

TITLE 10

Subdivision

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CHAPTER 1

General Provisions

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10-1-1. Title.

This Title 10 of the Hot Sulphur Springs Municipal Code shall be referred to as the "Town of Hot Sulphur Springs Subdivision Regulations" or "Subdivision Regulations."

10-1-2. Purpose.

(A) These regulations are designed and enacted to promote and protect the health, safety and general welfare of the people of the Town and to provide for orderly growth and harmonious, efficient development.

(B) To further these ends, these regulations are intended to:

(1) Establish minimum uniform standards for subdivision design, including planning and engineering criteria, environmental factors and performance guarantees;

(2) Assure the planning for and provisions of adequate and efficient water supplies, sanitation, electric service, drainage, fire protection, access, street systems and other health and safety requirements;

(3) Secure adequate sites for recreation areas, open space and other public facilities;

(4) Safeguard the interests of the public and the applicant, improve land records and boundary monumentation and insure equitable processing of subdivision plats;

- (5) Preserve natural vegetation and cover and promote the natural beauty of the area;
- (6) Prevent ponding or erosion from surface and subsurface runoff;
- (7) Prevent air, water, noise and visual pollution;
- (8) Regulate development in areas of geological and topographical hazards, including but not limited to floodplains, areas of unstable or expansive soils, excessive slopes or slope areas or areas poorly suited for building or construction; and
- (9) Protect against loss or injury from inappropriate use of the land.

10-1-3. Authority.

The Hot Sulphur Springs Subdivision Regulations are enacted in accordance with the authority conferred by Article 23 of Title 31, C.R.S., as amended.

10-1-4. Jurisdiction.

These regulations are applicable within the following described areas:

- (A) All property located within the legal boundaries of the Town;
- (B) Property proposed for annexation to the Town; and
- (C) Property located outside of the legal boundaries of the Town and described in a Town-adopted intergovernmental agreement that requires application of these subdivision regulations to the subdivision of the property.

10-1-5. Applicability and exemptions.

(A) Whoever divides, subdivides, re-divides, re-subdivides or participates in the division of a new or existing lot, tract or parcel of land into two (2) or more lots, parcels, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, development or use, shall make the transaction subject to the provisions of this Title, and, therefore, a plat must be submitted to and approved by the Town, according to the terms of this Title.

(B) These subdivision regulations shall not apply to the following:

- (1) A division of land to heirs through an estate proceeding conducted in accordance with law.
- (2) A division of land by virtue of the foreclosure of a deed of trust in accordance with law.
- (3) A division of land within a lawfully existing cemetery for the creation of cemetery plots.
- (4) Any property owned by or leased to the Town where the Town is an applicant for subdivision approval unless the Board of Trustees elects to subdivide the property in accordance with all or any portion of this Title.

10-1-6. No permits without subdivision approval.

(A) Unless the property is exempt from application of these subdivision regulations pursuant to Section 10-1-5, no building or improvements shall commence within the subdivision nor shall any construction or building permit, occupancy permit or other permit for any improvement be issued until such time as all approvals required by these subdivision regulations have been issued by the Board of Trustees, the plat or other required documentation is properly executed by the appropriate parties, and all required documents are recorded with the County Clerk and Recorder.

(B) Unless otherwise expressly approved by the Board of Trustees, no certificate of occupancy shall be issued for any improvement or structure unless and until all improvements serving the improvement or structure required by these subdivision regulations, the applicable subdivision plat and any subdivision improvement agreement have been found substantially complete and accepted by the Town.

10-1-7. Review fees and reimbursement of review costs.

(A) Applicant to pay all expenses: At the time of submission of any application for any type of subdivision approval described in this Title, the applicant shall pay to the Town the established fees and deposits for the purpose of the Town's review and processing of the application. The Board of Trustees may, by resolution or ordinance, adopt and amend from time to time a fee schedule for all applications and proceedings under these subdivision regulations.

(B) Reimbursement agreement required: At the time of submission of any application for any type of subdivision approval described in this Title, the applicant shall execute an Agreement for Payment of Development Review Expenses ("Agreement") in a form substantially similar to that included in Chapter 15 of these subdivision regulations. The terms, conditions and obligations of the Agreement contained in Chapter 15 are incorporated as requirements of this Title as if set forth in full in this Section. The final form of an agreement for a subdivision application shall be subject to review, revision and approval of the Town Attorney based on the particular circumstances of the proposed development and, following such approval, shall be presented to the Town Administrator for execution. The Town Administrator may, at his discretion, execute the Agreement on behalf of the Town or forward such agreement to the Board of Trustees for the Board of Trustees' consideration. No application shall be deemed complete unless accompanied by a properly executed Agreement for Payment of Development Review Expenses.

(C) The Town shall maintain separate accounts of all monies expended as a result of the review of an application. Statements of expenses incurred will be made available to the applicant upon reasonable request.

(D) In the event the Town incurs expenses for the review of the applicant's request greater than the monies collected from the applicant, the applicant shall reimburse the Town for the additional expenses. Reimbursement shall be made by the applicant within ten (10) days of the date of the Town's submission of an invoice to the applicant for the additional expenses. Failure by the applicant to pay the invoice in full within the specified time shall be cause for the Town to cease processing the application and/or deny approval of the application.

(E) Waivers and modification of fees and expenses. Upon written request by an applicant, the Board of Trustees may administratively waive, modify, adjust or refund any fee or expense associated with the processing of any application where the Board of Trustees determines that any one (1) or more of the following exist:

(1) The proposed subdivision and development will be restricted to providing residential housing opportunities not generally available within the Town or its surrounding area, such as but not limited to:

(a) Housing designed and priced to provide ownership opportunities to individuals with incomes below the median annual income for the Grand County area;

(b) Housing for elderly individuals;

(c) Housing for handicapped individuals, as defined by the Fair Housing Amendments Act, 42 U.S.C. § 3602 et seq.; and/or

(d) Group homes for elderly, disadvantaged or handicapped individuals.

(2) The proposed subdivision and development will be restricted to a land use that will directly and substantially advance one (1) or more significant goals and policies of the Comprehensive Plan.

(3) The proposed subdivision will significantly or substantially exceed applicable requirements for dedication of desirable public open space or useable public park area or provides a significant and substantial public benefit to the Town not otherwise required by this Code.

(4) The proposed subdivision is requested by a federal, state or local governmental or quasi-governmental entity and the Board of Trustees has determined that the project will substantially advance the health, safety and welfare of the Town.

10-1-8. Administrative forms and procedures.

The Town Planner and the Town Administrator are authorized to promulgate and require the use of application forms and other standardized documentation deemed necessary or helpful to administer the provisions of this Title.

10-1-9. False information unlawful and suspension of approval.

(A) It shall be unlawful and a misdemeanor violation of this Code for any person to make, offer, represent, provide or state in writing or verbally to the Town, its boards, commissions and employees, any false, incorrect or inaccurate information as part of any application for approval when such person knows or reasonably should have known of the falseness, incorrectness or inaccuracy of the information.

(B) In addition to any other remedy available to the Town, including civil or criminal prosecution, the Board of Trustees may suspend any approval issued in accordance with these subdivision regulations or may impose a subsequent condition of approval upon the applicant following a determination by the Board of Trustees that the information provided by the applicant or

the applicant's agents or representatives upon which such approval was based was substantially false or wholly inaccurate and that correct or accurate information would have reasonably resulted in a basis for denial of the subdivision application. Any decision to suspend approval shall be made only at a regular or special meeting of the Board of Trustees. Prior to the meeting, a written notice from the Town shall be served upon the applicant, setting forth a clear and concise statement of alleged facts and directing the applicant to appear at the meeting to be held not less than five (5) days nor more than fifteen (15) days from the date of mailing or hand delivery of the notice to the applicant. The Board of Trustees shall determine at the meeting the nature and extent of any alleged false or inaccurate information and shall have the authority, upon good cause being shown, to suspend approval or impose a subsequent condition of approval necessary to bring the subdivision into conformance with these subdivision regulations and to correct the false or inaccurate information. Any suspension of approval shall be for a period not greater than thirty (30) days. During any period of suspension, the Town may pursue other remedies provided by these subdivision regulations, this Code or other applicable law.

10-1-10. Inspections and stop work orders.

The Chief Building Official or the Official's duly authorized representatives and the Town Administrator are each individually authorized and empowered to cause any structure, use or tract of land to be inspected and examined for conformance with these subdivision regulations and to order, in writing delivered to the occupant, applicant, subdivider, owner or any person engaged or contributing to such violation, that the violation be remedied immediately. Any such order shall command that no work shall proceed on any building or other structure or tract of land covered by such order, except work necessary to correct such violation or to ensure the safety or security to adjacent, surrounding or neighboring properties.

10-1-11. Violations and enforcement.

(A) Violations of subdivision regulations: It shall be unlawful and a misdemeanor violation of these subdivision regulations for any person to violate any provision of these subdivision regulations and, upon conviction thereof, shall pay a fine of not less than three hundred dollars (\$300.00) or be imprisoned for a period not to exceed ninety (90) days, or be penalized by both such fine and imprisonment. Each day that a violation continues shall constitute a separate and distinct offense.

(B) Violation of express condition of subdivision approval. It shall be unlawful and a misdemeanor violation of these subdivision regulations for any person to fail to substantially satisfy or to breach a condition or requirement expressly imposed upon any approval of any application pursuant to these subdivision regulations and, upon conviction thereof, shall pay a fine of not less than three hundred dollars (\$300.00) or be imprisoned for a period not to exceed ninety (90) days, or be penalized by both such fine and imprisonment. Each day that a violation of this Section continues shall constitute a separate and distinct offense.

(C) Enforcement. In addition to any judicial enforcement of a violation of these subdivision regulations as provided by this Section, the provisions of these subdivision regulations may also be enforced at the direction of the Board of Trustees or the Town Administrator by use of any of the following methods, either individually or in combination:

- (1) Withholding of construction or building permits for all or any improvement within the subdivision or improvement proposed to serve the subdivision;
- (2) Withholding of certificates of occupancy for any structure within the subdivision;
- (3) To the greatest extent permitted by law, revocation or suspension of any license, permit or certificate issued to any property or applicant;
- (4) Inspection and ordering the removal or abatement of violations;
- (5) Issuance of a stop work order mandating the temporary suspension of any development activity within or associated with the subdivision;
- (6) Injunctive or other proceedings authorized by law in any court of competent jurisdiction;
- (7) Assessment of costs and expenses (including but not limited to costs and expenses for administrative actions, publication, attorney's fees and court costs) incurred by the Town in enforcement of these subdivision regulations and the imposition of a lien for such costs and expenses against all or any portion of the property within the subdivision;
- (8) Enforcement in a court of competent jurisdiction of any contractual agreement executed by the owner or applicant associated with the subdivision; and
- (9) Demand for payment and the receipt and use of funds held by any person or financial institution which were deposited to secure the performance of the obligation or duty the Town seeks to enforce.

10-1-12. Unlawful sale of land.

(A) Unlawful sale of land. Pursuant to Section 31-23-216, C.R.S., no owner or agent of the owner of any land located within a subdivision may transfer or sell, agree to sell or negotiate to sell any land by reference to or exhibition of or by use of a plat of a subdivision before said plat has been approved as a final plat by the Town and recorded or filed in the office of the County Clerk and Recorder. Any violation of this restriction shall be accompanied by a penalty of one hundred dollars (\$100.00), payable to the Town for each lot or parcel so transferred or sold, or agreed or negotiated to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not except the transaction from such penalties or from the remedies provided in this Section. The Town may enjoin such transfer or sale or agreement by action for injunction brought in any court of competent jurisdiction and may recover the penalty by civil action in any court of competent jurisdiction. (Ord. 689, 12-20-99)

(B) No sale without prior subdivision approval. No person may transfer, sell, agree to sell or negotiate to sell any property within the Town which is not within a subdivision approved in accordance with law.

(C) Conditional sale contract permitted. It shall not be a violation of this Section for any person to agree to sell by written contract property not located within an approved subdivision where the

contract expressly conditions such sale upon the final approval of a subdivision plat by the Board of Trustees in accordance with these subdivision regulations.

(D) Commencing upon the date of adoption of this Section, it shall be unlawful for any person to sell, convey, transfer or otherwise dispose of or divide any property within the Town where such sale, conveyance, transfer, disposition or division would result in the creation of a nonconforming lot or a nonconforming parcel of land as such term is defined in Title 9 of this Code. In addition to any other remedy available to the Town, the Town shall not recognize or permit the use of a lot or parcel created in violation of this Section unless and until such lot or parcel is properly subdivided and meets all applicable requirements of these subdivision regulations, the zoning ordinance and this Code.

(E) Transfer of title: Any transfer of title of any part of all of an approved subdivision shall carry with it all agreements, stipulations and conditions which are required by the Town for approval of the subdivision. (Ord. 689, 12-20-99)

10-1-13. Interpretation.

In the interpretation and application of the provisions of these regulations, the following criteria shall govern:

(A) The interpretation and application of the provisions of these subdivision regulations shall be regarded as minimum requirements for the protection of the public health, safety and welfare.

(B) These regulations are not intended to modify, abrogate, amend or annul any vested property right lawfully established in accordance with federal or state law prior to the effective date of these subdivision regulations.

(C) The use of *may* or *should* means permissive, recommended or advised but is not mandatory; the use of *shall*, *must* or *will* means compliance is mandatory and not voluntary or permissive.

(D) If a term or phrase is subject to more than one (1) reasonable interpretation, the more stringent or restrictive interpretation is intended.

(E) If two (2) or more provisions of these subdivision regulations or other applicable law conflict, the more stringent or restrictive provision shall govern or control.

(F) Words in the present tense include the future, unless the context clearly indicates the future tense.

(G) Words used in the singular number include the plural and words using the plural number include the singular unless the context clearly indicates the contrary.

10-1-14. Administrative interpretations and decisions.

(A) The Town Planner is authorized to issue written administrative decisions concerning the application of these subdivision regulations to specific property or subdivision applications. The Town Planner shall provide a copy of any administrative decision to the owner or applicant.

(B) The Town Planner is authorized to issue written general administrative interpretations applicable to two (2) or more properties or similarly situated properties concerning the requirements and application of these subdivision regulations. All general administrative interpretations shall be collected and retained by the Town Administrator and made available for public inspection. Following promulgation of each generally applicable administrative interpretation, a copy shall be provided to both the Planning and Zoning Commission and the Board of Trustees.

(C) Any general administrative interpretation or individual administrative decision may be appealed in accordance with these subdivision regulations.

10-1-15. Appeals of administrative interpretations and decisions.

(A) Any party aggrieved by a written general administrative interpretation or administrative decision may petition for appeal by submitting a request for appeal to the Town Clerk, together with the payment of the applicable fee for administrative appeals, if any. The Board of Trustees shall hear and decide appeals where it is alleged by the appellant that there is error in any final written administrative interpretation or administrative decision. Upon receipt of a request for appeal, the Town Clerk shall schedule the matter for consideration by the Board of Trustees at the next available Board meeting as an "Administrative Appeal."

(B) Following receipt of a request for appeal, the Town Clerk shall cause notice of the date, time and place of the appeal hearing to be sent to the appellant and to the Town Planner. All appeals shall constitute administrative actions by the Board of Trustees and shall not be deemed quasi-judicial proceedings.

(C) At a meeting of the Board of Trustees, the Board of Trustees shall review the written administrative interpretation or decision and, if desired, may take comments from the appellant, the Town Planner and other interested persons. The Board of Trustees shall affirm, modify or reverse the administrative official's decision at the conclusion of the meeting.

10-1-16. Amendments and temporary suspension of regulations.

(A) These regulations may be amended, revised or altered from time to time by ordinance adopted by the Board of Trustees. Except for amendments of a temporary nature as permitted by Subsection (B) below, any proposed amendment shall require administrative review and consideration by the Planning and Zoning Commission and, where possible, a recommendation by the Planning and Zoning Commission of its approval or disapproval of the proposed amendment. Prior to final approval of any amendment other than amendment of a temporary nature as permitted by Subsection (B) below, at least one (1) public hearing shall be conducted before either the Planning and Zoning Commission or Board of Trustees.

(B) The Board of Trustees may provide by ordinance for the temporary delay, suspension or moratorium of the effect of all or any portion of these subdivision regulations where necessary to serve the health, safety and welfare of the Town. Any such ordinance shall not require administrative review and consideration of the Planning and Zoning Commission.

10-1-17. Severability and saving clauses.

(A) If any section or chapter of these subdivision regulations is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, only such unconstitutional, illegal or invalid section or chapter will cease to be effective and any such finding shall have no bearing on the effectiveness of the remaining portions of these subdivision regulations.

(B) The amendment or repeal of any ordinance or part thereof by these subdivision regulations shall not release, extinguish or modify, in whole or in part, any penalty or liability or any right of the Town incurred or obtained under the amended or repealed ordinance or part thereof. These subdivision regulations, so amended or repealed, shall be treated and held as remaining in force or effect for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of any penalty, liability or any right of the Town, for the purpose of sustaining any judgment, decree or order which may be rendered in such proceedings, actions, acts, decisions, hearings and appeals pending before the Town, its Board of Trustees, Planning and Zoning Commission, Board of Adjustment or any other decision-making body or officer and any court.

10-1-18. Major activity notice.

Pursuant to Section 31-23-225, C.R.S., as amended, when a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the Board of Trustees shall send notice to the Colorado Land Use Commission, the state geologist and the Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision or building permit application associated with such proposed activity. Such notice shall be in a standard form, shall be promulgated as a rule and regulation prescribed by the Colorado Land Use Commission and shall contain such information as the Land Use Commission prescribes.

10-1-19. No guarantee of utility service.

No approval of any application for subdivision or development approval, including but not limited to a minor plat, sketch plan, preliminary plan, final plat, plat amendment or variance, shall be construed to guarantee, reserve, ensure or provide any amount of water or wastewater treatment capacity for the approved subdivision or development.

10-1-20. Variances.

A person who wishes to obtain an exception from or modification of the requirements of this Title may apply to the Board of Adjustment for a variance under the standards and procedures provided under Chapter 1 of Title 2 of this Code.

CHAPTER 2

Definitions

10-2-1 Definitions

10-2-1. Definitions.

As used in these regulations, the following words shall be interpreted and defined in accordance with the provisions set forth in this Section and in accordance with the rules of interpretation provided by Section 10-1-13. Any term not specifically provided for herein shall be given its common meaning or that meaning ascribed to the term in Section 9-3-1 of this Code.

Adjacent property. Any property having a common border with the subject property; provided that properties divided by a public or private street or alley shall be considered adjacent.

Alley. A secondary public or private way typically smaller in width than a local street, used primarily for vehicular service access to the rear or the side of properties. An alley does not include a local street.

Applicant. A person, partnership, joint venture, association, corporation, person in a representative or agent capacity, or other legal entity or legal representative seeking approval of an application submitted to the Town in accordance with these subdivision regulations, and such person or entity's successor in interest. An *applicant* is synonymous with *subdivider* and may include the owner, subdivider, developer, builder or other person or entity engaged in the subdivision or development of property.

Code. The Hot Sulphur Springs Municipal Code, as amended.

Collector street. A public street or thoroughfare designed to collect, direct and accommodate traffic generated from local streets or to distribute traffic from arterial streets and highways. A collector street is projected or planned to convey more than five thousand (5,000) vehicles per day when the land served by the street is fully developed.

Comprehensive Plan. The effective and adopted comprehensive or master plan for the Town as authorized and contemplated by Section 31-23-206, C.R.S., however identified or titled.

C.R.S. Colorado Revised Statutes, as amended.

Documentation of ownership, liens and encumbrances. Documentary evidence acceptable to the Town reasonably establishing: (1) that the applicant is either the fee owner of the entire property proposed for subdivision or that the applicant possesses the legal authority to subdivide the property on behalf of the fee owner; and (2) the full names and mailing addresses of all other interest holders in the property. Documentation of ownership, liens and encumbrances shall include all of the following:

(a) A written ownership and encumbrances report or title commitment prepared by a title company and dated not more than sixty (60) days from the date of the application submission to the Town;

(b) A full and properly executed agreement or power of attorney acceptable to the Town Attorney that establishes the applicant's full authority to perform all actions required by these subdivision regulations and to subdivide the property on behalf an owner;

(c) A listing of the owners of any surface, subsurface or above-surface rights, easements or other interests in the land, including the names and addresses of such owners, together with the book or film, page and reception number of each owner as recorded in the office of the County Clerk and Recorder; and

(d) A listing of all liens and encumbrances against the subject property with the book or film, page and reception number of each lien or encumbrance as recorded in the office of the County Clerk and Recorder, including the names and addresses of all such lienholders.

Easement. A right to use or control the property of another for a designated purpose, such as drainage, utility or access, generally established by deed or dedication on a recorded plat.

Floodway or floodplain. Those areas depicted as within the floodway and floodplain on the official mapping adopted by the Town and approved by the Colorado Water Conservation Board.

Geologist. A member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists or an individual registered as a geologist by a state.

Local street. A public or private street or alley primarily designed for or limited to providing access to abutting properties such as streets internal to a subdivision. A local street customarily serves less than five thousand (5,000) vehicles per day.

Outlot. A described and identified unit of land illustrated or depicted as an "outlot" on a Town-approved plat. Except to the extent expressly and specifically stated on the final plat, an *outlot* is not a lot or building site, is not part of the plat and not approved for any use whatsoever by the plat. Use and development of an outlot requires approval of a minor subdivision plat, final plat, lot consolidation or plat amendment, as applicable.

Parcel. Contiguous land described and held or owned under one (1) recorded deed.

Subdivider. Any person, partnership, joint venture, association, corporation, person in a representative capacity or other legal entity or legal representative who participates in any manner in the division of land for the purpose, whether immediate or future, of sale or development.

Subdivision. The division of a lot, tract, parcel or structure into two (2) or more parcels, building sites, tracts, lots or estates in land for the purposes, whether immediate or in the future, of sale or development. *Subdivision* includes resubdivision of a subdivided tract into a greater number of parcels, buildings sites, tracts, lots or estates in land.

Subdivision improvements agreement. A contractual agreement accepted and approved by the Town to secure the construction of public improvements and the conformance and performance by the owner and applicant of the terms and conditions of subdivision approvals required by these subdivision regulations and which shall include provisions for financial security or collateral to secure the performance of the terms and conditions, such as, but not limited to, letter of credit, performance bonds, property bonds, private or escrow agreements, loan commitments, liens on property, deposit of certified funds or other similar surety agreements.

Town Planner. The Town Planner employed or appointed by the Board of Trustees. Where the position of Town Planner is vacant, the Town Administrator shall assume the duties of the Town Planner unless otherwise directed by the Board of Trustees.

CHAPTER 3

Subdivision Processes and Application Requirements: Subdivision

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- 10-3-4 Contents of subdivision application**
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- 10-3-8 Effect of approval**

10-3-1. Definition of subdivision.

Subdivision is the division of a lot, tract, parcel or structure into two (2) or more parcels, building sites, tracts, lots or estates in land for the purposes, whether immediate or in the future, of sale or development. *Subdivision* includes: resubdivision of a subdivided tract into a greater number of parcels, buildings sites, tracts, lots or estates in land; and conversion or modification of an existing building into condominiums, apartments or other multiple-dwelling units.

10-3-2. Subdivision review procedures.

The procedures applicable to the processing of an application for subdivision are provided in Chapter 9.

10-3-3. Sufficiency of application.

All plans, reports, maps and other information required for a subdivision application must be complete, legible and must be submitted by the deadlines established by these subdivision regulations or deadlines established during the review process. A failure of the application to meet the requirements of these subdivision regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

10-3-4. Contents of subdivision application.

(A) Minimum application requirements. The following submittals, materials and information shall constitute the minimum requirements for a complete subdivision application:

- (1) A completed application in the form approved by the Town Administrator;
- (2) Payment of all required application fees and any review fee deposit;

(3) An executed Agreement for Payment of Development Review Expenses in the form required by Chapter 1 of these subdivision regulations;

(4) Evidence of ownership and encumbrances as defined by Chapter 2 of these subdivision regulations;

(5) A legal description of the property proposed to be subdivided prepared by a licensed registered Colorado land surveyor;

(6) A list of the names and mailing addresses of all owners of adjacent property to the property proposed for subdivision as this information appears of record with the County Assessor's Office;

(7) A signed and notarized certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. A form of certification is provided in Chapter 15.

(B) Subdivision plat. The subdivision plat shall be drafted at a scale of one (1) inch to one hundred (100) feet (1" = 100') by the use of permanent ink on a stable reproducible drafting medium with outer dimensions of twenty-four (24) inches by thirty-six (36) inches. Maps of two (2) or more sheets shall be referenced to an index map placed on the first sheet. Other scales may be authorized in writing by the Town Administrator for larger, lower-density developments, provided that the necessary data can be clearly and accurately shown. Where the required data cannot be clearly shown on one (1) plan sheet, additional plan sheets of the same size with easily identifiable match lines may be used. Subject to the Town Administrator's authority to waive all or a portion of any plat requirement, the subdivision plat shall include or illustrate the following information:

(1) A title that prominently identifies the proposed name of the subdivision, together with the phrase "Subdivision Plat";

(2) Date of preparation, map scale and north arrow;

(3) Name, address and telephone number of the applicant, land owner, planner, engineer and surveyor;

(4) Total acreage and surveyed description of the area. A check of the mathematical closure on the boundary lines, street rights-of-way, easements, lots, outlots and blocks of the subdivision plat may be performed by the Town Engineer, at the Town Engineer's option. Any closure errors in excess of one one-hundredth (0.01) of a foot must be corrected prior to plat approval. No subdivision plat showing plus or minus dimensions will be approved.

(5) Primary boundary survey control points with monument descriptions; all parcel lines dimensioned with lengths; curve data, including chord lengths and bearings; basis of bearings and relation to true meridian. The data shall be sufficiently complete to determine independently closures for rights-of-way, easements, boundaries, lots, outlots and blocks. All required boundary monuments shall be placed in the field before the final plat is recorded.

(6) Tract boundary lines, road right-of-way lines, easements and other sites with accurate bearings and dimensions, including chord lengths and bearings, central angles, arc lengths and radii of all curves.

(7) Name and right-of-way width of each street. Right-of-way widths are to be shown at each leg of an intersection, at point of curvature and point of tangent, at dead-ends and at angle points.

(8) Locations, dimensions and purposes of all easements.

(9) Number or letter to identify each lot, outlot and block. Lots and blocks shall be numbered. All outlots shall be lettered in alphabetical order.

(10) An identification of the streets, alleys, easements, parks, open space and any other public facilities shown on the plat to be dedicated to public use. No areas within the plat may be designated as areas of conditional, planned or future public acquisition. Dedications of public property not made on the subdivision plat shall be made only by general warranty deed unless otherwise approved by the Board of Trustees.

(11) Names of all adjoining subdivisions with dotted lines of abutting lots. If the adjoining land is unplatted, it should be shown as such.

(12) Signature and seal of the registered land surveyor.

(13) A delineation of the extent of the one-hundred-year floodplain.

(14) All subdivision plat approval certifications, plat language and recording information in the forms identified in Section 10-15-1 of these subdivision regulations.

(C) Supplemental application requirements. The Town Administrator may request any of the following submittals, materials or information, in addition to the minimum application requirements set forth in Subsection (A) above if, in the sole opinion of the Town Administrator, such materials are necessary to adequately review the proposal for conformance with the applicable requirements.

(1) Proposal summary. A narrative statement describing the existing conditions and the proposed subdivision and development, including the following information requested by the Town Administrator:

(a) Total proposed development area in acres with a breakdown in percentages and amounts devoted to specific land uses;

(b) Zoning districts of the property and of all adjacent properties;

(c) Proposed zoning districts if a rezoning is being requested;

(d) If zoned for residential use or proposed for rezoning to a residential use, an approximation of the number and types of dwelling units;

(e) Anticipated providers of utilities (water, sewer, gas, electric, telephone); and

- (f) Proposal for preservation, protection, alteration or removal of significant natural features and man-made characteristics of the site.
- (2) Studies and reports. If requested, the following studies and reports must be prepared by a qualified professional at the applicant's cost:
 - (a) Drainage report and grading plan;
 - (b) Soils and geology report;
 - (c) Utility plan for the delivery of water, sewer and electric services to and throughout the property; and
 - (d) Traffic impact analysis, including an evaluation of the vehicular and pedestrian traffic patterns, together with estimated trips per day, for roads within the subdivision and for all routes leading from the subdivision and connecting to highway and arterial roads.
- (3) One (1) copy of any agreements, conveyances, restrictions or private covenants that will govern the use and maintenance of the subdivision and any common private open space or private subdivision amenity.
- (4) Complete engineering plans and specifications sufficient to commence construction for all public facilities and improvements to be installed, including but not limited to:
 - (a) Water and sewer improvements, including all sewer lift stations;
 - (b) Streets and related improvements;
 - (c) Bridges; and
 - (d) Storm drainage, detention and erosion control improvements.
- (5) One (1) copy of any agreement affecting the subdivision and public or private improvements made with ditch companies, railroad companies, utility providers and state, county or local governmental or quasi-governmental agencies.
- (6) Written description of arrangements and financial institution commitments for providing financial guarantees and sureties for the timely completion of all public improvements.
- (7) A preliminary or draft subdivision improvements agreement in the form required by these subdivision regulations and generally acceptable to both the subdivider and the Town Attorney and which is capable of finalizing upon the conclusion of the public hearing and approval or conditional approval of the final plat by the Board of Trustees.

10-3-5. Number of copies of application materials.

The applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals.

10-3-6. Standard for approval.

Recommendation of approval or conditional approval of any subdivision by the Planning and Zoning Commission, and any approval or conditional approval by the Board of Trustees, shall require a finding that the applicant and the evidence presented to the Planning and Zoning Commission or the Board of Trustees established the following by competent and sufficient evidence:

(A) The proposed subdivision meets or satisfies all applicable requirements of these subdivision regulations;

(B) The proposed subdivision conforms to all applicable requirements for the zone district in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas and minimum lot sizes;

(C) The proposed subdivision substantially conforms to all other applicable requirements of this Code, ordinances and resolutions;

(D) The proposed subdivision substantially conforms to the goals and policies of the Comprehensive Plan to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Zoning Commission or Board of Trustees to decide that such application or subdivision meets or fails to meet such goal or policy;

(E) Adequate capacity of water and wastewater utilities are currently available within the Town for the entire subdivision and development; and

(F) The proposed subdivision (both during and following construction and development) will not result in an unreasonable increase in the peak rate of discharge, result in a decrease in the quality of discharge, or result in any significant change in the direction or location of the point of discharge, of stormwater or surface water flows upon any adjacent or neighboring property.

10-3-7. Conditions for approval.

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval or this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

10-3-8. Effect of approval.

(A) Recording of plat. As soon as practicable following approval by the Board of Trustees, the fully executed original of the subdivision plat and any applicable subdivision improvements agreement shall be filed and recorded by the Town Clerk in the office of the County Clerk and Recorder at the applicant's expense.

(B) No approval or conditional approval of a subdivision plat and any applicable subdivision improvements agreement shall be deemed effective or finally approved until the plat is recorded with the County Clerk and Recorder.

(C) Unless otherwise expressly modified by an approved subdivision improvements agreement or other agreement between the owner and the Board of Trustees, final approval or conditional approval of a subdivision plat shall be valid for three (3) years following the date of plat recordation and, thereafter, during any period for which a legally recognized vested property right inures to the subdivision.

CHAPTER 4

Reserved

CHAPTER 5

Subdivision Processes and Application Requirements: Plat Amendment

- 10-5-1 Definition of plat amendment**
- 10-5-2 Authority to seek plat amendment**
- 10-5-3 Plat amendment review procedures**
- 10-5-4 Contents of plat amendment application**
- 10-5-5 Number of copies of plat application materials**
- 10-5-6 Standards for approval of plat amendment**
- 10-5-7 Conditions for approval**
- 10-5-8 Effect of approval of plat amendment**

10-5-1. Definition of plat amendment.

A *plat amendment* is any form of amendment or modification of an approved and recorded plat that:

(A) Does not create any additional lots or outlots; and

(B) Does not create or result in the creation of a lot or outlot that would violate or fail to conform to any applicable zoning or other standard, including but not limited to lot area, minimum frontage, building height, setbacks, street or private drive width, parking or access; and

(C) Does not reduce the amount of any dedicated or publicly owned land, and in the opinion of the Town Planner does not significantly alter or impact the subdivision's access, parking or traffic circulation system; and

(D) Either:

(1) Eliminates or relocates one (1) or more lot lines within the subdivision, and/or

(2) Modifies, amends, adds or deletes a restriction, limitation, condition or other obligation, right or duty stated on the minor plat or final flat.

10-5-2. Authority to seek plat amendment.

An application for plat amendment may be initiated by the owners of record of all lots and outlots within the area directly affected by the proposed amendment. The *area directly affected by the proposed amendment* shall mean:

(A) The properties that would be physically affected by an amendment to eliminate or relocate one (1) or more lot lines within the subdivision. Where a single lot line is eliminated or relocated, the *area directly affected by the proposed amendment* would customarily include the lots on each side of the lot line; and

(B) All properties which are directly benefited by the restriction, limitation, condition or other obligation, right or duty stated on the plat. In many instances, all properties within the subdivision are affected by a restriction, limitation, condition or other obligation, right or duty stated on the plat.

10-5-3. Plat amendment review procedures.

The procedures applicable to the processing of an application of a plat amendment are provided in Chapter 9 of this Code.

10-5-4. Contents of plat amendment application.

The following submittal, materials and information shall comprise a complete application for a plat amendment:

(A) A completed application in the form approved by the Town.

(B) Payment of all required application fees and any review fee deposit.

(C) An executed Agreement for Payment of Development Review Expenses in the form required by Chapter 1 of these subdivision regulations.

(D) Evidence of ownership and encumbrances as defined by Chapter 2 of these subdivision regulations;

(E) A legal description of the property proposed for plat amendment prepared by a licensed registered Colorado land surveyor.

(F) A list of the names and mailing addresses, as this information appears of record with the County Assessor's Office, of all owners of adjacent property to the area directly affected by the proposed amendment.

(G) For a plat amendment that eliminates or relocates one (1) or more lot lines within the subdivision, an amended plat shall be submitted with the application.

(1) The amended plat shall be drafted at a scale of one (1) inch to one hundred (100) feet by the use of permanent ink on a stable reproducible drafting medium, with outer dimensions of twenty-four (24) inches by thirty-six (36) inches. Other scales may be authorized in writing by the Town Administrator for larger, lower-density developments, provided that the necessary data can

be clearly and accurately shown. Where the required data cannot be clearly shown on one (1) plan sheet, additional plan sheets of the same size may be used with easily identifiable match lines.

(2) A title that prominently identifies the name of the recorded subdivision, together with the phrase "Plat Amendment."

(3) Date of preparation, map scale and north arrow.

(4) Name, address and telephone number of the applicant, land owner, planner, engineer and surveyor.

(5) Total acreage and surveyed description of the lots and area subject to the proposed amendment.

(6) A clear illustration or description of the amendment proposed, using shading, crosshatching, highlighting or other techniques to accurately illustrate the proposed amendment.

(H) For a plat amendment that modifies, amends, adds or deletes a restriction, limitation, condition or other obligation, right or duty stated on the recorded plat, a written description clearly stating the proposed amendment in a form suitable for recordation with the office of the County Clerk and Recorder. The written description shall be subject to approval of the Town Attorney and, at a minimum, the written amendment shall include:

(1) A title that prominently identifies the name of the recorded subdivision, together with the phrase "Plat Amendment";

(2) The County recording information (book and page) of the original subdivision plat, and the recording information and titles of any other prior amendments of the original plat; and

(3) Date of preparation, name, address and telephone number of the applicant, land owner and any professionals (planners, engineers, surveyors) assisting in the plat amendment.

10-5-5. Number of copies of plat application materials.

The applicant shall submit to the Town twenty-five (25) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals.

10-5-6. Standards for approval of plat amendment.

Recommendation of approval or conditional approval of any stage of a plat amendment by the Planning and Zoning Commission, and any approval or conditional approval by the Board of Trustees, shall require a finding that the applicant and the evidence presented to the Planning and Zoning Commission or the Board of Trustees established the following by competent and sufficient evidence:

(A) The proposed amendment meets or satisfies all applicable requirements of this Title;

(B) The proposed amendment conforms to all applicable requirements for the zone districts in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas and minimum lot sizes;

(C) The proposed amendment substantially conforms to all other applicable requirements of this Code and all regulations promulgated by the Town;

(D) The proposed amendment substantially conforms to the goals and policies of the Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Zoning Commission or Board of Trustees to decide that such subdivision meets or fails to meet such goal or policy;

(E) The proposed amendment would not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants; and

(F) The proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of Town residents.

10-5-7. Conditions for approval.

The Board of Trustees may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval or this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

10-5-8. Effect of approval of plat amendment.

(A) Recording of amended plats. Within ten (10) working days of notification of an approval by the Board of Trustees, all amended plats shall be filed and recorded in the office of the Town Clerk and the County Clerk and Recorder at the applicant's expense.

(B) No approval or conditional approval of a plat amendment shall be deemed effective or finally approved until the amended plat is recorded with the County Clerk and Recorder.

CHAPTER 6

Subdivision Processes and Application Requirements: Survey Correction Plat

- 10-6-1 Definition of survey correction plat**
- 10-6-2 Authority to seek survey correction plat**
- 10-6-3 Survey correction plat amendment review procedures**
- 10-6-4 Contents of survey correction plat application**
- 10-6-5 Number of copies of application materials**
- 10-6-6 Standards for approval of survey correction plat**
- 10-6-7 Conditions for approval**
- 10-6-8 Effect of approval of survey correction plat**

10-6-1. Definition of survey correction plat.

A *survey correction plat* is any form of proposed amendment or modification of an approved and recorded subdivision plat:

(A) That is either:

(1) Intended for the sole purpose of correcting one (1) or more evident and apparent typographical, spelling or other errors contained in a legal description which, in the opinion of the Town Planner, does not substantially or significantly alter the purpose and intent of original approved and recorded plat; or

(2) Intended to correct survey errors in a plat caused by the surveyor's reasonable reliance upon incorrectly located monumentation or upon an inaccurate and officially recognized township plat map prepared prior to 1960; and

(B) That does not create any additional lots or outlots; and

(C) That does not reduce the amount or configuration of any dedicated or publicly owned land or land under public use.

10-6-2. Authority to seek survey correction plat.

An application for a survey correction plat may be initiated by the owners of record of all lots and outlots directly affected by the proposed amendment. The *area directly affected by the proposed amendment* shall mean that the properties that would be physically and directly affected by the survey correction plat. Where a lot line is eliminated or relocated by the correction plat, the *area directly affected by the proposed amendment* would customarily include the lots on each side of the lot line.

10-6-3. Survey correction plat amendment review procedures.

All applications for a survey correction plat shall be administratively reviewed by the Town Planner without notice or a public hearing and may be approved by the Town Administrator upon the recommendation of approval of the Town Planner. Within seven (7) days following submission of a completed survey correction application and plat, the Town Planner shall make a recommendation to the Town Administrator concerning the conformance of the application and the plat with this Chapter. Upon the recommendation of conformance by the Town Planner, the Town Administrator shall either approve or disapprove the application and plat within ten (10) days of the date of the Town Planner's recommendation unless such deadline is waived by one (1) or more of the applicants. A failure by the Town Administrator to reach a final decision within ten (10) days shall be deemed denial of the application. The Town Administrator's decision to disapprove the survey correction plan shall be an administrative decision for purposes of appeal.

10-6-4. Contents of survey correction plat application.

All survey correction plat applications shall meet all submittals, materials and information requirements of a subdivision plat contained in Subsection 10-3-4(B), except that the applicant shall provide or satisfy the following:

(A) The title of the plat shall prominently identify the name of the recorded subdivision, together with the phrase "Survey Correction Plat."

(B) A complete list of the names, addresses and telephone numbers of all the owners of property within the platted area of the survey correction plat.

(C) The name, address and telephone number of one (1) person who shall be the representative of all applicants and who shall be the contact person responsible for the processing of the application.

(D) Evidence of ownership and encumbrances for all lots within the plat as defined by Chapter 2 of these subdivision regulations or, in the alternative, all of the following:

(1) A copy of all recorded deeds for all of the property described in the application evidencing that the applicants are the fee owners of all of the property described within the survey correction plat; and

(2) A written, executed and notarized statement of all applicants representing to the Town that they are the fee owners of the properties; and

(3) A certified copy of documentation from the County Assessor or County Clerk and Recorder evidencing that the applicants are the owners of record of the properties.

(E) The following certificate of approval shall be substituted for and replace the certificate of approval by the Board of Trustees required by Section 10-15-1:

APPROVED by the Town Administrator of the Town of Hot Sulphur Springs and approved for recordation with the Grand County Clerk and Recorder's Office pursuant to the Hot Sulphur Springs Municipal Code this _____ day of _____, _____.

10-6-5. Number of copies of application materials.

The applicant shall submit to the Town five (5) copies of all application materials. The Town Administrator may request additional copies of documents larger than eight and one-half (8½) by eleven (11) inches where necessary to provide sufficient documentation for unanticipated referrals.

10-6-6. Standards for approval of survey correction plat.

Approval of a survey correction plat by the Town Administrator shall require an administrative finding that the application materials established the following:

(A) The proposed amendment meets or satisfies all applicable requirements of these subdivision regulations;

(B) The proposed subdivision conforms to all applicable requirements for the zone district in which the property is located, including but not limited to requirements for setbacks, height, floor and lot areas and minimum lot sizes;

(C) The proposed subdivision substantially conforms to all other applicable requirements of this Code and all regulations promulgated by the Town;

(D) The proposed subdivision substantially conforms to the goals and policies of the Comprehensive Plan, to the extent that such goals and policies do not conflict with provisions or requirements of this Code and to the extent that such goals and policies set forth requirements which are sufficiently specific to permit the Planning and Zoning Commission or Board of Trustees to decide that such subdivision meets or fails to meet such goal or policy;

(E) The proposed amendment would not cause significant hardship or inconvenience for adjacent or neighboring landowners or tenants; and

(F) The proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of Town residents.

10-6-7. Conditions for approval.

The Town Administrator may impose reasonable conditions upon any approval which are necessary to ensure continued conformance with these standards of approval or this Code, or which are necessary to protect the health, safety and welfare of the Town and its residents.

10-6-8. Effect of approval of survey correction plat.

(A) Recording of correction plats: Within ten (10) working days of approval by the Town Administrator, all correction plats shall be filed and recorded in the offices of the Town Clerk and the County Clerk and Recorder at the applicants' expense.

(B) No approval or conditional approval of a correction plat shall be deemed effective or finally approved until the plat is recorded with the office of the County Clerk and Recorder.

CHAPTER 7

Reserved

CHAPTER 8

Reserved

CHAPTER 9

Application Review Procedures

- 10-9-1 Applicability and purpose**
- 10-9-2 Table of Subdivision Processes**
- 10-9-3 Reserved**
- 10-9-4 Pre-application meeting**
- 10-9-5 Completeness determination**
- 10-9-6 Agency referrals**
- 10-9-7 Staff review and report**

10-9-8 Notice requirements

10-9-9 Public hearings

10-9-10 Recording of plat and supporting documentation

10-9-1. Applicability and purpose.

This Chapter applies to each of the following subdivision processes described in this Title and describes the procedures identified as applicable to the subdivision process in Section 10-9-2, entitled "Table of Subdivision Processes."

- (A) Subdivision.
- (B) Plat amendment.
- (C) Survey correction plat.

10-9-2. Table of Subdivision Processes.

The following Table of Subdivision Processes sets forth the procedures applicable to each subdivision process identified in these subdivision regulations:

	<i>Pre-Application Meeting §10-9-4</i>	<i>Application Contents</i>	<i>Referral Agencies §10-9-6</i>	<i>Staff Review and Report §10-9-7</i>	<i>Notice of PC Hearing §10-9-8</i>	<i>Planning and Zoning Commission: Public Hearing §10-9-9</i>	<i>Notice of Board of Trustees Hearing §10-9-8</i>	<i>Board of Trustees: Public Hearing §10-9-9</i>	<i>Plat/Document Recordation §10-9-10</i>
Subdivision	R	Section 10-3-4	All agencies	R	R Publication Mailing Posting	R	R Publication Mailing Posting	R	Plat/SIA
Plat amendment	O	Section 10-5-4	Local agencies	R	R Publication Mailing	R	R Publication Mailing	R	Amended plat/SIA
Survey correction plat	O	Section 10-6-4		Admin. Decision					Survey correction plat

R = Required

O = Optional at subdivider's request

10-9-3. Reserved.

10-9-4. Pre-application meeting.

Where an application requires a pre-application meeting in accordance with Section 10-9-2 above, the following process shall apply:

(A) Prior to the formal submission of the application, the subdivider shall contact the Town Clerk in writing to schedule and request an informal meeting with the Town Administrator. Following receipt of a request, the pre-application meeting shall be set for a date within ten (10) days of the date of the applicant's written request. The Town Clerk shall advise the applicant of the date and time of the pre-application meeting.

(B) The applicant shall attend the meeting at the designated date and time. The applicant shall be prepared to discuss the proposed application and the proposed development with the Town Administrator. The applicant shall be encouraged to present such plats, plans, diagrams or other preliminary information sufficient to permit the conceptual review of the proposed application.

(C) The purpose of the pre-application meeting shall be to assist the subdivider in understanding the Town's subdivision processes and to permit the Town Administrator to determine the applicable process and regulations for the proposed application. Upon request of the subdivider, the Town Administrator shall provide to the subdivider a written determination concerning the appropriate procedure for the processing of the applicant's proposed application.

(D) Where a pre-application meeting is required by Section 10-9-2, no application shall be accepted or processed by the Town unless and until the pre-application meeting is held.

10-9-5. Completeness determination.

Every application submitted under this Title shall be evaluated for completeness as provided in this Section:

(A) Within ten (10) days following receipt of an application, the Town Administrator shall administratively review the application and determine whether the application complies with the applicable application content requirements of these regulations.

(B) All plans, reports, maps and other information required for any plan or plat must be complete and legible. A failure of the application to meet the requirements of these subdivision regulations or any applicable deadline shall delay the processing of the application until the application is sufficient and complete. The Town shall not process or schedule the processing of any application which is found to be incomplete.

(C) In the event that the Town Administrator determines that the application complies with the applicable requirements, the Town Administrator shall schedule the application for review in accordance with Section 10-9-2 of this Chapter.

(D) In the event the Town Administrator determines that the application is incomplete, the Town Administrator shall inform the applicant in writing of the deficiencies in the application. No further processing of an incomplete application shall be undertaken until the Town Administrator determines that the applicant has remedied the application's deficiencies.

10-9-6. Agency referrals.

Where an application requires agency referral in accordance with Section 10-9-2 of these subdivision regulations, the following process shall apply:

(A) For purposes of this Section, any required agency referral to local agencies as required by Section 10-9-2, the phrase "local agencies" shall include:

- (1) Police or sheriff's office;
- (2) Fire District;
- (3) School District;
- (4) Appropriate electric service provider (other than the Town);
- (5) Appropriate telephone service provider;
- (6) Appropriate park and recreation district;
- (7) Any affected irrigation or ditch company;

(8) Any other county, regional, state or federal agencies that may be deemed by the Town Administrator or Town Planner as specially affected or interested; and

(9) For any subdivision action affecting five (5) or more acres of land, notice will also be provided to the Colorado Land Use Commission as required by Section 31-23-225, C.R.S.

(B) For purposes of any required agency referral to all agencies as required by Section 10-9-2, the phrase "all agencies" shall include:

- (1) All agencies identified as a "local agency" in Subsection (A) above;
- (2) County Land Use Department;
- (3) Colorado State Department of Transportation;

(4) Any other county, regional, state or federal agency that may be deemed by the Town Administrator or Town Planner as specially affected or interested, including but not limited to the Colorado State Engineer, Soil Conservation Service, Colorado Geological Service, Northwest Regional Council of Governments, Colorado State Forest Service and Colorado Water Conservation Board; and

(5) For any subdivision action affecting five (5) or more acres of land, notice will also be provided to the Colorado Land Use Commission as required by Section 31-23-225, C.R.S.

(C) A copy of each application shall be referred by Town staff to the appropriate agencies following a determination of application completeness by the Town Administrator. The purpose of all referrals is to define any conflict that the agencies or individuals may have with the proposal, and to allow for the possible resolution of conflicts through the processing of the application.

(D) It is the responsibility of the agency or individual receiving the referral to define any potential conflict with the application and to return a written referral response to the Town within the time period specified in the referral letter. Any referral responses which are not received in a timely

manner may not, at the option of the Town Administrator, be included in the processing of the application. The lack of response from a referral agency to a request for referral comment shall be interpreted as "no comment" concerning the proposal and shall not be deemed a finding of acceptance or "no conflict." The absence of a timely agency comment shall not preclude the Planning and Zoning Commission or Board of Trustees from later seeking agency comment on a specific issue raised during the review process or any hearing.

(E) Failure to forward a referral of an application to an agency as required by Section 10-9-2 shall not constitute a material deviation from the subdivision application review process and shall not void or invalidate any action taken by the Planning and Zoning Commission or Board of Trustees. The requirement of agency referral shall be considered as a preferred, but discretionary, action by the Town.

10-9-7. Staff review and report.

Where an application requires a staff review and report in accordance with Section 10-9-2 of these regulations, the following process shall apply:

(A) Following the deadline set for return of agency responses to the Town, the Town staff shall administratively review the application, all supplemental materials and agency comments to determine if, in the opinion of the Town staff, the application is generally consistent with these regulations. The Town Administrator and Town staff members shall transmit the Town staff's written findings by mail to the applicant.

(B) The Town staff shall also notify the applicant concerning the nature of any returned referrals which are critical of the plan or which recommend denial of the plan. Once the Town staff review is deemed completed by the Town Administrator, the Town Administrator shall schedule the matter for presentation to the Planning and Zoning Commission as may be required by Section 10-9-2.

10-9-8. Notice requirements.

All public notices of hearings required by these subdivision regulations shall include the date, time, place and purpose of the hearing, a general description of the property affected and any other information deemed appropriate by the Town Clerk to apprise the public of the general nature of the action proposed. Notice shall be made when required in accordance with the requirements of Section 10-9-2 of these subdivision regulations and may include notice by publication, mailing, posting or a combination of these methods. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably misled or misinformed the public.

(A) Notice by publication. Where notice by publication is required for any public hearing by Section 10-9-2, notice of the hearing shall be published in the official Town newspaper or in a newspaper of general circulation within the Town at least fourteen (14) days before the date of the hearing.

(B) Notice by mailing.

(1) Where notice by mailing is required for any public hearing by Section 10-9-2, notice shall be deposited in the United States mail, first-class postage prepaid, or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. mail or delivery to another comparable service shall be made at least seven (7) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement, re-mailing of notice or invalidation of the hearing.

(2) Where notice by mailing is required for any public hearing, mailed notice shall be addressed to owners of adjacent property as their names appear in the real property records of the County Assessor or County Clerk and Recorder. For purposes of determining addressees for mailed notice, the Town may rely upon the ownership information provided by the applicant as part of the application.

(C) Notice by posting.

(1) Where notice by posting is required for any public hearing by Section 10-9-2, notice shall be posted on the property that is subject to the hearing in a location that is reasonably determined by the applicant to provide the greatest degree of visibility to members of the public. In most instances, the posting shall be made along the primary traveled public right-of-way adjacent to the property. Posting shall be initially made at least fourteen (14) days before the date of the hearing.

(2) Failure of the posted notice to remain in place and visible during the entire posting period prior to the hearing shall not be deemed sufficient cause to require a postponement, re-posting or invalidation of the hearing where the applicant demonstrates at the hearing that reasonable efforts were employed by the applicant to ensure that the posted notice remained visible. Reasonable efforts may include routine visits to the property to ensure that the posted sign is visible and in good repair. Applicants are encouraged to maintain a "posting log" or other written record of the dates, times and condition of the posted notice.

10-9-9. Public hearings.

Where an application requires a public hearing before the Planning and Zoning Commission or the Board of Trustees (the "reviewing body") in accordance with Section 10-9-2 of these subdivision regulations, the following process shall apply:

(A) The Town Clerk shall set the date and time of a public hearing. Notice of the public hearing shall be issued in accordance with Sections 10-9-2 and 10-9-8.

(B) At the public hearing, the reviewing body shall review the application for conformance with the subdivision regulations and the applicable review standards for the application. The public hearing shall be conducted in accordance with any adopted bylaws of the reviewing body.

(C) Any public hearing or other action of the reviewing body may be continued or postponed at any time to a specified date and time in order to permit preparation of additional information for further review by the reviewing body.

(D) Following the conclusion of the public hearing, the reviewing body shall decide that the application be approved, conditionally approved or denied. For any subdivision application, the date

upon which the subdivision plat shall be deemed submitted to the Planning and Zoning Commission for purposes of Section 31-23-215(1), C.R.S., shall be the date at which the public hearing is concluded.

(E) The applicant for any subdivision approval shall bear the burden of presenting sufficient competent evidence at the public hearing to support the standards for approval set forth by these subdivision regulations. Any decision by the reviewing body to approve or conditionally approve a subdivision plan, plat or other application shall be based upon a consideration of all evidence presented during the public hearing. Where evidence presented is contradictory, the Planning and Zoning Commission and Board of Trustees shall weigh such evidence and judge the credibility and sufficiency of the evidence prior to rendering a decision.

10-9-10. Recording of plat and supporting documentation.

Where the final decision by the Board of Trustees to approve or conditionally approve any subdivision application must be evidenced by the recordation of a plat or other documentation in accordance with Section 10-9-2 of these regulations, the following process shall apply:

(A) Following approval or conditional approval of the application by the Board of Trustees, the applicant shall cause the fully executed plat or other documentation intended for recordation as part of the application approval to be delivered to the Town Clerk in a form acceptable for recordation by the County Clerk and Recorder.

(B) The Town Clerk shall review the form of the plat or documentation for completeness of all required signatures and notarizations. Where the plat or other documentation is determined by the Town Clerk to be complete and in the proper form for recordation, the Town Clerk shall cause the plat or other documentation to be recorded in the office of the County Clerk and Recorder.

(C) All costs of recordation shall be paid in advance or reimbursed to the Town by the applicant.

CHAPTER 10

Design Standards and Criteria

- 10-10-1 Purpose and scope**
- 10-10-2 Design standards minimum requirements**
- 10-10-3 General site design standards and guidelines**
- 10-10-4 Block design**
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- 10-10-10 Public easements**
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- 10-10-12 Ridgeline protection**
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10-10-1. Purpose and scope.

The character and environment of the Town will be greatly affected by the design of subdivisions. The residents within the area must have available to them safe and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, protect the view, minimize the need to reshape and excavate the land, and afford privacy for the residents and protection from noise and vehicular traffic. Natural features and vegetation of the area must be preserved if at all possible. Applicants are encouraged to orient structures in such a fashion as to take full advantage of climatic characteristics affecting heating, cooling, wind loads and alternative energy systems.

10-10-2. Design standards minimum requirements.

Subdivision design shall demonstrate conformance with the requirements of this Chapter. The Board of Trustees may modify or waive any design standard as part of subdivision approval where the Board of Trustees finds that an alternative or different standard proposed by the applicant will provide significantly greater protection of the public health, safety and welfare. Modification or waivers to these design standards shall not generally be granted by the Board of Trustees.

10-10-3. General site design standards and guidelines.

(A) Subdivision design shall conform with all applicable standards for the zone district in which the property is located.

(B) Applicants shall demonstrate complete conformance with all applicable standards and procedures required by federal and state law, including but not limited to issuance of final or conditional permits or approvals from federal and state agencies such as the Environmental Protection Agency (EPA), state air quality control and state water quality control agencies, the United States Army Corps of Engineers, Federal Emergency Management Agency (FEMA), the Colorado Department of Transportation (CDOT) and the Colorado Public Utilities Commission. Applicants are strongly encouraged to obtain any necessary approvals or permits or to secure written findings establishing exemptions from state and federal regulation, prior to submission of a subdivision application.

(C) Subdivision design shall minimize alteration of topographic and natural features of the site except where alteration is necessary to control surface drainage (e.g., creation of detention areas) and to avoid hazardous traffic conditions (e.g., to align intersections at right angles).

(D) Subdivision design shall demonstrate a consideration of the property's climatic conditions and solar exposure in an effort to reduce or minimize hazardous road conditions and hazardous conditions on sidewalks resulting from the accumulation of ice and snow.

10-10-4. Block design.

(A) The lengths, widths and shapes of blocks shall be designed with regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of uses contemplated;

(2) Lot sizes required by the property's zone district;

(3) The need for convenience and emergency access, circulation and traffic safety; and

(4) Limitations and opportunities presented by the topography of the site.

(B) Block lengths shall not exceed six hundred (600) feet nor be less than four hundred (400) feet.

(C) Block design and layout shall provide for one (1) or more logical and reasonable pedestrian ways leading to established and planned routes connecting the subdivision to neighborhood schools, playgrounds, shopping centers and other public uses.

10-10-5. Lot design.

(A) The lengths, widths and shapes of lots shall be designed with regard to:

(1) Provision of adequate building sites suitable to the type of uses permitted within the zone district;

(2) Accommodation of necessary public utilities and parking facilities;

(3) The provision of safe and efficient access based on the types of uses permitted within the zone district;

(4) Lot sizes required by the property's zone district; and

(5) Limitations and opportunities presented by the topography of the site.

(B) Double frontage lots are prohibited except in the following circumstance:

(1) Where double frontage lot design is necessary to separate residential development from an adjacent highway, arterial street or collector street;

(2) Where access to the highway, arterial or collector street is prohibited from the lots;

(3) Where the subdivision design incorporates a fencing and/or landscaping plan that ensures a uniform and consistent design along the highway, arterial or collector street; and

(4) All double frontage lots shall have a lot depth of not less than one hundred thirty (130) feet.

(C) Reverse frontage lots (adjacent lots that permit or provide either access or front building orientation from different streets) are prohibited.

(D) Residential corner lots shall provide extra or additional lot size in order to permit appropriate building setback from and orientation to both streets.

(E) All lots shall be designed to provide an adequate and usable building site following application of the requirements of these subdivision regulations and the applicable zone district requirements. Where any portion of a lot includes a slope of more than twenty-five percent (25%), a ridgeline or lies within a floodplain or floodway area, any map or plat of the lot shall graphically identify the allowable building area or building site resulting from the application of these subdivision regulations and the applicable zone district requirements for the lot.

(F) The creation of a privately owned outlot shall be prohibited except where such outlot is expressly limited by the subdivision plat to use as a location for private subdivision monument entry signage and the perpetual private maintenance of the outlot and signage is ensured through private covenants approved by the Town at the time of subdivision review and approval.

(G) Property lines of lots located at the corners of two (2) intersecting local streets shall be rounded by an arc having a radius of not less than fifteen (15) feet.

(H) Property lines of lots located at a corner of a collector or an arterial street shall be rounded by a radius of at least twenty-five (25) feet.

10-10-6. Access to adequate public thoroughfare required.

(A) All subdivisions shall be served by direct, uninterrupted and permanent access to an existing public thoroughfare capable of safely and efficiently handling both the existing demand upon such thoroughfare and the estimated vehicular traffic volume generated by the proposed subdivision.

(B) All subdivisions shall be accessible from an existing highway, arterial street or collector street that meets all road standards for public streets provided by these subdivision regulations and this Code. Where the existing roadway system providing access to the major subdivision fails to meet the applicable standards, subdivision approval shall be denied until such time that the Town's scheduled capital improvement plan brings the roadway system into conformance with these subdivision regulations and this Code. In the alternative, the applicant may upgrade the roadway system at the applicant's expense as part of the public improvements necessary to serve the subdivision.

(C) Secondary access required. The street layout within a residential subdivision shall be designed to provide for at least two (2) means of public access to lots within the subdivision. This secondary access requirement shall not apply to lots within a subdivision that obtain access from a cul-de-sac street which is less than four hundred (400) feet in length or cul-de-sacs greater than four hundred (400) feet that are authorized by issuance of a variance to these regulations. Both primary and secondary access shall be provided by paved public streets meeting all design and construction standards applicable to such streets; provided, however, that the Board of Trustees may permit secondary access not meeting such standards where it is demonstrated that: (1) the secondary access is sufficient to permit access by emergency vehicles; (2) the secondary access will be regularly maintained and will remain permanently available for emergency vehicle use; and (3) the secondary access will not be detrimental to the public health, safety and welfare. The Board of Trustees may waive the requirement for secondary access to any subdivision only upon a finding by the Board of

Trustees that one (1) or more physical conditions associated with the subdivision, such as topography, property ownership patterns or existing development on adjacent property, prevent or preclude an opportunity for constructing secondary access and the absence of secondary access will not be detrimental to the public health, safety and welfare.

10-10-7. Streets and alleys.

All streets and alleys shall meet the following design requirements:

- (A) All streets shall conform to the comprehensive street and highway plan of the Town.
- (B) All streets and alleys shall be dedicated to the public. Private streets or alleys are prohibited.
- (C) All streets and alleys shall be constructed and paved in accordance with the applicable construction standards for the Town. All streets and associated curbs, gutters and sidewalks shall be designed and constructed to allow for the safe and convenient movement of handicapped individuals and shall meet all federal and state requirements and standards for accessibility.
- (D) Alleys shall be open at both ends. Dead-end alleys are prohibited.
- (E) Street layout shall be designed to connect and relate in a logical and efficient manner to existing and planned roads. Street layout and design shall consider topographic conditions, soil conditions (particularly considering drainage and erosion factors) and public convenience, safety and aesthetics.
- (F) Intersections of streets shall be made at approximately right angles unless topographical or physical features prevent such an alignment.
- (G) Not more than two (2) streets shall intersect at any one (1) point.
- (H) Intersection visibility shall be unobstructed for a minimum of one hundred (100) feet.
- (I) The centerline of a new intersection along one (1) side of an existing street shall align with the centerline of any existing intersection on the opposite side of such street.
- (J) The center of two (2) streets forming a three-way intersection shall be spaced not less than one hundred fifty (150) feet from the centerline of any other three-way or four-way intersection.
- (K) Streets shall be leveled, whenever possible, to a grade of four percent (4%) or less for a distance of at least one hundred (100) feet when approaching all intersections.
- (L) Access to a state highway shall occur only at intersections approved by the Colorado Department of Transportation in consultation with the Town Engineer.
- (M) A cul-de-sac shall not exceed four hundred (400) feet in length as measured along the centerline from a point at the extended property lines of the adjacent lots at the open end and terminating at the farthest side of the circumference of the turnaround. All cul-de-sacs shall have an unobstructed turnaround diameter of at least one hundred (100) feet unless otherwise approved by the Planning and Zoning Commission and Board of Trustees at the time of subdivision approval. Surface

drainage of a cul-de-sac shall be directed toward the intersecting street; except that a drainage easement may be provided through abutting lots where topographic conditions preclude the direction of drainage toward the intersecting street and reasonable provision is made to ensure continuing and perpetual maintenance of the easement through covenants or other property restrictions approved by the Town.

(N) Dead-end streets, with the exception of cul-de-sacs, shall be prohibited unless approved by the Town and designed to connect with a future street in an adjacent unplatted parcel. If a dead-end street is approved, a temporary turnaround may be required by the Board of Trustees where it is determined by the Board of Trustees that the temporary turnaround is desirable to facilitate the provision of emergency services and to promote the safe and efficient management of vehicular traffic. A temporary turn-around shall be established by the dedication of a public easement which shall burden the lots upon which the turnaround is located and which shall terminate upon the Town's acceptance of the through street as a public improvement.

(O) The dedication of less than the full width of a street within a subdivision plat shall not be accepted by the Town unless:

(1) The dedication is made necessary as the result of a previous dedication of only a portion of the width of a street; or

(2) The applicant obtains a public dedication from the abutting landowner of the remaining portion of the street, together with an irrevocable letter of credit or other form of financial guarantee satisfactory to the Town which guarantees the cost of all improvements and construction of the full width of the street.

(P) Street and alley rights-of-way for all subdivisions shall meet the following standards:

<i>Type of Street</i>	<i>Right-of-Way & Utility Easement</i>	<i>Minimum Centerline Curve Radius</i>	<i>Minimum % of Grade</i>	<i>Maximum % of Grade</i>
Arterial street	80 ft.	250 ft.	0.5%	4%
Collector street	70 ft.	250 ft.	0.5%	6%
Local street	64 ft.	100 ft.	0.5%	8%
Alley	20 ft.	No curvature permitted	0.5%	6%

(Q) Street names may be proposed by the applicant at the time of subdivision application. Final approval of street names shall be made by the Board of Trustees. Street addresses shall be assigned by the Town in accordance with the applicable numbering system.

10-10-8. Private driveways.

(A) Private driveways shall meet the following requirements:

<i>Driveway</i>	<i>Minimum Width of Access</i>	<i>Minimum Centerline Curve Radius</i>	<i>Maximum % of Grade</i>
Driveway serving only one dwelling unit	12 ft.	30 ft.	12%
Driveway serving two or more dwelling units	16 ft.	40 ft.	12%

(B) All driveways shall be designed to match as nearly as possible to natural and existing topography of the site.

(C) All driveways greater than fifty (50) feet in length shall be constructed of and shall maintain an all-weather surface.

(D) All driveways shall be maintained in a condition which permits reasonable emergency vehicle access to the principal structures on the property.

(E) The design, maintenance and use of a driveway shall not result in or permit the tracking of mud or rock onto public streets.

(F) Cross-culverts shall be installed at locations where driveways cross natural drainage ways or where a change in road grade is greater than two percent (2%).

10-10-9. Sidewalks and pedestrian access.

(A) Sidewalks shall conform to the adopted construction standards and specifications of the Town. All sidewalks and associated curb and gutter shall be designed and constructed to allow for the safe and convenient movement of handicapped individuals and shall meet all federal and state requirements and standards for accessibility, including curb ramps. A median strip of grassed or landscaped area at least six (6) feet wide shall separate all sidewalks from the adjacent curb and gutter on all arterial streets and on all residential collector streets and residential local streets.

(B) Subdivision design and layout shall provide for one (1) or more logical and reasonable pedestrian access leading to established and planned routes connecting the subdivision to neighborhood schools, playgrounds, shopping centers and other public uses.

(C) Sidewalks shall be included within the dedicated rights-of-way of all roads in the following dimensions:

<i>Type of Road</i>	<i>Residential Zone Districts R-1, R-2, R-3, M</i>	<i>Nonresidential Zone Districts</i>
Local street	Both sides 5 ft. wide	Both sides 6 ft. wide
Collector street	Both sides 5 ft. wide	Both sides 6 ft. wide
Arterial street	Both sides 5 ft. wide	Both sides 6 ft. wide

10-10-10. Public easements.

(A) Public easements sufficient to provide reasonable service facilities for public utilities shall be dedicated on each subdivision plat and shall meet the following minimum standards:

- (1) At least fifteen (15) feet in width when located on one (1) side of a rear lot line; or
- (2) At least a total of twenty (20) feet (ten [10] feet on each side) when centered on a rear lot line; and
- (3) At least fifteen (15) feet (seven and one-half [7.5] feet on each side) along side lot lines.

(B) The use for each public easement shall be designated on the plat. Where undesignated, the easement shall be available for all public uses. Whenever possible, easements should permit co-location of uses to minimize the need for multiple easements. The applicant is encouraged, in lieu of providing easements on each and every lot line, to propose a public easement layout plan for providing the necessary utilities in order to reduce the number and complexity of easements. The layout plan is subject to approval by the utility providers and by the Town.

(C) Sanitary sewer lines shall not be located along side lot lines or extend between lots except where such location is determined by the Board of Trustees as the only reasonable alternative due to topographic or physical features of the property and a twenty-foot-wide easement for both the line location and future maintenance is provided on the plat.

(D) Lot layout shall provide positive surface water drainage away from structures. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed to prevent increases in historic flow, volume, frequency and concentration of storm drainage water from each lot to adjacent lots.

(E) Drainage easements shall be established for all drainage ways, channels, streams or irrigation ditches traversing a subdivision. The location of such easements shall conform substantially to the natural and historic lines of such watercourse and shall include additional reasonable width for maintenance purposes. Where a third party holds an ownership interest in a drainage way, channel, stream or irrigation ditch, the applicant shall obtain the owner's written consent to any modification or relocation of the drainage system.

(F) If a proposed drainage system or plan will convey water across private land located outside of the development or subdivision, the applicant shall secure the legal and permanent right to such use of land outside of the development or subdivision.

(G) Fire lanes shall be required where determined by the Town as necessary to protect the area. When required, all fire easements shall be at least sixteen (16) feet in width, have an all-weather surface acceptable to the Town and shall remain free of obstructions and available for access at all times.

(H) In nonresidential subdivision, a "blanket easement" for utilities shall be provided by the subdivision plat unless building sites and easements are identified on the plat.

10-10-11. Steep slope protection.

(A) Steep slope defined: A *steep slope* shall include any land area greater than two hundred fifty (250) square feet with an average slope greater than twenty-five percent (25%).

(B) Identification of steep slopes required. Any application for subdivision shall graphically identify all steep slopes on the property.

(C) Steep slope mitigation and reduction of impact. Subdivision design shall prevent and avoid the location of any development or improvement within an area of a steep slope. Where such location of development or improvement cannot otherwise be reasonably avoided, the following mitigation measures shall be required:

(1) Preparation and submission to the Town with the application of a soils and geologic study prepared by a geologist containing recommendations for appropriate structure design.

(2) Minimization of the extent of disturbed areas and a plan for the revegetation of all disturbed areas immediately after development within the area or within the next growing season.

(3) Minimization of road cuts, retaining walls and road grades to avoid scarring of the steep slope area.

(4) Design of structures appropriate for the steep slope area, which may include reducing the footprint of the structure, construction of walk-out or garage-under structures, use of foundation walls as retaining walls, or the location of structures as close to an access road as permitted or possible.

(5) Other reasonable conditions or safeguards deemed necessary by the board, commission or administrative staff person with final authority to approve the subdivision plat or application.

10-10-12. Ridgeline protection.

(A) Ridgeline defined. A *ridgeline* shall include any point or line within the property described in the subdivision where the top of a ridge meets the sky. A ridgeline is commonly considered the crest, peak or top of a hillside or knoll. Development of a structure upon a ridgeline would cause the structure to protrude above the ridgeline and result in the structure having a backdrop of the sky.

(B) Identification of ridgelines required. Any application for subdivision for property having more than fifty (50) feet of elevation change between the lowest and highest elevation points within the property shall identify all ridgelines within the property.

(C) Ridgeline development and mitigation of impact. All developments shall avoid the location of structures on ridgelines so that the highest point of any structure shall not protrude above the ridgeline. Where the location of structures on ridgelines cannot be avoided because no other alternative building site is available on the lot or property, all of the following mitigation measures shall be implemented to reduce impacts to ridgelines:

(1) Avoiding or reducing to the greatest degree possible the amount of development on or above the ridgeline.

(2) Minimizing the height of structures that protrude above a ridgeline. No structure shall protrude above the ridgeline by more than one (1) story or a maximum of twenty-five (25) feet.

(3) Use of building colors and building materials that reduce the visibility of the structure. All exterior siding and roofing materials shall be nonreflective.

(4) Limiting the use of artificial lighting on the property and structure to reduce the nighttime visibility of the structure. Exterior lighting shall be directed, sited and shielded in such a manner that the light source is not directly visible from adjacent properties.

(5) Installation of screening such as large trees, shrubs and berms that effectively reduce the visibility of the structure.

(6) Design of structures in locations which utilize natural vegetation and terrain to minimize visual impacts.

(7) Other reasonable conditions or safeguards deemed necessary by the board, commission or administrative staff person with final authority to approve the subdivision plat or application.

10-10-13. Wetlands and riparian areas.

(A) Wetlands defined. For purposes of this Section, *wetlands* shall mean those areas which would constitute jurisdictional wetlands under criteria adopted by the United States Army Corps of Engineers. Nothing in this Section is intended to amend, modify or change any requirement imposed upon development by federal or state law or regulation.

(B) Wetlands delineation required. As part of any application and supporting documentation for approval of any phase of a major subdivision as defined by these subdivision regulations, the applicant shall provide documentation identifying the extent and location of all wetlands on the property proposed for subdivision. The extent and location of wetlands identified by the application shall either be approved by the Army Corps of Engineers or prepared under the supervision and approval of a professional qualified and experienced in the identification of wetlands using criteria approved by the Army Corps of Engineers for wetland delineation. Where an applicant claims that wetlands do not exist on any property proposed for subdivision, and where such property includes indicia or characteristics of possible wetland habitat (such as vegetation typically associated with

wetland habitat), the Town Planner, Planning and Zoning Commission or Board of Trustees may require confirmation of the applicant's claim from the Army Corps of Engineers or a professional qualified and experienced in the identification of wetlands.

(C) Army Corps of Engineers permit required. Unless otherwise provided as a condition of approval of any major subdivision, a copy of a valid wetlands permit or other written authority for disruption of wetlands issued by the Army Corps of Engineers shall be required prior to approval of any phase of a major subdivision that includes wetland areas. Where applicable, a copy of any approved wetlands mitigation plan shall also be required prior to subdivision approval. Conformance with a mitigation plan may, at the Town's option, be incorporated into any site plan or development plan and made a condition of any subdivision approval or building permit.

(D) Activity in wetlands prohibited. No construction, earth disturbance or any development-related activity of any kind or type shall be conducted or allowed within a jurisdictional wetland unless approved by the Army Corps of Engineers.

(E) Reduction and mitigation of wetland impacts. Reasonable efforts shall be undertaken and employed to reduce and mitigate the impact of development and construction activities upon existing and naturally occurring wetlands.

(F) Wetlands buffer required. Except where a greater width of buffer area is required by the Army Corps of Engineers, each application and plan for a major subdivision that includes wetland areas shall establish and provide a minimum one-hundred-foot undeveloped buffer between any development activity and the delineated boundary or limit of such wetland areas. Buffer areas may include areas devoted to recreational activities.

(G) Wetlands protection during construction. Prior to commencement of construction on any property that includes wetland areas, the boundary or limits of such wetlands shall be field-located by a qualified professional in accordance with the applicable wetlands delineation criteria. Prior to commencing any construction within the property, silt fencing shall be installed outside of any wetlands in proximity to construction activities or susceptible to erosion from construction. The location and limits of silt fencing shall be identified on the construction plans.

CHAPTER 11

Public Improvements and Construction Standards

- 10-11-1 Construction design**
- 10-11-2 Required public improvements**
- 10-11-3 Public improvements to be undergrounded**
- 10-11-4 Reserved**
- 10-11-5 Inspection and acceptance of improvements**
- 10-11-6 Warranty of improvements and release of collateral**

10-11-1. Construction design.

Every public improvement or aspect or element of a public improvement required by this Chapter shall be planned, designed and constructed in accordance with the commonly recognized standards and practices employed by professional engineers within the Denver metropolitan area. Developers are strongly encouraged to contact the Town Engineer for assistance in the selection of the appropriate standards prior to commencing design of improvements.

10-11-2. Required public improvements.

The developer of property within any subdivision shall provide at the developer's cost and expense for all engineering, design, preparation of construction documentation, construction and installation and preparation of as-built drawings for all public improvements within the subdivision and necessary or desirable to serve the subdivision, including but not limited to:

(A) Permanent survey monuments and lot pins which shall be set in accordance with state and local law and at locations approved by the Town Engineer. Generally, such monuments shall be set at the surface of the ground not more than one thousand four hundred (1,400) feet apart along any straight boundary line, at all angle points, points of change in direction or change in radius of any curbed boundary and at public land corners. Half-inch steel pins or larger shall be set at all lot corners. In addition, all public land corners (section and quarter corners) which are located beneath the pavement of proposed streets shall be monumented with suitable markers set in concrete and encased in a lidded metal box at least three-tenths (0.3) of a foot beyond the finished street surface. Affixed securely to the top of each such monument shall be the Colorado registration number of the responsible land surveyor.

(B) Curbs, gutters and sidewalks along all public streets (excluding alleys).

(C) Street grading and paving of all public streets and alleys.

(D) Street name signs and initial traffic signage within a subdivision.

(E) Bridges, culverts, drainage channels and other infrastructure required to span water bodies, watercourses, irrigation ditches and natural or man-made drainage areas.

(F) Street lighting.

(G) Stop lights and other traffic control devices where determined by the Town as reasonably necessary to ensure safe and efficient movement of vehicular traffic.

(H) All on-site and off-site public utilities necessary to provide or deliver service to the subdivision or development, including but not limited to:

(1) Water lines;

(2) Sanitary sewer lines;

(3) Storm drainage improvements and storm sewer;

- (4) Fire hydrants;
- (5) Electric lines, transformers and other equipment necessary to serve the development and subdivision;
- (6) Natural gas lines and equipment necessary to serve the development and subdivision;
- (7) Utility systems and improvements required to be installed by service agencies other than the Town (e.g., special districts or other providers); and
- (8) Other public improvements deemed by the Town Engineer, Town Planner or Planning and Zoning Commission, with the concurrence of the Board of Trustees, as necessary to serve all or any portion of the development or subdivision based upon topography, subdivision layout or design, or other on-site characteristics of the subdivision or development.

10-11-3. Public improvements to be undergrounded.

Water, sanitary sewer, storm sewer, telephone, electric, natural gas and other similar utility lines and services shall be placed underground. Transformers, switching boxes, terminal boxes, meters, roadway lighting, signal devices, gas regulators, distribution feeders, compressor stations or other similar facilities may be placed aboveground. Utility lines may be placed either within public road rights-of-way within the subdivision in accordance with adopted encroachment requirements or within easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan.

10-11-4. Reserved.

10-11-5. Inspection and acceptance of improvements.

(A) Progress inspections. Upon completion of stages or phases of public improvements within any subdivision, the developer shall contact the Public Works Director or Town Clerk in writing and request progress inspections of the improvements. The Town Engineer shall use his best efforts to inspect improvements within forty-eight (48) hours of a request. Approval of stages or phases of public improvements shall be issued by the Public Works Director where the Public Works Director finds that the improvement or system is constructed in accordance with appropriate construction and design standards. Such approval shall be made in writing if requested by the developer.

(B) Final inspections. Upon completion of the construction for a public improvement, the developer shall contact the Public Works Director or Town Clerk in writing and request a final inspection of the improvement. The Town Engineer shall use his best efforts to inspect public improvements within seventy-two (72) hours of a request. Approval of construction shall be issued by the Public Works Director where the Public Works Director finds that the improvement is constructed in accordance with appropriate construction and design standards and the improvement is ready for public use. Such approval shall be made in writing if requested by the developer.

(C) Final acceptance. Upon written request of the developer, the Public Works Director shall issue final acceptance of a public improvement where the Public Works Director has made the following determinations:

- (1) The Public Works Director has issued a final approval of construction;
- (2) The public improvements are free and clear of all liens and encumbrances;
- (3) Complete as-built plans bearing the certification of a registered Colorado engineer have been submitted to the Public Works Director by the developer; and
- (4) All applicable requirements for completion of the public improvements have been fully meet or satisfied.

Any acceptance by the Public Works Director shall be made in writing and the writing shall bear the date of final acceptance. The Public Works Director shall not condition final acceptance of any improvement. The Public Works Director may, at his discretion, require the approval of final acceptance to be made by the Board of Trustees. The Board of Trustees may issue conditional acceptance of public improvements.

(D) Bill of sale or other ownership documentation. The Town may demand that the developer provide an executed bill of sale or other documentation to evidence the transfer of ownership of public improvements from the developer to the Town. The form of bill of sale or other documentation shall be approved by the Town Attorney and may include a certification or warranty that the improvements are free and clear of liens and encumbrances.

10-11-6. Warranty of improvements and release of collateral.

(A) Warranty of improvements. All public improvements shall be warranted by the developer for a period of one (1) year, commencing upon the date of the Town Planner's final acceptance. The warranty shall include warranty of design, equipment, labor and workmanship. Failure in design, performance, construction or installation of the improvement or system shall be promptly cured and repaired by the developer at the developer's cost and expense upon demand by the Town. In addition to any other remedy permitted by law, the Town may, at its election, apply any amount retained from collateral deposited by the developer toward the Town's repair or cure of the failure.

(B) Release of collateral. Release of collateral following final acceptance of public improvements or public systems shall be made only in accordance with the subdivision improvement agreement. Where no provisions for release of collateral are contained in the agreement, release of collateral shall be authorized only by the Town Administrator or Board of Trustees, provided that collateral equal to a minimum of fifteen percent (15%) of the estimated cost of the improvements is retained during the period of warranty. Upon expiration of the period of warranty, any remaining collateral shall be released upon request of the developer.

(C) Damage to improvements during construction. Regardless of whether public improvements have been accepted by the Town or are under warranty by the developer, damages to public improvements resulting from ongoing construction and development activities shall be repaired by the developer at the developer's cost and expense.

CHAPTER 12

Subdivision Improvement Agreement

10-12-1 Subdivision improvement agreement required

10-12-1. Subdivision improvement agreement required.

(A) For any subdivision for which public improvements are to be constructed (either on-site or off-site), no subdivision approval shall be granted by the Town unless and until a subdivision improvement agreement executed by the landowner, applicant and developer is completed and presented to the Board of Trustees for review and consideration.

(B) Each subdivision improvement agreement shall be in the general form approved by the Board of Trustees. The form of subdivision improvements agreement shall be adopted by resolution of the Board of Trustees and shall be subject to revision of the form as deemed appropriate by the Board of Trustees. At a minimum, a subdivision improvement agreement shall include the following:

(1) Provisions to ensure timely and proper financing and completion of the public improvements, including but not limited to collateral or financial security in the form of an irrevocable letter of credit, performance bond, property bond, private or escrow agreements, loan commitments, liens on property, deposit of certified funds or other similar surety agreement in a form approved by the Town Attorney. Where the amount of financial security is based upon the estimated cost of completion of the public improvements, the estimate shall be prepared by the developer and shall be subject to review and approval by the Public Works Director. For purposes of determining the amount of financial guarantee, the estimate of cost shall be increased by ten percent (10%) for improvements with a projected completion date of less than two (2) years from the date of subdivision approval and twenty percent (20%) for all other public improvements.

(2) Provisions to ensure the performance and enforcement of all terms and conditions of the agreement by the landowner, applicant, developer and their successors and assigns.

CHAPTER 13

Reserved

CHAPTER 14

Reserved

CHAPTER 15

Appendix

10-15-1 Subdivision plat content requirements

10-15-2 Agreement for payment of development review expenses

10-15-3 Reserved

10-15-4 Form of letter of credit and sight draft

10-15-5 Form of certification for mineral estate notice

10-15-1. Subdivision plat content requirements.

(A) Legal Description and Dedication Language.

LEGAL DESCRIPTION:

_____, being the owner(s) of the real property of _____ acres described as follows:

[Insert surveyed property description of entire bounds of area being platted]

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS, THAT we, _____ and _____, being the owner(s) of the land described above, have caused the land to be laid out and platted under the name of _____, and do hereby dedicate and grant to the public forever and in fee simple all streets, alleys, roadways, thoroughfares, fire lanes, utility and drainage easements, park land and open space as indicated or illustrated on this plat in compliance with the Town of Hot Sulphur Springs Subdivision Regulations, and the landowners shall bear all expense involved in planning, design and construction of all public improvements except to the extent expressly stated in any Town-approved and recorded subdivision improvement agreement. Dedication shall be final upon adoption of a resolution by the Board of Trustees accepting the property dedicated by this plat. Except as otherwise stated on this plat, there shall be no limitation or restriction upon the purpose or public use of property dedicated by this plat.

[Where applicable] Those areas designated as "outlots" are hereby excluded from any development and are reserved for potential or possible future subdivision except as may be expressly stated in a Town-approved subdivision improvement agreement. Any future use and development of any outlot shall require further subdivision and Town-approval in accordance with the Town of Hot Sulphur Springs Subdivision Regulations.

In Witness Whereof, we do hereunto set our hands and seals this _____ day of _____, 20____.

[Printed Name of Owner]

[Printed Name of Owner]

(If by corporation, president signs, secretary attests and corporate seal is affixed)

STATE OF _____)
) ss.
COUNTY OF _____)

Acknowledged before me this _____ day of _____, 20____, by _____.

Witness my hand and official seal.

Notary Public

My commission expires _____.

(B) Surveyor's Certificate:

SURVEYOR'S CERTIFICATE:

I, _____, do hereby certify that the survey of the boundary of _____ (Subdivision) was made under my supervision and the accompanying plat accurately represents said survey.

[Insert statement by the land surveyor explaining how bearings were determined.]

[Insert statement by the land surveyor indicating the type of monuments used.]

[Insert any required statement by the land surveyor certifying compliance with applicable provisions of the Colorado Revised Statutes.]

(Signature of Registered Land Surveyor)

[Land Surveyor's Seal]

(C) Mortgage Interest Holder's Consent to Dedication.

MORTGAGEE CONSENT TO DEDICATION:

The undersigned holder of mortgage interests and liens against the property offered for dedication and transfer to the public and Town of Hot Sulphur Springs consents and approves of such dedication and transfer and subordinates and releases its interests to such dedicated and transferred property.

In Witness Whereof, we do hereunto set our hands and seals this _____ day of _____, 20____.

[Printed Name of Mortgage Interest Holder]

(If by corporation, president signs, secretary attests and corporate seal is affixed.)

[Insert notarization conforming to applicable requirement of state law for mortgagee's place of execution.]

(D) Board of Trustees Approval Certificate.

TOWN OF HOT SULPHUR SPRINGS APPROVAL CERTIFICATE:

The Town of Hot Sulphur Springs, Colorado, by motion of its Board of Trustees and following a recommendation of the Hot Sulphur Springs Planning and Zoning Commission, did on the _____ day of _____, 20____, adopt and approve the within plat and accept the dedications hereon made.

Mayor or Mayor Pro Tem

ATTEST: _____
Town Clerk

(Town Seal)

(E) County Clerk and Recorder Certificate.

COUNTY CLERK AND RECORDERS CERTIFICATE:

STATE OF COLORADO)
) ss.
COUNTY OF GRAND)

I hereby certify that this plat was filed in my office at _____ o'clock ____m. on the _____ day of _____, 20____, and is duly recorded in Plan File _____.

By: _____
County Clerk or Deputy County Clerk

10-15-2. Agreement for payment of development review expenses.

**Town of Hot Sulphur Springs
Agreement for Payment of Development Review Expenses
Pursuant to Title 10 of the Hot Sulphur Springs Municipal Code**

THIS AGREEMENT is made and entered into by and between the **TOWN OF HOT SULPHUR SPRINGS, COLORADO**, a Colorado statutory municipal Corporation, ("Town") and _____, hereinafter referred to as the "Applicant." The Applicant and the Town shall collectively be referred to as the "Parties." This Agreement shall be effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

RECITALS AND REPRESENTATIONS:

WHEREAS, the Applicant is the owner of, or represents that he is the authorized agent of the owner of, certain property situated in the Town of Hot Sulphur Springs, Grand County, State of Colorado (the "Property"), which is either legally described as or commonly known as:

[check one]

- Legal Description Attached as Exhibit A.
- Name or Title of Subdivision Plat or Property Address: _____

WHEREAS, the Applicant desires to develop or to seek land use approval for the Property and has made an application ("Application") to the Town of Hot Sulphur Springs for the review and consideration for approval by the Town of the following:

- Subdivision Application
- Plat Amendment Application

For purposes of this Agreement, "Application" shall mean and include all documentation, data and information submitted to the Town in order to seek or obtain approval of development of or land use approval for the Applicant's Property, including but not limited to site plans, engineering and surveying documentation, engineering and other professional reports and studies, and any construction documentation required to authorize the construction of public or other improvements within the Property.

WHEREAS, the Parties hereto recognize that the land use application fees specified by the Municipal Code of the Town of Hot Sulphur Springs cover the typical or standard administrative processing expenses of the Town for routine projects and these fees may not be, or are not likely to be, adequate to fully cover the Town's expenses in considering the Applicant's Application and project, including but not limited to expenses incurred for legal and notice publications, engineering services, attorney fees, consultant fees, reproduction and photocopying of materials, public hearing expenses, recording costs and inspections by Town staff to ensure the Applicant's compliance with the requirements of the approved plans and specifications;

WHEREAS, the Town has customarily incurred significant expenses associated with ensuring an applicant's compliance with design and construction specifications for public improvements, such as roads, drainage improvements and bridges, and these expenses oftentimes exceed the land use fees paid by the applicant as part of the customary review processes;

WHEREAS, Title 10 of the Municipal Code for the Town of Hot Sulphur Springs requires that every applicant for annexation and subdivision and land use approval execute an agreement for the payment of Town expenses incurred in the processing and review of the applicant's application and that this requirement is based on the policy that the applicant is the party that should properly bear the costs of application, review, consideration and inspection associated with development; and

WHEREAS, the Applicant understands that the review and processing fees incurred by the Town are independent, separate and apart from the Town's decision to approve or deny the submitted Application and that such fees are owed by the Applicant regardless of the Town's decision on the Application or the Applicant's decision to postpone, abandon or terminate processing of the Application.

NOW THEREFORE, in consideration of the premises and of the mutual promises and conditions hereinafter contained and the requirements of the Hot Sulphur Springs Municipal Code, it is hereby agreed as follows:

1.0 APPLICANT SHALL PAY ALL EXPENSES

The Applicant shall pay in accordance with this Agreement all expenses which are directly related to the Town's review, processing, consideration and inspection (both pre-application approval and post-application approval) of the Application.

2.0 "EXPENSES" DEFINED

2.1 Generally: For purposes of this Agreement, "expenses" shall include all expenses, costs, fees, assessments and other charges incurred by the Town and directly related to the Town's processing, review, consideration and inspection (both pre- and post-application approval) of the Application and the Property. Such expenses shall include, but shall not be limited to: legal and notice publication(s); engineering services (Town Engineer and/or other necessary engineering professional); land use planning services (Town Planner and/or other necessary planning professional); inspections and inspection services necessary to ensure compliance of the Applicant's approved development with the approved Application and construction documentation (but not including building permit inspections performed by the Chief Building Official to ensure compliance of the structures with uniform construction codes where such fees are recovered through another fee payment program); fees and charges billed to the Town by other agencies and entities statutorily or legally required to review the Applicant's documentation and development (including state and federal regulatory agencies); attorney fees and charges (for the Town Attorney only unless otherwise pre-approved by the Applicant); specialized consultant fees necessary to insure Application or development conformance with federal, state or local laws (e.g., water, wetlands, biological and/or geo-technical consultants); reproduction and photocopying of Application and other supporting or necessary materials; public hearing, public meeting and administrative meeting expenses (including all costs of conducting a special meeting if requested by the Applicant); and inspections and review necessary to ensure and investigate compliance with applicable laws, ordinances, regulations and the Applicant's approved development and construction plans.

2.2 Applicant/Staff Meeting as an Expense: Where the Applicant demands or requests an administrative or formal meeting with Town staff members (e.g., Town Administrator, Public Works Director, Town Engineer, Town Planner, Town Attorney or other executive or administrative representative(s) of the Town), "expenses" shall include all costs incurred by the Town for the attendance of each staff member at the meeting, which shall be computed at the hourly fee customarily charged to the Town by such staff member(s) or \$30.00/hour, whichever amount is greater. Hourly charges for consultation or meetings

with "in-house" Town staff (e.g., Town Administrator, Public Works Director, Parks Director, etc.) shall not be charged to the Applicant unless: (1) the Town Administrator determines that the meeting is not in the best interest of the Town; and (2) the Town Administrator notifies the Applicant in writing that the cost for attendance of "in-house" staff members will be charged to the Applicant pursuant to this Agreement. The Town Administrator may modify, reduce or waive all or a portion of the expenses charged to the Applicant which are associated with a staff meeting or may set a maximum cost for any meeting. It is the express intent of this paragraph that the Applicant shall bear and pay in full all expenses and costs of the Town in the processing of the Application and, if such Application is approved, for the Town's inspection and review of the development until such time that the development is complete in accordance with the approved Application.

3.0 FULL AND SEPARATE ACCOUNTING OF REVIEW EXPENSES.

3.1 Separate Account and Accounting of Expenses. The Town shall maintain separate accounts of all expenses incurred for the Application. A current statement of expenses incurred will be made available to the Applicant within a reasonable time following the Applicant's request. The Parties understand that, due to customary delays in billing by the Town's outside consultants, a current statement may only include expenses billed to the Town as of the date of the Applicant's request.

3.2 Resolution of Disagreement Concerning Expenses. The Applicant may administratively contest an expense billed to the Applicant pursuant to this Agreement. The Applicant's contest shall be made in writing delivered to the Town Administrator within ten (10) days after the Applicant's receipt of notice of the billed expense. The written contest shall specify in detail the expense challenged and reason(s) for the contest. The Town Administrator shall use his best efforts to review a timely written contest within five (5) business days and to promptly respond in writing to the Applicant by: (1) affirming the expense as appropriate under this Agreement; (2) deleting or rescinding the expense as inappropriate under the Agreement; or (3) modifying or reducing the expense with reasons for the modification or reduction. The Applicant may appeal the Town Administrator's decision to the Board of Trustees by delivering a written request for appeal to the Town Clerk within ten (10) days after the Applicant's receipt of the Town Administrator's decision. Such appeal shall be considered by the Board of Trustees as an administrative matter (no notice or hearing required to be provided to the applicant) and the Board of Trustees, following review of the Applicant's written contest and the Town Administrator's written decision in response, shall: (1) affirm the expense as appropriate under this Agreement; (2) delete or rescind the expense as inappropriate under the Agreement; or (3) modify or reduce the expense. The Board of Trustees' administrative decision shall be final. Review and processing of an Applicant's timely written contest shall not be an expense within the meaning of this Agreement.

4.0 DEPOSIT ACCOUNT

The Applicant shall make all deposits for land use fees and expenses required by the Hot Sulphur Springs Municipal Code at the time of Application submittal and shall maintain a deposit account with the Town ("Deposit Account"). The Town shall charge expenses against the Deposit Account and shall deduct for payment the expenses from the Deposit Account. At

such time that the expenses charged against the Deposit Account exceed ninety percent (90%) or more of the Deposit Account, and within ten (10) days of the Applicant's receipt of notice by the Town, the Applicant shall supplement the Deposit Account by making an additional deposit with the Town Clerk of an amount of at least fifty percent (50%) of the amount of the initial deposit for land use fees and expenses. The Town Administrator may reduce the amount of, or may waive, the Applicant's making of an additional deposit where the Town Administrator finds that the estimated or anticipated additional expenses for the processing of the Application will not likely exceed the remaining balance held in the Deposit Account by the Town. The Applicant shall be obligated to maintain a positive balance in the Deposit Account at all times. Failure by the Applicant to maintain a positive balance in the Deposit Account and to timely make an additional deposit within ten (10) days of notice by the Town in accordance with this Section shall constitute a material breach of this Agreement.

5.0 APPLICATION TERMINATION.

Except as otherwise precluded or prohibited by law or an agreement with the Town, the Applicant may terminate the processing of an Application at any time by delivering written notice to the Town. The Town shall immediately take all reasonable steps necessary to terminate the accrual of additional and continuing expenses to the Applicant. In no event shall the Applicant be obligated to pay an expense associated with work or service performed on the Application which is more than forty-eight (48) hours after the date and time of the delivery of the Applicant's notice of termination.

6.0 LIEN AGAINST PROPERTY

To the extent permitted by law, expenses incurred by the Applicant in accordance with this Agreement, together with an amount equal to ten percent (10%) of the total expenses for the cost of collection, shall constitute a lien against the Property described in this Agreement and described in the Application. By this Agreement, the Applicant consents to the imposition of a lien and the cost of collection against the property and represents that the Applicant is authorized to so consent as the owner of the property or as the authorized agent of the owner. The Town may seek enforcement of the lien in the same manner as real estate taxes against the Property.

7.0 ENFORCEMENT AND COLLECTION OF EXPENSES.

In the event of the Applicant's breach of this Agreement, all amounts owing shall be due and payable immediately and such amount shall accrue interest at an amount equal to eighteen percent (18%) per annum until paid in full. In such event, the Town shall be entitled to and may invoke one (1) or more of the following remedies following the Town's mailing of a letter demanding payment in full to the Applicant:

- 7.1 Postponement, cessation and/or termination of the processing of the Application or any other land use application or approval related to the Property;
- 7.2 Denial of the Application;

- 7.3 Imposition of a condition upon approval that the Applicant pay all expenses prior to issuance of further approvals, including building permits, for all or any portion of the Property;
- 7.4 Withholding, postponing and/or denying: (1) any building permit(s) for any part or portion of the Property or for any improvement which serves or will provide service to the Property; (2) construction documentation review or approval; (3) grading, road cut or other construction or permit approval; and/or (4) the submission, receipt, processing or approval of any application or request by the Applicant or the Applicant's affiliate(s) for any form of land use or construction application related in any way to the Property;
- 7.5 Refusal or denial of the acceptance of any other application for land use approval or development of any kind for the Property submitted by the Applicant or any other person;
- 7.6 Commencement of any remedy provided by law or equity, including an action for declaratory judgment, injunction and/or damages; and/or
- 7.7 Certification of the lien for collection to the appropriate officials for Grand County.

8. NO IMPLICATION OF APPROVAL.

The Applicant agrees to pay all Expenses regardless of whether the Town approves or denies the Application. The Applicant understands that the approval of the Application is not, and shall not constitute, consideration for the Applicant's payment in accordance with this Agreement. The Town shall not be estopped or otherwise limited or precluded from denial or conditional approval of the Application by the terms, conditions or obligations of this Agreement.

9.0 MISCELLANEOUS PROVISIONS.

- 9.1 No Waiver: A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
- 9.2 No Waiver of Governmental Immunity: Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
- 9.3 Binding Effect: The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives and assigns thereof and shall constitute covenants running with the described properties. To the extent permitted by law, the Applicant and all future successors, heirs, legal representatives and assigns of the Applicant shall be jointly and severally responsible for all terms, conditions and obligations set forth in this Agreement. The Town may, at its discretion, record this Agreement with the Clerk and Recorder for Grand County.

- 9.4 No Third Party Beneficiaries: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Applicant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the Town and Applicant that any person other than the Town or Applicant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- 9.5 Governing Law, Venue and Enforcement: This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising from this Agreement shall lie with any appropriate court within Grand County, Colorado, or any appropriate court of appeal from such Grand County court.
- 9.6 Attorney's Fees: If the Applicant breaches this Agreement, the Applicant shall pay the Town's reasonable costs of collection and costs and attorney's fees incurred in the enforcement of the terms, conditions and obligations of this Agreement, whether or not legal proceedings are instituted.
- 9.7 Assignment and Release: All or part of the rights, duties, obligations, responsibilities or benefits set forth in this Agreement shall not be assigned by the Applicant without the express written consent of the Board of Trustees for the Town of Hot Sulphur Springs. Any such written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities or benefits so assigned, and shall not be effective unless approved by resolution or motion of the Board of Trustees. No assignment shall release the Applicant from performance of any duty, obligation or responsibility unless such release is clearly expressed in such written document of assignment. Prior to approving any release of the Applicant, the Town may, at its sole discretion, require the party assuming any duty, obligation or responsibility of the Applicant to provide to the Town written evidence of financial or other ability or capability to meet the particular duty, obligation or responsibility being assumed by the party.
- 9.8 Paragraph Captions: The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 9.9 Severability: Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 9.10 Integration and Amendment: This Agreement represents the entire agreement between the parties, and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties.
- 9.11 Incorporation of Exhibits: Unless otherwise stated in this Agreement, exhibits, applications or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes.

9.12 Applicant Includes Agents: For purposes of incurring expenses (such as, but not limited to, requesting meetings and submitting reports and studies for Town review), the term "Applicant" shall include any authorized agent, consultant or other person acting on behalf of the Applicant.

9.13 Notices: Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail.

If to the Town:

Town of Hot Sulphur Springs
Attention: Town Administrator
513 Aspen Street
Box 116
Hot Sulphur Springs, CO 80451

If to Applicant:

IN WITNESSES WHEREOF, the Town and the Applicant have caused this Agreement to be duly executed and effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

APPLICANT

By: _____

Date: _____

Owner of Property

Authorized Agent of Owner

Print Name: _____

Position/Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

Acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public

My Commission Expires: _____

TOWN OF HOT SULPHUR SPRINGS, COLORADO

Town Administrator/Mayor/Mayor Pro Tem

Date: _____

ATTEST:

Town Clerk

10-15-3. Reserved.

10-15-4. Form of letter of credit and sight draft.

Issuer's Letterhead
Irrevocable Standby Letter of Credit
Letter of Credit No. _____

Date: _____

Beneficiary Address

Attention: _____

Ladies and Gentlemen:

1. We hereby open in your favor, at the request and for the amount of \$_____, this irrevocable standby letter of credit in an aggregate amount not to exceed \$_____, to be available for payment of your drafts drawn at sight on us and accompanied, in the case of each draft, by your signed written statement addressed to us stating:

The amount represented by the draft accompanying this statement is the amount required to be paid to Beneficiary on account of the default of _____, under the _____, dated _____, by and between _____ and _____.

2. This credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by any document, instrument or agreement referred to herein, or in which this credit is referred to, or to which this credit relates; and no such reference shall be deemed to incorporate herein by reference any such document, instrument or agreement.
3. This credit shall expire on [date], unless extended as provided herein.
4. It is a condition of this credit that it will be automatically extended without amendment for an additional period of twelve (12) months from the present and each future expiration date unless, not less than sixty (60) days prior to the then-relevant expiration date, we notify both you and the Town of Hot Sulphur Springs, 513 Aspen Street, Box 116, Hot Sulphur Springs, Colorado 80451, by Certified, Return Receipt Mail, that we elect not to extend this credit for any additional period. Upon your receipt of such a notification and the written consent of the Town of Hot Sulphur Springs, Colorado, you may draw your sight draft on us prior to the then-relevant expiration date for the unused balance of this credit, which shall be accompanied by your signed written statement that you received notification of our election not to extend.
5. Drafts must be marked "Drawn under Irrevocable Standby Letter of Credit No. _____."
6. We hereby agree to honor each draft drawn under and in compliance with the terms of this credit if duly presented at our offices at _____ on or before the close of business on the expiration date.
7. This credit shall be governed by and construed in accordance with the laws of the State of Colorado.

OR

7. This credit shall be governed by and construed in accordance with the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 500 (or the most recent version or revision) and, to the extent not inconsistent therewith, the laws of the State of Colorado.

Very truly yours,

Issuer

By: _____
Authorized Signature

Form of Sight Draft

Date: _____

Notary Public

[SEAL]