

**CITY OF GREELEY, COLORADO  
ORDINANCE NO. 34, 2021**

**AN ORDINANCE AMENDING TITLE 24 OF THE GREELEY MUNICIPAL CODE RELATING TO THE DEVELOPMENT CODE BY DELETING THE CURRENT TITLE IN ITS ENTIRETY AND ADDING A NEW CHAPTER 1 RELATING TO GENERAL PROVISIONS AND A NEW CHAPTER 2 RELATING TO PROCEDURES.**

WHEREAS, it becomes necessary to update the Greeley Municipal Code from time to time to adopt zoning codes and development standards that continue to align with public values and Council priorities; and,

WHEREAS, amending the Development Code in this manner will update those elements of the Code relative to such court cases and provide for the public interest and further protect the health, safety and welfare of City residents; and,

WHEREAS, the Planning Commission conducted a public hearing to review and consider the proposed changes on May 18, 2021, and recommended their adoption by City Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:**

Section 1. That the current Title 24 of the Greeley Municipal Code be and hereby is repealed.

Section 2. That the Greeley Municipal Code be amended by adding thereto a new Chapter 1 of Title 24 to read as shown in Appendix A.

Section 3. That the Greeley Municipal Code be amended by adding thereto a new Chapter 2 of Title 24 to read as shown in Appendix A.

Section 4. This ordinance shall become effective on October 1, 2021.

**PASSED AND ADOPTED, SIGNED AND APPROVED, THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2021.**



**ATTEST:**

**City Clerk**

**CITY OF GREELEY**

**Mayor**

**Appendix A**  
**AN ORDINANCE AMENDING TITLE 24 OF THE GREELEY MUNICIPAL CODE RELATING TO DEVELOPMENT CODE BY DELETING THE CURRENT TITLE IN ITS ENTIRETY AND ADDING A NEW CHAPTER 1 RELATING TO GENERAL PROVISIONS AND CHAPTER 2 RELATING TO PROCEDURES.**

Section 1. Title 24 of the Greeley Municipal Code is hereby repealed in its entirety.

Section 2. The Greeley Municipal Code shall be amended by adding thereto a new Chapter 1 – General Provisions in Title 24 to read as follows:

### **Chapter 1. General Provisions**

Section 24-101	Overview
Section 24-102	Interpretation
Section 24-103	Administration
Section 24-104	Enforcement
Section 24-105	Nonconformities

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#### **24-101 Overview**

- a. **Title.** This Title 24 is known as the Greeley Development Code. References to “this code,” “the development code,” or “these regulations” shall be considered a reference to the Greeley Development Code.
- b. **Authority.** The development code is enacted pursuant to the purposes and authority granted by Article XX of the Colorado Constitution and the Greeley Charter, independent of and in addition to the Colorado Revised Statutes, Title 31, Article 23 Planning and Zoning. This Title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule city charters or ordinances.
- c. **Jurisdiction.** The Greeley Development Code applies to all structures and land within the incorporated area of the City of Greeley, as depicted on the official zoning map, and other maps accompanying the City’s plans and policies. It shall be unlawful to conduct any development or use of land until all specified development review processes have been followed, all applicable standards have been fulfilled, and all required approvals, permits or other authorizations have been issued.
- d. **Purposes.** This development code is adopted to promote the public safety, health, and general welfare for the City of Greeley and its citizens and businesses. Specifically, the regulations have the following purposes:
  - 1. Implement the Comprehensive Plan, and other plans and programs authorized under the guidance of the Comprehensive Plan.

2. Promote the physical, social, and economic well-being of residents and businesses, the long-term value and viability of public investments, and individual property values by balancing the co-equal rights of property owners.
3. Invest public funds effectively and efficiently, and in a manner that creates lasting value for the community.
4. Promote planning and urban design that emphasizes distinct places and unique elements of community character throughout Greeley.
5. Provide parks, trails, and civic spaces that help organize development around systems of connected open spaces and emphasize significant natural landscapes
6. Secure proper arrangement and design of streets to shape efficient development patterns, coordinate with existing and planned streets, create multi-modal networks, improve access and circulation, and support abutting land uses.
7. Divide the city into zones and districts that promote the character and development patterns of distinct places identified in the Comprehensive Plan.
8. Regulate and restrict the development and use of buildings and land within each zoning district to create a compatible scale and range of building types within districts, and to promote the appropriate transitions to adjacent property and to supporting districts.
9. Provide a variety of housing opportunities for all residents and citizens.
10. Secure adequate provisions for transportation, water, drainage, sanitary sewer facilities, utilities, and other public improvements in coordination with development.
11. Protect the natural environment and conserve environmentally sensitive lands by directing new development into areas with few natural or environmental constraints and mitigating adverse impacts when developing in sensitive areas.
12. Allow for the removal of minerals prior to development.
13. Ensure fair consideration of development applications through clear and consistent procedures.
14. Provide for coordinated development of Greeley consistent with established policies of the City.

e. **Severability.**

1. If any court of competent and final jurisdiction declares any part of this development code to be invalid, that ruling shall not affect any other provisions of this development code not specifically included in that ruling.
2. If any court of competent and final jurisdiction declares that the application of this development code to a particular property or structure is invalid, that ruling shall not affect the application of the regulations to any other property or structure, or to development with different circumstances.
3. No provision of this code shall enable any circumstance that is unlawful under superseding federal or state law. If any section, subsection, sentence, clause, phrase, or portion of this code is now or in the future superseded or preempted by state or federal

law, or found by a court of competent jurisdiction to be unauthorized, such provision shall be interpreted and applied as required by law.

f. **Transition Provisions.** This section shall be used to guide the transition from previously existing regulations. Unless specifically stated otherwise in this code, the following rules shall apply:

1. **Generally.** All standards in this code shall apply after the effective date of the ordinance adopting these standards, and all subsequent amendments shall become effective in the same manner.
2. **Applications.** Any official application submitted prior to the effective date of the ordinance adopting these standards, and determined a complete application by the Director, shall be reviewed and processed according to the prior standards and procedures. An application submitted prior to the effective date, but determined incomplete, shall be resubmitted and processed according to the regulations in effect at the time of submittal of a complete application.
3. **Prior Approvals.** All permits, site plans, or other approvals issued under an administrative capacity prior to the effective date of this code shall remain effective for the duration specified with that approval or under the prior code as it existed on September 30, 2021. If no date is specified, the duration of the most applicable approval under this code shall be used. Any changes or amendments to a prior approval requested after the effective date of this code shall be subject to all provisions of this code.
4. **Plats.** Any approved preliminary plat may continue to advance to final plat according to the standards, procedures and time limits of the prior code. Each subsequent approval of a final plat for a phased project may renew the validity of that preliminary plat for the duration specified in Section 24-203. However, a new preliminary plat shall be required subject to all provisions if:
  - (a) The preliminary plat expires under the conditions of the prior approval or the duration specified for preliminary plats in Section 24-203, whichever is sooner.
  - (b) A major amendment is proposed to the preliminary plat.
  - (c) Any final plat proposes a substantial change to the preliminary plat.Final plats submitted after the effective date of this code shall meet all provisions of this code, to the extent it is consistent with the approved preliminary plat.
5. **Continuation of Enforcement.** Any violations of a previously valid regulation that continues after adoption of this code may be enforced as provided by this code. The City may, in its discretion enforce either the previous regulation or the standards of this Code.

## 24-102 Interpretation

a. **Rules of Construction.** The following rules shall apply to the application and interpretation of these regulations, unless the context clearly indicates otherwise:

1. All words shall have the customary dictionary meaning, unless specifically defined in these regulations.
2. The present tense includes the future tense and the future tense includes the present tense.
3. The singular includes the plural and the plural includes the singular.
4. Lists of examples prefaced by "including the following," "such as," or other similar clauses shall not be construed as exclusive or exhaustive, and shall not preclude an interpretation of the list to include other similar and non-mentioned examples.

5. The conjunctive “and” in a list means that all apply; the conjunctives “or” and “and/or” mean the provisions may apply singly or in any combination; and the conjunctive “either...or” means the provisions apply singly but not in combinations.
  6. When calculations to determine a requirement results in fraction of physical elements that cannot be divided (i.e. parking space, trees, dwelling units), it shall be rounded up to the nearest whole number if the standard is expressed as a minimum requirement and rounded down to the nearest whole number if the standard is expressed as a maximum allowance.
  7. “Shall,” “will,” or “must” is mandatory; “should” or “may” is permissive but recommended as a way to best meet the standard or achieve the intent of the standard.
  8. A reference to an administrative official shall refer to that official, or his or her designee, and all references to specific city officials may also include any other designee of the City Manager.
  9. Any reference to other official local, state, or federal government rules or regulations shall include the current versions of those regulations, provided they remain binding on the City, or where not binding, provided they remain consistent with the purposes, intent, and objectives included in these regulations.
  10. References to a person shall include individual, partnership, association, agency, corporation or other legal entity and the owners, tenants, occupants, principals, partners, officers, employees, agents and representatives of any legal entity.
- b. **Conflicts.** All provisions of this code shall be considered the minimum requirements to promote the public health, safety, and welfare. In case of a conflict between these regulations and any other adopted rule, regulation, or code, the higher and more restrictive standard shall apply. In making a determination of which standard is higher and more restrictive, the official may consider which is more specific; which is more recent; which is more consistent with the Comprehensive Plan; which is more consistent with the purposes, intent, and objectives of these regulations; and which best promotes the public health, safety, and welfare.
- c. **Computations of Time.** The following rules apply to any computation of time, unless a specific section of these regulations indicates otherwise:
1. The day of the act that commences a time period shall not be counted; for notice requirements the day of the hearing shall not be counted.
  2. The last day of the time period shall be included, unless it is a Saturday, Sunday or legal city holiday, in which case the next working day shall end the time period. In all other cases Saturday, Sunday or legal city holidays count in the time period.
  3. Whenever any time period is expressed for a formal submittal to the City, the time period shall end at midnight on the last day of that time period.
  4. Any time period expressed in years shall include a full calendar year from the act that commences the time period.
- d. **Interpretation of Zoning Map.** Where uncertainty exists with respect to any boundary on the zoning district map, the following rules shall apply:
1. Boundaries approximately following streets or other rights of way or rivers or streams - the centerlines or extension of these centerlines shall be the boundaries.
  2. Boundaries indicated as approximately following property lines - the platted or other official legal line of that property shall be the boundaries, unless the property boundaries on the map have been substantially altered.
  3. Boundaries approximately following city limits shall be interpreted as following the actual city limits.
  4. Boundaries that split any platted lots - the lot shall be interpreted in the district designated to the majority of the lot. In the case of an equal split, the Director shall determine the appropriate zoning based on consideration of the Comprehensive Plan, the context, the

- surrounding existing uses, and the likelihood of change in context or existing uses in the future.
5. Boundaries that split any unplatted property - any future platting of property may generally follow the zoning boundary and then each resulting property may assume the zoning applicable to the majority of the resulting lot actual platted boundary, or where any resulting lots have significant discrepancies with zoning boundaries, rezoning may be required.
  6. Boundaries following a shoreline shall be interpreted to follow the shorelines and in the event of change in the shoreline, shall move with the actual shoreline.
- e. **Non-regulatory Provisions.** Intent statements, design objectives, graphics, and commentary such as captions to graphics or notes in tables, are an aid to interpretation of the standards and criteria. In the event of any conflict between the intent statements, design objectives, graphics or commentary and a specific standard, the specific standard shall control.
  - f. **Resources, Guides and Industry Standards.** Resources, guides, and industry standards that are recognized as a reputable authority in the planning, development, and urban design professions, may be used to supplement interpretation of this code. The Director shall make a determination on the applicability of a resource, guide or industry standard to a particular circumstance. These guides shall only be used to the extent that it clarifies or is more specific than the standards, and is consistent with the purposes, intent, and design objectives expressed in these regulations. These guides shall not be used to otherwise change or conflict with any specific standard in these regulations.
  - g. **Official Interpretations.** In cases where there is uncertainty how this code applies to potentially recurring situations, the Director may make Official Interpretations.
    1. **Filing.** Official Interpretations shall be documented and kept on file with the Community Development Department, or otherwise made accessible to applicants facing similar circumstances.
    2. **Criteria.** In making an Official Interpretation, the Director shall use the following criteria:
      - (a) Sound professional planning and urban design principles.
      - (b) The Comprehensive Plan and any specific plans or policies created under the Comprehensive Plan.
      - (c) The purposes, intent, or design objectives applicable to this code and the specific chapter or sections related to the interpretation.
      - (d) Any resources, guides, or industry standards applicable to the specific situation.
      - (e) Based on the context of the street, block, site, or building, the interpretation is at least one reasonable way the standards could be applied.
      - (f) Whether the same interpretation could be applied to all similarly situated property or circumstances, and meet these criteria; or whether any conditions or limitations are necessary to ensure it meets the criteria.
    3. **Effect of Decision.** An approved Official Interpretation shall be effective upon approval by the Director and may apply to all similar situations unless:
      - (a) It is overruled or modified by a different Official Interpretation.
      - (b) It is overruled by appeal as provided in these regulations.
      - (c) It is amended or overruled by a text amendment to the section addressed by the statement.

## 24-103 Administration

- a. **Staff.** The following city staff positions are responsible for administering specific aspects of this code.

1. **Community Development Director.** The Community Development Director (Director) is responsible for administration of the development code, and is the principal interpretation and enforcement official of these regulations. The Director may consult with any other department or relevant outside agencies in order to coordinate any plans, policies, and programs that impact the Comprehensive Plan. The Director shall specifically:
  - (a) Prepare and provide development application forms and administer the requirements and review of submittals;
  - (b) Oversee the application, review, and administration processes and prepare presentations and reports for review bodies;
  - (c) Issue official interpretations and approve the use of other resources, guides, and industry standards used in administering this code.
  - (d) Make all final interpretations and any final administrative decision referred to the Director under the procedures and standards of these regulations.
2. **City Manager and Other Staff.** The City Manager is the chief executive and administrative officer for the City and may make any decision delegated to any city staff member under this code. All other department heads and staff may serve in an advisory role to the Community Development Director under this code, as designated by the City Manager.
- c. **Planning Commission.** The Planning Commission is the appointed body of the City responsible for all long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of the Comprehensive Plan. The Planning Commission is established according to Section 19-1 of the Greeley City Charter. In addition to all other general planning authority granted by the Charter, statutes, local ordinances, the Planning Commission shall have the specific review responsibilities and final administrative decisions referred to the Planning Commission under the procedures and standards of these regulations.
- d. **City Council.** The City Council is the elected and governing body of the City responsible for all legislative decisions that affect implementation of the Comprehensive Plan. In addition to other general authority granted by law, the City Council shall have the appeal authority and final decision authority referred to the City Council under the procedures and standards of these regulations.
- e. **Zoning Board of Appeals.** In accordance with Article XIX of the City Charter, the City Council appoints the Planning Commission as the Zoning Board of Appeals. The Zoning Board of Appeals shall act in accordance with same rules and procedures as the Planning Commission but have the following specific authority under this code:
  1. Grant variances to the strict application of the standards in this code;
  2. Hear and decide appeals when an error is alleged in any final order or determination made by an administrative official in the interpretation or enforcement of this code;
  3. Consider any other matters referred to it under this code; and
  4. Otherwise act as the City's board of adjustments under the authority of C.R.S. 31-23-307.
- f. **Historic Preservation Commission.** The Historic Preservation Commission is established to have principal responsibility for matters of historic preservation, as specifically outlined in Section 10.03.
  1. **Membership.** The City Council may appoint the Historic Preservation Commission. The commission shall consist of 7 members. The make-up of the Commission shall be:
    - (a) One architect, landscape architect, design professional and/or licensed contractor or building tradesperson;
    - (b) One historian, archeologist and/or architectural historian;
    - (c) One licensed real estate broker; and
    - (d) Four citizens at-large.

2. **Powers and Duties.** The Historic Preservation Commission shall have the following powers and duties:
- (a) Recommend criteria and procedures for historic designation, recommend designation, or removal of specific properties or districts, and review proposals that impact designated properties as provided in Section 24-1004.
  - (b) Oversee surveys that document structures and assess conditions of potential historic properties and areas, and inform landowners of properties that may meet criteria for designation.
  - (c) Review and make a decision on any application for altering, moving, or demolishing any designated properties.
  - (d) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, including nomination to the National Register of Historic Places.
  - (e) Develop and assist in public education programs, such as walking tours, brochures, and a marker program for historic properties, lectures, and conferences.
  - (f.) Advise the City Council on matters related to preserving the historic character of the city.
  - (g) Assist in pursuing financial assistance for preservation-related programs.
  - (h) Advise appropriate city departments on violations, enforcement and administration of Section 24-1004, Historic Preservation.

## 24-104 Enforcement

- a. **Violations.** It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained, or otherwise initiated in violation of these regulations. It shall be unlawful for any person to do or cause:
- 1. Any act or thing prohibited by these regulations;
  - 2. Omit any act or thing required by these regulations; and
  - 3. Interfere in any manner with persons in performance of a right or duty granted or imposed by these regulations, maintained, or otherwise initiated in violation of these regulations.
- b. **Enforcement.** The City may investigate and initiate proper actions or proceedings to prevent or terminate any activity or condition that is in violation of these regulations, including withholding any permits or licenses, revoking or suspending any permits or licenses previously granted, issuing stop work orders, preventing the sale or lease of property, correcting or abating the nuisance, withholding any public improvements, or penalizing and initiating legal proceedings to prevent the continuance of unlawful actions or conditions.
- c. **Penalty.** Any and all violations of the provisions of this code shall be a code infraction and shall be subject to the sanctions for code infractions contained in Chapter 1.33 of the Greeley Municipal Code, and any other sanctions permitted under law. The City may seek and obtain remedies provided by law, including civil and administrative sanctions, temporary or permanent injunctive relief, and any other relief set forth in Chapter 1.33 of the Greeley Municipal Code.



## 24-105 Nonconformities

- a. **Intent.** The general policy of the City is to allow uses, buildings and lots that were created legally and in conformance with then-applicable requirements, but that do not conform to the current applicable requirements of these regulations, to continue to be put to productive use. However, it is the City's intent to bring as many aspects of these nonconformities into compliance with current regulations as is reasonably practical. The intent of this section is to balance the interests of property owners in past investments, discourage investment that expands or reinforces non-conforming situations, and promote investment consistent with the Comprehensive Plan and these regulations.
- b. **Nonconforming Uses.** Uses that were legally initiated prior to the adoption or amendment of this code, but which could not be established under the current terms of this code, may continue to exist subject to the following:
  - 1. The use shall not be expanded beyond any specific area of the site or lot where it was legally established, beyond any existing building or structure, or within any building or structure where any structural changes expand the exterior footprint of the building or structure. The Director may consider an exception based on the following findings:
    - (a) The enlargement of the structure or buildings is only to facilitate a conforming uses or activities, and does not otherwise allow, encourage or promote expansion or increase impacts of the nonconforming use;
    - (b) The enlargement of the structure or buildings shall not result in conversion of the nonconforming use from a seasonal to a year-round operation or otherwise expand the time of operations; and
    - (c) The enlargement of the structure or buildings complies with all applicable development standards.
  - 2. If the use is reduced in intensity or abandoned for a period of twelve consecutive months, the property may not be used except at that lower intensity or as a conforming use.
  - 3. Any change of use shall be to a conforming use, and at this time the nonconforming use shall be abandoned. The Director may authorize a change to a lesser non-conforming use considering the extent, intensity, or operations of the use, provided it lessens impacts on adjacent property and it does not otherwise include investments that extend the period that the property is not conforming to this code.
  - 4. Any structure in which a non-conforming use is carried on that is damaged to the extent of more than 50% of the replacement value shall not be restored to support the non-conforming use.
  - 5. Any new activity that triggers specific site design standards shall require full compliance with that site design standard in order for the nonconforming use to continue, and the presence of a non-conforming use shall not be used to justify noncompliance with other applicable standards.
  - 6. A detached house used as a single-family dwelling in any district that does not permit single-family dwellings, may be enlarged, as long as the lot and building comply with all other base standards applicable to a similar building type.
- c. **Nonconforming Structures.** Structures that were legally constructed prior to the adoption or amendment of this code, but which could not be constructed under the current terms of this code, may continue to exist subject to the following standards. This Section shall not apply to signs, which shall address non-conforming situations as provided in Chapter 9.

1. Rehabilitation or expansion of the structure that increases the degree of nonconformity is prohibited. Other rehabilitation or expansions may occur provided that they comply with all other requirements of this code; are not detrimental to the purposes, intent and objectives of the standards; and do not negatively impact development in conformance with this code on adjacent property. In general, no repairs or alterations that cost more than 50% of the replacement value of the structure shall be permitted. The burden shall be on the applicant to produce evidence that the cost of the repair or alteration is less than 50% of the replacement value.
  2. If damaged by 50% or less of its total replacement cost, the structure may be restored to its original condition if work obtains a permit and work is commenced within 180 days, and work is completed prior to expiration of the permit.
  3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this chapter, and the applicant fails in their burden of proof that the cost of improvement or restoration is less than 50% of the replacement value, then the right to maintain the nonconformity shall terminate.
  4. Structures granted variances from the dimensional standards are not considered nonconforming and are not subject to the limitations of this section, provided that there are no changes beyond the limits, conditions, or extent of the approved variance.
- d. **Nonconforming Site Conditions.** Any site condition associated with a conforming use or structure (such as parking, landscape, open space, or other non-building site characteristic) in existence prior to these regulations, but which are not compliant with the standards of these regulations, may continue to exist subject to the following:
1. Any change of use or expansion of use shall require compliance with the new site standards up to the maximum extent practical, considering the extent of area being impacted by work to support the new or expanded use.
  2. Any site development activity on a portion of a site shall require compliance with the new standards on that portion of the site or proportionate to area that is subject to the development activity. For example, a site that is not compliant with the landscape standards must meet the landscape standards prorated to the portion of the site where development activity occurs, but the remainder of the site may remain nonconforming. If more than more than 50% of the entire site area is impacted by development activity, the entire site shall be brought into compliance.
  3. Any change of use, building, or site design element that triggers a screening requirement shall require 100% compliance with all screening standards applicable to the site.
  4. Where any application for construction is greater than 50% of the replacement value of a component of the site, that component or the entire site shall be brought into compliance.
  5. The Director may accommodate any other scenarios that meet the intent of this Section and bring the site into greater compliance relative to the level of investment associated with the permitted activity.
- e. **Nonconforming Lots.** Any lot platted legally prior to the adoption or amendment of this code, or any parcel established legally prior to the adoption of subdivision regulations in Greeley, but which could not be platted under the current requirements of this code, may continue to exist provided it complies with the following standards. The size and shape of any nonconforming lot shall not be altered in any way, except to increase the conformity with these regulations.

1. In any district that allows detached houses, a detached house and customary accessory buildings may be erected on any nonconforming lot, provided all standards other than lot dimensions standards are met.
  2. In any district that does not allow detached houses, the nonconforming lot may be used for the smallest-scale building type permitted in the district by these regulations, provided all standards other than lot dimension standards are met.
  3. Where any non-conforming lot is under the same ownership as an abutting lot, the City may require administrative plat procedures with regard to any development activity or use of the non-conforming lot. The administrative plat procedures, including lot line adjustments or lot consolidations, shall be used to create the greatest degree of conformity possible.
  4. Any difficulties in meeting the standards of this subsection, or other applicable standards of the development code, which are attributable to the nonconformity of the lot may be used as criteria for other relief from the standards authorized by this code.
- f. **Burden of Proof.** The burden shall be on the applicant to establish that the nonconformity was established lawfully and the entitlement to continuation of nonconforming situations or completion of nonconforming projects according to this section. Owners of nonconformities may request a “certificate of legal nonconforming status” by filing an application with the Director, and once issued the owner may record the certificate with the Weld County Clerk and Recorder..
- g. **Specific Non-conforming Situations.** At the time of any rezoning, in association with annexation, or associated with any other planning effort for a particular geographic area, the City may create rules for specific nonconforming situations. These rules shall be incorporated into the ordinance establishing a new zoning designation or creating the nonconforming situation, according to the applicable procedures of Section 24-204 Rezoning or Section 24-205 Planned Unit Development. In these situations, the Director or Planning Commission may recommend, and the City Council may approve the following:
1. **Benign Nonconformities.** A determination may be made that the nonconformity has no negative effects on the long-term development within the district, and is compatible with the intent and design objectives for future development in the immediate surroundings. In this circumstance, a benign nonconformity may be permitted with the specifically stated additional rights, beyond the standard nonconforming rights of this section.
  2. **Removal of Non-conformity.** A determination may be made that the nonconformity poses significant negative effects on the long-term development within the district, or is incompatible with the intent and design objectives for future development in the immediate surroundings. In this circumstance, a nonconformity may be phased out over time to reduce the rights of the nonconforming situation to less than permitted by this section. Any phased removal of the non-conformity shall be based upon:
    - (a) Identified risks to long-term investments in the surrounding area, and risks that could not otherwise be protected by a different zoning determination for the properties involved;
    - (b) Consideration of reasonable investments in the property up to the time the zoning established the non-conforming situation, and what is an appropriate time to allow a return on those past investments; and
    - (c) Coordinating with the anticipated rate of change in the area and how the presence of the nonconformity affects that change, including other opportunities available for the nonconforming property.

## Reserved Sections 24-106 through 24-200

Section 3. The Greeley Municipal Code shall be amended by adding thereto a new Chapter 2 of Title 24 to read as follows:

### Chapter 2. Procedures

- 24-201 General – All Applications
- 24-202 Minor Subdivision
- 24-203 Major Subdivision
- 24-204 Rezoning
- 24-205 Planned Unit Development
- 24-206 Use by Special Review
- 24-207 Site Plan
- 24-208 Alternative Compliance
- 24-209 Variance
- 24-210 Appeals of Administrative Decision
- 24-211 Code Amendments
- 24-212 Vacation & Dedication of Easements
- 24-213 Vacation & Dedication of Right-of-way
- 24-214 Annexation

**Table 24-2-1: Procedures Summary**

Applications	Eligible Applicants			Pre-application Conference	Neighborhood meeting	Notice			Review Body			
	Owner	PC	CC			Post	Publish	Mail	Staff	PC	CC	ZBA
Minor Subdivision	■			☑				☐	D	A	A	
Major Subdivision - Preliminary Plat	■			☑	☐	☑	☑	☑	R	D/PH	A	
Major Subdivision – Final Plat	■			☑					D	A	Ac	
Rezoning	■	■	■	☑	☐	☑	☑	☑	R	R/PH	D/PH	
Planned Unit Development (PUD)	■		■	☑	☑	☑	☑	☑	R	R/PH	D/PH	
Use By Special Review	■			☑	☐	☑	☑	☑	R	D/PH	A	
Site Plan	■			☑		☐		☐	D	A	A	
Alternative Compliance	■			☑				☐	D	A	A	
Minor Variance	■			☑				☐	D		A	A
Variance	■			☑		☑	☑	☑	R		A	D/PH
Appeal of Administrative Decision	■	■	■			☐	☐	☐			A	D/PH
Text Amendment		■	■				☑		R	R/PH	D/PH	
Easement Vacation/Dedication	■							☐	D	A	A	
ROW Vacation/Dedication	■						☑	☑	R	R	D	
Annexation	■		■	☑		☑	☑		R	R/PH	D/PH	

☑ = Require

R = Review and Recommending Authority

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□ = Director Option

■ = Authorized

PC = Planning Commission

CC = City Council

ZBA = Zoning Board of Appeals

D = Decision Making Authority

Ac = Acceptance of Public Improvements

A = Appeal of Decision

PH = Public Hearing Required

## 24-201      General – All Applications

### a.      Applications and Fees

1.      **Forms.** Applications required under this code shall be submitted to the Community Development Department in the form and format specified by the Department. The Director is authorized to establish submittal requirements and procedures in order to ensure all applications can be evaluated for conformance with this code. The Director may waive the requirement for specific information at the time of application, due to the routine nature of the application or due to the context of a particular application making the information inapplicable for review against the standards and criteria of this code.
2.      **Fees.** Applications shall be accompanied by a non-refundable fee set administratively by the City Manager. A copy of the fee schedule shall be maintained by the Community Development Department and City Clerk's office for public inspection. No application shall be accepted or processed without the required fee, except applications initiated by the City.
3.      **Eligible Applicants.** Table 24-2-1 indicates applicants eligible for each particular application under this code:
  - (a)      **Owner.** The property owner of record for the subject property of the application or that owner's agent authorized by written permission of the owner.
  - (b)      **Planning Commission.** The Planning Commission, acting on its own initiative or through recommendations brought to it by city staff, and according to its bylaws and rules of procedure.
  - (c)      **City Council.** The City Council acting on its own initiative or through recommendations brought to it by city staff of Planning Commission, and according to its bylaws and rules of procedure.

### b.      Concurrent Applications. When a project requires approvals under more than one type of application, the Director may determine that each application may run concurrently based on the following:

1.      The similarity of information required for each type of application, or where they require different information, the ability to coordinate information, review criteria and decisions under each application.
2.      The similarity of notice, review meetings and review bodies required for each application.
3.      The ability of the staff and review bodies to make effective decisions when reviewing the applications concurrently.

In cases where the Director determines applications may run concurrently, the application shall be processed through the most comprehensive required review, and lesser incorporated approvals may be conditioned on final outcomes of the last of the related decision.

### c.      Pre-application Meeting. Pre-application meetings may be requested for any application and shall be required as indicated in Table 24-2-1. A required pre-application meeting may be waived at the Director's discretion and upon the applicant's request, for routine applications where the topics below can be addressed by general correspondence. The applicant shall submit schematic plans, existing conditions analysis, or other concepts and analysis in writing prior to the pre-application meeting to facilitate discussion on the following topics:

1.      How the proposed project meets the goals of the Comprehensive Plan, or other specific plans or policies that may impact the application.
2.      The applicant's vision and understanding of the market for the proposed project.
3.      The proposed uses, general site layout, and conceptual or anticipated design of buildings, including how the project relates to surrounding sites and public spaces.

4. How the project will fit in and contribute to the area and further the intent of the existing or proposed zoning district.
  5. Planning and infrastructure impacts, including timing, phasing, or the need for any technical studies or outside agency coordination and review.
  6. Development review processes and review criteria, and in particular whether any special public information and outreach or specific agency or department reviews are necessary.
  7. Opportunities to improve designs or coordinate the preliminary concepts with other private or public investments in the area.
- d. **Staff Review.** Upon receipt of an application, the Director shall take the following steps:
1. ***Determination of Complete Application.***
    - (a) If an application is determined incomplete, the Director shall notify the applicant of the specific ways in which the application is deficient. No further processing of the application shall occur until the deficiencies are corrected. If a deficient application is not corrected within 30 days of the notice, the Director may consider the incomplete application withdrawn.
    - (b) If an application is complete, it shall be processed for formal review.
  2. ***Referrals.*** The following agencies may be required to review and comment on applications. The Director may determine if other referral agencies may be affected by the project, based on the application and has discretion to add any other relevant or applicable agency to the list.
    - (a) Adjacent or other local governments
    - (b) Colorado Department of Transportation
    - (c) Colorado Parks and Wildlife
    - (d) Colorado Geologic Survey
    - (e) Office of State Engineer
    - (f) Gas and electric utilities;
    - (g) Telecommunications and cable providers;
    - (h) Public safety agencies (police, fire, EMS, health);
    - (i) Respective school district(s) in which the subject property is located;
    - (j) Water and sewer utilities;
    - (k) Ditch companies;
    - (l) Special districts; and
    - (m) Other local, state, or federal government agencies.
  3. ***Review & Staff Comments.*** The Director shall coordinate a staff review after receipt of a complete application, and may provide the applicant the following information in writing:
    - a. Comments or recommended changes based on the results of any referral agency comments, neighborhood meetings, or staff review.
    - b. Any supplemental information necessary to support the application or to address any comments or recommended changes.
    - c. If the applicant chooses not to address any particular comment or recommended change, a written statement shall be included with the resubmittal that demonstrates a good faith effort to address the issue and justify why the comment was not addressed. The applicant may request to schedule the application for official review based on this justification.
    - d. If the applicant fails to submit revisions or otherwise address staff comments in writing for more than 120 days, the Director may determine the application withdrawn, and the review terminated. Any further action will require a new application and fees.
  4. ***Scheduling.*** Applications that have completed staff review, and addressed comments or recommended changes, shall be scheduled for further review according to these regulations.

5. **Staff Report.** The Director shall prepare a staff report for applications that require review and decisions by other review bodies. The report shall identify the policies, plans, regulations and review criteria, and identify relevant facts of the application. The Director shall provide a copy of the report to the reviewing body and to the applicant in association with the public meeting agendas and packets.
- e. **Neighborhood Meeting.** A neighborhood meeting may be required prior to the formal public meeting as indicated in Table 24-2-1.
  1. **Director Option.** At the pre-application meeting or in association with the review of an application, the Director may require a neighborhood meeting for any project that requires formal review beyond staff, and where:
    - (a) the nature of the project is complex or presents potential for significant changes and unanticipated impacts on property in the vicinity;
    - (b) the intensity of the proposed use or development is likely to present questions and concerns for adjacent property owners, beyond what may typically be allowed in the zoning district; or
    - (c) the required notice or any courtesy notice sent to property owners generates significant questions or concerns.
  2. **Required Meeting or Applicant Option.** A neighborhood meeting is required for any PUD application, and an applicant may elect to have a neighborhood meeting on any other project. These neighborhood meetings should be held prior to a formal application so that input and concerns of potentially impacted property may be considered in the initial application.
  3. **Meeting Format.** Neighborhood meetings shall meet the following:
    - (a) The Director shall coordinate the scheduling, meeting location, and notice..
    - (b) The meeting shall be held at a City facility, or where any other convenient and accessible public meeting facility within the general vicinity of the project, such as a school, community recreation center.
    - (c) The applicant is responsible for all content of the meeting, which at a minimum shall include:
      - (1) The general nature and scope of the proposed project;
      - (2) A summary of the proposed land use, including planned and potential future uses associated with the application;
      - (3) The most recent plans and submittals available for the project, depicting the scale, location and design of any buildings and the relation of all site improvements to the streets and adjacent property; and
      - (4) Identify and explain the subsequent formal review steps with the City, and note that official and formal review by the City may result in changes from the initial concepts.
    - (d) The applicant shall prepare minutes of the meeting including evidence of the notice, attendance, a copy of any presentation materials, a summary of the discussion and issues, and any outcomes or changes from the meeting. These minutes shall supplement the formal application.
- f. **Notice.** Notice shall be provided for each application as indicated in Table 24-2-1. Consistent with the provisions in Table 24-2-1, and in addition to the general publication of meeting agendas, required notice may include the following:



1. ***Published.*** Where published notice is required, the City shall post the notice on the public notice portion of the City's official website at least 15 days prior to the meeting or hearing. The notice shall include:
  - (a) A general description of the subject property by reference to streets and address;
  - (b) The zoning classification, specific use or action requested;
  - (c) The date, time and place of the public meeting; and
  - (d) A statement that additional information about the request is available at the Community Development Department, or other links to relevant information.
2. ***Posted.*** Where posted notice is required, notice shall be posted on the property or near the proposed site, visible to surrounding properties and the general public from adjacent public ways, according to the following:
  - (a) The City shall supply the sign(s), which shall include:
    - (1) The zoning classification, specific use or action requested;
    - (2) The date, time and place of the public meeting; and
    - (3) A statement that additional information about the application is available at the Community Development Department
  - (b) One sign facing the most prominent public street is required. The Director may require additional signs and specific locations of signs based on the context of the property.
  - (c) The applicant shall ensure that all signs are posted at least 15 days prior to the public hearing or meeting.
  - (d) The applicant shall supplement the application evidence and a signed statement of compliance with the notice requirement.
  - (e) The applicant shall make a reasonable good faith effort to maintain posted notice throughout the proceedings.
3. ***Mailed.*** Where mailed notice is required, a courtesy letter shall be sent to all record landowners within 500 feet of the property. However, where the project is very large or intense, or where land ownership patterns would result in few owners being notified, the Director may extend this up to 1,000 feet from the property. Where mailed notice is at the option of the Director, any distance may be established by the Director based on the scale and intensity of the proposed project.
  - (a) The city shall supply the list of owners, and the applicant is responsible for mailing notice.
  - (b) The notice shall be mailed at least 15 days prior to the public meeting.
  - (c) Mailed notice shall state the following:
    - (1) A general description of the subject property by reference to streets and address;
    - (2) The zoning classification, specific use or action requested, and a general description of the project;
    - (3) A legal description or abbreviated legal description of the property;
    - (4) The date, time and place of the public meeting;
    - (5) Whether the meeting is a public hearing, where participants will have a right to speak, present testimony or evidence, and establish a record for the decision, or whether it is a public meeting without that right; and
    - (6) A statement that additional information about the application is available at the Community Development Department.
  - (d) The applicant shall submit a copy of the notice with the application, and evidence and a signed statement verifying notice was sent to all landowners prior to the public meeting or hearing.
4. ***Failure of Notice.*** Any failure of published, posted or mailed notice shall not invalidate any subsequent process or decision, in the Director's discretion. In making this decision, the Director shall consider whether:

- (a) Good faith efforts were made to comply with notice, and the failure of notice was beyond the applicant's control;
  - (b) Technical errors in the notice were made, but constructive and actual notice was available to all interested parties; or
  - (c) The failure of notice is not otherwise instrumental to the proceedings, criteria, or record established for the decision.
- 5. **Surface Development Notice.** Where mailed notice is required by state statutes for any project related to mineral estate owners identified on the county tax assessor's records or who have filed in the office of the county clerk and recorder a request for notification, the applicant shall be responsible for notice. The applicant shall certify that notice has been provided as required by this code and Colorado law prior to a public hearing, public meeting or administrative decision.
- g. **Public Hearings.** Where public hearings are required by Table 24-2-1, the following procedures apply:
  - 1. The hearing shall be conducted and a record of the proceedings shall be preserved.
  - 2. Any interested person or party may appear and be heard in person or by agent.
  - 3. The review body may request testimony or a report on the application from any government official or agency, or any other person with information pertinent to the application.
  - 4. A public hearing for which proper notice was given may be continued to a later date without again requiring notice, provided the specific date, time, and place of the continued hearing is announced at the original hearing.
  - 5. If the review body is a recommending body, a written summary of the meeting and the recommendation shall be forwarded to the decision-making body.
  - 6. A review body is authorized to establish meeting procedures and bylaws, or otherwise state rules regarding specific conduct and management of public hearings, within the parameters of these regulations.
- h. **Action by Review Bodies.** Review bodies shall take the actions indicated in Table 24-2-1. A review body may take any action on the application consistent with notice given and based on the criteria in this Chapter, or it may recommend such action when the review body is a recommending body, including the following:
  - 1. Approve the application.
  - 2. Approve the application, with conditions or modifications that make it more consistent with the standards and review criteria.
  - 3. Deny the application, making specific findings or stating criteria for the denial.
  - 4. Continue the application to allow further analysis. The continuation period shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.
- i. **Appeals.** Where a review body is designated as the appellate body in Table 24-2-1, the following appeal procedures apply:
  - 1. Appeals shall be filed with the Director within 10 days of the decision by the decision-making review body.
  - 2. Appeals shall identify the exact provisions in dispute, and whether it is incorrect due to one or more of the following:
    - (a) It was against the express standards of this development code;
    - (b) It was an unreasonable interpretation or application of the standards or review criteria;
    - (c) It was erroneous, based on the record and facts reviewed by the decision-making body; or

- (d) It was otherwise clearly contrary to law.
  - 3. Appeals may be filed by:
    - (a) the applicant;
    - (b) any person who received mailed notice and who testified or entered a statement at a public hearing; or
    - (c) any director of a city department or referral agency that provided comments on an application.
  - 4. The appellate body shall consider the application within a reasonable time, considering the next available meeting and the nature of the appeal. The appeal shall be based on the established record, and give deference to the previous review body; however, the appellate body may take any action authorized by the decision-making body under this code if it determines that a clear error was made. The procedure and required notice for an appeal shall be the same as required of the original application.
  - 5. Where no appeal is designated in Table 24-2-1, the decision shall be final and only appealed as authorized by state law.
- j. **Technical Studies.** The Director, on behalf of any public official, department, or agency, the Planning Commission, or the City Council, may require applicants to submit technical studies necessary to evaluate the application. Technical review by outside entities with expertise or jurisdiction over details of the application may be required in place of, in addition to, or in association with any studies. Examples of technical studies that may be required include traffic studies, engineering studies, geologic or hydrologic studies, environmental impact assessments, noise studies, market studies, or fiscal and economic impact studies. The persons or firms preparing the studies shall be subject to the approval of the Director. The costs of all studies shall be borne by the applicant. Any application that is determined to require technical studies or review from entities outside of the City may require special schedules based on the reasonable time frames to conduct those studies or additional reviews.
- k. **Successive Applications.** When the review body takes final action to deny an application, the same or a similar application may not be refiled for one year from date of denial, except as allowed under this section. The Director may permit a refiling of the application sooner than one year when it is determined that significant physical, economic, or land use changes have taken place within the immediate vicinity, or where a significant text amendment to this code has been adopted that may affect the outcome. There shall be no time limitation on an application that the Director determines is substantially different from a previously denied application, considering the proposed use, scale or intensity of development, and potential impacts on adjacent property.
- l. **Vested Rights.** Greeley, through its home rule authority recognizes vested property rights as specified in this Code. This code preempts and determines which applications are "site specific development plans" for the purposes of the Colorado Vested Property Rights Law, and establishes different rights and obligations associated with approvals. The vested rights in this code meet the intent and objectives of the Colorado Vested Property Rights Law, and ensures all constitutional rights intended to be protected by that law. However, through the Greeley home rule authority, and its statutory obligation to implement the Comprehensive Plan and protect the public safety, health and general welfare, vesting shall only occur to the extent of the standards of this code reflected in specific approved applications. Vesting does not include other regulations that are general in nature or that apply equally to all property subject to these regulations. Vesting does not exempt applications from any subsequent review and approvals prior to construction under this code or other codes. Vesting does not insulate a project from other public health and safety codes, including changes or updates to codes associated with subsequent reviews, including construction drawings and specifications, drainage plans and permits, and building permits.

- a. **Applicability.** Minor subdivisions are routine applications that establish or alter legal boundaries of lots or tracts, but do not significantly alter development patterns or impact public improvements and facilities. Minor subdivision applications may be initiated by the property owner. The following actions may be processed as minor subdivisions:
1. **Lot Line Adjustment.** The alteration of legal boundaries for up to four previously platted lots.
  2. **Lot Consolidation.** The consolidation of up to four previously platted lots or parcels into fewer lots, provided that no resulting lot is larger than three times the size of the largest existing lot or parcel.
  3. **Minor Plat.** The division of land or the replat of previously platted lots or tracts into 10 or fewer lots for residential purposes, or six or fewer lots for any non-residential purposes; or the division of land where all resulting lots or tracts are more than 80 acres; or any development without a land division on a previously unplatted parcel.
  4. **Plat Correction.** A survey or other legal instrument to correct an error in the legal description or other element of an approved plat; to dedicate, vacate, or alter easements; or to confirm legal boundaries of lots in an approved plat that could only be determined post-construction, such as for duplexes or row houses where the units and lots are individually owned.
  5. **Condominium Plat.** The division of a building on an existing, legally platted lot into individual air space ownership units, relative to commonly owned elements and common area covenants and agreements.
- b. **Review Criteria.** A minor subdivision may be approved by the Director if the Director determines that all of the following are met.
1. No new streets or other public land dedication is needed. If additional right-of-way for existing streets is included with a minor subdivision, acceptance of the dedication by City Council is required.
  2. No significant increase in service requirements (utilities, schools, traffic control, streets, etc.) or impact on the ability to maintain existing service levels will result.
  3. The application does not alter the interpretation of any zoning district boundaries due to adjustments to any lots.
  4. All resulting lots meet the legal standards of the subdivision regulations and applicable zoning districts.
  5. The lot patterns meet all eligibility requirements for minor subdivisions, and are otherwise compatible with the surrounding area and any previously approved preliminary or final plat for the subject property. In determining compatibility, the size and dimension of lots, the layout and design of existing subdivisions and rights-of-way, the degree of change to the character and pattern of buildings, and potential impact on surrounding property shall be considered.
  6. No other significant issues exist with potential development enabled by the plat that could impact planning policies in the area or adjacent property owners.
  7. A condominium plat shall meet the following additional criteria:
    - (a) Consistent with an approved plat demonstrating legal ownership of the lot and any common areas by a single entity.
    - (b) Consistent with a site plan depicting the building to be subdivided into individual units.
    - (c) Documentation that assigns responsibility and demonstrates capacity to maintain all common ownership elements.
    - (d) Covenants, declarations or party wall agreements or other restrictions to be recorded establish rights and responsibilities for owners of individual units, and designation of all general and limited common elements
    - (e) The site and building comply with all aspects of this development code, other than the proposal to divide individual airspace units for common ownership.

Any application not classified as a minor subdivision or not meeting these criteria shall be processed as a major subdivision with a preliminary and final plat.

- c. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the requirements in this sub-section apply to minor subdivision applications:
1. If the Director determines at any point in the process that the application is not eligible for a minor subdivision, the Director may deny the application or allow the applicant to reclassify as a major subdivision according to additional required information or fees.
  2. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director may make a final decision.
  3. If a minor subdivision includes additions to existing right-of-way, the minor subdivision shall be placed on the consent agenda for the City Council to accept the dedication.
- d. **Effect of Decision.**
1. *Subdivision Improvement Agreement.* The applicant shall enter into a Subdivision Improvement Agreement for any required improvements, which shall be recorded with or prior to recording of the minor subdivision. The Director may waive the need for a Subdivision Improvement Agreement where there are no required improvements or for routine applications, where the requirements of this code are sufficient to address construction of improvements.
  2. *Recording.* The Director shall record the minor subdivision with the Weld County Clerk and Recorder within 60 days. The Director may grant an extension of this period for up to 90 days in order to complete any agreement, or otherwise address the timing and implementation of improvements. Any minor subdivision not recorded within this time shall expire.
  3. *Vested Rights.* A recorded minor subdivision shall create a vested property right for 3 years, or for any other time specifically identified in a Subdivision Improvement Agreement. If improvements or other obligations are not completed within this time, or the applicant or future landowners otherwise default on the Subdivision Improvement Agreement, the minor subdivision shall expire and a new plat shall be required prior to any development.

## 24-203 Major Subdivision

- a. **Applicability.** Major subdivisions apply to all land divisions or other alterations of legal boundaries of lots or tracts that are ineligible for minor subdivision processes in Section 24-202. Major subdivision applications may be initiated by the property owner. Major subdivisions require comprehensive review through separate preliminary and final plat procedures, due to the complexity of coordinating planning, design and engineering requirements. In accordance with Section 24-201.b, the Director may determine at a pre-application conference that a preliminary and final plat may be submitted concurrently, where the application is small or routine.
- b. **Preliminary Plat.** The preliminary plat provides detailed planning review of development patterns, street networks, block and lot layout, and the ability to meet public facility and utility requirements for future development, prior to preparation of detailed construction and engineering plans. A preliminary plat shall be processed according to the following specific procedures.
1. **Review Criteria.** A preliminary plat shall be reviewed according to the following criteria:
    - (a) The application is in accordance with the Comprehensive Plan, or any other specific plan created under that plan, and in particular, the physical development patterns and design concepts of the plan.

- (b) The development and infrastructure is arranged in a manner to minimize impacts on geologic hazards, environmentally sensitive areas, wildlife habitat, or other natural features of the land.
- (c) The arrangement and proposed design of streets, blocks, and open spaces meet the development and design standards of the subdivision regulations, and are coordinated with existing or potential development on adjacent property.
- (d) The proposed blocks and lots are capable of meeting all development and site design standards under the applicable zoning district.
- (e) The application demonstrates a preliminary likelihood of being able to meet the design, construction, performance, and maintenance requirements for all required improvements.
- (f) Any phasing is clearly indicated and demonstrates a logical and coordinated approach to development, and the timing, location, and construction of amenities is consistent throughout phases.
- (g) Any impacts identified by specific studies or technical reports, including a review of storm water, are mitigated with generally accepted and sound planning, engineering, and urban design solutions that reflect long-term solutions and sound fiscal investments.
- (h) The design does not impede the construction of anticipated or planned future public infrastructure within the area, or deter future development on adjacent property from meeting the goals and policies of the Comprehensive Plan.
- (i) The recommendations of professional staff or any other referral agencies authorized to review the subdivision plan.

2. **Review Procedure.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the requirements in this sub-section apply to preliminary plat applications:

- (a) At the pre-application meeting, and based on the size, scope and impact of any future development anticipated or pending with the request, the Director shall determine how to coordinate the Neighborhood Meeting and any additional notice of meetings or hearings necessary for the formal review.
- (b) Any application that is particularly complex or involves significant planning and design issues, may be coordinated with a Rezoning in Section 24-204 or a Planned Unit in Section 24-205, prior to official submittal of a preliminary plat.
- (c) After review by staff, receipt of any comments from referral agencies, and any necessary resubmittal, the Director shall schedule review by the Planning Commission
- (d) The Planning Commission shall hold a public hearing and make a decision on the preliminary plat. Provided no substantial changes are made in association with a subsequent final plat, a final plat may be administratively approved by staff and public improvements accepted by City Council according to subsection 24-203.c.2.

3. **Effect of Decision.** The approval of the preliminary plat does not constitute an acceptance of the subdivision but authorizes preparation of the final plat. Denial of a preliminary plat may be appealed to the City Council.

4. **Term of Expiration.** The approval of the preliminary plat shall be effective for three years, except that any complete submittal of final plat for any phases indicated on a preliminary plat shall stall the three-year period, and approval of the final plat shall extend the expiration deadline for one year for the remaining portions of the preliminary plat. The Director may grant up to two extensions of this period for up to six months each, if the applicant demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat. Any such extension shall be requested by the applicant in writing prior to the expiration of the preliminary plat.

- c. **Final Plat.** A final plat requires review and refinement of the preliminary plat, review and coordination of construction documents, and review and dedication of easements, rights-of-way and public lands prior to recording subdivisions and authorizing the sale of lots to different owners. After approval of the preliminary plat, the applicant may submit a final plat for all or for portions of the preliminary plat area subject to a phasing plan approved with the preliminary plat. A final plat shall be processed according to the following specific procedures.
1. **Review Criteria.** A final plat shall be reviewed according to the following criteria, as well as all criteria applicable to the preliminary plat review:
    - (a) The layout and design of the final plat is consistent with the approved preliminary plat considering the number and size of lots and out lots; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments. Deviations that result from further detail in planning, design, and engineering, and that meet the standards of this code, are generally considered “consistent” with the subdivision plan.
    - (b) The construction plans for any utilities, infrastructure or public facilities meet all technical specifications.
    - (c) All required improvements, dedications, fees, financial guarantees, and maintenance guarantees are provided.
    - (d) The phasing and timing of public improvements ensures construction and performance guarantees. Any phasing that meets an approved preliminary plat is presumed acceptable. Any deviations of the final plats from an approved phasing plan may be approved provided it does not alter the timing or coordination of required improvements or amenities for the proposed final plat or any previous approved final plats.
    - (e) The recommendations of professional staff or any other public entity authorized to review the final plat.
    - (f) Deviations in the final plat from the approved preliminary plat may be approved if:
      - (1) Any aspect of the project different from the approved preliminary plat complies with all applicable zoning standards, subdivision design standards, and meets the intent and design objectives of those standards.
      - (2) The change does not increase the impact of any development on required improvements beyond the capacity for required improvements established in the preliminary plat;
      - (3) The change does not violate any condition of the Planning Commission associated with the approval of the preliminary plat or any general development plan applicable to the property;
      - (4) If technical studies were required with the preliminary plat, the author of the study shall submit an amendment noting that the change does not impact any findings of the study; and
      - (5) The change is generally consistent with development concepts in the preliminary plat in terms of land uses, scale and intensity of development, and in no case changes the number of lots, dwelling units, or buildings, or sizes of blocks and open spaces by more than 10 percent.
  2. **Review Procedure.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the requirements in this section apply to final plat applications:
    - (a) The applicant shall identify all improvements to be constructed, either according to the required improvements listed this code or by a specific agreement for the project. The applicant shall submit final plans and specifications for these

improvements, and ensure construction of these improvements of financial guarantees as provided in Section 24-304.

- (b) The staff shall review the final plat for conformance with the planning and design elements, and the engineering specifications for required improvements, and a final plat meeting these criteria shall be approved.
- (c) A final plat not meeting the review criteria may require reprocessing as a revised preliminary plat.
- (d) The Director shall make the final decision on final plats.
- (e) Any final plat approved by the Director and which includes dedication of rights-of-way, public lands or other public improvements, shall be placed on the consent agenda for the City Council to accept the dedication.

3. **Effect of Decision.**

- (a) *Subdivision Improvement Agreement.* The applicant shall enter into a Subdivision Improvement Agreement with the City for any required improvements, which shall be recorded with or prior to recording of the final plat. The Director may waive the need for a Subdivision Improvement Agreement where there are no required improvements or for routine applications, where the requirements of the code are sufficient to address construction of improvements. At a minimum, the agreement shall indicate the following:
  - (1) Acknowledgement of all required improvements per Section 24-304 of this code, and any specific deviations or additions from this section.
  - (2) A refined timeline coordinating construction drawings, permits, construction, inspections and final acceptance.
  - (3) Specifics on performance and maintenance guarantees, and any particular consequences or contingencies if there is a default.
  - (4) Any additional improvements made necessary by technical studies required by Section 24-201.j or adequate public facilities analysis in Section 24-305.
  - (5) A provision binding any future landowners to the agreement.
  - (6) Any other requirements prior to building permits or certificates of occupancy.
- (b) *Recording.* The Director shall record the final plat with the Weld County Clerk and Recorder within 60 days. The Director may grant an extension of this period for up to 90 days in order to complete any agreement, or otherwise address the timing and implementation of improvements. Any final plat not recorded within this time shall expire.
- (c) *Vested Rights.* A recorded final plat shall create a vested property right for 3 years, or for any other time specifically identified in a Subdivision Improvement Agreement. If improvements or other obligations are not completed within this time, or the applicant or future landowners otherwise default on the Subdivision Improvement Agreement, the final plat shall expire and a new plat shall be required prior to any development.

## 24-204      **Rezoning**

- a. **Applicability.** The rezoning process provides review of changes to the boundary of zoning districts that may be necessary to implement the Comprehensive Plan, to account for changed conditions in the general area, or to reflect a change in policies with respect to future development. Application for a rezoning may be filed by the property owner, the City Council, or the Planning Commission, or by Staff on behalf of these city entities.



- b. **Review Criteria.** Review, recommendations and decisions for a proposed rezoning shall be based on the following criteria:
1. The proposal is in accordance with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to that plan.
  2. The proposal can fulfill the intent of the zoning district considering the relationship to surrounding areas.
  3. Whether the area changed, or is it changing to such a degree that it is in the public interest to rezone the subject property to encourage development or redevelopment of the area
  4. Whether the existing zoning been in place for a substantial time without development, and if this indicates the existing zoning is inappropriate given development trends in the vicinity.
  5. The proposed zoning will enable development in character with existing or anticipated development in the area considering the design of streets, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the compatibility and transitions with other complimentary uses and development.
  6. The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.
  7. The change will serve a community need, provide an amenity or accommodate development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property, making the proposed zoning more appropriate than the current zoning.
  8. Any reasonably anticipated negative impacts on the area or adjacent property either are mitigated by sound planning, design and engineering practices or are outweighed by broader public benefits to the surrounding community.
  9. The recommendations of professional staff or advisory review bodies.
- c. **Review Procedure.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the requirements in this sub-section apply to rezoning applications:
1. Applications may be accompanied by any preliminary plat, site plan, zoning suitability plan, or other plan necessary to review conformance with the Comprehensive Plan.
  2. At the pre-application meeting, and based on the size, scope and impact of any future development anticipated or pending with the request, the Director shall determine how to coordinate the Neighborhood Meeting and any additional notice of meetings or hearings necessary for the formal review.
  3. After review by staff, receipt of any comments from referral agencies, and any necessary resubmittal, the Director shall schedule review by the Planning Commission.
  4. The Planning Commission shall hold a public hearing and shall make a recommendation to the City Council. Upon a recommendation from the Planning Commission, the City Council shall hold a public hearing and make the final decision on rezoning applications.
  5. Rezoning may be conditioned upon anything that further ensures the criteria for rezoning will be met, including:
    - (a) A plan that identifies general land use categories, the arrangement and character of streets and open spaces, and the anticipated scale, intensity and character of development and how it relates to adjacent areas.
    - (b) Addressing any existing uses that become non-conforming as provided in Section 24-105.g.
  6. Approval of a rezoning shall be by ordinance approved by the City Council.
- d. **Effect of Decision.** Upon approval of a change in the district boundaries, the Director shall record a copy of the ordinance approving the zone change with the City Clerk. The Director shall

make the change on the official map by an actual change or other record identifying the ordinance and the associated property. The zoning shall remain in effect unless changed by the City Council according to the procedures specified in these regulations.

## 24-205      **Planned Unit Development**

- a.      **Applicability.** A planned unit development (PUD) application is a type of rezoning based on a specific and integrated development plan, and must follow the procedures and meet the requirements of the rezoning process.
  1.      Application for a PUD may be filed by the property owner, the City Council, or by staff on behalf of the City Council.
  2.      The PUD process is intended for development concepts that require a higher degree of specific planning based on the scale and complexity of the project. The higher degree of planning affords flexibility in the standards to improve the relationship of the project to the context, and to better meet the purpose, intent and objectives of this code.
  3.      A PUD shall include sufficient area to implement planning concepts that generate broader public benefits that can only be gained from flexible application of the standards, and not simply be used to justify deviations for single projects or on a site-specific basis.
  4.      Generally PUD applications shall include at least 5 acres. Applications for smaller PUD applications may be processed by the Director for:
    - (a)      additions to previously approved PUDs if the flexible application of standards is used to integrate projects with previous plans; or
    - (b)      projects with a mix of uses that are not otherwise accounted for by one or a combination of the base zoning districts of the code.
- b.      **Development Plan.** A PUD requires approval of a specific plan for coordinated development of the entire area within a PUD and shall include the following:
  1.      **Existing Conditions.** Existing conditions reflect the current state of the property. This includes an analysis identifying the general layout of any existing structures, streets or infrastructure; the location of natural features such as watercourses, steep grades, significant stands of trees, specimen trees or other significant or sensitive features; and the presence and relationships to these same conditions on adjacent property.
  2.      **Master Development Plan.** A Master Development Plan presents the vision for the project. It identifies the area and relationship of general land use categories, the arrangement and character of streets and open spaces, and the anticipated scale, intensity and character of development through maps, illustrations of development concepts, and statements on the intent and objectives for the project. The Master Development Plan shall indicate why the flexibility requested is justified by the plan and how it could not be easily achieved by other zoning designations. The Master Development Plan shall include the following:
    - (a)      *Project Boundary.* The overall boundary and name of the Planned Unit Development.
    - (b)      *General Layout.* The general development pattern of streets, blocks and open spaces in the concept plan.
    - (c)      *Public and Community Facilities.* The location of school sites, amenities, focal points, parks and trails, including any land dedicated to or reserved for acquisition by any public entities.

- (d) **Planning Areas.** The designation of distinct areas of the project in terms of land uses, intensity or density of development, range of building types, or other unique design characteristics or amenities of the project. All planning areas and open space areas shall be shown overlaid on topography at a scale that clearly delineates the planning area boundaries so that they can be located on the site. For each planning area or within a separate table, indicate the following: acreage; number of dwelling units; land use designation; residential density or nonresidential square footage.
    - (e) **Specific Regulations & Deviations.** The most applicable base zoning district in terms of uses, development standards or design standards shall be designated for each planning area, and specific deviations from these standards shall be identified. These deviations may be more permissive or more restrictive than otherwise applicable standards, but should anticipate long-term development and potential future changes. To the extent items are not addressed by specific deviations, the base zoning district standards will control.
    - (f) **Phasing or Implementation.** Phasing or implementation indicates a strategy and estimated timing of development, and any other administrative details of implementing the plan through future plats and site plans.
  - 3. **Detail Plans.** The PUD may include detail plans and specifications such as renderings, elevations or plans of buildings, streetscapes, and public spaces or other urban design and architectural details demonstrating how the plan will be executed according to the proposed development standards.
  - 4. **Statement of Commitments.** The applicant shall provide a statement of commitments regarding all future aspects of development, and how these commitments shall be coordinated with the phasing and subsequent platting of the projects. Commitments shall at a minimum include the following:
    - a. Streets and streetscape designs required by Section 24-301.
    - b. Open and civic spaces, whether public, common or private, required by Section 24-302.
    - c. Improvements and performance and maintenance guarantees required by Section 24-304.
    - d. Any additional improvements or dedications to other public entities needed by the adequate facility analysis in Section 24-305.
    - e. Any additional improvements, open spaces, or other development pre-requisites resulting from technical studies that may be required by Section 24-201.j.
  - 5. **Other Information.** Any other information otherwise required by the city for rezoning.
- c. **Review Criteria**
  - 1. **Generally.** Review, recommendations and decisions for new PUDs shall be based on the following criteria:
    - (a) The plan reflects greater consistency with or more specificity in implementing the Comprehensive Plan than what could be accomplished under application of general zoning districts and development standards.
    - (b) The benefits from any flexibility in the proposed plan:
      - (1) promote the general public health, safety and welfare of the community, and in particular, that of the areas immediately near or within the proposed project, and is not strictly to benefit the applicant or a single project;

- (2) involves innovative concepts that were not anticipated by the development code; or
    - (3) apply to a unique or specific context in a manner that allows the project to better meet the intent or design objectives of the base zoning districts and standards.
  - (c) The plan reflects generally accepted and sound planning and urban design principles with respect to applying the goals and objectives of the Comprehensive Plan to the area.
  - (d) The plan meets all of the review criteria for zoning map amendments in Section 24-204.
- 2. **Minor Amendment to PUDs.** Minor amendments to PUDs may be approved by the Director, provided it meets the all of the criteria for the initial approval of the PUD, and is limited to the following:
  - (a) Any change in the number of housing units, change in lot sizes or dimensions, or increase in the land of non-residential uses is less than 5%.
  - (b) There is no decrease in the amount of open space or other reduction of amenities from the approved plan.
  - (c) Any change in a building location is no more than 10% of the approved distance to adjacent property lines.
  - (d) Any change in the height or square footage of buildings is no more than 10% of the approved measurements.
  - (e) Any change in a design standard meets the criteria for alternative compliance in Section 24-208.
  - (f) Changes to the boundaries of any planning areas do not change the boundaries of the PUD, do not later the mix of uses by more than 10% in land area or square footage, and otherwise reflect a similar land use plan.
  - (g) The proposed change is consistent with concept plans in the previously approved planned unit development;
  - (h) The plan meets all of the review criteria for site plans in Section 24-207.
- 3. **Major Amendment to PUDs.** Changes to previously approved PUDs that exceed allowances for minor amendments may be proposed for a portion of the area under the following criteria:
  - (a) The proposed change does not create potential impacts on other property in the PUD that are greater than would could typically occur in similar zoning districts or contexts; and
  - (b) The process and criteria for the initial approval of a PUD are met.
- d. **Review Procedure.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the requirements in this sub-section apply to PUDs:
  - 1. The planned unit development application is a type of rezoning and shall follow the procedures applicable to rezoning in Section 24-204.c.
  - 2. Based on the complexity of projects and degree of advanced planning and urban design necessary for a project, the applicant may elect to break elements of a general development plan in subsection 24-205.b. into two or more steps to review concepts and preliminary designs prior to approval of the complete development plan.
  - 3. In most cases, land will need to be subdivided in order to carry out a development plan. The platting process is a separate process but may run concurrently with the planned unit development process, as specified in Section 24-201.b.
- e. **Effect of Decision.** Upon approval of a rezoning to PUD, the Director shall record a copy of the ordinance approving the zone change with the City Clerk. The Director shall make the change on the official map by an actual change or other record identifying the ordinance and the associated

property. The entire area shall be designated by the name of the PUD and reference to the PUD Master Development Plan. The specific regulations in the Master Development Plan may be based on base zoning districts, and allow any development consistent with the base zoning districts except as specifically modified by the PUD Master Development Plan. The PUD zoning shall remain in effect unless changed by the City Council according to the procedures specified in these regulations.

## **24-206 Use By Special Review**

- a. **Applicability.** A use by special review provides flexibility for different uses within a zoning district and allows the potential for additional uses subject to specific conditions and a case-specific review. These uses may require specific design, operational limitations, or additional mitigation to ensure the use is appropriate in a specific location. Use by special review may be initiated by the property owner.

This process is specifically applicable to uses identified as use by special review (“S”) in the Use Table in Section 24-402.

- b. **Review Criteria.** A use by special review shall be reviewed according to the following criteria:
1. All criteria for site plan review in Section 24-207. are met
  2. The application furthers the intent of the proposed zoning district, does not conflict with the intent of any abutting districts, and is otherwise determined to be consistent with the Comprehensive Plan.
  3. Any associated site development or construction complies with requirements of this code, including any conditions or additional requirements identified for the particular use.
  4. Compatibility with the area in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns, intensity of use, and other potential impacts on adjacent property. The cumulative impact of a concentration of similar existing uses may be considered as part of the impact of a particular use.
  5. The site is physically suitable for the proposed use, and whether any additional site-specific conditions are necessary for the use to be appropriate and meet these criteria.
  6. Whether a limited time period for the permit is reasonably necessary to either limit the duration of the use, assess the use against changing conditions in the area, or ensure periodic reporting and ongoing enforcement of the permit.
  7. The long-range plans for the surrounding area are not negatively impacted considering the permanence of the proposed use, the permanence of existing uses in the area, and any changes in character occurring in the area.
  8. The recommendations of professional staff or other technical reviews associated with the application.
- c. **Review Procedure.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to use by special review applications:
1. Applications shall be accompanied by a site plan to review conformance of any construction with standards of this code, and to review any performance criteria for the particular uses when applied to the site or building.
  2. After staff review, receipt of any comments from referral agencies, and any necessary resubmittal, the Director shall schedule review by the Planning Commission.
  3. The Planning Commission shall hold a public hearing and shall make a final decision on uses by special review, and the decision may be appealed to the City Council.
  4. The Planning Commission may attach any additional conditions on the use addressing the physical development, operations, maintenance or any other limitation it feels necessary to ensure the application meets the review criteria.

- d. **Effect of Decision.** Approval of a use by special review shall authorize the applicant to apply for a building permit and other applicable development or construction permits.
1. A use by special review shall expire within one year, if the applicant has not submitted a building permit application, or application for other permits, licenses or approvals necessary to establish the use. The Directory may grant a one-year extension to this period. This period is distinct from any duration limits, periodic reviews or renewal periods once the use is established, which may be a condition of approval of the use.
  2. Ceasing the use for a period of more than 1 year shall be considered abandonment of the use by special review, and the approval shall expire.
  3. Minor changes to an approved use by special review may be approved by Director upon finding all of the following:
    - (a) The change expands the floor area of the original approval by less than 10%;
    - (b) There is not a change of use or significant increase in the intensity of the use that could adversely impact adjacent property;
    - (c) The change does not exceed the limits or violate any specific conditions of the original approval; and
    - (d) The change complies with all other provisions of this code, including the Site Plan procedures and criteria in 24-207.Any other changes to the use shall require an amendment to the use by special review through the same procedures and criteria as the original application
  4. A use by special review may be revoked by the Planning Commission through the same procedures granting the use, upon a finding that the conditions of approval have not been met, or that the use has otherwise violated the provisions of this code.

## 24-207 Site Plan

- a. **Applicability.** The site plan process provides review of development projects that propose a change to buildings and sites that may impact the relationship to the streetscape or adjacent property, or may include a change of use or activity on the site. It ensures that projects meet the development and design standards of this code, and coordinates projects with surrounding development patterns and public spaces, including compatible arrangement of buildings, pedestrian and vehicle access, site design, lighting and landscape design. Site plans may be initiated by the property owner.

The site plan process specifically applies to reviews prior to any of the following:

1. Any building or site improvements;
2. A grading or building permit; or
3. A change of use.

- b. **Review Criteria.** In general, any site plan in compliance with all applicable standards of this code shall be approved. In making a determination of compliance with the standards applied to particular site, or exercising any discretion under the standards, a site plan shall be reviewed according to the following criteria:

1. **Generally.**
  - (a) The plan meets all applicable standards or the criteria for any discretionary approvals.
  - (b) The plan does not substantially undermine any goals or objectives of the Comprehensive Plan that are applicable to the area or to the specific project.
  - (c) The plan does not present any other apparent risks to the public health, safety or welfare of the community.
2. **Site Design and Engineering.**



- (a) The plan provides safe access and internal circulation considering the site, the block and other surrounding connections, and appropriately balances vehicle, bicycle and pedestrian needs for the context.
  - (b) The plan provides or has existing capacity for utilities and other required improvements to serve the proposed development.
  - (c) The plan provides adequate management of storm water runoff.
  - (d) The plan provides proper grading considering prevailing grades and the relationship to adjacent sites.
- 3. ***Landscape and Open Space Design.***
  - (a) The plan creates an attractive aesthetic environment and improves relationships to the streetscape or other nearby public, civic or common spaces.
  - (b) The plan enhances the environmental and ecological functions of un-built portions of the site, and makes effective use and conservation of water resources.
  - (c) The plan reduces the exposure and adverse impact of more intense activities or components of the site or building on the streetscape and on adjacent properties.
- 4. ***Building Design.***
  - (a) The location, orientation, scale and massing of the building creates appropriate relationships to the streetscape and to adjacent properties.
  - (b) The selection and application of materials will promote proper maintenance and quality appearances over time.
  - (c) The location, fixtures and types of building and site lighting promotes creates aesthetic enhancements, promotes safety and security, and accounts for sensitive borders with the right-of-way or adjacent property
  - (d) The building reinforces the character of the area and reflects a compatible architectural relationship to adjacent buildings. Specifically, if there is any consistency or commonality in the scale, proportion, forms and features, and materials of adjacent buildings, they inform choices on the proposed building.
- c. **Review Procedure.** In addition to the general requirements in Table 24--1 and Section 24-201, the following requirements are specific to site plan applications:
  - 1. At the applicant's discretion, and as part of the pre-application steps, the applicant may present a preliminary or conceptual site plan. This may be used to confirm interpretations, test basic concepts and standards, or review options for a proposed project.
  - 2. Any requests for alternative compliance or a variance from the standards are distinct applications, but may be coordinated with the Site Plan review as provided in Sections 24-208 and 24-209.
  - 3. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director may make a final decision.
  - 4. The Director may determine that any application meeting these eligibility criteria still presents significant change or potential impacts on the area, or presents substantial interpretation questions on the application of development standards or review criteria. The Director may forward the application to the Planning Commission for a decisions according to the criteria in this Section.
- d. **Effect of Decision.** Approval of a site plan shall be valid and create a vested property right for 1 year, and authorize the applicant to apply for a building permit and all other applicable permits. The decision may be appealed to the Planning Commission. The Director may grant one extension for up to 1 additional year. Failure to obtain permits, or otherwise achieve substantial completion of improvements or commence the use within this time frame shall cause the approval to expire.

## 24-208 Alternative Compliance

- a. **Applicability.** The alternative compliance process provides limited flexibility in the application of design standards so that the best design solution may be applied to a particular context or site. . It ensures that projects meet the intent and design objectives of the standards of this code, but allows for relief from strict application of the standards where an equal or better design solution is possible. Alternative compliance shall not reduce requirements of this code, but provide equivalent standards applied in a site-specific or creative way. Alternative compliance applications may be initiated by the property owner.

Specifically alternative compliance shall be applicable for any of the following:

1. Residential design standards in Section 24-503;
2. Non-residential design standards in Section 24-603;
3. Access and parking standards in Chapter 7;
4. Landscape standards in Chapter 8; and
5. Sign standards in Chapter 9.

- b. **Review Criteria.** The following criteria apply to any application that is proposing alternative compliance to any of the standards.

1. The alternative shall not alter any use standard, and deviation from any dimension or quantity standard shall be limited to 10%, except where specific sections authorize greater deviations. The Redevelopment Area established in Section 24-1007, shall not be limited in the extent of alternative compliance that may be considered.
2. The alternative shall be based on specific conditions of the site that make the applicable standard impractical, or where compliance with the standard would not clearly advance the intent and design objective of the standard.
3. The proposed alternative shall equally or better meet the intent or design objective of the particular standard.
4. The alternative shall not have negative impacts on the adjacent sites, and otherwise affect adjacent sites in a similar way as would otherwise occur by complying with the standard.
5. The alternative shall not undermine any other planning policy or design goals applicable to the site or general area.
6. The alternative shall not be strictly for the convenience of a specific project, but is justified under any of the following broader community benefits:
  - (a) aesthetic considerations that permit better coordination with the established character of the specific area;
  - (b) improved environmental performance;
  - (c) enhanced pedestrian amenity of civic spaces;
  - (d) adaptive reuse of existing buildings or infill on existing lots that otherwise would likely not occur;
  - (e) better serves public health and safety considerations; or
  - (f) more directly advances any official city-approved plans or policies applicable to a particular area.

- c. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to site plan applications:

1. Applications for alternative compliance may be submitted independently in advance of a site plan, provided there is sufficient information to evaluate the application according to the criteria. Alternatively, an application for a alternative compliance may be submitted with a site plan, provided that specific standards for which alternative compliance is



- proposed are clearly called out as a separate issue and decision in the application materials.
2. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director may make a final decision.
  3. Any request for alternative compliance associated with another application that requires approval of another review body, may be approved by the Director conditioned on final approval of the associated application. The alternative compliance shall be noted in the associated application and either affirmed or denied by the review body according to the criteria of the associated application.
- d. **Effect of Decision.** Approval of alternative compliance shall be indicated by a written statement of the Director. It shall authorize deviation from the standards only to the extent demonstrated on the approved plans. The written statement of approval shall be included with a subsequent submitted site plan, or if associated with a site plan application clearly called out distinct from the site plan submittal. The approval shall only be valid for one year from the written statement, unless a complete site plan application is submitted, in which case the alternative compliance approval shall remain valid in association with the site plan submittal. The Director may grant an extension of up to 6 months provided the conditions affecting approval of the approval have not significantly changed. Denial of alternative compliance may be appealed to the Planning Commission.

## **24-209 Variance**

- a. **Applicability.** A variance is a process to provide relief from a strict interpretation of the zoning and development standards of this code, which when applied to a particular property and in a specific context would create practical difficulties or unnecessary hardship on all reasonable use of the property. This application shall only apply to the design, dimension, and other site development standards of this code and shall not be used to authorize a use that is prohibited by the applicable zoning district. Variances may be initiated by the property owner.
- b. **Review Criteria.** A variance shall be reviewed and approved only on the finding by the Zoning Board of Appeals that the following conditions are met:
1. The strict application of this code would result in practical difficulties or unnecessary hardships that limit the reasonable use of the property without granting the variance.
  2. The difficulty or hardship is caused by conditions on the property that are unusual or atypical, are not are result of general conditions in the area, and were not created by the applicant.
  3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.
  4. Granting the variance will not adversely affect the public health, safety, or general welfare.
  5. Granting the variance is consistent with the Land Use Chapter of the Comprehensive Plan and area or neighborhood plans, or may achieve greater consistency with these plans than if the codes were strictly applied.
  6. Granting the variance does not undermine the purposes and intent of this code, and is consistent with the specific intent or design objectives of the provision for which the variance is sought.
  7. The requested variance is the minimum necessary to relieve the difficulty or hardship and permit reasonable use of the property.
- c. **Minor Variance Procedures.** The Director may approve minor variances subject to the following:

1. Applications for minor variances may be submitted independently in advance of a site plan, provided there is sufficient information to evaluate the application according to the criteria. Alternatively, an application for a minor variance may be submitted with a site plan, provided the need for the variance is clearly called out as a separate issue and decision in the application materials.
  2. Mailed notice shall be provided to all abutting property owners, allowing up to 15 days for the owners to object. Any objections shall require the variance to be processed with the Zoning Board of Appeals according to the rest of this Section.
  3. Minor variances shall be limited to the following circumstances:
    - (a) Variance to a setback, building location, or building height requirement by up to 10% of the requirement. Where this would be less than 1 foot, the Director may approve a variance up to 1 foot.
    - (b) Variance to a lot or open space area or dimension requirement of up to 5% of the requirement.
    - (c) Variance to a building coverage requirement by up to 10% of the requirement.
  4. The Director's decision shall be based on the criteria in Section 24-209.b.
- d. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to variance applications not eligible for minor variances:
1. Applications may be accompanied by a site plan where it is necessary to review conformance with standards of this code and the variance criteria.
  2. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director shall schedule review by the Zoning Board of Appeals.
  3. Approval by a majority of the Board present shall be necessary to grant a variance.
  4. In granting a variance, the Board may impose conditions and requirements that best assure the criteria for approval are in place and maintained, and any violation of these conditions shall be considered a violation of the ordinance.
- e. **Effect of Decision.** Upon approval of a variance, a Certificate of Variance Approval shall be recorded for the subject property by the Director in the Weld County Clerk and Recorder's Office. Upon filing, the applicant may proceed with any necessary approvals or permits authorized in the variance. Any variance not filed and acted upon within 12 months shall expire and no further action is permitted. The Director may grant an extension of up to 6 months provided the conditions affecting approval of the variance have not significantly changed. Denial of a minor variance by the Director may be appealed to the Zoning Board of Appeals. Denial of a variance by the Board of Zoning Appeals may be appealed to the City Council.

**24-210 Appeal of Administrative Decision**

- a. **Applicability.** The appeal of administrative decisions is a process to determine if there was an error in any final decision in the interpretation, administration or enforcement of this code by an administrative official of the City. Except for where this Chapter and Table 24-2-1 establish a different appeal process for specific applications, appeals of administrative decisions may be filed with the Zoning Board of Appeals. Appeals may be filed by any person aggrieved and materially affected by a final decision of an administrative official, or by any officer, department, board, or official public body of the City. Appeals of administrative decisions shall be filed in writing with the Community Development Department within 10 days of the date of the decision being appealed.
- b. **Effect of Filing.** An appeal halts all proceedings in furtherance of the decision appealed from unless the official making the decision certifies to the Board that it could cause imminent peril to life or property. In such case, the Board may elect to allow the official to continue proceedings in furtherance of the decision while the appeal is pending a final decision of the Board.
- c. **Notice.** Notice of the appeal shall be served upon the person whose decision is being appealed by providing a copy of the appeal. The administrative official whose decision is being appealed shall transmit to the Zoning Board of Appeals all plans, applications and other files directly impacting the decision and constituting the official record upon which the action appealed is taken within 10 days of receipt of such filing of the appeal. If the appeal is based on an application that required any other notice under this code, notice of the appeal shall also occur as required by the original application.
- c. **Action and Review Criteria.** The Zoning Board of Appeals shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. A majority vote of the Board present shall be necessary to sustain an appeal. An appeal shall be sustained only upon written findings that the official was in error. In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed.
- e. **Effect of Decision.** The decision by the Zoning Board of Appeals shall have the same effect as a decision made by the administrative official but shall be limited to the facts and circumstances of that particular case. The Director may use the Zoning Board of Appeals decision on an appeal as a factor when applying the standard appealed from to other similar circumstances. Any person aggrieved by a final decision of the Zoning Board of Appeals may appeal City Council according to Table 24-2-1 and Section 24-201.i.

## 24-211 Code Amendments

- a. **Applicability.** Amendments to these regulations may be initiated by the City Council or the Planning Commission, or by Staff on behalf of these entities.
- b. **Review Criteria.** A code amendment shall be reviewed according to the following criteria:
  - 1. The amendment furthers the purposes of these regulations in Section 24-101.c.
  - 2. The amendment is in accordance with the Comprehensive Plan and has been considered for both its long-range affects as well as immediate impacts.
  - 3. The amendment promotes the public safety, health and general welfare of the citizens of Greeley.
  - 4. The amendment improves the effectiveness and efficiency of administering the Land Development Code.
- c. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to text amendment applications:
  - 1. Applications may be accompanied by a related Comprehensive Plan amendment, or more specific plan, provided the amendment or plan has met all of the legal and policy requirements for plan approvals independent of the proposed code amendment.
  - 2. All amendments shall first require the recommendation of the Planning Commission. The City Council may recommend the application be returned to Planning Commission for further study or additional information at its next regular meeting. Failure by the Planning Commission to consider or revise its recommendation shall be considered a resubmission of its original recommendation.
  - 3. The Planning Commission may recommend or City Council may approve a lessor change than was proposed in the notice, when considering the proposed change relative to the currently applicable standards.
- d. **Effect of Decision.** Amendments to the text of these regulations shall be approved by the City Council in the form of an ordinance and be effective after the date specified in the ordinance. The Director shall incorporate approved amendments into this code by reference to the specific amending ordinance, and indicate the newly applicable provisions and the replaced provisions, or by recodification of the official code, that incorporates the approved amendment.

## 24-212 Dedication & Vacation of Easements

- a. **Applicability.** Dedication and vacation of easements is used to officially record or eliminate easements granting specific access and property interests stated in the recorded document. Easements may be dedicated or vacated in association with a minor or major subdivision, or by this section. Eligible applicants for dedication of easements include anyone with a property interest in the abutting and underlying land, and eligible applicants for vacations are only the easement holder.
- b. **Review Criteria.** The following criteria apply to dedication and vacation of easements:
  - 1. All legal pre-requisites for recording or eliminating the property interest have been established, and all forms and fees required by the City have been submitted.

2. The applicant has established written evidence of ownership, and provided notice to all other ownership interests in the easement or affected property.
  3. The application will not be detrimental to any adjacent property owner, and no owner or entity with a property interest in the easement has objected.
  4. All parties in interest or potentially impacted by the application, and any agencies or city departments with an interest, have received notice and have had time to comment.
  5. For a vacation, there is no public purpose for the easement, considering the Comprehensive Plan, any specific transportation, open space or other public facilities plans, or other plans or policies under those plans.
  6. The application meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the municipal code.
- c. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to dedicating or vacating easements:
1. The applicant shall submit a plat or other legal document showing the specific property rights to be vacated or dedicated, and the affect to adjacent or abutting property.
  2. The Director shall coordinate review of the application per Section 24-201.f., and in particular determine whether any referral agencies who may have facilities or other interest in the easement or right-of-way should be notified, or if all potentially affected property owners have been notified.
  3. The Director shall sufficient time from notice for necessary referral agencies to comment, or require consent forms from any affected parties. The Director may extend this time period where the nature of the application or caseloads warrant further consideration from referral agencies, city departments, or other interested parties.
  4. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director shall make a final decision.
- d. **Effect of Decision.** After approval of an easement dedication or vacation, the Director shall record the plat or other legal document with the Weld County Clerk and Recorder's Office. A denial of a vacation or dedication application may be appealed to the Planning Commission.

## **24-213 Dedication & Vacation of Rights-of-Way**

- a. **Applicability.** Dedication and vacation of rights-of-way is used to officially record or eliminate rights granting specific access and property interests stated in the recorded document, which are not associated with a major subdivision process. Eligible applicants include the City or an abutting and underlying property owner. For any right-of-way abutting multiple property owners, the City may require that all owners join in the application.
- b. **Review Criteria.** The following criteria apply to dedication and vacation of rights-of-way:
1. All legal pre-requisites for recording or eliminating the property interest have been established, and all forms and fees required by the City have been submitted.
  2. The applicant has established written evidence of ownership of property abutting or underlying the right-of-way. Where multiple properties are involved each owner shall be joined in the application
  3. The application will not be detrimental to any adjacent property owner, and no owner or entity with a property interest in the easement has objected.
  4. All parties in interest or potentially impacted by the application, and any agencies or city departments with an interest, have received notice and have had time to comment.

5. For a vacation, there is no public purpose for the right-of-way, considering the Comprehensive Plan, any specific transportation, open space or other public facilities plans, or other plans or policies under those plans.
  6. For a dedication, the right-of-way will serve a public purpose and the dedication is sufficient to meet the design standards and specifications of Chapter 3 for streets, trails or other rights-of-way.
  7. The application meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the municipal code.
- c. **Review Procedures.** In addition to the general requirements in Table 24-2-1 and Section 24-201, the following requirements are specific to vacating rights-of-way or easements:
1. The applicant shall submit a plat or other legal document showing the specific property rights to be vacated or dedicated, and the affect to adjacent or abutting property.
  2. The Director shall coordinate review of the application per section 24-201.f., and in particular determine whether any referral agencies who may have facilities or other interest in the right-of-way should be notified, or if all potentially affected property owners have been notified.
  3. The Director shall allow sufficient from notice for necessary referral agencies to comment, or require consent forms from any affected parties. The Director may extend this time period where the nature of the application or caseloads warrant further consideration from referral agencies, city departments, or other interested parties.
  4. After staff review, receipt of any comments from referral agencies, and any necessary resubmittals, the Director shall schedule review by the Planning Commission.
  5. The Planning Commission shall consider the application subject to the review criteria and make a recommendation to the City Council.
  6. Upon receipt of a recommendation from the Planning Commission, the City Council shall make a final decision, and may condition a decision to vacate right-of-way on reserving any interest it determines necessary to serve a public purpose or the interests of the affected property.
- d. **Effect of Decision.** After approval of a right-of-way dedication or vacation, the City Clerk shall record a copy of the scale drawing or illustration and legal description in the Weld County Clerk and Recorder's Office.

## 24-214      **Annexation**

- a. **Applicability.** The annexation process is to add unincorporated lands to the municipal boundaries, and consider well-ordered development of the City, and the extension of municipal services and facilities in an efficient, and effective manner. Annexation applications may be by petition of the land owners or at the initiation of the City Council.
- b. **Review Criteria.**
1. *General Eligibility.* The City Council may consider an annexation petition for land that satisfies the eligibility requirements of the statutes of the state as follows:
    - (a) The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries; and
    - (b) A community of interest exists between the area proposed for annexation and the City; the area is urban or will be urbanized in the near future; and the area is integrated with or is capable of being integrated with the annexing municipality.
    - (c) The full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.

- (d) The responsibility to apply for exclusion from any applicable special districts shall be upon the applicant of the annexation.
  - (e) Annexations of enclaves may be initiated by the City Council when such enclaves have been completely surrounded by property within the municipal limits for a period of at least three years.
- 2. **Specific Criteria.** The Planning Commission and City Council shall evaluate annexations according to the following criteria:
  - (a) The proposed annexation is in conformance with the City's Comprehensive Plan;
  - (b) The proposed annexation promotes geographical balance of the City's land use pattern;
  - (c) Adequate services are or will be available to support the development expected to result from the proposed annexation, in accordance with Section 24-305.
  - (d) The proposed annexation provides for a continual and rational boundary; and
  - (e) The proposed annexation is needed to accommodate future land use requirements.
- c. **Review Procedures.** In addition to any specific procedure required by the laws of the state at the time of annexation, and in accordance with the general procedures applicable by Table 24-2-1 and Section 24-201, the following specific procedures apply to annexations:
  - 1. **Petition for Annexation.** The petition shall be signed by persons comprising more than 50% of the landowners in the area and owning more than 50% of the land area. Sample petitions are available from the Community Development Department.
  - 2. **Annexation Elections.** As an alternative to an annexation petition, the qualified electors of the area being proposed for annexation may petition the City Council to hold an annexation election.
    - (a) The petition for annexation election shall be signed by at least 75 qualified electors or 10% of the electors, whichever is less, or as otherwise required by state statutes.
    - (b) The petition shall be filed with the City Clerk and shall comply with the provisions of the state statutes.
    - (c) If the petition for annexation election is in substantial compliance with state statutes, the City Council shall call for an election to be held. Notice of such election shall be given by the City Clerk.
    - (d) If a majority of the votes cast are against annexation, or the vote is tied, the annexation proceedings to date will be voided and considered of no effect and the City Council shall proceed no further with the annexation proceedings.
    - (e) If a majority of the votes cast at the election are for annexation, the City Council may thereafter annex the area.
  - 3. **Application.** Application form and related application fees, including all additional plans and details required on the forms shall be provided by the applicant.
  - 4. **Request for Zoning.** The applicant shall submit a request for zoning in accordance with this section and Section 24-204, Rezoning or Section 24-205 Planned Unit Development. The Community Development Director shall conduct an analysis of existing land uses on the subject property to ascertain zoning and lawfully established nonconforming uses. Nonconforming uses shall be permitted to continue, as provided in Section 24-105.



5. *Staff and Agency Review.* The Director shall coordinate review of an application with all necessary reviewing agencies, and allow them two weeks from the date of distribution of the annexation plat and supporting documents to make any objections or comments to the Community Development Director. This time period may be extended to the minimum period needed to complete the review.
  6. *Resolution to Consider Annexation.* The City Council shall determine whether to proceed with annexation of property by resolution which shall include the public hearing date and, at the same time, shall determine if an annexation agreement will be required.
  7. *Annexation Impact Report.* For annexations of areas larger than ten acres, the City shall prepare an impact report concerning the proposed annexation. The report shall be prepared at least 25 days prior to the date of the City Council's hearing on the proposed annexation, and a copy of the report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five days after preparation of the report. The annexation impact report shall contain the following information at a minimum:
    - (a) A map or maps of the municipality and adjacent territory to show the following:
      - (1) The present and proposed boundaries of the municipality in the vicinity of the proposed annexation;
      - (2) The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and
      - (3) The existing and proposed land uses in the areas to be annexed.
    - (b) A copy of any draft or final annexation agreement, if available;
    - (c) A statement on plans of the City for extending and providing municipal services at the time of annexation;
    - (d) A statement on the method to finance the extension of the municipal services into the area to be annexed;
    - (e) A statement identifying existing districts within the area to be annexed; and
    - (f) A statement on the effect of annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate students.
  8. *Planning Commission Hearing.* The Planning Commission shall hold a public hearing on the annexation. In making a recommendation on an annexation, the Planning Commission shall consider the review criteria in this Section, any comments received from agencies or offices receiving copies of the annexation plat, the staff recommendation and any comments received from citizens.
  9. *City Council Hearing.* The City Council shall hold a public hearing on the annexation. In taking action on an annexation, the City Council shall consider the review criteria in this Section, any comments received from agencies or offices receiving copies of the annexation plat, the staff and Planning Commission recommendations and any comments received from citizens.
- d. **Effect of Decision.** If the annexation is approved, the Community Development Director shall cause a copy of the signed annexation plat to be recorded in the Weld County Clerk and Recorder's Office. Annexed areas shall be included in the City's zoning ordinance and map within 90 days after the effective date of the annexation ordinance, except that the proposed zoning ordinance shall not be passed on final reading prior to the adoption of the annexation





## CHAPTER 2 –PROCEDURES

### 24-213 DEDICATION & VACATION OF RIGHTS OF WAY

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ordinance. The City shall consider zoning such newly annexed areas under the appropriate zoning category as follows:

1. If land use approval or development of areas being considered for annexation is not pending upon completion of annexation, if the subject property is in a transitional state regarding development or if it is in the best interest of the City, the City Council shall place the newly annexed property into the H-A Holding Agriculture Zoning District.
2. Requests for zoning districts other than the H-A Holding Agriculture District may be considered by the City Council in conjunction with the submittal of all applicable requirements for a rezoning application. The City Council shall place the newly annexed property into the zoning district most appropriate, considering the goals and objectives of the City's Comprehensive Plan and the applicant's future development plans.
3. Requests for zoning to the C-D Conservation District shall be exempt from the requirements of Subsections a. and b. above.
4. Property which does not have an approved Development Plan per Section 24-205.b. or other land use or development plan per Section 24-204.c.5.(a), and does not develop within three years from the effective date of this Section shall be required to submit plan prior to, or in conjunction with, subdivision or site development.
5. During the time in which zoning of newly annexed areas takes place, the City may refuse to issue any building or occupancy permit for any portion or all of the newly annexed area.

***Reserved Sections 24-215 through 24-300***