

300.SUBDIVISION

301. Pre-application Conference

Prior to submitting a formal application, applicants shall confer with the Manager or the Manager's representative in order to obtain information and guidance. The Purpose of such a conference is to familiarize the applicant with the Town's requirements, procedures, and Comprehensive Plan prior to substantial commitments of time and money toward the preparation of plans, surveys, and other studies.

302. Filing Deadlines and Applications

302.1. Unless otherwise specified and agreed to by the Manager, applications shall be filed with the Planning Department at least 30 days prior to the date of hearing by the Planning Commission or Town Board. Reviews subject to the approval of the Manager shall be submitted at least 15 days prior to the requested date for a decision.

302.2. Only complete applications shall be accepted as meeting the above deadlines; partial or incomplete applications shall be accepted, but will not be scheduled for review and hearings until all required elements of the application package have been received by the Planning Department. An application shall be considered complete for processing by the Manager or designated representative if it includes information sufficient to meet the requirements of the specific application.

302.3. Nothing in this regulation shall prevent the Manager, his representative, the Planning Commission, or the Town Board from requesting additional information in the course of the review if it is deemed necessary to determine compliance with the requirements of this regulation or any other governing the application.

303. Sketch Plan

303.1. Purpose

The purpose of the sketch plan is to allow a review of the concept for development and the overall feasibility of the project. The review at this stage also allows the staff and Planning Commission to judge the level of appropriateness of the proposed use, as well as identify potential problems, which must be resolved prior to final approval of the plan. Submittal requirements for Sketch Plans are found in Appendix 8.

303.2. Review Procedure

303.2.1. Technical Review Committee.

All applications shall be referred to representatives of the various department and agencies assigned to the Technical Review Committee (TRC). Copies of proposed plans may be sent to other agencies and utility companies for comment. Within fifteen (15) days following the filing deadline, the TRC shall meet to review the application, or the Planning Department shall compile the written comments of the TRC. Based upon the comments of the TRC, the Planning Department shall prepare a report with recommendations to the Planning Commission.

303.2.1.1. If the review and comments of the TRC reveal that the application has deficiencies which require significant additional work or further discussion between the TRC and the applicant, the Manager may defer sending the matter to the Planning Commission until the outstanding issues have been address adequately by the applicant.

303.2.2. Planning Commission.

At the next regular meeting following the filing date for applications, the Planning Commission shall consider the sketch plan and the report and recommendations of the Planning Staff pertaining to the application. The Planning Commission, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, shall approve the application, grant approval with modifications, or deny the application.

303.2.3. Appeal to Town Board.

Decisions of the Planning Commission may be appealed to the Town Council. A written appeal of any action by the Planning Commission shall be filled within fourteen (14) calendar days following the Planning Commission decision.

303.2.4. Town Board Action.

303.2.4.1. Appeals to the Town Board. Decisions of the Planning Commission appealed to the Town Board shall be heard after giving ten (10) day written notice to the applicant at a regularly scheduled meeting. The Town Board shall, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, approve the application, grant approval with modifications, or deny the application.

303.2.4.2. Town Board Review. The Town Board may call up for review any sketch plan acted upon by the Planning Commission. Notice of such review must be requested in writing from three (3) or more Board members,

or a majority decision of the Board members at a regularly scheduled Board meeting within fourteen (14) days following the Planning Commission decision.

303.2.4.3. Approval of the Sketch Plan does not bind the Planning Commission or Town Board to accept the Preliminary Plan or Final Plat

304. Preliminary Plan

304.1. Purpose

The purpose of the preliminary plan is to allow a full review of all technical aspects of the subdivision. Submittal requirements for preliminary plans are found in Appendix 8.

304.2. Review Procedure

304.2.1. Technical Review Committee.

All applications shall be referred to representatives of the various department and agencies assigned to the Technical Review Committee (TRC). Copies of proposed plans may be sent to other agencies and utility companies for comment. Within fifteen (15) days following the filing deadline, the TRC shall meet to review the application, or the Planning Department shall compile the written comments of the TRC. Based upon the comments of the TRC, the Planning Department shall prepare a report with recommendations to the Planning Commission.

304.2.1.1. If the review and comments of the TRC reveal that the application has deficiencies which require significant additional work or further discussion between the TRC and the applicant, the Manager may defer sending the matter to the Planning Commission until the outstanding issues have been address adequately by the applicant.

304.2.2. Planning Commission.

At the next regular meeting following the filing date for applications, the Planning Commission shall consider the preliminary plan and the report and recommendations of the Planning Staff pertaining to the application. The Planning Commission, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, shall approve the application, grant approval with modifications, or deny the application.

304.2.3. Appeal to Town Board of Trustees.

Decisions of the Planning Commission may be appealed to the Board. A written appeal of any action by the Planning Commission shall be filled within fourteen (14) calendar days following the Planning Commission decision.

304.2.4. Town Board Action

304.2.4.1. Appeals to the Town Board.

Decisions of the Planning Commission appealed to the Town Board shall be heard after giving ten (10) day written notice to the applicant at a regularly scheduled meeting. The Town Board shall, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, approve the application, grant approval with modifications, or deny the application.

304.2.4.2. Town Board Review. The Town Board may call up for review any preliminary plan acted upon by the Planning Commission. Notice of such review must be requested in writing from three (3) or more Board members, or a majority decision of the Board members at a regularly scheduled Board meeting within fourteen (14) days following the Planning Commission decision.

304.2.5. Approval of the Preliminary Plan does not bind the Planning Commission or Town Board to accept the Final Plat

305. Final Plat

305.1. Purpose

The purpose of the final plan or plat is to provide a legal document that will be a part of the Town and/or County records describing the development rights and land descriptions of the property. The final plan shall include all final agreements between the owner or developer and the Town of Limon. Submittal requirements for Final Plats are found in Appendix 8.

305.2. Review Procedure

305.2.1. Town Board Action.

On a finding by the Manager that a complete plan has been submitted and approved by all applicable departments and public agencies, the final plan will be scheduled for consideration at a public hearing by the Town Board. A 30-day review and 15-day publication period shall occur between formal filing of the application and the public hearing before the Board. The Town Board may then approve the application, approve with modifications or deny the request using the criteria set forth in this chapter, the Comprehensive Plan and the Code of Ordinances. If the final plat is an annexation plat, the ordinance for annexation and zoning may be considered concurrently at the time of the first reading of the annexation ordinance.

305.2.2. Recording and Filing Requirements.

The Town Clerk shall cause the final plat and written agreements to be recorded with the County Clerk and Recorder and shall return one executed copy to the applicant. The Clerk shall also file copies of the plats and annexation ordinances as required by State statutes.

305.2.3. Withdrawal of Subdivision Plat or Annexation Plat Request.

If the subdivider fails to submit to the Manager a final plat conforming to the approved preliminary plat or any other requested document within ninety (90) days after the advertised public hearing on the preliminary plat or annexation request, all official approval of the Town Board or Planning Commission in regard thereto shall be deemed withdrawn.

305.2.4. Administrative Requirements.

The Manager may set reasonable deadlines for the filing of plans for consideration by the Technical Review Committee, the Planning Commission, and the Town Board to allow adequate time for examination by their members. The Manager shall also make available at a reasonable cost, copies of these regulations and other related documents, and shall provide a checklist to serve as a guide to the requirements of this chapter for the applicants.

305.3. Building Permits.

No building permit for any project shall be issued until final plat is approved by the Board of Trustees and recorded with the County Clerk.

306. Utility Requirements

306.1. Drainage and Storm Sewers

306.1.1. The developer shall be responsible for the conveyance of all stormwater flowing through the site and for the planning, design, and installation of an adequate drainage system in accordance with all applicable Town standards and specifications.

306.1.2. Drainage studies of existing and future flows into and out of the subdivision site shall be prepared by a registered engineer, and the Town shall approve all studies.

306.1.3. The Town shall not approve any subdivision plat, which does not make adequate provisions for stormwater and flood runoff.

306.1.4. The storm water drainage system shall be separate from and independent of the sanitary sewer system.

306.1.5. The Town shall allow the use of streets for drainage within the limitations stated in the Town's standards and specifications.

306.1.6. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage easements shall be secured by the developer, indicated on the final plat of subdivision, and shown by an appropriate instrument of grant shall be with the Lincoln County Clerk and Recorder.

306.1.7. Drainage, flood, and watercourse areas and flow shall be retained in their natural state to the maximum extent feasible.

306.1.8. Drainage construction plans shall be submitted to the town for approval in accordance with this ordinance and other applicable Town codes and requirements.

306.1.9. In general, subdivision drainage facilities shall be located within the proposed subdivision and shall be designed to accommodate the minor and major storms, unless regional detention facilities exist within the subject watershed. The drainage facilities for the proposed subdivision shall be designed to accept the historic flows from areas upstream of the subdivision site and release flows from the subdivision site in a manner, which does not adversely affect downstream properties.

306.2. Policies for Development in Floodplains

(Deleted by Ordinance No. 567 on January 4, 2014 pursuant to Section 3)

306.3. Water Facilities

306.3.1. The developer shall be responsible for the extension and/or creation of water transmission facilities and mains to and within the subdivision. The water mains shall be of sufficient size and pressure to transmit water for potable use, landscape watering, fire suppression and other uses permitted by the zoning classification of the land.

306.3.2. The water system shall be designed and installed by the developer in accordance with the requirements of the Town's standards and specifications.

306.3.3. Water mains shall be installed to serve each lot in the subdivision.

306.3.4. Water mains shall be located in dedicated street or alley right-of-ways, unless specifically approved on the final plat.

306.3.5. If water mains are allowed outside of dedicated right-of-way as described in Section **306.3.4.**, all existing and proposed easements for water lines shall be shown on the final plat and dedicated to the Town.

306.3.5.1. Easements for water lines shall be a minimum of 20 feet in width for one line and 30 feet in width for two lines, or as required by the Town to accommodate the installation and maintenance of the lines and facilities.

306.3.5.2. Easements for water lines shall be dedicated as exclusive easements and no structure or other obstruction other than fences or landscaping shall be allowed within a waterline easement.

306.3.5.3. Water line easements acquired in adjoining properties shall be recorded with the Lincoln County Clerk and Recorder as a condition of final plat approval.

306.3.6. All non-tributary groundwater shall be dedicated to the Town.

306.3.7. The developer shall install and maintain the exterior fire suppression system, including fire hydrants, for the subdivision in accordance with the requirements of the Town. Such maintenance shall continue until final acceptance of the system by the Town.

306.3.8. The fire suppression system shall be detailed in the construction drawings submitted to the Town.

306.4. Wastewater Facilities

306.4.1. The developer shall be responsible for the extension and/or creation of wastewater transmission facilities and lines to and within the subdivision. The wastewater collection lines shall be sufficient to transmit wastewater for uses permitted by the zoning classification of the land.

306.4.2. The wastewater system shall be designed and installed by the developer in accordance with the requirements of the Town's standards and specifications.

306.4.3. Wastewater collection lines shall be installed to serve each lot in the subdivision.

306.4.4. Private sewage disposal systems will be discouraged unless access to the existing wastewater collection system cannot be reasonably obtained.

306.4.5. If a private sewage disposal system proposed the following conditions will apply.

306.4.5.1. The system shall conform to the requirements of the Town's standards and specifications.

306.4.5.2. The developer shall obtain all required permits from the Lincoln County Health Department and Colorado State Health Department.

306.4.5.3. All cost of maintenance and repair shall be borne by the developer, its successors and assigns, and shall be deemed an obligation running with the land. Indication of such responsibility shall be placed on the final plat prior to approval.

306.4.6. All existing and proposed easements for wastewater lines and facilities shall be shown on the final plat and dedicated to the Town.

306.4.7. Easements for wastewater lines shall be a minimum of 20 feet in width for one line and 30 feet in width for two lines, or as required by the Town to accommodate the installation and maintenance of the lines and facilities.

306.4.8. Easements for wastewater lines shall be dedicated as exclusive easements and no structure or other obstruction other than fences or landscaping shall be allowed within a wastewater easement.

306.4.9. Wastewater line easements acquired in adjoining properties shall be recorded with the Lincoln County Clerk and Recorder as a condition of final plat approval.

306.5. Other Utilities

306.5.1. All new utility lines, including but not limited to gas, electric power, telephone, and cable television lines, shall be located underground throughout the subdivision.

306.5.2. When rebuilding existing overhead utility lines, utility lines shall be buried with the exception of major transmission line facilities.

306.5.3. Utility appurtenances, where feasible, shall be located underground and away from public activity areas such as parks, playgrounds, and schools within the subdivision.

306.5.4. If utility appurtenances shall be located above ground in public activity areas such as parks, playgrounds, and schools or in areas subject to public assembly; they shall be subject to the following conditions.

306.5.4.1. Above ground utilities shall be located in areas where they are visually unobtrusive.

306.5.4.2. Above ground utilities shall be located sufficiently away from public rights-of-way to avoid potential danger to the public.

306.5.4.3. Above ground utilities shall be screen from view by a method approved by the Town of Limon.

306.5.5. Underground service connections to the street property line of each platted lot in a subdivision, and other utility improvement required by the Town and/or utility provider shall be installed and maintained at the developer's expense until such responsibility is assumed in perpetuity by a property owner or homeowner's association.

306.5.6. Preparation of all utility plans shall be the responsibility of the developer in coordination with each utility provider and the Town. The plans shall adhere to all requirements of this ordinance, the Town, and the utility provider.

306.5.7. Adequate easements shall be provided for all public and private utilities as determined by those utilities. All such easements shall be shown and dedicated on the final plat.

306.5.8. Utility easements shall be located along the rear lot line of each lot in the subdivision.

306.5.9. Where topographical or other conditions make the location of utility easements along the rear lot lines infeasible, an unobstructed easement shall be provided along the side lot line with appropriate access to a public road or rear lot lines.

306.5.10. Utility easements acquired in adjoining properties to provide service to the proposed subdivision shall be recorded with the Lincoln County Clerk and Recorder.

307. Development Agreements

The Town of Limon will execute agreements with property owners to assure each party that the Town and the owner will provide the public services or improvements required for development. These agreements will cover subdivision improvements, bulk land variances, annexation, and the costs of oversized or off site improvements.

307.1. Subdivision Improvements Agreements

307.1.1. After preliminary plat approval, the subdivider cannot obtain final subdivision plat approval until he provides for the installation of all public improvements

required by the development. Except as otherwise provided in this section of the ordinance, the subdivider shall be responsible for the cost and construction of all wastewater, water or drainage facilities, streets, alleys, sidewalks, curbs, gutters, fire hydrants, and related appurtenance in and through his property or development.

307.1.2. The sub-divider may install the improvements for acceptance by the Town before submitting the final plat. He also may obtain the final plat approval before completion of the required infrastructure, if he enters into a subdivision improvements agreement that provides financial guarantees for the completion of the required infrastructure.

307.1.3. The Subdivision Improvements Agreement will identify the required infrastructure improvements, which will be contained in construction documents approved by the Town. It will provide for the installation of the improvements to the satisfaction of the Town within two years. The Agreement will require the subdivider to provide a financial guarantee equal to 125% of the estimated cost of constructing the improvements. The guarantee must be irrevocable and may be in the form of a performance bond, letter of credit, cashier's check, escrow deposit, or other pledge of liquid assets. The agreement shall give the Town the right to draw upon the financial guarantee to collect sufficient funds if necessary to complete the improvements in accordance with the approved specifications if the subdivider defaults on the Agreement.

307.2. Bulk Land Subdivision Agreements

307.2.1. Bulk land subdivisions establish zone and parcel boundaries for planned developments, dedicate rights of way, grant easements, or convey properties to intermediate land holders who will not be the ultimate land developers or end users. Bulk land subdivision plats usually do not result in construction until further subdivision or site plans are prepared.

307.2.2. In these cases, the Town may grant a delay or waiver of required financial guarantees for construction of some or all required improvements where: (a) The subdivision will facilitate a bulk land conveyance; (b) further subdivision or site plan review will occur prior to the use of the land for building purposes, and (c) it is possible to assure or guarantee the installation of necessary improvements to meet development requirements as they arise.

307.2.3. Upon approval of a bulk land subdivision, the subdivider and the Town will execute and record an agreement notifying subsequent purchasers that future subdivision or site plans for the property will require the

provisions for the installation of infrastructure improvements before development.

307.3. Annexation Agreements

The Town and owners of land annexed into Town will enter into annexation agreements concerning the provision of required water, sanitary sewer, drainage, and other public facilities and services required for the development of the property. This agreement shall cover the applicant's acceptance of the Town's land development requirements, the adequacy of existing public facilities to serve the annexed properties, and provision of required public improvements.

307.4. Cost Recovery Agreements

307.4.1. Wastewater, Water, or Drainage Facilities

307.4.1.1. The Water and/or Wastewater Superintendent may require a subdivider to construct a larger public facility than required for the development of the sub-divider's property in order to serve the needs of adjacent property owners. When this occurs, the Town may enter into an agreement with the subdivider to collect from adjacent landowners a pro-rata share of the construction costs and refund such costs to the subdivider at the time of each connection.

307.4.1.1.1. When the sub-divider needs to construct wastewater and/or water service facilities through or adjacent to un-serviced or undeveloped lands, he shall pay the entire costs of such facilities. However, the Town may agree to charge a pro-rata assessment to each additional owner who connects into the facility. The town shall collect and refund each assessment to the subdivider at the time of each connection.

307.4.1.2. When lift stations or force mains are required, the cost of constructing said stations or mains shall be the responsibility of the property initially served. If the pump station and force mains can serve more area or land or if the Town requires more capacity than necessary to serve the initial development, the Town and the subdivider may enter into a cost recovery agreement that provides for the Town to collect a pro-rata share of the construction costs from adjacent owners at the time of their connection and refund such costs to the subdivider.

307.4.1.3. If lift stations and force mains are required; the system shall be designed where possible so as to permit an eventual connection into a gravity system with minimal expense. Where practicable, the subdivider shall grant easements and construct lines to tie into the gravity system. The Town may require deposits, when

deemed necessary, to pay for the eventual construction of gravity lines.

307.4.2. Streets, Alleys, Sidewalks, Curbs, Gutters or Fire Hydrants.

A sub-divider shall pay the entire cost of streets, alleys, sidewalks, curbs, gutters, or fire hydrants that he constructs on, through, or adjacent to un-serviced or undeveloped lands. However, the Town may agree in writing to collect a pro rata share of the costs from the owner of property served by such facilities at the time of construction and refund such costs to the subdivider. All streets and related improvements are to be constructed to the specifications adopted by the Town of Limon.

307.5. Recovery Cost Agreement Content

307.5.1. If a sub-divider desires to enter into a recovery agreement with the Town, he shall provide a complete detailed summary of all the construction costs to the Manager within ninety (90) days after completion of construction.

307.5.2. The sub-divider and the Manager shall jointly determine the service area of the facilities constructed by the owner or developer, and shall jointly determine a per-front-foot, per-lot, or per-acre recovery charge for said service area based upon the total construction cost submitted by the sub-divider and approved by the Manager. If the sub-divider and the Town disagree on the amount, the determination of the Manager shall be final for the purpose of review by the Board of Trustees.

307.5.3. The amount of the unit recovery charge (per-front-foot, per-lot, or per-acre) shall be the total construction cost approved by the Manager divided by the number of equal or nearly equal units (front-feet, lots, or acres) served by the facilities.

307.5.4. The sub-divider's right to reimbursement under the provisions of the recovery agreement shall not exceed twenty (20) years unless the Board of Trustees approved a longer period. The sub-divider's right to reimbursement is limited to the recovery of his total construction cost.

308. Concurrent Filing for Preliminary and Final Plans

For major developments with approved sketch plans, the applicant may file the preliminary and final plans concurrently when authorized by the Manager. In no case shall an applicant be permitted to file these plans concurrently without a previously approved sketch plan.

Applicants making concurrent filings shall be on notice that changes required of the preliminary plans must be made prior to the final plan approval.

309. Minor Subdivision

309.1. Application

309.1.1. Applicants for a minor subdivision are required to pay appropriate fees upon requesting sketch review by the Town staff.

309.1.2. The Manager shall determine if the submitted minor plat application is complete. If the application is not complete the Manager may reject the application and inform the applicant of the materials needed to make the application complete. If the application is complete the Manager shall initiate processing the plat.

309.1.3. A minor subdivision applies to six (6) or less units or lots.

309.2. Minor Plat Process

309.2.1. Pre-application/Sketch Plan Review.

Applicants shall submit all materials required for pre-application/sketch plan review by the Manager to the Manager using the submittal requirements listed in Appendix 9. Timing of the review will follow the process for preliminary plat of Section **304** of this code.

309.2.2. Final Plat Review

Applicants shall submit all materials required for final Plat review by Town Board to the Manager using the submittal requirements list of Appendix **8**. Timing notification and public hearing requirements of the review will follow the process for final plat of Section **305** of this code.

309.3. Review by the Planning Commission

309.3.1. The Planning Commission shall review and consider the staff report, any public comments received by the Town, the provisions of this Ordinance, and any other applicable development regulations, standards, or requirements adopted by the Town and shall approve, approve with conditions, or deny the minor subdivision sketch plan.

309.3.2. Minor subdivisions that are approved with conditions shall be revised to reflect the conditions before sealing the final plat application.

309.3.3. Minor subdivisions that are approved with conditions or denied may be appealed to the Board of Trustees.

309.4. Appeal

309.4.1. The applicant or any affected party has 10 days within which to appeal the decision of the Commission to the Board. The appeal to the Board shall be a complete review of the minor subdivision application.

309.4.2. Any affected party is defined as:

309.4.2.1. Any person who was notified in writing because they were within 300 feet of the subject property; or

309.4.2.2. an individual who is harmed or negatively impacted by the actions of the Commission's decision.

309.4.3. The Board shall consider the minor subdivision appeal at a public hearing.

309.4.4. In hearing an appeal the Board shall, at a public meeting, review the record of the Commission action. No new testimony may be heard, except staff may be asked to interpret materials contained in the public record.

309.4.5. The Board may overturn or amend the Commission's actions upon a finding that the Commission erred in the application of performance standard or criteria contained in this Ordinance or other written documents or plans adopted by the Town. Further, the Board may remand for additional evidentiary findings or for an additional public hearing to obtain new evidence.

309.4.6. The Board shall make explicit its rationale for overturning a decision of the Commission. Staff shall, in the case of Board approvals and conditional approvals, make them a part of the approved minor plat.

309.5. Review by the Town Board

309.5.1. The Town Board shall consider the final plat at a public hearing as required in Section **304.2.1**.

309.5.2. The Board will finalize any subdivision improvements agreement as negotiated by the Manager and as required to implement the subdivision.

309.5.3. Upon approval of a minor subdivision plat, the Town Board shall cause the Manager to record the plat as per Section **304.2** of this code.

310. Staff Review Applications

310.1. Purpose

Some types of applications do not require a public hearing due to the noncontroversial nature of the request. This procedure has been designed to expedite minor review procedures.

310.2. Review Procedure

310.2.1. Pre-application Conference.

The applicant shall schedule a pre-application conference pursuant to the provisions of Section 301.

310.2.2. Staff Review.

The Manager shall refer the application to interested Town departments and divisions for review and comment fifteen (15) days prior to making a decision.

310.2.2.1. A notice shall be mailed to all real property owners who own property located within 300 feet of the subject property which notice shall be mailed at least ten (10) days prior to the decision of the Manager. The Manager shall review the application for compliance with the provisions of the Town Code and relevant review criteria, incorporating the comments of referral agencies. The Manager, or the Manager's representative, shall then approve, approve with modifications, or deny the application no sooner than ten (10) days after mailing notice to property owners.

310.2.3. Referral to Planning Commission for Action.

The Manager may refer any application, which is deemed to involve unique circumstances or policy decisions warranting a Planning Commission decision to the Planning Commission.

310.2.4. Appeal/Referral to Planning Commission.

The applicant may appeal the action of the Manager within fourteen (14) days of the Manager's decision. A written notice of the action of the Manager shall be submitted to the Planning Commission. For those matters appealed or referred to the Planning Commission, the Planning Commission shall, after giving proper public notice, hold a public hearing on the application. The Commission may then approve, approve with modification, or deny the application considering the applicant's compliance with criteria contained in this chapter.

311. Public Notice Requirement

(Amended May 9, 2000 by Ordinance No. 451)

For all actions in this Land Development Code requiring a public hearing, the following public notices are required.

311.1. Notice shall be sent by first class mail to all real property owners owning property located within 300 feet of the property in question at least fifteen (15) days prior to the public hearing, however, the failure to send or receive this notice shall not be deemed to deprive the Town Board, Planning Commission or Board of Adjustment of jurisdiction.

311.2. Notice of the hearing shall be published in a newspaper of general circulation within the Town at least fifteen (15) days prior to the public hearing.

311.3. All notices shall include (i) a statement of the nature of the matter to be considered; (ii) the time, date and place of the public hearing; and (iii) the agency or office and phone number where further information may be obtained.

312. Limitations on Approval

312.1. Following approval of an application, all property described in the application must be developed in accordance with the approval, including, but not limited to, the written documents, site plans and development schedules.

312.2. It is unlawful for the owner, developer or applicant to use or develop the property for any other use or in a manner not consistent with the approved plan. Each day of violation shall be considered a separate violation of the provisions of this Chapter. Following the same procedures as required for approval of the original application, except as follows shall permit modification or amendments to an approved application:

312.3. For minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties, the Manager may authorize a modification to an approved site plan. Such changes authorized by this section shall not exceed ten percent (10%) of any measurable standard or modify the use, character, or density of an approved application. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

312.4. The Manager may authorize an extension of the time schedule for the completion of the improvements for a period not to exceed one year. The Planning Commission must approve an extension beyond one year.

312.5. The Planning Commission shall be notified in writing of all actions of the Manager authorizing changes to approved applications or for time extensions.

313. Submittal Requirements

Submittal requirements for subdivisions are detailed in Appendix 8.

314. Dedications Required

314.1. General Policy

The Planning Commission and Town Board, upon consideration of Town circulation and community facility plans and the particular type of development proposed in the subdivision, shall require the dedication or reservation of areas or sites of a character, extent and location suitable for public use for roadways, schools, open spaces, parks, public safety and maintenance facilities, historic sites, scenic areas, and other necessary public purposes. All dedications and reservations for parks and open spaces must meet the requirements of the Zoning Ordinance for these uses.

314.2. Public Dedications to the Town of Limon

314.2.1. Reference shall be made to the Limon Comprehensive Plan to determine general locations for various public facilities. Dedication of such sites and land areas shall be made at the time of final platting in one or any combination of the following ways:

314.2.2. By dedicating to the Town of Limon, Colorado, in fee simple on the final plat;

314.2.3. By granting the land areas in fee simple on general Warranty Deeds to the Town of Limon; or

314.2.4. By payment of fees in lieu of land dedications.

314.3. Commercial and Industrial (or other nonresidential) Subdivisions

In the case of nonresidential subdivisions (less than ten percent [10%] residential use), an exaction of two percent (2%) and/or equivalent fees for public facilities will be required by the Commission and Board at the time of subdivision. The allocation of land and/or fees for public facilities will be made at the discretion of the Board of Trustees upon recommendation of the Planning Commission. For mixed-use subdivisions, exactions for residential and nonresidential uses will be based on the proportion of the land associated with residential use.

314.4. Residential Subdivisions

314.4.1. The sub-divider shall provide sites and land areas for public facilities to serve the proposed subdivision and the future residents thereof. Such provisions include:

314.4.2. For linear subdivision (linear subdivisions as used herein refers to the traditional subdivision of land not previously subdivided by official plat filing and does not refer to such subdivisions as condominiums and townhouses), the Commission shall require the dedication of land areas or sites suitable for public purposes defined in section **314.4.1.** above of six percent (6%) of the total area of the subdivision.

314.4.3. In the case of a subdivision of land into multiple dwelling units on land which has not been previously approved as a linear subdivision or on land where no previous public facilities dedications was made or fees-in-lieu paid, the subdivider shall dedicate six percent (6%) of the gross area of the land to the Town for public facilities.

314.4.3.1. Said requirement may be waived in whole or in part (subject to the conditions in section **314.4.4.** below) by the Commission if there is sufficient park space already provided for the future residents of the proposed subdivision.

314.4.4. With the approval of the Commission and the Board of Trustees, the subdivider will be required, in lieu of sections **314.4.3.** and **314.4.2.** above, to pay fees in lieu of the equivalent land areas which would have been dedicated to public facilities. Fees are to be calculated in the following manner:

314.4.4.1. Fees shall be calculated based on the full market value of the land immediately prior to the platting, but with the zoning district classification existing at the time of platting that is considered with the plat application's intended use.

314.4.4.2. Full market value shall be determined by mutual agreement between the subdivider and the Board. In the event of inability of any of the above parties to agree on the value of the subject land, the subdivider shall submit to the Town a written appraisal from a qualified appraiser meeting the value requirements set forth herein. Said appraisal shall be made by an individual or entity that does not have any financial interest in the subdivision and shall be a member of the Appraisal Institute (MAI) or a member of the Society of Real Estate Appraisers (SRA), or such other qualified persons mutually agreeable to Staff and the developer. The subdivider shall pay the cost of said appraisal.

314.4.4.3. Such appraisal may be submitted during the review period of the Final Plat. If the Commission or Board believes that the appraised value is not accurate, they may obtain their own appraisal from a qualified appraiser, such cost of the appraisal to be paid by the Town. The average of the two appraisals shall be used in order to determine the fees the subdivider shall pay.

314.4.4.4. All fees-in-lieu of dedications are to be paid prior to the approval of the Final Plat.

314.4.4.5. For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Commission and/or Board realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The subdivider has the option of paying the fees for all phases upon the due date of fees for the first phase.

314.4.6. Payments made under the requirements of this section shall be made payable to the Town of Limon.

314.4.6.1. Such funds shall be deposited with the Town Clerk to a special interest-bearing account. Each deposit shall be credited to the name of the subdivision for which the payment was made. The status of these accounts shall be reported annually to the Board of Trustees.

314.4.6.2. Funds may be withdrawn from the special escrow account by the Board for the following purposes:

314.4.6.2.1. Purchase of land for public facilities and purposes.

314.4.6.2.2. Preparation of design drawings for improvement to existing public facilities within the Town.

314.4.6.2.3. Purchase of materials, including but not limited to trees, shrubs, benches, and equipment to be used in public parks or recreation facilities as approved by the Board.

314.4.6.2.4. Physical improvements made to existing public parks or recreational facilities as approved by the Board.

314.4.6.2.5. Construction of all types of public facilities.

314.4.6.2.6. Direct transfer of funds to the school district serving the Town of Limon for capital improvements and land acquisition of an amount no greater than two percent (2%) out of the six percent (6%) total

dedication. Thus, the maximum public dedication exaction of land or fees-in-lieu for schools is two percent (2%) and other public purposes is four percent (4%) for a total of six percent (6%).

314.4.7. Special Conditions for School Districts

314.4.7.1. All residential, mixed-use, commercial and industrial subdivisions shall provide for public school sites or fees-in-lieu to serve the proposed subdivision and the future residents thereof and in accordance with these Regulations. The public facility dedication requirements of Section 314.4. above may be allocated in whole or in part to the appropriate school district upon approval of the Board of Trustees for any approved subdivision.

314.4.7.2. Land dedications must conform to the appropriate school district's master school site location plan in the school district where the subdivision is located. Where no such plan exists, site locations will be decided by the Town and/or in conjunction with the school district where appropriate.

314.4.7.3. Fees-in-lieu and payments under the requirements of Section 314. shall be made payable to the Town of Limon which may, in turn, deposit such monies in any Town approved and designated financial institution in separate or pooled accounts in accordance with the provisions of Colorado Revised Statutes.

314.4.7.3.1. Such monies shall be recorded to a special interest-bearing fund to be held for the school district serving the subdivision. Each deposit shall be credited to the name of the subdivision for which the payment was made and shall be recorded in the above fund. The status of this fund shall be reported annually to the Board of Trustees and shall be made available to the school district pursuant to stipulation in joint agreements (as they may exist) between the two.

314.4.7.3.2. Monies may be withdrawn from the special fund by the Board for the specific purpose of acquiring land for school sites within the school district serving the subdivision or transferred directly to the school district.

314.4.7.4. Land conveyed to the Town for public school sites may be transferred and conveyed to the school district pursuant to stipulations in joint agreements between the Town and school district.

314.5. Special Conditions for Dedicated Public Purpose Lands

314.5.1. Land areas that shall not be acceptable in determining the fulfillment of the requirements for the

provision of land areas for public purpose facility sites shall include the following:

314.5.2. Natural drainage ways, streams, gullies, and rivers including all lands within the 100-year floodplain. (Note: Unless the Board specifically accepts a certain portion for a reasonable use.)

314.5.3. Rights-of-way and/or easements for irrigation ditches and aqueducts.

314.5.4. Steep, rugged, and hazardous geological land areas, and such other areas as are not conducive for use as public purpose sites.

314.6. Recreational Facilities and Open Space

314.6.1. Required Reservations for Parks and Open Space

314.6.1.1. All residential developments or developments that include a residential component shall provide through dedication, in-lieu fees or private reservation toward the expected recreational needs of their future residents as required by these zoning regulations.

314.6.1.2. The decision on park contribution requirements shall occur at the preliminary plan review, and the requirements for either land dedication or in-lieu fee for public dedication decided at the final approval stage. Land dedication will generally be required only if a proposed park facility shown on the Town's open space and parks plan is located on or near the proposed development, and if land dedication could logically contribute to the development of the proposed park.

314.6.1.3. Dedications to the Town of Limon can be proposed to be up to the 6% requirements for public purpose dedications as approved by the Planning Commission and Board. Additional open space set-aside requirements of the zone district may be dedicated and reserved for private homeowners associations or operated by special districts as appropriate. The Town reserves the right to accept or reject park and open space dedications as these proposed dedications may relate to the Town's park development and maintenance plans.

314.6.2. Mini-parks: Purpose and Standards

314.6.2.1. The purpose of the mini-park is to provide adequate active recreational facilities to serve the residents of the immediately surrounding neighborhood within the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the mini-park requirements of this section:

tennis courts, racquetball courts, ball diamonds, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, play apparatus, and open areas for volleyball, badminton and other games.

314.6.2.2. Each development may satisfy up to half of its open space contribution requirement by installing the types of active recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development.

314.6.2.3. Mini-parks shall be attractively landscaped and shall be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences.

314.6.2.4. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve.

314.6.2.5. Each mini-park shall be constructed on land that is relatively flat, dry, and capable of serving the purposes intended by this article.

314.6.3. Usable Open Space

314.6.3.1. Except as provided Subsection (d); every development shall be developed so that a land area as specified by the zone district and as may be identified by the Comprehensive Plan remains permanently as usable open space.

314.6.3.2. For purposes of this section, usable open space means an area that:

314.6.3.2.1. Is not encumbered with any substantial structure;

314.6.3.2.2. Is not devoted to use as a roadway or parking area;

314.6.3.2.3. Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other recreation area;

314.6.3.2.4. Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation; and

314.6.3.2.5. Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to Section **314.6.5.** below.

314.6.3.3. All developments are required to provide a trail or sidewalk system to accommodate pedestrian and bicycle circulation.

314.6.3.4. Subdivided residential developments of less than 25 dwelling units are exempt from the requirements of this section unless the Town agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made.

314.6.4. Ownership and Maintenance of Recreational Areas and Required Open Space.

314.6.4.1. Except as provided in Section **314.6.5.** below, recreation facilities and usable open space required to be provided by the developer in accordance with this Ordinance shall not be dedicated to the public but shall remain under the ownership and control of the developer (or his successor) or a homeowners association or similar organization that satisfies the criteria established in section **314.6.6.**

314.6.4.2. The person or entity identified in section **314.6.4.1.** as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

314.6.5. Dedication of Open Space

314.6.5.1. If any portion of a lot proposed for residential development lies within an area designated on the officially adopted recreation master plan as a neighborhood park or part of the greenway system or bikeway system, the area so designated (not exceeding 6 percent of the total development area parcel) shall be included as part of the area set aside to satisfy the requirement of section **314.6.3.** This area shall be dedicated to public use.

314.6.5.2. If more than 6 percent of a development parcel proposed for residential development lies within an area designated as provided in section **314.5.1.** above, the Town may attempt to acquire the additional land in the following manner:

314.6.5.2.1. The developer may be encouraged to dedicate the common open space thereby created to the Town; or

314.6.5.2.2. The Town may purchase or condemn the land.

314.6.6. Homeowners Associations

314.6.6.1. Homeowners associations (HOAs) or similar legal entities that, pursuant to Section **314.6.4.** above, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:

314.6.6.2. Provision for the establishment of the association or similar entity according to state law is to be made before final subdivision approval is made or any lot in the development is sold; legal documents are to be forwarded to the Town prior to final approval.

314.6.6.3. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;

314.6.6.4. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

314.6.6.5. The Town retains the legal authority to compel HOAs to maintain their properties in proper condition.

314.7. Flexibility in Administration Authorized

314.7.1. The requirements set forth in this section concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Board as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Board recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this section may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Town is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

314.7.2. Whenever the Town Board authorizes some deviation from the standards set forth in this section pursuant to section **314.7.1.** above, the official record of

action taken on the development application shall contain a statement of the reasons for allowing the deviation.

314.8. Streets, Roads, Pathways, and Easements

All public streets, roads, pathways and easements for utilities are to be offered for dedication to the town or special district as appropriate at the time of Final Plat approval. Final plats are to allow for these dedications; however, the actual transfer of dedications of such streets, road, pathways and easements shall not occur until such improvements are "accepted" by the Town or special district through their normal improvement acceptance procedure. The dedicated rights-of-way and easements are to be shown on the final plat along with the dedication endorsement.

