CHAPTER 3: DEVELOPMENT REVIEW & APPROVAL PROCEDURES

3.1 GENERAL

The general provisions of this section apply to all development applications and procedures under this Chapter unless otherwise stated.

3.1.1 Authority to File Applications. Applications under this Section may be initiated by (1) petition of all the owners of the property that is the subject of the application; or (2) such owner’s authorized agents; or (3) any review or decision-making body that does not have final decision-making authority on the matter. When a review or decision-making body initiates action under this Land Development Code, it does so without prejudice toward the outcome.

3.1.2 Form of Application. Applications required under this Section must be submitted in a form and in such numbers as required by the Land Use Department. Application forms for procedures that require Preapplication Meetings will be made available only at the time of the Preapplication Meeting.

3.1.3 Application Filing Fees.

A) General. Applications must be accompanied by the fee that has been established by the Board of County Commissioners. Fees are not required with applications initiated by a review or decision-making body. Application fees are non-refundable, except that refunds shall be made to applicants who provide written notification to the Land Use Department of a withdrawal of an application prior its initial consideration by any decision-making body.

B) Fee Exemptions and Reductions. Upon written request of a public agency or a not-for-profit applicant to the Board of County Commissioners requesting an adjustment to or an exemption from any application fee and a statement of the reasons why such fee change or waiver should be granted, the Board of County Commissioners shall consider the matter at a regularly scheduled meeting and only grant such requests in cases where the characteristics of the application would cause the established application fees to represent an unreasonable burden upon the applicant.

C) Supplemental Fees. Applications for proposed land use changes that involve large scale developments, or complex developments, or are likely to produce substantial on- or off-site physical, social or economic impacts may require special review by engineering, technical, scientific and other expert personnel not normally employed on a regular basis by Lake County. When, in the judgment of the Planning Commission or the Board of County Commissioners, such independent expert review and analysis of an application is required, the direct cost of such expert review and analysis shall be added to the normal application fees charged to the applicant. Payment of such supplemental fees by the applicant to Lake County shall be a precondition for the granting of all permits or approvals requested by the applicant. In addition, applications for proposed land use changes that require review by an agency of the State of Colorado that charges fees for such reviews shall be assessed supplemental fees in the amount of such charges incurred by Lake County. Such
supplemental fees shall be paid by the applicant as a precondition for the granting of any required permits or approvals.

3.1.4 Application Completeness. An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, and is accompanied by the applicable fee. A determination of application completeness shall be made by the Land Use Department within 10 days of application filing. If an application is determined to be incomplete, the Land Use Department shall provide written notice to the applicant along with an explanation of the application’s deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application shall be considered withdrawn, and the application shall be returned to the applicant.

3.1.5 Land Use Department and Agency Review. In conducting required reviews, the Land Use Department shall comply with those referral requirements set forth in C.R.S. 30-28-136, and shall be authorized to distribute the application and other submittals to County departments and other agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements. Comments received from reviewers shall be included in any required report and may form the basis of final action on the application.

3.1.6 Preapplication Meetings. Applicants shall be responsible for scheduling Preapplication Meetings with the Land Use Department when they are required. The purpose of a Preapplication Meeting is to inform the applicant of applicable procedures, submittal requirements, development standards, alternatives and other pertinent matters before the applicant prepares the development proposal. Application forms are also made available during Preapplication Meetings. Staff opinions presented during Preapplication Meetings are informational only and do not represent a commitment on behalf of Lake County regarding the acceptability of the development proposal. If a development application is not submitted within 180 days of the Preapplication Meeting, applicants must schedule and attend another Preapplication Meeting before submitting applications.

3.1.7 Notices

A) Content. All notices required under this Land Development Code must: (1) indicate the date, time and place of the public hearing or action; (2) describe the property involved by street address or by legal description and nearest cross street; (3) describe the nature, scope and purpose of the application or proposal being advertised; and (4) indicate where additional information can be obtained.

B) Written (Mailed) Notice. When the provisions of this Land Development Code require that written or mailed notice be provided, the County shall be responsible for preparing the written notice, and the applicant shall be responsible for mailing the notice at the applicant’s expense by first-class mail to all listed owners of record of all properties, mineral rights, and lessees of mineral rights within 500 feet of the subject property. If the property that is the subject of the application lies within the AF (Agricultural and Forestry) or RUR (Rural) zone districts, notice shall be mailed to all property owners, mineral rights owners, and lessees of mineral rights within 2,500 feet of the subject property. Ownership information shall be obtained from the County Assessor’s Office. Written notice shall also be mailed to any
registered neighborhood associations whose boundaries lie within required notification areas.

C) **Posted Notice.** When the provisions of this Land Development Code require that notice be posted on the subject property, the applicant shall: (1) post the notice on weatherproof signs that have been provided by the County; (2) place the signs on the property that is the subject of the application; and (3) ensure that the signs remain in place during the period leading up the public hearing. At least one sign shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents and passers-by. Applicants shall be responsible for returning signs to the County within one week after the public hearing.

D) **Published Notice.** When the provisions of this Land Development Code require that notice be published, the County shall be responsible for preparing the content of the notice, and the applicant shall ensure that notice is published in at least one newspaper that has been selected by the County, at the applicant’s expense. Proof of publication shall be filed with the County Planning Department.

E) **Mineral Estate Notice.** Pursuant to § 24-65.5-.103, C.R.S., in any Application for Development, as defined in subsection 3.1.7(E)(1) of this Land Development Code, the applicant shall, not less than 30 days prior to the date scheduled for the initial public hearing relating to the applicant’s proposal, send notice by first class mail to any mineral estate owner and the County Planning Department. Such notice shall contain the name and address of the mineral estate owner, the name and address of the applicant, the time and place of the initial public hearing, the nature of the hearing and development proposed, and the location of the property that is the subject of the hearing.

1) For the purposes of Section 3.1.7 (E) of this Land Development Code, “Application for Development” shall mean an application for approval of a sketch plan, preliminary plat, or final plat for a subdivision, a planned unit development, or any other similar surface development. “Application for Development” includes applications for rezoning, zoning variances, site plans, and conditional use permit, where such applications are in anticipation of new surface development. “Application for Development” does not include building permits.

F) **Timing of Notices.** Unless otherwise expressly provided in state statutes or this Land Development Code, notice, when required, shall be provided as follows:

<table>
<thead>
<tr>
<th>Review or Decision-Making Body Holding Hearing or Taking Action</th>
<th>Notice Required (days before hearing/action)</th>
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<tbody>
<tr>
<td></td>
<td>Written</td>
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<tr>
<td>Land Use Department Official</td>
<td>15</td>
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<tr>
<td>Planning Commission</td>
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<tr>
<td>Board of Adjustment</td>
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<tr>
<td>Board of County Commissioners</td>
<td>15</td>
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<tr>
<td>Joint Hearing of BOCC and Planning Commission</td>
<td>15</td>
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G) **Constructive Notice.** Minor defects in a notice shall not impair the notice or invalidate
proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Land Development Code before proceeding with the hearing.

H) Applicant’s Certification. On or before the date on which any decision-making body is scheduled to review or conduct a public hearing on an application, the applicant shall file a written certification with the Planning Department confirming that all required notices have been given in accordance with the requirements of this section.

3.1.8 Conditions of Approval. In approving development applications, the decision-making body shall be authorized to impose such conditions upon the premises benefited by the approval as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the Lake County Comprehensive Plan or this Land Development Code, so long as the condition relates to a situation created or aggravated by the proposed use or development and is roughly proportional to its impact.

3.1.9 Certification of Payment of Taxes. In approving development applications, the decision-making body shall be authorized to require the applicant to provide certification to the office of the County Treasurer that all ad valorem taxes applicable to the subject property, for the years prior to that year in which approval is granted, have been paid.

3.1.10 Continuation of Public Hearings. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Land Development Code, provided that the continuance is set for a date within 40 days and the date and time of the continued hearing is announced at the time of the continuance. No public hearing on a Major Subdivision Plat or PUD may be continued for more than 40 days from the date of the public hearing without the written consent of the applicant, pursuant to C.R.S. Sections 30-28-133.5(5) and 24-67-105.5(3).

3.1.11 Burden of Proof or Persuasion. The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the County or other parties to show that the criteria have not been met.

3.1.12 Written Finding Required. Final decisions of all review and decision-making bodies shall be accompanied by written findings of fact based upon the applicable standards and criteria. The findings shall also be filed with the Planning Department and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioner’s written findings shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

3.1.13 Simultaneous Processing. Whenever two or more forms of review and approval are required under this Chapter (e.g., a rezoning and a conditional use permit) the applications for those development approvals may be processed simultaneously. However whenever this
Land Development Code requires two types of review for the same approval (e.g., a Preliminary Plat and a Final Plat), those two review and approval procedures must be completed as separate steps in the order specified.

3.1.14 **Processing Cycles.** The Land Use Department shall issue timetables for reviewing each type of development application under this Section. Timetables may be revised from time-to-time and may include:

A) Dates of regular meetings of review bodies and decision-makers;

B) Deadlines for receipt of a complete application for consideration of such application at a particular meeting; and

C) Schedule and routing of staff and agency reviews.

3.1.15 **Failure to Act within Required Time-Frames.** Unless withdrawn by the applicant, or unless an extension of time is agreed to by the applicant, any development application that is not approved, approved with conditions or denied within any time-frame required by this Land Development Code or another time-frame mutually agreed to by the County and the applicant at the time of application filing, the application shall be deemed approved. Time-frames for action may be extended by the County when necessary to receive recommendations or reports from a reviewing agency, but no such extension shall exceed 30 days.

3.1.16 **Appeals.**

A) **Board of Adjustment Authority to Hear Appeals.** Unless otherwise provided for in this Code, the Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, denial, or refusal made by an administrative officer or agency based on or made in the enforcement of the zoning district regulations contained within this Code.

B) **Standing to Appeal.** Appeals allowed under the procedures of this Chapter may be filed only by “Parties of Record,” who shall include:

1) The applicant;

2) The property owner or holder of any recorded interest or easement in the subject property;

3) Any person who testified at the public hearing on the application; or

4) Any person who submitted written comments on the application before final action was taken (excluding persons who have only signed petitions or form letters).

C) **Format of Appeal.** All appeals shall be in writing and on such forms as shall be prescribed by the Land Use Department and accompanied by the appropriate filing fee. Every appeal shall state, at a minimum, what provision(s) of this Code is involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the
D) **Notice.** Notice for public hearings on appeals shall be provided pursuant to the general notice requirements of Section 3.1.7.

E) **Notification of Decision.** Upon reaching a decision in an appeal, the decision making body shall notify the applicant(s) within 10 working days.

F) **Appeals from Board of Adjustments’ Decisions.** Any further appeal from decisions made by the Board of Adjustment shall be made to the courts, as provided by law, unless otherwise provided for in the Code.

G) **Appeals of Board of County Commissioners’ Decisions.** Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

3.1.17 **Application Review Under the Form of the County Regulations in Effect at the Time of the Submission of the Application.** An application for a land use approval submitted under this Code which is substantially complete shall be reviewed based upon the County’s land use regulations which were in effect at the time that such application was initially made; provided, however, that an applicant with a pending application may elect to have such application reviewed based upon a County regulation which was adopted between the date of the initial submission of the application and the date of the final hearing on such application. For the purposes of this Section, an application is substantially complete if it is in substantial compliance with the requirements of Section 3.1.4 of this Chapter, or any other applicable section of this Code which sets forth the submittal requirements of the specific type of land use approval for which the application is submitted. Further, in the event that any pending application shall become inactive, such application shall thereafter be reviewed based upon the County land use regulations which are in effect when the application is next heard by the Planning Commission or the Board, whichever shall first occur. For the purposes of this Section, an application is inactive if it has not been heard by the Planning Commission or Board, whichever is applicable, for a period of six (6) consecutive months. Upon the request of the applicant, and for good cause shown, the Planning Commission or Board, as applicable, may direct that an application which has become inactive shall still be reviewed based upon the County land use regulations which were in effect at the time that such application was initially made. Notwithstanding the provisions of this Section, the County may adopt a new or amended law or regulation when necessary for the immediate preservation of the public health and safety and may enforce such law or regulation in relation to an application for a land use approval under this Code which is pending at the time such law of regulation is adopted.

3.2 INSTITUTIONAL CONTROLS FOR THE CALIFORNIA GULCH SUPERFUND SITE

3.2.1 **General Provisions**
A. **Purpose.** Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq. and the National Contingency Plan 40 C.F.R. Part 300, the U.S. Environmental Protection Agency (EPA) has selected remedies for the various operable units of the California Gulch Superfund Site (Site) where EPA determined that institutional controls are necessary as a supplement to engineering controls, to manage waste left in place, to comply with applicable State laws, and to protect human health and the environment. The purpose of these regulations is to establish institutional controls to meet the requirements of the various EPA Records of Decision, Action Memoranda or ESD that require institutional controls, to implement requirements designed to prevent contaminated soils from being handled inappropriately, and to assist EPA in deleting the Site from the National Priorities List (NPL).

B. **Authority.** These regulations are adopted pursuant to the powers and authority conferred by the laws of the State of Colorado.

C. **Findings.** The Board of County Commissioners, County of Lake, State of Colorado finds that:

1. These regulations are necessary to comply with U.S. Environmental Protection Agency requirements for institutional controls for the various operable units of the California Gulch Superfund Site.

2. Enactment of these regulations is required by EPA in order to achieve deletion of the various operable units from the National Priorities List (NPL).

3. The implementation of these institutional controls which regulate excavation and building activities within certain locations of the California Gulch Superfund Site may minimize the disturbance, transfer, inhalation and ingestion of contaminated soils, thus potentially lessening any risk posed by certain portions of the Site to the public health and safety.

D. **Definitions.**

1. **California Gulch Superfund Site:** Those areas within Lake County consisting of approximately 18 square miles that are designated as the California Gulch Superfund Site by the U.S. Environmental Protection Agency (EPA) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., as amended. EPA added the California Gulch site to the National Priorities List in 1983. In 1994, the site was divided into 12 geographically based areas, also called operable units or OU's.

2. **Engineered Remedy:** An EPA-approved clean up action that is designed, built or managed to address contaminated areas of a Superfund site. Engineered remedies must remain intact in order to protect the integrity of the remedy and generally cannot be disturbed or constructed upon. The engineered remedies subject to institutional controls for certain operable units of the California Gulch Superfund site will be defined by a map contained in the Lake County Building and Land Use Department, Clerk and Recorder's Office and the Assessor's Office.

3. **Institutional Control (IC):** Institutional controls are non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land or resource use and/or by providing information that helps modify or guide human behavior at a site.
4. National Priorities List: The National Priorities List (NPL) is the list of hazardous waste sites eligible for long-term remedial action financed under the federal Superfund program. EPA may delete a final NPL site if it determines that no further response is required to protect human health or the environment. Partial deletions may also be conducted at Superfund sites.

5. Non-Engineered Remedy: A non-engineered remedy is an EPA-approved remedy comprised of a geographical area of an operable unit that does not include an engineered remedy. Non-engineered remedies can be constructed upon. They may require proper management of potentially contaminated materials in order to protect the integrity of the remedy and to prevent human and environmental exposure. The non-engineered remedies subject to institutional controls for certain operable units of the California Gulch Superfund site will be defined by a map contained in the Lake County Building and Land Use Department, Clerk and Recorder's Office and the Assessor's Office.

6. Operable Unit 3 (OU3): This operable unit is fully described by the EPA Record of Decision for Operable Unit 3, dated May 6, 1998. Generally, OU3 encompasses several different slag piles and historic rail yards, including the Harrison Avenue slag pile and a portion of the Mineral Belt Trail.

7. Operable Unit 8 (OU8): This operable unit is fully described by the EPA Record of Decision for Operable Unit 8, dated September 2000. Generally, OU8 consists of the 500-year floodplain that is located between the Yak Water Treatment Plant and the point where the gulch enters the Arkansas River. Work on this operable unit was completed in 2002 including removal of tailings, non-residential soils and channel stabilization.

8. Operable Unit 9 (OU9): Operable Unit 9 includes those portions of the California Gulch site where the land use is residential or that are currently owned as residential/populated areas and as low-density residential areas.

9. Operable Unit 4 (OU4): This operable unit is fully described by the EPA Record of Decision for Operable Unit 4, dated March 31, 1998. Generally, OU4 is a watershed area located in upper California Gulch above the Yak Tunnel which also contains fluvial tailings and waste rock piles. An ESD prepared by EPA in 2004 exempted the Oro City/Fluvial tailings from the ROD.

10. Operable Unit 7 (OU7): This operable unit is fully described by the EPA Record of Decision for Operable Unit 7, dated June 6, 2000. Generally, OU7 consists of the Apache Tailings Impoundment that was consolidated and capped in 2002.

11. Operable Unit 2 (OU2): This operable unit is fully described by the EPA Record of Decision for Operable Unit 2, dated September 30, 1999. Generally, OU2 encompasses the Malta Gulch drainage. OU2 was deleted from the National Priorities List in June 2001.

12. Operable Unit 5 (OU5): This operable unit is fully described by two EPA Records of Decision for Operable Unit 5, dated September 29, 2000 and October 31, 2000. Generally, OU5 encompasses the ASARCO Smelter/Colorado Zink-Lead Mill Site – smelter sites around Leadville and one mill site. The smelter sites include the EGWA sites (Elgin Smelter, Grant/Union Smelter, Western Zink Smelter and Arkansas Valley South Hillside Slag Pile) and the AV/CAL sites (Arkansas Valley Smelter and Colorado Zink-Lead Mill.)

E. Variances. These institutional control regulations are exempted from the variance standards of the Lake County Land Development Code Section 3.21. No variances will be permitted from this section of the Code.

3.2.2 Best Management Practices Informational Handout.
Each applicant for a building permit within the boundaries of Operable Unit 3, Operable Unit 8, the seventeen mine waste piles in Operable Unit 9, Operable Unit 4, Operable Unit 7, Operable Unit 2 and Operable Unit 5 of the California Gulch Superfund site will be provided with a handout from the Lake County Building Department regarding Best Management Practices for managing potentially contaminated soils in Lake County. Each applicant will be obligated to sign a document attesting to the fact that he/she has read and understood the Lake County Best Management Practices handout. No building permit will be issued without the applicant's written acknowledgement provided to the County.

(Revised April 2013)

3.2.3 Institutional Controls

A. Operable Unit 3 of the California Gulch Superfund Site.

1. Engineered Remedies. It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in operable unit 3 of the California Gulch Superfund Site without prior notification and approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

2. Non-Engineered Remedies. It shall be unlawful to excavate and remove any earthen materials including, but not limited to, native dirt, native soil, mine waste rock or mine tailings from the owned parcel on an EPA non-engineered remedy in excess of ten (10) cubic yards in operable unit 3 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3. Penalty. Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of One Hundred dollars ($100.00). Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from the Lake County Building and Land Use Department.

B. Operable Unit 8 of the California Gulch Superfund Site.
1. **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in operable unit 8 of the California Gulch Superfund Site without prior notification and approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

2. **Non-Engineered Remedies.** It shall be unlawful to excavate and remove any earthen materials including, but not limited to, native dirt, native soil, mine waste rock or mine tailings in excess of ten (10) cubic yards from an EPA non-engineered remedy in operable unit 8 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3. **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of One Hundred dollars ($100.00). Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from the Lake County Building and Land Use Department.

C. **Seventeen Mine Waste Piles Located in Operable Unit 9 of the California Gulch Superfund Site.**

1) **EPA** issued an ESD (Explanation of Significant Differences) in September 2009 to document significant differences to the Record of Decision (ROD) for Operable Unit 9. The September 2009 ESD documents EPA’s decision to require institutional controls for seventeen mine waste piles within Operable Unit 9 that have soils at the surface that are under the 3500 ppm lead residential action level but may have lead contamination at depth that exceeds the residential lead action level. EPA designated the seventeen mine waste piles as engineered remedies in the ESD. EPA has prepared a map that identifies the specific mine waste pile. Those piles are identified as numbers 12, 13, 18, 20, 23, 27, 31, 32, 33, 34, 35, 36, 207, 329, 331, 339 and 340. This map will be located in the Lake County Building Department, Clerk and Recorder's Office and Assessor's Office.

2) **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an
engineered remedy in Operable Unit 9 of the California Gulch Superfund Site without prior notification and approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3) **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of $100.00. Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from the Lake County Building Department.

D. **Operable Unit 4 of the California Gulch Superfund Site.**

1) **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in Operable Unit 4 of the California Gulch Superfund Site without prior notification and approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within 10 days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

2) **Non-Engineered Remedies.** It shall be unlawful to excavate and remove any earthen materials including but not limited to native dirt, native soil, mine waste rock or mine tailings from the owned parcel on an EPA non-engineered remedy in excess of 10 cubic yards in Operable Unit 4 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within 10 days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.
3) **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of $100.00. Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from the Lake County Building Department.

**E. Operable Unit 7 of the California Gulch Superfund Site.**

1. **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in Operable Unit 7 of the California Gulch Superfund Site without prior notification and approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within 10 days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

2. **Non-Engineered Remedies.** It shall be unlawful to excavate and remove any earthen materials including, but not limited to, native dirt, native soil, mine waste rock or mine tailings from an EPA non-engineered remedy in Operable Unit 7 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within 10 days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3. **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of $100.00. Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from the Lake County Building Department.

**F. Operable Unit 2 of the California Gulch Superfund Site.**

1. **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in Operable Unit 2 of the California Gulch Superfund Site without prior notification and approval from Colorado Department of Public Health and Environment.

2. **Non-Engineered Remedies.** It shall be unlawful to excavate and remove any earthen materials including, but not limited to, native dirt, native soil, mine waste rock or mine tailings from the
owned parcel on an EPA non-engineered remedy in excess of ten (10) cubic yards in Operable Unit 2 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3. **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of one hundred dollars ($100.00). Additionally, the infraction will be reported to the Colorado Department of Public Health and Environment by letter from Lake County Building and Land Use.

(Revised April 2013)

**G. Operable Unit 5 of the California Gulch Superfund Site**

1. **Engineered Remedies.** It shall be unlawful to erect, construct, reconstruct, alter or modify the footprint of any building, structure or improvements on land, including excavation, within an engineered remedy in Operable Unit 5 of the California Gulch Superfund Site without prior notification and approval from Colorado Department of Public Health and Environment.

2. **Non–Engineered Remedies.** It shall be unlawful to excavate and remove any earthen materials including, but not limited to, native dirt, native soil, mine waste rock or mine tailings from the owned parcel on an EPA non-engineered remedy in excess of ten (10) cubic yards in Operable Unit 2 of the California Gulch Superfund Site without prior approval from the Colorado Department of Public Health and Environment.

Written proof of approval from the Colorado Department of Public Health and Environment is a condition precedent to issuance of a building permit by the Lake County Building and Land Use Department. The applicant must submit a written request for approval to the Colorado Department of Public Health and Environment with a copy to the Lake County Building and Land Use Department, each via certified mail. The Colorado Department of Public Health and Environment will provide an initial response within ten (10) days of receipt of the written request and will use best efforts to coordinate with landowners to provide a timely resolution of the request. Applicants are solely responsible for obtaining written approval from the Colorado Department of Public Health and Environment.

3. **Penalty.** Failure to provide proof of prior notification and approval from the Colorado Department of Public Health and Environment for these prohibited activities is subject to a civil penalty of one hundred dollars ($100.00). Additionally, the infraction will be reported to the
Colorado Department of Public Health and Environment by letter from Lake County Building and Land Use.

(Revised April 2013)

3.3 BUILDING PERMITS

This Section establishes procedures, requirements and other provisions related to the construction, alteration, occupancy and use of buildings and other structures in unincorporated Lake County and it establishes a permitting system for the issuance of building permits.

3.3.1 **Purpose and Applicability.** It shall be unlawful to erect, construct, reconstruct, alter or remodel any building, structure or improvements of land except as allowed for by this Code, the appropriate sections of the current building codes, and all other codes as have been adopted by Lake County.

3.3.2 **Conditions for Permit Issuance.** The County Chief Building Official shall approve and issue building permits only if upon review of an application and submittal materials and upon site inspection, as required, the proposed building, structure, foundation or improvements are in full compliance with:

A) All applicable policies, requirements and other provisions contained within this Code, and

B) The specifications and other provisions of the current building codes adopted by Lake County, and

C) All other such specifications and codes as may have been adopted by the Board of County Commissioners.

3.3.3 **Application and Processing Requirements.** Applications for building permits shall be made to the County Chief Building Official. Such applications shall be accompanied by drawings to scale or complete design plans showing, at a minimum, plot plan and location, floor plan, the height and size of all proposed buildings and other structures and the location of all proposed fences, signs, parking, loading, snow storage, grading, drainage, accessory and temporary land improvements. The County Chief Building Official may require such additional submittals as are reasonably necessary to evaluate the proposed structure and to process such permit applications.

3.4 CERTIFICATES OF OCCUPANCY

3.4.1 **Purpose and Applicability.** No building shall be changed in use nor shall any new structure or building be used or occupied without a certificate of occupancy having previously been issued by the County Chief Building Official.

3.4.2 **Conditions for Issuance.**

A) Certificates of occupancy shall be issued only for structures, buildings and land
improvements that comply with all provisions of this Code and with all building, plumbing, mechanical, fire and other codes currently adopted by Lake County. Buildings and other structures failing to meet this requirement shall be denied a certificate of occupancy until such time as they meet these provisions.

B) No certificate of occupancy shall be issued by Lake County or any agent or employee of the county for the use of any building or structure not serviced by centralized sewage treatment facilities until a final inspection of the individual sewage disposal system has been made by the County Chief Building Official or other authorized agent, as provided for in C.R.S., Section 25-10-106(1)(h), and the installation has received the approval of the County Chief Building Official, county sanitarian and/or other authorized agent of the Board of County Commissioners.

3.4.3 Application and Processing Requirements.

A) Certificates of occupancy shall be issued within 5 working days of the completion of an inspection of the structure, building or land improvement provided that the structure, building or land improvement meets the requirements of Section 3.4.2.

B) Copies of all certificates of occupancy shall be filed in the office of the County Chief Building Official and shall be available for public examination.

3.5 COMPREHENSIVE PLAN AMENDMENTS

3.5.1 General Statutory Compliance. When adopting amendments to the Lake County Comprehensive Plan, the Planning Commission shall comply with the adoption and certification procedures and other requirements contained in C.R.S. Sections 30-28-108 and 30-28-109.

3.5.2 Timing.

A) Comprehensive Plan Text Amendments. The text of the Lake County Comprehensive Plan may be amended no more than once per year, after the annual Land Use Plan Review.

B) Land Use Plan Map Amendments. The Land Use Plan Map may be amended no more than once per year, after the annual Land Use Plan Review.

3.5.3 Application Filing. Applications for an amendment to the Lake County Comprehensive Plan shall be submitted to the Land Use Department.

3.5.4 Public Hearing Notice

A) Comprehensive Plan Text Amendments. Notice of the public hearing shall be published in accordance with the requirements of Section 3.1.7.

B) Land Use Plan Map Amendments. Written, published and posted notice of the public hearing shall be provided in accordance with the requirements of Section 3.1.7.

3.5.5 Land Use Department’s Review and Report. The Land Use Department shall review each proposed Land Use Plan amendment in light of the Approval Criteria of Section 3.5.8 and
provide a report to the Planning Commission.

3.5.6 **Referral Procedures.** Proposed amendments to the Comprehensive Plan may be referred to any appropriate referral agencies and private parties prior to review of the proposed amendment by the Planning Commission.

3.5.7 **Public Hearing.** The Planning Commission shall hold a public hearing on proposed Land Use Plan Amendments before taking action to approve or deny the Land Use Plan Amendment, based on the Approval Criteria of Section 3.5.8.

3.5.8 **Approval Criteria.** The Planning Commission may approve the proposed Land Use Plan Amendments only if they determine that the proposed amendment is consistent with the overall purpose and intent of the *Lake County Comprehensive Plan* and with any intergovernmental agreements then in effect between the County and any other unit of government and that:

   A) There was an error in the original *Lake County Comprehensive Plan* adoption in that the Planning Commission failed to take into account then existing facts, projects or trends that were reasonably foreseeable to exist in the future; or

   B) Events after adoption of the *Lake County Comprehensive Plan* have changed the Planning Commission' original assumptions and findings at the time of plan adoption; or

   C) Events after adoption of the *Lake County Comprehensive Plan* have changed the character or condition of an area so as to make the proposed amendment acceptable.

3.5.9 **Planning Commission Certification.** If a Land Use Plan Amendment is approved by the Planning Commission, Certification of the Amendment shall be provided to the Board of County Commissioners and other municipalities in the County, in accordance with state statutes.

3.6 **CONDITIONAL USE PERMITS**

3.6.1 **General Provisions**

   A) **Application.** The conditional uses enumerated in Chapter 5 may be allowed in an eligible zoning district upon review and recommendation by the Planning Commission and approval by the Board of County Commissioners. A conditional use permit shall be subject to such conditions and safeguards as the Board of County Commissioners may impose in order that the conditional use comply with the general intent and specific provisions of the *Lake County Comprehensive Plan*, this Code, and be in harmony with the character of the surrounding area, provided that such conditions comply with the approval criteria of Section 3.6.1 F).

   B) **Duration.** Conditional uses shall be permitted indefinitely and run with the land, unless a period of time is specified by the Board of County Commissioners or until the land use changes or is terminated, whichever occurs first. Each conditional land use approved by the Board is subject to review each year or as often as the Board of County Commissioners deems necessary to protect the character of the area or the public health, safety, and welfare.
C) **Review and Revocation of a Conditional Use Permit.** In its decision approving a conditional use permit, the Board of County Commissioners may request the Planning Commission to review the terms, conditions or other provisions of conditional use permits issued by the Board from time to time. Upon review of the permit provisions, the Planning Commission may specify time periods in which any violations of the terms or conditions shall be corrected. In the event that the Planning Commission recommends revocation of the conditional use permit, such recommendation and the reasons for it shall be forwarded to the Board of County Commissioners within 10 days of that action and within 30 days the Board of County Commissioners shall schedule a public hearing, as specified in Section 3.1.7 of this Code. Following the conduct of the public hearing the Board shall act to revoke, not revoke, or impose additional or amended conditions or sanctions on the conditional use permit holder. Failure to comply with any of the conditions under which the permit was issued or to comply with statements made in an application for a conditional use permit, shall be adequate reason for revoking a conditional use permit.

D) **Performance Bond Requirements for Certain Conditional Use Permit Applications.** Applicants for a conditional use permit may be required to furnish a written, legally binding agreement to the Board of County Commissioners to secure required site restorations in a manner acceptable to the Board of County Commissioners prior to the issuance of a conditional use permit. Such agreements shall include specifications and construction schedules for restoration, as established or approved by a registered professional engineer, and commitments for the posting of a performance bond or other financial security instrument in a form and amount adequate to address potential impacts of the conditional use, or determined by the Board of County Commissioners.

E) **Procedures for Review and Action.**

1) **Preapplication Conference.** Applicants shall schedule and attend a Preapplication Meeting before filing an application for a Conditional Use Permit.

2) **Joint Hearing Between of BOCC and Planning Commission.** Upon proper submission of a complete application, the Planning Commission and the Board of County Commissioners shall conduct a joint public hearing on the application. Notice of the joint public hearing shall be provided by mail, posting, and publishing, in accordance with the requirements of Section 3.1.7.

3) **Planning Commission Review and Recommendation.** Following the public hearing, the Planning Commission shall submit a written statement to the Board of County Commissioners presenting its recommendation on the application for a conditional use permit, and the reasoning behind its recommendation, based upon the Approval Criteria of Section 3.6.1 F). The Planning Commission shall recommend approval, denial or conditional approval and shall forward its recommendation and statement of findings to the Board within 10 days of its action.

4) **Board of County Commissioners Review and Decision.** Within 30 days of receiving the Planning Commission recommendation, the Board of County Commissioners shall consider the recommendation at a regular or special session of the Board and shall act to approve, deny or conditionally approve the application, based on the Approval Criteria of Section 3.6.1 F).
F) **Approval Criteria.** All actions by the Planning Commission in reviewing and making recommendation on a conditional use application and by the Board of County Commissioners in approving, conditionally approving, or disapproving such application shall be based upon the provisions of this Code, and specifically on the following criteria:

1) That the proposed conditional use is consistent with the goals, objectives and policies contained in the *Lake County Comprehensive Plan*.

2) That the proposed conditional use conforms to the requirements and provisions of this Code.

3) That adequate public safety, transportation, and utility facilities will be available to serve the subject property while maintaining sufficient levels of service for existing development.

4) That the proposed conditional use is not likely to be detrimental to the public health, safety or welfare of County residents or to cause hardship for neighboring persons.

5) That the proposed conditional use is consistent with and in harmony with neighboring land uses and future intended land uses in the area.

6) That the proposed conditional use will not result in overly intensive use of the land relative to the surrounding land.

7) That the proposed conditional use will not result in traffic congestion or hazards to vehicular or pedestrian traffic.

8) That the proposed conditional use not unnecessarily scar the land on which such use would be located.

9) That the proposed site of the conditional use is and will be free from natural or man-made hazards, or that such hazards can and will be adequately mitigated.

### 3.6.2 Conditional Use Permits for Manufactured Housing Parks

**A) General.** The site selection or development of a manufactured housing park as a conditional use in an allowable zoning district shall be allowed upon review and recommendation by the Planning Commission and approval of a final site plan, or a final plat by the Board of County Commissioners. Issuance of a conditional use permit for a manufactured housing park shall be subject to such conditions as the Board of County Commissioners may see fit to impose in order that the conditional use: a) comply with the general intent and special provisions of the *Lake County Comprehensive Plan* and this Code, b) be in harmony with and not be detrimental to the population and resources of the surrounding area, and c) serve the needs of the residents of the proposed park.

**B) Manufactured Housing Park Subdivisions.** Any manufactured housing park in which spaces, parcels or lots will be subdivided for sale outright or on a time-shared basis is a manufactured
housing park subdivision. Before such subdivision or sale of spaces, lots or parcels may take place, the applicant must comply with the provisions of both this Section 3.6.2 and with the subdivision regulations of this Code and must receive final plat approval from the Board of County Commissioners prior to the recordation of the final plat and associated documents.

C) Relationship to Other Regulations and Requirements.

1) Nothing in this regulation shall be construed as exempting an applicant for a permit for the development of a manufactured housing park as a conditional use in an allowable zoning district from any other requirements of Lake County or from other State of Colorado or federal laws, regulations or requirements.

2) The provisions of this regulation are in addition to the provisions contained in the conditional use standards section and other requirements of this Code. To the extent that the requirements of this regulation differ from any other applicable requirements of this Code, the more restrictive requirements shall apply, as shall the subdivision design standards contained in Chapter 6 of this Code.

3) This manufactured housing park regulation is supplemental to the Colorado Department of Health Sanitary Standards and Regulations for Manufactured Housing Parks and compliance with this Lake County regulation shall not exempt a manufactured housing park applicant, owner or operator from all present and future Colorado Department of Health regulations.

4) Occupancy. No manufactured housing or manufactured housing unit shall be occupied on any park site until or unless all improvements have been completed as shown on approved submittal materials required and until complete and proper inspections of such improvements have been completed by the County Building Inspector.

5) Dependent Mobile Homes. Dependent mobile homes, as defined in this Code, shall not be permitted in manufactured housing parks.

D) Application Filing. Applications for a conditional use permit for a manufactured housing park shall be filed with the Land Use Department, and shall include the materials, specifications, maps, and information specified by the Land Use Department.

1) Conceptual Site Plan. Submission and review of a conceptual site plan is the first phase in the two phase manufactured housing park conditional use permit review process. The purpose of this phase is to ensure that the proposed development is adequately explained, to describe the manner in which utilities and other infrastructure would be provided, and to provide an opportunity for conceptual level review and approval of the proposed manufactured housing park.

2) Final Site Plan.

a) Submission and review of a final site plan is the second and final phase in the manufactured housing park conditional use permit review process. The purpose of this phase is to ensure that the detailed plans of development are in keeping with
previous approvals granted and requirements imposed at the conceptual site plan review stage, and to provide the final technical, engineering and legal documentation.

b) Applicants wishing to phase development may do so in accordance with a detailed phasing plan submitted along with their other final site plan submittal materials.

c) Final site plans shall be prepared in a clear and legible manner in reproducible format at the same scale as the conceptual site plan unless the Land Use Administrator deems otherwise. Those portions of the plan addressing engineering, roads, utilities, or soils shall be prepared by a qualified engineer. Final site plan sheets and accompanying plan sheets shall be submitted to the Planning Department for action within 12 months after the date that a conceptual site plan for the same proposed development was approved by the Board of County Commissioners. One extension of up to 12 months may be approved by the Land Use Department upon the submission of a written request for such extension prior to the expiration of the initial 12 month period. Failure to submit an acceptable final site plan within this allowable period shall require an applicant to resubmit a conceptual site plan with the necessary application fees and associated submittal materials.

E) Procedures for Review and Action

1) Procedures for Review and Action on a Conceptual Plan

a) Applicants shall schedule and attend a Preapplication Meeting before filing an application for a Conceptual Plan.

b) The Land Use Department shall review the conditional use permit application materials for completeness and adequacy. If the Land Use Department acts not to accept a conditional use permit application because the materials are incomplete or inadequate, the applicant shall be notified in writing within 10 working days regarding the reason(s) why the materials were not accepted for review and action.

c) Once the application materials have been accepted, a joint public hearing with the Planning Commission and Board of County Commissioners shall be scheduled on the application, with notice of such hearing published, posted, and mailed in accordance with Section 3.1.7.

d) The Land Use Department shall decide to distribute all or a portion of the submittal materials to referral review by appropriate outside agencies.

e) The Land Use Department may refer all or a portion of the conceptual plan submittal materials to outside agencies for comment, such agencies shall be given at least 30 days for referral and written response before action is taken on the conceptual site plan application.

f) Following the conduct of the joint public hearing, the Planning Commission shall review and recommend that the Board of County Commissioners approve, deny,
or conditionally approve the application, and the Planning Commission shall forward its recommendation to the Board of County Commissioners within 10 days of its action.

g) Within 30 days of receiving such materials, the Board of County Commissioners shall consider the recommendation of the Planning Commission and shall act to approve, deny, conditionally approve, or continue the conceptual site plan application. Actions continued by the Board of County Commissioners shall be reconsidered within 30 days. The Board of County Commissioners shall also provide the Planning Commission with notification of the action taken within 30 days of each action.

h) Approval of a conceptual site plan by the Board of County Commissioners shall not constitute nor presume acceptance or approval of any required or other subsequent submissions and the Board may, at its discretion, require that the applicant comply with any condition imposed at the conceptual review stage before the Planning Commission or the Board of County Commissioner will consider a final site plan or other related submission.

2) Procedures for Review and Action on a Final Site Plan

a) Applicants shall schedule and attend a Preapplication Meeting before filing an application for a Final Site Plan.

b) The Land Use Department shall review the conditional use permit application materials for completeness and adequacy. If the Land Use Department acts not to accept a conditional use permit application because the materials are incomplete or inadequate, the applicant shall be notified in writing within 10 working days regarding the reason(s) why the materials were not accepted for review and action.

c) Once the application materials have been accepted, a joint public hearing with the Planning Commission and Board of County Commissioners shall be scheduled on the application, with notice of such hearing published, posted, and mailed in accordance with section 3.1.7.

d) The Land Use Department may distribute the submittal materials for referral by appropriate review agencies. Such agencies shall be given 30 days for referral and written response.

e) Following the conduct of the joint public hearing, the Planning Commission shall recommend that the Board of County Commissioners approve, deny, or conditionally approve the final site plan. The Planning Commission shall take action no later than the date of its next regularly scheduled meeting after the date of the joint public hearing. The Planning Commission shall forward its recommendation to the Board within 10 days of its action.

f) Within 30 days of receiving such materials, the Board of County Commissioners shall consider the recommendation of the Planning Commission and shall act to approve, deny, conditionally approve, or continue the final site plan application.
Actions continued by the Board of County Commissioners shall be reconsidered within 30 days. The Board of County Commissioners shall also provide the Planning Commission with notification of the action taken within 30 days of such action.

F) Criteria for Action. All actions by the Planning Commission in reviewing and making recommendations on a conditional use permit for the site selection, development, or expansion of a manufactured housing park, and by the Board of County Commissioners in approving or disapproving such applications, including the conceptual site plan and the final site plan, shall be based upon the provisions of this Code and specifically on the following criteria:

1) The criteria contained in Section 3.6.1 F) of this Code.

2) That all required application materials have been properly prepared and submitted to Lake County in compliance with the provisions of this Code, that all filing fees have been paid to Lake County and that the proposed manufactured housing park development plans as shown in the submittal requirements will meet the design standards and specifications contained in Section 5.2.13.

3) The site selection criteria contained in Section 5.2.13 A) of this Code.

4) No conditional use permit for a manufactured housing park may be issued until the Board of County Commissioners has approved a conceptual site plan and a final site plan for said manufactured housing park.

G) Review and Revocation

1) The provisions for the review and revocation of conditional use permits for a manufactured housing park shall be as specified in Section 3.6.1 C) above, except that the county staff shall inspect the manufactured housing park at least annually, or more frequently upon the receipt of complaints, or as specified in the conditional use permit, and shall note in writing any violations, and report to the Board of County Commissioners within 30 days of such inspection, and shall recommend whether a formal review of the conditional use permit shall be undertaken in accordance with the provisions of Section 3.6.1 C) of this Code. Copies of all written reports shall also be provided to the owner or operator of the manufactured housing park.

2) The owner or operator of a manufactured housing park shall have 60 days from the date of receiving a written report on the violations to correct all noted violations before the Planning Commission may initiate its review in accordance with the provisions of Section 3.6.1 C). The county staff shall re-inspect the site at the end of this 60 day period to determine which violations have been adequately remedied.

3) Failure of an owner or operator of a manufactured housing park to provide adequate and reasonable inspection opportunity to the county staff or elected or appointed official of Lake County is a violation of Section 3.6.2 G) of this Code and shall be sufficient reason to conduct an immediate review and revocation hearing subject to the public notice requirements of Section 3.6.1 C).
H) *Guarantee of Performance.* Prior to the issuance of a conditional use permit an applicant shall be required to post suitable collateral in an amount satisfactory to address potential impacts of the manufactured housing park, as determined by the Board of County Commissioners, and to enter into a Development Agreement with Lake County governing this performance collateral. Said collateral shall be in the form of a payment and performance bond or other suitable financial instrument to cover in full or in part, as determined by the Board of County Commissioners, the cost of all proposed and required site improvements. As such site improvements are completed, inspected and determined to be in conformance with approved plans, standards and specifications, the collateral shall be released by the Board of County Commissioners in accordance with the terms of the Development Agreement.

### 3.7 DEVELOPMENT AGREEMENTS

#### 3.7.1 Purpose.
In connection with any Conditional Use Permit, Rezoning, Major Subdivision, or Planned Unit Development approval, the Board of County Commissioners shall be authorized to enter into a Development Agreement with the applicant. Development Agreements may include provisions clarifying the phasing of construction, the timing, location and financing of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods of between 3 and 10 years, assurances that adequate public facilities (including roads, water, sewer, fire protection and emergency medical services) will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public.

#### 3.7.2 Contents.
Development Agreements may contain the following:

A) Descriptions of the acceptable and prohibited uses on the property;

B) The density of proposed uses, including maximum floor area and height of buildings;

C) Provisions for the reservation or dedication of land for public purposes;

D) Proposed schedule for the construction of public improvements, and assurances that public improvements will be available as needed to serve new development;

E) Proposed timing and phasing of the development project;

F) Provisions to mitigate the impacts of proposed development on the general public, including the protection of environmentally sensitive lands;

G) Provisions for public benefits or improvements in excess of what is required by current County policy or law;

H) Terms relating to applicant financing of facilities and subsequent reimbursement;

I) Terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
J) A provision that construction shall begin by a specified date or that certain phases shall be completed within a specified time; and

K) Termination date for the Development Agreement.

3.7.3 **Review Criteria.** Any proposed Development Agreement shall be reviewed by applicable review and decision-making bodies at the same time that the Rezoning, Major Subdivision, or Planned Unit Development is reviewed. Review bodies shall have the same power to make recommendations regarding the proposed Development Agreement as they do for the related development approval. Procedures for review and approval of Development Agreements shall be the same as for the related development approval. In reviewing and acting upon proposed Development Agreements, review and decision-making bodies shall consider the Approval Criteria for the development application and the following additional criteria:

A) Whether the benefit of the Development Agreement to the County outweighs its costs;

B) Whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable; and

C) Whether the County has received adequate assurances that the development will go forward as planned in return for any vesting of property rights beyond the statutory 3-year vesting period.

3.8 **LAND DEVELOPMENT CODE AMENDMENTS**

3.8.1 **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting before filing a proposed amendment to this Land Development Code.

3.8.2 **Amendment Filing.**

A) Proposed amendments to the Code shall be submitted to the Land Use Department. Included with the application shall be a statement of the proposed language or other change and an explanation of why the proposed change is desired. Amendments to the various provisions of this Code may be proposed by a private individual or organization, the Planning Commission, or by the Board of County Commissioners.

B) Each proposed change to the text shall be considered as an individual action requiring payment of a separate application fee unless the Board of County Commissioners, upon petition by an applicant, decides otherwise.

3.8.3 **General Procedure.** All proposed amendments not originating with the Planning Commission shall first be referred to the Planning Commission for review and recommendation and then submitted to the Board of County Commissioners for final decision.

3.8.4 **Land Use Department’s Review and Report.** The Land Use Department shall review each proposed amendment in light of the approval criteria of Section 3.8.9 and, if deemed necessary, distribute the application to other reviewers (30 day review period). Based on the results of those reviews, the Land Use Department shall provide a report to the Planning
Commission.

3.8.5 **Joint Public Hearing.** Proposed amendments shall be considered at a public hearing jointly held by the Planning Commission and the Board of County Commissioners. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

3.8.6 **Planning Commission’s Review and Recommendation.** Following the completion of the public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the proposed amendment based upon the Approval Criteria of Section 3.8.9. Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

3.8.7 **Board of County Commissioner’s Review and Decision.** After receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve or deny the proposed amendment based on the approval criteria of Section 3.8.9.

3.8.8 **Adoption by Resolution.** Proposed amendments shall be adopted by resolution. The Land Use Department shall ensure that all approved amendments are reflected in the official text of the Land Development Code promptly after the resolution authorizing the amendment is adopted by the Board of County Commissioners.

3.8.9 **Approval Criteria.** Proposed amendments to this Code may be approved if the Board of County Commissioners determines that all of the following approval criteria have been met:

A) The proposed amendment is consistent with the goals, objectives, policies and other provisions of the *Lake County Comprehensive Plan*, and this Code;

B) The proposed amendment is necessary because of changing social values, new planning concepts, or other social or economic conditions; and

C) The proposed amendment will promote the public health, safety, and general welfare.

3.8.10 **Special Review and Adoption Provisions**

A) Proposed amendments to matters of local concern and state interest (H.B.1041) provisions of this Code shall be submitted to the Colorado Land Use Commission for review and comment.

3.9 **NAMING/RENAMING OF ROADS.**

3.9.1 **Application Filing.** Applications for naming or renaming of roads shall be submitted to the Land Use Department.

3.9.2 **Land Use Department’s Review and Report.** The Land Use Department shall review each application in light of the Approval Criteria of Section 3.9.3 and act to approve or deny the application.

3.9.3 **Approval Criteria.** The Land Use Department may approve an application for naming or renaming a road if they find that both of the following criteria have been met:
A) The proposed new name for the road is not so similar to the name of an existing road in the county or any town or city in the county that it would create public confusion as to the location of the road; and

B) The proposed naming or renaming will not otherwise create any continuing confusion to drivers, public safety personnel, or area residents as to the location of the road.

3.10 PLAT AMENDMENTS

3.10.1 Applicability.

A) Plat amendments are minor changes to approved and recorded plats, and shall not be considered a subdivision of land within the intent and definitions of this Code so long as:

1) The minor changes are not undertaken for the purposes of circumventing the subdivision regulations of this Code; and

2) The minor changes do not include modifications that would alter the intended land uses, develop density regarding the number of lots or the amount of dedicated land, or that would alter the circulation system, or encompass more than 25 percent of the land included within an approved and recorded subdivision.

B) Specifically included within the scope of minor changes are the following actions: the adjustment and revision of lot lines in ways that do not increase or decrease the number of lots, the re-platting of lots, the reconfiguration of dedicated easements and reserved sites along with similar minor changes to an approved and recorded plat, so long as the minor changes create no nonconforming lots, nor alter road locations, drainage easements or violate the subdivision design standards contained herein.

C) The re-subdivision of land or substantial changes to a recorded plat shall be considered a subdivision or the subdivision of land and shall be subject to the subdivision and other applicable provisions of this Code.

3.10.2 Preapplication Meeting. Applications shall schedule and attend a Preapplication Meeting before filing a rezoning application. See Section 3.1.6.

3.10.3 Application Filing. Plat Amendment applications shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

3.10.4 Notice. Notice of a filing of a Plat Amendment shall be provided by mail, posting, and publishing, in accordance with the requirements of Section 3.1.7.

3.10.5 Criteria for Action on a Plat Amendment Application. The Land Use Department may approve an application for a Plat Amendment if they determine that the proposal satisfies all of the following criteria:

A) That the proposed amendment meets the requirements of this Code for a minor change to an
approved and recorded plat, and does not require a re-subdivision.

B) That the proposed amendment will be consistent with all other provisions of this Code and will not cause significant hardship or inconvenience for adjacent or neighboring land owners or tenants.

C) That the proposed amendment will not be detrimental to the public health, safety or welfare of county residents.

3.10.6 Notice of Decision. Notice of the decision on a Plat Amendment shall be mailed to the applicant and all other parties who have made a written request for notification.

3.10.7 Recording. The Land Use Department shall record the Amended Plat with the Clerk and Recorder upon approval.

3.10.8 Appeals. Appeals of the action of the Land Use Department may be taken to the Board of County Commissioners by filing an appeal with the Land Use Department within 30 days of the Land Use Department’s decision on the matter. The Board of County Commissioners shall consider the appeal at a public hearing as a new matter and act to approve, approve with conditions or deny the application. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7 and approval criteria shall be the same as required of the original action before the Land Use Department (see Section 3.10.5). If more than one appeal is filed concerning a single decision, the appeals will be consolidated into a single appeal for review.

3.10.9 LOT CONSOLIDATIONS.

A) Applicability. Lot Consolidations are the combining of two or more lots into a single lot thereby eliminating prior lot line boundaries on approved and recorded plats.

B) Preapplication Meeting. Applicants shall schedule and attend a Preapplication Meeting before filing a Lot Consolidation application. See Section 3.1.6.

C) Application Filing. Lot Consolidation applications shall be submitted to the Land Use Department, who shall determine materials to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

D) Notice. There are no notice requirements for a Lot Consolidation.

E) Criteria for Action on a Lot Consolidation Application. The Land Use Department may approve an application for a Lot Consolidation if it is determined that the proposal satisfies all of the following criteria:

1) That the proposed Lot Consolidation will be consistent with all other provisions of this Code and will not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants.

2) That the proposed Lot Consolidation will not be detrimental to the public health, safety or welfare of county residents.
F) **Notice of Decision.** Notice of the decision on a Lot Consolidation shall be mailed to the applicant and all other parties who have made a written request for notification.

G) **Recording.** The Land Use Department shall record the new, Amended Plat with the Lake County Clerk and Recorder.

H) **Appeals.** Appeals of the action of the Land Use Department may be taken to the Board of County Commissioners by filing an appeal with the Land Use Department within 30 days of the Land Use Department’s decision on the matter. The Board of County Commissioners shall consider the appeal at a public hearing as a new matter and act to approve, approve with conditions or deny the application. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7 and approval criteria shall be the same as required of the original action before the Land Use Department (see Section 3.10.5). If more than one appeal is filed concerning a single decision, the appeals will be consolidated into a single appeal for review.

3.11 PLANNED UNIT DEVELOPMENTS

3.11.1 **Statutory Consistency.** This Section is intended to be consistent with the provisions of CRS Title 24, Article 67 (Colorado Planned Unit Development Act of 1972), and to supplement those provisions as permitted by CRS Title 29, Article 20 (Colorado Local Government Land Use Control Enabling Act). In the event of any inconsistency of this Section with the provisions of such acts, the provisions of such laws shall govern.

3.11.2 **General.** A Planned Unit Development (PUD) is a zoning classification that replaces the requirements of the previous zone district where the property is located. PUDs are approved in three steps.

The first step requires the approval of a PUD Sketch Plan describing the terms of the development and the ways in which the previous zone district is being modified.

The second step involves the review and approval of a Preliminary PUD Plan and Plat for the development.

The third step involves the simultaneous review and approval of a Rezoning to the PUD district and a Final PUD Plan and Plat for the development.

3.11.3 **PUD Sketch Plan.** A Sketch Plan is a generalized land use plan and development envelope for the area proposed to be included within a PUD district. It is required as a means of allowing early review of a proposed PUD before substantial planning work has been undertaken and before substantial expenses have been incurred. A Sketch Plan must cover all of the land area to be included in the PUD and identify the type and total amount of development to occur within the PUD (dwelling units and nonresidential floor area as well as the proposed plan for pedestrian and vehicular circulation within and leading to the PUD). If the PUD is be developed in phases, a phasing plan must also be established as part of the Sketch Plan.

A) **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting...
before filing a PUD Sketch Plan application. See Section 3.1.6.

B) **Application Filing.** Sketch Plan applications shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

C) **Land Use Department’s Review and Report.** The Land Use Department shall review each PUD Sketch Plan application in light of the Approval Criteria of Section 3.11.3 G) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

D) **Joint Public Hearing.** PUD Sketch Plan applications shall be considered at a public hearing jointly held by the Planning Commission and the Board of County Commissioners. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

E) **Planning Commission’s Review and Recommendation.** Following the completion of the joint public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.11.3 G). Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

F) **Board of County Commissioners’ Review and Decision.** Within 30 days of receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve, approve with conditions, or deny the rezoning based on the approval criteria of Section 3.11.3 G).

G) **PUD Sketch Plan Approval Criteria.** PUD Rezoning’s and Sketch Plans may be approved by the Board of County Commissioners only if they find that all of the following criteria have been met:

1) The proposed PUD is consistent with the *Lake County Comprehensive Plan*; and

2) Facilities and services (including sewage and waste disposal, domestic water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development.

H) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact, which shall include a finding of whether the proposed Sketch Plan is consistent with the *Lake County Comprehensive Plan*. Those written findings shall be stated in the Board’s resolution approving or denying the Sketch Plan. The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioners’ written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

I) **Effect of Sketch Plan Approval.** The Sketch Plan shall govern the preparation of the
required Preliminary PUD Plan and Plat.

J) **Lapse of Sketch Plan Approval.** An approved Sketch Plan shall lapse and be of no further force and effect if a complete Preliminary PUD Plan and Plat application for the PUD or phase of the PUD has not been submitted within 1 year of the date of the Sketch Plan approval by the Board of County Commissioners. In the event that approval lapses, the Sketch Plan shall be of no effect, and the property may be developed only in accordance with the regulations of the underlying base zoning district. In the event of lapse of approval, the Land Use Department shall record a lapse of approval affidavit with the Lake County Clerk and Recorder.

An applicant may apply to the Land Use Department in writing prior to the expiration of such one-year period to request a one-year extension of the above deadline for good cause. The Land Use Department shall forward such extension request to the Planning Commission for a recommendation, and to the Board of County Commissioners for a decision on such extension. Only one such extension shall be granted to any approved PUD Sketch Plan.

3.11.4 **Preliminary PUD Plans and Plats.** A Preliminary Plan and Plat allows for detailed analysis and review of the overall design and proposed infrastructure for the PUD.

A) **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting before filing a Preliminary PUD Plan and Plat application. See Section 3.1.6.

B) **Application Filing.** Preliminary PUD Plan and Plat applications shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

C) **Land Use Department’s Review and Report.** The Land Use Department shall review each PUD Preliminary Plan and Plat application in light of the Approval Criteria of Section 3.11.4 G) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

D) **Joint Public Hearing.** Preliminary PUD Plan and Plat applications shall be considered at a public hearing jointly held by the Planning Commission and the Board of County Commissioners. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

E) **Planning Commission’s Review and Recommendation.** Following the completion of the joint public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.11.4 G). Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

F) **Board of County Commissioners’ Review and Decision.** Within 30 days of receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve, approve with conditions, or deny the Preliminary PUD Plan and Plat based on the approval criteria of Section 3.11.4 G).
G) **Preliminary PUD Plan and Plat Approval Criteria.** Preliminary PUD Plan and Plat applications may be approved by the Board of County Commissioners only if they find that all of the following criteria have been met:

1) The Preliminary PUD Plan and Plat is consistent with the approved PUD Sketch Plan;

2) The Preliminary PUD Plan and Plat complies with all applicable requirements of this Land Development Code;

3) The Preliminary PUD Plan and Plat complies PUD Development Standards of Section 6.1;

4) Any proposed modification of any requirement of this Code meets the approval criteria of Section 6.1.1; and

5) facilities and services (including sewage and waste disposal, domestic water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

H) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact. Those written findings shall be stated in the Board’s resolution approving or denying the Preliminary PUD Plan and Plat. The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioners’ written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

I) **Technical Disputes.** As a means of resolving technical disputes between the applicant’s licensed or registered professionals and the County, such disputes may be referred to a qualified employee of the appropriate state department for a recommendation. The financial cost of any such referral will be charged to the applicant.

J) **Effect of Preliminary PUD Plan and Plat Approval.** The Preliminary PUD Plan and Plat shall govern the preparation of the required Final PUD Plan and Plat.

K) **Lapse of Preliminary PUD Plan and Plat Approval.** An approved Preliminary PUD Plan and Plat shall lapse and be of no further force and effect if a complete Final PUD Plan and Plat application for the PUD has not been submitted within 1 year of the date of Preliminary PUD Plan and Plat approval by the Board of County Commissioners. In the event that approval lapses, the Preliminary PUD Plan and Plat shall be of no effect, and the property may be developed only in accordance with the regulations of the underlying base zoning district. In the event of lapse of approval, the Land Use Department shall record a lapse of approval affidavit with the Lake County Clerk and Recorder.

An applicant may apply to the Land Use Department in writing prior to the expiration of such one year period to request a one year extension of the above deadline for good cause. The Land Use Department shall forward such extension request to the Planning Commission for a recommendation, and to the Board of County Commissioners for a decision on such
extension. Only one such extension shall be granted to any approved Preliminary PUD Plan and Plat.

3.11.5 **Final PUD Plan/Plat and Rezoning.** Final PUD Plan/Plat and rezoning approval, in accordance with the procedures of this subsection, shall be required before the issuance of any permit for construction within the PUD district.

A) **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting before filing a Final PUD Plan/Plat and Rezoning application. See Section 3.1.6.

B) **Application Filing.** Final PUD Plan/Plat and Rezoning applications shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal.

C) **Land Use Department’s Review and Report.** The Land Use Department shall review each PUD Final Plan/Plat and Rezoning application in light of the Approval Criteria of Section 3.11.5 G) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

D) **Joint Public Hearing.** Final PUD Plan/Plat and Rezoning applications shall be considered at a public hearing jointly held by the Planning Commission and the Board of County Commissioners. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

E) **Planning Commission’s Review and Recommendation.** Following the completion of the joint public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.11.5 G). Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

F) **Board of County Commissioners’ Review and Decision.** Within 30 days of receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve, or deny the Final PUD Plan and Plat based on the approval criteria of Section 3.11.5 G).

G) **Final PUD Plan/Plat and Rezoning Approval Criteria.** Final PUD Plan/Plat and Rezoning applications may be approved by the Board of County Commissioners only if they determine that the Final PUD Plan/Plat and Rezoning:

1) complies with the approved Preliminary PUD Plan and Plat;

2) includes all revisions and conditions imposed by the Board of County Commissioners during their approval of the Preliminary PUD Plan and Plat;

3) the PUD will result in a substantial benefit to the County, compared to what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the Purposes set out in Section 1.4;
4) The same development could not be accomplished through the use of other techniques, such as rezoning to a non-PUD district or variances;

5) The PUD complies with the intent of the PUD zoning district as described in Section 4.2.11;

6) The PUD will not be detrimental to the public health, safety or welfare of County residents;

7) The land proposed for the PUD or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of this Code to encourage different densities or uses within the land in question.

H) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact. Those written findings shall be stated in the Board’s resolution approving or denying the Final PUD Plan and Plat. The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioner’s written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

I) **Technical Disputes.** As a means of resolving technical disputes between the applicant’s licensed or registered professionals and the County, such disputes may be referred to a qualified employee of the appropriate state department for a recommendation. The financial cost of any such referral will be charged to the applicant.

J) **Lapse of Final PUD Plan and Plat Approval.** The right to develop in accordance with an approved Final PUD Plan and Plat shall lapse and be of no further effect if the developer has failed to substantially construct the development shown on the approved Final PUD Plan and Plat within 3 years of the date of Final PUD Plan and Plat approval. Substantial construction is considered to have occurred when building permits for more than half of the buildings within the PUD have been obtained and are valid. If the developer has failed to meet the substantial construction requirement, he must request a major modification to the PUD (see Section 3.11.6).

If approval lapses, the Land Use Department shall record a lapse of approval affidavit with the Lake County Clerk and Recorder and initiate action to rezone the property to a zoning classification that is consistent with the Lake County Comprehensive Plan, in accordance with the Rezoning procedure of Section 3.13.

3.11.6 **PUD Amendments.** Proposed amendments to PUDs will be reviewed as either Pre-Rezoning amendments or Post-Rezoning amendments.

A) **Pre-Rezoning Amendments.** Any proposed amendment, revision or modification of a PUD which is requested prior to recordation of the Final PUD Plan/Plat and Rezone approval is subject to the review procedures and approval criteria for that step in the PUD approval process:

1) Amendments to an approved PUD Sketch Plan will be reviewed under the review and
approval procedures of Section 3.11.3, PUD Sketch Plan.

2) Amendments to an approved Preliminary PUD Plan and Plat will be reviewed under the review and approval procedures of Section 3.11.4, Preliminary PUD Plan and Plat.

3) Amendments to an approved but unrecorded Final PUD Plan and Plat will be reviewed under the review and approval procedures of Section 3.11.5, Final PUD Plan/Plat and rezone.

B) Post-Rezoning Amendments. Amendments, revisions or modifications of a PUD which are requested after the recordation of the Final PUD Plan/Plat and Rezone approval shall be classified as either a Minor amendment or a Major Amendment.

1) Minor Changes. Minor changes to a PUD may be authorized by the Land Use Department. The following are considered minor changes:

   a) Changes in the location, size, siting, height, or other characteristic of a structure;
   b) The adjustment and revision of lot lines; and
   c) The reconfiguration of utility easements.

2) Major Changes. Major changes to a PUD shall be processed as a Final PUD Plan/Plat application. Major changes include, but are not limited to:

   a) Changes in uses or density;
   b) Reconfiguration of the circulation system or dedicated lands; and
   c) Changes that encompass more than twenty-five (25) percent of the land within that phase of the PUD.

3.12 REHEARINGS IN REZONING, SUBDIVISION, PUD, AND CONDITIONAL USE PERMIT CASES

3.12.1 Re-submittal of Denied Application Prohibited; Exception. An application for a rezoning, subdivision, PUD, or a conditional use permit which has been denied by the Board of County Commissioners may not be resubmitted nor accepted for consideration for a period of 2 years following the denial of such application by the Board of County Commissioners; provided, however, that within such 2 year time period the applicant may petition the Board of County Commissioners for a rehearing as provided in this Section.

3.12.2 Petition for Rehearing.

   A) Within 2 years of the date of the denial of an application for a rezoning, subdivision, PUD, or a conditional use permit, the applicant may petition the Board of County Commissioners for a rehearing on its application. Said petition shall consist of (a) a verified petition signed by the applicant alleging that the amended application constitutes a substantial change to the application which was denied and specifying what changes have been made from the prior
application, (b) an amended application complete in all respects and containing all
information required in connection with the original application, (c) an updated list of all
adjacent property owners as required in connection with the original application, and (d)
such other information as the applicant shall desire to have considered by the Board in its
determination of the petition.

B) The burden of proof shall be on the applicant to demonstrate that there has been a substantial
change to the application which was denied. For purposes of this Section the term "substantial change" shall mean a change in the applicant's plans or the conditions of the
proposed project as presented in the petition which significantly affects one or more of the
reasons for the original denial of the application.

C) Upon receipt of a petition for rehearing the Board of County Commissioners shall review
the petition and within 30 days of the Board's receipt of the petition either (a) deny the
petition without a hearing if it appears to the Board, based upon the contents of the petition
and any accompanying information supplied by the applicant, that the applicant has not
carried its burden of demonstrating a substantial change to the application, or (b) set a
hearing before the Board to consider the petition. If a hearing is set, such hearing shall be
conducted within 120 days of the Board's receipt of the petition.

D) Notice of a substantial change hearing shall be provided pursuant to the general notice
provisions of Section 3.1.7.

E) The decision whether to grant or deny a petition for rehearing shall be within the discretion
of the Board; provided, however, that the Board may grant a petition for rehearing only
where the Board determines, based upon the petition and evidence presented at the hearing,
that an applicant has demonstrated substantial change.

F) When the Board of County Commissioners grants a petition for rehearing, the amended
application submitted with the petition shall be considered as a new application and
processed by the Planning Commission and Board of County Commissioners in accordance
with the applicable provisions of this Code. A new submittal fee shall be required in
connection with such new application. The decision of the Board to approve, approve with
conditions, or deny the amended application shall be governed by the standards set forth in
this Code with respect to new applications for a rezoning or a conditional use permit,
whichever is applicable.

G) No petition for rehearing may be granted during the pendency of any appeal or legal action
contesting the decision of the Board of County Commissioners to deny the original rezoning,
subdivision, or conditional use application.

3.13 REZONINGS

3.13.1 Preapplication Meeting. Applicants shall schedule and attend a Preapplication Meeting
before filing a rezoning application. See Section 3.1.6.

3.13.2 Application Filing. Rezoning applications shall be submitted to the Land Use Department,
and shall contain such materials, maps, or other information specified by the Land Use
Department.
3.13.3 Approval Criteria. All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the Board of County Commissioners in approving or disapproving such application shall be reviewed under the following standards:

A) If the proposed rezoning is found by the Planning Commission or Board of County Commissioners, respectively, to be consistent with the Lake County Comprehensive Plan.

B) If the proposed rezoning is found by the Planning Commission or Board of County Commissioners, respectively, to be inconsistent with or not in compliance with all parts of the Lake County Comprehensive Plan, the application for the proposed rezoning must show either:

   I) That an error was made in establishing the current zoning or its application to a specific lot, tract, or parcel; or

   II) That the proposed rezoning bears a reasonable relationship to the welfare of the community, and there has been change in the conditions of the neighborhood that supports the requested rezoning.

3.13.4 Land Use Department’s Review and Report. The Land Use Department shall review each proposed rezoning in light of the approval criteria of Section 3.13.3 and, if deemed necessary, distribute the application to other reviewers (30 day review period). All proposed rezonings located within two miles of the boundary of an incorporated municipality or a neighboring county shall be submitted to that municipality or county for review as a referral agency. Based on the results of those reviews, the Land Use Department shall provide a report to the Planning Commission.

3.13.5 Joint Public Hearing. Rezoning applications shall be considered at a public hearing jointly held by the Planning Commission and the Board of County Commissioners. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

3.13.6 Planning Commission’s Review and Recommendation. Following the completion of the public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.13.3. Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

3.13.7 Board of County Commissioner’s Review and Decision. Within 30 days of receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve, approve with conditions, or deny the rezoning based on the approval criteria of Section 3.13.3.

3.13.8 Adoption by Resolution. Rezonings shall be adopted by resolution. The Planning Department shall ensure that all approved rezonings are depicted on the official zoning map promptly after the resolution authorizing the rezoning is adopted by the Board of County Commissioners.

3.14 SIGN PERMITS
3.14.1 Application Filing. Applications for sign permit review shall be made to the Land Use Department. Upon payment of the required application fee and the submission of the required application materials, the Land Use Department shall decide, on the basis of the Approval Criteria in Section 6.14, whether to issue a sign permit, whether to deny the permit, or whether to refer the permit application to the Planning Commission because the sign would be located in as Scenic Conservation Overlay (SCO) district.

3.14.2 Submittal Requirements. Applications for a sign permit shall include a legible drawing showing all dimensions of the area and a site plan showing the location, setbacks, height, appearance, construction materials and sign area of all proposed signs and sign alterations, and such other information as the Land Use Department may deem necessary for adequate review of the appearance and impacts of the sign.

3.14.3 Signs in SCO District. The Planning Commission shall review all sign applications for a sign to be located in a Scenic Conservation Overlay District. All signs to be located in a SCO District must conform with the requirements of that district.

3.14.4 Approval Criteria. In acting on an application for a sign permit, the decision-making body shall approve the application only if it finds:

A) That the location, character and other features of the proposed sign are consistent with the applicable provisions of this Code.

B) That the size, location, and appearance of the sign will not cause danger to the safety of the motoring public.

3.14.5 Appeals. Any person denied a sign permit by the County Chief Building Official may appeal that decision to the Board of Adjustment within 30 days of the denial. The Planning Commission shall review and make recommendations to the Board of Adjustment on all sign permit appeals. All Board of Adjustment decisions regarding the issuance of sign permits shall be recorded in the minutes of the Board of Adjustment and the County Chief Building Official shall promptly issue such sign permits as the Board of Adjustment authorizes.

3.15 SITE PLANS

3.15.1 General. Site Plan review is required prior to the development of a lot or parcel. The development proposal is evaluated relative to the zoning and development standards of this Code prior to the issuance of a building permit.

3.15.2 Applicability. Site plan approval shall be required before issuance of a building permit for any of the following:

A) Any commercial or industrial development;

B) Any multi-family development; and

C) Any development in a Scenic Conservation Overlay District.
3.15.3 **Application Filing.** Applications for Site Plan approval shall be submitted to the Land Use Department, and shall include such information as the Land Use Department deems necessary to review the appearance, functions, and impacts of the proposed development.

3.15.4 **Review and Action.**

A) The Land Use Department shall review each application for Site Plan approval outside a Scenic Conservation Overlay District and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.15.5.

B) The Planning Commission shall review each application for Site Plan approval in a Scenic Conservation Overlay District and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.15.5. Any proposed building or other structure that the Planning Commission deems to represent an intrusion on the scenic view within a SCO district shall be prohibited unless the intrusion can be mitigated to an extent satisfactory to the Planning Commission. Mitigation measures shall be stated in written form and the Planning Commission may, at its discretion, require that a bond be posted to ensure that the mitigation measures be carried out within a reasonable period of time.

3.15.5 **Notice.** Notice of filing of an application for Site Plan approval shall be mailed and posted in accordance with the requirements of Section 3.1.7.

3.15.6 **Approval Criteria.** The decision-making body shall approve a Site Plan if it determines that the proposed development will comply with the *Lake County Comprehensive Plan*, all applicable requirements of this Code, and all prior approvals granted by the County.

3.15.7 **Notice of Decision.** Notice of the decision shall be mailed to the applicant and all other parties who have made a written request for notification.

3.15.8 **Appeals.** Appeals of decisions on a Site Plan application may be made to the Board of Adjustment.

3.15.9 **Lapse of Approval.** The right to develop in accordance with an approved Site Plan shall lapse and be of no further effect if all development shown on the approved Site Plan is not complete and a Certificate of Occupancy issued within 3 years of the date of Site Plan approval. If approval lapses, the Land Use Department shall record a lapse of approval affidavit with the County Clerk and Recorder.

3.16 **SUBDIVISION - MAJOR**

3.16.1 **Applicability.** The Major Subdivision procedures of this Section apply to the following:

A) All land divisions resulting in 3 or more lots; and

B) All land divisions of parcels that have been included in a Minor Subdivision within the preceding 25 years.
C) The procedures of this Section do not apply to any division of land exempted by C.R.S. 30-28-101(10).

D) The procedures of this section shall not apply to those exceptions provided for in C.R.S. Sec. 30-28-101(10) or to development or permit applications eligible for processing under the Minor Subdivision procedures of Section 3.17.

3.16.2 General. Major Subdivisions are approved in three steps: Sketch Plan approval, Preliminary Plat approval, and Final Plat approval.

A) A Sketch Plan application is a conceptual proposal that provides an overview of a proposed subdivision and allows generalized discussion of the apparent merits and perceived problems of a particular subdivision configuration.

B) A Preliminary Plat application allows a detailed review of the proposed subdivision in the context of the technical requirements, design standards, and improvement requirements of this Code, the Roadway Design Standards and Construction Specifications for Lake County, Colorado, and any other applicable regulations of Lake County or the State of Colorado.

C) A Final Plat application must demonstrate that the final technical and legal documents are consistent with previous approvals granted for the proposed.

3.16.3 Sketch Plan. A Sketch Plan is a generalized land use plan and development envelope for the area proposed to be included within the subdivision. It is required as a means of allowing early review of a proposed subdivision before substantial planning work has been undertaken and before substantial expenses have been incurred. A Sketch Plan must cover all of the land area to be included in the subdivision and identify the type and total amount of development to occur (lot size and density as well as the proposed plan for pedestrian and vehicular circulation within and leading to the subdivision). If the subdivision is be developed in phases, a phasing plan must also be established as part of the Sketch Plan.

A) Preapplication Meeting. Applicants shall schedule and attend a Preapplication Meeting before filing a sketch plan application. See Section 3.1.6.

B) Application Filing. Sketch Plan applications shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

C) Land Use Department’s Review and Report. The Land Use Department shall review each Sketch Plan application in light of the Approval Criteria of Section 3.16.3 G) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

D) Joint Hearing Between of BOCC and Planning Commission. Sketch Plan applications shall be considered at a public hearing jointly held by the Board of County Commissioners and the Planning Commission. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.
E) **Planning Commission’s Review and Recommendation.** Following the completion of the joint public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.16.3 G). Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

F) **Board of County Commissioner’s Review and Decision.** Within 30 days of receiving the recommendation of the Planning Commission, the Board of County Commissioners shall act to approve, approve with conditions, or deny the sketch plan based on the approval criteria of Section 3.16.3 G).

G) **Sketch Plan Approval Criteria.** Sketch Plans may be approved by the Board of County Commissioners only if they find that all of the following criteria have been met:

1) The proposed subdivision is consistent with the *Lake County Comprehensive Plan*;

2) **Facilities and Services:** The applicant shall submit proper documentation from the appropriate service provider or special district confirming that said entity is willing and able to provide their respective service to all lots within the Subdivision, while maintaining adequate levels of service to existing development. Include statements from the following providers, as applicable: sewage and waste disposal, domestic water, gas, electricity, telephone, cable television, open space, police and fire protection, and roads and transportation.

3) **Water Plan:** Applicant will provide a written statement of intent regarding a plan to provide adequate water to the entire subdivision.

4) **Traffic:** The applicant shall provide a written statement regarding traffic impact to the area.

5) **Fire Access:** The applicant shall submit proof of adequate fire access to the Subdivision.

H) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact, which shall include a finding of whether the proposed Sketch Plan is consistent or inconsistent with the *Lake County Comprehensive Plan*. Those written findings shall be stated in the Board’s resolution approving or denying the Sketch Plan. The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioner’s written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

I) **Lapse of Sketch Plan Approval.** An approved Sketch Plan shall lapse and be of no further force and effect if a complete Preliminary Plat application for the subdivision or phase of the subdivision has not been submitted within 1 year of the date of the Sketch Plan approval by the Board of County Commissioners. If the subdivision is to be developed in phases, a phasing plan with lapse dates shall be approved as part of the Sketch Plan approval. In the event that approval lapses, the Sketch Plan shall be of no effect, and the property may be developed only in accordance with the regulations of the zoning district. In the event of lapse of approval, the Land Use Department shall record a lapse of approval affidavit with
the Lake County Clerk and Recorder.

An applicant may apply to the Land Use Department in writing prior to the expiration of such one (1) year period to request a one year extension of the above deadline for good cause. The Land Use Department shall forward such extension request to the Planning Commission for a recommendation, and to the Board of County Commissioners for a decision on such extension. Only one such extension shall be granted to any approved Sketch Plan.

3.16.4 Preliminary Plat Procedures for Review and Action

A) Preapplication Meeting. Applicants shall schedule and attend a Preapplication Meeting before filing a Preliminary Plat application. See Section 3.1.6.

B) Application Filing. Preliminary Plat applications shall be submitted to the Land Use Department who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

C) Land Use Department’s Review and Report. The Land Use Department shall review each Preliminary Plat application in light of the Approval Criteria of Section 3.16.4 G) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

D) Joint Hearing Between of BOCC and Planning Commission. Preliminary Plat applications shall be considered at a public hearing jointly held by the Board of County Commissioners and the Planning Commission. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

E) Planning Commission Review and Recommendation. Following the public hearing, the Planning Commission shall submit a written statement to the Board of County Commissioners presenting its recommendation on the application for a Preliminary Plat, and the reasoning behind its recommendation, based upon the Approval Criteria of Section 3.16.4 G). The Planning Commission shall recommend approval, denial or conditional approval and shall forward its recommendation and statement of findings to the Board within 10 days of its action.

F) Board of County Commissioners Review and Decision. Within 30 days of receiving the Planning Commission recommendation, the Board of County Commissioners shall consider the recommendation at a regular or special session of the Board and shall act to approve, deny or conditionally approve the application, based on the Approval Criteria of Section 3.16.4 G).

G) Approval Criteria. A Preliminary Plat shall be approved by the Board of County Commissioners if it determines that:

1) The proposed subdivision is consistent with the policies, goals, and objectives of the Lake County Comprehensive Plan;

2) The proposed Preliminary Plat is consistent with the approved Sketch Plan;
3) The proposed subdivision complies with this Code and all other applicable codes and development regulations adopted by Lake County; and

4) **Facilities and Services:**

a) If applicable, a water augmentation plan approved by the water court must be submitted before Final Plat approval;

b) If water service to the Subject Property and development of the Subdivision shall be provided utilizing on-lot groundwater supply systems in accordance with the *Lake County Land Development Code* guidelines, well permits shall be obtained from the Colorado Division of Water Resources. Further, in accordance with the provisions of *Lake County Land Development Code*, the Applicant shall install such systems or shall require by deed restriction or otherwise in a manner satisfactory to the Board of County Commissioners, as a condition of sale of each lot within the proposed subdivision, that such on-site water supply systems shall be installed by the purchaser of the lot at the time of construction of the principal building and before it is occupied;

c) If water service to the Subject Property and development of the Subdivision shall be provided utilizing on-lot groundwater water supply systems, then the applicant must apply for an augmentation plan through the State of Colorado. Such augmentation plan shall be approved by the Land Use Department prior to filing with the Water Court. The Land Use Department shall approve the augmentation plan only if it supplies the entire Subdivision with adequate water.

d) All utilities are to be provided to the lots within the Subdivision as outlined in Section 3.16.4(G) of the Code;

e) Require a Plat Note dedicating all easements in the Subdivision to the respective service provider.

5) **Roads:**

a. All roads, driveways and cul-de-sacs within the Subdivision must meet County Road Standards.

b. All roadways in the Subdivision shall be platted as separate parcels owned and maintained by the Homeowners’ Association, until such a time that the decision might be made to dedicate the parcels to the Lake County Road System.

c. Require a Plat Note stating that driveways must meet County Road Standards.

d. Require a Plat Note dedicating all roads in the Subdivision to public use.

e. Require a Plat Note stating that Lake County shall have no responsibility for the maintenance, snow plowing or paving of any such roads until accepted by the county.

6) **Parking:** Require a Plat Note prior to Final Plat Approval: “Each residential lot must provide the number of off-street parking spaces (including garage spaces) per residential dwelling unit” as defined in Table 6.1 of the Land Development Code.
7) **Snow:** The developer must submit a snow management plan that is acceptable to the Lake County Land Use and Road & Bridge Departments. Such plan shall provide appropriate snow storage easements to be located adjacent to the public roads throughout the Subdivision.

1. **Drainage:**
   a. The applicant must submit a final drainage plan, including a storm water run-off plan, prepared by a professional engineer.
   b. Other issues: adequate culverts, grade, drainage ditches (with riprap and flared end sections) for all roads and driveways as defined by the Roadway Design Standards and Construction Specifications for Lake County or as defined by the Lake County Road and Bridge Superintendent.
   c. Drainage easements are provided.

2. **Homeowners’ Association:**
   a) The applicant shall submit Articles of Incorporation and Bylaws for an incorporated homeowners’ association, in a form acceptable to the County Attorney, prior to Final Plat Approval.
   b) Applicant must submit, in a form acceptable to the County Attorney, documentation confirming the obligation of the homeowners’ association to maintain any communal elements in the Subdivision in perpetuity.
   c) Applicant shall submit, in a form acceptable to the County Attorney, covenants for the Subdivision.
   d) Applicant shall submit, in a form acceptable to the County Attorney, Final Plat for the Subdivision.

10) **Impact Fees:** At the time of final plat approval the County shall impose a land dedication and/or cash-in-lieu requirement, pursuant to Section 6.2.1 (G) of the Lake County Land Development Code.

11) **Other Considerations:**
   a. Bike Path/Trail Issues: If any, should be dedicated to the public and built to County Standards.
   b. Monuments/Survey Markers: All survey monuments of the Final Plat shall be confirmed to comply with C.R.S Section 38-51-101 et seq.
   c. Wildlife: Potential impacts on wildlife have been mitigated.
   d. Require a Plat Note that requires visible, posted addresses.
   e. The Applicant shall enter into a Subdivision Improvement Agreement as required by §30-28-137, C.R.S., and Section 3.7 of the Land Development Code. The execution of such Agreement must have been authorized by a Resolution duly
adopted by the Board of County Commissioners as required by Section 6.2.1(G), 6), A of the *Land Development Code*.

H) **Final Plat Process - Delegation.** As a part of the preliminary plat review, the Board of County Commissioners shall determine the process the developer must follow for the Final Plat application. The Board of County Commissioners may delegate the Final Plat application to be processed administratively. If the Board does not delegate the Final Plat to administrative processing, the application must be processed as a public hearing application.

I) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact. Those written findings shall be stated in the Board’s resolution approving or denying the Preliminary Plat. Those findings shall also state the Final Plat review process to be followed by the developer.

In the event of denial, the Board of County Commissioner’s written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County.

J) **Technical Disputes.** As a means of resolving technical disputes between the applicant’s licensed or registered professionals and the County, such disputes may be referred to a qualified employee of the appropriate state department for a recommendation. The financial cost of any such referral will be charged to the applicant.

K) **Lapse of Preliminary Plat Approval.** An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within 1 year of the date of Preliminary Plat approval by the Board of County Commissioners. If approval lapses, the Land Use Department shall record a lapse of approval affidavit with the Clerk and Recorder of Lake County.

An applicant may apply to the Land Use Department in writing prior to the expiration of such one year period to request a one year extension of the above deadline for good cause. The Land Use Department shall forward such extension request to the Planning Commission for a recommendation, and to the Board of County Commissioners for a decision on such extension. Only one such extension shall be granted to any approved Preliminary Plat.

L) **No Effect on Subsequent Submissions.** Approval of a Preliminary Plat by the Board of County Commissioners shall not constitute nor presume acceptance or approval of any required or other subsequent submissions and the Board may, at its discretion, require that the applicant comply with any conditions imposed at the preliminary plat stage before the Planning Commission or Board of County Commissioners will consider a final plat or other related submission.

### 3.16.5 Final Plat Procedures for Review and Action

A) **Public Hearing Process.**
1) **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting before filing a Final Plat application. See Section 3.1.6.

2) **Application Filing.** Final Plat applications shall be submitted to the Land Use Department who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

3) **Land Use Department’s Review and Report.** The Land Use Department shall review each Final Plat application in light of the Approval Criteria of Section 3.16.5 C) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report to the Planning Commission and Board of County Commissioners.

4) **Joint Hearing Between of BOCC and Planning Commission.** Final Plat applications shall be considered at a public hearing jointly held by the Board of County Commissioners and the Planning Commission. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7.

5) **Planning Commission Review and Recommendation.** Following the completion of the joint public hearing, the Planning Commission shall recommend approval, approval with conditions, or denial of the application based upon the Approval Criteria of Section 3.16.5 C). Within 10 days of taking its action, the Planning Commission shall forward its recommendation to the Board of County Commissioners, and may include a summary of its reasoning along with the recommendation.

6) **Board of County Commissioners Review and Decision.** Within 30 days of receiving the Planning Commission recommendation, the Board of County Commissioners shall consider the recommendation at a regular or special session of the Board and shall act to approve, deny or conditionally approve the application, based on the Approval Criteria of Section 3.16.5 C).

7) **Findings of Fact.** The decision of the Board of County Commissioners shall be accompanied by written findings of fact. Those written findings shall be stated in the Board’s resolution approving or denying the Final Plat. The findings shall also be filed with the Planning Office and the Clerk and Recorder of Lake County. In the event of denial, the Board of County Commissioner’s written finding shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

**B) Administrative Process.**

1) **Preapplication Meeting.** Applicants shall schedule and attend a Preapplication Meeting before filing a Final Plat application. See Section 3.1.6.

2) **Application Filing.** Final Plat applications shall be submitted to the Land Use Department who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal and its impacts.

3) **Land Use Department’s Review and Report.** The Land Use Administrator shall review
each Final Plat application in light of the Approval Criteria of Section 3.16.5 C) and may distribute the application to other referral agencies. Based on those reviews, the Land Use Department shall provide a report.

4) **Land Use Department’s Action.** The Land Use Department shall act to approve or deny the Final Plat based on the Approval Criteria of Section 3.16.5 C).

5) **Appeals.** Appeals of the action of the Land Use Department shall be taken to the Board of County Commissioners by filing an appeal with the Land Use Department within 30 days of the date of the decision on the matter. The Board of County Commissioners shall consider the appeal at a public hearing as a new matter and act to approve, approve with conditions, or deny the application. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7. The approval criteria shall be the same as required of the original action before the Land Use Department.

C) **Final Plat Approval Criteria.** Final Plat applications may be approved by the Board of County Commissioners only if they determine that the Final Plat:

1) Complies with the approved Preliminary Plat; and

2) Includes all revisions and conditions imposed by the Board of County Commissioners during their approval of the Preliminary Plat.

D) **Technical Disputes.** As a means of resolving technical disputes between the applicant’s licensed or registered professionals and the County, such disputes may be referred to a qualified employee of the appropriate state department for a recommendation. The financial cost of any such referral will be charged to the applicant.

E) **Lapse of Final Plat Approval.** If the approved Final Plat is not recorded with the Clerk and Recorder of Lake County within 3 years of the date of approval of the Final Plat, the Final and Preliminary Plats and Sketch Plan shall lapse and be of no further effect. If approval lapses, the Land Use Department shall record a lapse of approval affidavit with the Lake County Clerk and Recorder.

F) **Acceptance of Dedications.** Approval of a Final Plat shall not, in and of itself, constitute acceptance of any public improvements. Such acceptance will require separate action by the Board of County Commissioners.

### 3.17 SUBDIVISION - MINOR

#### 3.17.1 Applicability

Only Minor Subdivisions shall be processed in accordance with the procedures of this section. Eligibility criteria for Minor Subdivisions include the following:

A) If no portion of the unplatted parcel has been divided through a Minor Division during the preceding 25 years, one unplatted parcel may be divided into no more than two platted parcels, in accordance with the Minor Division procedures of this section. This will include situations in which one platted parcel is divided by an existing road.

B) If the parcel has not been platted previously, the subject parcel may be divided into no more
than two platted parcels, in accordance with the Minor Division procedures of this section.

C) For the purpose of interpreting the Minor Subdivision eligibility requirements of this subsection, the parcel to be divided shall be deemed to include all units of land shown on County records as a unit or as contiguous units in common ownership.

3.17.2 Preapplication Meeting. Applicants shall schedule and attend a Preapplication Meeting before filing a Minor Subdivision application. (See Section 3.1.6).

3.17.3 Application Filing. Minor Division applications shall be submitted to the Land Use Department.

3.17.4 Notice. Notice of filing of a Minor Division application shall be mailed, posted, and published in accordance with the requirements of Section 3.1.7.

3.17.5 Approval Criteria. The Land Use Department may approve an application for a Minor Division if they determine that the proposal satisfies all of the following criteria:

A) The proposal is consistent with the Lake County Comprehensive Plan;

B) The proposal complies with the regulations of the zoning district in which it is located and with other applicable standards of this Land Development Code,

C) The proposal will not impose substantial hardships or inconvenience on landowners, residents or agricultural operators located within the written notification area defined in Section 3.1.7;

D) The proposal will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife and vegetation;

E) The proposed division does not require the construction of a new access road;

F) The proposed division is not located within a geologic hazard area; and

G) Adequate facilities and services (such as sewage and waste disposal, domestic and irrigation water, gas, electricity, telephone, cable television, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development.

3.17.6 Notice of Decision. Notice of the decision on a Minor Division shall be mailed to the applicant and all other parties who have made a written request for notification.

3.17.7 Acceptance of Dedications. Approval of a Minor Division shall not constitute acceptance of any public improvements. Such acceptance will require separate action by the Board of County Commissioners.

3.17.8 Recording. The Land Use Department shall record the Minor Division with the Clerk and Recorder upon approval.
3.17.9 Appeals. Appeals of the action of the Land Use Department may be taken to the Board of County Commissioners by filing an appeal with the Land Use Administrator within 30 days of the Land Use Department’s decision on the matter. The Board of County Commissioners shall consider the appeal at a public hearing as a new matter and act to approve, approve with conditions or deny the application. Notice of such hearing shall be provided pursuant to the general notice procedures of Section 3.1.7 approval criteria shall be the same as required of the original action before the Land Use Department (see Section 3.17.5). If more than one appeal is filed concerning a single decision, the appeals will be consolidated into a single appeal for review.

3.18 SUBDIVISION - EXEMPTIONS

3.18.1 General Exemption from the Definition of a Subdivision. The Board of County Commissioners may, pursuant to the rules and regulations of this Code or by individual resolution, exempt from the definition of the terms "subdivision" or "subdivided land" any division of land if the Board of County Commissioners determines that such division is not within the purposes or scope of this Code or the purposes of the subdivision laws of the State of Colorado, pursuant to C.R.S. Section 30-28-101(10).

A) General Exemption Procedures.

1) Applications for subdivision exemptions shall be submitted to the Land Use Department, and shall include materials as determined by the Land Use Department.

2) Applications for a subdivision exemption shall be processed in the same manner as a Preliminary Plat for a Major Subdivision under this Code (see Section 3.16.4).

3.18.2 35 Acres. Divisions of land creating parcels of land of 35 acres or more are exempt from the subdivision regulations of this Code.

3.18.3 Property Line Adjustment - Unplatted Parcels. This subsection applies to lot line adjustments between adjacent parcels where no additional parcels are created.

A) Property Line Adjustment Exemption Procedures. Applications for property line adjustment exemptions shall be processed in the same manner as a Plat Amendment under this Code (see Section 3.10).

B) Approval Criteria.

1) The property line adjustment shall not be used to increase the number of parcels;

2) Property line adjustments shall not be combined with other subdivision exemption requests to create new parcels;

3) A property line adjustment shall not affect a recorded easement without the prior approval of the beneficiary of the easement.

3.19 TEMPORARY USE PERMITS
3.19.1 Approval Criteria. Applications for a temporary use permit shall be submitted to the Land Use Department, who shall determine what materials are required to be submitted with the application in order to allow for a thorough review of the proposal. Applications for temporary use permits shall be approved, approved with conditions, or denied by the Land Use Department. The Land Use Department may approve an application for a temporary use permit if it determines that the proposal satisfies all of the following criteria:

A) No merchandise shall be displayed within thirty feet (30') from the curb of any public right-of-way or within the required landscaped setback area.

B) Proposed temporary use and any temporary structure is/are compatible with the character, density and use of structures and uses in the immediate vicinity.

C) The proposed temporary use and any structure will not result in significant noise or significant impacts on pedestrian and vehicular traffic and traffic patterns, municipal services, and neighborhood character.

D) A proposed temporary use and any temporary building, structure, trailer or vehicle will not obscure or obstruct the vision of traffic by any motorist, bicyclist or pedestrian; or obstruct the view of any traffic control sign or signal.

E) The duration of the proposed temporary use and any temporary structure will not have significant impacts on pedestrian and vehicular traffic patterns, County services, and neighborhood character. In so determining, the Land Use Department may take into account whether a temporary use has previously been approved for the structure, parcel, property or location as proposed in the application.

F) The proposed temporary use and any temporary structure are consistent with the purposes and intent of the underlying zone district in which the temporary use and any temporary structure are proposed.

G) The relation of the temporary use and any temporary structure to conditions and character changes which may have occurred in the area and underlying zone district in which the use or structure is proposed.
H) The allowance of such temporary use will not be detrimental to the public health, safety and general welfare, and the use is compatible with the purpose and intent of the Land Development Code and of the specific zone district in which it will be located.

I) For any temporary use involving the sale of merchandise, vendors have registered with the Lake County Clerk and Recorder for state and County retail sales tax.

J) Signage for any temporary use involving the sale of merchandise, if any, complies with the sign standards in Section 6.14.

K) Building and/or operational fire permits have been obtained.

L) Written permission has been obtained from the owner of the property on which the temporary use and any temporary structure will be located.

M) The site of the proposed temporary use and/or any temporary structure has safe access to and from a public street.

N) Mobile and/or temporary structures comply with all applicable building and/or health codes.

O) Lake County Health Department has approved the applicant’s food and drink dispersal, if any; Lake County Health Department has approved the applicant’s use of animals, if any, as applicable.

P) The Leadville/Lake County Fire Department and Lake County Sheriff’s Department have reviewed the application if it is for a carnival, circus or petting zoo and the applicant has satisfied all review comments.
3.19.2 **Prohibited Activities.** No temporary use permit for a special event or retail sales with no permanent place of business in Lake County shall be issued for locations within one hundred feet (100’) of either side of the center line of the Mineral Belt Trail in the IM zoning district. Any contrary provision notwithstanding, nothing herein shall restrict Lake County from issuing temporary use permits for special events or retail sales with no permanent place of business in associated with or sponsored by the Mineral Belt Trail Committee within the Mineral Belt Trail easement.

3.19.3 **Renewal Requests.** All requests for renewal of a temporary use permit shall be submitted in writing to the Land Use Department prior to the expiration date of the permit. The Land Use Department may review or deny the renewal request based on the goals, objectives, policies and other provisions of this Code and other appropriate Lake County regulations, resolutions or policies, but no such renewal shall have the effect of allowing a temporary use to become permanent, or to continue so long that a rezoning or conditional use permit would normally have been required. No more than two renewals of the temporary use permit shall be issued by the Land Use Department.

3.19.4 **Appeals.** Any applicant denied a temporary use permit or permit extension or renewal by the Land Use Department may appeal that decision to the Board of County Commissioners, who shall review the evidence presented by the Land Use Department and the applicant, and shall render a final decision. The Board of County Commissioners may, at its discretion, prior to conducting the hearing, submit it to the Planning Commission for review and recommendation. Notice requirements per Section 3.1.7.

3.20 **Vacating of Approved and Recorded Plats, Rights-of-Way or Easements**

3.20.1 **Vacating of Roads, Streets, Highways and Easements.**

A) Any provisions contained within this Code notwithstanding, the procedures for vacating roads, streets and highways shall conform to the provisions contained in C.R.S., Part 3, Article 2, Title 43.

B) The Land Use Department may waive any submittal requirements and hearing, posting, publication and other procedural requirements that are deemed unnecessary to protect the public health, safety, or welfare, based on the anticipated impacts of the vacation on a case-by-case basis, and if allowed under C.R.S.

3.20.2 **Vacation of Nonconforming Lots.** In order to minimize potential financial liability of the County; and to avoid new substandard development in older, undeveloped areas, the Board of County Commissioners shall be authorized to initiate vacation proceedings for areas of vacant lots in common ownership that are no longer in compliance with this Code, provided that:

A) No permanent structure or infrastructure has been installed on the lots;

B) Vacation of the lots would not result in denial of access to other property: (a) that is not in common ownership, (b) where permanent structures or infrastructure have been installed, or (c) that meet the current requirements of this Code; and
C) Vacation of the lots would not result in denial of access to platted or subdivided public facilities, including public open space, to any owner of a lot: (a) that is not in common ownership, (b) where permanent structures or infrastructure have been installed, or (c) that meet the current requirements of this Code;

3.20.3 Application Filing. Application to vacate all or a portion of any plat, right-of-way, or public easement that has been filed and recorded in the office of the Lake County Clerk and Recorder shall be submitted to the Land Use Department, and shall contain such information as the Land Use Department may require in order to review the impacts of such vacation.

3.20.4 Initiation. Applications for vacations may be initiated by the Board of County Commissioners, the Planning Commission, or the owner of record or duly authorized agent of any owner of record of any approved and recorded plat.

3.20.5 Preapplication Meeting. Applicants for vacations, other than the Board of County Commissioners or the Planning Commission, shall schedule and attend a Preapplication Meeting before filing a vacation application. See Section 3.1.6.

3.20.6 Procedures for Vacating Plats. Applications for Vacating a Plat shall be processed as a Final Plat - Public Hearing Process. See Section 3.16.5 A). Applications for Vacating a Plat are subject to the approval criteria of Section 3.20.7.

3.20.7 Approval Criteria. All actions by the Planning Commission in reviewing and making recommendations on an application to vacate an approved and recorded plat and by the Board of County Commissioners in approving or disapproving such applications shall be based upon the provisions of this Code and specifically upon the following criteria:

A) That the proposed vacation would not interfere with development of, and would not deny access via a public way to, any existing structures within the recorded plat, adjoining properties, utility services or other improvements, and would not deny access to structures, facilities or sites located beyond the plat, right-of-way or easement to be vacated.

B) That the proposed vacation would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant, and would not be detrimental to the public health, safety or welfare of county residents.

C) That the proposed vacation would be consistent with the Lake County Comprehensive Plan all other provisions of this Code and not cause undue financial hardship to Lake County nor deprive it of needed tax base.

3.21 ZONING VARIANCES

3.21.1 Variances Permitted. An applicant may request a variance from the dimensional requirements applicable to a specific site based on unusual site conditions, as set forth below. No variances shall be approved that has the effect of allowing a use that is not allowed in the subject zoning district.

3.21.2 Application Filing. Applications for Zoning Variances shall be submitted to the Land Use
3.21.3 **Public Hearing Notice.** Notice of the public hearing shall be published, mailed, and posted pursuant to the notice provisions of Section 3.1.7.

3.21.4 **Review and Action.** The Board of Adjustment shall hold a public hearing on each Zoning Variance application and, at the close of the public hearing, act to approve, approve with conditions, or deny the Zoning Variance based on the Approval Criteria of Section 3.21.5.

3.21.5 **Approval Criteria.** A Zoning Variance may be granted by the Board of Adjustment only if it finds that all of the following criteria have been met:

A) The requested Variance is consistent with the *Lake County Comprehensive Plan* and the purposes set out in Section 1.4 of this Code;

B) There are special circumstances or conditions (such as exceptional topographic conditions, narrowness, shallowness or shape of a specific piece of property) that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the area;

C) The special circumstances and conditions that account for the need for a Variance are not the result of the owner’s actions;

D) The special circumstances and conditions are such that the strict application of provisions of this Code would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property;

E) The granting of the Variance is the minimum necessary to relieve the applicant of the practical difficulties to or exceptional and undue hardship in the use of the land or building; and

F) The granting of the variance will not have an adverse impact upon the properties located within the written notification area defined in Section 3.1.7.

G) In determining whether difficulties to, or hardship upon, the owner of a lot, parcel or other property exists, the Board of Adjustment shall properly consider the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980. Moreover, the addition of a solar energy device to a building or other structure shall not necessarily be considered a structural alteration for the purpose of determining whether that building or other structure represents a nonconforming use as defined by this Code.