

Title 16

SUBDIVISION OF LAND*

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Chapter 16.04

GENERAL

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16.04.010 Purpose.

The following rules and regulations are for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, comfort, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including among other things, energy conservation, promotion of solar energy utilization, adequate provision for traffic, the promotion of safety from fire, flood waters and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements, to ensure that the development of individual lots is done in a manner as to protect the health, safety and general welfare of the community, to improve the livability of residential neighborhoods, enhance the appearance and customer draw of commercial areas, increase property values, improve the compatibility of adjacent land uses, and contribute to the overall image and appeal of the city, to ensure that adequate community facilities are in place to serve development, and to ensure that new development is accountable for its proportionate fair share of the cost of necessary facility construction and expansion.

16.04.020 Penalty.

Any person, firm_{or corporation} violating any provisions of this title 16, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the violation continues is deemed a separate offense.

Chapter 16.08

DEFINITIONS

Sections:

16.08.010 Definitions.

16.08.010 Definitions.

A. As used in this title, ~~the following, all~~ words and phrases shall be interpreted and defined in accordance with Section 1.04.020 and subsection B. of this section as follows: In this event of a conflict, subsection B. of this section shall control.

B. As used in this title:

“Affordable housing development” means a development designated as such by ~~the city~~ council by resolution in accordance with ~~S~~ection 16.43.035 and that is: (1) a housing development in which at least twenty percent of the total proposed units are sold to households earning seventy percent or less of ~~Q~~qualified ~~H~~income and in which the units are owner-occupied; (2) a housing development in which at least twenty-five percent of the total proposed units are sold to households earning seventy-five percent or less of ~~Q~~qualified ~~H~~income, and in which the units are owner-occupied; (3) a housing development in which at least thirty percent of the total proposed units are sold to households earning eighty percent or less of ~~Q~~qualified ~~H~~income, and in which the units are owner-occupied; (4) a rental housing development in which at least twenty percent of the total proposed units are affordable to households earning fifty percent or less of ~~Q~~qualified ~~H~~income; (5) a rental housing development in which at least twenty-five percent of the total proposed units are affordable to households earning fifty-five percent or less of ~~Q~~qualified ~~H~~income; (6) a rental housing development in which at least forty percent of the total proposed units are affordable to households earning sixty percent or less of ~~Q~~qualified ~~H~~income; or (7) any other housing development in which a percentage of the total proposed units, as determined by ~~the city~~ council, are affordable to households earning a percentage of ~~Q~~qualified ~~H~~income, as determined by ~~the city~~ council. As used herein, “affordable” shall mean that the monthly cost of a rental housing unit is no more than the monthly rent set forth by income and rent tables released annually by the United States ~~D~~epartment of ~~H~~ousing and ~~U~~rban ~~D~~evelopment, a copy of which is on file with the city clerk’s office.

“Affordable housing unit” means a single unit of housing that is located within an affordable housing development, or a single unit of housing constructed on a single lot as part of development or redevelopment within a previously platted subdivision, and that is made available to a qualifying household.

“Alley” means a public way with less width than a street and designated for special access to the rear of buildings.

“Annexation” means the process by which land is added to the city in accordance with the provisions of the Colorado Revised StatutesC.R.S. and this code.

“Annexation map” means that map prepared and filed in accordance with the Colorado Revised StatutesC.R.S. and this title.

“Applicant” means the owner of record, or a duly designated representative thereof, who submits an development application for development approval to the city.

“Application acceptance date” means the date on which the director finds that an application is complete, as defined in this title.

“Application” or “development application” means completed forms, plans, documents, reports, analyses, and other pertinent information, submitted to the city to prepare land for development under the jurisdiction of the city, or to seek approval for proposed development of said land on the basis of applicable provisions of the municipal code and adopted city standards, including, but not limited to, an application required for annexation, zoning, rezoning, subdivision, amended plats, special review, variance, site development plan, installation or modification of utilities, and any other matters regulated by the provisions of titles 16, 17, 18, or 19 pertaining to the development and use of land.

“Application, complete” means for any development review, an application that is reviewable as defined in this title, and which, as determined by the director, contains adequate information on which to determine compliance with the review and design standards of this title and other applicable code provisions, city ordinances and policies, and state laws, a development application that the current planning manager, in consultation with the development review team, has determined to be in compliance with the standard applicable codes, therefore allowing formal action by the city to occur.

“Application, reviewable” means that for any development review requested, that information, in the form and quantity required by the pertinent parts of this title and any checklist employed by the development center. Such information may include, but need not be limited to any city provided application form(s) and necessary supporting information, a development application that has been determined by the current planning manager to contain all required information as provided in the approved submittal checklist.

“Application for development approval” means an application for approval of a preliminary or final development plan, site plan, special review use, or preliminary or final subdivision plat.

“Approved but uncompleted development” means any project for which an application for approval of a preliminary or final development plan, site plan, special review use, or preliminary or final subdivision plat has been approved by the city of Loveland for which a building permit has not been issued. This phrase shall include similar approvals made by Larimer County for property annexed by the city of Loveland following county approval but for which a building permit has not been issued by the county or the city.

“Block” means a unit of land bounded by streets or by a combination of streets, public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

“Boundary line adjustment” means the relocation or adjustment of a lot line, which meets the requirements of chapter 16.28 of this code.

“Capacity” means the maximum demand that can be accommodated by a community facility without exceeding the adopted level of service.

“Capital improvements program” or “CIP” means the city of Loveland’s most current adopted budget, which includes a five-year program for providing community facilities and includes the anticipated date by which community facilities will be constructed or when the capacity added by community facilities will be available.

“Certificate of occupancy” means any temporary or permanent certificate of occupancy issued under chapter 15.08.

“Charter” means the Loveland city charter, as amended from time-to-time.

“City engineer” means the manager city engineer of the city of Loveland community services engineering division within the public works department, or that person’s designee.

“City staff decision maker” shall have the same meaning as set forth in Code section 18.80.020.

“Code” means the Loveland municipal code, as amended from time-to-time.

“Commencement of construction” means that construction of a portion of improvements shown on final construction drawings approved by the city has begun and the city has inspected and determined that the improvements that have been installed are in compliance with the approved final construction drawings.

“Common ownership” means lots in a subdivision are either owned by a single person or entity, or owned by persons having a familial relationship or by entities owned in whole or in part by one person or such person and family members, or any combination thereof.

“Community facilities” means capital improvements provided by the city of Loveland or another governmental entity including, but not limited to facilities for providing water, wastewater, fire protection, emergency rescue services, public schools, parks, stormwater, power, and transportation facilities which that are required by this Title 16 to be adequate and available as a condition of development approval.

“Comprehensive master plan” means the comprehensive master plan, as amended from time to time, most current version of said document as adopted by the city.

“Concept review team” see definition for “means members of the development review team who participate in the concept review process”.

“Cost” for rental units means the gross monthly rental payment, plus estimated monthly utilities.

“C.R.S.” means the Colorado Revised Statutes, as amended from time-to-time.

“Current planning division” means the current planning division of the city’s development services department.

“Current planning manager” means the manager of the current planning division or that person’s designee. The current planning manager is the chairperson of the development review team and the administrator of title 18.

“Customary Eclosing Ecosts” shall mean the following customary and reasonable costs a seller incurs in the sale of real property: title insurance and endorsements premium; abstracting and title examination costs; recording fees; documentary fee; certificate of taxes fee; survey costs; credit report fee; appraisal fee; broker’s fee; attorneys’ fees; title insurance company document preparation and closing fees; and any other closing costs that would ordinarily result in the reduction of a seller’s basis in the real property being sold for the purpose of determining any capital gain under the Internal Revenue Code.

“Date of public hearing” means the date on which the planning commission or the city council shall hold a public hearing on an application for development approval pursuant to this code.

“Day” means calendar day unless otherwise expressly noted.

“Determination of adequacy” means a determination that each community facility will be available concurrent with the impacts of the proposed development at the adopted levels of service or will be available subject to certain conditions. A determination of adequacy shall be made by the city council, the planning commission, or administrative personnelstaff decision maker that is vested with authority pursuant to this Title 16 or in Title 17 or 18 of the Loveland Municipal Code to review and render a final approval of an application for development approval.

“Developer” means an individual, corporation, partnership, or any other legal entity who seeks review and approval by the city for development within the municipal boundary of the city.

“Development” means any improvement or modification of property, including redevelopment, for which an application must be submitted, reviewed and approved by the city prior to commencement of said improvement, modification or redevelopment pursuant to the provisions of titles 16, 17, or 18.

“Development agreement” means an agreement that shall be executed between the applicant and the city, and shall contain such reasonable conditions and requirements as the city may require.

“Development center” means the place to which any person shall submit an application for all phases and any type of development review contemplated in this title. Through the development center, the city gives and distributes information regarding the city’s development process and associated fees and status of a specific project or parcel of land. The development center is the organizational umbrella for the community services department which includes the city’s building, current planning, land records management and a portion of the engineering divisions.

“Development review team” or “DRT” means a the team comprised of selected committee representatives of city departments or divisions representatives including, but not limited to, representatives from building, transportation engineering, water, and power, fire marshal, police, current planning, and long range community and strategic planning, and economic development, as well as private utilities utility providers and other agencies, and city personnel as required determined by the community services director current planning manager, that reviews and approves development applications. The community services director current planning manager or the director’s designee shall serves as chairperson of the DRT.

“Development standards and guidelines” means plans and standards, guidelines, and plans adopted by reference in the municipal code or as a part of the comprehensive master plan including, but not limited to “development standards and specifications governing the construction of public improvements,” “fire master plan,” “site development performance standards and guidelines,” “plat and map digital submission standards,” “traffic impact study guidelines and policies,” “transportation plan,” and “water conservation plan”.

“Development standards and specifications governing the construction of public improvements” means the most current version of said document as adopted by the city of the development standards and guidelines.

“Director” means the director of the city’s community development services department or that person’s designee. The director shall be the administrator of this title.

“Double frontage lot” means any lot which abuts two or more streets other than a corner lot, which abuts two intersecting streets.

“Dwelling units” as defined in of this code.

“Dwelling, accessory unit” means a single-family dwelling which meets all the requirements of Section 18.48.060.

“Dwelling, attached one family or single family” means a single-family dwelling attached to one or more single-family dwellings, with each dwelling unit located on its own separate lot or where the dwelling is designed, with respect to separate electric, water, and gas utility connections and common wall construction, to allow each dwelling unit to be located on its own separate lot through a subdivision.

“Dwelling, efficiency unit” means a dwelling unit, which is constructed within the same building as another approved use, and which is designed and built as a single dwelling unit to be occupied by no more than three persons, having a bathroom, cooking facilities, and a living room of not less than two-hundred twenty square feet of superficial floor area, and an additional one hundred square feet of superficial floor area provided for each occupant of such unit in excess of two.

“Dwelling, mixed use” means a dwelling that is located on the same lot or in the same building as a non-residential use.

“Dwelling, multiple family” means a dwelling containing three or more dwelling units, except that if the dwelling is designed with respect to separate electric, water, and gas utility connections and common wall construction to allow each dwelling unit to be located on its own separate lot through a subdivision, then the dwelling shall be a single-family attached dwelling. A multi-family dwelling shall not include hotels, motels, fraternity houses and sorority houses and similar group accommodations.

“Dwelling, multiple family for the elderly” means a dwelling meeting the definition of a multiple-family dwelling designed or intended for occupancy by persons sixty years of age or older.

“Dwelling, one-family” means a detached building, arranged and designed as a single dwelling unit other than a mobile home and intended to be occupied by not more than one family and which has not less than one bathroom and a minimum floor area of six hundred fifty square feet.

“Dwelling, three-family” means a building or lot containing three dwelling units and occupied by three families living independently of each other, which has not less than one bathroom for each family and a minimum floor area of five hundred square feet per dwelling unit.

“Dwelling, two-family” means a building or lot containing two (2) dwelling units designed for occupancy by two (2) families living independently of each other, which has not less than one bathroom for each family and a minimum of five hundred (500) square feet per dwelling unit, except that if the dwelling unit is designed with respect to separate electric, water, and gas utility connections and common wall construction to allow each dwelling unit to be located on its own separate lot through a subdivision after issuance of the building permit, then the dwelling shall be a single-family attached dwelling, following approval of such subdivision.

“Dwelling unit” means one or more rooms and a single kitchen designed for or occupied as a unit by one family for living and cooking purposes, located in a one-family, two-family or multiple-family dwelling or a mobile home.

“Easement” means any platted or designated easement dedicated to the city by plat or otherwise, whether or not it has been used as such, to which the public, the city and/or the public utilities are entitled to use without interference for a specified purpose. Where an easement is granted to the public for a specified purpose, the grant of said easement shall vest in the city and/or the public utilities rights including but not limited to, the right to conduct certain operations and to perform all necessary maintenance thereon; and “without interference” shall mean that persons are prohibited from constructing fences or structures of any kind, or installing landscaping or anything else that interferes with the city’s ability to access, operate, install, and maintain any city facility within said easement. Easements for specified purposes include, but are not limited to access easements, drainage easements, landscape easements, postal easements, and utility easements.

“Easement, public access” means any platted or designated public strip of land dedicated to the public by plat or otherwise for purposes of vehicular, pedestrian or bicycle access or travel over, including ingress and egress to, or from, another parcel of property, whether or not it has ever been used as such. All public access easements dedicated or granted do not relieve the property owner of maintenance responsibilities of the property unless otherwise approved by the city.

“Easement, drainage” means a right to use property to provide surface or subsurface drainage or convey stormwaters.

“Easement, landscape” means a right to use property for the installation and maintenance of landscaping materials. Except where combined with easements of other types and dedicated by plat or otherwise, it shall be unlawful for any person to use the surface or subsurface of a landscape easement for any purpose other than for installing and maintaining landscaping.

“Easement, pedestrian” means the designated property where the general public is entitled to travel on foot or by other non-motorized methods, including but not limited to, skis, bicycles, skate boards and roller blades, unless otherwise prohibited by official traffic control devices or ordinances.

“Easement, postal” means a right to use property for the installation and maintenance of one or more mailboxes or facilities used for receiving or sending mail.

“Easement, private access” means any property designated by plat or otherwise, which one or more persons, but not the general public, has the right to use for purposes of vehicular or pedestrian access or travel over, including ingress and egress to, or from, another parcel of property and the surface of which is not maintained by the city.

“Easement, private drainage” means a right for any private property designated, by plat or otherwise, to provide surface or subsurface drainage to convey stormwaters. All private drainage easements shall be maintained by the property owner unless that maintenance has been assigned to a common ownership association.

“Easement, utility” means a right to use property for the installation, operation and maintenance of water, sewer, storm drainage, electrical, gas and communication lines and facilities.

“Environmentally sensitive areas” means an area with one or more of the following characteristics: (1)slopes in excess of twenty percent; (2)floodplain; (3)soils classified as having high water table; (4)soils classified as highly erodible, subject to erosion or highly acidic; (5)land incapable of meeting percolation requirements; (6)land formerly used for landfill operations or hazardous industrial use; (7)fault areas; (8)stream corridors; (9)estuaries; (10)mature stands of vegetation; (11)aquifer recharge and discharge areas; (12)habitat for wildlife; or any other area possessing environmental characteristics similar to those listed here.

“Final approval for development” means the approval required by this code after which the land may be developed and used for any purpose permitted in the zoning district in which the land is located, without the requirement of further approval pursuant to [Titles 16 and 18](#) of this code.

1. A credit shall be given toward satisfaction of the total amount of water rights required, which credit shall be in the amount of the water rights previously furnished in conjunction with zoning or rezoning requirements, prorated among all the acreage in conjunction with which such water rights were furnished.
2. In the event the final approval for development upon which the water rights requirement is based is subsequently revised and approved by [the city](#) council, the

total amount of water rights required shall be computed as set forth in this section, and additional water rights shall be furnished to the city to make up any deficit, or a credit shall be granted in the city's water bank as a refund of any surplus.

“Final decision,” shall have the same meaning as set forth in Code section 18.80.020.

(Ord. 5581 § 2, 2011) as it pertains to a staff decision maker or the director, shall mean a decision or action under title 16 or 18 is reduced to writing and is promptly mailed to the applicant and any other party-in-interest to whom the code requires the written decision to be mailed. “Final decision,” as it pertains to the zoning board of adjustment or the planning commission, shall mean a decision or action by the board or commission under the code for which the board or commission has adopted written findings and conclusions. A final decision shall not include any decision made by a staff decision maker or the director that is a recommendation to the planning commission or to the city council, or a decision by the planning commission that constitutes a recommendation to council.

“Final plat” means the plat or plats of certain described land prepared in accordance with this title, as an instrument for recording real estate interests with the Larimer County clerk and recorder. The final plat shall serve as the “plat” for purposes of C.R.S. §31-23-215. The final plat shall be submitted as part of the final subdivision application.

“Fire master plan” means the most current version, of said document as adopted by the city as amended from time to time, of the Development Standards and Guidelines.

“Floor area” means the total area of all floors of a building included within the surrounding exterior walls, exclusive of open courts.

“Future street” means a right-of-way that will not be opened or improved for present use as a public way, but the right-of-way is dedicated to the public for future use as a street, and present or future use for the installation of all public utilities.

“Industrial development” means any premises devoted primarily to manufacturing, processing, assembly or storage of tangible personal property, research facilities, experimental or testing laboratories, warehouses, distribution and wholesale uses, utility service facilities, aircraft hangars and repair facilities for aircraft, and caretaker's quarters and other accessory buildings reasonably required for maintenance or security of the above uses. Notwithstanding the foregoing, “industrial development” shall not include any premises or development paid for with city funds provided such premises or development is to be used for a city purpose, but the definition of “industrial development” shall include any premises, development, building, facility and improvement funded by, constructed for and to be used by (i) the city's power, water, wastewater, stormwater, or solid waste utility; or (ii) the city's golf enterprise.

“Level of service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a community facility based upon and related to the operational characteristics of the community facility or the capacity per unit of demand for each community facility.

“Lot” means a portion of a subdivision intended as a unit for transfer of ownership or for development, which has access to a public right-of-way.

“Lot merger” means the merging of contiguous lots into a lesser number of lots than had originally existed, which meets the requirements of Chapter 16.32 of this code.

“Major subdivision” means all other subdivisions not falling within the definition of a minor subdivision, and which are not boundary line adjustments, or lot mergers, shall be referred to in this title as a “major subdivision” or “subdivision.” Except where otherwise specified or where the context requires otherwise, the term subdivision as used in this title shall

mean major subdivision. The classification of a subdivision as "major" or "minor" shall be made by the director ~~at the concept review team meeting~~ in accordance with the criteria ~~stated below~~^{specified} in ~~Ec~~chapter 16.20 ~~of this code~~.

"Minor subdivision" means the division of land into no more than four additional lots, which meets the requirements of ~~Ec~~chapter 16.20 ~~of this code~~.

"Municipal building" means the city's primary offices located at 500 E. Third Street, Loveland, Colorado 80537.

"Net acreage" means all land except dedicated road rights-of-ways, lakes, and ponds over one-fourth acre in size, areas over one-fourth acre in size determined by the water and power department to be incapable of sustaining irrigated vegetation because of geologic or topographic constraints, or ~~areas~~ that will not be irrigated, such as conservation easements or detention ponds planted to dryland types of vegetation, ~~and~~ areas legally served by domestic water sources other than the city's or areas irrigated with non-potable water as provided in ~~Title~~ 19.

"Net ~~P~~roceeds" shall mean the seller's sales price for the real property being sold less seller's original purchase price for the real property and less seller's ~~E~~customary ~~E~~closing ~~E~~costs reasonably incurred in such sale.

"Non-retail" means any premise and development that is devoted to any commercial, private educational, religious, charitable, governmental or quasi-governmental purpose not included within the definitions of retail or industrial development set forth herein.

Notwithstanding the foregoing, "non-retail" shall not include any premises or development paid for with city funds provided such premises or development is to be used for a city purpose; provided that the definition of "non-retail" shall include any premises, development, building, facility and improvement funded by, constructed for and to be used by ~~the city's~~ ~~(+) power, water, wastewater, stormwater, or solid waste utility; or (++) the city's golf enterprise.~~ For purposes of assessing a capital expansion fee, non-retail shall include residential-type uses not intended for permanent occupation or residency including, but not limited to, hotels and bed and breakfast establishments. ⁺

"Obsolete subdivision" means any legally platted property that is not in substantial compliance with current regulations regarding the subdivision and development of land, has been of record for more than five years, in which two-thirds or more of the lots are undeveloped, and ~~city~~ council has declared it obsolete in accordance with ~~S~~ection 16.36.030 ~~of this code~~.

"Outlot" means a portion of land included in a subdivision that is not intended for development with buildings containing residential, commercial or industrial uses. It may or may not have public right-of-way access. Common uses include, but are not limited to, easements, recreation gardens, open space or drainage detention.

"Person" means any individual, corporation, partnership, or any other legal entity.

"Photo reduction" means a legible eleven inches by seventeen inches photographic reduction, also known as a stat or photo mechanical transfer, which is required for all original twenty-four inches by thirty-six inches drawings submitted with an application for development approval under this ~~Title~~ 16 or in ~~Title~~ 17 or 18.

"Planned capital improvements" means a capital improvement or an extension or expansion of a capital improvement which does not presently exist, but which is included within a capital improvement program.

"Planning commission" means the planning commission of the city ~~of Loveland~~ as duly constituted by law.

“Plat and map submission standards” means a set of digital or electronic data standards for plat and map submissions that is recommended by the current planning manager of the land records management division and approved by the planning commission director.

“Preliminary plat” means the plat or plats of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with this title, for the purpose of reviewing and evaluating the proposal prior to submission of a final plat. A preliminary plat is not a plat for purposes of C.R.S. § 31-23-215.

“Primary community route” means U.S. Highway 34, between Madison Avenue and Wilson Avenue, and U.S. Highway 287, between 8th Street S.E. and 50th Street, all located within the Loveland city limits.

“Public improvement construction plans” means the set of ~~twenty four inches by thirty-six inches~~ construction drawings prepared by the applicant’s professional engineer and other professional consultants that is submitted to the city for review and approval and reviewed by the city for the street, water, sewer, electrical, landscaping, and storm drainage improvements required to serve the proposed development.

“Qualified affordable housing development” means an affordable housing development which has been reviewed by the city of Loveland human services administrator and for which the human services administrator has issued a letter finding that the project qualifies as an affordable housing development under this title and is eligible to receive all incentives available under city rules and regulations for such developments.

“Qualified income” means the median annual family income as adjusted for household size, as established by the United States Department of Housing and Urban Development.

“Qualifying household” means a household in which the combined income of all wage earners, who are over the age of eighteen (~~18~~) and who are not full-time students, is eighty percent (~~80%~~) or less of Qualified income and in which no household member has an ownership interest in an existing residential property.

“Raw water master plan” means the most current version of said document as adopted by the city.

“Residential” means a development that includes one or more dwelling units.

“Retail” means any premises devoted primarily to the sale of merchandise to the general public.

“Reviewable application” see “Application, reviewable”.

“Right-of-way” means a strip of land dedicated to the public, the city and/or public utilities which have been constructed or will be constructed, for public transportation, drainage or utility improvements including but not limited to street paving, curb and gutter, sidewalks, bicycle lanes and buried or overhead utilities.

“Simple plat” means a plat representing a tract of land showing the boundaries of the property to create a legal lot for property previously legally described by a metes and bounds description and which has never been previously subdivided or platted by a governmental entity.

“Site development performance standards and guidelines” means the most current version, as amended from time to time, of the city’s site development performance standards and guidelines, adopted pursuant to Chapter 18.47 of this code, as amended from time-to-time.

“Site development plan” means one or more plans, reports, studies, analyses, or other documentation submitted separately or in combination as required by the city as part of a development application pursuant to chapters 18.39 and 18.46.

“Staff” means city ~~of Loveland~~ employees or subcontractors assigned to perform or participate in the review of an application for development approval.

“Staff decision maker” means any city staff member granted authority to make decisions under titles 16 and 18.

“Standard applicable codes” means adopted city codes and standards applicable to a development application, along with any local, state or federal regulations applicable to a development application.

“Storm water criteria manual” means the ~~current version~~city’s storm water criteria manual, as amended from time to time, ~~of the standards and specifications for water drainage~~.

“Street” ~~seem~~ means “~~S~~treet, public.”

“Street, arterial” means a street used primarily for through traffic.

“Street, collector” means a street that connects a local street to an arterial street and is used to some extent for through traffic and partly for access to abutting properties.

“Street, cul-de-sac” means a street used primarily for access to abutting property, which is open at one end only.

“Street, local” means a street used primarily for access to abutting property.

“Street, part width” means the dedication of a portion of a street, usually along the edge of a subdivision where the remaining portion of the street could later be dedicated in another subdivision.

“Street, private” means a private way for sidewalk, right-of-way and utility installations, and including the suffixes “street,” “avenue,” “drive,” “circle,” “place,” “court” or other similar designations, generally intended for use by specified adjacent property owners, public utilities, emergency services, and city operations including city inspections.

“Street, public” ~~or “street”~~ means a public way for sidewalk, right-of-way and utility installations, being the entire width from lot line to lot line, and including the suffixes “street,” “avenue,” “drive,” “circle,” “place,” “court” or other similar designations.

“Street, temporary no outlet or dead-end” means a street that does not connect with another street, but which will connect with another street when the city obtains the right-of-way for such connection.

“Subdivider” means any person dividing or proposing to divide land which division constitutes a subdivision.

“Subdivision” means the division or subdivision of any lot, tract or parcel of land for the purpose, whether immediate or future, of transfer of ownership, development, or building development. The term subdivision refers to a “major subdivision” unless noted otherwise.

“Submittal checklist” means the checklist provided by the city that lists and describes the forms, plans, reports, studies, analyses, and other documentation that must be submitted by the applicant for review and approval of a development application.

“Substantial compliance” means a determination by the development review team that a site development plan or other development application is in compliance with general standard applicable codes, but requires minor revisions that have no significant impact on the building permit review process.

“Substantial revision” means a revision which includes, but is not limited to, a change in density, use, lot layout or a change that impacts drainage or public improvements.

“Tract” means a portion of a subdivision intended as, but not limited to, a unit for transfer of ownership or for development, typically being substantially larger than a lot and intended for

large scale development, future subdivision into smaller lots, or preservation as open space or buffer yards, in accordance with dedications or notes on the plat.

“Traffic impact study guidelines and policies” means the most current version, as amended from time to time, of the development standards and guidelines of said document as adopted by the city.

“Transportation plan” means the most current version of said document as adopted by the city, as amended from time to time, of reports, maps, and other related portions of the development standards and guidelines, which documents the city’s transportation policies and requirements.

“Type 2 zoning permit” means a permit issued by the current planning division upon administrative approval of a special review application, with or without conditions or restrictions, after a neighborhood meeting has been conducted and a written statement of findings has been agreed to by the applicant and the planning division.

“Type 3 zoning permit” means a permit issued by the current planning division upon approval by the planning commission or the council of a special review application, with or without conditions or restrictions, after a public hearing has been conducted.

“Undeveloped” means that a lot does not contain a principal or accessory structure nor is being used for a principal or accessory use.

“Vacation of right-of-way/easement” means the extinguishment of any right-of-way or easement as provided in Ecchapter 16.36 of this Code.

“Vacation of obsolete subdivision” means the extinguishment by ordinance of a subdivision plat.

“Water conservation plan” means the most current version of said document as adopted by the city, as amended from time to time, of the development standards and guidelines.

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Chapter 16.10

APPEALS

16.10.010 Appeals of final decisions.

An appeal of a final decision by the director, other ~~city~~-staff decision maker, or the planning commission regarding any provision in this title, shall be brought in accordance with ~~Chapter 18.80 of this Code.~~

Chapter 16.12

PLANNING COMMISSION

Sections:

- 16.12.010 Planning commission.**
- 16.12.020 Meetings – Order of business.**
- 16.12.030 Meetings – Times – Locations – Special meetings.**

16.12.010 Planning commission.

The planning commission for the city shall have and exercise all the powers and duties provided by law.

16.12.020 Meetings – Order of business.

The order of business at all regular meetings shall be established by the planning commission.

16.12.030 Meetings – Times – Locations – Special meetings.

Regular meetings of the planning commission for the city shall be held in ~~the city~~ council chambers in the ~~M~~nunicipal ~~B~~uilding, 500 East Third Street, Loveland, Colorado, or other place designated by the planning commission chairperson, in accordance with the schedule of meetings adopted by ~~the Loveland city~~ council. Special meetings shall be held upon the call of the chairperson or vice chairperson or upon written request of two members of the planning commission. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members, personally served or left at their usual places of residence. Such notice shall set forth a time, place, date and purpose of the meeting.

Chapter 16.16

REVIEW PROCEDURES

Sections:

- 16.16.010 Purpose.**
- 16.16.020 Required process.**
- 16.16.030 Review procedures, general.**
- 16.16.040 Staff review of certain applicationsfinal plats, boundary line adjustments, and lot mergers.**
- 16.16.050 Exceptions from code requirements.**
- 16.16.060 Corrections, errors, omissions – Plat or annexation map.**
- 16.16.070 Public notice requirements.**

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16.16.010 Purpose.

The purpose of this chapter is to set forth procedures for review of applications submitted for approval pursuant to this title, including subdivision, boundary line adjustment, lot merger, vacation of right-of-way/easement/obsolete subdivision, and simple plat.

16.16.020 Required process.

- A. Boundary Line Adjustment. A boundary line adjustment shall be processed in accordance with Echapters 16.28 and 18.39.
- B. Lot Merger. A lot merger shall be processed in accordance with Echapters 16.32 and 18.39.
- C. Minor Subdivision. A minor subdivision shall be processed in accordance with Echapter 16.20 and 18.39.
- D. Major Subdivision/Subdivision. A subdivision shall be processed in accordance with Echapters 16.20, unless otherwise specified, and 18.39.
- E. Vacation of Right-of-Way/Easement/Qobsolete Subdivision. An easement, right-of-way or obsolete subdivision shall be vacated in accordance with Echapters 16.36 and 18.39.
- F. Simple plat. A simple plat shall be processed in accordance with Section 16.20.120, and Echapter 18.39.

16.16.030 Review procedures, general.

A. Concept Review of a Sketch Plan.

- 0. Purpose. The purpose of the concept review of the sketch plan is to allow the concept review team to review the concept and the appropriateness of the proposed development in order to identify major problems that must be resolved and to assess the overall feasibility of the proposal.
- 0. Concept Review Team Meeting. Prior to submittal of a formal application for development approval required under this title, the applicant shall arrange, through the development center, for and attend a concept review team meeting, with the concept review team. The applicant shall submit fifteen copies of the sketch plan at least one week prior to the scheduled concept review team meeting to allow time for referral to and review by concept review team members and other appropriate

agencies. Unless waived by the director, the sketch plan should include general information regarding, but not limited to, the following:

- A general description of the use;
- The size and location of the area affected;
- The need for a commitment by the city to provide water supply and wastewater treatment;
- The general means for handling drainage;
- Any staging/phasing plans and schedule;
- Consistency with zoning, this title and the comprehensive master plan;
- The possibility of future annexation of the subject area and adjacent parcels;
- Any known or reasonably anticipated impacts on the city's transportation system and any proposed corresponding mitigation;
- The location and extent of any known environmentally sensitive areas, any reasonably anticipated impacts on these areas, and any other proposed corresponding mitigation. Another concept review team meeting may be necessary if the applicant makes substantial changes to the original sketch plan. The concept review team may discuss with the applicant the submittal requirements, and waivers to the submittal requirements, if appropriate.
- 0. Sketch Plans No Vested Rights. The concept review team's review of the sketch plan does not bind the director, planning commission or city council to approve any subsequent application, nor does it confer to the applicant any vested rights.
- N.1. Waiver. The director may waive the requirement for a concept review team meeting for boundary line adjustments, lot mergers and minor subdivisions if they do not involve or will not create any vacant land.

A. Application submittal.

1. All development applications shall be submitted to the current planning division and shall include all information as specified in the applicable submittal checklist. Each development application shall include payment of the applicable application fee as established by the council. The director may require any applicant to reimburse the city for costs incurred by the city when referring any such application to any legal, technical or other specialist, and incurring consultant fees in conjunction with review of the application.
2. The current planning manager is authorized to create, modify, or discontinue any submittal checklist for all development applications as deemed necessary for the implementation of this title.

B. Application review and approval.

1. All development applications shall be initially processed in accordance with the provisions of chapter 18.39. Upon determination by the current planning manager that the application is complete, any additional applicable procedures for approvals, public notice, public hearings, and appeals shall be followed, as set forth in this title.
2. Upon determining that an application is complete, the current planning manager shall schedule the application for the next available planning commission or council meeting, as applicable.

C. Concurrent submittal and review of site development plan application

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1. For any development application governed by the provisions of this title, the applicant may submit a concurrent application for a site development plan for the subject lot or tract as set forth in chapters 18.39 and 18.4. Any public improvements construction plans and other plans and supporting documents submitted with the development application shall also be deemed to be part of the site development plan application. Upon approval by the city, the public improvements construction plans and other supporting documents that are part of the concurrent application shall be deemed to be the final plans for the proposed development.

2. When development is proposed in association with a subdivision application, the site development plan shall be reviewed concurrently by the development review team. Upon final approval of the associated development application and the recording of final documents, as applicable, the city may also approve the associated site development plan provided that:

- a. the site development plan contains all information necessary for final approval, and
- b. prior to approval of the site development plan, the site must consist of one or more legal lots of record upon which the proposed development may occur pursuant to applicable provisions of the code.

D. Appeal procedure. Appeals from any final decision by the development review team, the current planning manager, the director or the planning commission shall be conducted in accordance with chapter 18.80.

—Development Review.

1. Submission of Application Signatures/Certified Lists.

- a. Once the applicant has received comments on the sketch plan, the applicant may submit an application for the development review sought. Applications shall be submitted to the current planning division on forms provided for this purpose. The application shall include all required supporting documentation as specified on submittal checklists provided by the current planning division. Unless otherwise specified herein, the applicant shall provide the number of copies specified in the checklist. Applications shall be signed by all fee owners of the land described in the application; except, that where the fee is held by two or more owners as joint tenants or as tenants in common, such application may be signed by only one joint tenant or tenant in common. All other owners and lienholders who have an interest in the land described in the application shall be noted on the application. (Ord. 5424 § 1, 2009)
- b. At the time of filing a development review application requiring a public hearing, or where otherwise required under this title, the applicant shall submit to the current planning division all information required pursuant to Section 16.16.070 and Tables 16.16.070-1 and 16.16.070-2. (Ord. 5424 § 1, 2009)
- c. Each application shall be submitted with the fee established for that application pursuant to resolution of the city council.

2. Application Submittal Date. The official application submittal date shall be the date on which the applicant submits a reviewable application. The director shall schedule the applicant for a meeting with the development review team upon determination that such application is reviewable. The director may exempt applications for final

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plats, minor subdivisions, lot mergers, and boundary line adjustments from meeting with the development review team.

— Applications Referred to Development Review Team/Determination of a Reviewable Application. The development center shall refer the reviewable application to the development review team members for their review. The development review team members shall comment on the application. Said comments shall be completed and compiled within approximately thirty days from the official application submittal date or by such time as required by the director. The director may require that any applicant for any development review under this title, reimburse the city for the cost of any legal or technical consultant fees incurred by the city in connection with reviewing the application. The application shall be deemed complete on the application acceptance date, which is the date that the director finds that the application contains adequate information on which to determine compliance with the review and design standards of this title and other applicable code provisions, city ordinances, comprehensive master plan, city policies, and state laws.

4. Written Comments to the Applicant. The development center shall make available to the applicant the development review team's comments a minimum of two working days prior to the development review team meeting or at such time as may be required by the director.

5. Development Review Team Meeting. On the scheduled date, the applicant shall meet with the development review team to discuss their comments. If the development review team determines that the application is not complete, the director may table further processing of the application and inform the applicant of the materials or revisions needed to make the application complete. The applicant shall submit a revised application no later than the deadline determined by the development review team. If the development review team finds that an application is not complete and cannot be made complete without revisions so extensive as to constitute a new application, the director may reject the application. Such application shall be resubmitted for development review under this title, in accordance with the applicable provisions of this title. The director will accept amendments to applications as long as they are submitted at least fifteen days prior to the scheduled development review team meeting. Nothing herein shall prevent the development review team, the planning commission, city council or director from requesting additional information in the course of the review if it is deemed necessary to determine compliance with the standards set forth in this title, or in Title 17 or 18 as applicable.

5. Scheduling Public Hearings. An application shall not be scheduled for planning commission or city council review or decision unless the director determines that the application is complete. Upon a finding that the application is complete, the director shall schedule the application for the next available planning commission or city council meeting, as applicable.

(Ord. 5581 § 4, 2011)

P. Public Hearing Notification. The director and applicant shall give or cause to be given notice as provided in Section 16.16.070.

Q. Planning Commission and City Council Review and Approval. The planning commission and city council shall review applications for development review under this title, in accordance with the specific provisions herein. If, as determined by the director, the

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applicant makes substantial revisions to the application after planning commission review, the development review team and the planning commission shall review the revised application prior to review by the city council. Such additional review by the development review team and the planning commission shall be scheduled as if the application were a new application.

~~R.~~ **Appeal Procedure.** Appeals from any final decision by the director or the planning commission shall be conducted in accordance with Chapter 18.80 of this Code.

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16.16.040 Staff review of certain applications, final plats, boundary line adjustments, and lot mergers.

A. **Purpose** ~~Review.~~ Development review applications for final plats, minor subdivisions, boundary line adjustments and lot mergers do not require a public hearing. The review procedure set forth in this section has been designed to expedite review of such applications. ~~of development applications for major and minor subdivision final plats, boundary line adjustments and lot mergers shall follow procedures set forth in section 16.16.030. The review process continues until the current planning manager determines that the application is complete.~~

A. **Review Procedure.**

0. **Concept Review.** Concept review shall be conducted in accordance with the provisions of 16.16.030(A).
0. **Development Review.** Development review shall be conducted in accordance with the provisions of Section 16.16.030(B), except that a development review team meeting is not required.
 - a. **Persons Entitled to Comment.** Any property owner entitled to notice pursuant to Section 16.16.070 may submit written comments concerning the application to the Current Planning Division no later than the tenth day after mailing of said notice.
 - b. **Using the applicable review standards set forth in this Title 16 or 18, where applicable, the director shall approve, approve with conditions, or deny the application no sooner than fifteen days after the mailing of notice (except for boundary lines adjustments, lot mergers and minor subdivisions, which may have an immediate decision), as provided in this section. All conditions of approval applicable to the final plat shall be included in a development agreement, which shall be recorded with Larimer County clerk and recorder concurrent with recordation of the final plat. A written notice of the director's decision shall be posted in the development center for fifteen days and shall also be submitted to the planning commission and city council.**

~~3B.~~ **Public Notice Requirements.** Within fifteen days of the application acceptance date, all notice shall be given in Development applications for final plats for major and minor subdivisions that were preceded by an approved preliminary plat do not require a public hearing, except in connection with severed mineral rights or an appeal procedure as provided in this title. Development applications for boundary line adjustment or lot merger do not require a public hearing, except in connection with an appeal procedure, as provided in this title. For applications requiring mailed or posted public notice, and upon determination by the current planning manager that the application is complete, the director shall notify the applicant to complete all required public notice, in accordance with Section 16.16.070.

4.C. Referral to Planning Ecommission for Decision. The director ~~at the director's discretion~~ may refer any application to the planning commission. Any application referred to the planning commission shall be set for a public hearing before the planning commission at its next regular meeting, at which there is an available time slot. Such public hearing shall be held in accordance with this section. Notice shall be given in accordance with ~~S~~ection 16.16.070.

D. Appel Procedure.

1. Appeals from any final decision by the director for final plats, minor subdivisions, boundary line adjustments and lot mergers shall be conducted by the planning commission in accordance with Echapter 18.80 ~~of this Code~~.
2. The appeal of a final decision of the planning commission to ~~the city~~ council shall be conducted in accordance with Echapter 18.80 ~~of this Code~~.

16.16.050 Exceptions from code requirements.

- A. Planning Ecommission Decision. The planning commission, or in the case of an application processed under ~~S~~ection 16.16.040, the staff, may recommend that ~~the city~~ council authorize conditional exceptions to the regulations set forth in this title. It shall be necessary that the planning commission, or the staff, where applicable, find the following facts in order to recommend conditional exceptions with respect to a particular parcel of property:
 1. That there are special circumstances or conditions affecting said property which creates practical difficulties upon the applicant, or the development for which exceptions are sought is of such extraordinary commercial, social or cultural merit that the potential benefits to the community outweigh the tangible and intangible costs to the community created by the exceptions; and
 2. That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the vicinity in which said property is situated or in conflict with the purposes and objectives of the comprehensive master plan.
- B. Conditions for Granting. In recommending such exceptions, the planning commission, or the staff, where applicable, shall recommend such conditions as deemed necessary, in its opinion, to substantially secure the objectives of the regulations to which the exceptions are granted. In recommending the authorization of any exceptions, the planning commission, or the staff, where applicable, shall report to ~~the city~~ council its findings with respect thereto and all facts in connection therewith, and shall specify and fully set forth the exception recommended and the conditions recommended.
- C. Council May Grant Exceptions. ~~The city~~ ecouncil may in its discretion, grant exceptions to the regulations set forth in this title, if the following facts with respect to the exceptions being sought are found by ~~the city~~ council to exist:
 1. That there are special circumstances or conditions affecting said property which creates practical difficulties upon the applicant, or the development for which exceptions are sought is of such extraordinary commercial, social or cultural merit that the potential benefits to the community outweigh the tangible and intangible costs to the community created by the exceptions; and
 2. That the granting of the exceptions will not be materially detrimental to the public welfare or injurious to other property in the area in which the property is situated or in conflict with the purposes and objectives of the comprehensive master plan.

16.16.060 Corrections, errors, omissions – ~~p~~Plat or annexation map.

Modification or amendments to an approved preliminary plat, final plat or minor subdivision plat or an annexation map shall be permitted in accordance with the following:

- A. For plats or annexation maps that have not yet been recorded, the director may authorize a modification of said plat or map for typographical or transpositional errors or for minor variations in the boundary dimensions or easements caused by errors or other unforeseen difficulties. Such changes authorized by this section shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved application. All plats or annexation maps so modified shall be revised to show the authorized changes, which changes shall become a part of the permanent records of the city. No such changes shall be effective unless all signatories to the original plat or map, or their successors, sign the corrected plat or map. Corrected final plats, minor subdivision plats or annexation maps shall be recorded as provided in ~~S~~ection 16.20.080(D)-~~of this code~~.
- B. For final subdivision plats, minor subdivision plats or annexation maps that have already been recorded, the director may authorize a modification of said plat or map for typographical or transposition errors or minor variations in the boundary dimensions or easements caused by errors or other unforeseen difficulties, so long as said change does not affect lot dimensions, lot layout or dedications. No such modification shall be effected unless there is submitted therewith: (1) a surveyor's affidavit certifying the correction; and (2) a certificate signed by all of the signatories to the original plat or map, or their successors, acknowledging the modification. Changes authorized by this section shall not exceed ten percent of any measurable standard or modify the use, character, or density of an approved application. All plats or maps shall be revised to show the authorized changes, which changes shall become a part of the permanent records of the city. Amended final plats, minor subdivision plats or annexation maps shall be recorded in accordance with ~~S~~ection 16.20.080(D)-~~of this code~~.
- C. Any amendment to any final subdivision plat or annexation map that is beyond the scope of ~~subparagraph subsection~~ A or B of this section shall be made in the same manner as the final subdivision plat or annexation map was approved.
- D. No such corrected plat or map as described in ~~subparagraph subsection~~ A or B of this section shall be valid unless signed by all current owners and lienholders of the property at the time of such correction and all parties who signed the original plat or map, or their successors.
- E. The planning commission shall be notified in writing of all decisions of the director with respect to decision taken under this section.

16.16.070 Public notice requirements.

- A. Purpose. This section is intended to provide standards for public notice to be given for neighborhood meetings, public hearings, and ~~D~~irector decisions as required under [this Title 16](#).
- B. Applicability. Notification shall be given to the public by one ~~H~~ or more of the methods provided in [Table 16.16.070-1](#):

Table 16.16.070-1 REQUIRED PUBLIC NOTICE

	Mailed Notice	Posted Notice	Published Notice
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Neighborhood Meetings	Required	Required	Not required
Planning Commission Public Hearings: Preliminary Plat; Obsolete Subdivisions; Vacation (of easements or rights-of-way)	Required	Required	Required
Director Decision: Minor Subdivisions	Required	Required	Not required

- C. Public notice shall not be required for ~~F~~inal ~~P~~lats for ~~M~~ajor ~~S~~ubdivisions, ~~B~~oundary ~~L~~ine ~~A~~justments, ~~L~~ot ~~M~~ergers, or ~~S~~imple ~~P~~lats.
- D. Content of ~~P~~ublic ~~N~~otice. Where public notice is required for neighborhood meetings, public hearings, director's decisions, or as otherwise required under this title, the notice shall include the following:
 - 1. Time, date, and location of the meeting or hearing.
 - 2. The type~~(s)~~ of application to be considered.
 - 3. Project name.
 - 4. Applicant's name.
 - 5. Description of the location of the subject property by legal description, and general location using street address and/or nearest street intersection.
 - 6. Description of the proposal for the subject property.
 - 7. Primary contact (applicant or applicant's consultant~~(s)~~) information, including name of individual~~s~~, name of company~~s~~, phone number~~s~~, and e-mail address.
 - 8. Secondary contact (~~C~~ity of ~~L~~oveland ~~C~~urrent ~~P~~lanning ~~D~~ivision) information, including name of reviewing planner~~s~~, phone number of reviewing planner~~s~~, and e-mail address of reviewing planner.
 - 9. For public hearing notices, a statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the ~~C~~ity's ~~C~~urrent ~~P~~lanning ~~D~~ivision.
 - 10. For director decision notices, a statement that interested parties may submit an appeal in accordance with the requirements of ~~E~~Chapter 18.80 of this ~~C~~ode.
- E. Mailed ~~N~~otice. At least fifteen ~~(15)~~ days prior to a neighborhood meeting, public hearing, or the date of the director's decision, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in ~~S~~ection 16.16.070.E.1 at the address listed for each owner. An affidavit of the applicant's compliance with such requirements shall be provided to the ~~E~~city prior to the public hearing for which the notice was given and shall meet the provisions of ~~S~~ection 16.16.070.
 - 1. A list certified by the applicant of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the radius distances provided in ~~T~~able 16.16.070-2 shall be submitted to the ~~E~~current ~~P~~lanning ~~D~~ivision, using the names and addresses that appear on the latest records of the Larimer County ~~E~~clerk and ~~R~~ecorder.
 - 2. For all applications requiring mailed notice, the radius distances specified in ~~T~~able 16.16.070-2 ~~A~~rea of ~~P~~ublic ~~N~~otice ~~D~~istance by ~~A~~pplication ~~T~~ype and ~~S~~ize, shall be

used to determine the area to which such notice shall be given, except as provided in Sections 16.16.070.E. 3 and 4.

Table 16.16.070-2 AREA OF MAILED NOTICE DISTANCE BY APPLICATION TYPE AND SIZE			
Application Type	20 acres or less	21 – 50 acres	Greater than 50 acres
Obsolete Subdivisions	See <u>C</u> hapter 16.36		
Preliminary Plat	500 ft.	750 ft.	1,000 ft.
Minor Subdivision	150 ft.	150 ft.	150 ft.
Vacation (of easements or rights-of-way)	See <u>C</u> hapter 16.36		

3. All notification radius distances in Table 16.16.070-2 shall be reduced by fifty (50) percent, but shall not be less than three hundred (300) feet for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty (80) percent of its boundary, to existing city limits of the City of Loveland. Such radii shall be calculated exclusive of water bodies except as provided below, public rights-of-way except as provided below, and public streets. The right-of-way of Interstate 25 shall be included when calculating notification radius distances. The following lakes shall be included when calculating notification radius distances: Boedecker Lake, Boyd Lake, Horseshoe Lake, and Lake Loveland. The first tier of lots that have frontage on any of these lakes shall be included in the area of public notice regardless of the distance from the subject site should any portion of the lake be within the notification radius.
4. The area of required notification may be expanded up to twice the radius specified in Table 16.16.070-2 if development associated with an approved application would likely impact properties beyond the specified notification radius, as determined by the Current Planning Manager. Development impacts may include but are not limited to vibration, noise, odor, glare or increased traffic. A determination to expand the notification area must be provided in writing to the applicant at least twenty-one (21) days prior to the neighborhood meeting.
5. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given in accordance with the requirements of C.R.S. ss-24-65.5-101 *et seq.* and an affidavit of the applicant's compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070.J.
- F. Posted Notice. At least fifteen (15) days prior to the neighborhood meeting, public hearing or Director's decision on the proposed application, the applicant shall post a notice on the subject property. Such notice shall be readily visible from each public street or highway adjoining the property and shall meet the provisions of Section 16.16.070.F.1. An affidavit of the applicant's compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and

shall meet the provisions of Section 16.16.070-J. Where Posted Notice is required under this Echapter, the following shall apply:

1. The Ecurrent Planning Division shall provide the specifications for the notice to be posted on the site, along with an 8-1/2" x 11" example of the wording as it should appear on the sign and the number and location of signs required for the site.
2. It shall be the applicant's responsibility to have the sign(+) created at a sign company, post the sign(+) on the site, and ensure that the sign(+) remain in place during the period leading up to the public hearing or Director's decision.

G. Published Notice. In addition to the requirements set forth in Sections 16.16.070-E and 16.16.070-F, notice of the time, date, and place of the public hearing or Director's decision, along with a statement of the nature of the matter to be considered, including a description of the location of the subject property and the agency or office and telephone number where further information may be obtained shall be published one (+) time in a newspaper of general circulation by the Ecurrent Planning Division at least fifteen (15) days prior to any public hearing.

H. Computation of Time. In computing any period of time prescribed for the purpose of giving notice under this Echapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.

I. Notice Ecost. All costs for providing public notice as required by this Echapter shall be the responsibility of the applicant except for the Published Notice.

J. Applicant's Ecertification. Prior to the neighborhood meeting, public hearing, or Director's decision, the applicant shall provide the Ecurrent Planning Division with an affidavit certifying that the requirements as to the applicant's responsibility for the applicable forms of notice under this Echapter have been met. The Ecurrent Planning Division shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant as provided in Sections 16.16.070-E and 16.16.070-F.

K. Failure to Provide Notice, Defective Notice. Failure to provide the required affidavit or evidence of a defective mailing list prior to a neighborhood meeting or public hearing shall result in termination of the review process until proper notice is provided meeting all applicable provisions under this Echapter.

L. Continuation of Hearings. A hearing for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this Echapter, provided that the date, time, and location of the continued hearing is announced to the public at the time of continuance.

16.18

PUBLIC NOTICE REQUIREMENTS

Sections:

- 16.18.010 Purpose.**
- 16.18.020 Neighborhood meetings.**
- 16.18.030 Public hearings.**
- 16.18.040 Staff decisions (minor subdivisions).**
- 16.18.050 Additional notice requirements.**
- 16.18.060 Notice for appeals.**

16.18.010 Purpose.

- A. Purpose. This section provides standards for public notice for neighborhood meetings, public hearings, and staff decisions as specified within this Title 16.
- B. Applicability. Public notice shall not be required for Ffinal Plots for Major Subdivisions, Boundary Line Adjustments, Lot Mergers, or Simple Plots.

16.18.020 Neighborhood meetings.

- A. Applicability. Mailed and posted public notice is required for neighborhood meetings. It is the applicant's responsibility to mail and post public notice for neighborhood meetings.
- B. Mailed Notice for Neighborhood Meetings.
 - 1. Deadline for Mailing. At least fifteen (15) days prior to a neighborhood meeting, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.18.020(B)(3)(a) at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the Ecity prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of Section 16.18.050(C).
 - 2. Content. The written (mailed) notice for neighborhood meetings shall include the following:
 - a. Time, date, and location of the meeting.
 - b. The application(s) to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. Vicinity map identifying the site within the neighborhood context.
 - f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the Civic Centermunicipal building.
 - g. Description of the proposal for the subject property.
 - h. Primary contact (applicant or applicant's consultant) information, including name of individual~~s~~, name of company~~s~~, phone number~~s~~, and e-mail address.

- i. Secondary contact (City of Loveland Current Planning Division) information, including the name, phone number, and email address of the reviewing planner.
- 3. Requirements for Mailing.
 - a. Ownership List. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in Table 16.18-1 and subsections (c), through (f), of this subsection 16.18.020.B.(3), shall be submitted to the City's Current Planning Division, using the names and addresses that appear on the latest records of the Larimer County Assessor. This list shall be current to within sixty (60) days prior to the mailing.
 - b. Area of Notification. The distances specified in Table 16.18-1 Mailed Notice Distance Requirements for Neighborhood Meetings, shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through f of this subsection 16.18.020(B)(3). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Preliminary Plat	600 ft.	900 ft.	1,200 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course, or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in Table 16.18-1. For the purposes of this provision, lake front properties include those that are separated from the lake up to 50-fifty feet by undevelopable property such as open space tracts and outlots.
 - ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a), above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one (21) days prior to the neighborhood meeting.
- e. Reduction in Notification Area. All notification distances in Table 16.18-1 shall be reduced by fifty (50) percent, but shall not be less than four hundred (400) feet, for infill projects that are twenty (20) acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is

adjacent, on at least eighty ~~(80)~~ percent of its boundary, to properties within the existing city limits of the ~~E~~city of Loveland.

f. Expansion of ~~N~~otification ~~A~~rea. The area of required notification may be expanded up to twice the distance specified in ~~T~~able 16.18-1 if the ~~E~~current ~~P~~lanning ~~M~~anager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one ~~(21)~~ days prior to the neighborhood meeting.

C. Posted ~~N~~otice for ~~N~~eighborhood ~~M~~eetings.

1. Deadline for ~~P~~osting. At least fifteen ~~(15)~~ days prior to a neighborhood meeting, the applicant shall post a notice on the subject property.
2. Content. The posted notice for neighborhood meetings shall include the following:
 - a. Time, date, and location of the meeting.
 - b. The application~~(s)~~ to be considered.
 - c. Project name.
 - d. ~~C~~ity of Loveland ~~E~~current ~~P~~lanning ~~D~~ivision contact information, including the division phone number.
3. Requirements for ~~P~~osting.
 - a. It shall be the applicant's responsibility to have the sign~~(s)~~ created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign(s) on the site and ensure that the sign~~(s)~~ remain in place during the full ~~15~~fifteen-day period leading up to the neighborhood meeting. The ~~E~~current ~~P~~lanning ~~D~~ivision shall provide the applicant specifications for the location of signs required for the site.
 - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the ~~E~~city prior to the neighborhood meeting for which the notice was given and shall satisfy the requirements of ~~S~~ection 16.18.050(C).

16.18.030 Public hearings.

A. Applicability. Mailed, posted~~, and published~~ public notice is required for public hearings. It is the applicant's responsibility to mail and post public notice for public hearings and staff's responsibility to publish notice for public hearings.

B. Mailed ~~N~~otice for ~~P~~ublic ~~H~~earings.

1. Deadline for ~~M~~ailing. At least fifteen ~~(15)~~ days prior to a public hearing, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in ~~S~~ection 16.18.030(B~~(3)(a)~~) at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the ~~E~~city prior to the public hearing for which the notice was given and shall satisfy the requirements of ~~S~~ection 16.18.050(C).
2. Content. The written (mailed) notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application~~(s)~~ to be considered.
 - c. Project name.
 - d. Applicant's name.

- e. Vicinity map identifying the site within the neighborhood context.
- f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at [City Hall](#)[the municipal building](#).
- g. Description of the proposal for the subject property.
- h. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
- i. Secondary contact ([City of Loveland](#)[Current Planning Division\) information, including the name, phone number, and email address of the reviewing planner.](#)
- j. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the [City's](#)[Current Planning Division.](#)

3. Requirements for [Mailing.](#)

- a. Ownership [List](#). A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in [Table 16.18-2](#) and subsections [\(c\)](#) through [\(g\)](#) of this subsection 16.18.030.[B](#)[\(3\)](#) shall be submitted to the [City's](#)[Current Planning Division](#), using the names and addresses that appear on the latest records of the Larimer County [Assessor](#). This list shall be current to within sixty [\(60\)](#) days prior to the mailing.
- b. Area of [Notification](#). The distances specified in [Table 16.18-2 Mailed Notice Distance Requirements for Public Hearings](#), shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through g of this subsection 16.18.030[B](#)[\(3\)](#). All properties that fall wholly or partially within the stated distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS

Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Preliminary Plat	600 ft.	900 ft.	1,200 ft.
Obsolete Subdivisions	See <u>E</u>chapter 16.36		
Vacation (of easements or rights-of-way)	See <u>E</u>chapter 16.36		

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two

times the distances specified in Table 16.18-2. For the purposes of this provision, lake front properties include those that are separated from the lake up to ~~50~~fifty feet by undevelopable property such as open space tracts and outlots.

- ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the Current Planning Manager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in ~~(a)~~2 above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one ~~(21)~~ days prior to the neighborhood meeting.
- e. Reduction in ~~N~~otification ~~A~~rea. All notification distances in Table 16.18-2 shall be reduced by fifty ~~(50)~~ percent, but shall not be less than four hundred ~~(400)~~ feet, for infill projects that are twenty ~~(20)~~ acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty ~~(80)~~ percent of its boundary, to properties within the existing city limits of the ~~C~~ity of Loveland.
- f. Expansion of ~~N~~otification ~~A~~rea. The area of required notification may be expanded up to twice the distance specified in Table 16.18-2 if the ~~C~~urrent ~~P~~lanning ~~M~~anager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one ~~(21)~~ days prior to the public hearing.
- g. Mineral ~~E~~state ~~O~~wners. The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least thirty ~~(30)~~ days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act ~~(C.R.S. § 24-65.5-101 et seq.)~~ (the "act"). An affidavit of the applicant's compliance with such requirements shall be provided to the ~~C~~ity prior to the public hearing for which the notice was given and shall meet the provisions of the act.

C. Posted ~~N~~otice for ~~P~~ublic ~~H~~earings.

- 1. Deadline for ~~P~~osting. At least fifteen ~~(15)~~ days prior to a public hearing, the applicant shall post a notice on the subject property.
- 2. Content. The posted notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application~~(s)~~ to be considered.
 - c. Project name.
 - d. ~~C~~ity of Loveland Current ~~P~~lanning ~~D~~ivision contact information, including the division phone number.
- 3. Requirements for ~~P~~osting.
 - a. It shall be the applicant's responsibility to have the sign~~(s)~~ created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign~~(s)~~ on

the site and ensure that the sign(s) remain in place during the full ~~15~~fifteen-day period leading up to the public hearing. The ~~E~~current ~~P~~lanning ~~D~~ivision shall provide the applicant specifications for the location of signs required for the site.

- c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the ~~E~~city prior to the public hearing for which the notice was given and shall satisfy the requirements of ~~S~~ection 16.18.050(C).
- D. Published ~~N~~otice for ~~P~~ublic ~~H~~earings.
 - 1. Deadline for ~~P~~ublishing. Notice shall be published by the ~~E~~current ~~P~~lanning ~~D~~ivision at least fifteen ~~(15)~~ days prior to a public hearing.
 - 2. Content. The published notice for public hearings shall include the following:
 - a. Time, date, and location of the hearing.
 - b. The application(s) to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties and for mineral estate notices, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the ~~Civic Center~~municipal building.
 - f. Description of the proposal for the subject property.
 - g. ~~City of Loveland~~ Current ~~P~~lanning ~~D~~ivision contact information, including the division phone number.
 - h. A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the ~~City's~~ ~~E~~current ~~P~~lanning ~~D~~ivision.
 - 3. Requirements for ~~P~~ublishing. Notice of the public hearing shall be published one ~~(1)~~ time in a newspaper of general circulation.

16.18.040 Staff decisions (minor subdivisions).

- A. Applicability. Mailed and posted public notice is required for staff decisions. It is the applicant's responsibility to mail and post public notice for staff decisions.
- B. Mailed ~~N~~otice for ~~S~~taff ~~D~~ecisions.
 - 1. Deadline for ~~M~~ailing. Within fifteen ~~(15)~~ days after the preliminary approval of a minor plat of subdivision, the planning division shall formulate a preliminary written statement of findings and the applicant shall, by first class mail, send written notice to all property owners on the certified list required in ~~S~~ection 16.18.040~~(B)(3)(a)~~ at the address listed for each owner. An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the ~~E~~city prior to final approval of the minor subdivision and shall satisfy the requirements of ~~S~~ection 16.18.050(C).
 - 2. Content. The written (mailed) notice for staff decisions shall include the following:
 - a. Date of the decision.
 - b. The application(s) to be considered.
 - c. Project name.
 - d. Applicant's name.
 - e. Vicinity map identifying the site within the neighborhood context.

- f. General description of the size and location of the subject property using street address and nearest street intersection. For platted properties, include the legal description of the subject property, referencing lots, blocks and tracts of identified subdivisions or additions. For metes and bounds properties, include a statement that the full legal description is available at the [Civic Center](#)~~municipal building~~.
- g. Description of the proposal for the subject property.
- h. Primary contact (applicant or applicant's consultant) information, including name of individual, name of company, phone number, and e-mail address.
- i. Secondary contact ([City of Loveland](#) ~~C~~urrent ~~P~~lanning ~~D~~ivision) information, including the name, phone number, and email address of the reviewing planner.
- j. A statement that interested parties may submit an appeal in accordance with the requirements of [E](#)chapter 18.80 ~~of this Code~~ and the date of the ten-~~(10)~~ day deadline for filing an appeal.

3. Requirements for [M](#)ailing.

- a. Ownership [L](#)ist. A list, certified by the applicant, of the names and addresses of all surface owners of record of all properties that fall wholly or partially within the distances provided in [T](#)able 16.18-3 and subsections c through f of this subsection 16.18.040(B)(3) shall be submitted to the [City's C](#)urrent ~~P~~lanning ~~D~~ivision, using the names and addresses that appear on the latest records of the Larimer County [A](#)ssessor. This list shall be current to within sixty ~~(60)~~ days prior to the mailing.
- b. Area of [N](#)otification. The distances specified in [T](#)able 16.18-3 [Mailed Notice Distance Requirements for Staff Decisions](#), shall be used to determine the area to which written (mailed) notice shall be given, except as provided in subsections c through f of this subsection 16.18.040(B)(3). All properties that fall wholly or partially within the distance, as measured from the perimeter of the subject property, shall be included.

Table 16.18-3 MAILED NOTICE DISTANCE REQUIREMENTS FOR STAFF DECISIONS

Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Minor Subdivision	300 ft.	300 ft.	300 ft.

- c. Public rights-of-way and streets. Notification distance shall be calculated inclusive of public rights-of-way and public streets.
- d. Lake, golf course, and park front notification.
 - i. If the subject property fronts a lake, public or private golf course or public park, written notice shall also be mailed to owners of other properties that front the lake, public or private golf course or public park that are within two times the distances specified in [T](#)able 16.18-3. For the purposes of this provision, lake front properties include those that are separated from the lake up to [50-fifty](#) feet by undevelopable property such as open space tracts and outlots.
 - ii. The area of required notification may be expanded to include up to all properties fronting the lake, public or private golf course or public park if the

~~E~~current ~~P~~lanning ~~M~~anager reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of other fronting properties beyond the distance specified in (a) above. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one ~~(21)~~ days prior to the neighborhood meeting.

- e. Reduction in ~~N~~otification ~~A~~rea. All notification distances in ~~T~~able 16.18-3 shall be reduced by fifty ~~(50)~~ percent, but shall not be less than four hundred ~~(400)~~ feet for infill projects that are twenty ~~(20)~~ acres or less in size. For the purposes of this section, a project shall be considered an infill project if it is adjacent, on at least eighty ~~(80)~~ percent of its boundary, to properties within the existing city limits of the ~~E~~city of Loveland.
- f. Expansion of ~~N~~otification ~~A~~rea. The area of required notification may be expanded up to twice the distance specified in ~~T~~able 16.18-3 if the ~~E~~current ~~P~~lanning ~~M~~anager reasonably anticipates interest or concern regarding the application from community members beyond the required distance. The applicant shall be notified in writing of any determination to expand the required notification area, including the reasons for the expansion, at least twenty-one ~~(21)~~ days prior to the staff decision.

C. Posted ~~N~~otice for ~~S~~taff ~~D~~ecisions.

- 1. Deadline for ~~P~~osting. The applicant shall post notice on the subject property of the staff decision within fifteen ~~(15)~~ days after the preliminary staff decision and keep it posted for the duration of the ten-~~(10)~~ day appeal period.
- 2. Content. The posted notice for staff decisions shall include the following:
 - a. Date of the decision.
 - b. The application~~(s)~~ to be considered.
 - c. Project name.
 - d. ~~C~~ity of Loveland Current ~~P~~lanning ~~D~~ivision contact information, including the division phone number.
- 3. Requirements for ~~P~~osting.
 - a. It shall be the applicant's responsibility to have the sign~~(s)~~ created at a sign company.
 - b. The posted notice shall be readily visible from each public street or highway adjoining the property. It is the applicant's responsibility to post the sign~~(s)~~ on the site and ensure that the sign~~(s)~~ remain in place during the full ~~ten~~-day appeal period. The ~~E~~current ~~P~~lanning ~~D~~ivision shall provide the applicant specifications for the location of signs required for the site.
 - c. An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the ~~E~~city prior to the final approval for which the notice was given and shall meet the requirements of ~~S~~ection 16.18.050(C).

D. Optional ~~N~~otice.

- 1. Notice of staff decisions authorized under this ~~T~~itle but not otherwise subject to specific notice requirements may be required by the ~~E~~current ~~P~~lanning ~~M~~anager when the following circumstances exist:
 - a. A discretionary decision has been made by staff concerning the application of one or more regulations contained in this ~~T~~itle; and

- b. The decision may impact the use or enjoyment of property within the vicinity of the subject site; and
- c. There is reason to believe that there may be parties of interest residing or owning property within the vicinity of the affected property.

2. Type and ~~D~~istance of ~~O~~ptional ~~N~~otice. Notice type~~(s)~~ and distance for optional notice shall be at the discretion of the ~~C~~urrent ~~P~~lanning ~~M~~anager. In no instance shall mailed notice exceed ~~300~~three hundred feet from the boundary of the subject property.

16.18.050 Additional notice requirements.

- A. Computation of ~~T~~ime. In computing any period of time prescribed for the purpose of giving notice under this ~~C~~hapter, the day of the publication, mailing, or posting shall be included. The day of the meeting or hearing shall not be counted. Saturdays, Sundays, and legal holidays shall be counted as any other day.
- B. Notice ~~C~~ost. All costs for providing public notice as required by this ~~C~~hapter shall be the responsibility of the applicant except for the published notice.
- C. Applicant's ~~C~~ertification. Prior to the neighborhood meeting, public hearing, or final staff decision, the applicant shall provide the ~~C~~urrent ~~P~~lanning ~~D~~ivision with an affidavit certifying that the requirements as to the applicant's responsibility for the applicable forms of notice under this ~~C~~hapter have been met. The ~~C~~urrent ~~P~~lanning ~~D~~ivision shall provide a sample of the certification, which shall address all applicable forms of public notice required of the applicant.
- D. Failure to ~~P~~rovide ~~N~~otice, ~~D~~efective ~~N~~otice. Failure to provide the required affidavit or evidence of a defective mailing list prior to a neighborhood meeting or public hearing shall result in termination of the review process until proper notice is provided meeting all applicable provisions under this section.
- E. Continuation of ~~H~~earings and ~~N~~eighborhood ~~M~~eetings. A hearing or neighborhood meeting for which proper notice was given may be continued to a later date without again complying with the public notice requirements of this ~~C~~hapter, provided that the date, time, and location of the continued hearing or meeting is announced to the public at the time of continuance.

16.18.060 Notice for appeals.

Any final decision under this ~~T~~itle that is appealed is subject to the same notice standards as the original notice.

Chapter 16.20

SUBMITTAL PROCEDURES AND REQUIREMENTS

Sections:

- 16.20.010** **Where required.**
- 16.20.015** **Non-regulated land transfers.**
- 16.20.020** **Expiration of plat.**
- 16.20.030** **Subdivision review standards.**
- 16.20.040** **Public notice requirements.**
- 16.20.050** **Basic plat and reporting requirements.**
- 16.20.060** **Preliminary plat review procedure.**
- 16.20.070** **Submittal requirements – Preliminary plat application.**
- 16.20.080** **Final plat review procedure.**
- 16.20.090** **Submittal requirements – Final plat application.**
- 16.20.100** **Minor subdivision review procedures.**
- 16.20.110** **Submittal requirements – Minor subdivision application.**
- 16.20.120** **Simple plat review procedure.**

16.20.010 Where required.

Before subdividing or resubdividing any lot, tract or parcel of land in the city into two or more lots, tracts or outlots for the purpose, whether immediate or future, of transfer of ownership, or building development, the property owner shall follow the procedure prescribed by this title unless an exception therefrom is granted pursuant to ~~S~~ection 16.16.050. This title shall not apply to any division of land by virtue of the foreclosure of a deed of trust, any division of land created by the establishment of street rights-of-way or other divisions of lands for public purposes not involving the necessity of subdividing adjoining lands, cemeteries, or any division of public streets or rights-of-way pursuant to a lawful right-of-way vacation.

- A. Unrecorded ~~P~~lats. No owner or agent of the owner of any land shall transfer, sell, agree to sell any land located by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plan or plat has been approved by the city and recorded in the office of the Larimer County clerk and recorder. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from any penalties provided by law.
- B. Building ~~P~~ermit, ~~W~~hen ~~I~~ssued. No building shall be erected on any lot, nor shall a building permit be issued for a building unless the lot is part of a subdivision approved in accordance with this title or prior subdivision regulations.
- C. Exceptions to ~~S~~ubdivision ~~R~~equirement for ~~E~~nclaves. For areas annexed into the City as part of an enclave annexation, building permits may be issued for parcels that have not received subdivision approval under this ~~T~~itle for the purpose of making interior or exterior improvements to existing structures, regardless of use (i.e. residential, commercial or industrial). Further, for residential structures only, building permits may be issued without subdivision approval for building additions and construction of accessory structures provided any such addition or accessory structure complies with all requirements of ~~T~~itle 18 for the zone district in which the parcel is located. In such

cases, setback measurements shall be based upon a field survey or existing survey monumentation. The exceptions set forth in this subsection C shall only apply to residential, commercial or industrial structures that existed on or before the effective date of the enclave annexation.

D. Recording Pplats. The city shall record every plat in accordance with Section 16.20.080D.

16.20.015 Non-regulated land transfers.

A. Notwithstanding the provisions of Section 16.20.010 and any Colorado law to the contrary, any parcel of land, whether larger or smaller than thirty-five acres, may be conveyed and transferred by metes and bounds description or by other usual and customary method of land description, without being subject to the subdivision requirements of this title; provided however that no such transfer shall imply or confer any right to develop, or create a new lot, or create a nonconformity of any nature whatsoever, or circumvent the intent or requirements of this title or Title 18. Before development may occur on any such parcel, the owner shall subdivide the property in conformity with all requirements of this title and Title 18.

B. Every deed or other instrument conveying or otherwise transferring unsubdivided property within the city shall contain the following statement in bold type prominently displayed on the face of said deed or instrument:

“The transfer of real property accomplished pursuant to this deed [or other instrument] does not confer or imply that the conveyed property or the remainder property may be used for development within the City of Loveland, Colorado. Any future development of the property shall be subject to all development requirements of the City of Loveland, including, without limitation, all zoning and subdivision requirements and procedures.”

16.20.020 Expiration of plat.

A. Preliminary Pplat. Unless extended by the planning commission, for good cause shown, approval of a preliminary plat shall be valid for one year, unless a longer phasing plan is approved as a part of the preliminary plat. If the applicant fails to submit to the development centercurrent planning division a final plat substantially conforming to the approved preliminary plat within one year after final approval of the preliminary plat, or as otherwise required by a longer phasing plan, approval of the preliminary plat by the planning commission shall be deemed withdrawn. A new preliminary plat application must be filed and all fees paid.

B. Final Pplat. Approval of a final plat by the city shall be null and void if the plat is not recorded within one hundred eighty days after the date of approval, unless a written application for an extension of time is made to the directorcity, and granted, during said one hundred eighty days.

16.20.030 Subdivision review standards.

The decision of the director, planning commission and city council, if applicable, shall be based upon whether the applicant has demonstrated that the proposed subdivision protects the health, safety and general welfare of the public, and meets the following standards:

- A. The subdivision does not create, or mitigates to the extent possible, negative impacts on the surrounding property.
- B. The subdivision provides desirable settings for the buildings, protects views, and affords privacy, protects from noise and traffic, maintains the environmental quality of the community and uses resources such as energy and water wisely in keeping with responsible resource stewardship.
- C. The subdivision preserves natural features and environmentally sensitive areas of the site to the extent possible.
- D. The subdivision shall be reviewed in accordance with the comprehensive master plan, the transportation master plan, and other pertinent plans approved and adopted by the city, to insure that it is designed in accordance with good engineering practices, and provides for safe and convenient movement.
- E. The lots and tracts are laid out to allow efficient use of the property to be platted.
- F. The proposed public facilities and services are adequate, consistent with the city's utility planning, and capable of being provided in a timely and efficient manner in accordance with ~~S~~ection 16.41.060.
- G. The subdivision complies with the design standards set forth in ~~E~~Chapter 16.24 and the water rights requirements in ~~T~~itle 19.
- H. The subdivision complies with all applicable regulations contained within this code.

16.20.040 Public notice requirements.

Notice shall be given of all public hearings on all subdivision applications as provided for in ~~S~~ection 16.16.070.

16.20.050 Basic plat and reporting requirements.

- A. Standards for ~~P~~reparing ~~P~~lats. All ~~preliminary plats and final subdivision~~ plats shall be prepared according to the ~~following~~ standards determined by the director and included in the applicable submittal checklists:
- 0. ~~All plats must bear suitable evidence of the professional qualifications of the person or firm who prepared the plat. Plans containing water supply, sanitation, utilities, soils, grading, roads, structures, and other civil engineering work shall be certified by a duly registered Colorado professional engineer. All required documents containing land survey descriptions shall be certified by a duly registered Colorado professional land surveyor. All topographic plans shall be certified by a duly registered Colorado professional engineer or Colorado professional land surveyor. All data submitted regarding environmental studies and other disciplines, not currently requiring registration by the state of Colorado, must be accompanied by a resume of such qualifications sufficient to demonstrate the author's degree of expertise and experience. Geology plans and reports shall be prepared and certified by a qualified geologist or registered Colorado professional engineer with documentable experience in geotechnical engineering satisfactory to the city.~~
- 0. ~~Monuments, per Chapter 16.21. The character, type and position of all boundary and/or aliquot monuments found or set shall be shown on the plat. New street centerline monuments shall be shown for all street intersections, points of curvature, angle points, intersections of street centerlines with the boundary of the subdivision and points that define the geometry of the cul-de-sacs. Reference monuments shall be~~

set, with dimensions and descriptions shown on the plat in the event that monuments cannot practically be set because of steep terrain, water, marsh or existing structures. If a monument is to be set as a result of a proposed street, road or other construction, one or more reference monuments shall be set, with dimensions and descriptions shown on the plat, if the monument cannot be reestablished in its original position.

2. A monument key that shows existing monuments in the form of those monuments found and those set, as well as those to be set upon completion of street construction or a note at each monument detailing this information is acceptable.
2. **Section Corner Tie.** Where the location of a subdivision or piece of property is required to be shown as a part of some larger subdivision or tract of land, such subdivision or piece of property shall be shown by reference to permanent survey monuments with the original subdivision or tract. A minimum of two section corners, quarter corners or other relevant aliquot corners are required for major subdivision plats.
2. The dimensions of all plats shall be twenty four inches by thirty six inches, with a marginal line one inch from each edge. All drawings, affidavits, certificates, acknowledgments, endorsements, acceptances of dedication and notarial seals shall be contained within said marginal lines, except that the title shall be noted in the upper and lower right corners, outside the margin, for city filing purposes.
2. In the case of three or more sheets, a key map showing the relationship of individual sheets shall be provided on the first sheet of the set. Match lines are required on each sheet of a set. Notes shall appear only on the first sheet.
2. Each plat shall be drawn in black, waterproof ink on Mylar of good quality.
2. The basis of bearings used in the legal description, noted and shown.
2. The proposed name of the subdivision.
2. A subtitle describing the origin of the proposed subdivision.
2. Date of preparation.
2. Each sheet shall show title, north arrow, scale (minimum one inch equals one hundred feet, or as determined by the director) bar graph, and sheet number.
2. Show relationship to adjacent areas using fine dashed lines to include complete legal description (lot and block numbers, outlet and tract names and subdivision name or "unincorporated Larimer County"), including land across adjacent rights of way.
2. Boundary of the subdivision shall be designated by a one eighth inch hatched border applied to the inside of the bold boundary line.
2. Line types for subdivision boundaries, street right of way lines and lot lines shall be bold and solid.
2. Line types for easements shall be denoted by fine dashed lines.
2. Location and widths of all existing recorded, non recorded and proposed easements are to be labeled and dimensioned to sufficiently define the easement geometry, including easements to be reserved for public use. No "typical" notations shall be used. Where an easement is not defined as to width or extent by a recorded conveyance, decree or other instrument, the easement shall be depicted in a manner that gives notice of the existence thereof, together with an appropriate descriptive label which includes the words "boundary not determined." It shall be the duty of the applicant to meet with the owner of each such easement and to make reasonable efforts to agree upon boundaries thereof. In the event any such agreement is reached,

appropriate instruments evidencing such agreement shall be recorded prior to recording of the final plat, and the agreed upon boundaries shall be indicated on the final plat.

2. Postal easements shall have a minimum width of six feet and shall be provided along all street frontages unless waived in writing by the Loveland postmaster.
2. Location and dimensions of all existing recorded and proposed rights of way, showing the centerline of each right of way and the right of way width on each side of centerline.
2. Future Street Dedication. Whenever construction of a street is necessary for future resubdivision as determined by the city, but which street is not warranted for construction, the necessary dedication for such future street shall be provided on the plat.
2. Location and dimensions for all lines, angles and curves used to describe boundaries, alleys, lot lines, access points to public ways, open areas, easements, areas to be reserved for public use and other important features shall be provided. Sufficient data shall be shown to readily determine the bearing and length of every lot line, boundary line and easement line. No ditto marks shall be used. Length, radius, total delta and the bearing of radial lines to each lot corner on a curve shall be shown. In addition, nontangent curves shall include a chord bearing and distance.
2. All distances shall be set forth to the nearest hundredth of a foot and bearings to the nearest second.
2. All lots, tracts, and outlots shall show net acreage to the nearest square foot.
2. Block and Lot Numbers. Lots shall be designated numerically, in bold, beginning with the number "1," in each block. Groups of lots surrounded by a street or other recognized feature shall be designated as separate blocks. The block or blocks shall be designated numerically in bold, beginning with the number "1," in each block.
2. Street names, including prefixes and suffixes, as per Chapter 12.08 of the Loveland Municipal Code. Names to be used for new streets shall be subject to the street naming policy of the city and all names shall be subject to the approval of the director/planning commission, and fire and police departments.
2. Limits of floodway and flood fringe boundaries shall be shown by dashed lines and labeled.
2. The centerline and directional flow of streams and rivers shall be shown with dashed lines ending with arrows and with an appropriate descriptive label including the words "exact location not determined." The water and power department may require information, including but not limited to, additional right of way, flood plain information, etc.
2. All irrigation ditches and proposed easements and rights of way for irrigation ditches. If no easements or rights of way exist, the plat shall show the location of any such ditch on the plat with appropriate descriptive label including the words "exact location not determined."
2. Legal description of the subdivision parcel inclusive of the reception number(s) and/or book and page(s) that the legal survey for the subdivision is based upon. Legal descriptions must match boundary and direction as shown on the final plat. The area of the subdivision shall be included in the legal description and dedication statement.

3. Other relevant documentation as determined by the director. Other information may be required by the director to make a determination as to the impacts of the proposed subdivision to the city.
3. When a development agreement has been established for a project, the following note shall be provided on the plat: "This project is subject to a development agreement which has been recorded in the real property records of Larimer County."
3. Previous Conditions Reference. The following note shall be provided on all new plats of previously subdivided property: "Unless otherwise approved by the city, all unsatisfied conditions of approval for the original subdivision shall continue to apply to this property."
3. Improvement Statement. If applicable, the final plat shall have a statement thereon stating who will pay for the installation of the following improvements to be placed in or upon the property shown on such or plat as follows: "All expenses involving necessary improvements for water system, sanitary sewer system, storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control signs, alley grading and surfacing, gas service, electric system, grading and landscaping shall be paid by (insert name of owner)."
3. Dedication Form Acknowledgments. All plats shall have a dedication statement thereon signed by all persons having any record interest in the property subdivided, consenting to the preparation and recording of the plat and offering for dedication all parcels of land shown on the final plat and intended for any public use, except those parcels other than streets which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants. The form of all dedications, and the acknowledgments of all signatures shall be as follows:
 - Dedication statement for all final plats, except boundary line adjustments and lot mergers:

KNOW ALL MEN BY THESE PRESENTS that (the undersigned), being all the owners and lienholders of the following described property, except any existing public streets, roads or highways, which property is located in Section _____, Township _____ North, Range West of the 6th P.M., being more particularly described as follows: _____, containing _____ (acres) (square feet) more or less, and is subject to all easements and right of ways on record or existing, do hereby subdivide the same into lots, blocks, tracts, outlots, right of ways, and easements, as shown on this map; and do hereby designate and dedicate: (1) all such right of ways and easements, other than utility easements and private easements, to and for public use, except where indicated otherwise on this map; and (2) all such utility easements to and for public use for the installation and maintenance of utility, irrigation and drainage facilities; and do hereby designate the same as (Insert that portion of the title of the plat, up to and including the words "to the City of Loveland, Colorado").

(Insert improvement statement here required by Section 16.20.050(A)33)

(Insert Owner's Signatures)

(Insert Lienholder's Signatures)

STATE OF COLORADO)

_____) ss.
COUNTY OF LARIMER)

_____) The foregoing instrument was acknowledged before me this ____ day of ____,
by _____. ← Formatted: Tab stops: Not at 1.92" + 2.25"

_____) Witness my hand and official seal.

_____) My Commission expires _____. ← Formatted: No bullets or numbering, Tab stops: Not at 2.5"

_____) Notary Public

_____) Dedication statement for boundary line adjustments and lot mergers:

_____) KNOW ALL MEN BY THESE PRESENTS that (the undersigned), being all the owners and lienholders of the following described property, except any existing public streets, road or highways, which property is located in Section ___, Township ___ North, Range West of the 6th P.M., being more particularly described as follows: ___, containing ___ (acres) (square feet) more or less, and is subject to all easements and right of ways on record or existing, and do hereby designate the same as (Insert that portion of the title of the plat, up to and including the words "to the City of Loveland, Colorado").

_____) (Insert improvement statement here required by Section 16.20.050(A)33)

_____) (Insert Owner's Signatures)

_____) (Insert Lienholder's Signatures)

_____) **STATE OF COLORADO**)

_____) ss. ← Formatted: Tab stops: Not at 2.25"

_____) **COUNTY OF LARIMER**)

_____) The foregoing instrument was acknowledged before me this ____ day of ____,
by _____. ← Formatted: Tab stops: Not at 2.25"

_____) Witness my hand and official seal.

_____) My Commission expires _____. ← Formatted: No bullets or numbering

_____) Notary Public

41. Surveyor's Certificate. The form of all surveyors certificates, together with the acknowledgment shall be as follows:

_____) I (printed name of land surveyor) being a registered Professional Land Surveyor in the State of Colorado, do hereby certify that the survey of (name of subdivision in capital letters) was made by me or under my supervision and that the survey is accurately represented on

this plat and that the statements contained hereon were read by me and the same are true to the best of my knowledge.

____ Dated this ____ day of ____,

____ Note: The professional land surveyor's seal is to be applied directly to the document by means of a crimp seal or rubber stamp. The surveyor's original, dated signature must appear through the seal.

49. (Reserved.)

50. (Reserved.)

51. Director of community services' certificate in the following form:

____ This plat is approved by the Director of Community Services of the City of Loveland, Larimer County, Colorado, this ____ of ____, for filing with the Clerk and Recorder of Larimer County and for conveyance to the City of the public dedications shown hereon, which are accepted: subject to the provision that approval in no way obligates the City of Loveland, for the financing or constructing of improvements on land, streets or easements dedicated to the public except as specifically agreed to by the Director of Community Services.

____ Director of Community Services

____ Witness my hand and seal of the City of Loveland.

____ ATTEST:

____ City Clerk

63. (Reserved.)

64. Planning commission's certificate in the following form (required for preliminary plats only):

____ This plat is approved by the City of Loveland Planning Commission, this ____ day of ____, ____.

____ Chairman

70. Attorney's certificate (not required for boundary line adjustments and lot mergers). An attorney's certificate, reading as follows, shall be affixed to the final plat:

____ I, _____ an attorney licensed to practice law in the State of Colorado, certify, that I have examined title to the above described land dedicated to the City of Loveland, Colorado, and that the parties executing the dedication are the owners thereof in fee simple, and the dedicated land is free and clear of all liens and encumbrances, except as set forth herein.

____ So sworn this ____ day of ____.

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— Attorney at Law

(Note: Attorney's certification shall be effective on the date of final plat approval.)

79. (Reserved.)

80. Where required by the director, additional certificates shall be included on the plat certifying the acknowledgment of the subdivision through the signatures of other affected property owners.

A. Standards for Preparing Reports. All reports required in this title shall be prepared according to the following standards and shall include:

1. Name, title, business phone, and address of person(s)/firm(s) preparing the report;

2. Date of preparation;

84. Copy of supporting plans or clear key to relevant elements or plans submitted pursuant to other requirements;

85. Pages numbered consecutively;

86. All reports must bear suitable evidence of the professional qualifications of the person or firm who prepared the plans. Reports containing water supply, sanitation, utilities, soils, grading, roads, structures, and other civil engineering work shall be certified by a duly registered Colorado professional engineer. All required documents containing land survey descriptions shall be certified by a duly registered Colorado professional land surveyor. All data submitted regarding environmental studies and other disciplines, not currently requiring registration by the state of Colorado, shall be accompanied by a resume of such qualifications sufficient to demonstrate the author's degree of expertise and experience. Geology reports shall be prepared and certified by a qualified geologist or registered Colorado professional engineer with documentable experience in geotechnical engineering satisfactory to the city;

87. Additional material, data or studies as required by the Director which will facilitate an understanding of the development.

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16.20.060 Preliminary plat review procedure.

A. Purpose. The preliminary plat application shall provide the necessary information including a development agreement where applicable, to allow the staff and planning commission to review a preliminary design and to resolve planning or engineering problems or other issues that may have been raised at the sketch plan phase.

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. Development Review. The design depicted on the preliminary plat shall be in accordance with the applicant's plans for actual development and, therefore, shall be a true representation of the subdivision which may eventually be recorded. The applicant shall follow the development review procedures as provided in Section 16.16.030(B).

. Planning Commission Decision. Subject to notice requirements, and after the development review team has found the application to be complete, the director shall schedule a hearing on the application with the planning commission. The planning commission shall hold a public hearing on the preliminary plat application at a regular meeting. Staff's recommendations shall be presented as part of the public hearing. Using the review standards set forth in this title, the planning commission may approve, approve with conditions, or deny the application as submitted. The planning commission shall make appropriate findings based on the applicable review standards and adopted plans. When approving any application, the planning commission may impose any reasonable conditions to ensure that the proposal complies with the review

standards set forth in this title, has been reviewed in accordance with the comprehensive master plan and complies with the Loveland Municipal Code. Before imposing any condition on the plat which is not a part of the application as submitted, the planning commission shall obtain the consent of the applicant to the conditions, either in writing or as part of the record of the proceeding. If the applicant fails to consent to all of the conditions, such failure shall be grounds for denial of the preliminary plat.

A. Appeal Procedures of Planning Commission Decisions. An appeal under this section of a final decision of the planning commission shall be made to the city council and shall be conducted in accordance with Chapter 18.80 of this Code.

16.20.070 Submittal requirements Preliminary plat application.

A. Reviewable Application. The following information is required to be submitted for the planning commission's consideration of the preliminary subdivision plat, unless waived pursuant to Section 16.16.050. An authorized representative from the appropriate department shall initial and date the submittal checklist for each requirement that may be waived.

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97. Twenty copies each of the following: completed application form, vicinity map (eight and one half inches by eleven inches) and the plat, folded in eighths to approximate letter size. The copies shall be collated into twenty packets, ready for distribution.

98. Filing fee, as set forth by resolution.

99. The preliminary plat legal description must be submitted in a digital format on a medium specified by the director.

100. Three copies of preliminary drainage plan and report as required by the water and power department as specified in the storm drainage criteria manual.

101. Three copies of a traffic impact study as required by the city's traffic engineer. Such study shall comply with the current version of the traffic impact study guidelines and policies and Chapter 16.41, Adequate Community Facilities.

102. Two mineral extraction reports, current at the time of submittal.

103. Two geotechnical investigation reports.

104. One eleven and one half inch by seventeen inch photo reduction of the plat. A reduced paper copy is initially acceptable, but the approved, legible photo reduction shall be submitted to the development center no less than twenty two days before the public hearing.

105. The preliminary subdivision plat submittal checklist completed by the applicant on the form provided by the development center.

106. Five sets of preliminary public improvement construction plans for water, sewer, storm drainage, street facilities and landscaping.

107. Major activity notice as required by Colorado Revised Statutes (if plat is five acres or more in size).

108. Three copies of an environmentally sensitive areas report identifying and assessing the potential impacts on environmentally sensitive areas and describing measures to protect or mitigate any such affects. All environmentally sensitive areas shall be depicted on the preliminary subdivision plat.

109. The environmentally sensitive areas report shall address the presence or absence of wetlands on the subject property. If wetlands are present on the property, the location, extent and quality of the wetlands shall be described in the environmentally sensitive areas assessment.

110. Additional material, data or studies as required by the director which will facilitate an understanding of the subdivision and the planning objectives of the development. These may

include, but are not limited to, fiscal impact evaluations, market studies and transportation studies.

111. Copy of any determination by the city that the application is exempt from Chapter 16.41 (Adequate Community Facilities).

A. Preliminary Plat Information. The preliminary plat shall be prepared in compliance with the requirements in Section 16.20.050(A) (items 5, 30 and 40), and shall also include the following:

113. The names and addresses of the property owner(s), the designer of the subdivision, the engineer and surveyor.

114. Locations and size of private/public sewers and water mains and services, and storm drainage facilities, existing and proposed.

115. Power pole locations and buried cable, existing.

116. Location and dimensions of all important features within and adjacent to the tract to be subdivided.

117. Use of property and outline of any proposed deed restrictions, including building lines and minimum yard dimensions.

118. Contours based on the current city datum at vertical intervals or not more than five feet where the slope is greater than ten percent and not more than two feet where the slope is less than ten percent, existing and proposed.

119. Streets, sidewalks (location and width), existing and proposed.

120. Existing buildings (if any) with addresses.

The proposed improvements associated with items 2 and 3 may be shown on either the preliminary plat or the preliminary public improvement construction plans.

A. Preliminary Public Improvements Construction Plans. The preliminary public improvements construction plans shall be submitted as part of the preliminary plat application, unless the data listed below is shown on the preliminary plat. Said plans shall contain:

123. Street/Alley Plan and Profile. The horizontal geometry of all proposed streets, gutters and sidewalks shall be graphically drawn at a scale of one inch equals twenty feet, thirty feet, forty feet or fifty feet. Proposed profile grades of gutters and/or street centerlines may be shown in profile view or described with numerical designations on the plan view.

124. Street/Alley Cross Section. The cross section of proposed streets taken at the point of greatest slope and showing the width of the street, bike lanes, easements, right of way, sidewalks, and the location and size of all proposed utility lines.

125. Utility Plan and Profile. A plan and profile of proposed sanitary and/or storm water sewers with grades and pipe sizes indicated and a plan of the proposed water distribution system showing pipe sizes and location of valves and fire hydrants.

126. Waterway and Curb Elevations. High water marks and approximate grade of all ditches, canals or other waterways to be crossed, and the lines and elevations of existing curbs.

127. Drainage Grading. All existing and proposed preliminary contours shall be shown on a plan view of the proposed subdivision lot and street layout.

128. Location and size of each existing and proposed water tap for commercial development.

129. Location of existing electric utilities and transformer facilities on the proposed site.

130. Benchmarks. A description of the current city vertical datum and horizontal benchmark used, including its elevation, location and condition. A copy of the current city vertical datum may be obtained from the city engineer. The "condition" of the benchmark is a statement as to

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~~the current usability of the benchmark or any visible signs that the benchmark may have been disturbed.~~

16.20.080 Final plat review procedure.

- A. Purpose. The purpose of the final plat submittal is to provide legal documents that will be a part of the city and/or county records. The final plat submittal shall include any development agreement as approved by the director, and all other final agreements between the applicant and the city ~~of Loveland~~.
- ~~B. Applications. The applicant shall submit to the development center twenty copies of the application and all supporting documentation for final plat review in compliance with Section 16.16.030(B)(1) along with the information required under Section 16.16.030(B)(2). Unless exempted by the director, the application shall be referred to the development review team and their comments shall be completed and compiled in compliance with Section 16.16.030(B)(3). The development review team comments may be sent to the applicant in accordance with Section 16.16.030(B)(4). On a finding by the development review team that a complete final plat application has been submitted, the director shall approve the final plat if it is in substantial compliance with the preliminary plat (unless it is a minor subdivision). If the application is not complete, or is not in compliance with the preliminary plat, then the director shall inform the applicant, in writing, of the information or revisions needed to complete the application, or to bring the final plat into substantial compliance with the preliminary plat.~~
- ~~C. Final Plat Review.~~
 1. Pursuant to the powers granted to the city in the Colorado Constitution and the ~~city of Loveland~~ ~~charter~~, the director is hereby assigned the power to approve all final plats. The director shall make final decision on the final plat application within thirty days after a complete final plat is submitted to the ~~development center~~ ~~current planning division~~. The director shall make appropriate findings based on the applicable review standards, or adopted plans. Using the review standards set forth in this title, the director shall approve, approve with conditions or deny the application. All conditions of approval applicable to the final plat shall be included in a development agreement, which shall be recorded with Larimer County clerk and recorder concurrent with recordation of the final plat. Appeals of final decisions of the director shall be made to the planning commission and shall be conducted in accordance with ~~Chapter 18.80 of the Code~~.
 2. ~~Upon determination by the ~~current planning manager~~ that a complete final plat application has been submitted, the director shall approve the final plat. If the application is not complete, or is not in compliance with the preliminary plat, if applicable, then the director shall inform the applicant in writing of the information or revisions needed to complete the application.~~ If the director approves the final plat, such approval shall also constitute an acceptance of all dedications and order the construction or installation of improvements if not completed.
 3. Until a final plat is approved and recorded, the city shall not accept, or authorize any party to lay out, open, improve, grade, pave, curb, light, lay or authorize water mains or sewers or connections to be laid in any alley, street, or future street which has been approved by the city as a public or private street or future street.

D-C. Recording and Filing Requirements. Once the city has approved the final plat and the city's approval signatures have been affixed to the final improvement construction plans and, if applicable, the final development plan:

1. The applicant shall submit to the development centercurrent planning division two signed, original mylars or one original, signed mylar and one clearly legible, reproducible copy of the plat, containing original signatures. Final plats that don't require a public hearing and are approved by the director shall be recorded no sooner than fourteen days after the required mailing of public notice.
2. The city clerk shall cause the final plat, the development agreement, if applicable, and any other written agreements or documents which the director requires to be recorded with the Larimer County clerk and recorder.
3. The city clerk shall distribute a copy to all other departments and individuals required by law or designated by the director.

16.20.090 Submittal requirements—Final plat application. (Reserved for future use.)

A. Complete Application. The following information shall be submitted by the applicant for the director's consideration of the final plat unless waived pursuant to Section 16.16.050. The development center staff shall initial and date the submittal checklist for each requirement that may be waived.

1. Twenty copies of each of the following: completed application form, vicinity map (eight and one half inches by eleven inches) and the plat, folded into eighths to approximate letter size. The copies shall be collated into twenty packets, ready for distribution.
2. Filing fee, as set forth by resolution.
2. A written update of the information required for the preliminary plat application, if applicable, as set forth in Section 16.20.070(A), explaining any revisions or changes thereto. Such update shall include a title insurance commitment updated to the date the application is submitted.
2. A title report in the form of a title commitment verifying the record title owners and identifying exceptions to title. The title report will be current as of the date of its submission to the city.
2. The final plat mapping data, for the exclusive use in the city's geographical information system and development review process and as set forth in the development standards and guidelines entitled "Plat and Map Digital Submission Standards." A complete project description and legal description shall be submitted in a digital format, on a medium specified by the director. The final plat mapping data shall be submitted with the "complete" mylars.
2. Two original mylars or one original mylar and one mylar reproducible copy shall be submitted to the development center no less than twenty two days before the public hearing. Mylars and copies shall be signed by all record owners and lien holders of the property.
2. The final plat submittal checklist completed by the applicant on the form provided by the development center.
2. One eleven inch by seventeen inch photo reduction of the final plat. A reduced paper copy is acceptable for submittal but the approved photo reduction shall be submitted to the development center no less than twenty two days before the public hearing.

4. The final public improvement construction plans checklist completed by the applicant on the form provided by the city.
4. Five copies of the final public improvement construction plans, which meet the requirements of the fire marshal, water and power department, and the engineering division.
4. Five copies of the final development plan (planned unit developments only).
4. Major activity notice as required by Colorado Revised Statutes (if plat or map is five acres or more in size).
4. A pavement thickness report for design of streets, curb, gutter and sidewalks as required by the development standards and guidelines;
4. A subsurface water investigation, analysis, and certification shall be provided whenever the geotechnical investigation documents the presence of groundwater within three feet of the proposed street subgrade elevations.
4. Geotechnical investigation.
4. Three copies of the final drainage report, in compliance with the Loveland Storm Water Drainage Criteria Manual.
4. Description of phasing of lots and installations of public improvements.
4. One copy of any homeowner association articles of incorporation, declaration of covenants and bylaws, if any.
4. Number of proposed residential dwelling units.
4. Existing zoning and date secured. If a rezoning is also being requested, indicate proposed zoning.
4. Total acreage and individual acreage of each zoned district or tract.
4. Uniform Building Code classification of building use or type of construction, if applicable.
4. Additional material, data or studies as required by the director which will facilitate an understanding of the subdivision. These may include, but are not limited to, fiscal impact evaluations, market studies, transportation studies, and other information required with preliminary plat applications.
4. Copy of any determination by the city that the application is exempt from Chapter 16.41 (Adequate Community Facilities).

A. Final Plat Information. The final plat shall be prepared according to the standards in Section 16.20.050(A).

A. Final Public Improvement Construction Plans. The final public improvement construction plans shall be submitted as part of the final plat application. Approval of the construction plans by the city shall be in effect for two years, unless a longer time is established through a phasing plan identified in a development agreement. If construction of any public improvements shown in the plans has not commenced within two years of original approval, the applicant may request a two year extension of the approval or resubmit the construction plans with any updates or revisions adopted by the city prior to commencing construction of any remaining public improvements. Construction shall be deemed to have commenced in accordance with the definition of "commencement of construction" contained in this Title 16. Said plans shall contain:

4. Title sheet with general notes, benchmark, index, vicinity map, and signature review blocks.
4. Overall utility layout plan including water, sewer, storm sewer, and street lighting.

2. Grading, drainage, and erosion control plan and report.
2. Street plan and profile drawings.
2. Street cross sections for all major collector and all arterial streets.
2. Striping plan for all collector and arterial streets.
2. Sanitary sewer plan and profile drawings.
2. Storm sewer plan and profile drawings.
2. Utility details.
2. Typical pavement cross sections and street improvement details.
2. Signing and striping details.
2. Landscape plan.

16.20.100 Minor subdivision review procedures.

- A. Minor Subdivision Review Standard. Any decision approving or conditionally approving an application for a minor subdivision shall be based upon whether the applicant has demonstrated that the proposed minor subdivision meets the following standards:
 1. The division of land into no more than four additional lots;
 2. The division of a lot for the separate conveyance of each unit of a two-family, three-family or four-family dwelling; provided that such lot complies with all city ordinances applicable to such two, three and four-family dwellings thereon; that such lot, after its division, is used solely for a two, three or four-family dwelling or for a use permitted by the ordinances of the city without the necessity of the city's granting a variance for such use because of the size of the lots created by such division.
- B. Development Review and Approval. An application for minor subdivision shall be submitted, reviewed and approved in accordance with the procedures for a final plat set forth ~~at in~~ Section 16.20.080.
- C. Any lot or tract created by a minor subdivision shall not be subdivided pursuant to a minor subdivision application within three years after recording of the plat creating said lot or tract.
- D. A minor subdivision may dedicate rights-of-way and easements.
- E. Appeals from any final decision by the director for a minor subdivision shall be made to the planning commission and shall be conducted in accordance with ~~Chapter~~ 18.80 ~~of~~ this ~~Code~~.

16.20.110 Submittal requirements Minor subdivision application

1. Complete Application. The following information shall be submitted by the applicant for the director's consideration of the plat unless waived. The appropriate department staff shall initial and date the submittal checklist for each requirement that may be waived.
 0. Twenty copies of the following: completed application form, the vicinity map (eight and one half inches by eleven inches), the site plan (twenty four inches by thirty six inches), and the plat, folded into eighths to approximately letter size. The copies should be collated into twenty packets, ready for distribution.
 0. Filing fee, as set forth by resolution.
 0. A title report in the form of a title commitment verifying the record title owners and identifying exceptions to title. This report will be current as of the date of its

submission to the city. The applicant shall provide an updated title commitment upon request.

- 0. The minor subdivision mapping data, for the exclusive use in the city's geographical information system and development review process and as set forth in the development standards and guidelines entitled "Plat and Map Digital Submission Standards." A complete project description and a legal description must be submitted in a digital format, on a medium specified by the director.
- 0. The appropriate submittal checklist completed by the applicant in the form provided by the development center.
- 0. Major activity notice as required by Colorado Revised Statutes (if plat is five acres or more in size).
- 0. Where applicable, three copies of water, sewer, storm drain and street plan and profile for review and approval by the fire marshal, water and power department and the engineering division.
- 0. Where applicable, a letter from a qualified biologist regarding the presence or absence of wetlands on the subject property, the location and extent of the wetlands shall be identified in the letter. If wetlands are present on the property, the location of the wetlands shall be depicted in the environmental sensitive areas assessment.
- 0. The site plan shall be a twenty four inch by thirty six inch photocopy of the proposed plat showing the lots or tracts involved. The site plan shall be prepared according to the standards of this section, as applicable, and shall include the following information:
 - The location of all existing and proposed improvements and structures and the dimensions to existing and new property lines;
 - Existing zoning and date secured;
 - Location and size of all existing and proposed utilities (water, sewer and electric) including all mains, service lines and fire hydrants;
 - Uniform Building Code classification of building use or type of construction, if applicable; and
 - Building height.
- 0. Traffic data worksheet.
- Minor Subdivision Plat Information. The minor subdivision plat shall be prepared according to Section 16.20.050(A) excepting therefrom the requirement for a section corner tie, the planning commission certification.
- Recordation of Minor Subdivision Plat. The minor subdivision plat shall be recorded in compliance with Section 16.20.080(D).

16.20.120 Simple plat review procedure.

- A. A simple plat is required when the development or redevelopment of a single existing metes and bounds parcel is proposed but subdivision of the parcel to create additional development parcels is not proposed. Development or redevelopment in this case means the construction of additional or new principal uses and shall exclude improvements to existing structures or construction of accessory structures on parcels annexed as part of an enclave pursuant to [Section 16.20.010.C](#).
- B. A simple plat, including the information required in [Section 16.20.130](#) shall be submitted for review and approval by the [Director](#).

- C. The simple plat shall be reviewed for conformance with the requirements of the underlying zoning district, and for closure of the legal boundaries of said plat and shall not be approved for the purposes of creating additional or new lots for immediate or future development.
- D. Appeals from any final decision by the director for a simple plat shall be made to the planning commission and shall be conducted in accordance with ~~Chapter 18.80 of this Code~~.

16.20.130 — Simple plat submittal requirements

- **Complete Application.** Three (3) copies of the following shall be submitted by the applicant for review of a simple plat: completed application form, site plan of existing conditions (eight and one half inches by eleven inches), the plat, folded into eighths to approximately letter size, and digital submittal of the plat.
- **Simple Plat Information.** The simple plat shall be prepared according to Section 16.20.050.A except the planning commission certification, the attorney's certification, and dedication statement shall not be required.
- **Recordation of Simple Plat.** The simple plat shall be recorded in compliance with Section 16.20.080.D.

Chapter 16.21

SURVEY MONUMENTS

Sections:

- 16.21.010 Location.**
- 16.21.020 Type – Approval.**
- 16.21.030 Character, type and position – Notation on map.**

16.21.010 Location.

In making the survey for the subdivision, the Colorado professional land surveyor shall set sufficient permanent monuments so that the survey or any part thereof may be readily retraced. Such monuments shall be placed per pursuant to the Colorado Revised StatutesC.R.S. pertaining to the monumentation of land surveys. Also, monuments shall be set at all points of intersection of street centerlines with the boundary of the subdivision and at all street centerline intersections. Monuments shall also be set at all street centerline points of curvature and deflection points within the subdivision. Street centerline monuments shall be set after the final lift of pavement.

16.21.020 Type – Approval.

Permanent monuments shall be of a type as stated in the Colorado Revised StatutesC.R.S. pertaining to the monumentation of land surveys.

16.21.030 Character, type and position – Notation on map.

The character, type and position of all monuments and corners shall be noted on the final map or plat.

Chapter 16.24

DESIGN STANDARDS

Sections:

- 16.24.010 Designated.**
- 16.24.011 Development Standards – Adopted.**
- 16.24.012 Electric Development Standards – Adopted.**
- 16.24.013 Water and Wastewater Development Standards – Adopted.**
- 16.24.014 Storm Drainage Criteria and Storm Drainage Standards – Adopted.**
- 16.24.015 Development standards and guidelines.**
- 16.24.020 Survey monuments.**
- 16.24.030 Sewer, water, stormwater, street, and landscaping improvements.**
- 16.24.040 Streets.**
- 16.24.050 Lots.**
- 16.24.060 Blocks.**
- 16.24.070 Irrigation canals and ditches.**
- 16.24.080 Water courses.**
- 16.24.090 Flood protection.**
- 16.24.100 Alleys and easements.**
- 16.24.110 Names – Subdivision and streets.**
- 16.24.120 Landscaping.**
- 16.24.130 Pedestrian accesses.**
- 16.24.140 Underground utilities.**
- 16.24.150 Open space play fields.**

16.24.010 Designated.

The standards contained in this chapter will apply to the layout of subdivisions.

16.24.011 Street Development Standards - Adopted.

The “Larimer County Urban Area Street Standards” (repealed and reenacted April 1, 2007, and as amended from time to time), (hereinafter, “LCUASS”), is hereby adopted by reference as the development standards of the city, for the purpose of establishing standards for streets, street signs, highway, curb and gutters, traffic control devices, electric and water distribution system improvements, sewer collection improvements, and other improvements as required to be constructed as public improvements within all developments within the city. Any policy revisions, as that term is defined in LCUASS, to LCUASS, including amendments which adopt codes by reference, shall be reviewed by the construction advisory board and either adopted or denied by resolution of the city council. At least one copy of LCUASS, which has been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.012 Electric Development Standards – Adopted.

The “Requirements for Electric Service” (hereinafter, the “Standards”) is hereby adopted by reference. All electric facilities that are to become part of or to be connected with the

city's electric utility shall be constructed and connected in accordance with the ~~S~~standards. Any revisions to the ~~S~~standards, including amendments which adopt codes by reference, shall be reviewed by the Loveland utilities commission and either adopted or denied by resolution of ~~the city~~ council. At least one copy of the ~~S~~standards, which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the ~~S~~standards, which codes have been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.013 Water and ~~W~~wastewater ~~D~~development ~~S~~standards - Adopted.

The "City of Loveland Water and Wastewater Development Standards" (hereinafter, the "standards") is hereby adopted by reference. All facilities for water and wastewater shall be constructed in accordance with the "City of Loveland Water and Wastewater Development Standards."² Notwithstanding anything in ~~the~~ ~~is~~ ~~E~~chapter 16.24 to the contrary, any revisions to the "City of Loveland Water and Wastewater Development Standards,"² including amendments which adopt codes by reference, shall be made in accordance with the process set forth in the "City of Loveland Water and Wastewater Development Standards."² At least one copy of the "City of Loveland Water and Wastewater Development Standards,"² which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the "City of Loveland Water and Wastewater Development Standards,"² which codes have been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

16.24.014 Storm ~~D~~rainage ~~E~~criteria and ~~S~~torm ~~D~~rainage ~~S~~standards – Adopted.

- A. The "City of Loveland Storm Drainage Criteria," consisting of (1) the Denver, Colorado Urban Drainage & Flood Control District's "Urban Storm Drainage Criteria Manual," Volume 1 (June 2001), Volume 2 (June 2001), and Volume 3, Best Management Practices (September 1999), and (2) the City of Loveland "Addendum to the Urban Storm Drainage Criteria Manuals Volumes 1, 2, and 3 (September 1, 2002)," (hereinafter, the "criteria") is hereby adopted by reference. All stormwater facilities, whether public or private, shall be designed in accordance with ~~such the~~ criteria. At least one copy of the "City of Loveland Storm Drainage Criteria,"² which has been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the "City of Loveland Storm Drainage Criteria,"² which codes have been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.
- B. The "City of Loveland Storm Drainage Standards" (hereinafter, the "standards") is hereby adopted by reference. All stormwater facilities, whether public or private, shall be constructed in accordance with ~~such the~~ standards. At least one copy of the "City of Loveland Storm Drainage Standards,"² which has been certified by the mayor and the city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours. At least one copy of any codes adopted by reference within the "City of Loveland Storm Drainage Standards,"² which codes have been certified by the

mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

C. Any and all amendments to the “[City of Loveland Storm Drainage Criteria](#)” or the “[City of Loveland Storm Drainage Standards](#),” including amendments which adopt codes by reference, shall be made in accordance with the following process:

1. Policy amendments shall be adopted by [city](#) council by resolution. Policy amendments shall include major changes, changes in law, changes that cause significant increased cost or controversy, and changes that relate to the public use and convenience.
2. Technical amendments may be approved by the public works department director, provided that the amendments: (i) are consistent with all existing policies relevant to the amendment; (ii) do not result in any significant additional cost to persons affected by the amendment; and (iii) are consistent with existing law. Technical amendments shall consist solely of such minor additions, revisions, and corrections as necessary, in the judgment of the public works department director, to be necessary to better conform to good engineering or construction standards and practice. The public works department director shall place a notice of technical amendments on the city’s web page where the applicable document is posted, and shall report the technical amendments to [city](#) council.

16.24.015 Development standards and guidelines.

Streets, street signs, highways, curb and gutters, traffic control devices, electric and water distribution system improvements, sewer collection improvements, storm water control facilities and other improvements as required to be constructed within all developments shall be in accordance with the latest edition of the “Larimer County Urban Area Street Standards,” the “City of Loveland Storm Drainage Criteria,” the “City of Loveland Storm Drainage Standards,” the “Requirements for Electric Service,” and the “City of Loveland Water and Wastewater Development Standards.” These manuals shall be administered by the public works department and the water and power department respectively. In addition to the specific requirements established in this chapter, all development shall be reviewed in accordance with the city’s comprehensive master plan, as amended, and shall comply with the site development performance standards and guidelines, as amended. The design of the subdivision shall consider community design objectives that promote resource conserving practices and environmental goals such as xeriscaping, planting trees, landscaping, and incorporating solar energy use.

16.24.020 Survey monuments.

- A. All survey monuments shall be in accordance with [Chapter 16.21](#).
- B. Before final approval of any final subdivision plat or annexation map, permanent survey monuments shall be set at all angle points and points of curvature on the exterior boundary lines. Boundary monuments shall be of a type as specified in the [Colorado Revised Statutes C.R.S.](#)
- C. Before the acceptance of any newly constructed streets, centerline monuments shall be set at all street intersections, points of curvature, angle points, all intersections of street centerlines with the boundary of the subdivision and points that define the geometry of cul-de-sacs. Street centerline monuments shall be of a type as specified in the [Colorado Revised Statutes C.R.S.](#)

16.24.030 Sewer, water, stormwater, street, and landscaping improvements.

Construction drawings for all necessary street improvements, sewer, water and stormwater systems and landscaping improvements shall be prepared by the applicant and approved by the city before the recordation of any final plat. Exceptions from this requirement may be granted by the director (as stated in the development agreement) where circumstances beyond the applicant's control requires an extension. The approved mylar construction drawings shall be revised by the applicant's engineer as record drawings which document all changes to the location of any constructed improvement as specified in the development standards and guidelines. The record drawings shall be prepared by the applicant and approved by the city prior to the issuance of any building permits within the subdivision.

16.24.040 Streets.

The street layout of each subdivision and the width of the streets therein shall be based upon and shall be in accordance with the transportation master plan, as amended.

- A. Streets shall have a logical relationship to topography and to the location of existing or platted streets in adjacent properties. Certain proposed streets, as determined by the city engineer, shall be extended to the boundary of the property to provide for traffic circulation within the vicinity.
- B. Streets, utility rights-of-way and public open spaces shall conform to the city-approved plans for the extension of such public facilities.
- C. Streets, utility rights-of-way and public open spaces shall comply with the provisions of C.R.S. 43-2-101 et seq. Article 2 of Title 43 of the Colorado Revised Statutes, as amended from time to time.

16.24.050 Lots.

- A. All lots shall comply with the provisions of Title 18-of this code.
- B. When practical, lot lines shall be at right angles to the street line or at right angles to the tangent of the curve of the street line.
- C. Double frontage lots shall not be permitted unless vehicular access to the lot is approved by the planning commission. All access restrictions shall be noted on the final plat or development agreement.
- D. All lots shall be provided access to a public right-of-way.

16.24.060 Blocks.

All contiguous lots surrounded by public right-of-way and/or designated or dedicated open space shall be grouped and labeled as distinct blocks. The city may require an easement through a block for the purpose of access.

16.24.070 Irrigation canals and ditches.

Whenever the side or rear property line of any lot is adjacent to an irrigation canal or ditch, the city may require the subdivider to install walls, fences or protective covering separating the lot or lots therefrom. The subdivider may be required to landscape and maintain the area between such wall or fence and the irrigation canal or ditch. Irrigation ditches shall not be constructed within public rights-of-way, except where they cross said rights-of-way.

16.24.080 Water courses.

In the event that the subdivision is traversed by any water course or channel, stream or creek, or is contiguous to the shoreline of a lake or a reservoir the subdivider shall provide sufficient easements, by dedication, or tracts of land separate for individual lots, acceptable to the city, to care for such surface and storm water and the disposal thereof and sufficient building setbacks or landscape or natural buffers as determined by the city.

16.24.090 Flood protection.

- A. All subdivision or annexation proposals for areas located within an area of special flood hazard shall be located and designed to minimize flood damage in accordance with the provisions of ~~Chapters 18.45 and 15.14 of this code~~.
- B. Any development in the floodway, including but not limited to, cutting, filling, dredging, grading, storage, utility installation, street work, or construction shall require an approved floodplain development permit. All applications for floodplain development permits shall include:
 1. Floodway, and floodplain boundary information based on currently recognized FEMA maps.
 2. Base flood elevation.
 3. The number of acres in the floodplain for the proposed development.
- C. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the system.
- D. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- E. All new subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- F. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- G. All development proposals must conform to all federal, state and local floodplain regulations.
- H. The director or planning commission may, when deemed necessary for the health, safety, or welfare of the present and future population of the area or necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the flood fringe or floodway, as defined in ~~Title 15 of this code~~, of any stream, river, or drainage course. Such flood fringe and floodway areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the director or planning commission.

16.24.100 Alleys and easements.

The city may require rights-of-way for alleys to be at least twenty feet in width and open at both ends in non-residential districts and in the rear of all lots fronting on arterial or collector streets. Where alleys are not required, a combination of right-of-way and/or utility easements at least fourteen feet in width shall be required along all front lot lines and outside of any proposed sidewalks. Easement widths along certain side lot lines where necessary for utilities such as

poles, wires, conduits, storm or sanitary, sewers, gas and water lines shall be determined by the affected utility company.

16.24.110 Names – Subdivision and streets.

The proposed street names shall be approved by the fire and police departments and the ~~development center~~current planning division and shall not duplicate or too closely approximate, phonetically, the name of any other subdivision or street in the city or vicinity. Street names shall be in compliance with ~~Chapter 12.08 of this code~~. Subdivisions shall be named as a sequential, numerical derivation of the annexation map that incorporated the property into the city limits.

16.24.120 Landscaping.

Landscaping shall be located as approved by the director, and shall comply with the site development performance standards and guidelines and the community design guidelines. The director may authorize deviations from the standards and guidelines contained in the city's site development performance standards and guidelines or community design guidelines and the extent of site improvements otherwise required pursuant to said documents may be either decreased or increased, provided such requirements are consistent with the intent of said standards and guidelines. Buffer yards required in accordance with the site development performance standards and guidelines or the community design guidelines shall be within tracts of land separate from individual residential lots. Street trees shall be located wherever required by the director in accordance with the site development standards and guidelines. Street trees shall be of a type approved by the director.

16.24.130 Pedestrian accesses.

The director may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds, or other community or commercial services, perpetual unobstructed pedestrian easements at least twenty feet in width within the subdivision plat. Any such easements shall be within the subdivision plat, shall generally not follow rights-of-way, and shall be indicated on the plat.

16.24.140 Underground utilities.

All proposed utility facilities, including, but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout new subdivisions. Whenever practical, existing utility facilities that are located above ground, except when located in the public right-of-way, shall be removed and placed underground.

16.24.150 Open space play fields.

The planning commission may require that subdivisions for detached single family dwellings contain open space designed for outdoor play activities. Such areas shall be of suitable size, dimension, topography, and general character for the particular purpose of providing adequate open space within the subdivision for outdoor play activities. Detention ponds may be considered as required open play fields if designed to be suitable for play fields. Open space play fields shall be required at a rate of one acre for every one hundred single family lots, but shall not be required for subdivision plats containing less than fifty single family lots. Such play fields shall be maintained by the homeowner's association and shall have no effect on the amount of capital expansion fees otherwise imposed under ~~Chapter 16.38~~.

Chapter 16.28

BOUNDARY LINE ADJUSTMENTS

Sections:

- 16.28.010 Where required.**
- 16.28.020 Boundary line adjustment review standards.**
- 16.28.030 Boundary line adjustment review procedure.**
- 16.28.040 Submittal requirements – Boundary line adjustment application.**
- 16.28.050 Recordation of boundary line adjustment.**
- 16.28.060 Deed restriction in lieu of boundary line adjustment.**

16.28.010 Where required.

Before any boundary line adjustment shall be legally effective for any purpose, whether immediate or future, including transfer of ownership or building development of the resulting lots or tracts, the property owner shall follow the procedure prescribed by this chapter.

16.28.020 Boundary line adjustment review standards.

- A. Any decision approving or conditionally approving an application for a boundary line adjustment shall be based upon whether the applicant has demonstrated that the proposed boundary line adjustment meets the following standards:
 - 1. The adjustment involves adjacent lots or tracts.
 - 2. No new lot or tract is created.
 - 3. The resulting lots or tracts comply with the applicable zoning standards.
 - 4. The lots or tracts, as approved, will not conflict with existing structures or utilities on the property.
 - 5. The lots or tracts, as approved, will not deprive access as a result.
 - 6. The adjustment does not create, or mitigates to the extent possible, negative impacts on the surrounding property.
 - 7. The resulting lots or tracts allow efficient use of the property.
 - 8. The adjustment does not affect any wetland area.
 - 9. The adjustment involves only lots and tracts with identical zoning.

16.28.030 Boundary line adjustment review procedure.

All applications for boundary line adjustments shall be processed in accordance with Section 16.16.040.

16.28.040 Submittal requirements – Boundary line adjustment application.

Applications for boundary line adjustments shall include the following information listed in the submittal checklist provided by the city.:

- A. Five copies of the following: the completed application form; the vicinity map; site plan; and plat.
- A. Filing fee, as set forth by resolution.
- A. A current title report in the form of a title commitment verifying the record title owners and identifying encumbrances and exceptions to title. The applicant shall provide an updated title commitment upon request.

A. The appropriate submittal checklist completed by the applicant in the form provided by the Current Planning office.
Certified mail return receipts and a copy of a letter from the owner to the holder of any mortgage or deed of trust on the property evidencing the fact that the owner has sent a copy of the application to said holder and notified the holder of the requested boundary line adjustment.

A. An eleven inch by seventeen inch (11" x 17") copy of the site plan and plat of the property drawn to scale, showing the existing and proposed boundary lines;

A. dimensions and bearings; the location of all existing and proposed improvements;

A. structures, easements and utilities and the dimensions to existing and new property lines; and existing zoning.

16.28.050 Recordation of boundary line adjustment.

Upon approval by the director and conclusion of any applicable appeal procedures, The the approved boundary line adjustment plat, along with a certificate of the Director of Development Services verifying that the boundary line adjustment has been approved, shall be recorded in compliance with Section 16.20.080(D).

16.28.060 Deed restriction in lieu of boundary line adjustment.

A. In the event the owner of property consisting of one or more adjacent lots and an adjacent unsubdivided parcel of land upon which a structure is located, wishes to obtain a building permit for either an accessory structure to be located on the property, an addition to the existing structure, or interior remodeling work without completing a boundary line adjustment, the owner may request that in lieu of a boundary line adjustment the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a boundary line adjustment. The deed restriction shall be released by the city upon completion of a boundary line adjustment combining all adjacent lots and un-subdivided parcels in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.

B. Appeals from any final decision by the director for a deed restriction in lieu of a boundary line adjustment shall be made to the planning commission and shall be conducted in accordance with EChapter 18.80 of this Code.

C. Chapter 16.32

LOT MERGER

Sections:

- 16.32.010 Where required.**
- 16.32.020 Lot merger review standards.**
- 16.32.030 Lot merger review procedure.**
- 16.32.040 Submittal requirements – Lot merger application.**
- 16.32.050 Recordation of lot merger.**
- 16.32.060 Deed restriction in lieu of lot merger.**

16.32.010 Where required.

Before any lot merger shall be legally effective for any purpose, whether immediate or future, including transfer of ownership of or building development on, the resulting lot(s), the property owner shall follow the procedure prescribed by this chapter.

16.32.020 Lot merger review standards.

- A. Any decision approving or conditionally approving an application for a lot merger shall be based upon whether the applicant has demonstrated that the proposed lot merger meets the following standards:
 1. The lots or tracts to be merged are, at the time of merger, under common ownership and written consent has been obtained from all record owners and lien holders;
 2. The lots or tracts as merged will be in a single zone district and will comply with the applicable zoning standards;
 3. Access to parcels adjoining the resulting lots or tracts will not be restricted by the merger;
 4. The merger does not create, or mitigates to the extent possible, negative impacts on the surrounding property; and
 5. The resulting lots or tracts allow efficient use of the property.

16.32.030 Lot merger review procedure.

All applications for lot mergers shall be processed in accordance with Section 16.16.040.

16.32.040 Submittal requirements – Lot merger application.

Applications for lot mergers shall include the following information listed in the submittal checklist provided by the city.

- A. Five copies of the following: The completed application form; the vicinity map; site plan; and plat.
- A. Filing fee, as set forth by resolution.
- A. A current title report in the form of a title commitment verifying the record title owners and identifying encumbrances and exceptions to title. The applicant shall provide an updated title commitment upon request.

- B. The appropriate submittal checklist completed by the applicant in the form provided by the Current Planning office.
- B. Certified mail return receipts and a copy of a letter from the owner to the holder of any mortgage or deed of trust on the property evidencing the fact that the owner has sent a copy of the application to said holder and notified the holder of the requested lot merger.
- B. An eleven inch by seventeen inch (11" x 17") copy of the site plan and plat of the property drawn to scale, showing the existing and proposed boundary lines, dimensions and bearings; the location of all existing and proposed improvements, structures, easements and utilities and the dimensions to existing and new property lines; and existing zoning.

16.32.050 Recordation of lot merger.

Upon approval by director and conclusion of any applicable appeal procedures, The the approved lot merger plat, along with a certificate of the Director of Development Services verifying that the lot merger has been approved, shall be recorded in compliance with Section 16.20.080(D).

16.32.060 Deed restriction in lieu of lot merger.

- A. In the event the owner of property, consisting of two or more adjacent lots and containing an existing residential use, wishes to obtain a building permit for either an accessory structure to be located on the property or an addition to the existing structure without completing a lot merger, the owner may request that in lieu of a lot merger the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a lot merger. The deed restriction shall be released by the city upon completion of a lot merger combining all adjacent lots in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.
- B. Appeals from any final decision by the director for a deed restriction in lieu of a lot merger shall be made to the planning commission and shall be conducted in accordance with § Chapter 18.80 of this Code.

Chapter 16.36

VACATION OF RIGHTS-OF-WAY/EASEMENTS/OBSOLETE SUBDIVISIONS

Sections:

- 16.36.010** **Vacation by ordinance – Right-of-way or easement.**
- 16.36.015** **Vacation of temporary easements.**
- 16.36.020** **Rezoning vacated parcel.**
- 16.36.030** **Vacation of obsolete subdivision.**
- 16.36.040** **Vacation of portion of request.**
- 16.36.050** **Reservation of rights-of-way or easements.**
- 16.36.060** **Conditions on vacation.**
- 16.36.070** **Recordation of vacation.**
- 16.36.080** **Preservation of access.**
- 16.36.090** **Vesting of title upon vacation.**
- 16.36.110** **Annexation unaffected.**

16.36.010 Vacation by ordinance – Right-of-way or easement.

- A. Except as otherwise provided in [Section 16.36.015](#), all right, title or interest of the city, in and to any right-of-way or easement shall be divested only upon adoption by [the city](#) council of an ordinance vacating such right-of-way or easement. However, [the city](#) council may vacate a city-owned, non-access easement created through a previous platting process, by approving a final plat that does not show such easement. If a right-of-way constitutes a boundary line of the city, it may be vacated only by joint decision of the board of county commissioners of Larimer County and [the city](#) council.
- B. Any ordinance effecting a vacation of a right-of-way or easement under this [Section 16.36.010](#) shall contain the following findings, if applicable:
 1. That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.
 2. That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.
- C. Before final decision by [the city](#) council may be taken on such ordinance, an application for vacation shall be submitted and processed as follows:
 1. Application. An application on the form and number required by the [development center](#) [current planning division](#) shall be filed with the [development center](#) [current planning division](#) by the record owners of more than fifty percent of property abutting the right-of-way or easement to be vacated. The applicant shall file the required number of copies of the application together with the filing fee set pursuant to a resolution adopted by [city](#) council. Said application shall include the following information, if applicable:
 - a. Name, address and telephone number of the applicant(s).
 - b. Accurate legal description of the right-of-way or easement to be vacated in digital format specified by the director.
 - c. Twenty copies of the original plat, if a plat of the easement was made, and any recorded documents related to the easement, showing the right-of-way or

easement to be vacated, and abutting properties. The director, at the director's discretion, may require the applicant to furnish a survey of the right-of-way or easement to be vacated.

- d. A listing of the names and addresses of all owners of record of the property abutting that portion of the right-of-way or easement to be vacated, as such names and addresses appear on the latest records of the Larimer County clerk and recorder, as evidenced by an ownership and encumbrance report provided by the applicant to verify said owners list.
- e. A listing of the names and addresses of owners of the easement or right-of-way to be vacated, as such names and addresses appear on the latest records of the Larimer County clerk and recorder, as evidenced by an ownership and encumbrance report provided by the applicant to verify said list, if such easement or right-of-way is not owned by the city.
- f. Description of the zoning of the right-of-way or easement to be vacated and of the property abutting said right-of-way or easement.
- g. Reasons for the requested vacation.
- h. Certification by the applicant(s) that the statements referred to in subsections (b) and (d) above are true.
- i. Signature of the applicant(s).
- j. Site plan as described in ~~Section 16.20.110(A)(9)~~.

- 2. Review of ~~Non-Access Easement Vacations~~. Except for non-access easements vacated through approval of a final plat, application for vacation of non-access easements shall be processed in accordance with ~~Section 16.16.040~~ except that no notice is required to be given of the director's consideration of the requested vacation. If approved by staff, staff shall prepare a proposed vacation ordinance and forward the ordinance to ~~the city~~ council. If such vacation necessitates a change in the zoning map, staff shall also prepare an ordinance for such rezoning/ zoning map amendment.
- 3. Referral of ~~Access Easement/Right-of-Way Vacations~~. Applications for vacation of access easements and rights-of-way shall be processed in accordance with ~~Section 16.16.040~~, except that all such vacation requests shall be referred to the planning commission. The planning commission shall hold a public hearing in accordance with ~~Section 16.16.040~~. If the planning commission recommends granting the request for vacation, the planning commission shall recommend a form of ordinance to ~~the city~~ council. If such vacation necessitates a change in the zoning map, staff shall also prepare an ordinance for such rezoning/zoning map amendment.
- 4. Public ~~Notification~~. Notwithstanding any provision to the contrary, public notification in connection with a request for any access easement or right-of-way vacation shall be given as follows:
 - a. At least fifteen days prior to the time of the public hearing before the planning commission on the proposed vacation, the applicant(s) shall notify by writing all other surface owners, if any, and all owners of such easement or right-of-way to be vacated, if such owners are not the city, whose names are shown in the ownership and encumbrance report as required by ~~subparagraph subsection~~ (1)(d) of this section, of the time and date of the hearing on the proposed vacation. The applicant(s) shall, prior to the planning commission public hearing, furnish the ~~Current Planning Division~~ with an affidavit of mailing, indicating the names

and addresses of all persons sent such notification, and in addition, the date such notification was mailed by first class mail pursuant to ~~S~~ection 16.16.070. Where an abutting property is owned by a subdivision or condominium association, notification shall be to the board of directors of such association.

- b. All posted notice shall be given pursuant to ~~S~~ection 16.16.070.
- c. All published notice shall be given pursuant to ~~S~~ection 16.16.070.

5. City ~~C~~ouncil ~~D~~ecision. ~~The city e~~Council may consider the proposed vacation ordinance in accordance with the notice and all other requirements of ~~C~~hapter 2.12 for adopting ordinances. All posted notice shall be given pursuant to ~~S~~ection 16.16.070.

16.36.015 Vacation of temporary easements.

- A. When used in this section, the term "temporary easement" shall mean and include any real property easement, right-of-way, or license that has been conveyed temporarily to the ~~C~~ity, meaning that by the written terms and conditions of the instrument creating such property interest it was intended to exist for a limited period of time only, as distinguished from an indefinite period of time or on a perpetual basis.
- B. Temporary easements assigned or conveyed to the ~~C~~ity solely for its use may be vacated upon the ~~C~~ity ~~M~~anager's determination that the temporary easement is no longer needed for the ~~C~~ity's use and convenience.
- C. Before the ~~C~~ity ~~M~~anager may vacate a temporary easement as permitted in this section, an applicant for the vacation shall file with the ~~C~~ity the application required in ~~S~~ection 16.36.010C.1.; provided, however, that such application shall only be required to include the information listed in ~~subparagraph~~~~subsection~~s a. through j. of ~~S~~ection 16.36.010C.1. that the ~~D~~irector determines is needed to fully and properly evaluate the temporary easement asked to be vacated. The ~~C~~ity ~~M~~anager shall review that application in making the finding required in ~~paragraph~~~~subsection~~ B. of this section before authorizing the vacation of the temporary easement. If the ~~C~~ity ~~M~~anager decides to vacate a temporary easement as provided in this section, the ~~C~~ity ~~M~~anager is authorized to sign on behalf of the ~~C~~ity those documents, the forms of which must first be approved by the ~~C~~ity ~~A~~ttorney, as are necessary to vacate the temporary easement and the ~~C~~ity ~~C~~lerk shall record such documents with the appropriate county clerk and recorder at the applicant's expense.
- D. The ~~C~~ity ~~M~~anager's decision to grant or deny an application for the vacation of a temporary easement pursuant to this section, shall be considered a final administrative decision that may not be appealed to the ~~P~~lanning ~~C~~ommission or the ~~C~~ity ~~C~~ouncil.

16.36.020 Rezoning vacated parcel.

Where the vacated right-of-way parcel is zoned differently than the abutting, receiving parcel, a rezoning shall be processed concurrently with the vacation.

16.36.030 Vacation of obsolete subdivision.

- A. Finding. ~~The city e~~Council ~~for the city of Loveland~~ hereby finds and declares that obsolete subdivisions may interfere with the orderly development of land within the city, perpetuate obsolete development standards and guidelines, threaten to impose substantial financial burdens on the city, create serious environmental problems and reduce the

quality of life for persons who live in or near the obsolete subdivisions. It is the intent of ~~the city~~ council that this procedure applies to property platted before and after the effective date of the ordinance codified in this title.

B. Vacation ~~P~~rocess. Subject to the procedure set forth in this section, ~~the city~~ council may vacate all or a portion or portions of the final subdivision plat of any obsolete subdivision within the city upon the request of a property owner within the subdivision or the ~~city's~~ ~~current~~ planning division. ~~The city e~~Council may vacate only the final subdivision plat for that portion of an obsolete subdivision consisting of multiple, contiguous lots that are undeveloped and in common ownership. ~~The city e~~Council may vacate a final subdivision plat only after conducting a public hearing to consider evidence to determine whether the findings can be made that are necessary to determine if all or a part of the subdivision is obsolete within the meaning of this section and to consider evidence to determine whether the finding can be made that is necessary to adopt an ordinance to vacate.

1. Prior to vacating all or a part of the final subdivision plat of any obsolete subdivision, ~~the city~~ council shall adopt a resolution of intent to vacate. The resolution shall set forth the reasons that ~~the city~~ council desires to vacate the final subdivision plat and shall establish the date, time and place of a public hearing on the proposed vacation. At least ninety days prior to ~~city~~ council consideration of the resolution of intent to vacate, the planning division shall provide written notice to all record surface owners and lienholders that vacation of the subdivision is being considered.
2. A copy of the resolution shall be published once at least ten days before the public hearing described in this section in a newspaper of general circulation within the city. In addition, a copy of the resolution shall be mailed to the last known address of the record surface owner or owners of each lot within the subdivision and to any lien holders of record, at least ten days before the public hearing. In addition, at least ninety days prior to ~~city~~ council consideration of a resolution of intent to vacate, the planning division shall provide written notice to all record surface owners and lienholders that vacation of the subdivision is being considered.
3. At the public hearing on the determination of obsolescence and proposed plat vacation, ~~the city~~ council shall receive a report from the planning division regarding a proposed vacation and shall hear from all interested persons. At the close of the public hearing, ~~the city~~ council may, by ordinance, vacate all or a part of the final subdivision plat for the obsolete subdivision if it makes the following findings:
 - a. ~~T~~hat the subdivision is an obsolete subdivision within the meaning of this section; and
 - b. ~~V~~acation of all or a part of the final subdivision plat for the obsolete subdivision will promote the health, safety and general welfare of the community. The ordinance shall describe the property that is subject to vacation by making reference to the subdivision name and the final plat on record with the Larimer County clerk and recorder.
4. If ~~the city~~ council vacates all or a part of the final subdivision plat of any obsolete subdivision, it shall record a copy of the ordinance of vacation with the Larimer County clerk and recorder. The city shall also record a copy of the final subdivision plat as it was approved by the city with a prominent notation on the plat showing that

it was vacated in whole or in part by decision of [the city](#) council and the date of such decision.

5. The vacation of all or a part of the final subdivision plat for any obsolete subdivision shall have the effect of vacating all public easements and rights-of-way within the vacated subdivision or portion unless the ordinance of vacation expressly provides that any public right-of-way has not been vacated. The vacation of an obsolete subdivision or portion thereof shall not have the effect of interfering with any privately owned easements dedicated for utility, access or other similar purposes shown on the final subdivision plat that was vacated unless the city has obtained a release from the owner of the privately-owned easement authorizing the vacation of such easement. The title to land subject to easements or rights-of-way that have been vacated shall vest as provided in [Colorado Revised Statutes Section C.R.S. 43-2-302](#).
- C. Effect of [vacation](#). After all or a part of the final subdivision plat for any obsolete subdivision has been vacated pursuant to this section, the land within such vacated subdivision or portion thereof may not be subdivided without first complying with the then applicable state and local subdivision regulations, and it shall be unlawful to sell the land or any portion thereof with reference to the plat or develop any property within the vacated subdivision or portion thereof without first complying with the then applicable state and local subdivision regulations.
- D. Vested [rights](#). Nothing in this section is intended to authorize the city to interfere with any lawfully established vested rights.

16.36.040 Vacation of portion of request.

The city shall have the right, in its discretion, to refuse any vacation request, or to vacate only a portion of the total area requested for vacation.

16.36.050 Reservation of rights-of-way or easements.

In the event of a vacation in accordance with this [chapter 16.36](#), rights-of-way or easements may be reserved for the continued use of existing or future streets, sewer, gas, water or similar pipelines and appurtenances, for overland drainage, drainage facilities or canals and appurtenances, and for electric, cable television, telephone, and similar lines and appurtenances, or any other public purpose.

16.36.060 Conditions on vacation.

The planning commission may recommend, and [the city](#) council in the ordinance effecting a vacation may impose, reasonable conditions on said vacation, to preserve and promote the public health, safety and welfare of the inhabitants of the city and the public generally. Such reasonable conditions may include the payment of money to the city as consideration for a vacation, when the vesting of title upon vacation may confer a benefit upon the new owner of the vacated right-of-way or easement, or where the city has purchased or will purchase a right-of-way or easement to replace that being vacated.

16.36.070 Recordation of vacation.

In the event of a vacation of a right-of-way/easement/[obsolete](#) subdivision in accordance with this [chapter 16.36](#), the documents vacating such right-of-way, including but not

necessarily limited to any resolution, ordinance, deed, conveyance document, plat, or survey, shall be recorded by the city clerk in the office of the Larimer County clerk and recorder.

16.36.080 Preservation of access.

No right-of-way or part thereof shall be vacated so as to leave any land adjoining said right-of-way without an established public or private road connecting said land with another established public or private road.

16.36.090 Vesting of title upon vacation.

Any ordinance effecting a vacation under this chapter shall state to whom title to the vacated land shall vest upon vacation. Title to the lands included within a right-of-way or so much thereof as may be vacated shall vest in accordance with the provisions of C.R.S. ~~Section 43-2-302, as amended from time to time.~~

16.36.110 Annexation unaffected.

Where a subdivision plat is vacated under this ~~Chapter 16.36~~, such vacation shall not in any way affect any previously approved annexation involving the same or other lands.

Chapter 16.38

CAPITAL EXPANSION FEES

Sections:

16.38.010 Intent.

16.38.020 Fees imposed.

16.38.030 Change in use credit.

16.38.050 Unlawful to occupy.

16.38.060 Unpaid capital expansion fee – Lien.

16.38.070 Exemption from ~~and credit for fee~~ capital expansion fees – Generally.

16.38.071 Deferral of ~~F~~ees

16.38.072 Exemption for ~~H~~istoric ~~D~~owntown Loveland.

16.38.075 Exemption ~~for certain facilities from~~ capital expansion fees – Not-for-profit facilities.

16.38.080 Exemption from capital expansion fees – Qualified affordable housing.

16.38.085 Capital expansion fees for ~~qualified~~ affordable housing developments.

16.38.090 Reduction in fee for minimal traffic.

16.38.100 Disposition of fees.

16.38.110 Review.

16.38.010 Intent.

It is the intent of this chapter to adopt a rational system for identifying growth-related costs incurred by the city in providing for new and expanded capital facilities made necessary by expanded population levels and economic activity levels, to develop a fee structure therefor directly related to such costs and to provide a method for collection of such fees. It is the further intent of this chapter that such fees accurately reflect actual growth-related capital costs, that once such costs are paid ongoing operating charges will be similar to charges imposed prior to such development, that the system be understandable and inexpensive to apply, that policies and fees will be subject to revision as conditions change and that the system will be linked to a capital improvement program designed to provide the facilities for which the fees are imposed.

16.38.020 Fees imposed.

- A. There are imposed capital expansion fees upon every additional dwelling unit of residential development and every square foot of retail, non-retail and industrial development.
- B. Capital expansion fees shall be due and payable as follows:
 1. Except in the case of an accessory dwelling unit, for any activity requiring a certificate of occupancy, the fees shall be due and payable at the time that a final inspection for a certificate of occupancy is requested, except that if a temporary certificate of occupancy or other certificate of occupancy does not issue within thirty days after the call for inspection, the paid fees shall be returned to the party who paid such fees.
 2. Upon a change in the use of property where the new use is in a different category for which additional or higher fees are applicable, such additional or higher fees shall be

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due and payable at the time that a final inspection is requested, but if no certificate of occupancy is required, then at such time as the new use is actually commenced.

3. For all other activities for which a certificate of occupancy is not required, including expansion or remodeling which creates additional dwelling units or additional square footage for commercial or industrial use, fees shall be due and payable at the time such additional space is actually occupied, except that a credit shall be received for all fees for the prior use.
4. Prior to recording any annexation map of property which contains a mobile home which existed on the property on or before July 1, 1984, or which contains the type of structure for which capital expansion fees are currently collected and for which a building permit was issued on or after July 1, 1984.

C. The director may allow a person to defer payment, of a portion of the capital expansion fees for unfinished space, if any, in proportion to the pro rata amount of such unfinished space. The length of such deferral shall be paid when put into use (when completed), but shall not exceed three years.

D. Capital expansion fees shall be adjusted annually ~~per pursuant to~~ section 16.38.110 and shall be reviewed and approved by resolution of ~~city~~ council at least every five years commencing in 2000.

16.38.030 Change in use credit.

A. Definitions.—As used in this ~~Section~~ 16.38.030, unless the context requires otherwise, the following terms shall have the meanings set forth below:

1. “Capital expansion fee” means the fees imposed upon every additional dwelling unit of residential development and every square foot of retail, non-retail, and industrial development pursuant to ~~Section~~ 16.38.020.

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2. “Certificate of occupancy” means any temporary or permanent certificate of occupancy issued under Code Chapter 15.08.

3. “Credit” means the change in use credit for capital expansion fees determined in accordance with paragraph subsection B. below.

4. “Development” means any improvement of property, other than redevelopment, for which a full building permit is issued, any change in use of property, any use of property which has been vacant for a year or more, or any use of property subject to compliance with the City of Loveland Site Development Performance Standards and Guidelines.

5. “Letter of completion” means evidence issued by the city’s building division that construction authorized by a building permit has been substantially completed where: (a) uses are not determined at time of building permit application and the building permit authorizes construction of core and shell only; or (b) the permit authorizes an expansion or remodel for an existing use, with no change in use.

6. “Lot” means a portion of a subdivision intended as a unit for transfer or ownership or for development, which has access to a public right of way.

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7. “Redevelopment” means renovation, modification, or reconstruction of an existing residential structure or an existing retail, non-retail, commercial, or industrial structure.

8. “Site” means two or more contiguous lots which are being developed or redeveloped pursuant to the same site plan.

9. "Site plan" means a site development plan ~~approved pursuant to Code Chapters 18.46 and 18.47~~, or if no site development plan is required under ~~C~~hapters 18.46 and 18.47, a site plan submitted with an application for a building permit.

10. "Use" means a land use authorized and approved pursuant to the applicable provisions of ~~T~~itle 18 ~~of this code~~ and as defined by the Institute of Transportation Engineers for application to the capital expansion fees for streets.

- B. Change in ~~U~~se ~~C~~redit. Whenever an existing use on a lot is changed, a credit for capital expansion fees shall be calculated and made available for application as provided in paragraphs C. and D. below for the payment of any capital expansion fee imposed by ~~S~~ection 16.38.020, in accordance with the following:
 1. The amount of the credit shall be the amount of capital expansion fees that would be due for a discontinued use as calculated in accordance with the then current capital expansion fees schedule. If no use is then in existence, the credit shall be based on capital expansion fees that would be due for the last previous use for which a certificate of occupancy or letter of completion was issued by the city.
 2. The amount of the credit shall be established at the time capital expansion fees for a new use are due under ~~S~~ection 16.38.020.
 3. If a change in use occurs in only a portion of a structure that is physically separated and permitted for a single use, the credit shall be calculated only on that portion of the structure for which the use is changed. For example, if a lot includes a single structure of ~~20,000~~twenty thousand square feet and the existing use being changed only pertains to a ~~5,000~~five thousand square foot portion of the structure that is physically separated and permitted for a single use, the credit shall be determined based only on that ~~5,000~~five thousand square feet.
- C. Application of ~~C~~redit on ~~S~~ingle ~~L~~ot.
 1. The credit shall be applied to capital expansion fees due for new uses established on the lot.
 2. If capital expansion fees for a new use on a lot are greater than the amount of the credit, the difference shall be due at the time set forth in ~~S~~ection 16.38.020.
 3. If capital expansion fees for a new use on a lot are less than the amount of the credit, no additional capital expansion fees shall be due for the new use on the lot.
 4. Any excess capital expansion fee credit after application to a new use established on the lot from which it arose may be applied thereafter to each additional new use or change in use on the lot on a first-come, first-served basis, based on the date upon which a complete application for such development has been accepted by the City, except to the extent the credit has been previously used on other lots as provided in ~~paragraph~~subsection D. or E. below. Once an excess credit is established, the amount of that credit shall not be adjusted based on an increase in capital expansion fees, inflation or on any other basis.
- D. Application of ~~C~~redit to ~~S~~ite with ~~M~~ultiple ~~L~~ots. Any remaining excess credit after application to a new use established on the lot from which it arose may be applied to each additional new use or change in use on adjacent lots within a site on a first-come, first-served basis, based on the date upon which a complete application for development for each new use has been accepted by the city.
- E. Application of ~~C~~redit ~~O~~ffsite. Any credit not used on a single lot or within a site may be used for capital expansion fees due for any new use established outside the lot or site

only with buildings moved from the lot or site on a first-come, first-served basis, based on the date upon which a complete application for development has been accepted by the ~~City~~.

F. Nature of ~~C~~redit. Any capital expansion fee credit established under this ~~S~~ection [16.38.030](#) shall not constitute a property right of any kind and shall not be owned by the property owner or transferable or assignable by the property owner to any third party. Except as provided in paragraphs D. and E. above, credit shall remain with the lot from which it arises.

16.38.050 Unlawful to occupy.

It is unlawful for any person or entity to occupy or use any real property for any purpose for which a capital expansion fee is due and payable prior to having paid such capital expansion fee. Each day of such occupancy or use shall be a separate offense.

16.38.060 Unpaid capital expansion fee – Lien.

All capital expansion fees shall be a lien upon each lot or parcel of land from the due date thereof, determined as set forth in ~~S~~ection 16.38.070(A), until paid. If such fees are not paid when due, in addition to any other means provided by law, the city clerk shall certify such delinquent charges to the treasurer of Larimer County and the charges shall be collected in the same manner as though they were part of the taxes. The city reserves the right to withhold or revoke any permits, certificates or other approvals to any applicant who is delinquent in the payment of capital expansion fees.

16.38.070 Exemption from capital expansion fees – ~~g~~Generally.

~~The city e~~Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic, or cultural benefits. When a capital-related fee is waived pursuant to this section, ~~the city~~ council shall direct that the waived fee be paid by the general fund or another appropriate fund.

16.38.071 Deferral of ~~F~~ees

~~The city e~~Council may allow for the deferral of fees imposed on new development in the city. ~~The city e~~Council may do so by approving by resolution a written agreement entered into with the person owing the fees, which agreement shall contain such terms and conditions as the council determines are in the best interests of the city and provided that the council also determines and finds in the resolution that allowing the deferral of capital expansion fees or any other fees imposed on new development will serve a public purpose. A public purpose may include, without limitation, providing the public with significant social, economic or cultural benefits. In the event that any amounts owed under the agreement are not paid when due and except as otherwise provided in the deferral agreement, such unpaid amounts shall be a perpetual lien upon the real property for which the deferred fees are owed from the date the fees are due under the agreement until paid and such lien shall have priority over all other liens except those for real property taxes. If any deferred fee is not paid when due, the city may pursue all remedies available to it under the law to collect such fee, including, without limitation, by judicially foreclosing the lien. The city clerk may also certify any delinquent fees and other

amounts owed under the deferral agreement to the treasurer of Larimer County and such fees and amounts shall then be collected in the same manner as though they were real property taxes. The agreement may further provide that the city shall have the right to withhold or revoke any building permits, certificates of occupancy, and other city approval relating to the development of the real property for which deferred fees are delinquent in payment.

16.38.072 Exemption for Historic Downtown Loveland.

- A. The capital expansion fees (CEE) imposed by this chapter and any building permit fees imposed upon a construction project by the city, shall not be charged or collected for any construction project located within the boundaries of Historic Downtown Loveland. When a construction project is exempt from capital related fees pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.
- B. As used in this section the term "Historic Downtown Loveland" means that area described as follows:

Beginning at the point of intersection of the centerlines of Washington Avenue and E. 4th Street, then extending north along said centerline to the intersection of the centerline of the alley between E. 7th Street and E. 8th Street, then west along said centerline to the intersection of the centerline of the alley between N. Lincoln Avenue and N. Jefferson Avenue, then extending north along said centerline to its intersection with the intersection with the centerline of E. 10th Street, then west to the intersection with the centerline of N. Lincoln Avenue, then extending north along said centerline to the Great Western/Omni Railroad tracks, then west along said tracks to the intersection with the tracks of the Burlington Northern/Santa Fe Railroad, then north to the east/west extension of the centerline of the alley shown on the Plat of Geist Subdivision, then west along said centerline of the alley to its intersection with the centerline of Garfield Avenue, then south along the centerline of Garfield Avenue to the intersection of the centerline of 2nd Street SW, then to the northwest corner of the Henrickson Addition, then south along the west line of the Henrickson Addition and continuing south to the Farmers Ditch, then east along Farmers Ditch to the intersection of said ditch and the centerline of S. Cleveland Avenue, then north along the said centerline to the intersection of the centerline of 3rd Street SE, then east along said centerline to the intersection of the centerline of S. Jefferson Avenue, then north along the said centerline to the projected intersection of the south property line of the residence at 110 S. Jefferson Avenue, then east along the southern property line of said residence, then continuing east along south property line of the residence at 117 S. Washington Avenue, then east to the intersection of the centerlines of Washington Avenue and the alley between 1st Street SE and 2nd Street SE, then east along said centerline to the intersection of the centerline of Monroe Avenue, then north along the said centerline to the intersection of the centerline of E. 1st Street, then east along the said centerline to the intersection of the centerline of Hayes Avenue, then north along said centerline to the intersection of the centerline of E. 3rd Street, then west along said centerline to the west side of the Loveland/Greeley Ditch, then north along the ditch to the intersection of the centerline of E. 4th Street, then west along said centerline to the P.O.B.

16.38.075 Exemption from capital expansion fees – ~~h~~Not-for-profit facilities.

- A. ~~The city e~~Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the city at taxpayer expense, that such facilities relieve the pressures of growth on city-provided facilities, and that such facilities do not create growth or growth impacts. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.
- B. No certificate of occupancy shall be issued for any not-for-profit facility that obtains a fee waiver pursuant to this section unless a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the sale of the not-for-profit facility to any person or entity for a use that does not meet the requirements of subsection A. for a period of twenty years from the date on which a certificate of occupancy was first issued for the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.

16.38.080 Exemption from capital expansion fees – ~~q~~Qualified affordable housing.

- A. ~~The city e~~Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed is a qualified affordable housing development. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.
- B. Exemptions granted pursuant to this section shall be done in accordance with the following tables:
 1. If granted for rental housing, the exemption shall be as follows:

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only
30%	10%	100%
40%	15%	90%

50%	20%	80%
60%	40%	70%

2. If granted for “for-sale” housing, the exemption shall be as follows:

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only
40%	5%	90%
50%	10%	80%
60%	15%	70%
70%	20%	60%
75%	25%	25%
80%	30%	15%

3. Notwithstanding the above provisions of this paragraphsubsection B., the city council may increase the percentage of fees waived under this section upon making a finding in its resolution waiving the fees that such percentage increase will serve a public purpose, which public purpose shall be specified in the resolution.

C. Exemptions granted pursuant to this section shall be effective for one year from the date on which the exemption is granted unless extended by the city council for good cause shown. Any such extension shall be set forth in an amendment to the development agreement approved by resolution of the city council.

16.38.085 Capital expansion fees for affordable housing developments.

A. Capital expansion fees, water rights requirements and fees, and any other fees imposed by the city upon an affordable housing development, whether for capital or other purposes (collectively, “development fees”), shall be calculated as of the date on which the city council adopts a resolution designating the housing development as affordable (the “designation date”). The development fees calculated under this section shall be valid for five years thereafter. At the end of the five-year period, the development fees shall be calculated each year thereafter on the basis of those development fees in effect five years prior. This adjustment shall continue each year until the last affordable housing unit within the affordable housing development receives a building permit, or the housing development loses its affordable designation in accordance with subparagraphsubsection B. below.

B. Ten years after the designation date, the housing development shall lose its affordable designation unless at least one affordable housing unit within the housing development has received a certificate of occupancy, in which case the development fees shall continue to be calculated as set forth in subparagraphsubsection A. above. Notwithstanding the foregoing, any developer that has not obtained a certificate of occupancy at the end of the ten-year period may request that the affordable housing commission consider and make a recommendation to the city council to extend the housing development’s affordable designation and the fee reduction provided for herein for good cause shown. Any such extension shall be set forth in a development agreement approved by resolution of the city council.

C. Notwithstanding anything herein to the contrary, the developer shall be entitled to pay the lower of the development fee in effect as of the designation date and the development fee in effect at the time such fees are paid.

16.38.090 Reduction in fee for minimal traffic.

The street capital expansion fee may be reduced for a specific land use if data deemed reliable by the city establishes that traffic for both peak hour and total daily volumes for the property are each less than sixty (~~60~~) percent of the traffic assumptions used in establishing the fees for that specific land category in the adopted fee tables. The new fee will be based on a simple average of the data deemed reliable by the city for the property and the traffic assumptions used to establish the adopted fees.

16.38.100 Disposition of fees.

All fees collected pursuant to this chapter shall be deposited in a public works fund to be created by resolution of ~~the city~~ council, and to be used for the projects therein identified. Such resolution shall be established to comply with the provisions of [C.R.S. Section 31-15-302\(1\)\(f\)\(I\), Colorado Revised Statutes](#).

16.38.110 Review.

The fees imposed by this chapter and moneys expended from the public works fund shall be reviewed as follows:

- A. The capital expansion fees shall be adjusted annually, effective January 1 of each year. The adjustment shall be equal to the percentage change in the ~~E~~construction ~~E~~cost ~~I~~index for the Denver area as set forth in the preceding year's September issue of the Engineering News-Record published by McGraw Hill Companies. However, with respect to the street capital fee, the adjustment factor shall be equal to the most current preceding eight quarters' average annual percentage change in the construction costs as determined by the Colorado ~~D~~epartment of ~~T~~ransportation ~~E~~construction ~~E~~cost ~~I~~index.
- B. The city manager shall report to ~~the city~~ council, in conjunction with the presentation of the proposed budget, annually, on the actual and proposed expenditures and projects accomplished and to be accomplished from the public works fund.

Chapter 16.39

SCHOOL LAND DEDICATION AND IN-LIEU FEES

Sections:

- 16.39.010 Intent.**
- 16.39.020 Definitions.**
- 16.39.030 Land dedication in-lieu fees imposed.**
- 16.39.040 Exemptions.**
- 16.39.050 Use of funds by school district.**
- 16.39.060 Report and review by school district and city.**

16.39.010 Intent.

It is the intent of this chapter to adopt a rational system for identifying growth-related land needs and costs incurred by the school district in providing for new and expanded capital facilities made necessary by expanded population levels and economic activity levels, to develop a land dedication and fee structure therefore directly related to such needs and costs, and to provide a method of dedication and collection of such land and fees. It is the further intent of this chapter that such land dedication and fee imposition accurately reflect actual growth-related capital needs and costs, that the system be understandable and inexpensive to apply, that policies and fees be subject to revision as conditions change and that the system be linked to an implementable capital improvements program designed to provide the facilities for which the land dedication and fees are imposed.

16.39.020 Definitions.

As used in this chapter:

For purposes of this chapter, the following definitions shall apply:

- B.** “Dwelling unit” means a dwelling unit as defined in Chapter 18.04 of this code.
- C.** “Land development project” means the construction of one or more additional dwelling units or the modification of a non-dwelling unit building or structure to a dwelling unit.
- D.** “School district” means a public school district having an intergovernmental agreement with the city concerning the imposition of land dedication or fees in-lieu for school purposes.
- E.** “Independent living facilities” means a facility for persons who are socially and functionally independent all or most of the time. They are capable of moving about, taking care of their personal hygiene, preparing and eating their own meals, performing most housekeeping tasks and monitoring their own medications. They are able to reason, identify and meet their needs and deal appropriately with other people.
- F.** “Licensed personal care boarding homes (assisted living)” means a facility for an elder person who is functionally and/or socially impaired, needing assistance with personal care and some help moving about. Elder persons in assisted living facilities may also have occasional confusion or memory loss and need twenty-four-hour supervision. Nursing supervision is not required.
- G.** “Nursing homes” means a facility for an elder person who needs constant nursing supervision.

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H “Alzheimer homes” means a facility for persons who have been diagnosed with Alzheimer’s disease.

I “Day care homes for mature adults (elder care homes)” means a facility which provides day care for aged adults, with or without nursing care.

16.39.030 Land dedication in-lieu fees imposed.

- A. There is imposed upon every land development project, as a condition which must be satisfied prior to requesting a final building inspection, proof that the appropriate land dedication has been made to the school district, or that the school district has been paid an in-lieu fee, in accordance with the land dedication and fee schedules adopted by the school district and approved by the city pursuant to intergovernmental agreement. If the applicant is required to pay the in-lieu fee, the fee shall be paid to the city, prior to a request for final inspection, at the ~~development center~~current planning division, concurrently with the payment of other fees payable to the city pursuant to Echapter 16.38.
- B. Prior to or at the time that any proposed initial or modified land development project is submitted to the city for review, the superintendent of the school district, or designee, shall meet with the land development project applicant for the purpose of determining whether the school district desires the dedication of any land for schools within the land development project consistent with school district planning standards. In the event the dedication of sites or land areas is not deemed feasible or in the best interests of the school district as determined by the superintendent, or designee, the school district may require that the applicant pay the in-lieu fees as provided in this chapter.
- C. The requirement of land dedication and the payment of fees in-lieu of land dedication shall be imposed as a condition which must be satisfied prior to a request for final building inspection for all development for which building permits were applied for after the effective date of this ordinance, and upon all development which has been bound to such requirements by contract.

16.39.040 Exemptions.

- A. The following shall be exempted from the land dedication and in-lieu fees requirements of this chapter:
 1. Alteration or expansion of a dwelling unit not exceeding a net increase of one thousand square feet of the existing dwelling unit.
 2. Replacement of a dwelling unit in which the replacement does not exceed a net increase of one thousand square feet of the dwelling unit being replaced.
 3. Construction of a non-dwelling unit accessory building or structure.
 4. Construction of an accessory residential dwelling unit according to the provisions of this code.
 5. Nursing homes, independent living facilities, licensed, personal care boarding home (assisted living), Alzheimer homes, day care homes for mature adults (elder care homes), as defined in this chapter.
 6. City-approved planned residential developments that are subject to recorded covenants restricting the age of the residents of said dwelling units such that the dwelling units may be classified as “housing for older persons” pursuant to the Federal Fair Housing Amendments Act of 1988.

B. Any claim of exemption under this section must be made in writing by the applicant no later than the time of application for a certificate of occupancy. Any claim not so made shall be deemed waived.

16.39.050 Use of funds by school district.

A. All in-lieu fees collected by the city on behalf of the school district shall be paid over to the school district no less than monthly. Upon receipt of the in-lieu fees from the city, the school district shall properly identify the fees and promptly deposit the fees into a trust fund to be established and held as a separate account by the school district. The school district shall be the owner of the funds in the account and shall comply with the provisions of C.R.S. Section 29-1-801, *et seq.* Colorado Revised Statutes.

B. The funds deposited into the account shall be earmarked and expended solely to acquire, develop, or expand school educational sites, or for capital facilities planning, site acquisition or school site capital outlay purposes, within the senior high school feeder attendance area boundaries that include the land development project for which the fee was paid. Subject to the time limitations contained in this section, the time for, nature, method, and extent of such planning or development shall be within the sole discretion of the school district.

C. Any in-lieu fees which have not been expended by the school district for the purposes set forth in this section within ten years of the date of collection shall be refunded, with interest at the rate of six percent per annum compounded annually, to the person who paid the fee. If applicable, notice of such refund opportunity shall be mailed to the payer's address as reflected in the records maintained by the school district at the end of the ten-year period. If the person who paid the fee does not file a written claim for such refund with the school district within ninety days of the mailing of such notice, such refund shall be forfeited and shall revert to the school district to be utilized for capital facilities or improvements that will benefit the dwelling unit for which the fee was paid. The city eCouncil may extend the ten-year expenditure deadline set forth herein upon the request of the school district for good cause shown and following public hearing.

16.39.060 Report and review by school district and city.

A. The school district shall submit to the city an annual report on or before October 1st of each year, beginning in 1998, describing the school district's receipt of land dedications and expenditure of the in-lieu fees during the preceding fiscal year. This report shall include:

1. A review of the assumptions and data upon which the methodology is based, including student generation ratios, and attendance area boundaries;
2. Statutory changes or changes in the school planning standards or in city policies related to construction of school facilities; and
3. Any recommended modifications to the land dedication and in-lieu fee schedule.

B. The city eCouncil shall, at least every two years, review and update, as necessary, the land dedication and in-lieu fee schedule requirements as set forth in the intergovernmental agreement.

Chapter 16.40

IMPROVEMENTS

Sections:

16.40.005 Definitions.

16.40.010 Installation of improvements required.

16.40.015 Subdivision overlot Grading permit allowed.

16.40.020 Area boundaries establishment.

16.40.030 20 Financial security – Incomplete improvements agreement Guarantee form and deposit.

16.40.040 Reserved.

16.40.050 30 Time for completion.

16.40.070 40 Dedication on completion.

16.40.080 50 Inspection.

16.40.090 60 Guarantee period Warranty.

16.40.005 Definitions

A. As used in this chapter:

“Building site” means the specific lots and/or tracts and the adjacent street frontages where building construction will take place in accordance with permits issued by the city.

“Common amenities” means all common open space, landscaping, private walks and/or paths, irrigation meters and systems, and other open space and/or private park amenities, including all fences and/or walls located in or along the edge of buffervards and open space within the subdivision or development.

“Development” means all land being developed in association with the building site for which a building permit is being requested.

“Footing and foundation permit” means a footing and foundation permit as defined in the international building code, as adopted and amended in chapter 15 of the code.

“Full building permit” means a building permit as defined in the international building code, as adopted and amended in chapter 15.

“Non-residential development” means non-residential uses, three-family dwellings, multi-family dwellings, or a mix thereof, and shall include, without limitation, the following types of improvements:

(i) “final building site improvements,” which shall mean building site landscaping, common amenities, activated irrigation meters and systems, building site sidewalks, adjacent public sidewalks, stormwater infrastructure, public water system, public wastewater system, survey monuments, and other improvements required to be constructed in accordance with development plans approved by the city;

(ii) “final public site improvements,” which shall mean adequate water supply for fire protection, street pavement, pavement markings, permanent traffic control and street names signs, development sidewalks, electrical distribution improvements including, without limitation, street

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lighting, landscaping in the public rights-of-way, and other improvements
deemed necessary by the director to protect public safety; and

(iii) "preliminary public site improvements," which shall mean all-weather access to the building site approved by the Loveland fire rescue authority, underground electric lines and equipment unless waived by the city's water and power department, street name signs, temporary erosion control measures, public street curb and gutters, and other improvements deemed necessary by the director to protect public safety.

"Overlot grading" means an excavation, fill, or combination thereof associated with the construction of improvements for a subdivision or building site.

"Residential development" means single-family attached, single-family detached, or two-family attached dwellings and shall include, without limitation, the following types of improvements:

(i) "final building site and subdivision improvements," which shall mean building site landscaping, building site sidewalks, and other improvements required to be constructed in accordance with development plans approved by the city;

(ii) "final public subdivision improvements," which shall mean all street pavement, pavement markings, permanent traffic control and street names, signs, development public sidewalks, public water and wastewater systems, electrical distribution improvements, including, without limitation, street lighting, stormwater infrastructure, landscaping in the right-of-way, common amenities, and other public improvements required to be constructed in accordance with development plans approved by the city; and

(iii) "preliminary public subdivision improvements," which shall mean all-weather access to the building site approved by the Loveland fire rescue authority, underground electric lines and equipment, unless waived by the city's water and power department, street name signs, temporary erosion control, public street curb and gutters, overlot grading, survey monuments, and other improvements deemed necessary by the development review team to protect public safety.

16.40.010 Installation of improvements.

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A. Required improvements for non-residential development.

1. Footing and foundation permits. Prior to the issuance of any footing and foundation permit, all preliminary public site improvements shall be installed in compliance with plans and specifications approved by the city and a financial security, satisfactory to the city, shall be posted with the city in an amount equal to one hundred ten percent of the footing and foundation permit valuation.

2. Full building permits.

a. Prior to the issuance of any full building permit, all preliminary public site improvements and final public site improvements shall be installed in compliance with plans and specifications approved by the city.

b. Upon completion of all preliminary public site improvements, a full building permit may be issued under this subsection 2 b, prior to installation of all final public site improvements provided each of the following conditions are met:

- i. An incomplete improvements agreement and financial security in accordance with section 16.40.020 have been provided to the city in an amount equal to one hundred ten percent of the costs of installing all incomplete final public site improvements in compliance with plans and specifications approved by the city;
 - ii. Adequate water supply for fire protection has been provided to the building site and approved by the city's water and power department or any special water district providing services to the development and the Loveland fire rescue authority; and
 - iii. Any other conditions determined to be necessary by the director to avoid a threat to public health, safety, or welfare.
3. Temporary certificates of occupancy.
 - a. Prior to the issuance of any temporary certificate of occupancy, all preliminary public site improvements, final public site improvements, and final building site improvements shall be installed in compliance with plans and specifications approved by the city;
 - b. Upon completion of all preliminary public site improvements and final public site improvements, a temporary certificate of occupancy may be issued under this subsection 3.b. prior to installation of all final building site improvements provided each of the following conditions are met:
 - i. An incomplete improvements agreement and financial security in accordance with section 16.40.020 have been provided to the city in an amount equal to one hundred ten percent of the costs of installing all incomplete final building site improvements in compliance with plans and specification approved by the city;
 - ii. The public water system, public wastewater system, adjacent public sidewalks, and stormwater infrastructure has been installed on the site and approved by the city's water and power department, any special district providing such services to the building site, and the city's public works department; and
 - iii. Any other conditions determined to be necessary by the director to avoid a threat to public health, safety, or welfare.
4. Final certificates of occupancy. No inspections shall be made by the city for purposes of issuing a final certificate of occupancy until all preliminary public site improvements, final public site improvements, final building site improvements, and other requirements imposed by the provisions of this code or by the city at the time any annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with the plans and specifications approved by the city and as required by this code or any applicable city ordinance or resolution.

B. Required improvements for residential development.

1. Full building permits.
 - a. Prior to the issuance of any full building permit, all preliminary public subdivision improvements and final public subdivision improvements shall be installed in compliance with plans and specifications approved by the city;
 - b. Upon completion of all preliminary public subdivision improvements, a full building permit may be issued under this subsection 1.b. prior to installation of all

final public subdivision improvements provided each of the following conditions are met:

- i. An incomplete improvements agreement and financial security in accordance with section 16.40.020 have been provided to the city in an amount equal to one hundred ten percent of the costs of installing all incomplete final public subdivision improvements in compliance with plans and specifications approved by the city;
- ii. The public water system, public wastewater system, electrical distribution improvements including street lighting, stormwater infrastructure, permanent traffic control, street name signs and development public sidewalks have been installed and approved by the city's water and power department, any special district providing such services to the building site, and the city's public works department; and
- iii. Public and private street curb, gutters, pavement, and pavement markings have been installed in the subdivision and approved by the city's public works department. A deferral may be granted at the discretion of the city engineer for the top lift of pavement and pavement markings provided a financial security and agreement, both in accordance with section 16.40.020, have been provided to the city in an amount equal to one hundred ten percent of the costs of installing the pavement lift and pavement markings.

c. Any other conditions determined to be necessary by the director to avoid a threat to public health, safety, or welfare.

2. Temporary certificates of occupancy.

a. Prior to the issuance of any temporary certificate of occupancy, all preliminary public subdivision improvements, final public subdivision improvements, and final building site and subdivision improvements shall be installed in compliance with plans and specifications approved by the city;

b. Upon completion of all preliminary public subdivision improvements and final public subdivision improvements, a temporary certificate of occupancy may be issued under this subsection 2.b, prior to installation of all final building site and subdivision improvements provided each of the following conditions are met:

- i. An incomplete improvements agreement and financial security in accordance with section 16.40.020 have been provided to the city in an amount equal to one hundred ten percent of the costs of installing all incomplete final building site and subdivision improvements in compliance with plans and specifications approved by the city;
- ii. Building site sidewalks have been installed in compliance with plans and specifications approved by the city; and
- iii. Any other conditions determined to be necessary by the director to avoid a threat to public health, safety, or welfare.

3. Final certificates of occupancy. No inspections shall be made by the city for purposes of issuing a final certificate of occupancy until all preliminary public subdivision improvements, final public subdivision improvements, final building site and subdivision improvements, and other requirements imposed by the provisions of this code or by the city at the time any annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with plans and

specifications approved by the city and as required by this code or any applicable city ordinance or resolution.

C. Exceptions: The director may vary the provisions in this chapter related to the posting of financial security. In granting said exception, the director shall consult with department director(s) requiring the provision(s) requested for exception and shall make one of the following findings:

1. There is a reasonable probability that the improvements otherwise required pursuant to subsections A. and B. will be completed within six months of the issuance of any such permit; or
2. A development agreement has been approved and recorded that modifies the provisions set forth in this chapter related to the posting of financial security.

A. Preliminary and Final Improvements: Except as provided in subsection B in this section, prior to the issuance of any partial building permit (i.e., footings and foundation permit) in any area within any annexation or subdivision, all preliminary improvements shall be installed by the applicant in compliance with plans and specifications approved by the City. Prior to the issuance of any full building permit within any annexation or subdivision, all final improvements shall be installed by the applicant in compliance with plans and specifications approved by the city. A financial guarantee, satisfactory to the city, of such installation may be made in lieu of constructing the required final improvements prior to issuance of the full building permit. The improvements shall be made in the area in which the permit is requested, the boundaries of which shall be as provided in this chapter, and such improvements shall be connected to existing improvements of a like nature so as to become a part of the respective systems. As used in this section, "preliminary improvements" shall include, but limited to, all-weather street surfaces, street name signs, traffic control signs, curbs and gutters, water distribution improvements, sewer collection improvements, electric distribution improvements (including local street lighting), and storm water control facilities. "Final improvements" shall include, but not limited to, street pavement, pavement markings, permanent traffic control and street names signs, sidewalks, landscaping, and survey monuments. All improvements shall be in compliance with the final construction and development plans approved by the city.

B. Exceptions: The director may issue a partial or full building permit in an area within an annexation or subdivision prior to installation of preliminary or final improvements as otherwise required pursuant to subsection A in this section, provided the applicant demonstrates that unanticipated difficulties beyond the applicant's control have delayed completion of preliminary or final improvements and the Director makes the following findings:

1. Issuance of any such building permit will not create a threat to public health, safety, or welfare.
2. The applicant has demonstrated that there is a reasonable probability that the improvements otherwise required pursuant to subsection (A) will be completed within six (6) months of the issuance of any such partial or full building permit.
3. Issuance of any such partial or full building permit has been made subject to the following conditions:

- a. Adequate all-weather access to the construction site shall be provided for fire and emergency vehicles. Such access shall be subject to approval by the fire department.
- b. All underground electric lines and equipment shall be installed unless such installation is waived by the water and power department.
- c. Temporary erosion control measures shall be installed on the site in compliance with city standards.
- d. Prior to delivering to the construction site of any combustible building materials, adequate water supply for fire protection shall be provided to the construction site. Such water supply system shall be subject to approval by the water and power department and fire department.
- e. Or any other conditions determined to be necessary by the Director to avoid a threat to public health, safety, or welfare, including the posting of financial security in a form satisfactory to the City and in the amount of one hundred ten (110) percent of the improvements otherwise required pursuant to subsection (A) of this section.

C. Temporary Certificates of Occupancy.

- 1. Non Residential Uses. The director may issue a temporary certificate of occupancy for a non residential use prior to the installation of all preliminary improvements provided the Director determines that the issuance of any such certificate of occupancy will not create a threat to public health, safety, or welfare and the requirements in subsection B, in this section, have been met.
- 2. Residential Uses. The director may issue a temporary certificate of occupancy for residential uses only after the preliminary improvements have been installed pursuant to subsection (A) of this section and the Director determines that the issuance of any such certificate of occupancy will not create a public health, safety, or welfare.

D. Clear Certificates of Occupancy. No inspections shall be made by the City for purposes of issuing a certificate of occupancy until all final improvements and other requirements imposed by the provisions of this code or by the City at the time any annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with plans and specifications approved by the City engineer and as required by this code or any ordinance or resolution passed by the City.

E. Notification. The Director shall notify City Council of any actions taken under subsections (B) or (C) of this section.

16.40.015 Subdivision overlot Grading permit allowed.

Notwithstanding the provisions of the building code adopted by reference with modifications in Chapter 15.08 of the Loveland Municipal Code, a grading permit may not be issued by the chief building official, but and may be issued only by the Director for the following purposes only: (1) for overlot grading associated with the construction of public improvements and/or overlot grading within a subdivision for which final construction drawings have been submitted and are being reviewed by the City and the applicant has addressed at least one round of review comments; and/or (2) for overlot grading that meets the criteria for the issuance of an overlot grading permit set forth in the building code adopted by the City, provided that the Director finds: (i) that the grading activity will not disturb any natural areas as defined in the City's of Loveland Comprehensive Master Plan; and (ii) that the grading

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activity will not disturb any environmentally sensitive areas as defined in the Loveland Municipal Code. Under no circumstances shall a grading permit be issued for grading associated with the development of a single lot or for any building permit application. Prior to the commencement of any grading activities on a site containing environmentally sensitive areas, as defined in this code, temporary construction fencing shall be installed around the drip line of mature trees, vegetation, riparian areas, and other sensitive areas identified for preservation on plans approved by the city.

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16.40.020 Area boundaries establishment:

The exterior boundaries of such area shall be established by the person applying for such permit, subject to the approval of the city engineer, and shall include not less than ten lots or a complete cul de sac street. Implementation of the landscape plan shall be done in accordance with the phasing plan or as otherwise approved by the current planning manager. (Ord. 4444 § 1 (part), 1999; Ord. 4298 § 1 (part), 1997).

16.40.03020 Financial security – Incomplete improvements agreement – form and deposit:

The guarantee required by this section shall be in one of the following forms and shall be deposited prior to the issuance of the first full building permit described in Section 16.40.010;

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C. A Surety bond deposited with the city in an amount not less than one hundred ten percent of the estimated cost of complete installation of all final improvements and compliance with the conditions and requirements of the city in the area established as provided in Section 16.40.020. Such bond shall be conditioned upon the complete installation of such improvements and compliance with such conditions and requirements within the time and in the manner required by this code or any ordinance or resolution of the city council.

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D. A deposit of cash, certified funds from a financial institution, or other collateral, acceptable to the city, in an amount not less than one hundred ten percent of the estimated cost to complete the installation of all final improvements in compliance with the conditions and requirements of the city in the area established as provided in Section 16.40.020, shall be deposited by the developer with the city or with any financial institution acceptable to the city. Such deposit shall be subject to an escrow agreement whereby the holder of such cash, certified funds or collateral shall pay all or any portion thereof to the city upon the demand of the city as may be required to complete the installation of such improvements and compliance with such conditions and requirements within the time and in the manner required by this code or any ordinance or resolution of the city council.

E. An agreement between the city, the applicant and a financial institution acceptable to the city, in which the financial institution agrees to extend a letter of credit to the applicant, which letter of credit shall be in an amount not less than one hundred ten percent of the cost of complete installation of all final improvements in compliance with the conditions and requirements of the city council in the area established, as provided in Section 16.40.020. Said contract shall provide in part, that the city shall have the right to call

upon said line of credit, in the event of default on the part of the applicant, to complete the installation of and payment for such improvements and to insure compliance with such conditions and requirements within the time and the manner required by this code or any ordinance or resolution of the city council. Said agreement shall be in such form as may be required by the city and shall be accompanied by other documents, including, but not limited to, a letter of credit from the financial institution, as may be required by the city.

- A. Form of financial security. Any financial security required in this chapter shall be in the form of cash or certified funds from a financial institution (collectively "cash"). The city may, in its discretion, accept a clean, irrevocable letter of credit in a form and issued by a financial institution acceptable to the city or other collateral acceptable to the city (collectively, "alternative collateral"), in lieu of cash.
- B. Agreement. Any financial security required in this chapter shall be deposited with the city pursuant to a written incomplete improvements agreement between the city and the developer, which agreement shall:
 1. be in such form as may be required by the city and shall be accompanied by other documents, including, without limitation, a letter of credit from a financial institution or an escrow agreement pertaining to the cash or other agreement pertaining to the alternative collateral, as may be required by the city;
 2. permit the city to retain and utilize all or any portion of the cash or alternative collateral, including any interest or income earned thereon, to complete the installation of the improvements identified in the incomplete improvements agreement and compliance with such conditions and requirements within the time and in the manner required by this code or any applicable city ordinance or resolution, including, without limitation, to complete the improvements required in the agreement, or such additional work as may be necessary or appropriate to protect the public health, safety, and welfare; and
 3. be subject to approval as to form and sufficiency by the city attorney.

DC. No interest. No interest or other income earned on the cash or other collateral deposited with the city under this section as herein provided, shall be paid by the city, for cash or other collateral deposited with city until such time as the city demands the same for the completion of the installation as herein provided.

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16.40.040 Reserved.

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16.40.04030 Time for completion.

The required time for completion or performance of all final building site improvements, conditions, and requirements shall be prior to the issuance of a final certificate of occupancy for the building or tenant-finish space. The required time for completion or performance of all final public site improvements shall be as soon as practicable. The required time for completion or performance of all final public subdivision improvements shall be the date specified in the development construction permit, but no later than one year from the date of application for the first full building permit; provided, that the director may extend such time for completion or performance. To establish the time of completion of the final improvements, conditions and requirements, the developer shall prepare a detailed construction schedule and provide a financial security to the City for approval at a meeting held prior to the start of any public improvement construction as defined in Development Standards. Upon completion or

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performance of final improvements, conditions, and requirements within the required time, and upon the approval and acceptance thereof by the city, the city shall cause ~~such bond, deposit, escrow agreement or letter of credit~~ the financial security required in section 16.40.020 to be released ~~after the developer has established the warranty surety pursuant to the development standards and guidelines within fifteen days~~ after written notification to the city that such improvements, conditions and requirements are completed or performed. If the improvements, conditions and requirements are not completed or performed within the required time, the city shall cause the proceeds of the ~~financial security bond, cash deposit, other collateral or money, in escrow or extended through a letter of credit~~ to be used to complete the same; ~~provided, however, that in the case of financial security held with respect to incomplete improvements, the city may cause the proceeds of the financial security to be used to complete such work or improvements, for the correction or modification of building site conditions, removal of incomplete improvements, and/or installation of fencing, as may be necessary or appropriate in the city's judgment to protect the public's health, safety, and welfare, and the city shall have no obligation to complete any building site improvements in accordance with approved plans.~~ The city may cause a portion of such financial security to be released as such improvements, conditions and requirements are completed or performed and approved by it ~~which shall be released within thirty days after written notification to the city that such improvements, conditions and requirements are completed or performed.~~

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16.40.060 Financial security—Approval.

All surety bonds, letters of credit and escrow agreements shall be accompanied by an incomplete public improvements agreement approved as to form and sufficiency by the city attorney. Surety bonds shall be deemed sufficient if executed by a corporate surety licensed to do business in the state of Colorado, and countersigned by a resident agent of such corporate surety.

16.40.05040 Dedication on completion.

Upon the completion and written acceptance by the city of the same, all ~~public~~ ~~such~~ improvements shall be appropriately dedicated to public use and maintenance.

16.40.06050 Inspection.

All improvements shall be inspected as provided for in the development standards and guidelines.

16.40.07060 Guarantee periodWarranty.

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- A. All workmanship and materials (except materials provided by the city) for all required public improvements installed by the applicant (including, but not limited to the water supply system, sanitary sewage disposal system, storm drainage facilities, electrical distribution system, curbs, gutters, street pavement, sidewalks, street signs, survey monuments, landscaping and pavement markings) shall be ~~guaranteed~~warranted to be free from defects by the applicant for a period of two years from the date of acceptance of the required improvement by the city, provided, that such defects are not the result of public abuse, misuse or natural causes, as determined by the city. In the event any other provision of this code or specifications adopted pursuant thereto shall require a ~~guarantee~~warranty of workmanship or materials or both for a different period of time,

that provision regarding the longer period of guaranteewarranty shall govern. City inspection shall not relieve the property owner of such guaranteewarranty of workmanship and materials. Upon notification, the applicant shall promptly make all adjustments, repairs, or replacements in accordance with a repair plan approved by the city, which repair, in the opinion of the city, arose out of defects and became necessary during the guaranteewarranty period. The cost of all materials, parts, labor, transportation, supervision, special tools, and supplies required for replacement or repair of parts and for correction of defects shall be paid by the contractor or by the holder of the approved financial security.

- B. This guaranteewarranty shall be extended to cover all repairs and replacements furnished under the guaranteewarranty, and the period of the guaranteewarranty for each repair or replacement shall be extended one year after installation or completion of the repair or replacement.
- C. If, within fifteen days after the city has notified the applicant of a defect, failure, or abnormality in the work, the applicant has not started to make the necessary repairs or adjustments or submitted a written objection to the city's request for repair work, the city is hereby authorized to make the repairs or adjustments or to order the work be done by a third party. The cost of the work shall be paid by the applicant. The director may authorize a temporary repair if necessary due to weather conditions or materials availability.
- D. If an applicant has cause to object to the city's request for repair work, such objection shall be made in writing to the director. If the director confirms that the repair is necessary because of a defect in the applicant's materials or workmanship, the applicant shall complete the repairs as directed by the city, or appeal the director's decision as set forth in Section 16.16.040.
- E. In the event of an emergency, where in the judgment of the city, delay would cause serious loss or damage, repairs, or adjustments may be made by the city or a third party chosen by the city without advance notice to the applicant, the cost of the work shall be paid by the applicant or the holder of the financial security.
- F. Within thirty days prior to expiration of the guaranteewarranty period, the applicant shall request, in writing, that the city verify that no defects exist. The city shall, within thirty days, inspect the completed work and, if no defects, failures, or abnormalities are observed or detected, the city shall cause the bond, deposit, escrow agent, or letter of credit to be released.
- G. In the event that the applicant fails to complete any required repair work, or fails to reimburse the city for legitimate repair work performed by the city on behalf of the applicant, or fails to enter into an agreement with city regarding the satisfactory resolution of the obligation, the applicant shall be prohibited from participating in any further land development activity in the city of Loveland until such repair, reimbursement, or agreement is completed to the satisfaction of the director. Both the developer of the project and the contractor performing the defective work shall be subject to this restriction. The developer shall be prohibited from receiving any additional building permits for any lots owned by the developer as well as from submitting or continuing the processing of any land development applications for review and consideration by the city. The contractor shall be subject to the issuance of a stop work

order issued by the city to the contractor for any work within any city right-of-way or easement.

Chapter 16.41

ADEQUATE COMMUNITY FACILITIES (ACF)

Sections:

- 16.41.010 Intent.**
- 16.41.020 Applicability.**
- 16.41.030 Vested rights.**
- 16.41.040 Processing of a community facilities data form.**
- 16.41.050 Recommendation of adequacy by development review team.**
- 16.41.060 Determination of adequacy.**
- 16.41.070 Effect and expiration of determination of adequacy.**
- 16.41.080 Criteria for determining availability and adequacy of community facilities.**
- 16.41.090 Administration.**
- 16.41.100 Fire protection and emergency rescue services.**
- 16.41.110 Transportation facilities.**
- 16.41.120 Water facilities and services.**
- 16.41.130 Wastewater facilities and services.**
- 16.41.140 Stormwater facilities.**
- 16.41.150 Power.**

16.41.010 Intent.

It is the intent of this chapter to adopt a program to ensure that community facilities needed to support new development meet or exceed the adopted level of service standards established by the city; to ensure that no development approval, subdivision approval, or building permits are approved or issued which cause a reduction in the levels of service for any community facilities below the adopted level of service established by the city; to ensure that adequate community facilities needed to support new development are available concurrent with the impacts of such development; to establish uniform procedures for the review of the adequacy of community facilities needed to service new development and new subdivisions; to facilitate implementation of goals and policies as set forth in the comprehensive master plan relating to adequacy of community facilities; and to ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

16.41.020 Applicability.

The provisions of this chapter shall apply to all applications for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, or preliminary subdivision plat submitted to the city of Loveland after May 2, 1996, with the exception of Redevelopment Areas as specifically identified in Title 18 of the Loveland Municipal Code. No application for development approval shall be approved unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the city in accordance with this chapter in addition to and the application is in conformance with all other requirements necessary for approval of the proposed development. This chapter shall not apply to any use, development, project, structure, fence, sign, or activity which that does not result in either the

creation of a new commercial or industrial use structure, or residential (more than twelve dwelling units); or an increase in floor area of an existing commercial or industrial use structure or an increased number of dwelling units in an existing multi-family residential structure.

16.41.030 Vested rights.

- A. Nothing in this chapter shall limit or modify the rights of an applicant to complete any development for which the applicant has obtained and possesses a vested right to undertake and complete the development pursuant to [C.R.S. 24-68-101 et seq., Article 68 of Title 24, Colorado Revised Statutes as amended and as implemented by Chapter 18.72 of the Loveland Municipal Code for the city of Loveland](#), or pursuant to Colorado law.
- B. If an applicant has, by decisions in reliance on prior approvals and regulations, obtained and possesses vested rights that by law prevent the city [of Loveland](#) from changing those regulations in a manner adverse to the applicants interests, nothing in this chapter [shall be deemed to authorize](#) the city [of Loveland or any official thereof](#) to abridge those rights.
- C. A determination of adequacy shall not affect the otherwise operable and applicable provisions of this [Title 16](#) or [of Title 18 of the Loveland Municipal Code](#), all of which shall be operative and remain in full force and effect without limitation.

16.41.040 Processing of a community facilities data form.

- A. Submission Requirements. All applications for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, and preliminary or final subdivision plat shall be accompanied by a community facilities data form which shall include sufficient information to allow the city to determine the impact of the proposed development on community facilities pursuant to the procedures of this chapter. The community facilities data form shall be a form prepared by the city. The information required shall include, but shall not be limited to:
 1. [The](#) total number and type of structures or dwelling units, and gross density of the proposed development;
 2. [The](#) location of the proposed development;
 3. [An](#) identification of the community facilities impacted by the proposed development;
 4. [If](#) an applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the development, information sufficient to permit the city to determine the validity of the applicant's claim of exemption; [and](#)
 5. [any information required by this chapter for specific city facilities; and](#)

[5.6. A](#)ny other appropriate information as may be deemed necessary by the city in evaluating the adequacy of community facilities consistent with the provisions of this chapter [and applicable appendices](#).
- B. If the community facilities data form is incomplete or the submission requirements have not been satisfied, the development review team shall so notify the applicant of any deficiencies in writing. If the community facilities data form is complete and the submission requirements have been satisfied, the development review team shall evaluate the proposed development or subdivision for compliance with the applicable adopted

level of service standards and shall submit a recommendation regarding the adequacy of the community facilities pursuant to Section 16.41.050.

16.41.050 Recommendation of adequacy by development review team.

- A. Upon receipt of a completed community facilities data form, the development review team shall evaluate the proposed development or subdivision, including, at a minimum, an evaluation of the following:
 1. The number and type of structures or units proposed by the applicant;
 2. The proposed timing and phasing of the development, if applicable;
 3. The specific community facilities impacted by the proposed development;
 4. The extent of the impact of the proposed development on all community facilities;
 5. The capacity of existing community facilities serving the proposed development which will be impacted by the proposed development, based on the adopted level of service;
 6. The demand on the existing capacity of community facilities from all existing and approved development;
 7. The availability of existing capacity to accommodate the proposed development;
 8. If existing capacity is not available, any capacity that is planned to be added and the year in which such planned capacity is projected to be available to serve the proposed development; and
 9. If the applicant seeks an exemption from the requirements of this chapter based upon a claim that the applicant has obtained and possesses a vested right to undertake and complete the development, a determination of vested rights from the current planning division and an opinion from the city attorney.
- B. If the development review team concludes that each community facility will be available concurrent with the impacts of the proposed development or subdivision at the applicable adopted levels of service, the development review team shall make a positive recommendation of adequacy.
- C. If the development review team concludes that any community facility will not be available concurrent with the impacts of the proposed development at the applicable adopted level of service based upon existing community facilities, the development review team may make a negative recommendation of adequacy or, in the alternative, may make a positive recommendation of adequacy with appropriate conditions consistent with the following:
 1. Deferral of further development approval until all community facilities are available and adequate if community facilities are not available and adequate to meet the adopted level of service for the development proposal;
 2. Reduction of the density or intensity of the proposed development, including conditions regarding the phasing of the development, to a level consistent with the available capacity of the Community Facilities; or
 3. Provision by the applicant of the community facilities necessary to provide capacity to accommodate the proposed development at the adopted level of service and at the time that the impact of the proposed development will occur; and
 4. Any other reasonable conditions to ensure that all community facilities will be adequate and available concurrent with the impacts of the proposed development, or concurrent with the planned extension of the community facility by the city.

- D. A written recommendation of adequacy by the development review team shall include a report addressing and summarizing the development review team's evaluation required by Section 16.41.050(A).
- E. The development review team's recommendation of adequacy shall be made part of any staff report accompanying any administrative, planning commission, or city-council review of applications for development approval.

16.41.060 Determination of adequacy.

Following receipt of the recommendation of adequacy and as part of the city's procedures for review and final approval of any application for development approval, and subject to compliance with all other standards applicable to the application and requested approval, the city council, or other board, commission, or administrative staff member vested with authority to approve development may: (1)

- B. Make a positive determination of adequacy; or (2)
- C. Make a negative determination of adequacy; or (3)
- D. Make a positive determination of adequacy with appropriate conditions consistent with the conditions contained in Section 16.41.050(C).

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16.41.070 Effect and expiration of determination of adequacy.

- A. A positive determination of adequacy shall be deemed to indicate that community facilities are or will be available and adequate to serve the proposed development until such time that the determination of adequacy expires. No application for development approval of a preliminary or final development plan, non-residential site plan, residential site plans containing more than twelve dwelling units, special review use, or preliminary subdivision plat shall be approved unless a positive determination of adequacy or a positive determination of adequacy subject to conditions has been made by the city.
- B. A positive determination of adequacy issued pursuant to this chapter shall be deemed to expire at the earlier of: (a) the expiration, waiver, lapse, or revocation of the development approval for which the positive determination of adequacy was issued; or (b) failure by the applicant to timely comply with the conditions attached to a positive determination of adequacy; or two years following the date of issuance of a positive determination of adequacy.

16.41.080 Criteria for determining availability and adequacy of community facilities.

- A. Level of Service Standards. Compliance with level of service standards shall be measured in accordance with the standards set forth in the applicable appendices to this chapter or adopted development standards, as they may be amended from time to time as provided in this chapter.
- B. Range of Impacts. Any proposed development which could result in a range of potential impacts shall be reviewed as if the greatest impact shall result. The review and evaluation of community facilities required by this chapter shall compare the capacity of community facilities to the maximum projected demand which may result from the proposed development.
- C. Existing Demand and Capacity. Where the adequacy and availability of a community facility is based upon an evaluation of available capacity, the existing demand upon the community facility shall be determined by adding together: (1) the existing demand

placed upon the community facility from all users whether within or outside of the city; (2) the projected demand for the community facility created by the anticipated completion of approved but uncompleted development; and (3) the projected demand upon the community facility created by the anticipated completion of any proposed developments for which an adequate community facilities data form has been submitted to the development centercurrent planning division.

D. Capacity ~~I~~improvements. No improvement proposed or undertaken to increase existing capacity of a community facility or an improvement proposed to be made to avoid a deterioration in the adopted levels of service shall be accepted by the city unless the improvement is a planned capital improvement included within the city's capital improvement program ~~(CIP)~~, appropriate facility master plan or development standards, or unless the improvement is determined by ~~the city~~ council to directly and substantially advance one or more established goals or policies of the city ~~of Loveland~~. An applicant's commitment to construct or expand a community facility prior to the issuance of a building permit may be included as a condition of the determination of adequacy and any such commitment shall include, at a minimum, the following:

1. A finding that the planned capital improvement is included within the ~~CIP~~capital improvement program, appropriate facility master plan or development standards;
2. An estimate of the total funding needed to construct the planned capital improvement and a description of the cost associated therewith;
3. A schedule for commencement and completion of construction of the planned capital improvement with specific target dates for multi-phase or large-scale capital improvement projects;
4. A statement, based on analysis, that the planned capital improvement is consistent with the comprehensive master plan; and
5. At the option of the city and pursuant to an agreement between the city and the applicant, and only if the planned capital improvement will provide capacity exceeding the demand generated by the proposed development, reimbursement to the applicant for the pro rata cost of providing the excess capacity.

16.41.090 Administration.

- A. Rules and ~~R~~egulations. ~~The city~~eCouncil may adopt, by ordinance or resolution, any necessary rules, regulations, administrative guidelines, forms, worksheets and processes to efficiently and fairly administer and implement this chapter.
- B. Administrative ~~F~~ees. ~~The city~~eCouncil may establish, by ordinance or resolution, fees and a fee schedule for each of the administrative procedures, determinations, approvals and certifications required by this chapter.
- C. Conflict. To the extent of any conflict between the ~~E~~city ~~E~~charter, ~~Loveland~~ ~~Municipal~~the Ecode, ordinances, resolutions, or regulations and this chapter, the more restrictive is deemed to be controlling. This chapter is not intended to amend or repeal any existing ordinance, resolution, or regulation.
- D. Appendices and ~~D~~ata ~~R~~eview. All appendices referenced in this chapter are incorporated by reference as if set forth in this chapter in their entirety. ~~The city~~eCouncil may amend appendices referenced in this chapter by resolution.

16.41.100 Fire protection and emergency rescue services.

Fire protection and emergency rescue services ~~ERS~~ shall be deemed to be adequate and available for a proposed development if such services for the development meets or exceeds the applicable adopted level of service provided in Appendix A, and:

- ~~4A~~. Adequate fire protection services and emergency rescue services~~ERS~~ are currently in place or will be in place prior to issuance of a building permit for the development; or
- ~~2B~~. Provision of adequate fire protection services and emergency rescue services~~ERS~~ are a condition of the development application approval and are guaranteed to be provided at or before the approval of a final plat or issuance of the first building permit for the proposed development; or
- ~~3C~~. Facilities necessary for providing adequate fire protection services and emergency rescue services~~ERS~~ are under construction and will be available at the time that the impacts of the proposed development will occur, or
- ~~4D~~. Provision of fire protection services and emergency rescue services~~ERS~~ are guaranteed by an executed and enforceable development agreement which ensures that such services will be in place at the time that the impacts of the proposed development will occur.

16.41.110 Transportation facilities.

Transportation facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in ~~Section 4.5 of the Larimer County Urban Area Street Standards, which may be amended by resolution~~, and:

- ~~4A~~. All transportation facilities are currently in place or will be in place prior to issuance of a building permit for the development; or
- ~~2B~~. Provision of transportation facilities are a condition of the development approval and are guaranteed to be provided at or before the approval of a final plat or issuance of the first building permit for the proposed development; or
- ~~3C~~. Transportation facilities are under construction and will be available at the time that the impacts of the proposed development will occur; or
- ~~4D~~. Provision of transportation facilities needed to achieve the adopted level of service are guaranteed by an executed and enforceable development agreement which ensures that such facilities will be in place at the time that the impacts of the proposed development will occur; or
- ~~5E~~. Transportation facilities needed to achieve the adopted level of service are included in the capital improvements program~~CIP~~; and
 - ~~a1~~. The capital improvements program~~CIP~~ contains a financially feasible funding system from available revenue sources which are adequate to fund the streets required to serve the proposed development, and
 - ~~b2~~. The transportation facilities are likely to be constructed and available at the time that the impacts of the proposed development will occur, or at the time the city extends the transportation facilities to provide a logical link to the project.

16.41.120 Water facilities and services.

Water facilities and services shall be deemed to be adequate and available for a proposed development if such facilities and services for the development meet or exceed the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- 1A.A supply of raw water adequate to serve the projected needs of the proposed development is owned or controlled by the city and such water supply is or will be available for use by the proposed development prior to the issuance of the first building permit within the proposed development; and
- 2B.Sufficient raw water storage capacity, including on-site and off-site capacity, is available to serve the proposed development and such capacity is or will be available for use by the proposed development prior to the issuance of the first building permit within the proposed development; and
- 3C.Sufficient water treatment capacity is available or, through new capacity improvements will be made available, to ensure a supply of potable water to the proposed development prior to the issuance of the first building permit within the proposed development; and
- 4D.Sufficient water main capacity will be available or, through new capacity improvements will be made available, to serve the proposed development prior to the issuance of the first building permit within the proposed development.

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16.41.130 Wastewater facilities and services.

Wastewater facilities and services shall be deemed to be adequate and available for a proposed development if such facilities and services meet or exceed the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- 1. A. The city of Loveland's central wastewater system or the central wastewater system of a sanitary sewer district is capable of connection to the proposed development; and
- 2. B. Sufficient wastewater treatment capacity is available or, through construction of new capacity improvements will be made available, to treat wastes generated by the proposed development prior to the issuance of the first building permit within the proposed development; and
- 3. C. Sufficient wastewater trunk line capacity is available and, where required, lift station capacity is available to serve the proposed development prior to the issuance of the first building permit within the proposed development.

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16.41.140 Stormwater facilities.

Stormwater facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in Appendix A, at the end of this chapter, and:

- 1. A. The proposed development meets all applicable requirements contained in the stormwater master plan, including the stormwater criteria manual; and
- 2. B. The proposed development provides for adequate major drainageways to convey stormwater flows from a one hundred year storm event which will minimize property damage; and
- 3. C. The proposed development meets all applicable drainage requirements of the city of Loveland.

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16.41.150 Power.

Power facilities shall be deemed to be adequate and available for a proposed development if the development meets or exceeds the applicable adopted level of service provided in Appendix A, at the end of this chapter, and the proposed development will obtain utility services

from the city through a system meeting all engineering and design standards applicable to the utility.

**See APPENDIX A - TO LOVELAND ADEQUATE COMMUNITY FACILITIES
ORDINANCE #4320**

**See TABLE 2.3 - FIRE PROTECTION STANDARDS CITY OF LOVELAND,
COLORADO**

TABLE 2.3
FIRE PROTECTION STANDARDS
CITY OF LOVELAND, COLORADO

	<u>EXISTING</u> Fire Station 5 Minute Service Areas or areas of CONVERGENCE	<u>CONCEPTUAL</u> Fire Service Area	<u>BEYOND</u> Existing, Conceptual Fire Service Area	<u>URBAN/</u> <u>WILDLAND</u> (1)(6) Interface Area No Station Planned
▪ Outside Strobe Light	Yes	Yes	Yes	Yes
▪ Confirmed and Sustainable Access	Yes	Yes	Yes	Yes
▪ Interconnection of Subdivisions	Yes	Yes	Yes	Yes
▪ Sprinklers (NFPA Standards) (5)	(2)	(2)	(2)	(2)
▪ Ignition Resistant or Non-Combustible Exterior Construction Materials				Yes (3)
▪ Fuel Management (Include in Covenants)				Yes
▪ “Rate of Rise” Heat Detectors in Garage/Attic Areas (4)		Yes	Yes	Yes

(1) 400Four hundred foot maximum length of deadends.
 (2) Any structure with a gross area of 5000five thousand square ft. or more shall be fully sprinklered in accordance with NFPA. Attached garages are excluded (single family dwellings only) when calculating the gross square footage. In addition, residential sprinklers shall be required as otherwise provided by the Fire Ecode, including, but not limited to, the requirement that sprinklers shall be provided for all residences located on dead end streets more than 400four hundred feet from the street entrance or where street width is less than 34'thirty-four inch flow line to flow line.

(3) Ignition resistant or non-combustible exterior construction materials shall be used in accordance with ~~E~~chapter 5 of the ~~I~~nternational ~~F~~ire ~~E~~code ~~I~~nstitute, ~~U~~rban ~~W~~ildland ~~I~~nterface ~~E~~code.

(4) Not required in garage when fire sprinklers are provided.

(5) The Loveland ~~F~~ire & ~~R~~escue ~~D~~epartment ~~a~~uthority believes the use of residential fire sprinkler systems is the best method of life safety where fire stations are not located within 1 $\frac{1}{2}$ miles or a ~~5~~ five minute ~~E~~ngine ~~E~~company response time, as defined in the ~~F~~ire ~~P~~rotection ~~M~~aster ~~P~~lan. There is a certain risk assumed when homes are built without residential fire sprinkler systems.

(6) Urban/~~W~~ildland interface area is that area defined under ~~S~~ection 15.08.020, ~~T~~able 32A, ~~F~~ootnote 3, of the ~~L~~oveland ~~M~~unicipal ~~C~~ode.

Notes:

- When any approved lot is partially “in” an EXISTING, or a CONCEPTUAL fire service area, the entire lot shall be deemed ‘in’ for the purposes of determining the ACF fire protection standards. The proposed building must be within 1- $\frac{1}{2}$ miles travel distance of a fire station based on existing or currently developed ‘public travel routes’ that meet existing development standards. The burden of proof falls on the applicant to verify travel distance is within 1- $\frac{1}{2}$ miles.
- CONCEPTUAL fire service area is denoted on a map indicating where future fire service may be provided as development occurs. Fire station sites shall be determined by the Loveland ~~F~~ire & ~~R~~escue ~~D~~epartment ~~a~~uthority (conditioned on approval of ~~C~~ity ~~C~~ouncil) based on current growth/development patterns. Fire station locations are subject to change based on current development/growth patterns.
- This plan will be reviewed and modified accordingly every three years in conjunction with the ~~F~~ire & ~~R~~escue ~~D~~epartment ~~M~~aster ~~P~~lan.

Chapter 16.42

STREET MAINTENANCE FEE

Sections:

- 16.42.010 Legislative intent.**
- 16.42.020 Definitions – Additional regulations.**
- 16.42.030 Use of street maintenance fee.**
- 16.42.040 Street maintenance fee imposed.**
- 16.42.050 Billing for street maintenance fee.**
- 16.42.060 Enforcement.**

16.42.010 Legislative intent.

- A. The purpose of this chapter is to establish a street maintenance fee on users of city utility services within the boundaries of the city. The amount of the fee as established herein is intended to defray the costs of properly maintaining city streets.
- B. It is the intent of ~~the city~~ council that the amounts collected by the imposition of the street maintenance fee shall be set aside and utilized for the sole purpose of defraying the costs of maintaining the streets located within the boundaries of the city.

16.42.020 Definitions – Additional regulations.

- A. ~~For purposes of~~As used in this chapter:

“Customer” means a person to whom the city furnishes stormwater service.

“Maintenance” means activities performed for the upkeep and repair of the city’s streets, including but not limited to patching, crack sealing, seal coating, overlaying, resurfacing, and reconstruction.

~~“Street” means all public highways, streets, roads, alleys, and other public rights of way within the boundaries of the city which are used or intended for use by vehicular traffic, and the operation and maintenance of which are the responsibility of the city.~~

- ~~C.~~B. The city manager is authorized to issue regulations not inconsistent with this chapter to further define such terms as may be necessary or desirable for the administration of this chapter, and to establish additional procedures as may be necessary or desirable for the administration of this chapter.

Commented [SC1]: Is “street” already defined in Title 16, and if so, is this different?

16.42.030 Use of street maintenance fee.

- A. All moneys received from the street maintenance fee imposed pursuant to this ~~Chapter~~Chapter ~~16.42~~ shall be paid into the general fund, and shall be used exclusively to pay the cost of maintenance of the city’s street system and not for any general city purposes.
- B. To the extent that the funds derived from the street maintenance fee imposed pursuant to ~~Section~~ 16.42.040 are not sufficient to properly maintain the city’s street system, the city may augment such funds with other city funds as may be determined by ~~the city~~ council.

16.42.040 Street maintenance fee imposed.

- A. There is hereby imposed on each customer within the city a street maintenance fee.
- B. The amount of the fee shall be as set by ~~the city~~ council by resolution and shall be based upon the customer’s use of the lot, tract, or parcel of land receiving city services, the

city's estimate of the relationship between such use and the generation of vehicular traffic on the city's street system, and the city's estimate of the cost of maintenance of the city's street system as a result of such traffic.

- C. The amount of the fee may be changed from time to time based upon revised estimates of the costs of maintenance of the city's street system, revised categories of uses and traffic generation factors, and other factors reasonably related to the needs created or contributed to by customers who are subject to the fee.
- D. The resolution establishing the amount of the fee may set forth charges pertaining to any delinquency in payment of the fee, including but not limited to late payment penalties and returned check charges, and collection charges.

16.42.050 Billing for street maintenance fee.

The street maintenance fee established by this chapter shall be billed and collected with the monthly stormwater bill for each customer utilizing such service.

16.42.060 Enforcement.

Any fee due under this chapter which is not paid when due may be recovered in an action at law by the city. The city may pursue any remedies or penalties provided by law necessary to carry out the provisions of this chapter.

Chapter 16.43

AFFORDABLE HOUSING

Sections:

- 16.43.010 Purpose.**
- 16.43.020 Affordable housing fund established.**
- 16.43.030 Revenue sources for affordable housing fund.**
- 16.43.035 Affordable housing developments~~s~~ Designation.**
- 16.43.040 Design standards for affordable housing.**
- 16.43.050 Expedited development review for affordable housing developments.**
- 16.43.060 Dispersion of affordable housing units.**
- 16.43.070 ~~Plat~~dDesignation of affordable housing units required.**
- 16.43.080 Deed restriction ~~or encumbrance of “for sale” for~~ affordable housing units required.**
- 16.43.100 Use tax credit for qualified affordable housing units.**
- 16.43.110 Annual review of affordable housing ownership.**

16.43.010 Purpose.

The purposes of this chapter are to:

- A. Implement the housing goals of the ~~the city's of Loveland~~ Affordable Housing Policy as adopted by resolution of the ~~the city~~ Council;
- B. Promote the construction of housing that is affordable to the community's workforce;
- C. Retain opportunities for people that work in the ~~the city~~ to also live in the ~~the city~~;
- D. Maintain a balanced community that provides housing for people of all income levels; and
- E. Promote availability of housing options for low and moderate income residents and for special needs populations.

16.43.020 Affordable housing fund established.

There is created a special fund to be known as the ~~the~~ Affordable Housing Fund for the purpose of receiving all revenues related to affordable housing programs and services. The fund and any interest earned in that fund shall be for the specific use of those programs and services as determined by the ~~the city~~ Council.

16.43.030 Revenue sources for affordable housing fund.

The ~~the~~ Affordable Housing Fund shall be funded through revenues derived from payments to the ~~the city~~ as set forth in ~~Section 16.43.080.B. of this Chapter~~, from gifts or grants, and from appropriations from the ~~the~~ General Fund or other funds, as the ~~the city~~ Council may from time~~to~~to time establish or approve.

16.43.035 Affordable housing developments~~s~~ Designation.

All applications for designation of a housing development as affordable shall be submitted to the affordable housing commission for review and recommendation to ~~the city~~ Council. ~~The city~~ Council shall review such applications and make the final determination to approve, approve with conditions, or deny such applications by resolution.

16.43.040 Design standards for affordable housing.

The design standards set forth in ~~Chapter 16.24 of this Title 16~~ may be modified for subdivisions which are affordable housing developments in accordance with the “~~S~~ite ~~D~~evelopment ~~P~~erformance ~~S~~tandards and ~~G~~uidelines for ~~A~~ffordable ~~H~~ousing” found in chapter 7 of the “~~S~~ite ~~D~~evelopment ~~P~~erformance ~~S~~tandards and ~~G~~uidelines” ~~adopted by the City~~, so long as the design of the subdivision remains at all times consistent with the overall health, safety, and welfare of the future residents of the subdivision. All design modifications for affordable housing developments shall be subject to the approval of the ~~D~~irector-~~of Development Services~~.

16.43.050 Expedited development review for affordable housing developments.

The ~~C~~ity shall process all applications for affordable housing developments on an expedited time line. Complete applications for affordable housing developments shall be placed ahead of all other complete applications in the review process. All required reviews of applications for affordable housing developments by ~~C~~ity staff members and ~~C~~ity boards and commissions shall be accomplished in as expeditious a manner as possible consistent with good planning principles.

16.43.060 Dispersion of affordable housing units.

Where affordable housing units are part of a residential development also containing market-rate housing units, the planning commission shall review the preliminary plat to ensure that the affordable housing units shall, to the extent possible without creating practical difficulties, be mixed with the market-rate housing units and not clustered together or segregated from market-rate housing units in the development. The director-~~of development services~~, in all instances, shall have the discretion to approve the final location and distribution of affordable housing units in the development on the final plat, provided that such locations are in substantial compliance with the planning commission’s approval of the preliminary plat.

16.43.070 Designation of affordable housing units required.

All development plans for affordable housing developments or that include affordable housing units shall indicate which dwelling units shall be constructed as affordable housing units. For single-family detached dwelling units, each lot upon which an affordable housing unit is to be constructed shall be designated on the development plan. For multi-family housing or duplex housing, the development plan shall indicate the percentage of units within the development that shall be constructed as affordable housing units. An affordable housing development may be developed in phases. For a phased development, each development plan shall indicate which dwelling units shall be constructed as affordable housing units. The director-~~of development services~~, in all instances, shall have the discretion to approve the number and location of affordable housing units within a phased development so long as the required percentage of affordable housing units is met. The director-~~of development services~~ shall also have the authority to approve administrative amendments to development plans changing the location of affordable housing units designated on a development plan for non-phased developments, provided that such locations are in substantial compliance with the planning commission’s approval of the preliminary plat and with all other applicable provisions of this chapter.

16.43.080 Deed restriction for affordable housing units required.

- A. "For sale" units. No certificate of occupancy shall be issued for any "for-sale" single-family dwelling, multi-family building, or duplex containing an affordable housing unit(s) unless: (1) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (2) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the sale of the affordable housing unit(s) to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit(s) has been placed on the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date of the initial purchase of the affordable housing unit by the initial qualifying household, provided there is no existing default under the deed restriction or encumbrance. All "for-sale" affordable housing units must be owner-occupied.
- B. "For rent" units. No certificate of occupancy shall be issued for any "rental" multi-family building or duplex containing an affordable housing unit(s) unless: (1) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (2) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the rental of the affordable housing units to any person(s) other than a qualifying household, and prohibiting the conversion of the affordable housing units from "rental" units to "for-sale" units without the prior written approval of the city, for a period of twenty years from the date of the issuance of a certificate of occupancy. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.
- C. Payment required. If an owner sells a "for sale" unit to a household that does not meet the city's definition of a qualifying household, or rents a "for rent" unit to a household that does not meet the definition of a qualifying household at a rent defined as affordable by the Colorado Housing and Finance Authority Rent and Iincome Table, the owner shall pay the city the amounts set forth below.

1. If all or any part of the capital expansion fees or any other fees imposed by the city upon new development were waived in accordance with ~~S~~ection 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from original sale (if a “for sale” unit), or number of years from the issuance of the first certificate of occupancy (if a “for rent” unit)	Amount owed to city
1	95% of amount waived
2	90% of amount waived
3	85% of amount waived
4	80% of amount waived
5	75% of amount waived
6	70% of amount waived
7	65% of amount waived
8	60% of amount waived
9	55% of amount waived
10	50% of amount waived
11	45% of amount waived
12	40% of amount waived
13	35% of amount waived
14	30% of amount waived
15	25% of amount waived
16	20% of amount waived
17	15% of amount waived
18	10% of amount waived
19	5% of amount waived
20	\$0

2. If capital expansion fees or any other fees imposed by the city upon new development were not waived in accordance with ~~S~~ection 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from date of original sale	Percentage of net proceeds due to city
0-5 years	25%
5-10 years	20%
10-15 years	15%
15-20 years	10%

D. Hardship waiver. ~~The city~~ ~~e~~Council may waive all or any portion of the repayment obligations set forth in this section on a case-by-case basis for good cause shown.

16.43.100 Use tax credit for qualified affordable housing units.

A. Incentives ~~P~~rovided. An applicant who meets all of the applicable criteria set forth in this ~~S~~ection may receive, as a credit against any fees assessed by the ~~E~~city in connection with the construction of new qualified affordable housing units within the ~~E~~city, or in

connection with the reconstruction or remodel of an existing dwelling unit within the ~~E~~city, a sum equal to the building materials use tax paid to the ~~E~~city in connection with the construction of such units.

B. Criteria to ~~R~~eceive ~~E~~credit. The credit shall be issued at the time a certificate of occupancy is issued for the single family dwelling, multi-family building or duplex containing an affordable housing unit. In order to receive the use tax credit set forth in ~~S~~ubsection A, the applicant shall meet one of the following criteria:

1. For “for-sale” dwelling units, the applicant shall provide documentation satisfactory to the ~~D~~irector ~~of Development Services~~ that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat.
2. For “rental” dwelling units, the applicant shall provide documentation satisfactory to the ~~D~~irector ~~of Development Services~~ and ~~the E~~city ~~A~~ttorney that the multi-family building or duplex containing affordable housing rental unit(s) are located in an affordable housing development and will provide affordable housing units to qualifying households for not less than twenty ~~(20)~~ years.

C. Application. Any person or entity ~~which that~~ wishes to receive the incentive credit provided for in ~~S~~ubsection A, shall submit a completed use tax credit application to the ~~Human Services~~community partnership ~~A~~Administrator. The application shall be accompanied by documentation in support of the criteria set forth in this ~~S~~ection. An application which fails to contain complete information and sufficient documentation to support the criteria set forth above shall not be considered. The completed application for the incentive credit shall be submitted and approved prior to issuance of a use tax credit and prior to issuance of a certificate of occupancy.

16.43.110 Annual ~~R~~eview of affordable housing ownership.

Once each year, the ~~Human Services~~community partnership ~~A~~Administrator shall obtain an ownership report concerning each “for-sale” affordable housing unit for which the ~~E~~city has issued a certificate of occupancy. In the event an affordable housing unit is owned or occupied by a person other than the initial qualifying household, the current owner of the affordable housing unit shall submit documentation to the ~~Human Services~~Administrator verifying that the affordable housing unit is owned by a qualifying household and has not been rented. In the event the current owner fails to provide such information in a timely manner, or the information provided fails to support continuing compliance with the requirements set forth in this ~~E~~chapter, the ~~Human Services~~Administrator shall advise the current owner in writing that the payment set forth in ~~S~~ection 16.43.080-B, ~~of this Chapter~~ shall be paid to the ~~E~~city. If the current owner fails to pay the ~~E~~city within thirty ~~(30)~~ days of the date any decision is made by the ~~Human Services~~Administrator pursuant to this ~~S~~ection, the ~~E~~city may institute appropriate legal proceedings to recover the amount owed. Any such funds recovered shall be placed in the ~~A~~ffordable ~~H~~ousing ~~F~~und.