Notice of the application shall be provided as shown in Table 2-1 and as required in Sec. 2-30-100.
 - (2) In addition to the information required by Sec. 2-20-100, the notice shall state that the Community Development Department will accept comments or objections regarding the application until a date at least two (2) weeks following the postmarked date of the mailed notice. The notice shall further state that if no objections are received by that date, the Community Development Department shall make a decision on the application pursuant to this Land Use Code.
 - (3) If no objections to the application are received by the date stated in the notice, the Community Development Department shall document the fact that no objections were received and shall make a decision on the application pursuant to this Land Use Code.
 - (4) If any objections to the application are received by the date stated in the notice, the Community Development Department shall continue the application to a public hearing before the Hearing Officer.

(3) Activity Envelope

An application for designation of an Activity Envelope shall be approved if it complies with the standards and criteria established in Sec. 7-10-50. If the applicant chooses to apply for definition of an Activity Envelope separately from approval of a Site Plan, the Activity Envelope shall be designed to accommodate the largest home anticipated and related septic field on the site pursuant to Table 5-1. Use of TDRs for additional floor area to increase house size above the base maximum outlined in Table 5-1 shall be reviewed through the Site Plan process. The definition of an Activity Envelope based on a maximum house size and septic field shall not create any presumption that a Site Plan for a house at the same size can or will be approved pursuant to this Land Use Code. The applicant may specify that the Activity Envelope is being created for a house smaller than the maximum allowed under Table 5-1, and in that event the Activity Envelope will be designed to accommodate a house and septic field of that size. Where the property contains Constrained Areas, the Community Development Department staff shall follow those Priorities for Locating New Activity or Development listed in Sec. 7-10-60. Actual siting of the septic field shall require final approval pursuant to the Environmental Health and Natural Resources On-Site Wastewater Treatment System regulations. Certain development may be exempt from Site Plan Review, pursuant to Sec. 7-10-30. The procedure for approval of an Activity Envelope shall be the same as specified in subsection (2)(b) above.

(4) Subdivision Exemptions for Lot Line Adjustments

A subdivision exemption to adjust a lot line between adjacent lots or parcels under separate ownership may be approved if it complies with the criteria in this subsection.

- (a) The adjustment creates not more than the original number of lots or parcels.
- (b) The purpose or effect of the lot line adjustment is not the creation of a new lot or parcel, nor any increase in exempt or non exempt floor area or maximum house size for a parcel that gains size, nor creation of a lot or parcel substantially different in size for development or resale purposes. The floor area will be reduced on a parcel that decreases in size due to the adjustment.
- (c) In the case of conforming lots and parcels, any resulting lot or parcel shall conform to the minimum requirements for area or width established by the provisions of this Land Use Code.
- (d) In the case of substandard size lots or parcels, the resulting lots or parcels may increase in non-conformity as to lot size so long as the other standards of this Land Use Code continue to be met.
- (e) The applicant shall prepare a subdivision exemption lot line adjustment plat in compliance with the standards in Pitkin County Land Use Application Manual.

(f) If the lot line adjustment will occur within a platted subdivision, an application for a minor plat amendment consistent with the proposed lot line adjustment shall be submitted and reviewed concurrently with the application for a lot line adjustment.

(5) Subdivision Exemptions for Minor Plat Amendments

A subdivision exemption for a minor plat amendment may be approved if:

(a) It is necessary to correct an inadvertent surveying error to a recorded plat that has been approved by Pitkin County, where the error was not intended to circumvent the provisions of this Land Use Code, the correction increases or does not substantially affect the degree of compliance with the standards of this Land Use Code; and the revised final plat will comply with the final plat standards of Pitkin County Land Use Application Manual; or

(b) The amendment increases or does not affect the degree of compliance with the standards of this Land Use Code; and the amendment is being made to a recorded plat that has been approved by Pitkin County; and the amendment is consistent with representations made during the conceptual and detailed subdivision reviews whichever is applicable.

(6) Water Crossing or Diversion

The County Engineer and the Community Development Director shall confirm that the proposed water crossing or diversion has been engineered to prevent blockage of drainage channels during peak water flows and their placement does not result in the loss of wetlands and riparian areas; and it is confirmed by the Colorado Division of Wildlife or the County's fisheries expert that the timing of the activity is not critical to the biology of the stream. If the County Engineer and Community Development Director do not confirm that these standards have been met, or if a diversion is for the purpose of a micro hydroelectric generation system, the crossing or diversion may only be approved through a One-Step review by the Board of County Commissioners subject to standards outlined in Section 4-30-50(k).

(7) GMQS Exemptions Available through Administrative Review

Exemptions from the requirement for a GMQS allotment that are available through Administrative Review, as shown in Table 2-1, may be approved if they comply with the requirements for the specific type of exemption, as set forth in Sec. 6-30.

(8) Satellite Reception Devices

A permit for installation of satellite reception devices if it exceeds one (1) meter for residential use and more than two (2) meters for industrial use may be approved if it complies with the following standards:

(a) All satellite reception devices that do not comply with Sec. 4-30-50(g) shall require approval pursuant to this Sec. 2-30-20(g)(8).

(b) If the satellite reception device does not meet the requirements of Sec. 4-30-50(g)(1) or (2), the installation of up to two (2) devices per lot or parcel shall be a use by right, but shall be located to minimize scenic impacts when viewed from neighboring parcels and public rights-of-way. Landscaping pursuant to Secs. 7-20-120 and 7-20-130 may be required around a satellite reception dish device to reduce scenic impacts.

(c) If the satellite reception device does not meet the requirements of Sec. 4-30-50(g)(1) or (2), or more than two (2) devices are requested on a lot or parcel, a special review use approval will be required pursuant to Secs. 2-30-30 and 2-40-20. As part of such special review process, additional landscaping may be required to address visual impacts.

(d) Regardless of whether Sec. 4-30-50(g)(1) or (2) apply, if the County determines that the location of a satellite reception device creates a public safety hazard, the device shall be relocated at the owner's expense to a location that does not create a public safety hazard.

(e) Financial guarantees consistent with Sec. 2-20-130 may be required to ensure adequate completion of landscaping.

(9) Agricultural Stand

A temporary use permit for an agricultural stand may be approved if it complies with the standards of Sec. 4-30-50(b).

(10) Signs

A permit for a sign may be approved if it complies with the standards of Sec. 7-60.

(11) Temporary Land Uses and Activities

An application for Temporary Land Uses and Activities may be exempted if it complies with the standards of Sec. 4-30-50(b). If not exempted, a permit is required.

(12) Special Event

An application for a Special Event may be approved if it complies with the standards of Sec. 4-30-50(k).

(13) Demolition Extensions

A person seeking to replace a legally established structure pursuant to Sec. 6-30-110 may delay the demolition of the existing structure in order to continue a business or maintain a residence

during the construction of the replacement structure subject to compliance with the standards in this section.

(a) The applicant shall execute a guarantee in a form acceptable to the County Attorney insuring the demolition and removal of the existing structure and restoration of the site prior to the issuance of a certificate of occupancy for the replacement structure.

(b) In the case of an existing residence, the applicant shall agree not to request approval to maintain the residence as a caretaker dwelling unit, unless the site and existing unit meets the standards in Secs. 4-30-50(e) and 6-30-40(c).

(14) Certificate of No Effect for Property on Historic Register

(a) The Community Development Department shall issue a Certificate of No Effect if (i) It is determined that the work is minor and clearly meets the applicable design guidelines, including but not limited to the provisions of Sec. 7-20-100, and/or (ii) modifications to the proposed work requested by the County are agreed to by the applicant, and (iii) the proposed work will not diminish, eliminate or adversely affect the historic character of the subject property or the district in which it is located.

(b) No changes shall be made to the approved plans for which a Certificate of No Effect was issued without resubmittal to the Community Development Department for approval of the changes.

(c) If the Community Development Department determines that the proposed work is not eligible for a Certificate of No Effect, then the property owner must apply for and obtain a Certificate of Appropriateness.

(15) Certificate of Appropriateness for Property on Historic Register

(a) The Community Development Director shall issue a Certificate of Appropriateness subject to a finding of compliance with the following standards.

(1) The proposed work will be reviewed relative to the elements of placement, orientation, size, scale, massing, proportions, materials, textures, finishes, patterns, details, embellishments and the relationship of these elements to one another that contribute to the historic, architectural, cultural, technological and/or educational significance of the property.

(2) Conformance with applicable general and specific design guidelines and standards, including but not limited to the provisions of Sec. 7-20-100.

(3) For the relocation of historic buildings and structures, the extent to which the new location and its siting recreate the setting and environment associated with the original period of significance for the historic property.

(b) A Certificate of Appropriateness will expire one year from the date of issuance unless work is started within that time.

(c) No changes shall be made to the approved plans after the issuance of a Certificate of appropriateness without resubmittal to the Community Development Director and determination of the necessary approval process for the proposed changes pursuant to Sec. 2-20-150.

(16) Demolition Certificate for Property listed on Historic Register or listed on Historic Inventory with Historic Preservation Management Agreement

The Community Development Director shall issue a demolition certificate for the property subject to a finding of compliance with the following criteria:

(a) The building, structure or object has been determined to be an imminent hazard to public safety and necessary repairs will cause the loss or alteration of the significant character-defining features of the property, and/or

(b) The building is not structurally sound despite evidence of efforts to properly maintain the property, and/or

(c) The building, structure or object cannot be practically moved to another location within the county, and/or

(d) No documentation exists to support or demonstrate that the property has historic, architectural, cultural, engineering or technological significance, and

(e) The loss of the building, structure or object will not adversely affect the integrity of the historic district or designated property on which it is located.

(17) Minor Amendment to a Development Permit
See Sec. 2-20-150(b).

(18) Major Amendment to a Development Permit
See Sec. 2-20-150(c).

(19) Flexibility for Agricultural Support

If a property does not meet the minimum acreage required in Sec. 5-20-70(j) for an exempt agricultural building, or if the exempt floor area provided in Sec. 5-20-70(i) is not adequate to support an agricultural operation, the owner may submit a request to obtain additional exempt floor area. The Community Development Director may review requests for additional exempt floor area of up to:

- (1) 1,000 square feet on a property that does not meet the minimum acreage required in Sec. 5-20-70(j) for an exempt agricultural building

- (2) 25 % more than is allowed for each of the following types of agricultural buildings – hay storage; livestock run-in or loafing shed; agricultural equipment storage; and barns – if the exempt floor area provided in Sec. 5-20-70(j) is not adequate to support an agricultural operation; or
- (3) 3,000 square feet for a greenhouse(s) if the exempt floor area provided in Sec. 5-20-70(j) is not adequate. The Director may refer any request to the BOCC for decision pursuant to Sec. 2-30-20 (i). The BOCC shall review requests for additional exempt floor area in excess of the amounts that may be reviewed by the Community Development Director. Special Review approval is required for a greenhouse(s) of 3,000 square feet or more. The Community Development Director or Board of County Commissioners (BOCC) shall approve the additional exempt floor area, provided the following criteria are met:
 - (a) Agricultural Buildings are listed as an allowed, special review or master plan use in Table 4-1 in the zone district; and
 - (b) The agricultural building(s) complies with the applicable standards of Chapter 7; and
 - (c) The owner demonstrates that the property is utilized for an agricultural operation as defined in Chapter 11 and that the agricultural building(s) are designed and will be used to support the agricultural operation. To demonstrate that the property is utilized for an agricultural operation and that the agricultural building(s) are designed and will be used to support the agricultural operation, the owner shall submit the following:
 - (1) Detailed description of existing and proposed agricultural activities, including number of animals, type of crop(s) grown, types and size of equipment, implements and gear, etc.
 - (2) Site plan showing existing and proposed buildings and areas on the property used for the agricultural operation;
 - (3) Floor plans and elevations of the agricultural building(s) to demonstrate that the scale and layout of the building(s) are appropriate given the specified agricultural activities.
 - (4) Description of how the proposed agricultural building(s) will support and sustain the rural character of the County.
 - (d) The Agricultural Building Review Committee shall review applications for additional exempt floor area for agricultural buildings and make a recommendation to Community Development Department as to whether the agricultural building is designed to support an agricultural operation and is

functional for agricultural uses. The Community Development Department shall have the discretion to determine which applications for agricultural buildings should be referred to the Committee for review; an Applicant may also request a Committee review.

(20) Activity Envelope and Site Plan Review at Building Permit for Ground Mounted Solar Panels

- (a) An “Activity Envelope and Site Plan at building permit application” shall be submitted in conformance with Section 2.2.1 and 2.2.12 of the Pitkin County Land Use Application Manual. Submittal requirements can be modified by Staff as deemed necessary.
- (b) The plan submittal shall show conformance with Chapter 4: Permitted Uses – Section 4-30-50(h), Chapter 5: Dimensional Requirements, and Chapter 7: Constraints.

(h) Mapping and Platting Requirements

Prior to the submittal of a building permit application, the applicant shall be required to prepare and record with the Pitkin County Clerk and Recorder any map or plat required by the approval in a form approved by the Community Development Director consistent with the submission requirements in Pitkin County Land Use Application Manual and any conditions of approval.

(i) Referral to Higher Body

- (1) In lieu of making an administrative decision, the Community Development Director may refer any application authorized for administrative approval to the Hearing Officer or BOCC as determined by the Community Development Director for decision pursuant to the criteria in subsection (g) above if the Community Development Director determines that:
 - (a) The application raises a significant public controversy on which numerous parties beyond the owners of adjacent properties may want to offer testimony; or
 - (b) The applicant has a disagreement with the Community Development Department regarding a condition of approval; or
 - (c) The applicant has exerted significant and undue pressure on the Community Development Department to interpret this Land Use Code in a novel or ambiguous manner in order to obtain an approval, or has attempted to influence the decision of the Community Development Department in an improper manner.
- (2) In lieu of making a decision pursuant to a referral under subsection (1) above, the Hearing Officer may refer any referred application to the Board of County Commissioners for decision pursuant to the criteria in subsection (g) above if the Hearing Officer determines that:

- (a) The application raises a significant public controversy with potential county-wide importance or impacts; or
- (b) The applicant has exerted significant and undue pressure on the Hearing Officer to interpret this Land Use Code in a novel or ambiguous manner in order to obtain an approval, or has attempted to influence the decision of the Hearing Officer in an improper manner.

(j) Vested Right

The Administrative Review process will result in the creation of a vested right pursuant to Sec. 2-20-170 only when an application for an Activity Envelope or Site Plan is approved by the Community Development Director.

(k) Appeal

Decisions made pursuant to this Administrative Review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

(Code repealed and reenacted (all sections) by Ord. 14-D-2006, 07-05-06; § 2-30-20 (part) amended [Ord. 023-07, 08-28-07](#); [Ord. 012-08, 04-09-08](#); [Ord. 024-09, 10-28-09](#); [Ord. 011-11, 08-10-11](#); [Ord. 006-15, 02-25-2015](#)

2-30-30: ONE-STEP REVIEW PROCEDURE

(a) General

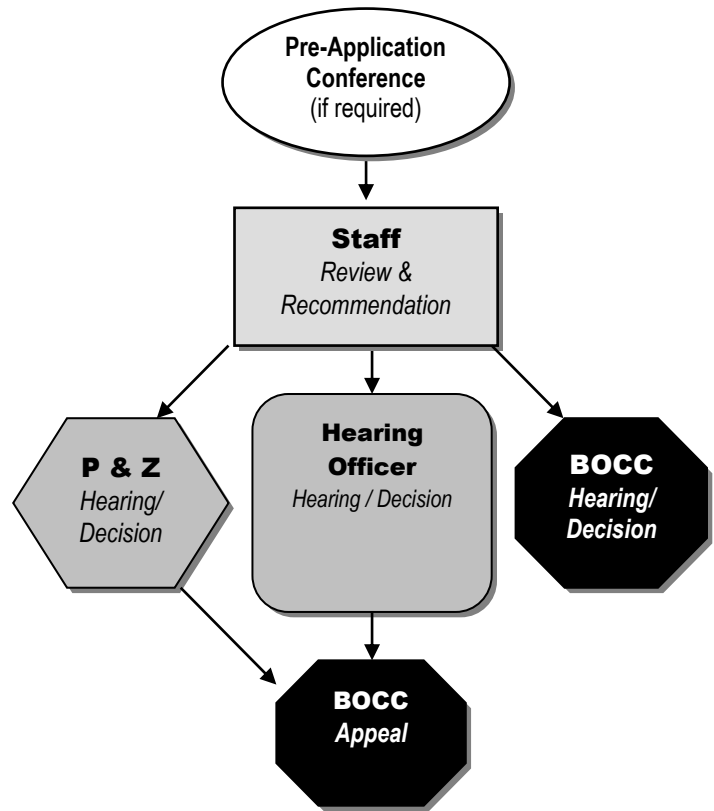
The One-Step Review procedure applies to decisions for which development permits may be issued after a single review by the Hearing Officer, Planning and Zoning Commission, or the Board, as shown in Table 2-1.

(b) Applicability

The One-Step Review procedure is used for the types of decisions listed under One-Step Review in Table 2-1.

(c) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required for those One-Step Review applications indicated in Table 2-1.



One-Step Reviews
Note: All One-Step Reviews follow either of the above process except Variances

(d) Initiation

Applications for One-Step Review are initiated by filing the submission materials referenced in Pitkin County Land Use Application Manual with the Community Development Department. No application shall be reviewed until a determination of completeness has been made pursuant to Sec. 2-20-70. After the application has been determined to be complete, the Community Development Department shall schedule a public meeting or hearing for the application pursuant to Sec. 2-20-80. Public notice for the public hearing shall be provided pursuant to Sec. 2-20-100.

(e) Relationship to GMQS and TDRs

Applications for One-Step Review may require receipt of a GMQS allocation and/or use of a TDR if they involve development on a lot or parcel that does not have development rights attached to it or the construction of a house larger than the maximum dwelling unit size without GMQS allocation or use of a TDR permitted by Table 5-1.

(f) Staff Review and Recommendation

The Community Development Department shall review the application and make a recommendation pursuant to Sec. 2-20-90. For applications for oil and gas extraction, a site visit may also be required pursuant to Sec. 2-40-20(e).

(g) Action by Decision-Making Body

The decision-making body indicated in Table 2-1 shall review the application and the staff recommendation, shall conduct a public meeting or hearing on the application pursuant to Sec. 2-20-110, and shall make a decision to approve, approve with conditions, or deny the application.

(h) Criteria for Approval

(1) General

An application for One-Step Review shall be approved if it complies with (a) all applicable provisions of this Land Use Code; (b) all applicable Land Use Policies listed in Sec. 1-60, and (c) all prior development approvals applicable to the subject property.

(2) Special Review Uses or Activities

The BOCC, the Hearing Officer and/or the Community Development Director shall only approve the proposed special review use or activity if it finds that all of the following criteria are met:

- (a) The special review use shall be consistent with the applicable County Master Plan.

- (b) The special review use shall not conflict with any applicable sections of the Pitkin County Land Use Code, including the County Land Use Policies in Chapter 1.
- (c) The proposed development must not materially endanger the public health, safety or welfare.
- (d) The proposed development must not substantially injure the value of adjoining or abutting property.
- (e) The special review use shall be consistent with the intent of the zone district in which it is proposed to be located.
- (f) The special review use shall be compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development.
- (g) The location, size, design and operating characteristics of the proposed special review use must be in harmony with the surrounding area and minimize adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, traffic generation, parking, trash, service delivery, air/water pollution or other impacts on natural resources, noise, vibrations and odor on surrounding properties.
- (h) There must be adequate public facilities and services to serve the special review use, including but not limited to roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical services, hospital and medical services, drainage systems, and schools.
- (i) The proposed special review use must comply with any additional standards or requirements stated for such use in Sec. 4-30 and/or Sec. 2-40-20.
- (j) If a Special Review Use ceases or its permitted time period ends, all uses and structures must immediately be brought into conformance with the underlying zone district regulations. If cessation of operation is due to demolition or destruction through any manner not willfully accomplished by the owner, uses/structures may be restored as of right pursuant to Sec. 9-30-70 of the Land Use Code.

(3) Subdivision Exemption for Fully Developed Lands

- (a) A subdivision exemption for fully developed lands may be permitted at the discretion of the County subject to compliance with standards in this section:
 - (1) The applicant shall prepare and record with the County Clerk and recorder a final plat meeting the requirements of Pitkin County Land Use Application Manual and approved by the Community Development Director.

(2) The subdivision divides land that is fully developed under existing zoning (one principal use per minimum lot size) and the resulting lots or parcels will meet the underlying zone district dimensional requirements. However, a subdivision exemption for fully developed lands that creates non-conforming lots may be approved if the lots are deed-restricted to affordable housing occupancy and price restrictions as approved by the Board of County Commissioners and its housing designee.

(3) An Activity Envelope shall be established, and a Site Plan review completed for all lots or parcels created through this provision.

(4) Remodeling of an existing residential dwelling unit shall not result in any change in use, expansion or relocation of footprint, or increase in floor area. The replacement of any legally established structure shall not result in any change in use, addition of dwelling units, or expansion of the floor area; however, the existing footprint may be modified or relocated subject to special review approval by the Planning and Zoning Commission pursuant to criteria in Sec. 2-30-30(h)(2).

(5) The development was done in conformance with the law at the time of development.

(b) For applications that comply with the above criteria, a GMQS exemption is available pursuant to Sec. 6-30-100(b).

(4) Subdivision Exemption to Create Parcels for Community or Public Facilities or Open Space

A subdivision exemption to create parcels for community and public facilities or public open space shall be permitted at the discretion of the Board of County Commissioners subject to compliance with standards in this section.

(a) The subdivision of land for community and public facilities and for creation of open space parcels for conveyance to Pitkin County is exempt from subdivision subject to compliance with the standards in Sec. 6-30-120.

(b) This subdivision exemption may be utilized on an existing non-conforming sized lot or parcel and it may also result in the creation of a non-conforming sized lot or parcel.

(c) Any open space parcel created through this section shall yield a significant public benefit in terms of public outdoor recreation and/or the scenic enjoyment of the public, and/or the preservation of a historically important land area, and/or public access to public lands.

(d) An applicant shall be required to prepare and record with the County Clerk and Recorder a subdivision exemption plat approved by the Community Development Director meeting the requirements of Pitkin County Land Use Application Manual.

(e) For applications that comply with applicable criteria, a GMQS exemption is available pursuant to Sec. 6-30-120.

(5) New Lots in VC and VR Zone Districts

A subdivision exemption for new lots created within the VC and VR zone districts shall be permitted subject to compliance with standards in this section.

(a) The subdivision divides land within the VC or VR zone districts, and the resulting lots will meet the underlying zone district's dimensional requirements.

(b) New lots must have frontage on Redstone Boulevard.

(c) The applicant shall prepare a subdivision exemption plat meeting the requirements of Pitkin County Land Use Application Manual.

(d) For applications that comply with applicable criteria, a GMQS exemption is available pursuant to Sec. 6-30-130.

(6) Eliminated by Ordinance 028-2014

(7) Road and Easement Vacations

The BOCC may vacate a road or easement at the request of a private landowner(s) or at insistence of the County subject to compliance with the following standards. For purposes of this section, the terms "road" and "easement" shall be deemed to include any and all parcels upon which there has been legally sufficient dedication to the public use and a legally sufficient acceptance of the dedication by the public or authorized agents, representatives or officials of public entities.

(a) Vacation shall be approved if it is demonstrated that upon vacation there shall remain suitable access to public and private land presently accessed by the street or easement proposed for vacation.

(b) In the event of vacation, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenance, for ditches, canals and appurtenances, and for electric, telephone, and similar lines and appurtenances. Equestrian, pedestrian, vehicular or other trails may also be reserved by the Board of County Commissioners.

(c) Any written instrument of vacation or a resubdivision plat approved by the Board of County Commissioners purporting to vacate or relocate roadways or portions of

roadways that is of record in the counties where the roadways affected are situated for a period of seven (7) years shall be prima facie evidence of an effective vacation of such former roadways.

(8) Approval of an Activity Envelope or Site Plans by Hearing Officer

When an application for approval of an Activity Envelope or Site Plan is heard by the Hearing Officer, either because the Community Development Director has referred the application pursuant to Sec. 2-30-20(i), because an objection has been submitted, the Hearing Officer shall apply the same approval criteria that Community Development Department staff would have applied to an administrative approval of the application under Sec. 2-30-20(g).

(9) Designation to or Removal from Historic Register and Grant of Optional Incentives

(a) Designation of properties to the Pitkin County Historic Register, or the removal of properties from the Historic Register, are both accomplished through a resolution approved by the Board of County Commissioners. An application for designation may be filed by the property owner, the Community Development Director, the Planning and Zoning Commission, or the Board of County Commissioners.

(b) The criteria for designation of properties to the Historic Register are found in Sec. 7-20-100.

(c) The Justification for delisting includes, but is not limited to: (i) the loss of significance due to loss of or damage to the associative qualities or physical characteristics that make the property or district historic or architecturally important, or (ii) contradictory information to the analysis and/or findings of the original designation report. If a request for delisting from the Historic Register is denied, a new application for delisting may not be filed again for a period of two (2) years from the date of denial by the Board of County Commissioners.

(d) The Board of County Commissioners may grant optional incentives to properties designated to the Pitkin County Historic Register, pursuant to Sec. 7-20-100(f).

(10) Location and Extent Review

(a) The purpose of the location and extent review is to determine whether any proposed road, park, or other public way, ground, or space, or public building or structure or public utility, whether publicly or privately owned is in conformance with the applicable County Comprehensive Plan or Master Plan.

(b) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale or lease of or acquisition of land for any road, park, or other public way, ground, place, property, or structure, shall be subject to similar submission and approval.

(c) A location and extent review may be undertaken concurrently with any other applicable County review process.

(d) In the case of disapproval by the Planning and Zoning Commission of a location and extent review the Commission shall communicate its reasons to the governing body or official having jurisdiction for the proposed project.

(11) Special Event Venue

An application for a Special Event Venue may be approved if it complies with the standards of Sec. 4-50-050(k)

(i) Referral to Higher Body

In lieu of making a decision, the Hearing Officer may refer any application to the Board of County Commissioners for decision pursuant to the criteria in subsection (h) above if the Hearing Officer determines that:

- (a) The application raises a significant public controversy with potential county-wide importance or impacts; or
- (b) The applicant has exerted significant and undue pressure on the Hearing Officer to interpret this Land Use Code in a novel or ambiguous manner in order to obtain an approval, or has attempted to influence the decision of the Hearing Officer in an improper manner.

(j) Vested Right

The One-Step Review process will result in the creation of a vested right pursuant to Sec. 2-20-170 in the following situations only:

- (1) When an application for approval of an Activity Envelope or Site Plan is decided by the Hearing Officer.
- (2) When the application is for a major amendment to a Site Specific Development Plan pursuant to Sec. 2-20-150.

(k) Appeal

Decisions made pursuant to the One-Step Review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

(Code repealed and reenacted by Ord. 14-D-2006, 07-05-06; § 2-30-30 (part) amended [Ord. 023-07, 08-28-07](#); [Ord. 008-10, 08-11-10](#); [Ord. 019-10, 08-11-10](#))

2-30-40: TWO-STEP REVIEW PROCEDURES

(a) General

The Two-Step Review procedure applies to decisions for which development permits may be issued after review by the Planning and Zoning Commission and by the Board, as shown in Table 2-1.

(b) Applicability

The Two-Step Review procedure is used for the types of decisions listed under Two Step Review in Table 2-1.

(c) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required for those two- step review applications indicated in Table 2-1.

(d) Initiation

Applications for Two-Step Review are initiated by filing the submission materials referenced in Pitkin County Land Use Application Manual with the Community Development Department. No application shall be reviewed until a determination of completeness has been made pursuant to Sec. 2-20-70. After the application has been determined to be complete, the Community Development Department shall schedule a public meeting before the Planning and Zoning Commission. Following the completion of the public meeting by the Planning and Zoning Commission, the Community Development Department shall schedule a public hearing for the application pursuant to Sec. 2-20-80. Public notice for the public hearing shall be provided pursuant to Sec. 2-20-100.

(e) Relationship to GMQS and TDRs

Applications for Two-Step Review may require receipt of a GMQS allocation and/or purchase of a TDR for approval if they involve development on a lot or parcel that does not have development rights attached to it or the construction of a house larger than the base maximum size permitted by Table 5-1.

(f) Staff Review and Recommendation

The Community Development Department shall review the application and make a recommendation pursuant to Sec. 2-20-90.

(g) Recommendation by Planning and Zoning Commission

(1) All Applications Except GMQS Allotments

The Planning and Zoning Commission shall review the application and the staff recommendation, shall hold a public meeting on the application, and shall make a recommendation to approve, approve with conditions, or deny the application. A

recommendation of denial shall specify the approval criteria that have not been met. The Planning and Zoning Commission may document its recommendation by recording a resolution with the County Clerk and Recorder.

(2) Applications for GMQS Allotments

The Planning and Zoning Commission shall review the applications and the staff recommendations, shall hold a public hearing on the applications, and shall score the applications pursuant to the GMQS criteria in Chapter 6. The Planning and Zoning Commission may document its recommendation by recording a resolution with the County Clerk and Recorder.

(h) Action by Board

(1) All Applications except GMQS Allotments

The Board shall review the application, the staff recommendation, and the Planning and Zoning Commission recommendation, shall conduct a public hearing on the application pursuant to Sec. 2-20-110, and shall make a decision to approve, approve with conditions, or deny. A denial of the application shall be in writing, and shall specify the approval criteria that have not been met. The Board shall document its decision in a resolution recorded with the County Clerk and Recorder.

(2) Applications for GMQS Allotments

The Board shall receive the GMQS scoring from the Planning and Zoning Commission, and shall make allotments in accordance with that scoring unless an appeal has been filed pursuant to 2-20-180, in which case the Board shall hear and take action before making GMQS allotments pursuant to the scoring. If there is no appeal on the scoring, the Board shall confirm the decision of the Planning and Zoning Commission in a resolution recorded with the County Clerk and Recorder.

(i) Criteria for Approval

(1) General

An application for Two-Step Review shall be recommended for approval and shall be approved if it complies with (a) all applicable provisions of this Land Use Code, (b) all applicable Land Use Policies listed in Sec. 1-60, and (c) all prior development approvals applicable to the subject property.

(2) Subdivision Exemption for Major Plat Amendments

A subdivision exemption for major plat amendment may be permitted subject to compliance with the standards in this section.

(a) Amendments shall be consistent and compatible with the surrounding neighborhood.

- (b) Additional community impacts resulting from the amendment shall be completely mitigated by the applicant.
- (c) The amendment must comply with the standards of this Land Use Code whichever are applicable.
- (d) In no case shall a major plat amendment be utilized to increase the number of lots on a plat.

(3) GMQS Scoring and Allotments

Applications for GMQS allotments shall be scored pursuant to Chapter 6 of this Land Use Code.

(4) SKI-REC and P-I Master Plans

Applications for approval of Master Plans in the SKI-REC and P-I zone districts shall be approved if they are consistent with Section 2-40-100, the goals and objectives of the Pitkin County Comprehensive Plan, and limit adverse impacts on surrounding properties, on the transportation system, and public facilities of the County and municipalities to the maximum extent practicable.

(j) Vested Right

The Two-Step Review process will result in the creation of a vested right pursuant to Sec. 2-20-170 in the following situations only:

- (1) When the Board approves a rezoning to a Planned Unit Development (PUD) zone district, either before or after the 5th of July, 2006.
- (2) When the Board approves a final subdivision plat, either before or after July 5, 2006.
- (3) When the application is for a major amendment to a Site Specific Development Plan (as it was defined before the 5th of July, 2006) approved prior to the 5th of July, 2006.
- (4) When the application is for a major amendment to a Site Specific Development Plan pursuant to Sec. 2-20-150 after issuance of a development permit and after the 5th of July, 2006.

(k) Appeal

Decisions made pursuant to the Two-Step Review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

2-40: SPECIALIZED REVIEW AND APPROVAL PROCEDURES

2-40-10: LAND USE CODE TEXT AMENDMENTS AND REZONINGS

Land Use Code text amendments and rezonings of land that are not subject to subsection (a) of this section are completed through the Two-Step Review process described in Sec. 2-30-40, but are subject to several specialized provisions. These provisions supplement those provisions in Sec. 2-30-40, and in case of conflict, these provisions govern. Rezonings initiated by Pitkin County that affect more than one parcel and are not associated with a development application, shall be governed exclusively by the procedures and standards set forth in subsection (e) of this section.

(a) Initiation

(1) An application for a Land Use Code amendment may be initiated by any citizen or property owner in Pitkin County, or by the Community Development Department, the Planning and Zoning Commission, or the Board of County Commissioners.

(2) An application for rezoning may be initiated by the owner of the property proposed for rezoning, or the agent of such owner, or by the Community Development Department, the Planning and Zoning Commission, or the Board of County Commissioners.

(b) Action by Board

In addition to the provisions of Sec. 2-30-40(h), if the Board wishes to substantially change any Land Use Code text amendment or rezoning recommended by the Planning and Zoning Commission, the change shall be first be resubmitted to the Planning and Zoning Commission for its approval, disapproval, or suggestions. If disapproved by such commission within thirty (30) days after such submission, such amendment, to become effective, shall receive the favorable vote of not less than a majority of the entire membership of the Board of County Commissioners. Before finally adopting any such amendment, the Board of County Commissioners shall hold a public hearing thereon, and at least fourteen (14) days' notice of the time and place of such hearing shall be given by at least one (1) publication in a newspaper of general circulation in the County.

(c) Criteria for Approval

(1) In addition to the provisions of Sec. 2-30-40(i), the following shall apply to applications for Land Use Code text amendments.

(a) Each Land Use Code text amendment shall be consistent with the Pitkin County Comprehensive Plan.

(b) Land Use Code text amendments shall be drafted in a form consistent with the organizational format and style of this Land Use Code.

(c) Code text amendments shall repeal and reenact entire Code sections rather than just specific sentences or sub-sections.

(2) In addition to complying with the provisions of Sec. 2-30-40(i) in connection with each proposed rezoning, the Board shall consider the following:

- (a) Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood that support the proposed amendment;
 - (b) The effect of the proposed rezoning and development on traffic generation and road safety.
- (3) A proposed rezoning shall not be approved, and should not be recommended for approval, unless the decision making body finds that the proposed rezoning will result in development or activities that:
- (a) Are consistent with the applicable Pitkin County Master Plan(s);
 - (b) Are consistent with all applicable sections of this Land Use Code;
 - (c) Are compatible with surrounding zone districts and land uses, considering existing land use and neighborhood characteristics;
 - (d) Do not exceed the capacity of such public facilities, including, but not limited to, transportation facilities, sewage facilities, water supply, parks, drainage, schools, and emergency medical facilities;
 - (e) Do not result in significant adverse impacts on the natural environment;
 - (f) Are consistent and compatible with the community character; and
 - (g) Do not conflict with the public interest.

(d) Vested Right

Approval of a Land Use Code text amendment or rezoning does not involve a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and does not result in the creation of a vested right. Subsequent approval of a Site Specific Development Plan for rezoned property will establish a vested right.

(e) Rezoning Initiated by Pitkin County

Rezoning initiated by Pitkin County that affect more than one parcel and are not associated with a development application shall be governed exclusively by the standards set forth in this subsection. Notice of such rezoning shall be governed by § 30-28-112 and 116 C.R.S. as amended. The notice provisions of § 2-20-100 shall not apply to such rezoning, and such rezoning shall not be subject to compliance with the Pitkin County Land Use Application Manual. Such rezoning shall be processed according to the procedures and standards set forth below.

- (1) Rezoning pursuant to this subsection (e) shall be processed in accordance with the following procedures:

(a) An application for rezoning pursuant to this subsection (e) may be initiated by the Community Development Department, the Planning and Zoning Commission, or the Board of County Commissioners. No pre-application conference shall be required to initiate a rezoning pursuant to this subsection (e).

(b) The application shall contain the full proposed text of the rezoning along with maps that identify the area affected by the rezoning and shall comply with § 30-28-111, C.R.S., as amended. The maps need not include a survey or legal description, but shall describe the area to be rezoned with reasonable certainty. The application shall be submitted to the Planning and Zoning Commission for certification to the Board of County Commissioners in accordance with the requirements of § § 30-28-112 and 116 C.R.S., as amended. Approval of the application shall conform with the requirements of § § 30-28-112 and 116 C.R.S., as amended

(2) A rezoning processed under this subsection (e) shall advance the health, safety or welfare of the community and must be supported by either.

(a) Changed conditions affecting the subject parcels or the surrounding neighborhood that support the proposed rezoning; or Applicable Pitkin County Master Plan(s).

(Code repealed and reenacted (all sections) by Ord. 014-D-2006; § 2-40-10 (part) amended [Ord. 025-07, 08-21-07](#))

2-40-20: SPECIAL REVIEW USE

(a) Applicability

This section establishes review standards for uses designated as special review in Table 4-1.

(b) Procedure

Unless a different procedure is shown in Table 2-1, special review uses are permitted pursuant to a One-Step Review by the Board of County Commissioners subject to compliance with the standards applicable to the proposed use set forth in Chapter 4 (if any), and the criteria in Sec. 2-30-30 and this Sec. 2-40-20.

(c) Limitation of Uses by Special Review

(1) Commencement of Operation

Approved special review uses shall begin within three (3) years following the date of approval of the development permit, unless a longer period is specified, or the approval shall become null and void.

(2) Special Review Use

The decision-making body may approve a special review use subject to a limited time period during which a use may operate.

(3) Submission of Annual Reports

The decision-making body may require any person operating pursuant to a special review use approval to submit a statement to the Community Development Director attesting to the continued conformance of the use to the conditions of the approval. The report shall be submitted at least forty-five (45) days prior to each anniversary of the initial approval.

(4) Review of Annual Reports

If, after reviewing the statement, inspecting the site and considering any other relevant materials, the Community Development Director determines that the use is in conformance with the provisions of the Special Review Use approval, the use may continue pursuant to the provisions of the approval. If the Community Development Director determines that the use is not in conformance with the provisions of the Special Review Use approval, the Community Development Director may recommend to the original review authority that it consider withdrawal of such approval. Failure of any person operating a use under a Special Review Use approval to submit such a statement within the period specified above shall be considered a violation of the provisions of the special review approval and may be sufficient cause for withdrawal of the approval.

(5) Approval Withdrawal Procedure

The decision-making body shall consider and act on approval withdrawal after a public hearing. Notice of the public hearing shall be mailed to the applicant and published in a newspaper of general circulation in the County not later than thirty (30) days prior to the hearing. The notice shall state the time, location and subject matter of the hearing.

(6) Approval Expiration

Any Special Review Use approval shall expire after any continuous twelve (12) month period of non-use. Any unfulfilled obligations of the approval shall continue to be binding after expiration of the approval.

(d) Additional Special Review Procedure for Mineral and Gravel Extraction

In addition to the procedures identified in subsections (a) through (c) above, the procedures in this section apply to the review of requests for development permits for mineral and gravel extraction. Refer to Sec. 4-30-20(g) for special review standards. In the event of a conflict between the provisions of this subsection (d) and the provisions of subsections (a) through (c) above or Sec. 2-30-40, these provisions shall govern.

(1) Initial Short-Term Permit

The Board may issue an initial, short-term trial permit for a time period not to exceed five (5) years from the date of issuance for mineral exploration, mining, sand and gravel pits, rock crushers, concrete batch plants and asphalt hot mix plants, oil and gas drilling, surface mining and open pit mining, subject to the standards in Sec. 4-30-20(g).

(2) Conversion to Long-Term Permit

Prior to the expiration of the initial, short-term permit, but not longer than one (1) year before such permit expiration, the permittee may submit an application pursuant to the standards in Sec. 4-30-20(g)(13) to convert the short-term permit to a long-term permit. Upon expiration of the initial short-term permit, and after a duly noticed public hearing, a long-term permit may be issued to be in full force for a period of time specified by the Board.

(3) Extension of Long-term Permit

Upon the expiration of the initial, short-term permit, if an operator/permittee requests a time extension or modification of a permit, the Board shall hold a duly noticed public hearing to consider whether a new application is necessary. If the Board determines a new application is necessary, the operator shall prepare a completely new application pursuant to this Land Use Code. The Board shall hold a second duly noticed public hearing to consider either the new application or modifications, and requests for extensions to the initial, short-term permit.

(4) Annual Report

At least once each year, on the date set forth in any special review approval, or if such approval does not specify a time then before the last day of the month when the approval was granted, the operator/permittee shall file a written report with the Community Development Director demonstrating compliance or non-compliance with permit conditions and other provisions of this Land Use Code.

(5) Annual Public Hearing

The Community Development Department shall review the operator/permittee's annual written report to determine compliance with the permit and prepare a report for the Board of County Commissioners. The Board shall review the report and determine whether the information in the report or other factors regarding the operation or status of the operations on the site require that a public hearing be held. If the Board determines that a public hearing is required, the date, time and location of the public hearing will be established pursuant to Sec. 2-20-110.

(6) Action by Board

Based upon the annual hearing, the Board shall have the power upon good cause being shown:

- (a) To modify the permit to require certain corrective measures to be taken or to direct the County staff or its agents to enter upon the premises and to take necessary corrective measures.
- (b) To impose new or additional conditions, standards or restrictions to address environmental concerns required by considerations of public health, safety and welfare, or to achieve the objectives and purposes of the original permit or to bring the permit into compliance with other laws or regulations or uses of the site; the cost to be assessed against the operator/permittee and his sureties.

(7) Permit Enforcement

(a) Violation Notice

Whenever the Board has reason to believe that there has occurred a violation of the permit, written notice shall be given to the operator of the alleged violation. Such notice shall be served personally or by certified mail, return receipt requested, upon the alleged violator or his agent for service of process. If served by mail, any such notice shall be deemed to be effective three (3) days after deposit in the United States Mail, sufficient postage prepaid. The notice shall state the portion of the permits alleged to be violated and a summary of the facts alleged to constitute the violation, and may include the nature of any corrective action required.

(b) Order to Cease Operations

In the event the County determines that the operator/permittee is not acting in compliance with applicable permit conditions and immediate action is necessary, the County shall require the operator/permittee to cease operations within twenty-four (24) hours after delivery of written notice to such effect, for a period not exceeding thirty (30) days, during which time a hearing shall be held as specified in these regulations.

(c) Rights of the Public

Any member of the public who is aggrieved by a failure of the operator/permittee to comply with the terms and conditions of the applicable permit shall have standing to enforce the conditions of the permit by reporting any alleged violation to the County and requesting a hearing thereon in accordance with the requirements of this section.

(d) Violation Hearing

The Board may, upon the request of the permittee, any interested party, or on its own motion, hold a hearing to determine the nature and extent of any alleged violation and shall have the power, upon good cause being shown, to revoke, suspend, or modify the permit to require certain corrective measures to be taken, or to direct the County or its agents to enter upon the premises and to take corrective measures required by the Board. The cost shall be assessed against the operator and his sureties. The hearing shall be held

no sooner than ten (10) days and no later than thirty (30) days after the issuance of any notice of violation, unless a different date is specified by the Board for good cause.

(e) Permit Revocation

In the event any operator fails to comply with any order of the Board issued after hearing, the Board may revoke the permit and request the County Attorney to bring suit for a temporary restraining order, a preliminary injunction or a permanent injunction to prevent any further or continued violation of such order. The Board may also seek such penalties or other relief as are provided by statute or this Land Use Code for any such violation. Suits pursuant to this Sec. 2-40-20(d) shall be brought in the District Court for Pitkin County.

(f) Conditions on Revocation

In the event that a permit is revoked the Board may specify that neither the permittee nor a successor for the same site may re-apply to the Board for a mineral exploration and mining permit for up to one (1) year after the date of revocation or the date all permit improvements and inventory were actually removed and all operations actually ceased, whichever date occurs last. If the Board suspends or revokes a permit of an operator, the operator may continue previously permitted operations only for the purpose of bringing the previously permitted operation into satisfactory compliance with the provisions of the operator's County permit, or to carry out reclamation requirements of the State of Colorado.

(g) Reinstatement of Permit

The Board may reinstate the permit of the operator upon compliance with the terms of the suspension or on such later date as the Board of County Commissioners may deem appropriate.

(e) Additional Special Review Procedures for Oil and Gas Extraction

(1) At the request of either the operator, surface owner, or any other landowner receiving notice pursuant to Sec. 2-20-100, the Community Development Department will conduct a public site visit with all interested parties to evaluate locations, compliance with this Land Use Code and mitigation that may be required pursuant to this Land Use Code. When possible this site visit will be coordinated with site visits required by the Oil and Gas Conservation Commission rules.

(2) Oil and gas facilities shall also be reviewed for general consistency with the standards and policies set forth in the following documents: (i) this Land Use Code; (ii) the Pitkin County Comprehensive Plan; (iii) Pitkin County road and drainage design specifications and standards according to the County Asset Management Plan; (iv) plans and regulations of municipalities in the county or adjacent counties, if applicable; and (v) other applicable local, county, state and federal plans, policies and regulations.

(3) If the Oil and Gas Conservation Commission spacing rules require a well to be located contrary to the location as required by these regulations, the applicant shall apply for a variance with the Oil and Gas Conservation Commission to meet the County's well location requirements. If such a variance is not granted, the location as required by these regulations shall be complied with to the maximum extent possible. The Community Development Director may impose additional mitigation measures as necessary to protect the public health, safety, and welfare when the well is not located as required by these regulations.

(f) Additional Special Review Procedures for Caretaker Dwelling Units

(1) The Community Development Director may grant special review approval for a caretaker dwelling unit subject to the following procedures:

The community development department shall post notice and provide mailed notice to the property owners adjacent to the site of the lot or parcel for which a caretaker dwelling unit is proposed. The notices shall contain the information required by sec. 2-20-100 and shall state that the community development department will accept comments or objections regarding the application until a date at least two (2) weeks following the postmarked date of the mailed notice. The notice shall further state that if no objections are received by that date, the community development department shall make a decision on the application pursuant to this land use code.

(2) If no objections to the application are received by the date stated in the notice, the community development department shall document the fact that no objections were received and shall make a decision on the application pursuant to this land use code.

(3) If any objections to the application are received by the date stated in the notice, the community development department shall continue the application to a public hearing before the board of county commissioners.

(g) Vested Right

Approval of a special review use does not involve a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and does not result in the creation of a vested right. Subsequent approval of a Site Specific Development Plan related to the approved special review use will establish a vested right.

2-40-30: TRANSFER OF DEVELOPMENT RIGHTS

The issuance and use of TDR certificates is completed through either the Administrative Review process or the One-Step Review process, as outlined in Table 2-1. These provisions supplement those provisions in Sec. 2-30-20 and 2-30-30, and in case of conflict, these provisions govern. The documentation produced shall be as specified in subsection (a) below and the criteria used shall be those in subsections (b) below and Sec. 6-70-40.

(a) Documentation

(1) Irrevocable TDR certificates

A property owner who wishes to sell a TDR from a sending site shall first obtain an irrevocable certificate of TDRs (TDR certificate) from the Community Development Department through either the Administrative Review or One-Step Review (as shown in Table 2-1). A TDR certificate shall only be issued where the sending site meets all of the standards and criteria set forth in Sec. 6-70-40. A TDR certificate must be issued concurrently with the severance of the development right from the Sending Site and execution of a restrictive covenant for the Sending Site.

(2) Re-issuance of TDR certificates

If an irrevocable TDR certificate is lost or destroyed after issuance by the County and prior to surrender for use in a proposed development, the County will re-issue the Certificate of TDRs to the current owner. No Certificate shall be re-issued unless the owner of the TDR submits a signed and notarized affidavit confirming the loss or destruction of the certificate and agreeing that if the original TDR certificate is later found it will be surrendered to the County and shall be of no further force and effect. All re-issued TDR certificates shall bear the same number as the Certificate that they replace, and shall state that any TDR Certificate bearing the same number and an earlier issue date shall be invalid.

(3) Restrictive Covenant of Sending Site

Concurrent with the issuance of a TDR certificate, the owner of the Sending Site shall execute and record a restrictive covenant on the parcel that acknowledges that the development right has been severed from the parcel and that future development as defined by this Land Use Code, is prohibited. The covenant shall be a form approved by the County Attorney.

(4) Sale of TDRs

An irrevocable TDR certificate may be sold, transferred or conveyed. The sale, assignment, conveyance or other transfer or change in ownership of transferable development rights certificates must be reported to the Pitkin County Community Development Office within five (5) days of such transfer. The report of such transfer shall disclose the certificate number, the grantor, the grantee and the total value of the consideration paid for the certificate. Failure to timely and accurately report such transfer may render the transferable development right certificate void.

(5) Development Rights Appurtenant to Land

The owner of any parcel of land from which development rights may be transferred, may transfer those rights at any time to any person, provided, however, that the use rights and the value of those use rights shall be deemed for taxation and all other purposes to be appurtenant to the land until such time as the rights are severed from the land pursuant to issuance of an irrevocable TDR certificate and recordation of a preservation restrictive covenant. Upon severance of the use rights from the land, the value of the land for taxation purposes will be re-assessed.

(b) Approval of TDRs for Constrained Sites

Pursuant to Sec. 6-70, the Board may consider applications to sever TDRs from Constrained Sites as follows:

(1) The Board shall determine that principles of equitable mitigation merit the issuance of TDRs.

Transferable Development Right(s) recognized and certified pursuant to this section, may be obtained for property encumbered by a conservation easement provided that the conservation easement is granted in conjunction with the procedures contained in this section following a determination by the Community Development Department that the lot or parcel is undevelopable or is severely restricted and prior to the issuance or certification of the TDR(s).

(2) The determination that a property is developable, severely restricted or undevelopable pursuant to this section is merely a procedure to allow the Board to grant Constrained Site Transferable Development Right(s) at the request of a property owner, and shall not be considered a final decision as to the beneficial, productive and/or economically viable uses that may be available to the property.

(c) Relationship to GMQS Scoring System

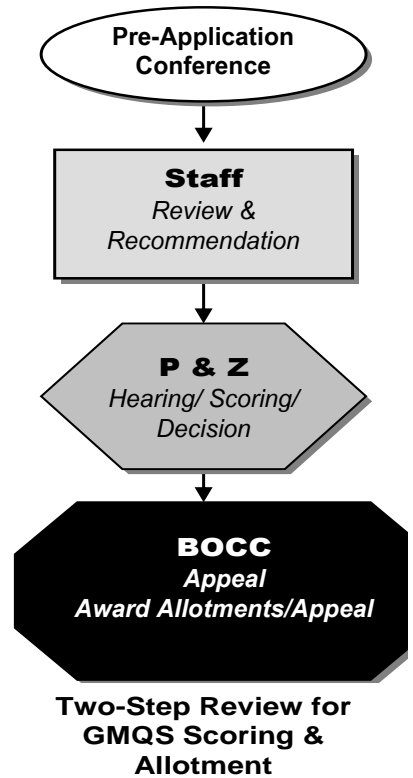
The creation of a new development right or a permitted increase in floor area may also be accomplished through receipt of a GMQS allocation pursuant to Sec. 2-40-40, or through a combination of TDR purchases and GMQS allocations. The purchase of TDRs for these purposes avoids the need for an applicant to compete in the GMQS for the same purposes. Similarly, receipt of a GMQS allocation for these purposes avoids the need for an applicant to purchase a TDR certificate for the same purpose.

(d) Relationship to Other Approvals

Except as described in above, the purchase and use of a TDR certificate to obtain a development permit does not remove any requirement to obtain other types of development permits. More specifically, the use of a TDR to create a new development right or to increase the permitted floor area of a single family dwelling does not remove the requirement to identify an activity envelope or to obtain Site Plan approval prior to submittal of a building permit application. A development application may be reviewed and approved contingent upon the applicant obtaining a required TDR prior to filing an application for a building permit.

(e) Vested Right

Although the purchase and sale of TDRs includes the issuance of irrevocable Certificates of TDR, the purchase and sale transaction does not



involve a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and does not result in the creation of a vested right. Subsequent use of the purchased TDRs on a Receiving Site through the approval of a Site Specific Development Plan will establish a vested right.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-40-30 amended (part) [Ord. 019-09, 06-24-09](#))

2-40-40: GROWTH MANAGEMENT QUOTA SYSTEM SCORING / ALLOTMENTS

Growth Management Quota System (GMQS) scoring and allotments are completed through the Two-Step Review process described in Sec. 2-30-40, but are subject to several specialized provisions. These provisions supplement those provisions in Sec. 2-30-40, and in case of conflict, these provisions govern.

(a) General

All development that requires a building permit in Pitkin County is required to either: (a) obtain an exemption from GMQS system; or (b) compete for GMQS development allotments. This section sets forth the procedures relating to this requirement.

(b) Procedure for Competition for Development Allotments

In addition to the provisions of 2-30-40, the following shall apply. An applicant who is not eligible for any of the exemptions in Sec. 6-30 shall be required to compete for development allotments through the following process:

(1) Initiation of Applications

TABLE 2-2: GMQS APPLICATION DEADLINES	
TYPE OF DEVELOPMENT	ANNUAL SUBMISSION DEADLINE
Residential Development: New Lots	September 1
Residential Development: Additions	January 15; if all allotments are not awarded in this competition, then the bi-annual submission deadline is July 1
Commercial Development	November 15
Tourist Accommodations Units	October 1

(2) Amendment of Applications

Only one application may be made per parcel each year. Applications may be amended to make technical corrections or clarifications prior to competition and scoring of the applications. In

addition, if no competing applications have then been filed, applications may also be amended to make other changes, so long as those changes do not decrease the level of performance on any of the applicable scoring criteria. If other competing applications have been filed, only amendments to make technical changes may be made prior to competition and scoring of the applications.

(c) Recommendation by Planning and Zoning Commission

In addition to the provisions of Sec. 2-30-40(g)(2), the following shall apply:

(1) Meeting for Collective Review

The Planning and Zoning Commission shall meet to consider all applications for development allotments at a noticed public hearing. Applications for development allotments shall be considered collectively based on the type of development proposed (e.g., residential, commercial or tourist accommodation). The meeting shall be conducted as set forth in the Pitkin County Land Use Application Manual.

(2) Procedure for Scoring GMQS Applications

After the public hearing is officially closed, the Planning and Zoning Commission shall consider and either (i) score each application based upon the scoring standards in Chapter 6, or (ii) by unanimous vote of the Planning and Zoning Commission, decide to adopt the scoring recommended in the staff report from the Community Development Department. If the Planning and Zoning Commission chooses to score the applications itself, the following scoring procedures shall be adhered to:

(a) Scoring Based on Whole Numbers

Based upon the scoring standards in Chapter 6, each voting Planning and Zoning Commissioner shall award a whole number score (not a fractional number) to the application(s) on the score sheets provided by the Community Development Department.

(b) Discussion of Scoring

Following the initial scoring, Commission members shall be free to discuss individual scores and to offer justification for such scores. Staff may make comment during this discussion, but no member of the public or the applicant may be permitted comment.

(c) Rescoring

Following the close of Planning and Zoning Commission discussions regarding initial scoring, a final scoring round will be held, during which each Commission member shall again identify the number of points, expressed as whole numbers, assigned to the project. Planning and Zoning Commission members shall be free to revise the number of points awarded to a project between the preliminary and final scoring rounds.

(d) Calculation of Final Score

After the close of the final scoring round, a project's final average score shall be calculated by: (a) totaling the Commissioners' individual scores; and (b) dividing that total by a number equal to the number of commissioners who participated in the final scoring round. Final average project scores shall be calculated for each of the applicable growth management scoring criteria and a cumulative score shall be calculated for the criteria as a whole. The final average cumulative score shall constitute the project's final score.

(e) Ranking of Applications

Projects shall be ranked in order of their final average scores.

(f) Tie-Breaking

In the event of a tie in the scoring of any applications, the Planning and Zoning Commission shall consider the projects' scores without the bonus points provided in Chapter 6 to break a tie among applications that meet the applicable competitive thresholds.

(g) Forward Ranking and Final Score to Board of County Commissioners

The ranking of the development applications and calculation of the final Planning and Zoning Commission score shall then be forwarded by resolution to the Board.

(d) Action by Board

In addition to the provisions of Sec. 2-30-40(h)(2), the following shall apply. Upon receipt of the Planning and Zoning Commission resolution forwarding their ranking and final scores, the Board may by resolution, allocate development allotments to the eligible applicant as follows:

(1) Allotments Awarded Based on Ranking

In the event of multiple eligible applicants, the Board shall award allotments in the ranking order established by the Planning and Zoning Commission, provided that if the Board elects to rescure any project that ranking may change.

(2) Denial of Development Allotments

Development allotments are effectively denied by any scoring that fails to award the minimum number of points per category and/or the total required threshold points. Development allotments may also be denied if a project that met the minimum scoring criteria is ranked below a project consuming the last available allotments for the year.

(3) Multi-Year Allotment

In the case of applications for GMQS allotments for commercial or tourist accommodation development, the Board may award a multi-year allotment if the application meets the following standards:

- (a) The quality of the proposed development substantially exceeds the minimum threshold for scoring established in Chapter 6.
- (b) The site design of the proposed development makes construction phasing infeasible. This requires but is not limited to a demonstration that (1) economies of scale will result from construction occurring at once; (2) the proposed development is a single building that cannot easily be constructed or operated in phases; and (3) the public facility investments for the proposed development such as roads, airport facilities, water and sewer shall all be installed at the initiation of the project, making phasing economically unrealistic.
- (c) The impacts of construction of the proposed development on the surrounding neighborhood will be reduced by the construction at one (1) time rather than phasing it over two (2) or more construction periods and such impacts can be tolerated by the County.
- (d) The County is capable of absorbing the accelerated rate at which impacts on services and public facilities will be experienced. It shall be considered sufficient evidence of service and public facility availability if it can be demonstrated that sufficient capacity is available in the following public facilities to accommodate the County's planned rate of growth and the accelerated rate due to the proposed development: (1) transportation, including, airport, roads, transit and parking; (2) utilities including, water, sewer, electric, gas and drainage; (3) affordable housing; (4) park and recreation facilities; (5) solid waste facilities; (6) police and fire protection facilities; and (7) hospitals and schools.
- (e) The applicant demonstrates that granting allotments from future years will be consistent with Policies 1-60-20, 1-60-30, 1-60-40, and 1-60-50.

(e) Appeals

Appeals to the Planning and Zoning Commission GMQS Scoring shall be heard by the Board pursuant to Sec. 2-20-180. After hearing the appeal, the Board may decide to allow the existing score to stand, to re-score the application, or to remand the application to the Planning and Zoning Commission for re-scoring.

(f) Allotments Awardable After Appeal Right Has Expired

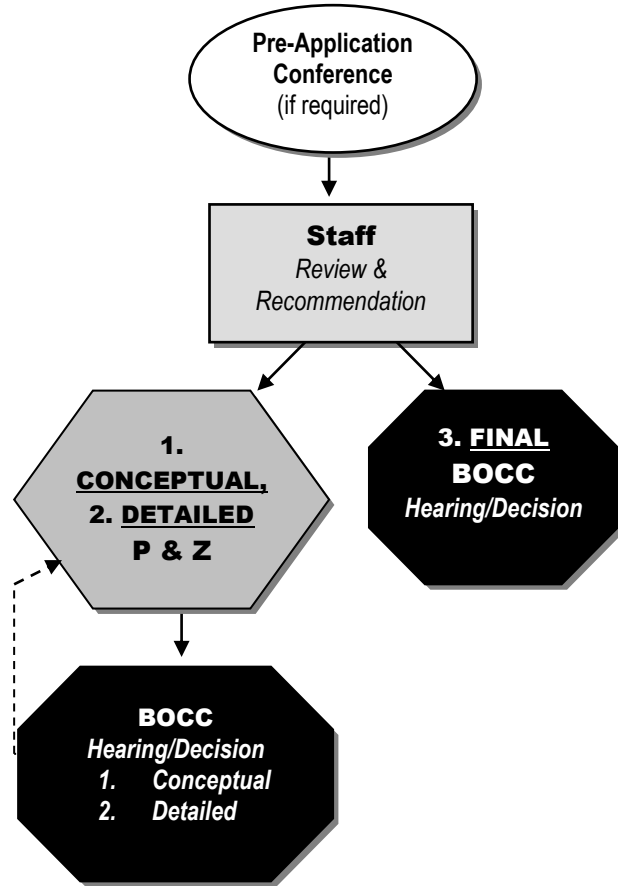
No allotment shall be awarded until the appeal period set forth in Sec. 2-20-180 has expired.

(g) Relationship to TDR System

The creation of a new development right or the increase in permitted floor area may also be accomplished through purchase of a transferable development right (TDR) pursuant to Sec. 2-40-30, or through a combination of TDR purchases and GMQS allocations. The purchase of TDRs for these purposes avoids the need for an applicant to compete in the GMQS for the same purposes. Similarly, receipt of a GMQS allocation for these purposes avoids the need for an applicant to purchase a TDR certificate for the same purpose.

(h) Vested Right

The award of a GMQS allotment does not involve a Site Specific Development Plan, as defined in Sec. 2-20-170(b), but does result in the creation of a vested right for use of the allotment. Subsequent use of the GMQS allotment through the approval of a Site Specific Development Plan will also establish a vested right.



2-40-50: SUBDIVISION AND PUD REVIEW PROCEDURES

(a) General

The subdivision and PUD review procedure applies to applications for approval of a subdivision of land under C.R.S. 30-28-101, et. seq. or an approval of a rezoning to a Planned Unit Development (PUD) zone district, (or approval of both a subdivision and a PUD together) other than rezoning to an Affordable Housing PUD (AH/PUD), a Conservation Development PUD (CD-PUD), or to the LIR or TR-2 zone districts in order to utilize the cluster option. This procedure requires (a) review of conceptual level documents by both staff and the Planning and Zoning Commission and a decision on conceptual level documents by the Board, (b) review of detailed subdivision and/or PUD documents by both staff and the Planning and Zoning Commission and a decision on those detailed documents by the Board, and (c) review of final plat and/or final plan documents by staff, and approval of those documents by the Board, all as shown in Table 2-1. All review and approval procedures for subdivisions shall comply with the provisions of C.R.S. 30-28-133.5.

(b) Does Not Apply to Creation of Timesharing or Fractional Interest Communities
 Subdivision approval shall not be required for the creation of common interest communities or timeshares pursuant to C.R.S. 3-33.3-101, et seq. (the Colorado Common Interest Ownership Act), 38-

33-101, et seq. (the Condominium Ownership Act) or 38-33.5-101, et seq. (Cooperative Housing Corporations), as those provisions may be amended or replaced from time to time.

(c) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required prior to submission of conceptual level documents.

(d) Initiation

(1) Conceptual Level

Applications for subdivision or PUD review are initiated by filing the submission materials for conceptual level documents referenced in Pitkin County Land Use Application Manual with the Community Development Department. No application shall be reviewed until a determination of completeness has been made pursuant to Sec. 2-20-70. If a GMQS allocation is needed for the proposed development, no conceptual approval will be granted until the required GMQS allocation has been obtained by the applicant. After the application has been determined to be complete, the Community Development Department shall schedule a public meeting before the Planning and Zoning Commission. Following the completion of the public meeting by the Planning and Zoning Commission, the Community Development Department shall schedule a public hearing before the Board pursuant to Sec. 2-20-80. Public notice for the public hearing shall be provided pursuant to Sec. 2-20-100.

(2) Detailed Subdivision/PUD Documents

Following conceptual level approval of the subdivision or PUD pursuant to subsection (1) above, this process is repeated (including the requirement for a determination of completeness), except that the applicant shall file the submission materials for detailed documents referenced in Pitkin County Land Use Application Manual with the Community Development Department. A complete application for detailed approval of a subdivision or PUD shall be submitted within one (1) year following the Board's conceptual approval of the subdivision or PUD, or the conceptual approval shall expire. If, within that time period, the required subsequent submission has not been filed, the Board may grant a one-time extension of the approval, for a period of time not to exceed one (1) year, if the applicant demonstrates to the Board that substantial action has been taken in reliance of the conceptual subdivision approval. With Staff's approval, detailed subdivision and final plat submissions may be made and reviewed simultaneously.

(3) Final Plat/Plan

Within one (1) year following detailed approval of subdivision or PUD documents pursuant to subsection (2) above, the applicant shall file a final plat or final subdivision plan meeting the requirements of Pitkin County Land Use Application Manual, including an improvements agreement and improvements maintenance agreement, with the Community Development Department. If, within that time period, the required subsequent submission has not been filed, the Board may grant a one-time extension of the approval, for a period of time not to exceed one

(1) year, if the applicant demonstrates to the Board that substantial action has been taken in reliance of the conceptual subdivision approval. No application shall be reviewed until a determination of completeness has been made pursuant to Sec. 2-20-70. After review by staff, the final plat and/or plan shall be scheduled for approval by the Board at a public meeting.

(4) Compliance with State Requirements

Throughout the procedures outlined in subsections (1), (2), and (3) above, the County shall comply with those requirements set forth in C.R.S. 30-28-133.5, unless the applicant waives one or more of those requirements in writing. Provisions in C.R.S. 30-28-133.5 include requirements regarding (a) the standards and criteria for review and approval, modification, or denial of an application, (b) communication with the applicant regarding any nonconformity between the application and County regulations, (c) the provision of written findings supporting the County's decision, and (d) requests for redesign of the subdivision.

(e) Requirement for GMQS Allocation or TDRs

An applicant for a subdivision or for a PUD rezoning that would increase development on the property will generally need to apply for a GMQS allocation for the proposed development pursuant to Sec. 2-40-40 or, at the applicant's option, may purchase transferable development rights pursuant to Sec. 2-40-30 in order to obtain the right to develop single-family homes on proposed lots or parcels located within the Aspen UGB. If the applicant intends to obtain required development rights or additional residential floor area through the purchase of TDRs, the conceptual, detailed, and final plat submissions may be reviewed and approved contingent upon the applicant obtaining the required TDRs prior to application for a building permit. If the applicant intends to obtain required development rights or additional residential floor area by competing for a GMQS allocation, conceptual subdivision review may not occur until the required GMQS allocation has been obtained.

(f) Staff Review and Recommendation

At each stage of the process (conceptual, detailed, and final review), the Community Development Department shall review the application and make a recommendation pursuant to Sec. 2-20-90. The staff recommendation shall be based on the criteria listed in subsection (i) below.

(g) Recommendation by Planning and Zoning Commission

At the conceptual and detailed stages of review, the Planning and Zoning Commission shall review the application and the staff recommendation, shall hold a public meeting on the application, and shall make a recommendation to approve, approve with conditions, or deny the application pursuant to the criteria for approval listed in subsection (i) below. A recommendation of denial shall specify the approval criteria that have not been met. The Planning and Zoning Commission may document its recommendation by recording a resolution with the County Clerk and Recorder.

(h) Action by Board

(1) Conceptual and Detailed Review

At the conceptual and detailed review stage, the Board shall review the application, the staff recommendation, and the Planning and Zoning Commission recommendation, shall conduct a public hearing on the application pursuant to Sec. 2-20-110, and shall make a decision to approve, approve with conditions, or deny the application pursuant to the criteria for approval listed in subsection (i) below. A denial of the application shall be in writing, and shall specify the approval criteria that have not been met. Conceptual subdivision or PUD approval by the Board shall not constitute acceptance of any required subsequent submission of detailed subdivision or PUD documents, and detailed subdivision approval by the Board shall not constitute acceptance or approval of the final plat. The Board shall document its decision in a resolution recorded with the County Clerk and Recorder.

(2) Final Plat/Plan

At the final plat/plan stage, the Board shall review the final plat and/or plan and the staff recommendation, at a public meeting, and shall make a decision to approve, approve with conditions, or deny the application based on compliance with the requirements of this Land Use Code for a final plat or plan and any conditions attached at the time of detailed subdivision or PUD approval. A denial of the application shall be in writing, and shall specify the approval criteria that have not been met. The Board shall document its decision in a resolution recorded with the County Clerk and Recorder. The resolution of approval shall constitute the development permit. The applicant shall record the approved final plat or plan with the Pitkin County Clerk and Recorder within one hundred eighty (180) days after Board approval of the final plat or plan, or the approval of the final plat or plan and related development permit(s) shall expire.

(i) Criteria for Approval

A conceptual or detailed subdivision or PUD application may be recommended for approval and may be approved only if the Board finds that all of the following criteria have been met:

- (1) The application complies with all applicable provisions of this Land Use Code;
- (2) The application complies with all applicable Land Use Policies listed in Sec. 1-60;
- (3) The application complies with all prior development approvals applicable to the subject property;
- (4) The proposed subdivision is consistent with and implements the intent of the zone district(s) in which it is located;
- (5) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision or PUD is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code;

- (6) The proposed subdivision or PUD will not result in significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (7) The proposed subdivision or PUD will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated;
- (8) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the property, while maintaining sufficient levels of service to existing development;
- (9) In addition, a rezoning to a PUD designation shall only be recommended or approved if the Planning and Zoning Commission or the Board of County Commissioners, as applicable, determines that the standard criteria for a rezoning set forth in 2-40-10(c) have been met.

(j) Denial

The denial of a subdivision plat, plan, or agreement shall be based on a failure to conform to the requirements of the adopted resolution, ordinance, or regulation and shall be supported by written findings specifying the provisions that the subdivision plat, plan, or agreement failed to address or satisfy.

(k) When Effective

A subdivision or PUD rezoning shall not be effective until a final plat has been recorded.

(l) Vested Right

A final subdivision plat is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right. A final PUD plan is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right.

(m) Appeal

Decisions made pursuant to the subdivision and PUD review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

2-40-60: AFFORDABLE HOUSING SUBDIVISION REVIEW PROCEDURE

(a) General

The Affordable Housing review procedure is an expedited procedure that applies to applications to rezone land to the AH, AH/PUD or MHP zone district. This procedure requires (a) review of conceptual level documents by both staff and the Planning and Zoning Commission and a decision on conceptual level documents by the Board, and (b) review of final plat documents by staff, and approval of those

documents by the Board, all as shown in Table 2-1. In order to encourage the construction of affordable housing, no submission of detailed subdivision or PUD documents shall be required between conceptual review and final plat approval.

(b) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required prior to submission of conceptual level documents.

(c) Procedures

The procedures for an affordable housing PUD and/or subdivision is the same as that for a PUD and/or subdivision set forth in Sec. 2-40-50, except that all conceptual, detailed, and final subdivision documents shall be submitted with the initial application, and that no separate review, or approval of detailed subdivision documents shall be required between conceptual review and final plan/plat approval for the subdivision. The Community Development Department may require the submission of additional materials between the Board of County Commissioner's review of the conceptual documents and their review of the final documents. Within one (1) year following conceptual approval of subdivision or PUD documents pursuant to Sec. 2-40-50(d)(2) above, the applicant shall file a final plat and/or final subdivision plan meeting the requirements of Pitkin County Land Use Application Manual, as well as any improvement agreements, development covenants, and/or financial guarantees required by the Community Development Director or County Attorney pursuant to Sec. 2-20-130.

(d) Requirement for GMQS Allocation or TDRs

An applicant for a PUD and/or related subdivision that would increase the supply of affordable housing may be eligible for an exemption from the GMQS system pursuant to Sec. 6-30-40. If that exemption is not applicable, then the applicant will generally need to apply for a GMQS allocation for the proposed lots or parcels pursuant to Sec. 2-40-40 or, at the applicant's option, may purchase transferable development rights pursuant to Sec. 2-40-30 in order to obtain the right to develop single-family homes on the proposed lots in the Aspen UGB. If the applicant intends to obtain required development rights or additional residential floor area through the purchase of TDRs, the conceptual, and final plat submissions may be reviewed and approved contingent upon the applicant obtaining the required TDRs prior to application for a building permit. If the applicant intends to obtain required development rights or additional residential floor area by competing for a GMQS allocation, conceptual subdivision approval may not be granted until the required GMQS allocation has been obtained.

(e) Criteria for Approval

An affordable housing PUD and/or related subdivision may be recommended for approval by the Planning and Zoning Commission, and may be approved by the Board only if those bodies find that all of the following criteria have been met:

- (1) The application complies with all applicable provisions of this Land Use Code;
- (2) The application complies with all applicable Land Use Policies;

- (3) The application complies with all prior development approvals applicable to the subject property;
- (4) The proposed subdivision is consistent with and implements the intent of the zone district(s) in which it is located;
- (5) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision or PUD is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code;
- (6) The proposed subdivision or PUD will not result in significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (7) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the property, while maintaining sufficient levels of service to existing development;
- (8) The applicant has submitted signed originals, or photocopies of all recorded documents necessary to restrict occupancy of the specified portion of the project consistent with the requirements of the employee housing guidelines.

(f) Denial

The denial of a subdivision plat, plan, or agreement shall be based on a failure to conform to the requirements of the adopted resolution, ordinance, or regulation and shall be supported by written findings specifying the provisions that the subdivision plat, plan, or agreement failed to address or satisfy.

(g) Vested Right

A final subdivision plat is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right. A final PUD plan is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right.

(h) Appeal

Decisions made pursuant to the affordable housing PUD and subdivision review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

2-40-70: LIR/TR-2 DISTRICT CLUSTER OPTION SUBDIVISION REVIEW PROCEDURE

(a) General

The LIR/TR-2 district subdivision review procedure is an expedited approval procedure that applies only within the LIR or TR-2 zone districts to applications for a cluster option development.

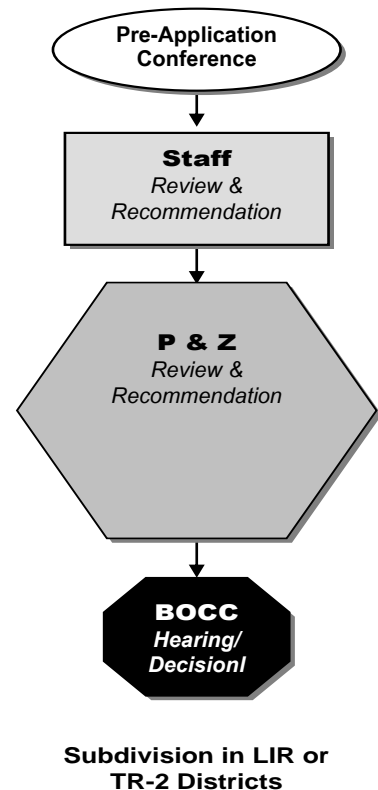
(b) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required prior to submission of detailed and final documents.

(c) Procedures

Applications for approval of LIR/TR-2 cluster option subdivisions shall comply with the provisions of Sec. 2-40-50 applicable to other subdivisions except that approval of the subdivision shall only require a single review of conceptual, detailed and final subdivision documents by the Planning and Zoning Commission, and a single decision on those consolidated submissions by the Board, as shown in Table 2-1.

The applicant shall be required to make a single submission of documents satisfying the requirements for both conceptual, detailed subdivision and final plat documents, as well as any improvement agreements, development covenants, and/or financial guarantees required by the Community Development Director or County Attorney pursuant to Sec. 2-20-130. At the applicant's option, conceptual, detailed, and final plat documents may be completed separately following the procedures of Secs. 2-40-50 or 2-40-60, but



all other provisions of this Sec. 2-40-70 shall apply.

(d) Requirement for GMQS Allocation or TDRs in LIR/TR2 District

If the applicant applies for development under the LIR cluster or TR-2 development option described in Sec. 3-40-50(d) or 3-40-70(d), the development shall be eligible for a GMQS exemption pursuant to Sec. 6-30-80. If the applicant does not submit an application consistent with the cluster development option, then the applicant will generally need to apply for a GMQS allocation for the proposed lots or parcels pursuant to Sec. 2-40-40 or, at the applicant's option, if the property is located in the Aspen UGB, may purchase transferable development rights pursuant to Sec. 2-40-30 in order to obtain the right to develop single-family homes on the proposed lots. If the applicant intends to obtain required development rights or additional floor area through the purchase of TDRs, the LIR/TR-2 subdivision application may be reviewed and approved contingent upon the applicant obtaining the required TDRs prior to application for a building permit. If the applicant intends to obtain required development rights or additional residential floor area by competing for a GMQS allocation, the LIR/TR-2 subdivision application may not be reviewed until the required GMQS allocation has been obtained.

(e) Criteria for Approval

An LIR/TR-2 subdivision may be recommended for approval by the Planning and Zoning Commission, and may be approved by the Board only if those bodies find that all of the following criteria have been met:

- (1) The application complies with all applicable provisions of this Land Use Code;
- (2) The application complies with all prior development approvals applicable to the subject property;
- (3) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code.
- (4) The proposed subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- (5) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.

(f) Denial

The denial of a subdivision plat, plan, or agreement shall be based on a failure to conform to the requirements of the adopted resolution, ordinance, or regulation and shall be supported by written findings specifying the provisions that the subdivision plat, plan, or agreement failed to address or satisfy.

(g) Vested Right

A final subdivision plat is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right.

(h) Appeal

Decisions made pursuant to the LIR/TR-2 subdivision review process may be appealed to those bodies identified in Table 2-1 pursuant to Sec. 2-20-180.

2-40-80: CD-PUD ZONE DISTRICT RESIDENTIAL OR COMMERCIAL AGRICULTURAL DEVELOPMENT OPTIONS REVIEW PROCEDURE

(a) General

The CD-PUD zone district review procedure is an expedited approval procedure that applies only within the CD-PUD zone district to applications for development pursuant to the residential or commercial agricultural development options.

(b) Pre-Application Meeting

A pre-application meeting pursuant to Sec. 2-20-30 is required prior to submission of an application.

(c) Procedures

Applications for approval of a CD-PUD Development Plan shall comply with the provisions of Section 2-30-40 and 2-40-10 for a rezoning to CD-PUD. Applications for approval of a CD-PUD Development Plan shall also comply with the provisions of Sec. 2-40-50 applicable to other PUDs except that approval shall only require a single review of the application by the Planning and Zoning Commission, and a single decision on the application by the Board, as shown in Table 2-1.

(d) Requirement for GMQS Allocation or TDRs in CD-PUD Zone District



If the applicant applies for development under the CD-PUD residential or commercial agricultural development options described in Sec. 3-70-40(h) or (i), the development shall be eligible for a GMQS exemption pursuant to Sec. 6-30-90. TDRs may only be used as specified in Sec. 3-70-40(h) or (i).

(e) Criteria for Approval

A CD-PUD Development Plan may be recommended for approval by the Planning and Zoning Commission, and may be approved by the Board only if those bodies find that all of the following criteria have been met:

- (1) The application complies with all applicable provisions of this Land Use Code;
- (2) The application complies with all prior development approvals applicable to the subject property or the Applicant agrees to vacate any prior development approvals;
- (3) The general layout of roads, driveways, utilities, drainage facilities, and other services within the parcel is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code;
- (4) The development will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (5) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.

(f) Vested Right

A CD-PUD Development Plan is a Site Specific Development Plan, as defined in Sec. 2-20-170(b), and shall result in the establishment of a vested right.

2-40-90: MERGER OF PLATTED LOTS OR PARCELS

(a) General

The lot/parcel merger procedure is a One-Step Review procedure to comply with the requirements of C.R.S. § 30-28-139. All mergers of platted lots or parcels shall comply with the following procedures and standards, except that the provisions of subsections (b)(1) through (4) shall not apply.

Notwithstanding any other provision of this section, the requirements of subsections (1) and (2) of this section shall not apply to any merger of parcels of land that is requested in writing by each owner of an affected parcel. In addition, all mergers of substandard lots or parcels shall be subject to the provisions of Sec. 9-20-20. Nothing in this section shall be construed to abrogate or otherwise diminish or expand

any rights a landowner may have under Article 68 of Title 24, C.R.S., or Sec. 2-20-170 concerning vested property rights.

(b) Procedure

(1) Prior to the merger of two (2) or more parcels of land for the purpose of eliminating interior lot lines, obsolete subdivisions, or otherwise, the County shall send notice of the County's intent to complete the merger to each owner of the affected parcels by certified mail. The notice shall also specify that each such owner may request a hearing on the proposed merger pursuant to subsection (2) below, and shall specify action to be taken by such owner to request such hearing, including, without limitation, the requirement that said owner shall request the hearing within one hundred twenty (120) days of the date the notice required by this subsection (1) is received by the owner.

(2) Where each owner of an affected parcel has timely requested a hearing on the proposed merger satisfying the requirements of subsection (1), a public hearing on said merger shall be held before the Board of County Commissioners. The hearing shall be conducted for the purpose of allowing the Board to discuss with the owner of each affected parcel its reasons for proceeding with the merger and to give each owner the opportunity to submit any basis provided under law for challenging the merger. The hearing shall take place no sooner than ninety (90) days following the date of the notice required by subsection (1). Where the owner of each affected parcel does not timely request a hearing on the proposed merger satisfying the requirements of subsection (1), no hearing is required, and the affected parcels shall be merged in accordance with the requirements of this section.

(3) Where a hearing has been duly requested pursuant to subsection (2), notice of the time, place, and manner of the hearing shall be provided to each owner of the affected parcels pursuant to Secs. 2-20-100(a)(1) and (4), and shall also be published in a newspaper pursuant to Secs. 2-20-100(a)(1) and (2).

(4) No merger of parcels that is the subject of a hearing before the Board of County Commissioners shall be effective unless the owner of the parcels has given his, her, or its consent to the merger of said parcels; and the merger has been approved by a majority of the Board of County Commissioners.

(5) Upon completion of any merger of parcels in accordance with the requirements of this section, the County shall file of record a notice of merger with the Pitkin County Clerk and Recorder of deeds, and such notice shall constitute prima facie evidence that all of the requirements of subsection (1), (2) and (3) have been satisfied.

2-40-100: SKI-REC, P-I AND PUB MASTER PLANS

In the SKI-REC zone district and the P-I zone district, and in the PUB zone district when the master plan option is chosen, permitted land uses are established through the approval of a Master Plan pursuant to the Two-Step Review process, in accordance with the standards in this Sec. 2-40-100.

(a) General Standards for Master Plans

Master plans and major amendments to master plans shall comply with the standards in this section. Minor amendments to SKI-REC master plans may be permitted subject to compliance with the standards in Sec. 2-20-150(f).

- (1) The time frame of the master plan shall be no less than five (5) years, nor more than ten (10) years;
- (2) Activities that have substantial impact on County or municipal capital facilities, such as increases in the daily ski area capacity, shall be identified;
- (3) If there is any substantial variance between a proposed activity or development and the actual construction of that activity or development, the proposed activity or development will be subject to an amendment procedure in Sec. 2-20-150 of this Land Use Code;
- (4) Unless the GMQS, by its terms, is inapplicable to the proposed activity or development, or unless a growth management exemption is obtained at the master plan review stage, a growth management allotment is required for any development to occur;
- (5) Area and bulk requirements shall be as set forth in the master plan; and
- (6) The height of principal structures shall not exceed twenty-eight (28) feet, and the height of accessory structures shall not exceed twenty (20) feet unless the master plan demonstrates that the use or building cannot function properly within those limitations, or unless other substantial reasons for exceeding the limitations are demonstrated.

(b) General Guide to Uses in SKI-REC and P-I Master Plans

- (1) Although permitted uses for the SKI-REC and P-I zone districts are specified in Chapter 4, all such uses are subject to approval through the master plan process, and in the SKI-REC zone district some uses may only be approved on a seasonal basis. The outcome of the master plan review process will be a detailed listing of uses and activities that are allowed all year or during a specific season, uses and activities requiring further review prior to their implementation, and other uses and activities that are prohibited all year or during a specific season. Specific time constraints on certain uses/activities may be imposed.
- (2) All uses not specifically listed as permitted or special review uses in Chapter 4, or not specifically listed in subsection (c) below, are prohibited. In the SKI-REC zone district, prohibited uses specifically include: (i) retail, office, restaurant or other commercial activities that are not operating directly in support of the operation of the ski area, (ii) dwelling or lodging uses (other than cross country huts and employee housing), (iii) activities not directly in support of and compatible with the operation of the ski area, and (iv) activities that have significant unmitigatable service or environmental impacts.

(c) Uses Allowed All Year in the SKI-REC

This category generally includes those uses and/or activities that are typically associated with the year-round recreational use of the mountain and have little or no environmental and service related impacts. Uses that may be allowed all year include:

- (1) Outdoor recreational uses and facilities set in natural environmental conditions, including but not limited to, ski racing and organized group events, playgrounds and outdoor environmental education areas, clubhouses, or recreation buildings (when used in conjunction with outdoor recreational uses),
- (2) Communication transmission sites,
- (3) Ski lifts (including construction of new lifts),
Water lines, compressed air lines, and other such utilities required for the operation of man-made snow-making machinery,
- (4) Vehicle and equipment maintenance and storage shops,
- (5) Hunting, fishing and grazing, and
- (6) Housing for employees of the ski area and its support services.

(d) Uses Allowed During a Specific Season

This category includes those uses and/or activities that provide basic support services for skiers and for ski area and other recreation area operations and have little or no environmental and service-related impacts. Uses that may be allowed during a specific season must be in direct support of, and of a scope necessary for the ski area or recreation area's operation. Uses to be permitted during a specific season must be clearly identified as seasonal in the master plan.

(e) Uses Requiring Further Review

This category includes those uses and/or activities that support the operation of the ski/recreation area and have significant environmental and service-related impacts that can be mitigated, including uses and/or activities that are found by the U.S. Forest Service to increase the overall capacity of the recreation area. The further review category shall also include uses and/or activities for which an applicant cannot supply, or has not supplied, sufficient detail at the master plan stage to enable the County to approve them. All uses that are not clearly listed as uses permitted all year, or as uses permitted during a specific season, or as prohibited uses, shall require further review. The process for further review of such uses shall be the same as for a major amendment to the master plan.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-40-100 amended (part) [Ord. 026-10, 11-17-10](#))

2-40-110: VARIANCES OF STRUCTURE HEIGHT OR YARD AND ROAD SETBACKS

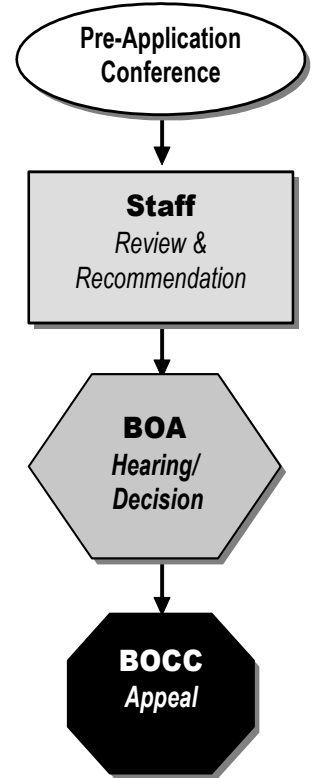
(a) Authority

The Board of Adjustment has the power to grant variances from the application of the provisions of the height and yard and road setback provisions of this Land Use Code pursuant to the standards in this section.

(b) Approval Criteria

The Board of Adjustment shall only approve a variance where, by reason of unusual narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of unusual topographic conditions or other situation or condition of such piece of property, the strict application of the height or yard and road setback regulations of this Land Use Code would result in peculiar practical difficulties to, or undue hardship upon, the owner of such property, and the granting of relief from the strict application of this Land Use Code will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Pitkin County Comprehensive Plan and this Land Use Code.

(c) Limitations



Variances (Height, Setback, Signs) strict

The Board of Adjustment shall have no power to vary from the limitations on use, lot area requirements, floor area ratio requirements, stream setbacks or any requirements of this Land Use Code other than heights and yard and road setback requirements.

(d) Votes Required

The concurring vote of four (4) members of the Board of Adjustment in the case of a five (5)-member Board and three (3) members in the case of a four (4)-member or three (3)-member Board shall be necessary to reverse any order, requirement, decision, or determination or to decide in favor of the applicant.

(Code Revised (all sections) by Ord. 014-D-2006, 07-05-06; § 2-40-110 (part) amended [Ord. 019-09, 06-24-09](#))

2-40-120: VARIANCE OF SIGN SETBACK OR NUMBER

(a) Authority

The Board of Adjustment has the power to grant variances from the strict application of the provisions of this Land Use Code in the following specific situations: (1) setbacks variances for signs located within the sign setback areas required by Sec. 7-60-50(a)(2); and (2) a variance for one additional identification sign on a site, provided that the total square footage of both identification signs does not exceed ten (10) square feet.

(b) Criteria

The Board of Adjustment shall only approve a proposed sign variance if it meets the limitations stated in subsection (a) above and: (1) the variance is reasonably necessary to inform the public about the activity or development referenced on the sign, and (2) a sign erected without the requested variance would not adequately inform the public about the activity or development referenced on the sign, and (3) the requested sign variance will not create adverse impacts on traffic safety, and (4) the requested variance will not create any adverse impacts on any Scenic View Protection Area, as defined in Sec. 7-20-120.

2-40-130: DEVELOPMENT EXACTION AND IMPACT FEE DETERMINATIONS

(a) Requirement

Development Exactions and Impact Fees shall be imposed in connection with all development permits, and shall be collected prior to the issuance of any building permit, for all development in unincorporated portions of Pitkin County unless exempted pursuant to Sec. 8-10-20.

(b) Procedures

Prior to the issuance of any building permit for any development in Pitkin County, an applicant shall pay all required development exaction and impact fees.

(1) Determination of Exemption

As a prerequisite to building permit issuance, any applicant who claims an exemption from development exactions and impact fees pursuant to Sec. 8-10-20 shall request a determination of exemption from the Fee Administrator. The Fee Administrator shall determine whether the applicant qualifies for an exemption based on the standards of Sec. 8-10-20.

(2) Calculation of Fees

As a prerequisite to building permit issuance, all development not exempted from development exactions and impact fees pursuant to subsection (1) above shall be subject to development exactions and impact fees as set forth in this section. Where the payment of impact fees is required, the applicant shall pay the fee based on the standards of Chapter 8 before applying for a building permit. The Fee Administrator shall issue a calculation of fee determination that contains the total fee obligation or, as provided in Sec. 8-10-50, the Fee Administrator may seek an independent fee calculation. The Fee Administrator may issue advisory calculations of fee determinations prior to building permit application, but such issuance shall be non-binding and advisory in nature.

(3) Issuing Credits

Upon building permit application, an application may be made to the Fee Administrator for credits against any development exactions or impact fees otherwise due. The Fee Administrator shall determine whether any credits are due pursuant to the standards of Chapter 8.

(4) Management of Impact Fee Proceeds

All fees collected pursuant to the impact fee schedule shall be maintained and accounted for as provided in Colorado Revised Statutes Title 29, Chapter 1, Part 8 – Land Development Charges. All proceeds shall be used for the construction or acquisition of capital assets with a life span of five (5) or more years.

(5) Independent Fee Calculation

(a) Exactions Other Than Housing Impact Fee

Prior to building permit issuance, an applicant desiring to satisfy development exactions and impact fees through the payment of a fee may submit an independent fee calculation for review by the Fee Administrator. The Fee Administrator may also initiate an independent fee calculation as provided in Sec. 8-10-50. The Fee Administrator shall determine whether the standard fee should be modified based on the standards of Chapter 8 as they apply to that type of fee.

(b) Housing Impact Fee

Except where an impact fee is associated with residential construction or land use, as an alternative to the payment of the calculated impact fee or as a demonstration that the proposed development does not create a level of impact as described or anticipated by this legislation or the studies utilized to support this legislation, a property owner or developer may submit an independent fee calculation for consideration by the Fee Administrator. The Fee Administrator shall not be obligated to adopt the independent fee calculation but shall consider the request consistent with this legislation and the studies that support it. The independent fee calculation, at a minimum, must demonstrate that the development proposed will generate fewer employees than anticipated by this legislation and its support studies. It shall not be grounds for the acceptance of an independent fee calculation based upon the property owner or developer's belief that they will not require as many employees as assumed within this legislation or its support studies. The independent fee calculation may provide alternative data in consideration of the number of employees generated by the proposed land use, the type of land use that is sought compared to the uses contained within the impact fee schedule legislation, or the occupancy rates for employees in affordable housing units. The decision by the Fee Administrator as to whether or not to accept the independent fee calculation may be appealed to the Board of County Commissioners consistent with the appeal process pursuant to Sec. 2-20-180.

(c) Payments of Fees

(1) Building Permit Application Required

No fee payments shall be accepted from any property owner prior to building permit application. There shall be no ability to prepay fees and no building permit shall issue unless the applicant has paid the current fee applicable.

(2) Housing Impact Fee

The timing of payment of the employee housing impact fee shall be as follows:

(a) Payment of Fee

This impact fee shall be paid to Pitkin County at the time of issuance of a building permit or change in use of an existing structure for properties subject to the employee housing impact fee.

(b) Change in Use

If the impact fee is paid because of a change in use of the property that does not necessitate a building permit, the fee shall be determined by computing the difference in the fee schedule between the proposed use and the existing use and shall be payable at the time of the recordation of the development approval allowing the change in use.

(3) Trust Accounts Required

For the purpose of ensuring that the fees collected are spent for the purpose they are imposed, separate trust accounts for each fee collected shall be established.

(4) Fees Deposited in Account

All fees collected by the Fee Administrator shall be immediately deposited into the applicable trust account.

(5) Interest Bearing Account

All proceeds in the trust account not immediately necessary for expenditure shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the trust account until spent or refunded.

(6) Limitations on Expenditures

The funds in the trust account shall only be expended for the purposes for which the fee was collected.

(7) Annual Review

Development exactions and impact fees shall be reviewed annually by the Community Development Department and a recommendation forwarded to the Board addressing: (1) any necessary updates to data or methodology for the development exaction and impact fee requirements; (2) a report on the development exactions and impact fees imposed and collected, including the amount of development exempted from development exactions and impact fees; (3) any other issues raised by the staff, elected and appointed officials or the public. The failure of the Community Development Department to conduct the annual review shall not result in the invalidation of any portion of this Land Use Code addressing development exactions or impact fees, nor shall this provision be construed to create an affirmative enforceable obligation to perform an annual review.

2-40-140: SITE SELECTION FOR SPECIFIC FACILITIES

This section contains development standards for activities of local and state interest identified in this section.

(a) Procedure

In all cases, the application for each type of activity shall be subject to review and approval through the two step review process.

(b) Criteria for Approval of New Domestic Water Systems, Sewage Treatment Systems and Major Extensions

Major new domestic water and sewage treatment systems shall only be constructed in areas resulting in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.

(c) Extensions of Water and Sewage Treatment System

Major extensions of domestic water and sewage treatment systems may be permitted to serve those areas in which the projected growth and development that may occur as a result of such extension is:

- (1) Consistent with the County's applicable adopted master plans; and
- (2) Can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

(d) Site Selection for Solid Waste Disposal Sites

Site solid waste disposal sites in accordance with sound conservation practices and emphasize, where feasible, the recycling of waste materials. Base selection upon:

- (1) Site longevity and potential reuse;
- (2) Soil and wind conditions;
- (3) Potential on and off-site pollution;
- (4) The impact to adjacent property owners; and
- (5) Comparison with alternate locations.

(e) Site Selection of Airports, Airfields, and Landing Strips

Locate airports to:

- (1) Minimize disruption to surrounding land uses;
- (2) Minimize demands on community services; and
- (3) Complement the economic and transportation needs of the state and the area;
- (4) Avoid conflicts with existing airports, which may include:
 - (a) Potential interference with the existing flight paths for the Aspen/Pitkin County Airport;
 - (b) Creation of electrical interference with navigational signals or radio communication for aircraft landing and departing the Aspen/Pitkin County Airport;

(c) Difficulty for pilots to distinguish between lighting for new airports, airfields and landing strips and the safety/runway lighting at the Aspen/Pitkin County Airport;

(d) Creation of a hazard or endangering the landing, takeoff, or maneuvering of aircraft intending to use the Aspen/Pitkin County Airport.

(f) Site Selection Rapid or Mass Transit Terminal, Stations and Fixed Guideways

(1) Locate rapid or mass transit terminal, stations or guideways in conformance with applicable adopted County master plans.

(2) In the event that a master plan has not been adopted, develop rapid or mass transit terminals, stations or rights-of-way:

(a) In a manner designed to minimize congestion in the streets;

(b) To secure safety from fire, flood waters and other dangers;

(c) To promote health and general welfare;

(d) To promote adequate light and air;

(e) To prevent the overcrowding of land;

(f) To avoid undue concentration of population;

(g) To facilitate the adequate provision of transportation, water sewage, schools, parks and other public requirements;

(h) To ensure that activities shall be compatible with the character of the area, and shall encourage the most appropriate use of land throughout the County.

(3) Locating Terminals and Rights-of-Way: Give preferred consideration over competing options to proposed locations of rapid or mass transit terminals, stations and fixed rights-of-way not necessitating the demolition of residences or businesses.

(g) Site Selection of Arterial Highways and Interchanges and Collector Highways

Locate arterial highways and interchanges and collector highways so that:

(1) Community traffic needs are met;

(2) Desirable community patterns are not disrupted; and

(3) Direct conflicts with adopted local government, regional, and state master plans are avoided.

(h) Site Selection of Major Facilities of a Public Utility

Major facilities of a public utility shall be reviewed in accordance with the requirements set forth in Title 30, Chapter 28, of the Colorado Revised Statutes entitled "County Planning and Building Codes." Major facilities of a public utility shall be located to avoid conflicts with adopted local, regional and state master plans, policies and standards.

2-40-150: TAKINGS DETERMINATION

(a) General

Any applicant for a development permit who is adversely affected or aggrieved by a determination by the Hearing Officer or Planning and Zoning Commission, or Community Development Director or Board of County Commissioners, and where such applicant contends that the determination constitutes a taking of all economically beneficial use of private property without just compensation in violation of the United States or Colorado constitutions, the property owner shall, as a prerequisite to appeal or judicial review of the decision, request a hearing pursuant to this section before the Board.

(b) Time-frame for Appeal

An application for a takings determination shall be submitted no later than fifteen (15) working days from the date of decision that the applicant believes constitutes a taking of all economically beneficial use of the property. Within forty-five (45) working days of the receipt of a written request for a hearing pursuant to this section, the Board shall conduct a hearing, and within fifteen (15) working days after such hearing shall render its decision.

(c) Applicability

In the event that a petition is submitted under this section, the County's determination on the underlying application shall not be considered final for purposes of judicial review until the takings determination to be made under this section has been decided by the Board.

(d) Standards

The Board shall determine whether the property owner will be denied all reasonable use and economic return on the property as a result of the questioned determination. If the Board determines that a taking pursuant to that standard has or may occur, it shall take such action as it deems appropriate to remedy the situation. In making its decision the Board shall consider the value of the property as a whole and shall not base its decision on the impact of the regulation on one portion of the ownership interest. In making its determination the Board shall consider the beneficial uses that remain in the property notwithstanding the challenged determination and shall give due consideration to the reasonable investment-backed expectations of the landowner.

(e) Relief

In the event the Board determines that a taking of all economically beneficial use of private property may have occurred, the Board may direct the issuance of a TDR pursuant to Secs. 2-40-30 and 6-70 or may award other relief that would be available pursuant to this Land Use Code.

(f) Qualified Experts

The Board may, in its discretion, seek the assistance of qualified experts in evaluating the information submitted and the opinions of the property owner regarding the alleged taking.

2-40-160: HISTORIC PRESERVATION CERTIFICATES

See Sec. 7-20-100 for procedures required for Certificate of No Effect, Certificate of Appropriateness, and Demolition Certificate.

(Code repealed and reenacted (all sections) by Ord. 14-D-2006, 07-05-06; § 2-40-150 (part) amended [Ord. 024, 10-28-09](#))

2-40-170: OPEN SPACE PRESERVATION MASTER PLAN

(a) General. The Open Space Master Plan development approval process is available for any property in any zone district except as limited in Section (b). The intent of this master plan process is to be able to consider development approvals through a modified one-step ordinance process in conjunction with the acquisition of a fee interest or conservation easement by Pitkin County with Open Space and Trails restricted funds.

Development approvals reviewed through this process are granted by the Board of County Commissioners only upon affirmative recommendation of the Open Space and Trails Board and Community Development Department.

(b) Standards for Open Space Preservation Master Plans.

(1) Master plan and development approval under this section are available only to properties which reflect the preservation and conservation values identified by the Open Space and Trails Board as stated in their operating policies. This approval process may consider property within incorporated municipalities or outside the boundaries of Pitkin County but development approvals may only be granted for locations in unincorporated Pitkin County.

(2) This master plan process is only available on applications initiated by Pitkin County with the consent of the property owner. This master plan process is not available for private party initiated applications. This process may be employed only on parcels of 70 acres or larger.

(3) This master plan process is only available for property which Pitkin County is acquiring an interest with Open Space and Trails restricted funds. This acquired interest may be in the form of a fee simple interest or a conservation easement or trail easement.

(4) Development approvals granted pursuant to this master plan process may not exceed the density and use limitations of the underlying zoning or the Neighborhood Master Plan for the reviewed property. Siting criteria relating to geologic hazards and steep and potentially unstable slopes may be varied if appropriate. All other siting considerations in Chapter 7 shall apply. Gross floor area shall not exceed 5750 sq. ft. per unit except in exceptional circumstances within the geographic area above the confluence of the Roaring Fork River and Brush Creek, including the East of Aspen, Castle/Maroon, Brush Creek and Owl Creek Planning Areas, as otherwise depicted on the attached map. In exceptional circumstances, the gross floor area may be increased to 8250 sq. ft. provided that a pre-existing TDR will be extinguished as a result. An exceptional circumstance maybe found if all for the following conditions are met:

- (a) The subject property is outside the Rural and Remote Zone and within the above described area, and
- (b) The approval of a residential unit in excess of 5750 sq. ft. gross floor area would not:
 - (i) create significant visual impacts from public roads, public trails, or nearby public lands, or
 - (ii) would not significantly degrade surrounding rural character, and
 - (iii) would not create significant light, air and water pollution, or traffic impacts.

(5) This master plan process may extend or establish unique vested rights

(6) Master plan and development approvals granted pursuant to this process must result in a significant public benefit and resolve all development and use potential for the subject property held by the contracting party with permanency and be reflected in appropriate approval documents, covenants, or deed restrictions as necessary.

(7) Development approvals granted pursuant to this process must balance on-site development, and cash compensation in consideration of any interest acquired in the property by Pitkin County against the monetary value of the property and the conservation and community values related to the property.

(c) Procedure

(1) All approvals granted pursuant to this section must first receive an affirmative recommendation from the Community Development Director. This recommendation must consider all development and impacts of development, and the cash compensation paid from Open Space and Trails restricted funds, the property interests acquired by the County, as well as any other aspects of the final disposition of development and use of the property. Once the Open Space Board has agreed that a possible Open Space Master Plan should be devised, the Board shall pay the costs of the Community Development review up until the such point as the County and Landowner have agreed in writing to the basic terms of a Master Plan, including acreage, reserved rights, and public access, if any. Following such written agreement the private party shall pay all costs of the Community Development review. The property owner shall provide the

Community development with all information that is relevant or helpful at the discretion of the Community Development Director.

(2) Upon an affirmative recommendation from the Community Development Director, the Open Space and Trails Board must endorse and affirmatively recommend the same conditions of the approval as reviewed and recommended by the Community Development Director.

(3) Following affirmative recommendations for approval from the Community Development Director and the Open Space and Trails Board, the Board of County Commissioners shall finally consider and approve or deny, by majority vote of the Board, any requested reviews pursuant to this section. The Board of County Commissioners review approval process shall be by ordinance as that process is described in the Home Rule Charter at Section 2.8.1. The Board of County Commissioners can only approve the exact recommendation made by the Community Development Director and Open Space and Trails Board. If the Board of County Commissioners desires to amend or change any aspect of the proposed approval contrary to the recommendations of the Community Development Director and Open Space and Trails Board, the application, in its entirety must be referred back to those two reviewing bodies for affirmative recommendation.

(4) All approvals granted by the Board of County Commissioners pursuant to this section shall be contingent upon the closing of a contract for acquisition of a property interest in the subject property by Pitkin County.

(5) Representations and opinions expressed by the County, its departments or Boards, during this review process are not determinative or applicable to any other Land Use Code review processes.

(Code repealed and reenacted (all sections) by Ord. 014-D-2006, 07-05-06; § 2-40-170 added [Ord. 025-07, 08-21-07](#); [Ord. 011-14, 05-14-14](#))

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