

SUMMIT COUNTY LAND USE AND DEVELOPMENT CODE
CHAPTER 12 – Development Review Procedures

DEVELOPMENT CODE REVISIONS			
CHAPTER 12¹			
CASE#	RESO#	SECTION / DESCRIPTION	DATE
88-76	88-74	12107.05, 12107.10, 12107.11, 12202.03.E, 12405.08, 12602.01, 12603.04.C, 12607.05	12/12/88
89-20	89-19	12106.08.A, 12205.08, 12208.03, 12305.09.A, 12405.09, 12501, 12505.04.A.5, 12505.04.A.6, 12505.09, 12705.01.C, 12705.05, 12705.06, 12705.08, 12801, 12805.E.1, 12807.01, 12807.06	04/10/89
89-79	89-84	12202.03.C, 12202.03.F, 12202.03.G, 12501	12/11/89
90-36	90-64	12400, 12607.06, 12202.03.D, 12204, 12205, 12205.01, 12206.02, 12208.03.C, 12208.03.D, 12209.01, 12209.02, 12209.03, 12209.04	08/07/90
92-114	92-109	12202.03, 12208.03, 12209	11/23/92
94-110	93-72	12505.04	08/23/94
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94-108	95-54	12305.01	6/95
94-37	95-53	12106.01, 12107.01, 12202.02, 12305.01, 12305.05, 12405.01, 12405.02, 12405.05	6/95
95-22	95-70	12600	7/10/95
94-110	96-101	12211, 12-3	10/15/96
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98-185	98-141	1211 – 1211.07	05/09/98
98-46	98-145	12106.04, 12107.07, 12305.4	12/16/98
99-66	99-64	12607.01	05/24/99
99-83	99-101	12400	08/23/99
99-104	99-100	12602.03, 12607.01, 12607.02	08/23/99
99-237	00-51	12200 (PUD's)	05/08/00
00-08	00-52	12100 (zoning amendments)	05/08/00
99-174	00-86	12107	08/14/00
00-211	00-132	12010	10/23/00
00-113	00-137	12303.01 (B)	11/13/00
00-88	00-146	12606.01	12/11/00
01-09	01-15	12311	03/12/01
01-133	01-127	12106.04, 12107.05, 12205.04, 12206.05, 12209.07, 12305.04, 12405.04	10/22/01
01-118	02-14	12213	01/28/02

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CASE#	RESO#	SECTION / DESCRIPTION	DATE
03-135	03-110	12503, 12504.04, 12505.06, 12505.07,12505.09	12/15/03
04-077	05-83	Chapter 12: 12000 (C.3) – Class 3 Work Sessions	10/11/05
04-077	07-44	Comprehensive Amendments to the Code	5/22/07
08-032	08-65	Chapter 12 (12000, 12005 and 12200). Local Resident Housing— Amendments to address affordable workforce housing, accessory apartment, and on-site employee housing regulations.	09/09/08
09-097	10-07	12000.C, 12000.16 – Renewable Energy Systems	1/26/10
09-036A	13-36	Reclassifying all newly constructed trails in the BC zoning designation from a Class 4 review to a Class 2 review	5/14/13
10-143	13-74	Comprehensive Amendments to the Code	10/8/13
17-151	18-89	Adoption of short term vacation rental regulations, Sections 12000.00.C, 12000.10.B	12/18/18
19-040	19-64	12002.05, 12200.05, 12204	8/27/19

¹ The Sections referenced above were the Sections in effect at the time the Development Code was amended. Subsequent amendments to the Development Code may have resulted in section numbers being modified and may no longer be applicable.

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12000: DEVELOPMENT REVIEW PROCEDURES

- A. **Procedures and Requirements:** As part of this Code, Summit County has established procedures and requirements for the review of development proposals, and for issuance of permits for the development and use of property. Such provisions are contained throughout this Code.
- B. **Basic Planning Processes:**
1. Summit County has the following six (6) basic types of development review processes:
 - a. Class 1 & 2: Planning Department review and action.
 - b. Class 3: Planning Commission and, in certain instances, Board of County Commissioner (“BOCC”) informal review and comment on proposed applications in the forum of a work session.
 - c. Class 4: Planning Commission, Board of Adjustment (“BOA”), or other Review Authority’s review and action.
 - d. Class 5: Planning Commission review and recommendation to the BOCC, followed by BOCC review and action.
 - e. Class 6: BOCC review and action.
 2. Each type of development review or planning application, as outlined in the relevant section of this Code, specifies which process shall be followed for the processing of applications. Any process outlined in other chapters of this Code and not referenced as subject to one of the development review processes outlined above is only subject to meeting those specific requirements and procedures contained in such relevant section.
- C. **Application of Development Review Processes:**
1. **Class 1: Planning Department Review and Action on Building Permits and Short-Term Vacation Rental Permits:**
 - a. **General Description:** The Class 1 development review process is the administrative review process for building permits and other related permits per the applicable Building Code, and is designed to run concurrently with, and mesh with, the Building Department’s review of such permits. It is acknowledged that there may be unique situations where the Planning Department’s review of building permits as a Class 1 development review may take longer than the Building Department’s review based upon unique site considerations, such as but not limited to the presence of development constraints that pose a threat to the public health, safety or welfare. It is the goal of this process to have a seamless development review of building permit applications via the Class 1 development review process. The Class 1 development review process is designed to review short-term vacation rental permits, and building permits for development review applications that may be administratively acted on, as well as building permits for projects that are required by the provisions of the Code to be first reviewed and approved by either the Planning Commission, BOA or the BOCC (e.g. Site plan review for multi-family project must first be reviewed and approved by a Planning Commission prior to the Planning Department reviewing the building permit).
 - b. **Applicability:** The Class 1 development review process shall be used for those development reviews identified as such in this Code, including but not limited to, the following types of applications:
 - i. Site plan review as required by Section 12600 et seq. for certain development that may be administratively reviewed and acted on by the Planning Department, including but not limited to single-family and duplex dwellings and permitted or accessory uses related thereto. If a Planning Commission site plan review is required either by a plat note, a Planned Unit Development (“PUD”) provision or some other legal mechanism, such applications shall instead follow the Class 4 development review process and such items shall be placed on the Planning Commission’s consent agenda.
 - ii. The Class 1 development review process is also the review process for building permits for projects that have been first reviewed and acted on by the Planning Department, Planning Commission, BOA or the BOCC.
 - iii. Small scale solar, small scale wind, and small scale wood burning energy systems as provided for in Section 3507 et seq.
 - iv. Short-term vacation rental permits as provided for in Section 3821 et seq.
 2. **Class 2: Planning Department Review and Action on Development Review Applications:**
 - a. **General Description:** The Class 2 development review process is the administrative development review process for development review applications that require more time than typically provided for during

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the building permit process, and for administrative planning applications that take more time based upon the nature of the request. Notwithstanding the foregoing, it is the Planning Department’s goal to have an efficient administrative process for both the public and the development community.

- b. **Applicability:** The Class 2 development review process shall be used for development reviews identified as such in this Code, including but not be limited to, the following types of applications:
- i. Accessory apartments¹ and caretaker units¹ as provided for in Sections 3809.03 et seq. and 3809.04.F et seq. Caretaker units in the M-1 Zoning District associated with an active mining operation require a Conditional Use Permit.
 - ii. Temporary real estate sales offices² as provided for in Section 3817 et seq. and 12400 et seq.
 - iii. Temporary construction offices² as provided for in Section 3806 et seq. and 12400 et seq.
 - iv. Temporary use permit for off-premise construction staging areas² as provided for in Section 12400.
 - v. Sign permits as provided for in Chapter 9.
 - vi. Site plan reviews for new nonresidential buildings or structures, less than 2,500 square feet of floor area as provided for in Section 12600 et seq. These buildings include but are not limited to restrooms, bus shelters, playground buildings, informational kiosks and other such uses. New commercial and industrial uses and structures require a Class 4 site plan unless the use or structure is considered to be a minor amendment to an existing site plan in accordance with 12001 et. seq.
 - vii. Other site plan reviews as required by Section 12600 et seq., except those applications that are classified as Class 1 or Class 4 development review applications by the provisions of Section 12600 et seq.
 - viii. Condo maps, townhouse plats and duplex subdivision exemptions as provided for in Section 8400 et seq.
 - ix. Correction plats as provided for in Section 8400 et seq.
 - x. Renewals for Class 2-6 development review applications as provided for in Section 12002 et seq.
 - xi. Minor revisions or modifications for Class 2-6 applications as provided for in Section 12001 et seq.
 - xii. Nonresidential outdoor storage areas subject to review as provided for Section 3815 et seq.
 - xiii. Site plans for development in the Backcountry (“BC”) Zoning District per Section 12600 et seq.
 - xiv. Conditional use permits for animal keeping per Section 3802 et seq.
 - xv. Conditional use permits for the construction of new trails and trailheads in the Backcountry (“BC”) Zoning District.
 - xvi. Certain home occupations as provided for in Section 3810 et seq.
 - xvii. Non-substantial amendments to sign programs per Section 9400 et seq.
 - xviii. Small scale hydroelectric and solar energy systems as provided for in Section 3507 et seq.
 - xix. Medical Marijuana Centers and Medical Marijuana Infused Products Manufacturing Facilities per Section 3804 et al.
 - xx. Medical Marijuana Optional Premise Cultivation Facility per Section 3804 et al. The location of such facilities shall be confidential.
 - xxi. Residential cultivation of medical marijuana per Section 3804 et al. The location of such facilities shall be confidential.
 - xxii. Local Neighborhood Community Gardens on Private Property, Community Gardens on Public Property, and Community Gardens with Retail Sales as provided for in Section 3801.
 - xxiii. Conditional use permits for recreational vehicles to be used as seasonal residences in the RC-5000 and RC-40000 Zoning Districts.
 - xxiv. Conditional use permits for timber harvesting and extensive tree clearing on properties in the BC zoning district.
 - xxv. Conditional use permits for short-term vacation rentals as provided for in Section 3821.
 - xxvi. Other development reviews as provided by this Code.
3. **Class 3: Work sessions:**
- a. **General Description:** The Class 3 development review process is intended to provide the Review

¹ Either concurrently processed with building permit or applied for under separate application.

² Temporary use permits for real estate sales office, construction offices or off-premise construction staging areas may also be sought concurrent with a site plan review per the provisions of Section 12400 et seq.

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Authority and, in certain instances, the BOCC with an opportunity to comment on an application in a work session and to advise the applicant of issues related to specific Code requirements and of commissioner concerns in such regard. An applicant shall use the work session analysis and commissioner comments in preparing a formal submittal for a development review application. The information provided by the applicant for a work session is less detailed and, correspondingly, less analysis is provided by the Planning Department than for a formal development review application. The main function of a work session is to have a non-binding, cursory review of broad issues and concerns per the applicable Code requirements and criteria for decision rather than provide a detailed and in-depth analysis. No formal approval or disapproval is granted at work session discussions and the Planning Commission's and BOCC's direction or comments on a proposal are non-binding due to the cursory nature of a work session review.

- b. Applicability: The Class 3 development review process shall be required for the following development reviews as specifically outlined in each respective section of the Code, unless the requirement for a work session is waived by the Planning Department based on an application's relative lack of contested issues per the requirements and criteria for decision of this Code:
 - i. Zoning amendments.
 - ii. Major PUD modifications.
 - iii. Preliminary plats.

In addition, the Planning Department may require a work session on more complex development review applications not listed in this section so that the developer will submit a well prepared and fully evaluated formal development review application based on input from the Review Authority, the public, referral agencies and the Planning Department. The Planning Department shall determine if the work session requirement may be waived as a part of the required presubmittal meeting. A developer may also request in writing that the Planning Department determine if a work session is required prior to the presubmittal meeting, provided that such letter includes a detailed description of the proposal and a conceptual plan if so required by the Planning Department.

- c. Developer Request for a Work session: An applicant for a development review other than those listed in subsection b above may also submit a request for a work session to evaluate the bigger picture issues of a proposed development.
- d. Board of County Commissioners Work Sessions: The BOCC shall determine if major development projects or more complex applications will have a work session before the BOCC. The BOCC will determine if a work session is warranted in its normal weekly work session meetings. After the Planning Commission conducts its work session and if the BOCC determines that a work session is warranted, a work session for a major development project or a more complex application shall be scheduled before the BOCC. Notwithstanding the foregoing, the BOCC may determine if a joint-work session with the Planning Commission is warranted in lieu of separate work sessions. An applicant may request that the BOCC conduct a joint work session as a part of its Class 3 development review application submittal and the BOCC shall consider such request in its deliberation regarding a work session.

4. Class 4: Planning Commission and Board of Adjustment Review and Action on Development Review Applications:

- a. General Description: The Class 4 development review process requires that an application be reviewed and acted on by either the Planning Commission or the BOA.
- b. Applicability: The Class 4 development review process shall be used for those development reviews identified as such in this Code, including but not be limited to, the following types of applications:
 - i. Site Plans (except those that are specified for Class 1 or Class 2 development review by the provisions of this Code) as provided for in Section 12600 et seq.
 - ii. Conditional Use Permits (except for the special exception listed in Section 12302.01, which is reviewed as a Class 2 development review application) as provided for in Section 12300 et seq.
 - iii. Temporary Use Permits (except for the special exceptions listed in Section 12401.01, which are reviewed as a Class 2 development review application) as provided for in Section 12400 et seq.
 - iv. Location and Extent as provided for in Section 121000 et seq.
 - v. Nonconforming Parcel Plan Reviews as provided for in Section 12900 et seq.
 - vi. Variances as provided for in Section 12500 et seq.
 - vii. Sign Programs as provided for in Section 9400 et seq.
 - viii. Interpretations of Zoning District Boundaries as provided for in Section 3304.

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- ix. Other development reviews as provided for by this Code.
- 5. **Class 5: Planning Commission Recommendation and BOCC Action on Development Review Applications:**
 - a. General Description: The Class 5 development review process requires that a Planning Commission review an application and make a recommendation on such application to the BOCC, and the BOCC makes the final decision.
 - b. Applicability: The Class 5 development review process shall be used for those development reviews identified as such in this Code, including but not be limited to, the following types of applications:
 - i. Preliminary plats as provided for in Section 8250 et seq.
 - ii. Subdivision exemptions (Lot Split on Wells) as provided for in Section 8400 et seq.
 - iii. Rural land use subdivisions as provided for in Section 8420 et seq.
 - iv. Preliminary zoning amendments as provided for in Section 12100 et seq.
 - v. Preliminary zoning amendments to create a PUD as provided for in Section 12200 et seq.
 - vi. Quasi-legislative amendments to the Official Zoning Maps as provided for in Section 12106 et seq.
 - vii. Major PUD modifications as provided for in Section 12202 et seq.
 - viii. Site specific development plans as provided for in Section 12700 et seq.
 - ix. Development agreements as provided for in Section 12800 et seq.
 - x. Amendments to the Official Transferable Development Rights (TDR) Maps as provided for in Section 3506.02.C. et seq.
 - xi. Other development reviews as provided by this Code.
- 6. **Class 6: Board of County Commissioners Review and Action on Development Review Applications:**
 - a. General Description: The Class 6 development review process requires that an application be reviewed and acted on by the BOCC.
 - b. Applicability: The Class 6 development review process shall be used for those development reviews identified as such in this Code, including but not be limited to, the following types of applications:
 - i. General subdivision exemptions as provided for in Section 8400 et seq.
 - ii. Alteration or elimination of plat notes as provided by Section 8400 et seq.
 - iii. Lot line vacation/adjustment subdivision exemptions as provided for in Section 8400 et seq.
 - iv. Lot line vacations as provided for in Section 8400 et seq. Final plats as provided for in Section 8300 et seq.
 - v. Final rezoning amendments as provided for in Section 12100 et seq.
 - vi. Easement vacations as provided for in Section 8400 et seq.
 - vii. Minor PUD modifications as provided for in Section 12203 et. seq.
 - viii. Final zoning amendments to create a PUD as provided for in Section 12200 et. seq.
 - ix. Administrative changes to the Official TDR Maps (e.g., changes to reflect mapping errors, land trades, rezonings to the open space zone district, recordation of a conservation easement or restrictive covenant placed on sending areas).
 - x. Backcountry Zoning District Parcel Assemblages as provided for in Section 3514.05.B.4 et seq.
 - xi. Other development reviews as provided by this Code.

12000.01: Development Review Procedures

The following development review procedures shall be used for all classes of development review applications, except where a section of this Code has a unique development review process contained therein. These basic development review procedures shall be used in conjunction with the specific review procedures for each type of application outlined in this Code. Where there is a conflict between the development review procedures and the procedures required under a specific section of this Code, the more restrictive provisions shall be followed. The County has also prepared development review application submittal information packets for each type of development review that summarize the process as required by the provisions of this Code and provide a complete summary of the requirements contained herein.

12000.02: Authority to Initiate a Development Review Application

Any property owner holding title to the land for which an application is proposed or anyone who has written

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permission from the property owner in a form deemed acceptable by the Planning Department has the ability to submit an application. The BOCC shall also have the authority to initiate any application. An entity with authority to condemn the land for which an application is proposed has the authority to initiate an application, provided such entity submits evidence of its intent to condemn within a reasonable time period, in a form deemed acceptable by the Planning Department. Special rules apply to submitting an application for the following development reviews:

- A. **Quasi-legislative Amendment to the Official Zoning Maps:** Any member of the BOCC, the Planning Commission as a body, or the Planning Director shall have the authority to initiate a quasi-legislative amendment to the Official Zoning Maps.
- B. **Zoning Amendment Application for a PUD:** A zoning amendment application for a PUD may be filed only by the owner(s) of fee title to all land to be included within such PUD or other person holding written consent thereto from the owner(s) of all land to be included in such PUD or any combination thereof.
- C. **PUD Modification:** Modifications to the provisions of a PUD designation may be initiated by any of the following persons or entities:
 - 1. The BOCC or any member thereof.
 - 2. The Planning Commission.
 - 3. The Planning Director of the Planning Department.
 - 4. Any owner of fee title to any real property within a PUD on the condition that the owner’s real property would be directly and materially affected by the requested modification.
 - 5. An individual or entity having written permission of the property owner described in subsection 4 above.
 - 6. A public entity having the power to obtain title to the property through condemnation.
 - 7. All provisions of a PUD designation may be enforced by the County and may be modified, removed or released by the County subject to the Review Authority making findings A, B and C listed in Section 12202.05.
- D. **Location and Extent:** Any body or official seeking authorization for or contemplating construction of facilities enumerated in C.R.S. § 30-28-110 et seq. may request approval of such facility's location and extent per the provisions of this section.
- E. **Appeals:** See Section 13202.
- F. **Administrative Appeals For Takings/Economic Hardship And Vested Rights:** See Section 13303.01

12000.03: Required Presubmittal Meeting

The purpose of a presubmittal meeting is to provide an applicant with a list of required submittal information that must be submitted to the Planning Department for a proposed development review application, and to also discuss potential issues associated with such an application prior to it being submitted. During the presubmittal meeting, the Planning Department may provide a non-binding estimated timeline for review that attempts to map out the time of development review based on a “best case” development scenario. Such a timeline is not considered an assurance or affirmative representation of any manner.

- A. **Class 1 Development Review Applications:** Presubmittal meetings are not required for Class 1 development review applications; however, an applicant may request such a meeting.
- B. **Class 2, 3, 4, 5 or 6 Development Review Applications:** Prior to submitting a Class 2, Class 3, Class 4, Class 5 or Class 6 development review application, a presubmittal meeting shall be scheduled with the Planning Department to go over the submittal documents, information and studies as required by this Code. This meeting may, at the discretion of the Planning Department, require a conceptual site plan showing key plan elements (building layout, parking area layout, access, lot layout etc.) or proposed text changes for development review applications involving only text. The applicant will be provided with a development review application submittal information packet and a checklist of submittal requirements at the presubmittal meeting, with the latter outlining the plans and information that must be submitted.
- C. **Waiver of Presubmittal Meeting:** The Planning Department may waive the requirement to hold a presubmittal meeting as required by this section based upon the nature and scope of an application, and upon the experience of the applicant in processing development review applications with Summit County. Notwithstanding the foregoing, a submittal requirement checklist is still required to be filled out by the Planning Department and provided to an applicant and this submittal requirement checklist shall be provided to the Planning Department as a part of the required application.

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12000.04: Application Submittal

- A. **Class 1 Development Review Applications:** Class 1 development review applications do not require the submission of a formal application to the Planning Department. Class 1 development review applications are considered to be the formal building permit application submitted to the Building Department, and the Planning, Engineering and Building departments will create one (1) submittal packet that outlines the information that needs to be submitted for building permits.
- B. **Class 2, 3, 4, 5 and 6 Development Review Applications:** An application can be submitted to the Planning Department after any required presubmittal meeting. The application shall include all the submittal requirements indicated on the submittal requirement checklist, all applicable fees, required plans and other submittal documents required by the County in accordance with Section 12003. Please refer to the submittal requirements listed in Section 12003 below for more information on submittal requirements.

12000.05: Completeness Check

- A. **Class 1 Development Review Applications:** Completeness checks are not conducted for Class 1 development review applications when they are submitted; the completeness check occurs when the Planning Department is conducting its review of such permits. Nonetheless, an applicant for a building permit should ensure that an application for a building permit includes all of the submittal requirements for Class 1 development review application prior to submitting to ensure that an application is not held up due to the need to have plan revisions or additional information submitted.
- B. **Class 2 Development Review Applications:** The Planning Department shall determine whether the application is complete per the requirements of this Code and whether all required materials have been submitted within four (4) calendar days after an application has been submitted.
- C. **Class 3, 4, 5 and 6 Development Review Applications:** The Planning Department shall determine whether the application is complete per the requirements of this Code and whether all required materials have been submitted within seven (7) calendar days after an application has been submitted.
- D. **Acceptance of Application:** If the application is complete, it shall be accepted and the formal review process shall begin.
- E. **Advisement of Status of Application:** If the application is not complete, the applicant shall be advised of the specific deficiencies in writing and the review process shall not begin until all the deficiencies are corrected. The Planning Department shall mail, e-mail or fax written notice of either the acceptance of the application or deficiencies of an application at the conclusion of the completeness check deadlines listed in Sections B and C above. If the Planning Department does not provide such written notice by the deadlines established under Section 12000.05.B-C above, an application shall be processed using the applicable procedures and requirements of this Code. An incomplete application may be sent back to an applicant if an application is not made complete within 21 calendar days of the original submission date.

12000.06: Referral and Review Process

- A. **Class 1 Development Review Applications:** Class 1 applications being processed concurrently with a building permit do not commonly require referrals; however, unique situations may warrant referrals for such applications, at the discretion of the Planning Department. If a referral is required by the Planning Department for a Class 1 application, the application cannot proceed forward until the County receives referral agency comments in accordance with the referral provisions enabled by this section. Class 1 applications that are submitted concurrently with a building permit to the Building Department shall be reviewed and acted on within the timeframes of the building permit process unless: 1) the Planning Department requires a referral, or 2) additional review time is required pursuant to Section 12000.06.D.
- B. **Class 2 Development Review Applications:** The formal review process for an application shall begin with the referral and review process. The referral and review process shall be a 15 calendar day process commencing on the date an application is determined to be complete in accordance with Section 12000.05 et seq. The referral process can be shortened by the Planning Department if all referrals are received prior to the end of the specified referral period. Referral agency comments shall be forwarded to the applicant when deemed to potentially affect the subject application. The Planning Department's review of the application per the requirements of the Development Code will also occur during the specified referral and/or review period, and the Planning

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Department’s review can only be shortened by the Planning Department if it concludes its review prior to the end of the process.

- C. **Class 3, 4, 5 and 6 Development Review Applications:** The formal review process for an application shall begin with the referral and review process. The referral and review process shall be a twenty one (21) calendar day process commencing on the date an application is determined to be complete in accordance with Section 12000.05 et seq. Referral agency comments shall be forwarded to the applicant when deemed to potentially affect the subject application. The Planning Department’s review of the application per the requirements of the Development Code will also occur during the specified referral and/or review period.
- D. **Additional Review Time:** For all classes of development review applications (Class 1-Class 6), the Planning Department has the authority to decide, based on the complexity of a request and staffing demands related thereto, if additional review time is required for the referral and review process. The Planning Department shall mail, e-mail or fax written notice to the applicant if additional time is needed within fourteen (14) calendar days of determining an application is complete as provided for in Section 12000.05 et seq., except for Class 1 and Class 2 development review applications, in which the County shall have seven (7) calendar days to notify an applicant if additional review time is necessary.
- E. The Planning Department shall be responsible for referring applications to the agencies listed below, unless determined by the Planning Department as unnecessary based on the nature of the request. Additional agencies can be selected for referrals depending upon the nature or significance of the request. Class 1 applications are not normally referred to other agencies, unless there are unique issues, in which case the Planning Department shall determine the proper referral agencies.
- F. If a referral agency fails to respond by the date requested on the referral form, their failure to respond will be interpreted as “no comment”. In this case it will be presumed that such referral agency does not have any issues or concerns with an application.
- G. Concerns raised by referral agencies related to specific regulatory requirements shall be considered by the Review Authority in making a decision. Recommendations not related to specific regulatory requirements of an agency can be addressed provided such is within the criteria for decision used by a Review Authority in acting on an application. The following table lists the different classes of applications and the corresponding referral agency, with mandatory referrals as required by State Statutes shown with an “M” next to the “X”:

Referral For Each Class of Development Review Application

Referral Agency	Class 2	Class 3	Class 4	Class 5	Class 6
County Engineering Department	X	X	X	X	X
County Open Space & Trails Department	X	X	X	X	X
County Public Health Department	X	X	X	X	X
County Cartographer	X		X	X	X
County Surveyor (Plats only)	X			X	X
County Road & Bridge Department	X		X	X	X
County Assessor	X	X	X	X	X
Applicable Water District	X	X	X	X	X
Applicable Fire District	X	X	X	X	X
Applicable Sewer District	X	X	X	X	X
Summit School District	X	X	X	XM	X
Summit Water Quality Committee	X	X	X	X	X
Qwest (Telecommunications Provider)	X		X	X	X
Xcel or Mountain Parks (Energy Provider)	X		X	X	X
Colorado State Engineer				XM	
Referral Agency	Class 2	Class 3	Class 4	Class 5	Class 6
Colorado State Forest Service	X		X	X	
Colorado Division of Wildlife		X	X	X	X
Colorado Department of Transportation	X	X	X	X	X
Colorado Geologic Survey				XM	
Colorado Land Use Commission				XM	
Soil Conservation Service				XM	

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XM: Mandatory referrals

Other discretionary referral agencies include, but are not limited to: towns within the County, surrounding counties in the Rural Resort Region, Summit Stage, the Summit Housing Authority, the United States Army Corps of Engineers, the United States Environmental Protection Agency and the United States Forest Service.

12000.07: Follow-up Communication

- A. **Class 1 Development Review Applications:** The Planning Department is not required to provide written correspondence to an applicant for a Class 1 development review application unless issues arise that need to be addressed prior to approving a building permit, and in that case the Planning Department shall provide an applicant with a list of issues that need to be addressed in accordance with the standards as set forth in section 12000.15 of this Code.
- B. **Class 2 Development Review Applications:** No later than four (4) calendar days after the completion of the referral and review process, the Planning Department shall provide the applicant with a follow up communication in accordance with the standards as set forth in Section 12000.15 of this Code that summarizes the conclusions of the referral and review process, and, if warranted by the conclusions of the review, may provide guidance and suggestions regarding staff’s analysis of measures necessary to attain compliance with the applicable criteria for decision and requirements of this Code.
- C. **Class 3, 4, 5 and 6 Development Review Applications:** Within seven (7) calendar days of the completion of the referral and review process, the Planning Department shall provide the applicant with a follow up communication in accordance with the standards as set forth in Section 12000.15 of this Code that summarizes the conclusions of the referral and review process, and, if warranted by the conclusions of the review, may provide guidance and suggestions regarding staff’s analysis of measures necessary to attain compliance with the applicable criteria for decision and requirements of this Code.
 - 1. **Disclaimer:** The Planning Department’s written correspondence to an applicant represents only a review of the application up through the referral and review process. Additional issues may arise due to adjacent property owner concerns and/or additional review or writing of the staff report.
 - 2. **Scheduling Hearing:** If the Planning Department determines that a Class 3, 4, 5, or 6 development review application contains sufficient detail to allow a thorough review of the proposal by the Review Authority per the applicable requirements of this Code and the applicable criteria for decision, a public hearing or meeting shall be scheduled in accordance with Section 12000.09.

12000.08: Submittal Document Revisions and Re-evaluation

- A. **Submittal Document Revisions:**
 - 1. If the Planning Department determines that submittal document revisions are required or warranted to attain compliance with the applicable criteria for decision and requirements of this Code based on the referral and/or review process, the applicant will be given an opportunity to submit revisions to the submittal documents, and any additional information, necessary to address outstanding issues.
 - 2. The Planning Department shall have a maximum of fourteen (14) calendar days from the date of re-submission of revised or new submittal documents to evaluate the submitted documents, and complete its review of the same. The Planning Department has the authority to decide, based on the complexity of a request and staffing demands related thereto, if additional review time is required for the review of the revised or new submittal documents. The Planning Department shall notify the applicant in writing if additional time is needed within seven (7) calendar days of having received revised or new submittal documents.
 - 3. Within four (4) calendar days of the completion of the reevaluation of new or revised submittal documents, the Planning Department shall provide the applicant with a follow up communication in accordance with the standards as set forth in Section 12000.15 of this Code that summarizes the conclusions of such process, and, if warranted by the conclusions of the review, may provide guidance and suggestions regarding staff’s analysis of measures necessary to attain compliance with the applicable criteria for decision and requirements of this Code.
- B. **Scheduling Hearing or Meeting:**
 - 1. If the Planning Department determines that a Class 3, 4, 5, or 6 development review application is sufficient to allow a thoughtful review of the proposal by the Review Authority per the applicable requirements of this

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Code and the applicable criteria for decision, a public hearing or meeting (for work sessions) shall be scheduled in accordance with Section 12000.09.

2. An applicant that contests the need to revise the submittal documents to address the requirements of this Code shall submit a letter that responds to each point in the Planning Department letter within two (2) weeks of the date on the follow up communication letter from the Planning Department. Such letter from the applicant shall also outline why it feels the plans should not be revised or new information submitted, whichever situation applies. If an applicant fails to respond to suggested submittal document revisions or the submission of new information, a development review application shall be scheduled before the Review Authority in accordance with Section 12000.25.

12000.09: Scheduling Public Hearings and Meetings with the Review Authority

- A. **Class 1 and Class 2 Development Review Applications:** Class 1 or Class 2 development review applications do not typically require a formal public hearing and/or meeting with the Review Authority. However, it is acknowledged that some single-family and duplex site plans may require Commission review and action per the Class 4 development review process due to conditions, plat notes, PUD provisions or other requirements.
- B. **Class 3, 4, 5 and 6 Development Review Applications:**
 1. A public meeting for work sessions (Class 3 development review application) or public hearings for Class 4, 5 and 6 development review applications shall not be scheduled before the Review Authority until the application is deemed by the Planning Department to be sufficient to allow a thoughtful review of the proposal by the Review Authority per the applicable requirements of this Code and the applicable criteria for decision. It is important to note that some Class 6 development review applications are not public hearings.
 2. A development review application shall be scheduled before the Review Authority at its next meeting where adequate time is available on the agenda to conduct a public meeting or hearing. Notwithstanding the foregoing, scheduling of the public meeting or public hearing, whichever situation applies, shall occur within 60 calendar days after the earlier to occur of: (a) the date an application has been found to meet the applicable requirements of this Code; or (b) the date the County receives a written acknowledgement by the applicant per Section 12000.08.B.2 that it has no intention of making any further modifications to the application and wishes to proceed, even if it implicates a recommendation of denial by the Planning Department.
 3. A public hearing for the BOCC's review of a Class 5 development review application or a public meeting for its review of a Class 3 development review application (which is at the discretion of the BOCC per the provisions of this Code) shall not be scheduled before the BOCC until the Commission has held its final hearing or meeting, whichever situation applies, and the scheduling of such a matter before the BOCC shall be done in accordance with the provisions of this section. Notwithstanding the foregoing, the BOCC reserves the right to allow for a BOCC work session or a joint work session as provided for in this Code prior to or during the Commission's deliberation on such work session.

12000.10: Public Noticing

- A. **Class 1 Development Review Applications:** Class 1 development review applications do not require any notice.
- B. **Class 2 Development Review Applications:** The following types of Class 2 applications shall only provide a posted notice per Section 13100 et seq.:
 1. Site plan review for accessory apartments as provided for in Section 3809.03 et seq.
 2. Site plan review for caretaker units as provided for in Section 3809.04.F. et seq.
 3. Temporary use permit for a real estate or construction office as provided for in Section 12400 et seq.
 4. Temporary use permit for off-premise construction staging areas as provided for in Section 12400 et seq.
 5. Site plan review for new nonresidential buildings or structures, excluding commercial and industrial uses, less than 2,500 square feet of floor area as provided for in Section 12600 et seq.
 6. Conditional use permits for animal keeping as provided for in Section 3802 et seq.
 7. Site Plan Reviews for all community gardens as provided for in Section 3801.
 8. Conditional use permits for short-term vacation rentals as provided for in Section 3821.Other Class 2 development review applications do not require public noticing.
- C. **Class 3, 4, 5 and 6 Development Review Applications:** Notice of a Class 3, 4, 5 and 6 development review applications shall be in substantial accordance with the requirements of Section 13100 et seq. Class 3 development reviews are work sessions and only a courtesy notice is required per the provisions of Section 13100

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et seq.

12000.11: Preparation of Staff Report

- A. **Class 1 and 2 Development Review Applications:** Class 1 and Class 2 development review applications do not require the preparation of a formal staff report. Notwithstanding the foregoing, the Planning Department may elect to prepare a report on such applications.
- B. **Class 3, 4, 5 and 6 Development Review Applications:** The Planning Department shall prepare a staff report for the Review Authority for Class 3, 4, 5 and 6 development review applications that analyzes the application per the applicable requirements and criteria for decision of this Code.

12000.12: Review Authority Public Hearing or Meeting

- A. **Class 1 and 2 Development Review Applications:**
 - 1. **No Public Hearing for Class 1 or Class 2 Development Review Applications:** No public hearing or meeting is required for Class 1 or 2 development review applications, except as provided for in Section 12000.12.A.2.b below.
 - 2. **Administrative Review for Accessory Apartments and Caretaker Units:**
 - a. Where accessory apartments and caretaker units are a permitted use per the provisions of this Code or the provisions of a PUD, the Planning Department will administratively review and act on accessory apartments and caretaker units provided they meet the requirements of this Code, and the following criteria:
 - i. The proposed unit meets the applicable criteria listed in Section 3809.03 et seq. or Section 3809.04.F et seq., whichever section is applicable.
 - b. A hearing with the applicable Basin Planning Commission will be required via the Class 4 development review process if either: (i) any property owner who reviewed the posted notice as required in Section 12000.10 et seq. or 13100 et seq objects to the potential administrative approval before it has occurred; or (ii) the Planning Department finds that the proposed unit does not meet the applicable criteria listed in Section 3809.03 et seq. or Section 3809.04.F et seq., whichever section applies, and the applicant requests the application be heard by the Planning Commission.
- B. **Class 3 Development Review Applications:** The Planning Commission and, if required by the BOCC as provided for in Section 12000.C.3 for major development projects and more complex zoning amendments or other more complex development review applications, the BOCC, shall hold at least one (1) public meeting, duly recorded, for the purpose of considering recommendations from the Planning Department and other agencies. The Review Authority may also allow testimony from the applicant and from the public. Notice of all meetings and the Review Authority’s review of such applications shall be in accordance with Section 13100 et seq.
- C. **Class 4 and 5 Development Review Applications:** Prior to taking any action on a Class 4 or 5 development review application, the Review Authority shall hold at least one (1) public hearing, duly recorded, for the purpose of considering recommendations from the Planning Department, other agencies and testimony from the applicant and the public. Notice of such public hearings shall be in accordance with Section 13100 et seq.
- D. **Class 6 Development Review Applications:**
 - 1. **Class 6 Development Review Applications That Require a Public Hearing:** Prior to taking any action on one (1) of the following Class 6 development review applications, the Review Authority shall hold at least one (1) public hearing, duly recorded, for the purpose of considering recommendations from the Planning Department, other agencies and testimony from the applicant and the public:
 - a. Final zoning amendments.
 - b. Final zoning amendments to create a PUD.
 - c. Major PUD modification zoning amendments.
 - d. Minor PUD modifications.Notice of such public hearings shall be in accordance with Section 13100 et seq.
 - 2. **Other Class 6 Development Reviews:** Other Class 6 development review applications do not require a public hearing and may be listed as either “new business” or “consent agenda” items on the BOCC’s agenda.

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12000.13: Action on a Development Review Application

A. Class 1 or Class 2 Development Review Applications:

1. The Planning Department shall issue its written decision on a Class 1 or Class 2 development review application within four (4) calendar days after the earlier to occur of: (a) the completion of the referral and/or review process or, if required per the provisions of Section 12000.08, the review of submittal document revisions; or b) the date the applicant contests in writing, the need to revise the documents to address requirements of this Code outlined in correspondence from the Planning Department.
2. The written decision on Class 1 applications can be electronically approved as part of building permit review, or, for Class 2 applications, an official letter or other written correspondence from the Planning Department.
3. The Planning Department's action on Class 1 or 2 permits shall be based on the specific requirements and findings of this Code for the type of application under review and shall be for either approval or denial.
4. Approval of a Class 1 or Class 2 application may include conditions in accordance with the provisions listed in Section 12000.13.D.

B. Class 3 Development Review Applications:

1. No formal action is taken by the Planning Commission or the BOCC (when the BOCC conducts a work session) on work session items because work sessions provide informal opportunities for developers to obtain input from the Planning Commission and the BOCC. Work sessions are intended to provide a general discussion of the proposal, a discussion of potential issues and areas of concerns and to evaluate possible alternatives. Any comments or actions by the Planning Commission or the BOCC shall not be considered binding or represent any promises, warranties, guarantees and/or approvals in any manner or form. In addition, the proponent must realize that the work session cannot be construed as a comprehensive review of the proposal under discussion and as such, additional issues and/or concerns may arise as part of the formal review process.
2. In no event may the Review Authority continue a work session for more than 40 calendar days unless: (a) agreed to by the applicant and the applicant provides a letter to that fact, or (b) a written, mutually agreeable timeline for review has been accepted by the applicant and the Planning Department. If a work session is continued, the applicant shall submit, at least 30 calendar days prior to the continued work session (unless otherwise specified by the County) any additional required submittal documents or new information to address the Review Authority's concerns per the applicable requirements and criteria for decision of the Code. Work sessions continued to a certain date, time and location do not need to be renoticed per the requirements of Section 13100.

C. Class 4, 5 and 6 Development Review Applications:

1. **The Review Authority that approves a Class 4, 5 or 6 development review application shall have the following options for acting on Class 4, 5 or 6 development review applications:**
 - a. **Approval:** The Review Authority may approve the proposed application if it is found to be in compliance with the applicable requirements and criteria for decision of this Code and the Review Authority makes findings in support of its decision related to such requirements and criteria for decision. In addition, the Review Authority may attach conditions to any approval in accordance with Section 12000.13.D. The Planning Commission's approval of a Class 4 development review application shall be made by resolution. The Planning Commission's recommendation to the BOCC on a Class 5 development review application shall be made by motion with such included in the Commission's "Summary of Motions" for a meeting. The BOCC's approval of a Class 5 or Class 6 development review application shall be made by resolution.
 - b. **Denial:** The Review Authority may deny a proposed application if it is found to not be in compliance with the applicable requirements and criteria for decision of this Code and the Review Authority makes findings in support of its decision to deny an application per the requirements and criteria for decision of this Code. The Commission's denial of a Class 4 development review application shall be made by resolution. The Commission's recommendation to the BOCC on a Class 5 development review application shall be made by motion with such included in the Commission's Summary of Motions for a meeting. The BOCC's denial of a Class 5 or Class 6 development review application shall be made by resolution.
 - c. **Continuance:**
 - i. The public hearing or meetings (whichever situation applies) may identify additional issues that relate to applicable requirements or the criteria for decision of this Code and that the applicant may be required by the Review Authority to address such new issues prior to taking formal action. Where

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submittal document revisions or new information are required by the Review Authority, the Review Authority shall determine at its public hearing or meeting the timeline for submitting such revisions or new information to the Planning Department and continue the public hearing or meeting to a date that provides for proper analysis and the preparation of a new Staff report by the Planning Department.

- ii. In no event may the Review Authority continue a hearing for more than 40 calendar days unless: 1) agreed to by the applicant and the applicant provides a letter documenting such agreement, or 2) a written, mutually agreeable timeline for review has been accepted by the applicant and the Planning Department. If a hearing is continued, the applicant shall submit, at least 30 calendar days prior to the continued hearing (unless otherwise specified by the Planning Commission provided there is enough time to review the revised plans and prepare a Staff report or memo), any additional required submittal documents or new information to address the Review Authority’s concerns per the applicable requirements and criteria for decision of the Code. Hearings continued to a certain date, time and location do not need to be renoticed per the requirements of Section 13100.
- d. **Tabling:** The Review Authority may table an application by a motion with the mutual agreement of the applicant for good cause or to allow additional information and materials to be submitted that will allow for a comprehensive review. Tabled applications require renoticing in accordance with Section 13100 prior to recommencing the public hearing process.

2. Planning Commission Public Hearing on Class 5 Applications:

- a. **Commission Public Hearing and Action:** Prior to taking any action on a Class 5 development review application and making a recommendation on such to the BOCC, the Planning Commission shall hold at least one public hearing for the purpose of considering recommendations from the Planning Department, other agencies, testimony from the applicant and from the public. Notice of such hearing shall be given in accordance with the requirements of Section 13100 et seq. The Commission shall have the same options as listed in Section C.1 above concerning its recommendation (approval, denial, continuance, tabling).
- b. **Commission Recommendation Based on Findings:** The Planning Commission’s recommendation to the BOCC shall include the required findings for the type of application as listed in this Code. The Planning Commission can only recommend approval of an application if it can make the specific findings for the type of application being considered as listed in this Code.

D. Conditions of Approval for All Classes of Development Review:

- 1. The Review Authority may impose or attach any reasonable conditions to the approval of an application to ensure a project will be developed in the manner indicated in the application, and will be in compliance with the standards and criteria established within this Code. Conditions for Class 1 and Class 2 applications shall be related to outstanding technical requirements of this Code or a referral agency comment not adequately addressed by the initial application. Class 3 applications shall not have conditions since they are non-binding work session reviews to solicit general comment and input. Class 4, 5 and 6 applications may have not only technical conditions to address specific requirements of this Code, but also may include conditions to ensure an application meets the criteria for decision, mitigates adverse impacts of the use or protects public health, safety and welfare.
- 2. Conditions shall be tied to the applicable criteria for decision; applicable legal requirements and may consist of one (1) or more, but are not limited to the following:
 - a. **Development Schedule:** If a development schedule is warranted, the conditions may place a reasonable time limit on any activities associated with the proposed development, or any portion thereof, to prevent speculation in permits, to enable new applications or revisions to come forward for unfeasible developments or to implement other land use policies of the County. If the applicant shows good cause, the County may allow for administrative amendments to any development schedule and the associated Site Plan Improvements Agreement (“SPIA”). Notwithstanding the foregoing, some development schedules are integral to the Review Authority’s approval, and, if the Planning Department determines that is the case with a proposed amendment to a development schedule, only the Review Authority that took action on the original approval may change such schedule by seeking an amendment to the approved application.
 - b. **Use:** The conditions may restrict the future use of the proposed development to that indicated in the application and other similar uses.
 - c. **Dedications:** The conditions may require conveyances of title or easements to the County, public

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utilities, a homeowner's association or other appropriate entity for purposes related to the public health, safety and welfare, which may include, but not be limited to, land and/or easements for parks, utilities, pedestrian/bikeways, schools, roads, transportation and other similar uses. The County may also require construction of all facilities to public standards and the dedication of public facilities necessary to serve the development.

- d. Homeowner's Association: A condition may require the creation of a homeowner's association or merchants association to hold and maintain common property or common improvements.
- e. Construction Guarantees: The conditions may require the depositing of certified funds in an amount to be determined by the County, the depositing of an irrevocable Letter of Credit ("LOC") or the posting of cash to ensure that all construction features required by this Code and conditions of approval are in fact constructed as represented and approved.
- f. Indemnification/Covenants: The conditions may require the recording of covenants and/or deed restrictions on the subject property or the indemnification of the County in certain instances.
- g. Public Improvements: The conditions may require the installation of public improvements or participation in assessment districts for the installation of public improvements within, adjacent or contributing to the project.
- h. Additional Plans: The conditions may require that additional plans or engineered revisions to site, drainage or utility plans be submitted to the County and approved prior to issuance of building permits or issuance of a Certificate of Occupancy ("CO"), whichever is applicable.
- i. Other Conditions: Other conditions that are necessary to ensure that the development is constructed in compliance with applicable County codes and requirements may be placed upon approval of any project.
- j. Conditional and Temporary Use Permit Conditions: Conditional use permits and temporary use permits may also include, but not be limited to, conditions on such items as:
 - i. Performance standards for use.
 - ii. Limitations on hours of operation.
 - iii. Limitations on season of operation.
 - iv. Requirements for Planning Commission review or Planning Department review on periodic basis.
 - v. Mitigation of noise, glare, visual impacts.
 - vi. Mitigation of impacts on wildlife habitat and species.
 - vii. Requirements for licenses or permits.

12000.14: Board of County Commissioners Remand Due to Substantial Alterations or For a Clarification of Issues

- A. **Remand to a Planning Commission:** When a Planning Commission decision is appealed to the BOCC in accordance with Section 13200 or when the Planning Commission provides a recommendation to the BOCC on a Class 5 development review application, the BOCC may resubmit any substantial alterations to the proposal to the Planning Commission to obtain a recommendation on the alterations or to request a clarification of matters by the Planning Commission, prior to taking action on the appeal or on a Class 5 application, whichever situation applies. This requirement shall not apply to changes that are not so fundamental as to make a material change in the proposal.
- B. **Planning Commission Review Process for Substantial Alterations:** The Planning Commission shall evaluate the substantial alterations resubmitted to it by the BOCC as may be required by this section in a public hearing(s) held by the Planning Commission, which is noticed in accordance with the requirements of a Class 5 application per Section 13100 et seq. The Planning Commission shall have the same options for acting on a remand as provided for under its original review per the provisions of Section 12000.13.C.

12000.15: Notice of Action

Written notice or communication of any matters, as provided for in this Code for any purpose, including without limitation notice of action, and follow up communication on an application and related submittal documents under staff review, shall adhere to the standards as set forth in this section. For such purposes, said notice or communication may be provided by either surface mail, e-mail, facsimile or other electronic communication, provided that any such electronic delivery shall be followed up with a written correspondence delivered by surface mail. The time period for any such notice process shall be as set forth in the provisions of this Code related to such particular process, and receipt

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of such notice shall be presumed to be the date of such electronic transmission, or three calendar days from the date of such surface mailing, unless conclusively established to the contrary. Moreover, for the purposes of all such notices as contemplated herein, days shall refer to calendar days unless specifically expressed to the contrary.

In accordance with these standards, the notice provisions for each particular class application shall generally be as follows:

- A. **Class 1 Development Review Applications:** Notice of a decision on a Class 1 development review application shall be as provided for in the building permit review process as administered by the Building Department.
- B. **Class 2 Development Review Applications:** For all Class 2 development review applications, the Planning Department shall send written notice of its decision to the BOCC, County Manager, Planning Director and the applicant within four (4) calendar days after the date action is taken. Notice to the applicant shall include any conditions of approval or findings for denial. Failure to send written notice within four (4) calendar days shall not invalidate the action taken, but merely shall extend the period in which the applicant may appeal (as provided for in Section 12000.16) by the number of days that giving of notice is delayed beyond four (4) calendar days. For Class 2 Development Review Applications that require posting per Section 12000.10, the posted notice shall serve as the notice of action to the public by including the date the decisions will be rendered and a date by which appeals must be submitted to the Planning Department.
- C. **Class 3 Development Review Applications:** No action is taken at work sessions; therefore, no notice of action is required.
- D. **Class 4 Development Review Applications:** The Planning Department shall send written notice of the Review Authority's decision to either approve or deny an application to the BOCC, County Manager, Planning Director and the applicant within five (5) calendar days after the date action is taken. Notice to the applicant shall include any conditions of approval or findings for denial. Failure to give notice within five (5) calendar days shall not invalidate the action taken, but shall extend the period in which the applicant may appeal (as provided for in Section 12000.16) by the number of days that giving of notice is delayed beyond five (5) calendar days.
- E. **Class 5 and 6 Development Review Applications:** The Planning Department shall send written notice of the Review Authority's decision to either approve or deny an application to the applicant within five (5) calendar days after the date action is taken. Notice to the applicant shall include any conditions of approval or findings for denial.

12000.16: Effective Date and Appeal

- A. **Class 1 Development Review Applications:** Action on a Class 1 development review applications shall become effective on the date a decision is rendered.
- B. **Class 2 Development Review Applications that Require Posted Notice Per Section 12000.10:** Action on a Class 2 development review application that is required to have a posted notice in accordance with Section 12000.10 et seq. shall become effective seven (7) calendar days after the date action is taken unless the action is appealed within this seven (7) day period in accordance with the requirements of Section 13202. If the action on a Class 2 application is properly appealed, the County shall not issue any permits associated with the project until the appeal is heard by the Review Authority per the provisions of Section 13200 et seq. and the Review Authority takes action to uphold or modify the approval. Appeals on Class 2 and 4 development review applications (except for Class 2 development review applications for townhouse plats, condo maps and duplex subdivision exemptions as provided for in Section 12000.16.B) may only be filed by: 1) the BOCC or any individual member of the BOCC, 2) the Planning Director, 3) the applicant, or 4) other persons as provided for in Section 13202. Appeals shall be filed, and hearings on appeals conducted, in accordance with the requirements of Section 13200 et seq.
- C. **Class 2 Development Review Applications that Do Not Require Posted Notice Per Section 12000.10:** Action on a Class 2 application that does not require a posted notice per Section 12000.10 et seq. shall become effective on the date a decision is rendered unless a decision is appealed within seven (7) calendar days in accordance with the requirements of Section 13202. After an administrative decision is rendered on a Class 2 application by the Planning Department, an appeal may be filed only by 1) the BOCC or any individual member of the BOCC, 2) the Planning Director, or 3) the applicant. If the Chairman or Vice Chairman of the BOCC fails to sign a subdivision exemption plat, such a decision may be appealed by the applicant directly to the BOCC. Appeals shall be filed, and hearings on appeals conducted, in accordance with the requirements of Section 13200 et seq.
- D. **Class 3 Development Review Applications:** There is no appeals process for Class 3 development review

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applications because such applications do not have a final decision and only represent a non-binding discussion of a development proposal.

- E. **Class 4 Development Review Applications:** Action on a Class 4 application shall become effective seven (7) calendar days from the date action is taken unless the action is appealed within this seven (7) day period in accordance with the requirements of this section. If the action on a Class 4 application is so appealed, the County shall not issue any permits associated with the project until the appeal is heard by the BOCC and the BOCC takes action to uphold or modify the approval. If the BOCC action on the appeal results in denial of the application, no permits may be issued by the County unless a new application is approved in accordance with the applicable requirements and criteria for decision of this Code. Appeals shall be filed, and hearings on appeals conducted, in accordance with the requirements of Section 13200 et seq. Notwithstanding the foregoing, all BOA decisions shall be considered final and no BOCC review is available.
- F. **Class 5 and 6 Development Review Applications:** The BOCC's action on Class 5 and 6 applications shall become effective on the date a decision is rendered. Notwithstanding the foregoing, a Class 5 or Class 6 development review application shall not be effective if a condition requires that an applicant complete some requirement(s) (as stated in a resolution) prior to the action becoming effective, such as but not limited to the potential need to acquire development rights or water rights prior to recording a PUD designation (unless otherwise provided for in a PUD designation). The Planning Commission is only a recommending body on such applications, and as such, any recommendation is not appealable. The BOCC's final action on a Class 5 or 6 development approval represents the County's final action on a development review application and appeals of such decisions may be filed as provided for by law.
- G. **No Issuance of Permits:** If a decision to approve a development review application is appealed, building or grading permits shall not be issued until the appeal is heard by the Review Authority and the Review Authority takes action to uphold or modify the approval. If the appeal results in a denial of an application, a new and substantially modified application must be submitted if an applicant desires to continue pursuing the development of a property absent a change in the County's development code regulations or master plan policies.

12000.17: Length of Validity

- A. **Class 1 Development Review Applications:** Approval of a Class 1 development review application shall lapse when the building permit expires unless a CO is obtained. If a CO is obtained, a Class 1 development review approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.
- B. **Class 2 Development Review Applications:**
 - 1. **When a Class 2 Permit Approval Lapses:** Approval of a Class 2 development review application shall lapse after 18 months from the date of approval unless the approval is renewed in accordance with Section 12002 et seq. or one (1) of the following actions occurs within said time period:
 - a. Any necessary building permits and/or grading permits for the projects are obtained and either: (a) substantial construction has occurred on the project, or (b) a CO is obtained.
 - b. A subdivision exemption plat is recorded.
 - c. The activity and/or use described in the development review approval has commenced or been constructed, whichever situation applies in accordance with the development review application and the associated approval.
 - d. A site specific development plan or development agreement, whichever review is dictated by this Code, has been approved and properly recorded by the County as provided in Section 12700 et seq. or 12800 et seq., respectively.Once one (1) of these actions occurs, the approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.
 - 2. **Temporary Use Permit Length of Validity:** The length of validity for temporary use permits is as specified in Section 12400 et seq.
 - 3. **Length of Validity for Accessory Apartments and Caretaker Units:** A Review Authority's approval of an accessory apartment or a caretaker unit shall lapse unless the approval is renewed in accordance with Section 12002 or a building permit for the project is obtained and either: (a) substantial construction has occurred on the project, or (b) a CO is obtained. Once one (1) of these actions occurs, the project shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.

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4. **Lapse of Renewals:** Renewals that are processed as a Class 2 development review application per the provisions of Section 12002 et seq. shall be valid for 18 months from the date of approval.
5. **Expired Approvals:** Class 2 applications which have expired shall have to resubmit a new development review application following the Class 2 development review requirements and the applicable requirements of this Code in effect at the time of submittal.

C. Class 4 Development Review Applications:

1. **When a Class 4 Approval Lapses:** Approval of a Class 4 development review application shall lapse after 18 months from the date of approval unless the approval is renewed in accordance with Section 12002, or one (1) of the following actions occurs within said time period:
 - a. Any necessary building permit or grading permit for the project is obtained and either: (a) substantial construction has occurred on the project, or (b) a CO is obtained.
 - b. A substantial activity and/or use described in the development review approval has commenced or been constructed, whichever situation applies in accordance with the development review application and the associated approval.
 - c. A site specific development plan or development agreement, whichever review is dictated by this Code, has been approved by the County as provided in Section 12700 et seq. or 12800 et seq., respectively.Once one (1) of these actions occurs, the approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.

2. **Length of Validity for Conditional Use Permits and Temporary Use Permits:**

- a. **Time Limits for Temporary Use Permits:**
 - i. Time limits for temporary uses shall be stated in the resolution of approval. If a length of validity is not stated in the resolution of approval, temporary use permits shall be valid for one (1) year only, unless revoked in accordance with Section 12000.19.
 - ii. Seasonal uses that operate for less than six (6) months per year that are approved by a temporary use permit, and are not authorized for the life of the project, have the ability to request renewal on an annual basis per Section 12002.
 - iii. Seasonal uses that operate for more than six (6) months in any year may request only one (1) temporary use permit renewal.
 - iv. Length of validity for permits governing the special exceptions specified in Section 12401.01 shall be governed by the provisions of that section.
 - v. If the activity or use approved by the Review Authority has not commenced within 18 months of the date of approval.
- b. **Time Limits for Conditional Use Permits:** If no time period is stated in a resolution approving a conditional use permit, the permit shall be valid for five (5) years unless a development agreement has been approved in accordance with Section 12800.
- c. **Additional Time Limits for Conditional and Temporary Use Permits:** The Review Authority may limit the maximum length of validity for all conditional use or temporary use permits to allow for periodic reviews of such uses per the requirements and criteria for decision of this Code.
- d. **Cessation of Activities:** If activities allowed by a conditional use permit or a temporary use permit have ceased for at least one (1) year, such permits shall expire and these activities cannot resume unless an application is filed and approved in accordance with the procedures for review of new conditional and temporary use permits.

D. Class 5 Development Review Applications:

1. **Applicability:** There are some Class 5 development reviews whereby the BOCC's approval represents the final development review process and no further review of the application is required by the BOCC to finalize an application. Class 5 development review applications where there is not another required class of application include, but are not necessarily limited to:
 - a. Lot split on wells subdivision exemptions.
 - b. Rural land use subdivisions.
 - c. Site specific development plans.
 - d. Development agreements.
2. **Duration:** The BOCC's approval of such Class 5 development review applications shall lapse after 18 months from the date of approval unless the approval is renewed in accordance with Section 12002 or one (1) of the following actions occurs within said time period:
 - a. A lot split on wells subdivision exemption plat is recorded.

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- b. A rural land use subdivision plat is recorded.
- c. The activity and/or use described in the development review approval has commenced or been constructed, whichever situation applies in accordance with the development review application and the associated approval.
- d. A development agreement or site specific development plan has been executed in accordance with the regulations contained in Sections 12700 et seq. and 12800 et seq., respectively, unless otherwise stated in the resolution of approval.

Once one (1) of these actions occurs, the approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.

3. Length of Validity for Class 5 Development Review Applications That Are Not Listed in Section D.2 Above:

- a. Length of Validity for a Commission Recommendation: A Planning Commission’s recommendation of approval of a Class 5 application shall be valid for a period of 18 months from the date of such recommendation, unless one (1) of the following has occurred:
 - i. The BOCC has approved the Class 5 and associated Class 6 application.
 - ii. The BOCC public hearing has been scheduled or the BOCC has had at least one (1) public hearing on the application and has taken action to continue or table such application. Once a BOCC recommendation has lapsed, a Class 5 application must be reconsidered by the Commission following the Class 5 development review process contained herein.
- b. Length of Validity of the BOCC Approval of a Class 5 Development Review Application: The BOCC’s approval of a Class 5 development review application shall lapse after 18 months from the date of approval unless the approval is renewed in accordance with Section 12002 or one (1) of the following actions occurs within said time period:
 - i. The BOCC has reviewed and approved the associated Class 6 development review application and that approval remains valid.
 - ii. The BOCC has scheduled a public hearing or has had at least one (1) public hearing on the application and has taken action to continue or table such application. Once the BOCC approves a Class 6 development review application, the Commission’s recommendation of approval shall remain valid as long as the Class 6 approval remains valid.
 - iii. If the BOCC denies a Class 6 application, the Commission’s recommendation on the associated Class 5 development review application shall become invalid.

E. Class 6 Development Review Applications:

Approval of a Class 6 development review application shall lapse after 18 months unless one (1) of the following has occurred:

- 1. The subdivision exemption plat approved by the BOCC has been recorded (lot split on wells, general exemption, correction plat).
- 2. The final plat approved by the BOCC has been recorded.
- 3. The lot line vacation resolution and any required restrictive covenants have been recorded.
- 4. The final zoning amendment resolution has been recorded.
- 5. A final zoning amendment to create a PUD resolution and the associated PUD designation have been recorded.
- 6. The final zoning amendment to modify a PUD (either major or minor PUD modification) resolution and associated PUD designation have been recorded, unless the BOCC approves a modification that does not require a modified PUD to be recorded, and the changes are reflected in the resolution of approval.
- 7. A site specific development plan or development agreement has been approved as provided in Section 12700 and Section 12800, respectively.

Once one (1) of these actions occurs, the approval shall remain valid for the life of the project unless it is amended or revoked in accordance with the procedures outlined in this Code.

12000.18: Recordation

Class 4, 5 and 6 development review applications that are approved or denied by a Review Authority shall be so approved by resolution only and such resolution may be recorded in the Office of the Clerk and Recorder at the discretion of the County Attorney’s Office.

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12000.19: Revocation

- A. **Class 1 Development Review Applications:** Revocation shall be as provided in the Building Code.
- B. **Class 2, 4, 5 and 6 Development Review Applications:** The Planning Department, in consultation with the County Attorney's Office, may initiate the revocation of a Class 2, 4, 5 or 6 development review approval for the undeveloped portion of a project if construction has ceased for three (3) years or more, provided that, prior to revocation, the developer shall receive written notice and is given an opportunity for a quasi-judicial hearing before the Review Authority. The Review Authority may only revoke a Class 2 permit approval for failure to meet the criteria for decision on an application or for failure to meet one (1) or more of the required conditions or standards. A Review Authority's decision to revoke a Class 2 or 4 permit may be appealed. Only the BOCC may revoke a Class 5 or Class 6 development review application. Appeals shall be filed, and hearings on appeals conducted, in substantial accordance with Section 13200 et seq.

12000.20: Renewal

Class 2, 4, 5 and 6 development review approvals may be granted an administrative renewal by the Planning Department subject to the provisions of Section 12002 et seq.

12000.21: Revisions or Modifications

Certain Class 1, 2, 4, 5 (classes that are final approvals and no additional class of application must be submitted) and 6 development review approvals may be granted an administrative revision or modification by the Planning Department subject to the provisions of Section 12001 et seq.

12000.22: Preexisting Approvals

- A. A land use legally established prior to the effective date of this Code or prior to any relevant changes shall be permitted to continue, in strict accordance with all standards and requirements of such approval, for the time period specified in the permit or for the time provided by the terms of the Code in effect when the property was developed.
- B. Projects having a valid development review application that were approved prior to the Effective Date of this Code shall be built in accordance with the development regulations and standards in effect at the time of that approval.
- C. Development review application approvals which have expired shall have to resubmit a new development review application following the requirements of this Code, and be subject to the applicable requirements of this Code in effect at the time of submittal or as otherwise provided for by law.

12000.23: Basin Planning Commission Review Authority

Class 3, Class 4 and Class 5 applications that require the review or recommendation by the Planning Commission shall be reviewed by the Planning Commission for the basin where the proposal is located or as provided in Section 12000.24. For a description of the planning basins, please refer to Section 2102 et seq.

12000.24: Basin Planning Commission Review Authority for Projects Crossing Basin Boundaries

Where a development project crosses basin boundaries, the Basin Planning Commission responsible for the area where the project is primarily located shall administer and conduct a joint meeting with the other affected Basin Planning Commission(s) when required to make a recommendation or take action on the development project. Each Planning Commission shall have sufficient members present to constitute a quorum for that Commission. Action may be taken by a majority of the members present acting as one (1) body.

12000.25: Time Limits for Development Application Processing

- A. Except as provided for in Section 12000.25.B and C below, every development application that is accepted by the Planning Department shall receive a final decision from the BOCC or other final Review Authority within

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one (1) year from the date such application is filed and accepted by the Planning Department unless the application is withdrawn or unless the application has not been made complete in accordance with Section 12000.05. In the event an applicant does not schedule the application for review as required by this Code, the Planning Department shall schedule the application for review by the appropriate Review Authority and provide notice as required by this Code so that a final decision may be rendered as required by this section.

- B. Class 3 Work Session applications do not receive a final decision by the Review Authority. If an applicant has not requested a public hearing before the Review Authority or if the applicant has not made substantial progress in addressing either incomplete submittal requirements or concerns raised by the Referral Agencies within one year of the date submitted, then the application may be closed.
- C. The Code Administrator may extend the one (1) year review period for any development application as deemed necessary upon a finding that good cause exists for such extension due to: 1) the complexity, size or other extraordinary physical characteristics of the proposed development, or 2) other exceptional circumstances applicable to the particular development application.

12001: Minor Revisions or Modifications

12001.01: Purpose and Intent

The purpose and intent of this section is to provide an administrative development review process for minor revisions or modifications to approved applications and associated development plans for the development applications as provided for by this Code.

12001.02: Review Process

Minor revisions or modifications other than those originally approved through the Class 1 process, shall have to submit a Class 2 development review application per the review process outlined in Section 12000 et seq. and the requirements of this section.

12001.03: Determination for Minor Revisions or Modifications

The Planning Department shall administratively approve minor revisions or modifications to an approved development application if the application meets all relevant County regulations and standards and provided the Planning Department makes the following findings, as applicable:

- A. For site plans only, the proposed revision or modification does not increase the amount of originally approved gross building floor area or actual unit count more than ten percent (10%) of the total approved by the Review Authority.
- B. The proposed revision or modification complies with Zoning Regulations and other applicable regulations and criteria for decision of the Code in effect at the time of submittal, including but not limited to use regulations, design standards and other development regulations and standards.
- C. If applicable, the proposed revision or modification does not materially alter the bulk and massing of buildings, increase the visual impact of the development or materially alter a project's design.
- D. If applicable, the proposed revisions or modification does not significantly change the location of uses, the layout of streets or driveways, parking areas, trails or pathways or other improvements.
- E. The proposed revision or modification does not significantly increase the level of environmental impact caused by the proposed development, such as increasing the amount of steep slope disturbance or area of disturbance in the wetland setback.
- F. The proposed revision or modification does not significantly alter the application or plans reviewed and approved by the Review Authority, nor any conditions or findings made by such Review Authority in approving the application.

A revision or modification cannot be approved by the Planning Department if a modification is revising or modifying: 1) PUD text or exhibits, 2) a development agreement, 3) a site specific development plan, 4) a zoning amendment, or 5) the official plat approved by the BOCC. The process for modifying a 1041 permit is outlined in Chapter 10.

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If the Planning Department cannot make a finding that a revision or modification meets the applicable criteria listed above, such revision or modification shall be considered a new proposal and shall be evaluated per the applicable development review process outlined in this Code.

12002: Renewals

12002.01: Purpose and Intent of Renewals

The purpose and intent of this section is to provide a development review process for renewals of approved development review applications as provided for by this Code.

12002.02: (Reserved)

12002.03: Review Process

Renewals shall be reviewed by the Class 2 development review process listed in Section 12000 et seq.

12002.04: Findings for Renewal and Related Requirements

- A. The Planning Department shall approve a renewal to an approved development review application if it finds the renewal meets the applicable criteria outlined below:
 - 1. The renewal is for a currently valid approval granted by a Review Authority and the approval will expire within three (3) months. Renewals shall not be granted for applications that have more than three (3) months of validity remaining.
 - 2. The proposed project complies with the applicable regulations and criteria for decision contained within this Code.
- B. If new Code provisions applicable to the project have been effected since the original approval, the Planning Department may impose additional conditions at the time of renewal necessary to satisfy such new requirements and criteria for decision of the Code. If such new Code amendments require plan modifications or revisions, then such revisions or modifications shall be evaluated per the provisions in Section 12001 et seq.
- C. If the Planning Department is unable to make the required findings for renewal as stated in this section or if an applicant does not agree with the addition of new conditions as provided for in this section, a new application will have to be submitted in accordance with the applicable requirements and criteria for decision of this Code.
- D. If a renewal is denied, an application that has expired for whatever reason shall be evaluated and acted on following the same procedure for the review of a new application.
- E. An applicant or other qualified appellant may appeal the Planning Department’s denial of a renewal per the provisions of Section 13200 et seq.

12002.05: Number of Renewals

- A. One (1) 18-month renewal may be approved administratively by the Planning Department.
- B. If a development review application, which has been approved by the Planning Department through the renewal development review process subsequently expires, the applicant must submit a new application and follow the required development review process as provided for by this Code.

12002.06: Length of Validity

A renewal shall be valid for 18 months from the expiration date of the original approval.

12003: Submittal Requirements

- A. The BOCC shall adopt by resolution submittal requirements for each type of development review application as provided for by this Code, except for certain development reviews that retain the submittal requirements in the Code. The BOCC adopted submittal requirements shall be based on the requirements of this Code and criteria for decision. Additional submittal requirements for development review applications not listed in the BOCC

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resolution shall be determined by the Planning Department based on the similarity between the submittal and the other types of applications for which the BOCC has adopted submittal requirements. Such submittal requirements shall be made a part of the Planning Department application documents. The BOCC may adopt new submittal requirements from time-to-time.

- B. It is hereby acknowledged that situations will occur when all of the listed submittal requirements will not be needed and situations will also occur when items not listed as submittal requirements will be needed in order for the County to have sufficient information to fully evaluate the impacts of an application. Accordingly, the Planning Department is hereby authorized to determine, based on the nature of an application, whether to waive BOCC adopted submittal requirements or require additional information based on the nature of each application. When a dispute occurs between the Planning Department and the applicant as to either 1) the necessity of submitting any additional information beyond the standard submittal requirements, or 2) submitting an item listed in the BOCC approved submittal requirements, the failure on the part of the applicant to submit this information shall not result in a refusal on the part of the Planning Department to forward the applicant's request for review by the Review Authority. However, the Review Authority shall first be responsible for making a determination whether or not the information requested by the Planning Department is required by the provisions of the Code or a PUD, whichever situation applies. The Review Authority shall make this determination as a discussion item on its agenda prior to any public hearing on an application, with a staff memo summarizing the Planning Department's and the applicant's opinions on the need to submit information. This discussion item shall not be scheduled before the Review Authority until the applicant has provided its written summary of why it feels the additional information should not be submitted and the Planning Department has time to review this response and prepare a memo to the Review Authority.

12004: Concurrent Processing

Projects that require approval of more than one (1) type of development application may request concurrent processing of these applications. The final decision on whether or not to utilize concurrent processing shall be determined by the Planning Department based on administrative efficiency and the complexity of the development proposal. Whenever concurrent processing is used, the applicant's submittal shall include the information required for each application. Adjustments in fees for combined submittals shall be as stated in the BOCC's adopted development review fee schedule or as determined by the Planning Director. Examples of concurrently processed applications include, but are not limited to, preliminary and final plats, preliminary and final zoning amendments, and site plans and temporary use permits for construction offices or off-premise staging areas.

12005: Fee Schedule

- A. The BOCC shall adopt by resolution a "Fee Schedule" for review of development applications and issuance of development permits. Said Fee Schedule resolution shall address the standard fees for the processing of all common types of Land Use Development applications under this Code.
- B. Fees for submittals not listed in the BOCC resolution shall be determined by the Planning Department, based on a written decision analyzing the similarity between the application in question and the types of applications expressly listed on the fee schedule. The Planning Department may also base its decision upon the estimated number of hours of staff time the review of the application will require, in its opinion and experience.
- C. For any type of application processed under this Code, either those expressly addressed in the Fee Schedule resolution, or those determined in accordance with subsection B above, the County reserves the right to amend the fees charged based on excessive demand on staff resources by any particular application. Such additional demands that may serve as the basis for an additional fee to be implemented include, without limitation, delays caused by the applicant, significant modifications made by the applicant to the original application, applications that demand greater review or analysis than typical applications of that type, or failure of an application to meet the express and unambiguous standards or requirements of the Code after notice of such failure has been articulated to the applicant.
- D. Accordingly, under any circumstance contemplated in subsection C directly above, if the time required for review of a particular application exceeds the total hourly costs of staff review equating to the previously established required fee, the Planning Department may levy an additional fee to cover the additional costs of the County's review. Said additional fee shall be determined based on the set hourly costs of staff, which costs shall be articulated by the BOCC in the Fee Schedule Resolution.

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- E. In any circumstance where an additional review fee is to be levied, the Planning Department will notify the applicant that such an additional fee may be implemented prior to continuing its review of the application. The actual additional fee to be charged for such review shall not be determined until such time as the Planning Department review is completed and the application is submitted to the Review Authority, as no predetermined amount can be established until the total hours of additional staff time is computed. An applicant may appeal the decision on such additional fees in accordance with the standard fee appeal process set forth in this Code. Staff may proceed with its review provided that any additional fees due are paid prior to the Review Authority taking action to render a final decision on any such application.
- F. Notwithstanding the allowance for an appeal of any additional review fee, all fees for the processing of development applications, including any additional fee implemented in accordance with this section, must be paid upon receipt of invoice during the review process and prior to final action by the Review Authority rendering a decision on any such application. In the case of additional fees levied on a worksession application, no Review Authority consideration of the formal application which is the subject of the worksession will be scheduled until such additional fees are paid. The County reserves the right to exercise all remedies available to collect outstanding amounts due, and no building or grading permits shall be issued until said amounts are paid.
- G. The BOCC also recognizes that some projects have broad community benefits and that the fees for such projects should be waived or reduced as a matter of public policy. Examples of such projects include but are not limited to fire stations, sanitation plants, water facilities, community buildings and affordable workforce or employee housing projects (as endorsed by the Summit County Housing Authority). In addition, certain projects may present equitable considerations that would warrant a reduction or waiver of review fees. This Code and the Fee Schedule allows for the Planning Department to waive or reduce fees for projects that have broad community benefits, only upon prior confirmation by the BOCC, which confirmation will be granted at its sole and exclusive discretion.

12006: Cost for Special Studies

The BOCC, Planning Commission or Planning Department shall have the discretion to require special studies to be prepared for applications which have the potential for significant public and community impacts, due to considerations such as the project's location and/or surrounding area, the physical, environmental, topographical or geological characteristics of the site, and the particular type or scale of development. This Code section applies to all the development review processes as required by this Code, including but not limited to the processes outlined in this chapter, 1041 permits, preliminary and final plats, subdivision exemptions and location and extent applications. The consultant or individual preparing the study shall be selected by the mutual agreement of the County and the applicant, with the County responsible for soliciting proposals to conduct the required studies, hiring the consultant and administering any contract. The cost of said study shall be paid for by the applicant proposing the project.

12007: Vesting of Property Rights

Colorado Revised Statutes (“C.R.S.”) § 24-68-101 et seq. provides for the establishment of vested property rights with approval of a site specific development plan or a development agreement by a local government. Section 12700 et seq. defines what Summit County considers to be a site specific development plan, states procedures for review and approval and for publication of a notice of approval. Section 12800 et seq. states procedures for adoption of development agreements between the County and a property owner for the purpose of establishing vested rights.

12100: ZONING AMENDMENTS

12101: Types of Zoning Amendments

These regulations allow for the following types of zoning amendments:

- A. Amendments involving land use changes (i.e. changes in the location of zoning district boundaries or zoning designations on land).
- B. Adoption or modification of Planned Unit Development (“PUD”) designations.
- C. Comprehensive, quasi-legislative changes to the Official Zoning Maps.

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Sections 12100 through 12105 pertain to the first type of zoning amendment. Procedures and requirements for the adoption and modification of PUD designations are contained in Section 12200 et seq., while procedures for quasi-legislative changes to the Official Zoning Maps are covered in Section 12106 et seq.

12102: Name Reservation

A future project name that will become part of the legal description after townhouse or condominium platting shall be reserved at the zoning amendment stage. A name is reserved when the Review Authority approves it in accordance with the requirements of Section 8109 as a part of its review of a zoning amendment per Sections 12100 or 12200 et seq. The name reservation shall be valid only if the zoning amendment is approved.

12103: Zoning Amendment Work Session

12103.01: Zoning Amendment Work Session Purpose and Intent

The purpose of a zoning amendment work session is to provide the Planning Commission and, for major development projects and more complex zoning amendments, the BOCC with an opportunity to comment on a proposed zoning amendment application and to advise the applicant of issues related to specific Code requirements and of commissioner concerns in such regard. An applicant shall use the work session analysis and commissioner comments in preparing a formal submittal for a zoning amendment. The information provided by the applicant for a work session is less detailed and, correspondingly, less analysis is provided by the Planning Department than for a formal zoning amendment review. The main function of a work session is to have a non-binding, cursory review of broad issues and concerns per the applicable Code requirements and criteria for decision rather than provide a detailed and in-depth analysis. No formal approval or disapproval is granted at work session discussions, and the Planning Commission's and BOCC's direction or comments on a proposal are non-binding due to the cursory nature of a work session review.

12103.02: Work session Requirement

Prior to submitting a preliminary/final zoning amendment or major PUD modification, an applicant is required to submit a zoning amendment work session application unless such requirement is waived by the Planning Department in accordance with Section 12000.C.3. Applicants for other types of development review may submit a work session application pursuant to the Class 3 development review process.

12103.03: Procedures for Conducting Work Sessions

Work sessions shall follow the Class 3 development review process listed in Section 12000 et seq.

12104: Preliminary Zoning Amendment

12104.01: Preliminary Zoning Amendment Purpose and Intent

The purpose of the preliminary review step is to establish the types and densities of land uses to be permitted and the specific zoning district to be applied to the land. The intent of the analysis is to determine whether or not it is feasible to accommodate the types and densities of land uses proposed on the site, considering terrain and environmental hazards, the availability of services and infrastructure and the amount of environmental disturbance that would result. More importantly, this preliminary review is intended to analyze how the development concept achieves general conformance with the applicable master plans. This preliminary review is also to determine if the proposal is compatible with surrounding land uses and zoning, is compatible with the site's natural features, avoids areas subject to environmental hazards and development constraints in accordance with the policies of this Code and if adequate access and services are available. The preliminary analysis is also to determine whether or not the applicant's proposal fits into a logical land use pattern, respects the natural terrain, exhibits good design, public safety and addresses impacts on public services and infrastructure.

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12104.02: Review Procedures for Preliminary Zoning Amendment

Preliminary zoning amendment applications shall follow the Class 5 development review process listed in Section 12000 et seq.

12104.03: Findings for Preliminary Zoning Amendments

The Planning Commission may recommend approval of a preliminary zoning amendment, and the BOCC may approve such a preliminary zoning amendment, only if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- A. The proposed rezoning is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- B. The proposal is consistent with the purpose and intent of the County's Zoning Regulations.
- C. The proposal is consistent with the County's Rezoning Policies.
- D. The proposed rezoning is compatible with present area development and will not have a significant, adverse effect on the surrounding area.
- E. The proposal is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
- F. The proposed rezoning is justified either by the fact that the original zoning was in error, there have been changes in conditions in the vicinity or there have been changes in the County's overall development policy.

12105: Final Zoning Amendment

12105.01: Final Zoning Amendment Purpose and Intent

The purpose of the final review step is to ensure that a project has secured adequate access, water, sewage disposal and utilities and to ensure that any conditions imposed by the County as part of the preliminary review and approval have been met. The intent of this review is also to ensure a final zoning request is consistent with the approved preliminary zoning request. It is intended that final zoning approval be granted only if it is consistent with the preliminary zoning approval, necessary conditions imposed at the time of preliminary zoning have been met and adequate access to and services for the proposed development are available. The requirements for access and services, which must be met for rezoning, are stated in Section 3504 et seq. and Figure 3-4.

12105.02: Review Procedures for Final Zoning Amendment

Final zoning amendment applications shall follow the Class 6 development review process listed in Section 12000 et seq.

12105.03: Findings for Final Zoning Amendments

The BOCC may approve a final zoning amendment, only if the application meets all relevant County regulations and standards and provided it makes the following findings:

- A. The proposed final zoning is consistent with the approved preliminary zoning, and the criteria related thereto, and the applicant has complied with any conditions that had to be met prior to final zoning amendment approval.
- B. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure.
- C. The applicant has provided certification from the County Treasurer's Office that all ad valorem taxes applicable to the proposed zoning amendment for years prior to the year in which approval is under consideration have been paid.
- D. No change has occurred in the rezoning applications that would result in an inability to make the findings required for approval of preliminary zoning.

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12105.04: Effective Date for Final Zoning Amendments That Require the Transfer of Development Rights

Action by the BOCC on a zoning amendment shall become effective as of the date of the meeting at which action is taken, unless otherwise stated in its resolution. However, if the final zoning approval requires the transfer of development rights in accordance with the County’s Transferable Development Rights (“TDR”) program regulations, the BOCC’s action shall not be effective until the required transfer of development rights certificate has been recorded pursuant to Section 3506.02.F. Such transfer and recordation of development rights to the property shall occur within 18 months of the BOCC meeting where action was taken to approve the zoning amendment. If the applicant fails to complete the transfer of development rights within the 18 month time period, the zoning amendment shall become null and void, unless the approval is renewed per Section 12002 et. seq. or unless otherwise provided for in a PUD designation.

If a zoning amendment, PUD or PUD amendment is considered to be a “substantial development” (i.e. 15 or more development rights), an alternative time period or schedule to transfer development rights may be approved by the Review Authority and shall be stated in the resolution of approval (reference Section 3506.04).

12105.05: Revisions to Zoning District Maps

Amendments affecting the zoning district boundaries or designations shall be mapped by the County on the Official Zoning Maps filed in the Planning Department and in the Clerk and Recorder's Office as soon as reasonably practicable following action by the BOCC. These amendments shall be signed by the Chairman of the BOCC, attested by the Clerk and Recorder and filed in both the Planning Department and the Clerk and Recorder’s Office.

12106: Quasi-legislative Amendments to the Official Zoning Maps

12106.01: Purpose and Intent

Some zoning modifications may be executed in an effort to implement important public policies, correct historical errors in zoning boundaries, the zoning map, or other key zoning ordinance documents, modify antiquated zoning designations, or otherwise implicate a larger scope of affected properties. Such zoning modifications are typically prospective in nature, of general application, and require the balancing of questions of judgment and discretion, and thus are properly characterized as quasi-judicial in nature. The purpose and intent of this section is to provide a quasi-legislative zoning amendment process for the BOCC, including a process to either correct or to comprehensively amend the Official Zoning Maps and rezone properties. Such zoning amendments may be initiated to: 1) implement a specific amendment to this Code (see Section 1450 et seq.); 2) readopt the Official Zoning Maps from time-to-time; or 3) meet other public needs as determined by the BOCC, in the sole exercise of their legislative discretion. Colorado law (C.R.S. § 30-28-116 et seq.) gives the County broad authority to amend the number, shape, boundaries or area of any zoning district.

12106.02: (Reserved)

12106.03: Review Process

Zoning amendments shall be reviewed by the Class 5 development review process listed in Section 12000 et seq.

12106.04: Findings for Quasi-Legislative Rezoning Approval

The Countywide Planning Commission may recommend approval of a quasi-legislative amendment to the Official Zoning Maps and the BOCC may approve such an amendment, if the application meets all relevant County regulations and standards and provided the proposal meets the following criteria:

- A. The proposed quasi-legislative amendment to the Official Zoning Maps is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- B. The proposed quasi-legislative amendment to the Official Zoning Maps is consistent with the purpose and intent

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of the County's Zoning Regulations.

- C. The proposed quasi-legislative amendment to the Official Zoning Maps is compatible with present area development and will not have a significant adverse effect on the surrounding area.
- D. The proposed quasi-legislative amendment to the Official Zoning Maps is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.

12106.05: Revisions to Official Zoning Maps

Quasi-legislative zoning amendments affecting the boundaries or designations depicted on the Official Zoning Maps shall be mapped by the County as soon as reasonably practicable following action by the BOCC. These amendments shall be signed by the Chairman of the BOCC, attested to by the Clerk and Recorder, and filed both with the Planning Department and Clerk and Recorder's offices. The Official Zoning Maps must have the signature of the Chairman of the BOCC and the Official Seal of the Clerk and Recorder to be valid.

12200: PLANNED UNIT DEVELOPMENTS

12200.01: Purpose and Intent

To ensure that the public health, safety, integrity and general welfare of Summit County is maintained and protected in an era of increased urbanization and growing demand for land use allowances of all types and design, it is the intent of the BOCC in allowing for the establishment and utilization of a Planned Unit Development ("PUD") to:

- A. Encourage innovations in residential, commercial, industrial, recreational and resort development by allowing for mixed land uses, variations in development densities and variety in the type, design and layout of buildings.
- B. Provide a means of allowing for innovation in land use, and designing development, so it relates to and preserves, to the extent practical, the natural features of the site and avoids areas having development constraints.
- C. Provide a means for clustering development, allowing for the preservation, protection of, and appropriate use of open space, more effective land utilization, and more cost effective and efficient extensions of infrastructure or public benefits that promote the public health, safety and welfare.
- E. Provide a means for developing any unique design and/or development standards in the PUD that differ from the Code and are justified based on particular circumstances or in order to achieve certain important development or design objectives.

12200.02: General Requirements

- A. **PUD Requirements:** Each PUD shall consist of a written PUD designation and a development plan and shall include the standard provisions required by this section. There is no minimum number of units or acreage necessary for a development project to constitute a PUD.
- B. **Guidelines in Formulating PUD Designation:** Where a PUD district is proposed, the provisions of this Code shall be used as guidelines in formulating the PUD designation. Building, site design and other standards, which differ from those stated in the Code, may be adopted as part of a process to create a PUD because of special circumstances or in order to achieve certain development or design objectives.
- C. **PUD Relationship to the Code:** After a PUD designation is adopted, the development regulations and standards stated in the PUD designation shall supersede the provisions of this Code if such regulations and standards are specifically covered in a PUD. Where an adopted PUD designation does not address a specific standard covered by this Code, the specific provisions contained in the Code shall apply as determined by the Planning Department subject to a final determination by the Review Authority. In making this determination, the Planning Department shall consider the original intent of the PUD, the type of use, intensity of use, type of structure and similar factors to identify the situation covered by this Code closest in comparison to the situation in the PUD and shall recommend the Review Authority use the regulations of the Code which apply to that situation. Notwithstanding the foregoing, the PUD and the Code should be interpreted in a manner that ensures consistency and conformity between the relative documents. Conflicts between said documents shall not be inferred or implied, unless no other reasonable interpretation exists.

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12200.03: PUD Designation

The PUD designation shall include the following information, except that the Planning Department shall have the authority to waive items or to require additional information based on the nature and complexity of the proposal.

- A. **Uses Permitted:**
 - 1. List of permitted, accessory and conditional uses for each planning area or lot.
 - 2. Type and number of residential units.
 - 3. Type and square footage of nonresidential uses.
 - 4. Number of lodging rooms.
- B. **Development Standards:**
 - 1. Building heights allowed.
 - 2. Setbacks allowed.
 - 3. Parking requirements.
 - 4. Landscaping requirements.
 - 5. Affordable Workforce Housing or Housing for On-Site Employees provided, if any.
 - 6. Open space areas to be reserved.
 - 7. Exterior materials and design requirements.
 - 8. Water quality and wetlands requirements.
 - 9. Wildlife protection requirements.
 - 10. Other development standards as deemed necessary by the Planning Department.
- C. **Required Improvements:**
 - 1. Commitments for construction and maintenance of improvements.
 - 2. Method of providing access, water, sewage disposal and utilities.
- D. **Implementation:**
 - 1. Development phasing.
 - 2. Platting requirements.
 - 3. Site plan review requirements.
- E. **Administrative Procedures:**
 - 1. Enforcement.
 - 2. Revocation.
 - 3. Amendment.
- F. **Legal Description of Property (as attachment)**
- G. **Development Plan (as attachment)**

A PUD designation shall be prepared in a format acceptable to the Planning Department.

12200.04: Development Plan

A development plan shall be included in each PUD approved by the County. This plan shall consist of a map or series of maps depicting at a minimum the following information, unless such information is waived by the Planning Department or the Review Authority:

- A. Planning area boundaries.
- B. For each planning area, unit counts for residential and lodging uses; square footage amounts for nonresidential uses.
- C. Existing topography.
- D. Wildlife habitat categorized by the land cover classifications used on the Official Wildlife Overlay District Map adopted pursuant to Section 4203.01 of the Code (see Section 4200 et seq.).
- E. Significant natural features.
- F. Approximate alignments of major roads and trails.
- G. Approximate building locations.
- H. Open space areas to be reserved.
- I. Significant design concepts to be implemented.

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A development plan shall be prepared at a scale and in a format acceptable to the Planning Department.

12200.05: Standard Provisions

The following provisions shall be included in each PUD designation for the designation to be approved by the County, except when waived by the BOCC:

- A. **Enforcement:** The provisions of the PUD designation and the development plan relating to the use of land and the location of common open space shall run in favor of Summit County and shall be enforceable at law or in equity by the County without limitation on any power or regulation otherwise granted by law. Other provisions of the PUD designation and the development plan shall run in favor of the residents, occupants and owners of the PUD but only to the extent expressly provided in, and in accordance with the terms of, the PUD designation and the development plan. Provisions not expressly stated as running in favor of the residents, occupants or owners of the PUD shall run in favor of the County.
- B. **Breach of Provisions:** If at any time any provision or requirement stated in the PUD designation, or in the Summit County Land Use and Development Code, Building Codes, Environmental Health Codes, or Road and Bridge Standards, has been breached by the owner/developer, the County may withhold approval of any or all site plans or plat maps or the issuance of any or all grading or building permits applied for on the property, until such breach has been remedied, provided, however, that the County shall not take affirmative action on account of such breach until it shall have first notified the owner/developer in writing and afforded the owner/developer a reasonable opportunity to remedy the same.
- C. **Binding Effect:** The PUD designation shall run with the land and be binding upon the Owner/Developer, their respective successors, representatives and assigns and all persons who may hereafter acquire an interest in the Property or any part thereof, with the exception that provisions of this designation may be modified through an amendment in accordance with the procedure stated in the County Development Review Procedures. This designation shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein.
- D. **Modifications or Amendments:** Modifications or amendments to the provisions of a PUD designation shall be reviewed and acted upon in accordance with the provisions listed in Section 12202 et seq. of the Summit County Land Use and Development Code unless specific amendment provisions are drafted as part of a PUD.
- E. **Notices:** All notices required by this designation shall be in writing and shall be either hand delivered or sent by certified mail, return receipt requested, postage prepaid, as follows:

Notice to County:

Board of County Commissioners
P.O. Box 68
Breckenridge, CO 80424

Notice to Owner/Developer

Applicant Name
Applicant Address
Applicant City, State, Zip

All notices so given shall be considered delivered three (3) days after the mailing thereof, excluding weekends and official holidays. Either party, by notice so given, may change the address to which future notices shall be sent.

- F. **Entire Designation:** This designation contains all provisions and requirements incumbent upon the owner/developer relative to the (name of PUD) PUD, except as modified by subsequent action of the BOCC in accordance with procedures set forth in the Summit County Land Use and Development Code and the Colorado Planned Unit Development Act (C.R.S. § 24-67-106 et seq.) for amending PUDs, and except that nothing contained herein shall be construed as waiving any requirements of the County's Land Use and Development Code or other regulations otherwise applicable to the development of the property.
- G. **Effective Date:** This designation must be signed by both the Summit County BOCC and the Owner/Developer and must be recorded by the Summit County Clerk and Recorder in order to become effective. The effective date shall be the date of recordation.
- H. **Signature Block:**

IN WITNESS WHEREOF, the County and the Owner/Developer have executed this Designation as of the date first above written.

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BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

BY: _____
Chairman

ATTEST:

Clerk and Recorder

Owner

ATTEST:

ACKNOWLEDGEMENT:

STATE OF COLORADO)
)ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this _____ day of _____, 20____, by
_____ as _____, of

Witness my hand and official seal:
My commission expires: _____

Notary Public

12200.06: Review Process for Creating Planned Unit Developments

The preliminary review process for a zoning amendment to create a PUD shall be a Class 5 application, followed by a Class 6 application for final review of the same (refer to Section 12000 et seq.).

12200.07: Findings for Preliminary PUD Approval

The Planning Commission may recommend approval of a preliminary approval for a zoning amendment to create a PUD, and the BOCC may only approve such a zoning amendment, if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- A. The proposed PUD is in general conformity with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- B. The proposed PUD is consistent with the purpose and intent of the County’s Zoning Regulations.
- C. The proposed PUD is consistent with the County’s Rezoning Policies (Section 3200 et. seq.).
- D. The proposed PUD is compatible with present area development, and will not have a significant, adverse effect on the surrounding area.
- E. The proposed PUD is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources or otherwise promotes an overall public benefit to the community.
- F. The proposed PUD is consistent with and furthers the goals and intent for establishing and utilizing a PUD as set forth in Section 12200.01.

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12201: Review Procedures for Final PUD

A final review of a zoning amendment to create a PUD shall follow the Class 6 development review process as listed under Section 12000 et seq.

12201.01: Findings for Final PUD Approval

The BOCC may approve a final PUD zoning amendment, only if the application meets all relevant County regulations and standards and provided the BOCC makes the following findings:

- A. The proposed final PUD zoning has not substantially changed from the approved preliminary PUD zoning, and the applicant has complied with conditions that had to be met prior to final zoning approval.
- B. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure.
- C. The applicant has provided certification from the County Treasurer's Office that all ad valorem taxes have been paid on the applicant's property for years prior to the year in which approval is under consideration.
- D. A final development plan, PUD text and PUD exhibit have been reviewed and approved by the County in accordance with the requirements of the PUD zoning amendment requirements and is suitable for the property owner(s) and the County's signatures and recordation.
- E. No change has occurred in the rezoning application that would result in an inability to make the findings required for approval of preliminary PUD zoning.

12201.02: Effective Date and Official Copy of PUD

- A. An action to approve a PUD shall become effective when the PUD designation is signed by the Chair of the BOCC and by the property owner(s) or an agent(s), and recorded in the office of the Clerk and Recorder, unless approval of the PUD requires the transfer of development rights in accordance with the County's Transferable Development Rights ("TDR") program regulations.. When a development right is required, the BOCC's action shall become effective when the PUD designation is signed by the Chair of the BOCC and by the property owner(s) or an agent (unless the PUD designation provides otherwise) and after the required transfer of development rights certificate has been recorded pursuant to Section 3506.02.F. For PUDs involving the transfer of development rights, the applicant shall transfer all required development rights to the property within 18 months of the BOCC meeting where action was taken to approve the PUD. If an applicant fails to complete the transfer of development rights within 18 months, the approval of the PUD shall expire and become null and void unless otherwise allowed by Section 3506.02.F. An action to deny a PUD shall become effective as of the date of the meeting at which the action to deny was taken by the BOCC.
- B. The official PUD designation for a PUD is the original, signed version of the designation that contains but is not limited to the original document recording label and original signatures and shall be kept in the files of the Clerk and Recorder. A copy of the official PUD shall be filed in the Office of the Clerk and Recorder to put prospective purchasers or other interested persons on notice of the requirements of a PUD.

12201.03: Revisions to Zoning District Maps

After the PUD has been recorded in the Office of the Clerk and Recorder, the Official Zoning Maps shall be changed to reflect the newly approved PUD boundaries, signed by the Chairman of the BOCC, officially sealed by the Clerk and Recorder and filed in the Planning Department and the Clerk and Recorders Office as soon as practicable.

12202: Major PUD Modification Zoning Amendments

12202.01: Purpose and Intent of Major PUD Modification Zoning Amendments

To further the policies constituting the purpose and intent allowing for the initial establishment of a Planned Unit Development, as set forth in §12200.01 of this Code, the BOCC may allow a major PUD modification in order to promote the following goals and policies:

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- A. Ensure that development on the site reflects a logical land use pattern, in consideration of: compatibility with the site's natural features, natural topography and terrain, the amount of environmental disturbance that would result, avoidance of areas subject to environmental hazards and development constraints to the extent practicable, and the availability of services and infrastructure.
- B. Ensure that development on the site further promotes the public health, safety, integrity and general welfare, by means of addressing any increase or modifications to the demand upon existing infrastructure, including both cumulative and prospective impacts on public services and infrastructure, and furthering the overall public benefit realized by the proposed development in light of and to counterbalance such increased burdens and demands.
- C. Ensure that any proposed PUD modification which results in an increase in density, rearrangement of land uses or other alterations to the PUD that significantly affect the land use plan of the PUD, provided an effective means to: allow for innovations in land use, preserve the natural features of an area to the extent practicable, and promotes the clustering of development and the preservation of open space, more effective land utilization and more cost effective and efficient extensions of infrastructure.
- D. Ensure that any proposed PUD modification further promotes the purpose and intent allowing for the establishment a of Planned Unit Development, as set forth in §12200.01 of this Code, and consistency with the findings supporting the approval of the original PUD.

12202.02: Development Review Process for Major PUD Modification Zoning Amendments

Major PUD modification zoning amendments shall be reviewed by the Class 5 development review process listed in Section 12000 et seq.

12202.03: (Reserved)

12202.04: Determination of Major or Minor PUD Modification

The Planning Director shall determine whether the proposed zoning amendment to modify a PUD is considered major or minor in nature. A proposed amendment is considered minor if it meets the following criteria for decision:

- A. The PUD modification is not substantial and maintains the intent and integrity of the original PUD.
- B. The PUD modification does not increase in the total number of units or floor area.
- C. No new uses are requested, except for converting one (1) type of permitted use to another similar type of permitted use, and
- D. There is no significant decrease in the amount of open space.

All other amendments are considered major modifications to a PUD.

An applicant who wishes to appeal the decision of the Planning Director with regards to such classification of a PUD modification may appeal that decision directly to the BOCC. The appeal will be scheduled on the next available BOCC agenda as a “new business” item.

12202.05: Findings for Major PUD Modification Zoning Amendments

The Planning Commission may recommend approval of a major PUD modification, and the BOCC may approve a major PUD modification zoning amendment, only if the application meets all relevant County regulations and standards (unless unique provisions have been created per the provisions of this Code) and provided the Review Authority makes the following findings:

- A. The modification is consistent with the efficient development and preservation of the entire PUD.
- B. The modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.
- C. The modification is not granted solely to confer a special benefit upon any person.
- D. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.

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- E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.
- F. The proposed PUD modification is consistent with the County's Rezoning Policies.
- G. The proposal is consistent with the policies constituting the purpose and intent allowing for the establishment of Planned Unit Development, as set forth in §12200.01 of this Code, as well as the policies supporting the purpose and intent of allowing a Major PUD Modification Zoning Amendment, per §12202.01 of this Code.
- H. In light of the purpose and intent of PUD designations and modifications, the proposal furthers the public health, safety integrity and general welfare, as well as efficiency and economy in the use of land and its resources.
- I. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure to serve present demands, and adequate access and infrastructure is also available to serve reasonably anticipated future demands.
- J. The Review Authority has reviewed and approved the PUD text and any revised exhibits, and, for the BOCC's review, the PUD is suitable for the Chairman's signature and recordation.

12202.06: Effective Date and Official Copy of PUD

- A. An action to approve a zoning amendment for a final PUD modification shall become effective when the PUD modification is signed by the Chair of the BOCC and recorded, unless approval of the PUD modification requires the transfer of development rights in accordance with the County's Transferable Development Rights ("TDR") program regulations. When the transfer of development rights is required, the action shall become effective when the PUD designation is signed by the Chair of the BOCC, the required transfer of development rights certificate has been recorded pursuant to Section 3506.02.F, and the modified PUD designation is recorded, unless the PUD designation provides otherwise.
- B. For PUD modifications involving TDRs, the applicant shall transfer all required development rights to the property within 18 months of the BOCC meeting where action was taken on the PUD modification or as may otherwise be provided for in a PUD designation. If the applicant fails to complete the TDR within that time period, the approval of the PUD modification shall expire and become null and void unless otherwise provided for in the PUD designation.
- C. An action to deny a zoning amendment for a PUD modification shall become effective as of the date of the meeting at which the action to deny was taken by the BOCC.
- D. The official PUD designation for a PUD is the original, signed version of the designation that contains but is not limited to the original document recording label and original signatures and shall be kept in the files of the Clerk and Recorder. A copy of the official PUD shall also be filed in the Office of the Clerk and Recorder to put prospective purchasers or other interested persons on notice of the requirements of a PUD.

12203: Minor PUD Modifications

12203.01: Review Procedures for Minor PUD Modification Zoning Amendments

Minor PUD modification zoning amendment applications shall follow the Class 6 development review process listed in Section 12000 et seq.

12203.02: Findings for Minor PUD Modification Zoning Amendments

The BOCC may approve a minor PUD modification zoning amendment, only if the application meets all relevant County regulations and standards and provided the BOCC makes the following findings:

- A. The proposed PUD modification is consistent with the efficient development and preservation of the entire PUD.
- B. The proposed PUD modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.
- C. The proposed PUD modification is not granted solely to confer a special benefit upon any person.
- D. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations and Rezoning Policies.

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- F. The proposed PUD modification is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
- G. The proposed PUD modification amendment is not substantial and conforms to the intent and integrity of the original PUD and the PUD modification has been determined to be a minor amendment in accordance with Section 12202.04.

12203.03: Effective Date and Official Copy of PUD

- A. An action to approve a zoning amendment for a PUD modification shall become effective when the PUD modification is signed by the Chairman of the BOCC and recorded unless otherwise stated in the resolution approving such amendment.
- B. An action to deny a zoning amendment for a PUD modification shall become effective as of the date of the meeting at which the action to deny was taken by the BOCC.
- C. The official PUD designation for a PUD is the original, signed version of the designation that contains but is not limited to the original document recording label and original signatures and shall be kept in the files of the Clerk and Recorder. A copy of the official PUD shall also be filed in the Office of the Clerk and Recorder to put prospective purchasers or other interested persons on notice of the requirements of a PUD.

12204: Enforcement of Planned Unit Developments

Enforcement of PUDs shall be as provided in 1) C.R.S. § 24-67-106 et seq., 2) this Code, 3) the PUD designation, and 4) all other applicable laws, rules and regulations. At time of approval of the PUD or any modification to the PUD, the County may enter into a Development Agreement with the Developer which specifies responsibility, process and penalties for violations of the provisions of the PUD.

12205: Revocation

- A. The BOCC may revoke a PUD if terms or conditions of the PUD designation are violated. Prior to revocation, the developer shall receive written notice and shall be given an opportunity for a hearing before the BOCC. The BOCC may specify a time by which action shall be taken to correct any violations for the PUD designation to be retained.
- B. For any new PUD adopted after January 28, 2002, the County may, but is not obligated to, initiate a full or partial rezoning of a parcel(s) with a PUD zoning designation unless, within three (3) years following the date of final approval of the PUD, one (1) or more owners of the parcel have obtained one (1) or more building or other permits from the County for construction of improvements on any portion of the parcels and have commenced construction of substantial improvements on any portion of the parcel. Upon request of an applicant, the BOCC may increase the three (3) year period based on the size and magnitude of the PUD, the capital investment in the project and the phasing of the improvements pursuant to a phasing plan approved by the County.

12300: CONDITIONAL USE PERMITS

12301: Purpose and Intent

A conditional use permit allows for the review of certain land uses or types of development to ensure they are appropriate where they are proposed and compatible with adjacent uses. Issuance of a conditional use permit is required prior to the development of any use identified by this Code as conditional. The Review Authority may include conditions in any approval of a conditional use permit to mitigate adverse impacts of the use or may deny a use if required findings cannot be made.

12302: Review Authority

12302.01: Planning Department

The Planning Department shall have authority to review and act upon conditional use permits for animal keeping as provided for in Section 3802 (except for common animal keeping facilities as provided for in Section 3802.03, which

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are reviewed and acted on by a Planning Commission), and for recreational vehicles used as seasonal residences in the RC-5000 and RC-40000 Zoning Districts as provided for in Sections 3301.16 and 3521.01.

12302.02: Planning Commission

The Planning Commission shall be the Review Authority for all other conditional use permits unless otherwise provided for by this Code or an adopted PUD designation, which may allow for Staff administrative review of other conditional use permits.

12302.03: Review Procedures for Conditional Use Permits

Conditional use permit applications reviewed by a Planning Commission shall follow the Class 4 development review process, while conditional use permits reviewed by the Planning Department shall follow the Class 2 development review process; both of which are listed in Section 12000 et seq.

Any activity or structure permitted through a 1041 permit is exempt from any requirement for a Conditional Use Permit as may be required per the applicable zone district.

12302.04: Findings for Approval of Conditional Use Permits

The Review Authority may approve a conditional use permit only if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- A. The proposal is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- B. The proposed conditional use is in compliance with the County’s Zoning Regulations.
- C. The use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure.
- D. Adequate services and infrastructure are available to serve the use or the applicant has obligated himself to provide services and infrastructure in sufficient time to serve the proposed use.

12302.05: Conformance with Master Plans

Development of conditional uses subject to these regulations shall be in general conformance with the goals, policies/actions and other provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans. In determining if a proposed conditional use permit is in general conformance with an applicable master plan, the Review Authority shall respect the use and density provisions outlined in the underlying zoning to the maximum extent possible. In other words, the maximum density and the uses permitted for property shall continue to be set by the applicable zoning. Notwithstanding the foregoing, it is acknowledged and intended that the application of goals, policies/actions and other provisions contained in an applicable master plan may affect and limit the type and density of land uses that may be located on the property.

12400: TEMPORARY USE PERMITS

12401: Purpose and Intent

- A. A temporary use permit allows establishment of uses which are not listed for a particular zoning district when these uses:
 - 1. Do not require any new permanent structures or improvements for their operation.
 - 2. May use existing buildings or improvements.
 - 3. Are active only on a seasonal or short-term basis.
 - 4. Do not result in any negative long-term impact on surrounding properties.
 - 5. Are situated to minimize the negative short-term impact on surrounding properties.
 - 6. Do not exceed the following time limits (except for uses listed in Section 12401.01):
 - a. A maximum of six (6) months annually for seasonal uses.

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- b. A maximum of one (1) year if the use will exceed six (6) months annually for temporary uses.
- B. Issuance of a temporary use permit is required prior to the establishment of any such use meeting the requirements of subsection A above.
- C. The requirement for permit approval allows review of temporary uses to ensure they qualify as temporary, they are appropriate where they are proposed and they are compatible with adjacent uses.
- D. Action on temporary use permits is granted by the Planning Commission following a public hearing, except for the special exceptions listed in Section 12401.01. The special exceptions listed in 12401.01 are reviewed and acted upon by the Planning Department without a public hearing.
- E. Temporary use permits may be issued for the exceptions listed in Section 12401.01 as part of site plan review or after review by the Planning Department.
- F. Temporary use permits sought concurrent with a site plan review shall be identified on a site plan where temporary uses are anticipated. No additional review fee will be levied for a temporary use permit for any use included in 12401.01, if identified on a site plan that is reviewed by the Review Authority. The criteria in Section 12400 et seq, including the submittal requirements for a temporary use permit and other related Code requirements shall be applied during site plan review.

12401.01: Special Exceptions

The following temporary uses are considered special exceptions and can be reviewed and acted on by the Planning Department concurrently with a site plan review per the provisions of Section 12600 et seq. or by the Class 2 development review process:

- A. **Real Estate Sales Offices:** A temporary use permit for a real estate sales office may be issued for a period of three (3) years. Thereafter, the permit may be renewed annually provided the following criteria are met:
 - 1. The sales office is regularly used for sales of real estate within the project site where the office is located.
 - 2. The sales office is maintained on a regular basis including landscaping, appearance and general maintenance.
 - 3. The sales office is used exclusively for the sale of real estate for the project site where the office is located, except for ancillary sales of off-premise real estate that may occur as a result of a client's contact regarding real estate for the project where the office is located. Other uses such as storage of construction materials and equipment or any other use not related to the sales operations is prohibited.
 - 4. The use complies with all applicable criteria and requirements of this Code, including Section 3817.
- B. **Off-site Construction Staging Area:** A temporary use permit for a construction staging area is required only if the staging area is not located on the same parcel as the construction project. A temporary use permit for an off-site construction staging area may be issued for a period not to exceed one (1) year. The permit may be renewed on an annual basis thereafter provided the following criteria are met:
 - 1. The construction project for which the staging area is required is active as evidenced by an active and valid building permit.
 - 2. The off-site staging area shall not be used to pre-construct any part of the building or site improvements, only as a laydown area to store materials, equipment, trailers and other such items, unless an applicant specifically requests the ability to use such a staging area for actual construction work.
 - 3. The use complies with all other applicable criteria and requirements of this Code, including but not limited to Section 3806.
- C. **Construction Office Trailers:** A temporary use permit for a construction office trailer may be issued for a period automatically terminating upon the issuance of a final CO for the project utilizing the trailer.
- D. **Manufactured Homes or RVs As Temporary Dwellings while Primary Residence is Under Construction:**
 - 1. A temporary use permit may be issued for a temporary dwelling, while the primary, single-family residential dwelling unit is being constructed, for either: 1) a manufactured home that does not meet the requirements of Section 3505.08, or 2) a recreational vehicle. The maximum period of such a temporary use permit shall not to exceed three (3) years and the permit may be renewed on an annual basis thereafter provided the following criteria are met:
 - a. The residential project for which the temporary dwelling is required is active as evidenced by a current and valid building permit.
 - b. The use complies with all other applicable criteria and requirements of this Code, including but not limited to required setbacks, access, water, sewer and utilities.
 - c. The temporary dwelling is constructed in accordance with applicable State and/or Federal standards as

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evidenced by required certification.

- d. The temporary dwelling is proposed on a parcel or lot that contains a minimum of one (1) acre.
2. A person may install a manufactured home meeting the requirements of this Code and Section 3505.08 on a temporary basis, and have a building permit issued by the County for a primary dwelling unit provided the applicable provisions of this Code are met, and the manufactured home is removed prior to the issuance of a CO for the primary dwelling and the area revegetated in accordance with the requirements of this Code.
3. A person may also use an existing single-family dwelling or manufactured home while a new single-family dwelling unit is constructed if such a dwelling is removed prior to the issuance of a CO.
4. Historic cabins (as determined by the Planning Department using the guidelines in Section 3809.03) may remain on a property after the issuance of a CO if such a structure is converted so that it does not function as a dwelling unit (kitchen removed, 220 volt power removed, etc.).

12401.02: Prohibitions

Temporary use permits shall not be used to establish uses in zoning districts where they are not listed, if the use is intended to be long-term. They shall not be used to establish a business not allowed in a zoning district for the purpose of testing the viability of a business prior to requesting a zone change. Temporary use permits shall not be used as a substitute for obtaining a zoning amendment.

12402: Review Procedures for Temporary Use Permits Reviewed by the Planning Department

Temporary use permits for the special exceptions listed under Section 12401.01 may be requested as part of a site plan application per the process outlined in Section 12600 et seq. or be processed as a free-standing application as a Class 2 development review process as provided for in Section 12000 et seq.

12403: Review Procedures for Other Temporary Use Permits

Temporary use permit applications for uses other than the special exceptions listed in Section 12401.01 shall follow the Class 4 development review process listed in Section 12000 et seq.

12403.01: Findings for Approval

The Review Authority may approve a temporary use permit only if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- A. The proposed use meets the definition of temporary or seasonal.
- B. The use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure.
- C. The location of the proposed use is appropriate and rezoning to allow the use on a permanent basis is not advisable.
- D. The proposed temporary use is in compliance with the County’s Zoning Regulations.
- E. The use complies with any specific criteria stated in this Code for the use.
- F. Adequate services and infrastructure are available to serve the use or the applicant has obligated himself to provide services and infrastructure in sufficient time to serve the proposed use.
- G. The proposal is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.

12404: Conformance with Applicable Master Plans and Other Regulations

Development of temporary uses subject to these regulations shall be in general conformance with the goals, policies/actions and other provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans. In determining if a temporary use permit is in general conformance with an applicable master plan, the Review Authority shall respect the use and density provisions outlined in the underlying zoning to the maximum extent possible. In other words, the maximum density and the uses permitted for property shall continue to be set by the applicable zoning. Notwithstanding the foregoing, it is acknowledged and intended that the application of goals and policies/actions and other provisions contained in master plans may affect and limit the type and density

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of land uses which may be located on the property.

12500: VARIANCES

12501: Purpose and Intent

- A. The County has the authority to grant relief from the requirements of these regulations as provided in this section where strict application of the regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships on the development and use of property because of special circumstances applicable to the property such as size, shape, topography or other extraordinary or exceptional physical conditions. Economic hardship alone is not sufficient justification for the granting of variances. Variances are not required where a particular standard or provision of these regulations specifically allows for administrative relief.
- B. It is the County's intent that variances be granted only under compelling circumstances and with great caution in order to avoid unraveling the fabric of its land use and development regulations.
- C. Action on variances is taken by the Review Authority, as specified in Section 12502, following a public hearing. The Review Authority may include conditions in an approval to minimize avoidance of regulations and to ensure the variance does not constitute a grant of special privileges in excess of that enjoyed by other property owners in the same zoning district. The power to grant variances does not extend to use regulations. Variances shall not be granted for parcels created in violation of County zoning or subdivision regulations or in violation of Colorado State Statutes.

12502: Review Authority

The Review Authority on variances is as follows:

- A. Zoning Regulations (Chapters 3, 4) — Board of Adjustment (“BOA”).
- B. Floodplain Regulations (Section 4100 et seq.) — BOA (also refer to the Floodplain Regulations).
- C. Road Standards (Chapter 5) — BOCC (refer to Road & Bridge Standards for the development review process and standards).
- D. Grading and Excavation Regulations (Chapter 6) — County Manager (refer to Grading and Excavation Regulations for the development review process and standards).
- E. Sign Regulations (Chapter 9) — BOA.
- F. Where unspecified — BOA.

12503: Review Procedures for Variances

Variance applications shall follow the Class 4 development review process listed in Section 12000 et seq, unless specifically provided for in another section of this Code.

12503.01: Findings for Approval

- A. **Development Regulations and Standards:** The following criteria and standards shall be met and findings made by the BOA to approve variances to development regulations and standards except variances to minimum lot size requirements:
 - 1. The strict application of the County's Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner in the development of the property because of special circumstances applicable to the property such as size, shape, topography or other extraordinary or exceptional physical conditions.
 - 2. The variance can be granted without substantial detriment to the public health, safety and welfare.
 - 3. The variance can be granted without substantial impairment of the intent of the County's Zoning Regulations.
 - 4. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district.
 - 5. Reasonable use of the property is not otherwise available without granting of a variance and the variance being granted is the minimum necessary to allow for reasonable use.

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6. The parcel for which the variance is being granted was not created in violation of County zoning or subdivision regulations, or in violation of Colorado State Statutes.
- B. Variances in Other Regulations:** The criteria and/or standards and findings required for approval of variances to regulations other than regulations in Chapters 3 and 4 of this Code are stated in the following sections:
1. Floodplain Regulations — Section 4111.08 et seq.
 2. Road Standards — Chapter 5, Section 5600 et seq.
 3. Grading and Excavation Regulations — Chapter 6, Section 6500 et seq.
 4. Sign Regulations — Chapter 9, Section 9502 et seq.

12503.02: Conditions of Approval; Denial of Uses

Per Section 12000.13.D, the Review Authority may impose any reasonable conditions on its approval of a variance, which are intended to mitigate adverse impacts of the use, protect against the allowance of special privileges or to protect public health, safety and welfare.

12504: Revocation

The Review Authority may revoke a variance if any of the conditions imposed with approval of the variance are violated. Prior to revocation, the affected property owner shall receive notice and be given an opportunity for a hearing before the review or appeal authority. The review or appeal authority may specify a time by which action shall be taken to correct any violations, in order for the property owner to retain the variance.

12600: SITE PLAN REVIEW

12601: Purpose and Intent

The purpose and intent of site plan review is to ensure proposed developments comply with the County Zoning Regulations, including but not limited to project compliance with specific design standards, the Building Code and the Fire Code. Items to be checked during this review include but are not limited to setbacks, building height, compliance with Landscaping Regulations and Parking Regulations, site coverage, site area, density, drainage and driveway and parking area design standards. Site plan reviews are also intended to ensure that a project complies with the County's Road & Bridge Standards, County Subdivision Regulations and any previous plans or conditions imposed on a site through previous approvals. It is further intended that a site plan review is a technical review based on very specific and objective design and development standards that have been accepted by the Community.

12602: General Provisions

12602.01: Requirement for Site Plan Review

- A. Site plan review is required for:**
1. Any new or remodeled single-family, duplex, multi-family, commercial, industrial, non-residential or other buildings or structures where a building permit is also required.
 2. Development of property for a non-residential use that does not require a building permit, such as but not limited to parking lots and storage yards.
 3. Any modifications to an existing duplex, multi-family, commercial, industrial or other non-residential buildings or the associated improvements or landscaping, unless specifically exempt by Section 12602.01.B below.
- B. Formal site plan review is not required for:**
1. Any activity or building conducted as agricultural operations (farming, ranching, silviculture, etc.) unless a building permit is also required.
 2. Any activity or building permitted by another development review process that has the same detail as the site plan process, including but not limited to location and extent, conditional use permits, temporary use permits and 1041 permits. The Planning Department shall determine if an activity or building is approved via another development review process that has the same detail as the site plan review process prior to an activity being exempt from the site plan process. Such written determinations shall be made either concurrent with the non-

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site plan process or by a separate written request after an application has been approved. Examples of this include a facility that has detailed plans (grading, landscaping, floor plans, elevations, etc.) approved via the conditional use permit process and therefore would not be required to also conduct a site plan review.

3. Remodeling of single-family units or accessory uses associated thereto that do not require building permits, provided however, the remodeling activity complies with the Zoning Regulations and other applicable regulations of this Code in effect at the time of remodeling, including but not limited to maximum impervious site coverage, Parking Regulations, height, color (exterior material) and landscaping requirements.
4. The addition of permitted or accessory uses associated with single-family development, as outlined in this Code or an applicable PUD, provided a building permit is not required and the remodeling activity complies with the Zoning Regulations in effect at the time of remodeling, including but not limited to maximum impervious site coverage, height, color (exterior material) and landscaping requirements.
5. The addition, replacement or retrofit of exterior lights associated with single-family development, provided however such lighting complies with the Lighting Regulations of this Code.
6. Minor modifications to existing development sites where such modifications are not subject to a Class 1, 2 or 4 site plan review.

Even if no formal site plan review or building permit review is required by the provisions of this Code or the Building Code, respectively, it shall be the responsibility of the owner and developer of a site to ensure the structure or improvement is constructed in a manner consistent with the County's Zoning Regulations and other development requirements of this Code. Exemption from a formal site plan review shall not exempt a structure or use from the necessity of complying with County Zoning Regulations or from zoning enforcement procedures.

12602.02: Name Reservation

A future subdivision or project name that will become part of the legal description after townhouse or condominium platting shall be reserved at the site plan review stage. A name is reserved when the Review Authority approves it in accordance with Section 8109. The name reservation is only valid if the site plan is approved. This section does not apply to duplex projects.

12602.03: Temporary Use Permits and Site Plan Reviews

Temporary real estate offices or construction offices, trailers and off-premise staging areas can be concurrently approved as temporary uses through site plan review (refer to Section 12400) via the Class 2 or Class 4 development review process, whichever development review is required (refer to Section 12000 et seq.).

12603: Review Procedures for Site Plan Review

12603.01: Site Plan Review

- A. **Class 1 Development Reviews:** Site plan reviews meeting the following criteria shall be processed and submit the same required information as a Class 1 permit as outlined in Section 12000 et seq.:
 1. New or remodeled single-family and duplex development or the development of associated permitted or accessory uses related thereto that are processed concurrently with a building permit. Where more than one single-family unit or more than one duplex building is proposed on a lot, a Class 4 site plan review is required.
- B. **Class 2 Development Reviews:** Site plan reviews meeting the following criteria shall be processed and submit the same required information as a Class 2 development review application as outlined in Section 12000 et seq.:
 1. Minor revisions or modifications, as defined by Section 12001 to existing multi-family, commercial, industrial or other non-residential buildings or projects.
 2. New or remodeled non-residential buildings or structures (excluding commercial and industrial uses) with less than 2,500 square feet of floor area. These buildings include but are not limited to restrooms, bus shelters, playground buildings, informational kiosks and other such uses.
 3. The development of property for a non-residential use that does not require a building permit, such as but not limited to parking lots and storage yards.
 4. Interior remodeling or tenant finishes that do not require a building permit that change the existing use of a commercial, industrial or office use to another use.

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5. Bridges for recreational or pedestrian paths.
 6. The development of a property in the Backcountry Zoning District per the provisions of Section 3514 et seq.
- C. **Class 4 Development Reviews:** Site plan reviews meeting the following criteria shall be processed and submit the same required information as a Class 4 development review application as outlined in Section 12000 et seq:
1. Multi-family, commercial, mixed-use, industrial and other non-residential development requiring a building permit, excluding non-residential buildings less than 2,500 square feet as provided for above in Subsection A.
 2. Single-family development and other development that is required to have a Planning Commission’s review and action via a plat note, PUD provision or other legal mechanism.
 3. More than one single-family unit or duplex building on a single lot.
 4. Major revisions or modifications to existing projects as defined by Section 12001.
- D. **Allowance for Certain Site Plans to Be Placed on the Consent Agenda:** Site plan reviews consisting of three (3) to a maximum of 12 multi-family units for the total development parcel or project may be placed on a Planning Commission’s “consent agenda”, which allows for expeditious review and approval of these smaller projects. Site plans may only be placed on the consent agenda if all criteria for decision are satisfied. Single-family and duplex development that are required to have a site plan review by a Planning Commission due to a plat note, PUD requirement or other regulatory mechanism may also be placed on a Commission’s consent agenda. A Planning Commission member may pull such agenda item off the consent agenda to allow staff or the applicant to address issues or questions related to the site plan review criteria for decision prior to taking action.
- E. **Site Plan Modifications:**
1. Where a developer or its successors or assigns or any other authorized agent (including but not limited to a homeowners association) proposes to make modifications to an existing project, the modifications shall meet the development regulations and design standards in effect at the time of such alterations, including but not limited to the Landscaping Regulations, Lighting Regulations and Parking Regulations. Such modifications shall be done in accordance with the requirements of Section 12600 et seq. and Section 12001 et seq.
 2. Where a developer is proposing to make modifications to the site, the Review Authority may require that certain non-conforming improvements be brought into compliance with the development regulations and design standards in effect at the time of such modifications, provided that the requirement to bring non-conforming improvements into compliance with the Code is proportional to the requested modification.

12603.02: Criteria for Decision

The Review Authority may approve a site plan only if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- A. The application complies with County Zoning Regulations, including but not limited to use regulations, any applicable PUD requirements, design standards and other development regulations and standards.
- B. The application complies with County Road & Bridge standards.
- C. The application complies with County Subdivision Regulations.
- D. The application complies with any previous plans approved for the site still in effect.
- E. The application complies with any conditions imposed on development of the site through previous approvals.

Site plan review is considered a technical review. If a site plan meets all applicable County regulations and standards, is consistent with previous plans applicable to development of the site and complies with any applicable conditions, it shall be approved.

12604: Maintenance of Common Areas

Provisions shall be made for the maintenance of common areas and improvements in accordance with Section 3508 and 8108 of this Code.

12605: Phasing Plans

If a developer plans to build a project in phases and to also install the required improvements in phases, a phasing plan shall be submitted with the site plan review application and such phasing plan and the associated SPIA may be

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administratively modified by the review and action of the Planning Department. Such phasing plan shall break out the site plan into phases and estimated timelines for completion. The required SPIA shall reflect the costs for each phase, as well as the total cost. The phasing plan and the SPIA shall be reviewed and approved by the County, with the developer making any required changes deemed necessary by the County.

12606: Conversion of Common Elements

If a site plan modification or revision is creating floor area in an area that is designated as either a general common element or a limited common element on a condominium map or townhouse plat and such area so designated is intended strictly for private use, the applicant shall be required to replat such common element into fee simple property via the condominium map or townhouse plat subdivision exemption process, whichever situation applies, unless the Building Department and the Planning Department approve of other legal means to allow such areas to exist.

12607: Site Plan Improvement Agreements

12607.01: Purpose and Intent

- A. **Purpose and Intent:** The purpose of this section is to ensure that all improvements pursuant to the approved site plans are financed, constructed and maintained in accordance with all specifications pertaining to the same. The intent of this section is to provide for continued fiscal and legal responsibility for such improvements until the entire site plan project is deemed complete and responsibility for the continued maintenance of such improvements has been properly assumed by the relevant successors in interest, such as a homeowner’s association, a special district or, in certain situations, the County or some other governmental entity. In such regard, unless otherwise determined by the BOCC, a Site Plan Improvements Agreement (“SPIA”), as provided for pursuant to C.R.S. § 30-28-137 et seq., shall be required for every site plan as provided for in this Code and shall control the administration of that project and the improvements related thereto.
- B. **Exemptions:** Single-family development that is not required by the provisions of this Code or a PUD to have required improvements are exempt from the need to submit an SPIA. Notwithstanding the foregoing, the Engineering Department may require an SPIA if the required grading, revegetation and access improvements are not completed prior to the issuance of a CO.

12607.02: General Responsibilities for Improvements

All improvements shall be designed and constructed according to applicable designs, specifications, and standards as approved by Summit County and other regulatory authorities having jurisdiction over the property to be subdivided. The developer shall assume all responsibility for the financing, construction and initial maintenance of all improvements internal or external to the proposed site plan as required by the site plan approval pursuant to the criteria established in these regulations, unless suitable evidence is submitted that other public agencies have and will accept the responsibility for the construction and the costs of improvements.

12607.03: Required Contractual and Financial Guarantee

- A. **Fully Executed Agreement:** No building or grading permits for projects (or phases thereof) shall be approved until the developer has submitted, and the Planning and Engineering departments have approved, one (1) or a combination of the following:
 - 1. An SPIA, in standard form as provided by the County, committing the developer to construct all required improvements shown on the site plan and/or grading permit documents for such project or phase within a two (2) year time period from the date of the issuance of the grading permit (or such other period of time as may be agreed to by the County and the applicant), together with collateral which is sufficient, in the judgment of the County, to make reasonable provision for the completion of said improvements in accordance with design and time specifications. Said SPIA shall be duly executed and recorded as provided for herein; or
 - 2. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown on the site plan and/or grading permit documents which, in the

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judgment of the Review Authority, will make reasonable provision for completion of said improvements in accordance with design and time specifications; or

3. Certified proof, in a form acceptable to the County, of the completion of the required improvements in accordance with all plans, specifications, designs and standards for the same.

After the SPIA is executed, it shall be presented to the County Manager for review and approval, and shall be recorded in the Office of the Clerk and Recorder.

The two (2) year time frame of the standard form SPIA may be extended for good cause if such amendment is approved by the County Manager.

The applicant and the County may mutually agree to amend the SPIA and any associated phasing plan due to changes in the proposed development schedule, so long as the County reviews the changes and finds that there have been changes that warrant the amendment of the original SPIA. Any amendment shall be considered an on-going continuation of the original SPIA and such amendment shall be done in a form acceptable to the County.

B. Cost Estimate:

1. Prior to the execution and recordation of any SPIA, the developer shall provide the County with an itemized estimate of the costs of all required improvements as addressed in the SPIA. Said estimate shall be based upon a reliable calculation of the costs of all material and labor necessary to perform the work in a workmanlike fashion in accordance with the applicable specifications and standards, either directly by the developer or by the use of qualified subcontractors.
2. The County Engineer shall review the estimate and determine if the estimate is sufficient and is authorized to require revisions in the list of improvements and cost estimates, prior to posting of a financial guarantee. The County Engineer may investigate as to the costs of any particular line item(s) in said estimate and utilize the results of such an investigation as the necessary line item for the estimate if deemed appropriate.
3. Any significant alteration in the anticipated costs of completing any improvement as required in the site plan approval, based upon changes in conditions, increase in costs of materials or labor, modification to plans or other such contingencies shall be immediately reported to the County Engineer and adjusted in the submitted estimate. If such alterations or changes have the effect of increasing the costs of the improvements, the County Engineer may require that any financial guarantee ensuring the same be adjusted to reflect that increase.

C. Required Guarantee:

1. Prior to the issuance of a CO for a project that requires an SPIA (or such other trigger or timeline for requiring a financial guarantee as provided for in this Code), a developer shall proffer a financial guarantee of performance, ensuring the completion of all required improvements, including the costs of administration, labor and materials, in accordance with an accepted cost estimate as provided for in subsection B above.
2. Said financial guarantee shall be executed by the developer in a form acceptable to the Planning Department and the Engineering Department, including without limitation an irrevocable LOC, cash bond, a certificate of deposit from one (1) or more acceptable financial institutions or other irrevocable financial commitment deemed appropriate by the Planning Department and the Engineering Department.
3. The financial guarantee shall meet the following criteria:
 - a. Shall be issued for 115% of the total value of improvements, including labor, equipment and materials unless the County has determined that good cause exists to require that any particular developer on any particular project provide a financial guarantee of up to 125% of the total value of improvements, including labor, equipment and materials.
 - b. Shall provide for payment to Summit County upon demand if the developer has not performed the obligations specified in the SPIA and the issuer has been notified of such default.
 - c. Shall specify an expiration date or dates, reflecting the schedule for completion of the improvements, at which time the County may take unilateral action upon such guarantee to pay for the costs of correction, completion or necessary maintenance of any required improvements.

12607.04: Use of Financial Guarantee

If the County determines that any required improvements are not constructed in accordance with all provisions of the SPIA and in substantial compliance with the specifications for such improvements, the County shall notify the developer of the noncompliance, accompanied by a list of specific deficiencies, and establish a schedule for correcting any such deficiencies. If the County determines that the developer will not or cannot construct any or all of the

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improvements in accordance with all of the specifications or has failed to do so in accordance with the schedule for correction provided, the County shall have the power to withdraw and employ such funds from the financial guarantee as may be necessary to construct the improvement or improvements in accordance with the SPIA.

12607.05: Parties to Site Plan Improvements Agreement

- A. **Parties to Execute:** The SPIA shall be executed by the developer and the County Manager, acting on behalf of the BOCC, and shall provide for continued responsibility of such developer for full and final performance of all aspects of the SPIA.
- B. **Entity as a Party:** If the Developer is a corporation, Limited Liability Company or any other type of entity as provided under Title 7 of Colorado Revised Statutes, then the following requirements for the proper execution of the SPIA shall also apply:
 - 1. The entity shall be registered with, and remain in good standing with, the Colorado Secretary of State, and be authorized to do business in the State of Colorado at all relevant times.
 - 2. For any such entity, during the entire duration of the project construction and applicability of the SPIA, the County may, for good cause, require the entity to provide certification to the County on a periodic basis or upon demand of the County that it remains in good standing, maintains sufficient funds to address all potential claims under the SPIA and otherwise remains solvent.
 - 3. Moreover, for any such entity, the SPIA shall incorporate or be accompanied by a certified acknowledgement by an agent of the entity that any potential claims by the County under the SPIA are to be considered known claims entitled to prior notice of dissolution of that entity and that any failure to so notify the County shall be deemed a violation of the noticing requirements for dissolution of any such entity pursuant to Title 7 of the Colorado Revised Statutes.
 - 4. At least 21 calendar days prior to any entity filing any papers of dissolution with the Colorado Secretary of State, said entity shall provide written notice to the Planning Department and the Engineering Department of such intent to dissolve, accompanied with a proposed assignment of all rights and responsibilities to another party for the review of the Planning Department and the Engineering Department.
 - 5. Should any entity fail to substantially comply with any of the aforementioned requirements or otherwise commit a material violation of the SPIA, the County may require that the SPIA be cosigned by an individual acknowledging the assumption of joint responsibility for performance under the SPIA.

12607.06: Release of Guarantee

The financial guarantee may be released, either in part or in whole, at the discretion of the Planning Department and/or the Engineering Department, only when the following conditions are met:

- A. Upon full completion of all improvements, the developer may send a written request for release of the guarantee to the Planning Department or the Engineering Department. Documentation of compliance with all specifications for any improvement shall be submitted with any such written request. Any and all deviations from the approved plans and specifications shall be listed in said written request and depicted in such certification. No release of collateral may occur if the County Engineer determines that the certification or as built plans fail to address all required improvements or if any deviations to specifications have not received prior approval by the County Engineer and are not consistent with good engineering design. If deemed necessary based upon any particular considerations of the project, the County Engineer may require that certified as-built plans be provided for any element of the project or the project in its entirety.
- B. Letters are submitted from all appropriate utilities or special districts indicating: 1) improvements have been installed in accordance with approved plans; and, where applicable, 2) the utilities or special districts have accepted such lines for maintenance. Such letters shall be provided prior to the full release of the financial guarantee or any partial release of the same which has any nexus to improvements related to such utilities.
- C. Developer shall also warrant, in writing, that all responsibilities under the SPIA have been performed in a workmanlike manner, in accordance with all plans and specifications, prior to the release of any part of the financial guarantee.
- D. Partial release of the financial guarantee may be granted by the Planning Department and/or the Engineering Department upon acceptable certification that specific improvements have been completed in accordance with an approved construction plan that is incorporated into the SPIA, and the partial release is being requested because

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100% of the work associated with any such improvements have been completed. Notwithstanding the foregoing, a partial release of any portion of the financial guarantee shall not be deemed as a release of any part of the overall obligations of the SPIA and developer shall remain responsible for all performance under the SPIA until such time as any and all of the developer's obligations under the SPIA have been fully performed. The County reserves the right to hold up to ten percent (10%) of such itemized improvement as retainage, up to the point where final completion of the project is accomplished, for the limited purpose of ensuring such proper completion of the entire project.

- E. Upon determination by the County Engineer and the Planning Department that all performance under the SPIA required of the developer has been fully completed in its entirety, the entire financial guarantee shall be released to the developer.

12607.07: Enforcement

In addition to, and not in abrogation of, all enforcement remedies available to the BOCC under Chapter 14, C.R.S. § 30-28-124 & 124.5 et seq., and the SPIA, the following enforcement provisions shall apply to all SPIA matters:

- A. **Continuing Obligation:** The developer shall have a continuing obligation of performance under the SPIA until such time as all developer's responsibilities under the SPIA have been fully performed.
- B. **Financial Guarantee for Complete Performance:** The financial guarantee provided for in this section is required to ensure the performance of all obligations under the SPIA. Accordingly, any element of such financial guarantee, even if nominally designated for any particular element of performance under the SPIA, may be used to ensure completion of any performance required by the SPIA.
- C. **Financial Guarantee for Warranty of Work:** The financial guarantee may also be utilized to ensure that all work continues to adhere to the warranties and certifications provided by developer in the course of performance under the SPIA.
- D. **Financial Guarantee for Administrative Costs:** The County reserves the right to recover all administrative costs incurred in enforcing the terms of the SPIA as are incurred by the County from the financial guarantee. Said right of recovery is in addition to any other legal or equitable remedies available, and if the financial guarantee is not sufficient to recover all of such costs, the County may seek the recovery of such costs by any other legal mechanism available.

12700: SITE SPECIFIC DEVELOPMENT PLANS

12701: Purpose

The purpose of this section is to provide procedures necessary to implement Colorado State Statutes regarding the vesting of property rights as stated in C.R.S. § 24-68-101 et seq. The intent of this section is to allow for requests for the vesting of property rights in conjunction with the approval of final plats and site plans. Requests for the vesting of property rights in conjunction with development approvals other than final plats and site plans shall be filed under the provisions for development agreements in Section 12800.

12702: Notice of Intent

An applicant shall submit a request for designation of a submittal as a site specific development plan in writing at least 30 calendar days prior to the date the development plan is to be considered by the Planning Commission and at least 60 calendar days prior to the date the development plan is to be considered for approval by the BOCC. The BOCC shall not approve a site specific development plan if an applicant has failed to file a written request meeting these noticing requirements.

12703: Review Procedure

Site specific development plan applications shall follow the Class 5 development review process listed in Section 12000 et seq.

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12703.01: Findings for Approval

The Planning Commission shall recommend approval and the BOCC shall approve a site specific development plan only if it meets all relevant County regulations and standards and if it finds:

- A. Vesting of property rights is warranted in light of relevant circumstances such as the size and phasing of the development, economic cycles, and market conditions.
- B. The plan is consistent with public health, safety and welfare.
- C. The plan provides for the construction and financing of improvements and facilities needed to support the proposed development.
- D. The findings required to be met at the step in the development process for which an agreement is being sought have been met.
- E. The BOCC shall not approve a development agreement if an applicant has failed to file a written request meeting the noticing requirements contained in Section 12702.

12703.02: Recordation; Effective Date of Plan

The Planning Department shall record in the Office of the County Clerk and Recorder the site specific development plan, the resolution approving a site specific development plan and the approved specific plan agreement upon signature by the Chairman of BOCC on the development plan and on the resolution, and signature by the Chairman of the BOCC and by the property owner on the development agreement.

A site specific development plan shall become effective upon recordation of the resolution of approval, approved site specific development plan and approved development agreement.

12703.03: Notice of Approval

- A. **Notice on Plan:** Each site specific development plan approved by the BOCC shall contain a notation stating: "Approval of this plan may create a vested property right pursuant to C.R.S. § 24-68-101 et seq. (as amended) subject to compliance with the specific plan agreement approved by the BOCC on (date) and recorded under Reception No. _____ and subject to the requirement that notice of approval of this plan be published not more than 14 calendar days from the date of approval." Failure to include this statement shall invalidate the creation of the vested property right.
- B. **Notice in Newspaper:** Notice of approval of a site specific development plan shall be published within 14 calendar days of the date of approval in at least one (1) newspaper of general circulation in the County. Failure to give notice to the newspaper shall not necessarily invalidate the action taken.

12704: Length of Vesting

A site specific development plan meeting the requirements of this section shall be vested for a period of three (3) years from the date of approval unless provided otherwise in the specific plan agreement approved in conjunction with the site specific development plan.

12705: Amendments

The procedure for review and action on an amendment to a site specific development plan shall be as stated in this section for the review of the original plan. In the event amendments to a site specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the BOCC specifies otherwise in its approval of the amendment.

12706: Revocation and Forfeiture

The BOCC may revoke a site specific development plan if any provisions, conditions or requirements of the plan are violated. Prior to revocation, the beneficiaries of the plan shall receive written notice and shall be given an opportunity

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for a hearing before the BOCC. The BOCC may specify a time by which action shall be taken to correct any violations for the site specific development plan to be retained.

Failure to abide by the terms and conditions of a site specific development plan shall result in a forfeiture of vested property rights.

12707: Payment of Costs

In addition to usual fees for the review of a development proposal, the applicant shall also pay all costs incurred by the County for publication of public notices required by this section. Such costs shall be paid prior to any action by the BOCC on the site specific development plan.

12708: Limitations

12708.01: Other Regulations

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property for the period of time for which approval may be valid.

12708.02: Repeal of Provisions

Nothing in this section is intended to create any vested property right, but only to implement the provisions of C.R.S. § 24-68-101 et seq. In the event of the repeal of C.R.S. § 24-68-101 et seq., or a judicial determination that C.R.S. § 24-8-101 et seq. is invalid or unconstitutional, this section shall be deemed to be repealed, and the provisions hereof no longer effective.

12800: DEVELOPMENT AGREEMENTS

12801: Purpose

This Code provides for the approval of a development agreement between Summit County and a developer for the purpose of establishing vested property rights. It is the intent of this Code to require the approval of a development agreement when vesting of property rights is requested in conjunction with development approvals other than final plats or for site plans. Requests for the vesting of property rights in conjunction with final plats and site plans shall be filed under the provisions for site specific development plans in Section 12700. This section specifies the content to be included in a development agreement and the review and adoption procedure for a development agreement. The requirements of this section must be met in order for a development agreement to be valid.

12802: Notice of Intent

An applicant shall submit a notice of intent to file an application for a development agreement in writing at least 30 calendar days prior to the date a development agreement is to be considered by the Planning Commission and at least 60 calendar days prior to the date a development agreement is to be considered for approval by the BOCC. The BOCC shall not approve a development agreement if an applicant has failed to file a written request meeting these noticing requirements.

12803: Contents of Development Agreement

An agreement submitted for consideration as a development agreement shall be in a form acceptable to the County Attorney and shall include the following:

A. General Provisions:

1. Definitions.
2. Relationship of parties.
3. Reserved powers (see Section 12804).
4. Binding effect.

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5. Assignment of agreement.
 6. Time period of agreement.
 7. Procedure for amending agreement.
 8. Covenant on property.
 9. Periodic review.
 10. Hold harmless.
 11. Enforcement.
 12. Default, remedy and termination procedure.
 13. Dispute resolution.
 14. Damages.
 15. Attorney's fees.
 16. Cooperation in event of legal challenge.
 17. Notices.
 18. Notice required by Section 12802.
- B. Project Description:**
1. Legal description of property subject to agreement.
 2. Statement of applicant's interest in property.
 3. Evidence of title insurance.
 4. List of permitted uses with specific descriptions, unit counts, number of lodging rooms and square footages such that compliance with the agreement may be determined.
 5. Use restrictions, if any.
 6. Development standards and regulations to be applied.
 7. Status of existing uses, buildings or structures, if any.
 8. Phasing plan, if project is to be phased.
 9. Provisions to be vested.
- C. Obligations of Applicant:**
1. Construction of facilities and improvements.
 2. Description of facilities and improvements to be provided by the applicant.
 3. Method of financing.
 4. Construction schedule.
 5. Performance guarantees.
 6. Dedications.
- D. Implementation:**
1. Subsequent actions to be taken.
 2. Processing of permits.
- E. Graphic Material and Exhibits:**
1. Site specific development plan; information to be included in the site specific development plan shall be determined by the Planning Department based on the nature and complexity of the request.
 2. Construction specifications for improvements, if determined at time of approval.

12804: Reserved Powers

A development agreement shall specify powers reserved to the County. Such provisions shall include a statement that the property owner who is party to the agreement shall comply with changes in building codes and construction specifications adopted by the BOCC subsequent to the adoption of the development agreement provided the changes do not conflict with the permitted uses and the approved specific plan for the development project which is subject to the development agreement. The County may require the reservation of other powers as a condition of the development agreement.

12805: Review Procedures for Development Agreements

Development agreement applications shall follow the Class 5 development review process listed in Section 12000 et seq.

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12805.01: Findings for Approval

The Planning Commission shall recommend approval and the BOCC shall approve a development agreement if it meets all relevant County regulations and standards and the Review Authority finds:

- A. Vesting of property rights is warranted in light of relevant circumstances such as the size and phasing of the development, economic cycles and market conditions.
- B. The agreement is consistent with public health, safety and welfare.
- C. The agreement provides for the construction and financing of improvements and facilities needed to support the proposed development.
- D. The standards and criteria required to be met at the step in the development process for which an agreement is being sought have been met.

12805.02: Action on Agreements

The BOCC shall take action to approve, approve with conditions or modifications or deny a development agreement by resolution. Approval of a development agreement shall be accompanied by a site specific development plan. The content of the site specific development plan shall be determined by the BOCC based on the nature and complexity of the request. The site specific plan shall be approved by the BOCC and signed by the property owner in order for approval of a development agreement to be valid. The resolution shall include required findings and, if applicable, the approved development agreement and approved development plan as attachments.

12805.03: Recordation; Effective Date of Agreement

A development agreement shall become effective upon signature by the BOCC and the property owner or an authorized designee and recordation of both the development agreement and the associated site specific development plan in the Office of the County Clerk and Recorder.

12805.04: Notice of Action

A. General Notice:

The Planning Department shall give written notice of the BOCC's decision to the applicant within seven (7) calendar days from the date action is taken. Failure to give notice within seven (7) calendar days shall not invalidate the action taken.

B. Notice of Approval:

If the BOCC's action is to approve the application, the following notices shall be given:

- 1. **Notice on Agreement:** Each development agreement approved by the BOCC shall contain a notation stating: "Approval of this agreement may create a vested property right pursuant to C.R.S. § 24-68-101 et seq. (as amended) subject to compliance with the site specific development plan approved by the BOCC on (date) and recorded under Reception No. _____ and subject to the requirement that notice of approval of this development agreement be published not more than 14 calendar days from the date of approval." Failure to include this statement shall invalidate the creation of a vested property right.
- 2. **Notice in Newspaper:** Notice of approval of a site specific development plan shall be published within 14 calendar days of the date of approval in at least one newspaper of general circulation in the County. Failure to give notice to the newspaper shall not necessarily invalidate the action taken.

12806: Length of Vesting

A development agreement meeting the requirements of this section shall create a vested property right according to the terms of the agreement and for the time period stated in the agreement.

12807: Amendments

The procedure for review and action on an amendment to a development agreement shall be as for the review of the original agreement, unless otherwise provided in the agreement. In the event amendments to a development agreement

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are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original development agreement, unless the BOCC specifies otherwise in its approval of the amendment.

12808: Revocation

- A. The BOCC may revoke a development agreement if any provisions, conditions or requirements in the agreement are violated. Prior to revocation, the parties to the agreement shall receive written notice and shall be given an opportunity for a hearing before the BOCC. The BOCC may specify a time by which action shall be taken to correct any violations for the agreement to be retained.
- B. Failure to abide by the terms and conditions of a development agreement shall result in a forfeiture of vested property rights.

12809: Expiration

A development agreement shall automatically expire at the end of the period for which vested property rights are granted by the agreement, unless renewed and extended by the BOCC in accordance with the procedures for the review of new development agreements.

12810: Limitations

12810.01: Other Regulations

Approval of a development agreement shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property for the period of time for which approval may be valid, except as specified in the agreement.

12810.02: Repeal of Provisions

Nothing in this section is intended to create any vested property right, but only to implement the provisions of C.R.S. § 24-68-101 et seq. In the event of the repeal of C.R.S. § 24-68-101 et seq. or a judicial determination that C.R.S. § 24-68-101 et seq. is invalid or unconstitutional, this section shall be deemed to be repealed and the provisions hereof no longer effective. The repeal of this section shall not invalidate a development agreement approved pursuant to this section, which agreement shall continue for the time period specified in the agreement, except the County reserves the right to revoke the agreement for cause.

12900: NONCONFORMING PARCEL PLAN REVIEW

12901: Purpose and Intent

The purpose of a non-conforming parcel review is to provide a development review process for both platted and unplatted parcels that do not conform to the site area requirements contained in Section 3505.14. The intent of this review is to ensure that:

- A. A legal non-conforming parcel is not in an area subject to geotechnical hazards, such as but not limited to avalanche paths or run out zones, floodplains or areas subject to rockfall or mudflows.
- B. A legal non-conforming parcel that does not meet the site area requirements of this Code has adequate water, sewer and access, unless the provisions of this Code do not require, or allow the Review Authority to require, such infrastructure.
- C. The other applicable regulations of this Code are met including, without limitation, the Wetland Regulations, Zoning Regulations and the Water Quality Regulations.
- D. A Planning Commission is enabled to place conditions on any approval to ensure that the public health, safety and welfare are protected and the applicable requirements of this Code are met.
- E. Individual and cumulative impacts to the public health, safety and welfare are appropriately mitigated and the allowance of land uses on such parcels do not jeopardize the use and enjoyment of adjacent property.

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- F. All use of the property allowed is commensurate with the nature and characteristics of such property and the surrounding property.

12902: Procedures for Nonconforming Parcel Plan Review

There are two (2) types of nonconforming parcel plan reviews: 1) reviews for unplatted parcels, and 2) reviews of platted lots in legally created subdivisions. The development review procedures for nonconforming parcel plan review for unplatted parcels are outlined in Section 12903. The development review procedures for nonconforming parcel plan review for platted lots are outlined in Section 12904.

12903: Nonconforming Parcel Plan Review for Unplatted Parcels

12903.01: Procedures for Nonconforming Parcel Plan Review for Unplatted Parcels

Nonconforming parcel plan review applications for unplatted parcels shall follow the Class 4 development review process listed in Section 12000 et seq.

12903.02: Findings for Approval

The Planning Commission shall approve a nonconforming parcel plan review for an unplatted parcel only if it meets all relevant County regulations (unless a variance is granted by the BOA) and standards and if it finds:

- A. The applicant has provided proof that the size of the parcel did not violate Zoning Regulations when it was created and that the parcel complies with Section 14101.02.F, unless a variance has been granted to such requirements.
- B. The parcel has adequate access, water, sewage disposal and utilities for the intended use as required by the provisions of this Code and public and emergency access has been adequately addressed and provided, if necessary.
- C. There are no known unstable or highly erodible soils, geologic conditions, steep slopes or other potential geotechnical or other hazards on the site that would result in a threat to public health, safety or welfare and, if such geologic hazard areas or other hazards are present, mitigation has been proposed to the satisfaction of the Review Authority to ensure that the public health, safety and welfare will be protected.
- D. The proposed development complies with the County's Zoning Regulations and the purpose and intent of the County's Zoning Regulations (unless a variance to such regulations has been granted in accordance with the provisions of Section 12500).
- E. The applicant has provided a plat or improvements survey of the parcel. If contiguous parcels have been combined to meet Section 14101.02.F, then either a new deed combining the parcels shall be recorded or a subdivision plat creating an additional parcel as provided for in Section 14101.02.F is or will be recorded.
- F. Development of the parcel is not a substantial detriment to the public health, safety and welfare.
- G. The least environmentally damaging building site has been selected and a disturbance envelope has been established for the site.
- H. That the cumulative impacts of development upon the immediately adjacent area and surrounding properties have been addressed and mitigated.

12903.03: Conditions of Approval; Denial of Uses

- A. **General:** The Planning Commission may impose conditions on its approval of a nonconforming parcel plan review that are intended to mitigate adverse impacts of the use or to protect public health, safety and welfare per the provisions of Section 12000.13.D.
- B. **Additional Conditions:** The Planning Commission may also limit through conditions the type, size and scope of uses established on an parcel that does not meet the site area requirements of this Code in order to fit the proposed use to the size of the parcel available.
- C. **Prohibition on Certain Land Uses:** The Planning Commission may prohibit the establishment of certain land uses even if such uses are allowed by the zoning designation on the property if it determines the parcel is of insufficient size to accommodate the use.

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12903.04: Building Permit Prohibited Until a Non-conforming Parcel Plan is Approved

An applicant seeking a nonconforming parcel plan review may not concurrently seek a building permit and a non-conforming parcel plan review. The Review Authority must first approve a nonconforming parcel plan review prior to an applicant submitting for any building permits.

12904: Nonconforming Parcel Plan Review for Platted Lots

12904.01: Procedures for Nonconforming Parcel Plan Review for Platted Lots

Nonconforming parcel plan review applications for lots in legally created subdivisions shall be evaluated concurrently with an application for a building permit following the Class 1 development review process listed in Section 12000 et seq. Nonconforming parcel plan reviews shall also be subject to the site plan review requirements contained in Section 12600 et seq. Notwithstanding the foregoing, an applicant may also seek a nonconforming parcel plan review for a lot in a legally created subdivision via the Class 2 development review process outlined in Section 12000 et seq. prior to submitting a building permit.

12904.02: Findings for Approval

The Review Authority shall approve a nonconforming parcel plan review for a platted lot only if it meets all relevant County regulations and standards and if it finds:

- A. The lot must be within a platted subdivision recorded prior to June 2, 1969 or the lot size became non-conforming due to an amendment to this Code.
- B. There are no known unstable or highly erodible soils, geologic conditions, steep slopes or other potential geotechnical or other hazards on the site that would result in a threat to public health, safety or welfare.
- C. The development of the lot will comply with the site plan review criteria for decision contained in Section 12600 et seq.

121000: LOCATION AND EXTENT

121001: General

121001.01: (Reserved)

121001.02: Relationship to 1041 Review

If the type of facility proposed is designated as an Activity of State Interest by Chapter 10 of this Code, the facility shall be reviewed using the procedures stated in Chapter 10. Approval of a 1041 permit for a facility shall constitute approval of the facility's location and extent for purposes of this section.

121001.03: Exemptions

The following items shall be exempt from the regulations in this section:

- A. Any road contained within a proposed subdivision where its location is shown on the plat and improvements and plans for the road have been submitted with the plat. Approval of the plat and the road improvement plans shall constitute approval of the road's location and extent.
- B. Any utility service within a proposed subdivision intended to serve that subdivision where the utility service is illustrated on the composite utility plan submitted with the plat. Approval of the plat and the composite utility plans shall constitute approval of the utility's location and extent.
- C. Any minor utility facility.
- D. Any utility facility for which a conditional use permit is required. Approval of the conditional use permit shall constitute approval of the utility facility's location and extent.

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121002: Authority to Initiate

Any body or official seeking authorization for or contemplating construction of facilities enumerated in C.R.S. § 30-28-110 et seq. may request approval of such facility's location and extent per the provisions of this section.

121003: Review Procedures for Location and Extent

Location and extent applications shall follow the Class 4 development review process listed in Section 12000 et seq.

121003.01: Findings for Approval

The Planning Commission shall approve the location and extent of a proposed facility subject to this section only if it finds:

- A. The proposal is in general conformance with applicable master plans.
- B. The proposal is compatible with surrounding land uses.
- C. Any substantial, adverse environmental or aesthetic impacts or adverse impacts on public services or infrastructure have been mitigated to the satisfaction of the Planning Commission.
- D. The proposal is consistent with public health, safety and welfare.

121003.02: Conditions of Approval

The Planning Commission may impose any reasonable conditions on its approval of location and extent per Section 12000.13.D intended to mitigate adverse impacts of a facility or to protect public health, safety and welfare. Conditions may also include such items as:

- A. Limitation on hours of operation.
- B. Limitation on season of operation.
- C. Mitigation of noise, glare, visual impacts.
- D. Mitigation of impacts on wildlife habitat and species.
- E. Requirement for revegetation and landscaping as appropriate.
- F. Requirement for licenses or permits.

121003.03: Additional Time Limits on Location and Extent Applications

Failure of the Planning Commission to act within 30 calendar days after the day of official submission shall be deemed an approval of an application, unless a longer period is granted by the submitting board, body or official [C.R.S. § 30-28-110(1)(d) et seq.]. For the purposes of this provision, a submittal shall be considered official when the Planning Department determines it to be complete and has so notified the applicant in writing.

121003.04: Additional Notification of Disapproval; Power to Overrule

- A. **Notification to BOCC:** In case of disapproval, the Planning Commission shall communicate its reasons to the BOCC.
- B. **Power of BOCC to Overrule:** The BOCC shall have the power to overrule the Planning Commission's disapproval by a vote of not less than a majority of its entire membership. Action to overrule shall be by resolution of the BOCC as part of a quasi-legislative public hearing. If the Planning Commission's decision is overruled, the body or official responsible for the request may proceed with the proposed construction of or authorization for the facility.
- C. **Power of Body or Official to Overrule:** If the public way, ground, space, building, structure or utility is one the authorization or financing of which does not, under the law governing the same, fall within the province of the BOCC, the Planning Commission's disapproval may be overruled by the body, by a vote of not less than a majority of its entire membership or by the official having such jurisdiction. In the case of a utility owned by an entity other than a political subdivision, the Planning Commission's disapproval may be overruled by the public utilities commission by a vote of not less than a majority of its entire membership.