

CHAPTER TWO PROCEDURES

2.1 REVIEW AND APPROVAL REQUIRED

The policies and regulations in this Code apply to the use and/or development of all land. No person shall begin or change a land use or development in the City without first obtaining a permit or approval from the Director.

Table 2.1 summarizes the procedures, agencies and public bodies involved in the development proposal process. The procedures, applications, the agencies and public bodies involved in the process, and the methods of appeal are described in Sections 2.2 and 2.3.

**Table 2.1
REVIEW PROCEDURES SUMMARY**

Application Process	General Meeting ^{1,9}	Neighbor-hood Meeting	Acting Body				Notices ²		
			Director	PC	CC	ZBOA	Public	Mail	Sign
ADMINISTRATIVE PERMITS									
Planning Clearance	-	-	D	-	-	A	-	-	-
Certificate of Occupancy	-	-	D	-	-	A	-	-	-
Home Occupation	-	-	D	-	-	A	-	-	-
Temporary Use	-	-	D	-	-	A	-	-	-
Change of Use	-	-	D	-	-	A	-	-	-
Site Plan Review (Major/Minor)	M (Major Only)	-	D	A	-	-	-	M (Major Only)	-
Fence	-	-	D	-	-	A	-	-	-
Sign	-	-	D	-	-	A	-	-	-
Floodplain Permit	-	-	D	-	-	A	-	-	-
GROWTH PLAN AMENDMENT³									
Text Amendments	-	-	R	R	D	-	M	-	-
Map Amendments	-	M ⁴	R	R	D	-	M	M ⁶	M ⁶
CODE AMENDMENTS									

Table 2.1 Continued

Application Process	General Meeting ^{1,9}	Neighbor-hood Meeting	Acting Body				Notices ²		
			Director	PC	CC	ZBOA	Public	Mail	Sign
Zoning Map Amendments (Rezone)	-	M ^{4,10}	R	R	D	-	M	M ⁶	M ⁶
Text Amendments	-	M ¹⁰	R	R	D	-	M	-	-
MAJOR SUBDIVISION									
Concept Plan (optional)	O	O	R ⁸	D ⁸	-	-	-	-	-
Preliminary Plan not in conjunction with action requiring Council approval	M	M ⁵	R	D ⁷	A	-	M	M	M
Final Plat	-	-	D	A	-	-	-	-	-
Development Improvement Agreements	-	-	D	-	-	-	-	-	-
PLANNED DEVELOPMENT									
ODP (optional)	M	O	R	R	D	-	M	M	M
Preliminary Plan	M	M ^{4,5}	R	R	D	-	M	M	M
Final Plan	-	-	D	A	-	-	-	-	-
Plan Amendments Major Minor	- -	M ^{4,5} -	R D	D A	A -	- -	M -	M M	M -
OTHER APPLICATIONS									
Conditional Use Permit	M	O	R	D	A	-	M	M	M
Historic Preservation	-	-	R	-	D	-	M	-	-
Revocable Permit	-	-	R	-	D	-	-	-	-
Zoning of Annexation	-	M ⁴	R	R	D	-	M	M ⁶	M ⁶
Simple Subdivision	M	-	D	A	-	-	-	M	-
Disputed Boundary Adjustment	M	-	D	A	-	-	-	-	-

Application Process	General Meeting ^{1,9}	Neighbor-hood Meeting	Acting Body				Notices ²		
			Director	PC	CC	ZBOA	Public	Mail	Sign
Vacation Plat, Easement or Right-of-way	-	-	R	R	D	-	M	M	M
Variance City Council ZBOA	- -	- -	R R	R -	D -	- D	M M	- M	- M
Vested Rights	-	-	R	R	D	-	M	-	-
Appeal of Director Decisions	-	-	-	-	-	D	M	-	-
Institutional & Civic Facility Master Plans	M	M	R	R	D	-	M	M	M
Sign Package	-	-	R	D	-	-	M	M	M

Table 2.1 Continued

KEY:

- | | | | |
|---|----------------------|---|----------------|
| M | Mandatory | R | Review Body |
| O | Optional/Recommended | D | Decision Maker |
| - | No/Not Applicable | A | Appeal Body |

Footnotes:

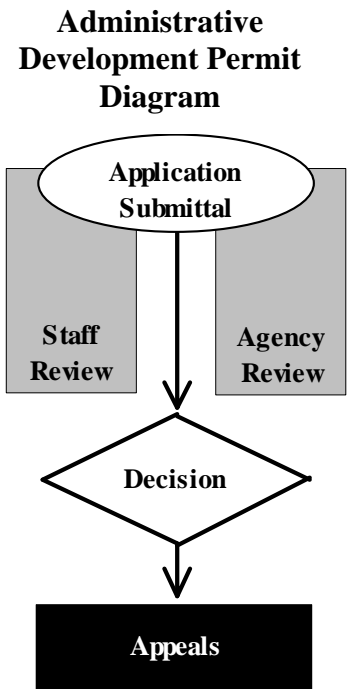
- ¹ Where required, a General Meeting with City staff must occur before a development application will be accepted. For all other submittals, the checklist will be provided through a Counter General Meeting. At the discretion of the Director, a Counter General Meeting may be substituted for a General Meeting. In addition, a Preapplication Conference with City staff is highly recommended for most subdivisions, multifamily, commercial and industrial projects, as the best way to ensure the success of a project.
- ² Some administrative review does require notice. See Section 2.2.B.3.
- ³ The Joint City/County Planning Commission decides requests to amend the Growth Plan for unincorporated property in the Joint Urban Planning Area.
- ⁴ A neighborhood meeting is required for a Growth Plan Amendment, rezoning or zone of annexation to a greater intensity/density.
- ⁵ A neighborhood meeting is required if thirty-five (35) or more dwellings or lots are proposed.
- ⁶ Mailed notice and sign posting is not required for Growth Plan map amendments, rezonings or zoning of annexations relating to more than five percent (5%) of the area of the City and/or related to a Citywide or area plan process.
- ⁷ The Director shall be the decision-maker for nonresidential condominium preliminary plans for platting.
- ⁸ The Director may make recommendations. The Planning Commission members should react, comment, question, critique and give direction (Section 2.7).
- ⁹ Even though a General Meeting may not be required, applicants should confer with City staff regarding potential issues with a proposed development, and to receive a submittal checklist.
- ¹⁰ Meetings required for a stand alone Growth Plan Amendment, Zoning Map Amendment (Rezone) or Zoning of Annexation request may be held between 180 days and five (5) business days before the application can be submitted.

2.2 ADMINISTRATIVE DEVELOPMENT PERMITS

- A. Generally, the procedures for all applications have three (3) common elements: (1) submittal of a complete application, including required fees; (2) review by City staff and other review agencies; and (3) action and/or decision.
- B. **Common Elements of Procedures.** The following procedures apply unless modified by more specific provisions elsewhere. The times for the City to act are maximum number of working days. The Director may shorten any time frame specified herein.

1. **General Meeting/Preapplication Conference.**

- a. **General Meeting.** The general meeting allows the applicant to meet informally with the staff to discuss a project and provide feedback and ideas. Based on the detail and information provided, the staff will give direction on the merits, procedures and issues on a proposed project. A General Meeting is not required for all applications. A development application may not be submitted until after the general meeting is completed if required by the Director.
- Counter General Meeting.** Submittal checklists for projects that do not require a General meeting will be provided as a Counter General Meeting. The checklist and packet will be compiled and made available for the applicant. At the discretion of the Director, a Counter General Meeting may be substituted for a General Meeting.



- b. **Preapplication Conference.** A preapplication conference (“preapp”) with City staff is highly recommended for most subdivisions, multifamily, commercial and industrial projects. The general purposes of a preapplication conference are to:
- (1) Understand the proposed project and the applicant’s specific objectives;
 - (2) Identify applicant time goals such as property closing dates, construction starts, and operation dates;
 - (3) Identify City approvals needed before any development can start;
 - (4) Identify documents, plans, drawings, fees and process other materials necessary for a complete application;
 - (5) Identify significant issues likely to arise to be dealt with; and
 - (6) Begin to familiarize the applicant with City requirements, and this Code.
- c. **Applicability.** Table 2.1 shows the permits for which a general meeting is required. The Director may waive the general meeting if it is not likely to help the neighborhood or applicant.
- d. **Application Requirements.** Submittal requirements for permits are listed in the SSID Manual; however, the scope or location of any specific proposal may require the applicant to provide different or additional information. At the general meeting or preapplication conference, the Director shall decide what information will be required to evaluate the proposal. At any time the Director may

change his mind based on new information, mistakes or neighborhood concerns and require additional or different information. The Director shall give the applicant a form showing the decisions and requirements from the general meeting or preapplication conference.

2. **Application Requirements.**

- a. **Materials.** Lists of required application materials are available from the Director and are included in the SSID Manual.
- b. **Application Deadlines.** Application deadlines are included in the SSID Manual or by administrative policy.
- c. **Application Fees.** The City Council sets fees to recover some of the costs of processing, publicizing, and reviewing applications. City Council may, by resolution, modify any fee at any Council meeting.
- d. **Completeness.** The Director shall decide if the application is complete. If the application is not deemed complete, the Director shall notify the applicant and the submittal shall be returned. The Director shall retain a copy of the checklist identifying any submittal deficiency.

3. **Notice.** Public notice is not required for most administrative permits. The duty to provide notice, when required, is always the applicant's. Notice is provided as follows:

- a. Within five (5) working days of receipt of a complete application, the Director shall give notice, at the applicant's cost, by U.S. mail to each person shown as an owner within 500 feet (500') and at the address by the County Assessor.
- b. Notice should include a general description of the proposal, the location of the property and the soonest the Director can decide on the application.
- c. The Director's failure to send any notice does not mean the proposal is approved since it is always the applicant's ultimate responsibility to see that all City rules, requirements and procedures are followed. The Director may require the applicant pay for additional notice, in any form for any type of proposal if he believes such notice will further the purpose or intent of this Code.

4. **General Procedures.**

- a. The Director shall evaluate each application for compliance with City requirements. The Director shall solicit other agency comments. The Director shall provide his/her comments in writing to the applicant.
- b. The Director may forward copies of the applications to various agencies for their input and review. Such other agencies include:
 - (1) Other City departments;
 - (2) Utilities;
 - (3) Law enforcement;
 - (4) Fire protection agencies;
 - (5) General purpose government;

- (6) State agencies (*e.g.*, Geologic Survey, Transportation, Natural Resources, Wildlife); and
 - (7) Federal agencies (*e.g.*, Federal Emergency Management Agency, Bureau of Land Management, U.S. Army Corps of Engineers).
 - c. Agency review and input is advisory only.
 - d. An application submitted to the City for review must be diligently pursued and processed by the applicant. Accordingly, if the applicant, within ninety (90) calendar days of mailing of the City's review comments on any submittal (or resubmittal) of an application for approval of a development application, does not resubmit revised documents to address comments from the City, the development application shall lapse and become null and void. The Director may grant one (1) extension of the foregoing ninety (90) day requirement, not to exceed thirty (30) days in length.
 - 5. **Comments – Time to Respond.**
 - a. The Director must approve, approve with conditions, or disapprove all complete applications for an administrative permit.
 - b. After receipt of the applicant's written response to comments/recommendations the Director shall, based on the applicable review criteria, approve, approve with conditions or disapprove the application. The Director may allow the applicant additional resubmittals and responses before the Director decides.
 - 6. **Appeals and Amendments.** The Director's decision is final unless the Director receives written appeal within ten (10) working days of the date the City's records show the notice of decision was mailed. A permit shall be amended through the process it was originally approved.
 - 7. **Validity.** Unless otherwise provided herein an administrative permit shall expire on the anniversary date, one (1) year after, except that the Director may extend the permit for up to 180 more days if the applicant proves he/she can complete the project in conformance with currently adopted codes and policies.
 - 8. **Continued Compliance.** Once constructed, the owner(s) and developer shall be treated as an association (unless otherwise formed) and shall be liable for and responsible to maintain the development in substantial compliance with City regulations, approved plans and conditions. Failure to achieve substantial compliance including, but not limited to, the replacement of required plant materials that have died or are diseased, shall constitute a violation of this Code and may be enforceable by the City in Municipal Court subject to the provisions of Chapter Eight.
 - 9. **Enforcement and Revocation.** In accordance with the provisions of Chapter Eight, the Director may revoke any permit for failure to comply with the conditions of the permit or failure to comply with any provision of this Code, or if any information, statement or documents supplied by or on behalf of an applicant are false, misleading or omit any material fact or information.
- C. **Administrative Permits - Planning Clearance and Building Permit**

1. No person shall establish, construct, modify or expand a use or a structure until both a planning clearance and a building permit, if required, has been issued.¹ This Section does not apply to a permit for a fence or sign, as both are otherwise regulated by this Code.
2. **Approval Criteria.** The proposed development shall:
 - a. Be located on a lot or parcel that is authorized for development by this Code;
 - b. Be consistent with the zone and use provisions established in Chapter Three of this Code;
 - c. Be served by the required public facilities and services; and
 - d. Have received all applicable local, state and federal permits.
3. **Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B for the planning clearance. The building permit shall be approved by the Mesa County Building Department, and any appeal shall be heard by the Building Code Board of Appeals.
4. **Validity.** A planning clearance shall expire 180 days after it is issued. If a building permit is obtained within such 180 day period, the planning clearance shall be valid for as long as the building permit remains valid.

D. Administrative Permits - Use Types

1. **Home Occupation Permit.**
 - a. **Purpose.** Home occupation permits are needed to ensure that all home occupations are conducted in a safe manner without adverse affects on neighboring properties.
 - b. **Applicability.** No person shall conduct a home occupation until the Director has issued a home occupation permit.
 - c. **Review Criteria.** The applicant shall demonstrate that the proposed use conforms to the home occupation standards established in Chapter Four of this Code.
 - d. **Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.
2. **Temporary Use Permit.**
 - a. **Purpose.** A temporary use permit helps ensure that temporary uses, including special events, are safe and minimizes adverse impacts on City infrastructure and neighboring properties.
 - b. **Applicability.** No person shall establish a temporary use for a period exceeding forty-eight (48) hours without a temporary use permit. Special events and activities conducted on public property, such as school sites and City parks, which have the consent of the owner, shall be exempt from the provisions of this Section 2.2.D. Only one (1) temporary use is permitted at any given time on a parcel or lot.
 - c. **Review Criteria.** The applicant shall demonstrate that:
 - (1) The use is an authorized temporary use pursuant to Section 4.3.L.;

¹ A planning clearance is required. A building permit is required if it is required under the City's adopted building code.

- (2) There is no other temporary use on the parcel or lot;
 - (3) The use will not be detrimental to the public health, safety and general welfare;
 - (4) The use is consistent with the purpose and intent of this Code and the specific zoning district in which it will be located;
 - (5) The use is compatible (intensity, characteristics and appearance) with existing land uses in the neighborhood. Factors to determine compatibility include: location, noise, odor and light, dust control and hours of operation;
 - (6) The use will not cause traffic to exceed the capacity of affected streets;
 - (7) Adequate off-street parking exists in accordance with Section 6.6 of this Code. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site;
 - (8) Access to public right-of-way complies with City requirements, except that hard surface travel lanes are not required for a temporary use;
 - (9) Permanent hookups to utilities are not provided;
 - (10) Yard and property line setbacks are met for structures and/or display of merchandise. Displays shall not interfere with the sight visibility triangle of the intersection of the curb line of any two (2) streets or a driveway and a street. No personal property, including structures, tents, *etc.* shall be located within the public right-of-way;
 - (11) Signage is allowed only while the temporary use is permitted. A temporary use sign shall not exceed thirty-two (32) square feet, excluding signage fixed to an operable motor vehicle. There shall be no portable signs. No off-premise sign shall advertise a temporary use;
 - (12) At least thirty (30) calendar days have passed since any temporary use on the parcel or lot; and
 - (13) The temporary use will not exceed four (4) months.
- d. **Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.

3. **Change of Use Permit.**

- a. **Applicability.** No person shall change the use of a structure or property to another principal use unless and until the Director has issued a change of use permit. A change of use from residential to any other use requires a site plan review. A change of use does not occur unless:
- (1) The Code requires more off-street parking for the new use than is available on the property;
 - (2) There is any increase in traffic, actual or projected; or

- (3) The amount of storm water runoff or impervious area is increased.
 - b. **Criteria.** The applicant shall prove that:
 - (1) The change of use will be consistent with the zoning district and use provisions established in Chapter Three;
 - (2) Accessory uses conform with the provisions in Section 4.1;
 - (3) Parking for the previous use complied with the previous Code, and the change of use will increase the required parking by five (5) or fewer spaces, in which case additional on-site parking is not required. The required parking spaces may be reduced by up to ten percent (10%) for each 200 square feet additional landscaped area provided for each parking space; and
 - (4) New parking areas shall comply with the landscaping, access, paving and drainage requirements of this Code.
 - c. **Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.
- 4. **Major Site Plan Review.** The Director reviews site plans to determine compliance with this Code, the Growth Plan, adopted corridor guidelines and other regulations. The siting of structures and site improvements are reviewed to promote compatibility with the neighborhood.
 - a. **Applicability.**
 - (1) No person shall begin any development, pour any structure foundation or move earth in preparation for construction without receipt of the Director's approval of a site plan. Construction plans, based upon the approved final site plan and consisting of detailed specifications and diagrams illustrating the location, design and composition of all improvements identified in the final site plan and required by this Code, shall be submitted to the City for any project that necessitates the construction, reconstruction or modification of new or existing improvements. These documents shall include complete plans and specifications of all required improvements identified and approved as part of the final site plan phase. The City shall keep the plans as a permanent record of the required improvements. All development requires major site plan review except:
 - (A) A structure with one (1) or two (2) dwellings;
 - (B) Nonresidential, interior remodeling which will cost twenty-five percent (25%) or less of the fair market value of the existing structure;
 - (C) An approved home occupation;
 - (D) An approved temporary use;
 - (E) An approved fence and a wall;
 - (F) An approved sign;
 - (G) An approved change of use;
 - (H) Minor site plan development; and

- (I) A Development which the Director determines does not require a major site plan review if the development will not adversely affect the neighborhood and meets the purpose and intent of this Code.
- (2) Major site plan review shall occur prior to issuance of a planning clearance and a building permit.
- b. **Review Criteria.** The Director will approve the major site plan if the applicant demonstrates that the proposed development complies with:
 - (1) Adopted plans and policies, such as:
 - (A) The Growth Plan and any applicable corridor, special area or neighborhood plans; and
 - (B) The Grand Valley Circulation Plan, trails plan and parks plan;
 - (2) Conditions of any prior approvals;
 - (3) Other Code requirements, including:
 - (A) Rules of the zoning district;
 - (B) The Use-specific standards in Chapter Three;
 - (C) The design and improvement standards provided in Chapter Six; and
 - (4) Quality site design practices, including:
 - (A) The site shall be organized harmoniously and efficiently in relation to topography, the size and type of the property affected, the character and site design of adjoining property, and the type and size of structures. The site shall be developed to accommodate future growth in the neighborhood.
 - (B) To the maximum degree practical, the native floral bushes, grasses and trees and other landscaping shall be preserved, by minimizing vegetation disturbance and soil removal and by other appropriate site construction planning techniques. Wind and water erosion shall be minimized through site design.
 - (C) Fences, walls and live screening shall be provided to protect the neighborhood and the future uses of the site from adverse effects such as undesirable views, lighting and noise.
 - (D) Plant materials shall be in scale with the structures, the site and its uses and surroundings. Plantings should be arranged to harmonize in size, color, texture, and year-round characteristics of the structures and the site.
 - (E) The scale, character and orientation of structures shall be compatible with present and future uses.
 - (F) Exterior lighting shall be hooded so that no direct light is visible off the site.
 - (G) All utility service lines shall be underground including natural gas, electrical, telephone, and cable television lines.
 - (H) On-site parking, loading and vehicular and pedestrian circulation must be safe.

- (I) Safe and convenient pedestrian, bicycle and vehicular access to public rights-of-way and common use shall be provided. The location, size and number of vehicular and pedestrian accesses shall be arranged to minimize negative impacts on the neighborhood. Off-site and on-site improvements may be required for safe vehicular and pedestrian movement.
 - (J) Emergency and utility vehicles must have obvious and ready access to all structures and areas of the site.
 - (K) Public facilities and utilities shall be available concurrent with the Development.
 - c. **The Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.
 - d. **Validity.** Unless otherwise approved, a major site plan shall expire on the anniversary date, one (1) year after, except that the Director may extend the permit for up to 180 more days if the applicant proves he/she can complete the project in conformance with currently adopted codes and polices. If a building permit is obtained prior to expiration of the major site plan, the major site plan approval shall be valid for as long as the building permit remains valid.
5. **Minor Site Plan.**
- a. This review process may be used by the Director to review lesser-intensity projects if a limited review of zoning, parking, circulation, access and minor drainage changes will be adequate. Construction plans, based upon the approved final minor site plan and consisting of detailed specifications and diagrams illustrating the location, design and composition of all improvements identified in the final minor site plan and required by this Code, shall be submitted to the City for any project that necessitates the construction, reconstruction or modification of new or existing improvements. These documents shall include complete plans and specifications of all required improvements identified and approved as part of the final site plan phase for minor site plan review. The City shall keep the plans as a permanent record of the required improvements.
 - b. The Director may use this review process if the proposed project is limited to:
 - (1) A new structure of up to 1,000 gross square feet only for storage, mechanical room, *etc.* if water and sewer services are not provided and if no structures currently exist on the parcel;
 - (2) An addition to a structure of up 1,000 gross square feet or a new structure of up to 1,000 square feet on a lot with one (1) or more structures;
 - (3) An existing parking lot or existing work area to be paved with asphalt or concrete;
 - (4) A temporary office trailer;
 - (5) Similar low-impact uses; or
 - (6) A proposed residential subunit or accessory unit.

- c. **Criteria.** To receive approval the applicant must demonstrate that the development:
 - (1) Complies with the Growth Plan; and any applicable corridor, special area and neighborhood plans;
 - (2) Complies with the adopted Grand Valley Circulation Plan, trails plan and parks plan;
 - (3) Will be located on property that is authorized for development by this Code;
 - (4) Is consistent with the zoning and use provisions;
 - (5) Meets parking, access and drainage requirements;
 - (6) Is served by public facilities; and
 - (7) Has or is eligible to receive all applicable local, state and federal permits.
- d. **The Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.
- e. **Validity.** Unless otherwise approved, a minor site plan shall expire on the anniversary date, one (1) year after, except that the Director may extend the permit for up to 180 more days if the applicant proves he/she can complete the project in conformance with currently adopted codes and policies. If a building permit is obtained prior to expiration of the minor site plan, the minor site plan approval shall be valid for as long as the building permit remains valid.

E. **Other Administrative Permits.**

1. **Fence Permit.**

- a. **Applicability.** No person shall erect or maintain a fence or wall unless the Director has issued a fence permit. A fence or wall that exceeds six feet (6') in height is considered a structure and requires a planning clearance and building permit instead of a fence permit. Fences may be required in any development to restrict or direct access to other property, right-of-way or for aesthetic purposes. Fences must comply with Section 4.1.J of the Code, any design guidelines and other conditions of approval. A fence or a wall may vary from the standards in Section 4.1.J if approved as part of a development plan;
 - (1) In a proposed planned development zone; or
 - (2) On a site with a conditional use permit.
- b. **Criteria.** No fence shall be built unless the Director has approved a plan showing the type and method of construction, anchoring of the posts and gates; the distance between the fence and the property lines including right-of-way; and the height of the fence.
- c. **The Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.
- d. **Validity.** A fence permit shall only be valid for 180 calendar days.

2. **Sign Permit.**

- a. **Applicability.** No person shall erect or display a nonexempt sign

(see Section 4.2) unless the Director has issued a sign permit. An on-premise temporary sign may be erected without a permit if done as referred in Section 4.2.D. No person shall alter a sign face by painting or overlay such that the color, symbols, letters or other aspect is changed without a permit. Touching up or repainting existing letters, symbols, *etc.*, is maintenance and does not require a permit.

b. **Criteria.**

- (1) All signs shall be constructed and maintained in accordance with Section 4.2.
- (2) A sign in a corridor overlay district shall comply with the design guidelines.
- (3) The zoning district may further restrict and limit the type of sign.
- (4) A sign shall be located on the property to which it refers unless permitted as off-premise sign. A sign shall be permanent except as allowed in Section 4.2.D.
- (5) An exterior sign shall be designed to withstand a wind load of thirty (30) pounds per square foot.
- (6) No person shall place on or attach any sign to any public property, including any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface unless authorized by this Code or other City ordinance.

c. **The Application, Review and Decision-Making Procedures.** See Table 2.1 and Section 2.2.B.

d. **Validity.** A sign permit or clearance shall only be valid for 180 calendar days.

3. **Floodplain Development Permit.**

a. **Applicability.** No person shall construct or maintain any use or structure nor make any development in a floodplain or within any area of special flood hazard (Section 7.1) unless the Director of Public Works and Utilities has issued a floodplain permit.

b. **Review Criteria.** The Director of Public Works and Utilities shall not issue a floodplain permit unless the applicant demonstrates conformance with Section 7.1 of this Code.

c. **The Application, Review and Decision-Making Procedures** are in Table 2.1 and Section 2.2.B. When base flood elevation data has not been provided in accordance with Section 7.1.C, the Director of Public Works and Utilities may use any flood elevation and floodway data available from a federal, state or other source as criteria to decide how and if construction, substantial improvements, or other development in the floodplain may be permitted.

d. **Director's Responsibilities.**

- (1) **Record Keeping.** The Director of Public Works and Utilities shall obtain and maintain the following information:
 - (A) The actual elevation (relative to mean sea level) of the

- lowest floor (including basement) of each structure;
 - (B) For each new or substantially improved floodproofed structure, the actual elevation (relative to mean sea level) to which the structure has been floodproofed and the floodproofing certifications required in Section 7.1; and
 - (C) Records pursuant to Section 7.1.
 - (2) Alteration of Watercourses. The Director of Public Works and Utilities shall require proof that the applicant has:
 - (A) Notified adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse. The Director of Public Works and Utilities shall submit evidence of such notification to the Federal Emergency Management Agency; and
 - (B) Demonstrated that maintenance is provided for within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - (3) FIRM Boundaries. The Director of Public Works and Utilities shall interpret the Flood Insurance Rate Maps (FIRM) to decide location of the boundaries of the areas of special flood hazard.
- 4. **Simple Subdivisions** (lot consolidations, lot splits, boundary adjustments not in dispute and plat corrections)
 - a. **Purpose.** The simple subdivision process allows the Director to approve lot consolidations, boundary adjustments not in dispute, a lot split, and to correct a minor error in a plat.
 - b. **Applicability.** If requested in writing by every owner and consented to by every lienor, the Director may allow the simple subdivision process to be used to:
 - (1) Consolidate one (1) or more lots;
 - (2) Create only one (1) additional lot;
 - (3) Change a nondisputed boundary line between two (2) abutting lots or parcels; or
 - (4) Change a plat to:
 - (A) Correct an error in the description;
 - (B) Correct any monument; or
 - (C) Correct a scrivener or clerical error such as lot numbers, acreage, street names and identification of adjacent recorded plats.
 - c. **Approval Criteria.** The Director will approve a simple subdivision if the applicant demonstrates that:
 - (1) All lots comply with this Code, including the density/intensity provisions in Section 3.6.B;
 - (2) Any change to existing easements or right-of-way have been completed in accordance with this Code or otherwise allowed

by law (additional easements or right-of-way may be dedicated);

- (3) The right-of-way shown on the Grand Valley Circulation Plan is not changed;
 - (4) The character of the plat and the neighborhood will not be negatively impacted;
 - (5) If a new lot is being created, no portion of the property may have been the subject of a previous simple subdivision creating a new lot within the preceding ten (10) years; and
 - (6) The final approval shall be the recording of the plat.
- d. **Application and Review Procedures** are in Table 2.1 and Section 2.2.B.
5. **Disputed Boundary Adjustments.**
- a. **Purpose.** The process for the disputed boundary adjustments allows the Director to approve boundary line adjustments as allowed by state law.
 - b. **Approval Criteria.** A disputed boundary adjustment pursuant to Section 38-44-112, C.R.S., or as amended from time to time, is permitted if approved by the Director. The applicant(s) must comply with the statute. The boundary agreement must be submitted for review. A map accompanying the agreement at a minimum shall be a sketch drawn to scale of the legal descriptions, showing a graphical depiction of the intents and limits of each lot, tract, or parcel of land included within the boundary agreement as the lots, tracts, or parcels of land shall exist henceforth as agreed. The sketch shall include a graphical depiction of all easements on each lot, tract, or parcel of land. All adjoining properties shall be identified. The sketch shall be signed and sealed by a professional licensed land surveyor. If a plat accompanies the agreement, it shall comply with the requirements set forth in the SSID manual. The final approval shall be the recording of the boundary agreement with the map or plat.
 - c. **Application and Review Procedures.** See Table 2.1 and Section 2.2.B.

2.3 PERMITS REQUIRING PUBLIC HEARING

- A. Generally, the procedures for all applications have three (3) elements:
 1. Submittal of a complete application, including payment of fees;
 2. Review by City staff and other agencies; and
 3. A decision.
- B. **Common Elements of Procedures.** The following requirements are common to all applications. The times for the City to act are maximums stated in terms of working days. The Director may shorten any time frame specified herein.
 1. **General Meeting.** At a general meeting the applicant discusses the project with City staff in more depth to obtain general feedback and ideas. Based on

the amount of detail and information the applicant presents, the staff shall attempt to give direction on a proposed project. After a general meeting a development application may be submitted. A general meeting is not required for all applications. The Director may waive the general meeting requirement if it is not likely to help the neighborhood or applicant.

2. **Preapplication Conference.** A preapplication conference with City staff is highly recommended for most subdivisions, multifamily, commercial and industrial projects to:
 - a. Understand the project and the applicant's objectives;
 - b. Identify applicant deadlines such as property closing dates, preferred construction and operation dates;
 - c. Identify the needed approvals;
 - d. Identify the documents, plans, drawings, fees and other materials needed to complete the application;
 - e. Identify the most significant issues; and
 - f. Show the applicant how to meet the Code and other requirements.
3. **Application Requirements.** The SSID Manual lists what is needed to apply for each type of permit. However, the particulars of a project may require different types or levels of information. At the preapplication conference, the Director will tell the applicant what information the applicant must supply to begin the assessment of the project. At any time during the process, the Director may require additional information to respond to issues or concerns. The Director will list the requirements/information told to the applicant at the preapplication conference and place the list in the file.
 - a. **Application Deadlines.** Important application deadlines are in the SSID Manual or by the Director's written policies.
 - b. **Application Fees.** The City Council sets fees in amounts sufficient to recover all or a portion of the taxpayer costs spent processing, giving notice, and reviewing development applications.
 - c. **Completeness.** The Director shall determine if the application is complete. If it is not complete, the Director shall notify the applicant and the submittal will be returned. The Director shall retain a copy of the checklist identifying any submittal deficiency.
4. **Neighborhood Meeting.** A neighborhood meeting should produce a better project through dialogue between the developer and neighbors leading to consensus.
 - a. **Neighborhood Meetings.** Some neighborhood meetings are optional before an application is submitted. If a neighborhood meeting has not been held, then the review body may continue at the first public hearing regarding the project and require that a neighborhood meeting be held before the application is reviewed further if:
 - (1) Neighbor(s) lack significant information or have significant missing information about the project;
 - (2) Neighbor(s) have identified to the review body significant impacts that the developer has not addressed adequately; or
 - (3) Neighbor(s) have suggested to the review body reasonable

changes to the project to lessen negative impacts or make improvements to the neighborhood.

- b. **Required Neighborhood Meetings.** A neighborhood meeting shall be held after the general meeting or preapplication conference, but before an application is submitted.
- c. **Limitations to Directed Neighborhood Meetings.** If a neighborhood meeting has been held within three (3) months before the application, the review body may not continue a hearing to require a neighborhood meeting. An applicant may always request a continuance during public hearing in order to have a neighborhood meeting.
- d. **The Neighborhood.** All properties any part of which is located within a radius of 500 feet (500') of any portion of the project are considered "the neighborhood." Each homeowner's association, condominium association, other organized neighborhood group (such as a merchants association), or any member's lot or parcel of which is within 1,000 feet (1000') of the project is part of the neighborhood, as are any other formal or informal organized groups known to the Director, which has registered with the Community Development Department is also considered "the neighborhood." The Director will keep a list of the contact persons and addresses of such groups.
- e. **Meeting Time and Location.** The applicant must provide a meeting room and must conduct the meeting. Meetings must be held on a weekday evening that is not a holiday beginning between 5:30 PM and 8:00 PM in a location that is accessible to the affected neighborhood. The Director may approve other times and locations. The meeting date, time and location must be approved by the Director. To qualify, a meeting must be held between 180 days and fourteen (14) days before the application can be submitted. Meetings required for a stand alone Growth Plan Amendment, Zoning Map Amendment (Rezone) or Zoning of Annexation request may be held between 180 days and five (5) business days before the application can be submitted.
- f. **Meeting Content and Conduct.** At the meeting, the applicant shall present its development plans, describe project impacts, describe ways to mitigate impacts, and facilitate a discussion and answer questions. The applicant decides the format and conduct of the meeting so that attendees have an opportunity to speak and to make written comments. City staff shall not organize or direct the meeting, but should gather information and explain the rules and requirements. Within seven (7) days of the meeting, the applicant must give the Director a written list of names and addresses of those given notice and those attending, along with a written summary of suggestions, comments, criticism and mitigating measures brought up by the applicant and attendees.

- g. **Notice.** The applicant shall provide written notice of the time, place and subject of the meeting to every owner and group in the neighborhood, as well as the City Community Development Department. The notice must be approved by the Director and shall be hand-delivered or delivered by first class mail. The notice must be hand-delivered or postmarked no later than ten (10) calendar days prior to the meeting.

5. **Procedures.**

- a. **Staff Review.** Applications shall be reviewed by City staff and other appropriate agencies for compliance with City and agency codes and policies. Upon completion of staff review, the staff shall provide its comments in writing to the applicant.
- b. **Review by Other Agencies.** The staff shall forward copies of the applications to appropriate agencies for their comments. Examples of review agencies are:
 - (1) City departments;
 - (2) Telecommunications, gas, electric and other utilities;
 - (3) Irrigation, drainage, water and sewage, sewer provider special districts;
 - (4) School and fire agencies;
 - (5) Law enforcement;
 - (6) Mesa County staff, Planning Commission, or Board of Commissioners;
 - (7) State agencies (*e.g.*, Colorado Geologic Survey, Colorado Department of Transportation, Colorado Department of Natural Resources, Colorado Division of Wildlife, *etc.*); and
 - (8) Federal agencies (*e.g.*, Federal Emergency Management Agency, Bureau of Land Management, U.S. Army Corps of Engineers, *etc.*).
- c. **Agency and Department Comments.** The agencies' review will be advisory in character, and does not constitute approval or disapproval. All comments shall be forwarded to the applicant for response.
- d. **Applicant's Response.** An application submitted to the City for review must be diligently pursued and processed by the applicant. Accordingly, if the applicant, within ninety (90) calendar days of mailing of the City's review comments on any submittal (or resubmittal) of an application for approval of a development application, does not resubmit revised documents to address comments from the City, the development application shall lapse and become null and void. The Director may grant one (1) extension of the foregoing ninety (90) day requirement, not to exceed thirty (30) days in length.
- e. **Review of Response.** The Director shall determine if sufficient information has been provided to schedule the application for a hearing. If the Director deems the application insufficient for such

purposes, he shall notify the applicant. The applicant shall be allowed additional resubmittals and responses before the application is scheduled for a hearing.

6. **Notice.**

a. **Purpose.** Notice of public hearings allow for community input and due process (the opportunity to be heard) for the applicant and neighbors. Accordingly, nothing herein shall prohibit the Director from providing public notice beyond that legally required, at the applicant's cost.

b. **Published Notice.**

(1) Unless otherwise provided in this Section a notice setting forth the date, time, place and purpose of such a public hearing, the name of the applicant and identification of the subject property must be published at least once. The Director shall be responsible for giving notice.

(2) In computing notice time, the day of the hearing shall be excluded.

(3) The applicant shall either provide the information for the notice, or pay the City to prepare the information.

c. **Mailed Notice of Public Hearing.**

(1) The Director must mail notice of a public hearing, as required in Table 2.3, by U.S. mail at the applicant's cost to each owner at the address on file with the Mesa County, Colorado Assessor.

(2) At the applicant's cost, the Director shall also give notice to each person who attended any required neighborhood meeting.

(3) Mailed notice shall state the date, time and place of the hearing, a general description of the proposal, the location of the project, a statement explaining that any person will be heard at the public hearing and other such requirements. Newspaper clippings of the published notice shall not be used for mailed notice. Notice shall be delivered by U.S. mail.

d. **Property Sign.** When required by Table 2.3, the applicant shall post approved signs giving notice of the application. The applicant shall post at least one (1) sign on each street frontage of the property at least ten (10) calendar days before the initial public hearing. The applicant shall maintain the sign(s) on the property until the day after the final public hearing.

e. **Combined Notice.** If a project requires action on several permits at the same hearing, the Director may provide for a single, combined notice.

f. **Substantial Compliance.** Notice is sufficient if there is complete substantial compliance with the requirements of this Section. For example, minor errors in the words of the notice, or in the number of signs on a property (where multiple signs are required) will not

invalidate the notice. On the other hand, the requirements of the number of days of notice, the general type of notice for the correct time, date and place of a hearing, and the location of the property must be completely correct. If a question arises, the decision making body shall decide if adequate notice was given.

**TABLE 2.3
PUBLIC HEARING NOTICE PROVISIONS**

Type of Submittal or Request	Published Notice When Published¹ (minimum calendar days before hearing)	Mailed Notice²	Sign Notice Required^{3, 4}
Growth Plan Map Amendment	7 days	Owners within 500 ft. ⁵	Yes ⁵
Growth Plan Text Amendment	7 days	Not Applicable	No
Subdivision Preliminary Subdivision Plan	7 days	Owners within 500 ft.	Yes
Planned Development ODP Preliminary Plan	7 days 7 days	Owners within 500 ft. Owners within 500 ft.	Yes Yes
Rezoning & Map Amendment	7 days	Owners within 500 ft. ⁵	Yes ⁵
Code Text Amendment	7 days	Not Applicable	No
Zoning of Annexation	7 days	Owners within 500 ft. ⁵	Yes ⁵
Conditional Use	7 days	Owners within 500 ft.	Yes
Historic Preservation	7 days	Not Applicable	No
Variance – ZBOA	7 days	Owners within 500 ft.	Yes
Variance – Council	Not Applicable	Not Applicable	No
Vacation – Easement/Right-of-way	7 days	Owners within 500 ft. Including Utilities	Yes
Grand Valley Circulation Plan Amendment	7 days	Not Applicable	No
Revocable Permit	Not Applicable	Not Applicable	No
Institutional & Civic Facility Master Plans	7 days	Owners within 500 ft.	Yes
Vested Rights	Once within 10 days of approval	Not Applicable	No
Sign Package	7 days	Owners within 500 ft.	Yes

Type of Submittal or Request	Published Notice When Published ¹ (minimum calendar days before hearing)	Mailed Notice ²	Sign Notice Required ^{3, 4}
<p>Footnotes:</p> <p>¹ All published notices shall be published in a local newspaper of general circulation recognized by the City.</p> <p>² All mailed notices must be postmarked no less than ten (10) days before a Public Hearing and must include each homeowner’s associations (HOAs) or other group registered with the Community Development Department within 1000 feet (1000’).</p> <p>³ Signs must be posted at least ten (10) calendar days before the initial Public Hearing and remain posted until the day after the final hearing.</p> <p>⁴ One (1) sign per street frontage is required for zones of annexation of multiple parcels.</p> <p>⁵ Mailed Notice and Sign Posting is not required for Growth Plan map amendments, rezonings, or zoning of annexations for requests relating to more than five percent (5%) of the area of the City and/or related to a Citywide or area plan process.</p>			

7. **Request for a continuance prior to hearing.**
 - a. An applicant shall have the right to one (1) continuance before the Planning Commission, Zoning Board of Appeals or City Council, only if a written request is filed with the City Clerk at least five (5) business days before the hearing.
 - b. An applicant requesting a continuance shall make reasonable efforts to notify all persons previously advised of the hearing that a continuance has been requested. Reasonable efforts shall include, but not be limited to, personal notice, broadcast or print media notice and any other form of notice determined by the Director to be reasonable. The applicant shall reimburse the City and provide all materials necessary to provide written notice of the rescheduled public hearing date to surrounding property owners in the same manner and with the same time schedule as the original date.
 - c. The review body shall grant one (1) continuance to a time, place and date certain, without taking any testimony, except pertaining to the adequacy of the notice.
8. **Withdrawal of Application.** Before a hearing on an application is opened, the applicant may request in writing that the application be withdrawn. Fees will not be refunded. An applicant may ask to withdraw after the hearing is opened, but the decision making body will decide whether or not to approve the request.
9. **Public Hearing Procedures.**
 - a. **Timing.** The Director shall schedule an application for hearing only when all issues have been resolved and a determination of compliance with all codes and regulations is made.
 - b. **Applicant’s Option.** An applicant has the right to request a hearing at any time during the review process.
 - c. **Conduct of Hearing.**

- (1) Any person may offer relevant information in writing or in person. Every speaker representing one (1) or more other persons shall state his/her name, street address, and if an organization or group, the name and mailing address of the organization or group.
 - (2) The Director's written report and recommendations should be available three (3) calendar days before the public hearing.
 - (3) The Chair shall exclude testimony and evidence that is irrelevant, immaterial, unduly repetitious or disruptive. Ordinarily no one presenting testimony or evidence may ask questions of other persons appearing as witnesses; although the chairperson of the body may ask questions suggested by a person presenting testimony. At any point, members of the body conducting the hearing may ask questions of the applicant, staff or public.
 - (4) No person shall knowingly make a false statement nor present false, deceptive or slanderous testimony, comment or remarks at a public hearing.
- d. **Continuance.** The decision making body may grant a continuance of the public hearing.
 - e. **Additional Rules.** The body conducting the hearing may adopt its rules of procedure to limit the number of applications for development approval to be considered per meeting and to limit the time for each presentation or speaker.
10. **Decision-Making.** The decision making body shall make decisions based on policies, standards, plans, recommendations, the applicable law, the testimony and information presented at the hearing.
 - a. **Authority to Condition Development Approvals.** The decision making body may impose conditions to protect the neighborhood, implement this Code and other rules and regulations and ensure compliance with any applicable policy or requirement.
 - b. **Planning Commission as Recommending Body to City Council.** If the Planning Commission is the recommending body pursuant to Table 2.1, recommendations shall be forwarded to the City Council.
 11. **Scope of Action.** The review body may take any action regarding the application that is consistent with notice, including approval with conditions or denial. The reviewing body may allow the applicant to amend the application if the amendment reduces the project density or FAR, reduces the impact of the project, or the amount of land involved in the project.
 12. **Post-Decision Proceedings.**
 - a. **Rehearing.** Any aggrieved person, including the Director and the Director of Public Works and Utilities may request a rehearing, (Section 2.18) or file an appeal of a final action (Section 2.18).
 - b. **Amendments and Revisions to Approval.**
 - (1) The Director may approve corrections and revisions he deems to be minor to an approved application, in writing, subject to

appeal to the decision-maker. A minor revision is one necessary in light of technical considerations that does not substantively change the character of the development approval.

- (2) The Director must give five (5) days notice of such corrections by posting at City Clerk agenda board.

13. **Validity.**

a. **Noncompliance.** Upon a finding that any of the following conditions exist, all activities taken pursuant to such development application shall immediately cease, and no person shall continue construction or make use of or maintain any activity pursuant to such approval if:

- (1) The applicant fails to satisfy any condition of the approval;
- (2) The applicant fails to timely complete all work and construction set forth in a Development Improvements Agreement. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development application, the time shall be presumed to be one (1) year from the date of approval; or
- (3) The applicant fails to fulfill any promise made in writing or at any public hearing.

b. **Extension Procedures.**

- (1) Considerations. Development approval deadline or a development phasing schedule may be set for greater than one (1) year, but not more than ten (10) years by the decision-making body. The decision-making body may extend any deadline if the applicant demonstrates why the original effective period or development phasing schedule was not sufficient and cannot be met. The decision making body shall consider when deciding to extend or change any deadlines if development regulations materially changed so as to render the project inconsistent with the regulations prevailing at the time the extension would expire.
- (2) Requests. A request to extend any deadline shall be submitted in writing to the Director prior to the expiration of the original approval or deadline.

14. **Continued Compliance.** The owner of property which has been developed shall maintain the property and all infrastructure in order to remain in substantial compliance with all approved plans and conditions of approval. Failure to remain in substantial compliance, including the replacement of dead or diseased plants shall constitute a violation of this Code.

15. **Revocation of Permit or Approval.**

a. **Director Duties.** If the Director determines there are one (1) or more reasons to revoke a development permit or approval, he/she shall revoke such permit or approval. Any appeal of the Director's decision shall be heard by the Zoning Board of Appeals in accordance with Section 2.18.B.

- b. **Notice and Hearing.** Notice and hearings for a revocation are the same as for the original application.
- c. **Decision and Appeals.** A decision to revoke a Development permit shall become effective immediately. After revocation of any permit or approval, any activities continuing pursuant to such permit or approval shall be deemed to be in violation of the Code.
- d. **Right Cumulative.** The Director’s right to revoke any approval, development permit, or other privilege or right, shall be cumulative to any other remedy.

2.4 GROWTH PLAN CONSISTENCY REVIEW

- A. **Purpose.** Because the Growth Plan and accompanying Future Land Use Map (the “Plan” or “Plan and Map”) are comprehensive, complex documents, it is important that a formal consistency review process be provided to determine if a Development proposal is appropriate and consistent with the plan and map.
- B. **Applicability.** An Applicant, the Director, City Planning Commission, County Planning Commission or City Council may request a formal consistency review for any proposed project.
 - 1. **Jurisdiction.** Authority for determining consistency will be governed by geographic location:
 - a. Within the City limits, the City solely may interpret for Plan consistency; and
 - b. Outside of the City limits, but within the Urban Growth Area, consistency shall be determined jointly by the City and County pursuant to the intergovernmental agreement #MCA dated April 12, 1999.
 - 2. **Concurrent Review.** The plan consistency review process should be processed at the same time as related development requests (*e.g.*, rezoning and subdivisions).
- C. **Review Criteria.** The reviewing entity may find that:
 - 1. The proposed development is consistent with all applicable portions of the plan, or the overall intent of the plan if two (2) or more of the applicable portions of the plan appear to conflict; or
 - 2. The proposed development is inconsistent with one (1) or more applicable portions of the plan, or the overall intent of the plan if two (2) or more of the applicable portions of the plan appear to conflict.
- D. **Decision-Maker.**
 - 1. **Areas Outside of City.** For all plan consistency review requests relating to property located outside of the City but within the Joint Urban Planning Area which is not expected to be then annexed and is not currently subject to an annexation petition, the Director and County staff shall recommend and the City and County Planning Commissions separately shall make a determination of consistency. A finding of consistency by both Planning Commissions shall be required for a project to be deemed consistent with the Plan. Such Planning Commissions’ decision is final and may not be appealed

under this Code.

2. **Areas Inside of City.** For plan consistency review requests related to property within the City, or which is expected to be annexed, the Director and City Planning Commission shall recommend and the City Council shall take final action.
 3. **Finding of Inconsistency.** If the finding is that the proposal is inconsistent with the plan, development may not proceed until either the plan is amended, or the proposed development is changed so that it is consistent with the plan, or both.
- E. **Application and Review Procedures.** Procedures are in Table 2.1 and Section 2.3.B, with the following modifications:
1. Based on the location of the property, plan consistency review requests shall first be referred to the applicable jurisdiction for consideration consistent with the respective administrative policies of each, the Persigo Agreement, this Code, and other adopted plans and agreements.
 2. **Application Requirements.** Consistency review requests shall be considered concurrently with all related development requests. To request such a review the applicant shall, at a minimum, provide a written statement describing the project's consistency with the Future Land Use Map and the applicable goals and policies contained in the text of the Growth Plan. If the applicant believes there are conflicts between the text and the map or within the text itself, he shall provide a written rationale as to which of the items in conflict best suits the overall intent and purpose of the plan.
 3. **Hearing.** Where action by the City and the County is required for a particular request, the Director will attempt to arrange a joint hearing of City and County Planning Commissions, although such joint hearings are not required. If a joint hearing is held, the chairpersons shall jointly determine how to conduct such a hearing, although each commission shall vote separately.
 4. **Timing.** If the City and County take separate, then the action of the first party shall control if thirty (30) calendar days pass without the action of the other.

2.5 GROWTH PLAN AMENDMENT (GPA)

- A. **Purpose.** In order to maintain internal consistency within the Growth Plan, consistency determinations and proposed amendments to the Growth Plan and Future Land Use Map must be consistent with the stated purposes, goals and policies included in the plan.
- B. **Applicability.** All proposed amendments to the text of the Growth Plan or Future Land Use Map shall comply with the provisions of this Section 2.5. Any proposed development that is inconsistent with any goals or policies of the Growth Plan or Future Land Use Map shall first receive approval of a Growth Plan amendment. The Growth Plan shall include all neighborhood plans, corridor plans, area plans, the Grand Valley Circulation Plan, the Urban Trails Master Plan, and all other elements adopted as a part of the Growth Plan.
 1. **Jurisdiction.** For property within the City limits or which will be annexed,

the City shall decide if the plan should be changed. Together, the City and the County shall decide questions of amending the plan for property that is outside the City and will not then be annexed, but within the Urban Growth Area (UGA) and for all text amendments.

2. **Concurrent Review.** A Growth Plan Amendment request shall not be considered concurrently with any other development review process, except for a zone of annexation to Planned Development or request to rezone to Planned Development.

C. Approval Criteria.

1. The City and County shall amend the Growth Plan, neighborhood plans, corridor plans, and area plans if the amendment is consistent with the purpose and intent of the Growth Plan, and if:
 - a. There was an error such that then existing facts, projects, or trends that were reasonably foreseeable were not accounted for; or
 - b. Subsequent events have invalidated the original premises and findings;
 - c. The character and/or condition of the area have changed enough that the amendment is acceptable and such changes were not anticipated and are not consistent with the plan;
 - d. The change is consistent with the goals and policies of the Plan, including applicable special area, neighborhood and corridor plans;
 - e. Public and community facilities are adequate to serve the type and scope of land use proposed;
 - f. An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and
 - g. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.
2. The City and County shall amend the Grand Valley Circulation Plan and Urban Trails Master Plan if:
 - a. There was an error such that then existing facts, projects, or trends that were reasonably foreseeable were not accounted for; or
 - b. Subsequent events have invalidated the original premises and findings;
 - c. The character and/or condition of the area have changed enough that the amendment is acceptable;
 - d. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment;
 - e. The change will facilitate safe and efficient access for all modes of transportation; and
 - f. The change furthers the goals for circulation and interconnectivity.

D. Decision-Maker.

1. **Outside of City.** The City and County Planning Commissions shall consider requests concerning property located outside of the City, but within the Urban Growth Area (UGA), which will not be then annexed. The City Planning Commission is the City's final action and may not be appealed.

- Affirmative action by both Commissions is required for an amendment.
2. **Inside of City.** Concerning property within the City, or which will be annexed, the Director and City Planning Commission shall recommend and the City Council's action is the City's final action. City Council shall hold a public hearing prior to any decision regarding a Growth Plan Amendment within the City.
 3. **Failure of Amendment.** If an amendment request fails, any pending Development application must be changed to be consistent with the plan.
- E. **Application requirements and processing procedures** in Table 2.1 and Section 2.3.B apply, except that changes to the Growth Plan, including map amendments and text amendments, shall be processed when they are received.
1. **Application Requirements.**
 - a. **Minimum Requirements.** In making a request for a plan amendment, the applicant shall address each of the criteria provided in this Section.
 - b. **Optional Materials.** In addition to the required written descriptions, justifications and responses, the City Council, Planning Commission or staff may request additional documents, reports, studies, plans and drawings as deemed necessary to fully evaluate the request. The Applicant may submit additional relevant materials.
 2. **Notice.**
 - a. **Property Sign.** Signs giving notice are not required for text amendment requests, nor for map amendments initiated by the City as a Citywide or area plan process or requests relating to more than five percent (5%) of the area of the City.
 - b. **Mailed Notice.** A mailed notice is not required for a map amendment request relating to more than five percent (5%) of the area of the City and/or related to a Citywide or area plan process, or for text amendment requests; however, the Director shall give notice in an advertisement in a local newspaper of general circulation. (Section 2.3.B.6.)
 4. **Hearing.** If action by the City and the County is required, the Director will attempt to arrange a joint meeting of City and County Planning Commissions, although such joint meetings are not required. If a joint hearing is held, the chairpersons shall jointly determine how to conduct such a hearing. Each commission shall vote separately.
 5. **Timing.** If both the City and County should act, and thirty (30) calendar days have passed since action by one entity without action by the second entity, the decision of the first entity shall control.

2.6 CODE AMENDMENT AND REZONING

- A. **Approval Criteria.** In order to maintain internal consistency between this Code and the Zoning Maps, map amendments must only occur if:
1. The existing zoning was in error at the time of adoption; or

2. There has been a change of character in the neighborhood due to installation of public facilities, other zone changes, new growth/growth trends, deterioration, redevelopment, *etc.*;
 3. The proposed rezone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations;
 4. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;
 5. The supply of comparably zoned land in the surrounding area is inadequate to accommodate the community's needs; and
 6. The community will benefit from the proposed zone.
- B. **Decision-Maker.** The Director and Planning Commission shall make recommendations and the City Council shall make the final decision. Either the Planning Commission or the City Council may add additional property to be considered for a zoning change if such additional property is identified in the notice, in accordance with Section 2.3.B.6.
- C. **Application and Review Procedures.** Application requirements and processing procedures are in Table 2.1 and Section 2.3.B except:
1. **Text Amendment.** An application for an amendment to the text of this Code shall address in writing the reasons for the proposed amendment.
 2. **Notice.**
 - a. Property Sign. Notice signs are not required for a rezoning request initiated by the City as a City-wide or area plan process, nor for a text amendment.
 - b. Mailed notice is not required for a rezoning request relating to more than five percent (5%) of the area of the City and/or related to a City-wide or area plan process, nor for any text amendment request. The Director shall give notice in a local newspaper of general circulation (Section 2.3.B.6).

2.7 CONCEPT PLAN

- A. **Purpose.** The concept plan review is an optional process that provides an applicant with a general, nonbinding reaction from the Planning Commission prior to submittal of a development application.
- B. An applicant can get a concept plan review for any development that requires Planning Commission approval.
- C. **Decision-Maker.** Planning Commission members should react, comment, question, critique and give direction to assist the applicant with preparing a subsequent application for a development permit. Such comments should not be taken as an indication of how the members may vote on any subsequent application for a development permit. To keep the concept plan informal, the Planning Commission shall not vote on any portion of the concept plan.
- D. **Application and Review Procedures** are in Table 2.1 and Section 2.3.B except:
 1. Staff Review, Report and Recommendations. While he may, the Director is

not required to review the plan, nor must he circulate the plan to other agencies, nor is he required to produce a report or make recommendations.

2. Notice. Notice is not required, but will be given if requested by the applicant.

2.8 SUBDIVISIONS

A. **Purpose.** No person shall record a plat of a subdivision nor prepare or execute any documents which purports to create or creates a new parcel, nor record or execute a deed of trust or a mortgage descriptive of the property other than all of a lot or parcel unless such plat, deed, deed of trust or mortgage has been approved by the City and unless it conforms to all of the provisions of this Code. The purpose of this Section 2.8 is to:

1. Ensure conformance with the Growth Plan and other adopted plans including all corridor design guidelines;
2. Assist orderly, efficient and integrated development;
3. Promote the health, safety, and welfare of the residents of the City;
4. Ensure conformance of land subdivision plans with the public improvement plans of the City, County and State;
5. Ensure coordination of the public improvement plans and programs of the several area governmental entities;
6. Encourage well-planned and well-built subdivisions by establishing minimal standards for design and improvement;
7. Improve land survey monuments and records by establishing minimal standards for survey and plats;
8. Safeguard the interests of the public, the homeowner, and the subdivider;
9. Secure equitable handling of all subdivision plans by providing uniform procedures and standards;
10. Ensure that pedestrian and bicycle paths and trails are extended in accordance with applicable City plans;
11. Preserve natural vegetation and cover, and to promote the natural beauty of the City;
12. Prevent and control erosion, sedimentation, and other pollution of surface and subsurface water;
13. Prevent flood damage to persons and properties;
14. Restrict building in areas poorly suited for building or construction;
15. Prevent loss and injury from landslides, mudflows, and other geologic hazards;
16. Ensure adequate public facilities and services are available or will be available concurrent with the projected impacts of the subdivision; and
17. Ensure the proposal will not impose hardship or substantial inconvenience to nearby landowners or residents.

B. **Preliminary Subdivision Plan.**

1. **Applicability.** The preliminary subdivision plan provides general graphic information and text indicating property boundaries, easements, land use, streets, utilities, drainage, open space, parks and other information required to evaluate a proposed subdivision. A preliminary subdivision plan shall be

required for every subdivision except as otherwise provided for herein.

2. **Approval Criteria.** A preliminary subdivision plan shall not be approved unless the applicant proves compliance with the purpose portion of Section 2.8 and with all of the following criteria:
 - a. The preliminary subdivision plan will be in conformance with the Growth Plan, Grand Valley Circulation Plan, Urban Trails Master Plan, and other adopted plans;
 - b. The Subdivision standards in Chapter Six;
 - c. The Zoning standards in Chapter Three;
 - d. Other standards and requirements of this Code and other City policies and regulations;
 - e. Adequate public facilities and services will be available concurrent with the subdivision;
 - f. The project will have little or no adverse or negative impacts upon the natural or social environment;
 - g. Compatibility with existing and proposed development on adjacent properties;
 - h. Adjacent agricultural property and land uses will not be harmed;
 - i. Is neither piecemeal development nor premature development of agricultural land or other unique areas;
 - j. There is adequate land to dedicate for provision of public services; and
 - k. This project will not cause an undue burden on the City for maintenance or improvement of land and/or facilities.
3. **Decision-Maker.** The Planning Commission is the decision-maker for all applications for preliminary subdivision plans.
4. **Application and Review Procedures** are in Table 2.1 and Section 2.3.B. In an effort to expedite final plat approval, the applicant may provide more detailed information than is required for preliminary subdivision plan review.
5. **Validity.** The applicant may propose a development phasing schedule at the time of application for a preliminary subdivision plan for consideration by the Planning Commission. In the absence of an approved phasing schedule, preliminary subdivision plan approval shall be valid for two (2) years, during which the applicant shall obtain final plat approval for all or a portion of the property. If a portion of the property in the preliminary subdivision plan is final platted within two (2) years, the rest of the preliminary subdivision plan shall be automatically renewed for an additional one (1) year following the recording of each final plat, unless the Director notifies the applicant, in writing, to the contrary. The applicant shall plat the entire property included in the preliminary subdivision plan within six (6) years of the initial plan approval date. After six (6) years, approval of unplatted portions of the preliminary subdivision plan shall be considered void unless an extension is requested and approved by the decision making body.

C. **Final Plat.**

1. **Applicability.** The final plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities,

drainage, and other information required for the maintenance of public records of the subdivision of land. A final plat shall be required for all subdivisions. The final plat shall conform to the approved preliminary subdivision plan. If a minor revision of a preliminary subdivision plan is required, the review of the revised preliminary subdivision plan may, at the discretion of the Director, proceed concurrently with final plat review.

2. **Approval Criteria.** The final plat shall demonstrate compliance with all of the following:
 - a. The same criteria as the preliminary subdivision plan in Section 2.8.B; and
 - b. The preliminary subdivision plan approval and any conditions attached thereto. A portion of the land area within the preliminary subdivision plan may be approved for platting.
3. **Decision-Maker.** The Director shall approve, conditionally approve or deny all applications for a final plat, unless the Planning Commission in its discretion has required the final plat be returned to them for final action. In such cases, the Director shall provide a recommendation concerning the final plat.
4. **Application and Review Procedures.** Application requirements and processing procedures shall comply with those described in Table 2.1 and Section 2.2.B, with the following modifications:
 - a. If the Subdivision is a "common interest community" as defined in Section 38-33.3-103(8), C.R.S., then the following shall apply:
 - (1) Include a declaration pursuant to Sections 38-33.3-201, 38-33.3-205, and 38-33.3-209, C.R.S.;
 - (2) Address the exercise of development rights pursuant to Section 38-33.3-210, C.R.S.;
 - (3) Include the association bylaws pursuant to Section 38-33.3-306, C.R.S. as applicable; and
 - (4) An association shall be formed pursuant to Section 38-33.3-301, C.R.S. and filed with the Colorado Secretary of State.
 - b. A title commitment no older than five (5) days shall be provided before the filing of the final plat for all of the platted property.
 - c. Notice. Notice of a final plat is not required unless the Planning Commission elects to take final action. In such instances, notice shall be provided in the same manner and form as is required with a preliminary subdivision plan.
 - d. Form of Final Action. The form of final approval by the Director shall be the recording of the plat as per Section 2.8.E. If the Planning Commission approves the final plat, then the applicant's surveyor or engineer shall then make any changes necessary or required to comply with final approval conditions. The plat shall then be recorded within two (2) years of action by the Planning Commission or as directed in the approved phasing plan/development schedule.

D. **Construction Plans.**

1. **Applicability.** Construction plans, based upon the approved final plat and/or

site plan and consisting of detailed specifications and diagrams illustrating the location, design and composition of all improvements identified in the final plat phase and required by this Code, shall be submitted to the City for any project that necessitates the construction, reconstruction or modification of new or existing improvements. These documents shall include complete plans and specifications of all required improvements identified and approved as part of the final plat phase. The City shall keep the plans as a permanent record of the required improvements.

2. **Approval Criteria.** The construction plans shall be prepared in conformance with the approved final plat and the City's adopted standards for public improvements including those contained in this Code.
3. **Decision-Maker.** The Director shall approve, conditionally approve or deny all applications for subdivision construction plans.
4. **Application and Review Procedures.** Application requirements and processing procedures shall comply with Section 2.2.B. In addition, construction plans shall be prepared for all subdivision improvements and public improvements for all other developments as required by and in accordance with this Code, the SSID Manual, the TEDS Manual and all other applicable adopted City codes and policies. A completed Development Improvements Agreement (DIA) for the public improvements and acceptable guarantee is required to be submitted with the construction drawings. As-built plans must be submitted to the Director prior to acceptance of public improvements for City maintenance.

E. **Recording of Subdivisions.** The Director shall record all final plats and related documents as follows:

1. The original plat, together with any other required documentation such as, but not limited to the following, shall be submitted for recording along with all necessary recording fees: a Mylar copy and one (1) 11" x 17" Mylar reduction; improvements agreements; powers of attorney; easement or right-of-way dedications not shown on the plat; covenants; deeds conveying property to the homeowners association; *etc.* The plat shall contain notarized signatures of each owner of the property, necessary engineer's and surveyor's signatures, and corporate seal, if required. All signatures on the plat shall be in permanent black ink.
2. The Director shall obtain the applicable signatures of public officials required on the plat. Upon review and payment of fees by the applicant, the Director shall record the plat at the office of the County Clerk and Recorder.
3. Upon recording the plat, applications for planning clearances and building permits may be submitted in accordance with the provisions of this Code.
4. If the applicant does not complete all steps in preparation for recording a final plat within two (2) years of approval of the preliminary subdivision plan, the plat shall require another review and processing as per Section 2.8 and shall then meet all the required current Code and regulations at that time. One (1) extension of twelve (12) months may be granted by the Director for good cause. Any additional extensions must be granted by the Planning Commission. The Planning Commission must find good cause for granting

the extension.

F. **Guarantees for Public Improvements.**

1. Except as provided herein, before the plat is recorded by the Director, all applicants shall be required to complete, to the satisfaction of the Director, all street, sanitary, and other public improvements, as well as lot improvements on the individual lots of the subdivision or addition as required by this Code. The required improvements shall be those specified in the approved construction plans.
2. The plat shall not be recorded until the improvements have been completed or as a condition of final plat approval, the City shall require the applicant to enter into a Development Improvements Agreement and post a guarantee for the completion of all required improvements as per Section 2.19.

2.9 CONDOMINIUMS AND LEASE HOLDINGS

- A. **Purpose.** The purpose of this Section 2.9 is the same as that of the major subdivision process.
- B. **Applicability.** The Subdivision of a structure into condominium ownership, consisting of a separate estate in an individual air space unit of a multiunit property together with an undivided interest in common elements, all as defined in Sections 38-33-101 *et seq.*, C.R.S. and 38-33.3-101, *et seq.*, C.R.S. shall be created through this process, which is generally the same as the process for a major subdivision of land. Standards set forth in the Colorado Revised Statutes (C.R.S.) and in this Section are applied to this type of subdivision to ensure consistency with the City's Growth Plan, adopted codes and policies and to ensure the maintenance and upkeep of common areas for the protection of individual unit owners. This Section also shall apply to leaseholdings if leasehold interest is applying to obtain development rights similar to a platted lot or parcel and the development is separate from the principal parcel from which the leaseholding is created. Nothing herein shall prohibit the creation of leaseholdings outside of this process. Leaseholdings created outside of this process shall not be recognized by the City as being separate lots or parcels with development rights that are separate and apart from those enjoyed by the principal parcel from which the leasehold interest is created.
- C. **Approval Criteria.**
1. The condominiumization of a structure shall comply with:
 - a. Sections 38-33-105 and 38-33-106, C.R.S.;
 - b. The approval criteria for a Major Subdivision Preliminary Plan (Section 2.8.B.); and
 - c. The Condominium of individual air space units and limited common elements, as defined in Section 38-33.3-103, C.R.S. and general common elements, as defined in Section 38-33-106, C.R.S. may be constructed or retrofitted with a minimum one-hour fire wall, pursuant to Section 38-33.3-106, C.R.S.
 2. The creation of a leaseholding shall meet the same criteria as a simple subdivision as provided in Section 2.2.E.4.
- D. **Decision-Maker.** The Director shall make recommendations and the Planning

Commission shall approve, conditionally approve, or deny all applications for a Condominium or leaseholding, except the Director shall approve, conditionally approve, or deny all applications for a nonresidential Condominium.

E. **Application and Review Procedures.** The procedures for creation of a condominium are the same as are those required for final plat of a major subdivision with the following modifications:

1. **Preliminary Subdivision Plan.** Approval of a preliminary subdivision plan is not required. An applicant can choose to submit the final condominium plat as the first step in the process. If the project has already been reviewed by the Planning Commission through some other process, such as Preliminary Plan or Conditional Use Permit, the final plat may be reviewed and approved by the Director.
2. **Application Materials.** The applicant shall submit an application and a plat or map to the Director which shall be in conformance with state law, the SSID Manual, and other applicable regulations. Applicants shall demonstrate that a common interest community shall be shown in detail in two (2) dimensions on a plat or in three (3) dimensions on a map, however, a map is required for a common interest community with units having a horizontal boundary. A plat and map may be combined.
3. **Condominium Declarations.** The Condominium Application shall:
 - a. Include a condominium declaration (Sections 38-33-105, 38-33-105.5 and 38-33.3-205, C.R.S.);
 - b. Address the exercise of development rights (Section 38-33.3-210, C.R.S.); and
 - c. Include the Unit Owner's Association Bylaws (Section 38-33-106, C.R.S.).
4. **Adjustments and Amendments to Condominiums.** The boundary lines shall be amended in accordance with this Section 2.9 and the applicable Sections 38-33-101 *et seq.*, C.R.S. Plats or maps shall be amended or vacated in accordance with this Chapter Two and the applicable Sections 38-33-101 *et seq.*, C.R.S.

2.10 VACATION OF PLATS

- A. **Purpose.** This Section is intended to provide a process for the vacation of plats, maps, and subdivisions that are no longer viable and to ensure the vacation minimizes any adverse impacts on the applicant(s), surrounding property owners, and the City.
- B. **Applicability.** If a plat has not been developed, has been partially developed, or has not been developed as approved, then the owner(s) or the City may apply for a vacation of the plat.
- C. **Approval Criteria.** The vacation of the plat shall conform to all of the following:
 1. The Growth Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City;
 2. No parcel shall be landlocked as a result of the vacation;
 3. Access to any parcel shall not be restricted to the point that access is unreasonable, economically prohibitive, and/or reduces or devalues any

- property affected by the proposed vacation;
4. There shall be no adverse impacts on the health, safety, and/or welfare of the general community, and the quality of public facilities and services provided to any parcel of land shall not be reduced (*e.g.*, police/fire protection and utility services); and
 5. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six.
- D. **Decision-Maker.** The Director shall make recommendations and the Planning Commission shall approve, conditionally approve or deny all applications for a plat vacation. If the plat to be vacated includes rights-of-way or easements, the Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny all applications for a plat vacation.
- E. **Application and Review Procedures.** The procedures for plat vacations are the same as those required for in Section 2.8, except that no preliminary subdivision plan is required.

2.11 VACATIONS OF PUBLIC RIGHTS-OF-WAY OR EASEMENTS

- A. **Purpose.** The purpose of this Section is to permit the vacation of surplus rights-of-way and/or easements.
- B. **Applicability.** Applications for vacation of any street, alley, easement or other public reservation may be made by the City or by any owner of property on which the street, alley or public reservation lies or adjoins.
- C. **Approval Criteria.** The vacation of the right-of-way or easement shall conform to the following:
 - 1. The Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies of the City;
 - 2. No parcel shall be landlocked as a result of the vacation;
 - 3. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive, or reduces or devalues any property affected by the proposed vacation;
 - 4. There shall be no adverse impacts on the health, safety, and/or welfare of the general community, and the quality of public facilities and services provided to any parcel of land shall not be reduced (*e.g.* police/fire protection and utility services);
 - 5. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of this Code; and
 - 6. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, *etc.*
- D. **Decision-Maker.** The Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny all applications for a vacation of a right-of-way or easement. Vacation of a right-of-way shall be determined by the passing of an ordinance by City Council. Vacation of an easement shall be determined by resolution of the City Council. The Director shall approve the vacation of an easement created for a temporary purpose, granted to the City by a separate instrument and not dedicated on a plat or map.
- E. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B.
- F. **Recording.** All vacations shall be recorded with the Mesa County Clerk and Recorder.

2.12 PLANNED DEVELOPMENT (PD)

- A. **Purpose.** The Planned Development (PD) district is intended to apply to mixed-use or unique single use projects to provide design flexibility not available through strict application and interpretation of the standards established in Chapter Three. The PD zone district imposes any and all provisions applicable to the land as stated in the PD zoning ordinance. The purpose of the PD zone is to provide design flexibility as described in Section 5.1. Planned Development rezoning should be used only when long-term community benefits that may be achieved through high quality development will be derived. Long-term community benefits include:
 - 1. More efficient infrastructure;
 - 2. Reduced traffic demands;

3. More usable public and/or private open space;
4. Recreational amenities; and/or
5. Needed housing choices.

B. Outline Development Plan (ODP).

1. **Applicability.** An Outline Development Plan is an optional, but encouraged first step prior to an application for a preliminary development plan for a parcel of at least twenty (20) acres. The purpose of an ODP is to demonstrate conformance with the Growth Plan, compatibility of land use and coordination of improvements within and among individually platted parcels, sections or phases of a development prior to the approval of a preliminary plan. At ODP, zoning for the entire property or for each “pod” designated for development on the plan is established. This step is recommended for larger, more diverse projects that are expected to be developed over a long period of time. Through this process, the general pattern of development is established with a range of densities assigned to individual “pods” that will be the subject of future, more detailed planning.
2. **Approval Criteria.** An ODP application shall demonstrate conformance with all of the following:
 - a. The Growth Plan, Grand Valley Circulation Plan and other adopted plans and policies;
 - b. The rezoning criteria provided in Section 2.6;
 - c. The planned development requirements of Chapter Five;
 - d. The applicable corridor guidelines and other overlay districts in Chapter Seven;
 - e. Adequate public services and facilities shall be provided concurrent with the projected impacts of the development;
 - f. Adequate circulation and access shall be provided to serve all development pods/areas to be developed;
 - g. Appropriate screening and buffering of adjacent property and uses shall be provided;
 - h. An appropriate range of density for the entire property or for each development pod/area to be developed;
 - i. An appropriate set of “default” or minimum standards for the entire property or for each development pod/area to be developed;
 - j. An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed; and
 - k. The property is at least twenty (20) acres in size.
3. **Decision-Maker.** The Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny all applications for an ODP and accompanying planned development rezoning.

4. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B, with the following modifications:
 - a. **Simultaneous Review of Other Plans.** An applicant may file an ODP with a preliminary development plan or final development plan for a portion of the property, as determined by the Director at the preapplication conference.
 - b. **Validity.** The effective period of the ODP/phasing schedule shall be determined concurrent with ODP approval.
 - c. **Required Subsequent Approvals.** Following approval of an ODP, a preliminary development plan approval and a subsequent final development plan approval shall be required before any development activity can occur.

C. **Preliminary Development Plan (PDP).**

1. **Applicability.**
 - a. **Approved ODP.** If the property has an approved ODP, the purpose of the preliminary development plan is to ensure consistency with the uses, density, bulk, performance and other standards of the approved ODP and PD rezoning ordinance for the specific area included in the preliminary plan. Unless specified otherwise with the ODP, the applicant shall have the option of proposing either a site development plan or a subdivision plan as provided in Chapter Five. The Planning Commission and/or Council may require a site development plan if it is found that a site development plan is necessary to ensure the proposed PD meets the purpose and intent of the ODP approval.
 - b. **No Approved ODP.** If the property has no approved ODP, rezoning of the property to planned development shall occur simultaneously with preliminary development plan review. The purpose of the process is to answer the question, "Should this use, with this specific density, designed in this particular manner, be constructed on this site?" In designing the plan, the applicant shall have the option of proposing either a site development plan or a subdivision plan as provided in Chapter Five. The Planning Commission and/or Council may require a site development plan if it is found that a site development plan is necessary to ensure the proposed PD meets the purposes and intent of the Growth Plan and this Code.
2. **Review Criteria.** A preliminary development plan application shall demonstrate conformance with all of the following:
 - a. The ODP review criteria in Section 2.12.B;
 - b. The applicable preliminary subdivision plan criteria in Section 2.8.B;
 - c. The applicable site plan review criteria in Section 2.2.D.4;
 - d. The approved ODP, if applicable;
 - e. The approved PD rezoning ordinance, if adopted with an ODP;
 - f. An appropriate, specific density for all areas included in the preliminary plan approval; and

- g. The area of the plan is at least five (5) acres in size or as specified in an applicable approved ODP.
3. **Decision-Maker.**
- a. **Approved ODP.** If the property has an approved ODP, the Director shall make recommendations and the Planning Commission shall approve, conditionally approve or deny all applications for a preliminary development plan.
 - b. **No Approved ODP.** If the property does not have an approved ODP, the Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny all applications for a preliminary development plan and accompanying planned development rezoning.
4. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B, with the following modifications:
- a. **Required Concurrent Review of Subdivision.** A preliminary subdivision plan shall be submitted and reviewed concurrently with a preliminary development plan.
 - b. **Density/Intensity Transfer.** If the property has an approved ODP, density may not be transferred between development pods/areas to be developed unless explicitly provided for with the ODP approval or by amending the ODP in the same manner as originally approved.
 - c. **Validity.** The effective period of the preliminary development plan shall be as determined by the ODP approval, if applicable, or at the time of preliminary development plan approval.
 - d. **Required Subsequent Approvals.** Following approval of a preliminary development plan, final development plan approval shall be required before any development activity can occur.
- D. **Final Development Plan (FDP)**
- 1. **Applicability.** The final development plan and final subdivision plat act as the literal blueprint for development of a PD project. The plan and the plat ensure consistency with the approved preliminary development plan and specific development and construction requirements of various adopted codes.
 - 2. **Approval Criteria.** A final development plan application shall demonstrate conformance with all of the following:
 - a. The approved ODP, if applicable;
 - b. The approved preliminary development plan;
 - c. The approved preliminary subdivision plan;
 - d. The approved PD rezoning ordinance, if applicable;
 - e. The SSID, TEDS and SWMM manuals and all other applicable development and construction codes, ordinances and policies;
 - f. The applicable site plan review criteria in Section 2.2.D.4; and
 - g. The applicable preliminary subdivision plan criteria in Section 2.8.B.
 - 3. **Decision-Maker.** The Director shall approve, conditionally approve, or deny

all applications for a final development plan unless the Planning Commission in its discretion required the final plan be returned to it for final action. In such cases, the Director shall provide a recommendation to the Planning Commission concerning the final plan.

4. **Application and Review Procedures.** Application requirements and processing procedures shall comply with those described in Table 2.1 and Section 2.2.B, with the following modifications:

- a. **Required Concurrent Review of Subdivision.** Unless specified otherwise at the time of preliminary plan approval, if the form of preliminary plan approval was a site development plan, a final plat shall be submitted and reviewed concurrently with a final development plan; if the form of preliminary plan approval was a subdivision plan, a final plat may be approved and recorded prior to final plan approval for individual lots.

- b. **Review of covenants.** The City Attorney shall review and approve all covenants and restrictions prior to final Development plan approval.

- c. **Notice.** Notice of a final development plan is not required unless the Planning Commission elects to take final action. In such instances, notice shall be provided in the same manner and form as is required with a preliminary development plan.

- d. **Form of Final Action.** The form of final approval by the Director shall be the recording of the plan. If the Planning Commission approves the final development plan then the surveyor or engineer shall make any changes necessary or required to comply with final approval conditions. The plan shall then be recorded within twelve (12) months of action by the Planning Commission or as directed in the approved phasing plan.

5. **Recording.** Upon final approval, the plan and plat shall be recorded in accordance with Section 2.8.E. The final plat shall, at a minimum, contain all of the following information that is pertinent to the PD: the bulk standards; a list of approved and/or specifically excluded uses; and any pertinent conditions or stipulations that were previously made or imposed.

E. **Guarantees for Public Improvements.**

1. Except as provided herein, before the plan and plat are recorded by the Director, all applicants shall be required to complete, to the satisfaction of the Director, all street, sanitary, and other public improvements, as well as lot improvements on the individual lots of the subdivision as required by this Code. The required improvements shall be those specified in the approved construction plans as per Section 2.8.D; or

2. As a condition of final plan and plat approval, the City shall require the applicant to enter into a Development Improvements Agreement and post a guarantee for the completion of all required improvements as per Section 2.19.

F. **Amendments to Approved Plans.**

1. **Planned Development Rezoning Ordinance.** The use, density, bulk

performance and default standards contained in an approved PD rezoning ordinance may be amended only as follows, unless specified otherwise in the rezoning ordinance:

- a. No use may be established that is not permitted in the PD without amending the rezoning ordinance through the rezoning process. Uses may be transferred between development pods/areas to be developed through an amendment to the ODP and/or preliminary development plan, as applicable, provided the overall density and FAR for the entire PD is not exceeded;
- b. The maximum and minimum density for the entire PD shall not be exceeded without amending the rezoning ordinance through the rezoning process. Density may be transferred between development pods/areas to be developed through an amendment to the ODP and/or preliminary development plan, as applicable, provided the overall density for the entire PD is not exceeded; and
- c. The bulk, performance and default standards may not be amended for the entire PD or an entire development pod/area to be developed without amending the PD rezoning ordinance through the rezoning process. The bulk default standards may be varied on individual lots within the PD through an amendment to the preliminary development plan.

2. **Outline Development Plan.** The approved outline development plan may be amended only by the same process by which it was approved, unless the adopted PD rezoning ordinance provides otherwise. All subsequent preliminary development plans and final development plans must be consistent with the approved outline development plan and rezoning ordinance.

3. **Preliminary Development Plan.** Unless the adopted PD rezoning ordinance provides otherwise, the approved preliminary development plan may be amended as follows:

- a. **Minor Amendments.** The Director may approve the following amendments for individual lots within the area covered by a preliminary development plan provided all standards in the adopted PD rezoning ordinance are met:
 - (1) Decreases in density so long as the character of the site is maintained;
 - (2) Increases in gross floor area of up to ten percent (10%) so long as the character of the site is maintained;
 - (3) Changes in the location and type of landscaping and/or screening so long as the character and intent of the original design are maintained;
 - (4) Changes in the orientation or location of parking areas and vehicular and pedestrian circulation areas so long as the effectiveness and character of the overall site circulation, parking and parking lot screening are maintained; and
 - (5) The reorientation, but not complete relocation, of major

structures so long as the character of the site is maintained.

(6) Simple Subdivision.

b. **Major Amendments Applicable to Only One (1) Lot.** Any change not listed above as a minor amendment to an individual lot shall be deemed a major amendment. Such amendments shall be reviewed by the Planning Commission using the same process as the preliminary development plan but with the following review criteria:

(1) Only the bulk or performance standards may be varied;

(2) The applicable variance review criteria in Section 2.16; and

(3) The amendment shall not represent a significant change in any of the agreed upon deviations from the default standards.

c. **Major Amendments Applicable to More Than One (1) Lot.** All other amendments to the preliminary development plan shall be reviewed by the Planning Commission using the same process and criteria used for Preliminary Plan review and approval.

4. **Final Development Plan.** Amendments to the final development plan may be approved by the Director using the same process and criteria used for preliminary development plan review and approval.

G. **Lapse of Plan and Rezone.** If a Planned Development, or any portion thereof, has not been completed in accordance with the approved development schedule, a "lapse" shall have occurred and the terms of all approved plans for incomplete portions of the PD shall be null and void. If lapse occurs, the property shall be governed by the zoning district applied to the property immediately before the rezoning to PD, or an applicant may request hearing before the Planning Commission at which time a revocation of all prior approvals shall be considered. If the Planning Commission determines that a lapse has occurred, the Director shall record an appropriate legal notice. The Director may, if he deems it appropriate, initiate, without owner consent, a zoning change on a lapsed PD to another zone district.

H. **General Provisions.**

1. **Contractual Agreement.** Approval of a PD allows the development and use of a parcel of land under certain, specific conditions. Conditions of approval shall be filed with the Director in the review process. No use of the parcel, nor construction, modification, or alteration of any use or structures within a PD project shall be permitted unless such construction, modification or use complies with the terms and conditions of an approved final development plan. Each subsequent owner and entity created by the Developer, such as property owner's associations or an architectural review committee, shall comply with the terms and conditions of approval. The Developer shall set forth the conditions of approval within covenants. Such covenants shall be recorded with the final approved plan and plat.

2. **Transfer of Ownership.** No person shall sell, convey, or transfer ownership of any property or any portion thereof within a PD zone until such person has informed the buyer of the property's status with respect to the PD process and conditions of approval. The City shall bear no liability for misrepresentation of terms and conditions of an existing approval.

3. **Planned Development Zone Designation.** The Director shall designate

each approved PD on the Official Zoning Map.

2.13 CONDITIONAL USE PERMITS (CUPs)

- A. **Purpose.** The purpose of a conditional use review is to provide an opportunity to utilize property for an activity which under usual circumstances could be detrimental to other permitted uses, and which normally is not permitted within the same district. A conditional use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A conditional use is not a use by-right and one that is otherwise prohibited without approval of a conditional use permit.
- B. **Applicability.** A conditional use permit shall be required prior to the establishment of any conditional use identified in Chapters Three and Four or elsewhere in this Code.
- C. **Approval Criteria.** The Application shall demonstrate that the proposed development will comply with the following:
1. **Site Plan Review Standards.** All applicable site plan review criteria in Section 2.2.D.4 and conformance with SSID, TEDS and SWMM Manuals;
 2. **District Standards.** The underlying zoning districts standards established in Chapter Three, except density when the application is pursuant to Section 3.8.A.3.e;
 3. **Specific Standards.** The use-specific standards established in Chapters Three and Four;
 4. **Availability of Complementary Uses.** Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.
 5. **Compatibility with Adjoining Properties.** Compatibility with and protection of neighboring properties through measures such as:
 - a. **Protection of Privacy.** The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;
 - b. **Protection of Use and Enjoyment.** All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
 - c. **Compatible Design and Integration.** All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include; buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.
- D. **Decision-Maker.** The Director shall make recommendations and the Planning

Commission shall approve, conditionally approve or deny all applications for a conditional use permit.

- E. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B.
- F. **Validity.** A conditional use permit approval shall run with the land and remain valid until the property changes use or the use is abandoned and nonoperational for a period of twelve (12) consecutive months.

2.14 ANNEXATIONS

- A. **Purpose.** In accordance with state statutes, land may be annexed or de-annexed from the City as deemed appropriate by the City Council.
- B. **Applicability.** Any lands to be added to or deleted from the corporate limits of the City shall comply with this Section 2.14.
- C. **Approval Criteria.** The application shall meet all applicable statutory and City administrative requirements. A complete copy of these requirements is available from the Community Development Department.
- D. **Decision-Maker.** The Director shall make recommendations and the City Council shall approve, conditionally approve or disapprove all applications for annexation or contraction of the municipal limits.
- E. **Application and Review Procedures.** Application requirements and processing procedures shall comply with those described in applicable state statutes. A summary of these procedures is available from the Community Development Department.
- F. **Zoning of Annexed Properties.** Land annexed to the City shall be zoned in accordance with Section 2.6 to a district that is consistent with the adopted Growth Plan and the criteria set forth in Sections 2.6.A.3 and 2.6.A.4 or consistent with existing County zoning.

2.15 VESTED PROPERTY RIGHTS

- A. **Purpose.** The purpose of this Section 2.15 is to provide the procedures necessary to implement the provisions of Sections 24-68-101, *et seq.* and 29-20-101 *et seq.*, C.R.S.
- B. **Definitions.** The following definitions are for the purposes of administration of this Section 2.15 only and do not apply to any other Sections of this Code.
 - 1. "Site-Specific Development Plan" (SSDP) means for all developments requiring a public hearing, the final step, irrespective of its title, which occurs prior to building permit application; provided, however, that if the landowner wishes said approval to have the effect of creating vested rights, pursuant to Sections 24-68-101, *et seq.*, C.R.S. the landowner must so request, in writing, at the time of application for said approval. Failure to so request renders the approval not a "Site-Specific Development Plan," and no vested rights shall be deemed to have been created.
 - 2. "Vested Property Right" means the right to undertake and complete the development and use of property under the terms and conditions of a SSDP.
- C. **Applicability.** An Applicant may request, in writing to have property rights vest with a SSDP. The SSDP shall be applicable only to:
 - 1. Property zoned Planned Development with the approved Final Development

- Plan constituting the SSDP, or
2. Any other application (*i.e.*, Outline Development Plan, Site Plan, Conditional Use, Subdivision Plat, Final Development Plan or Development Improvements Agreement) provided that:
 - a. The Applicant requests in writing that the Planning Commission hold a Public Hearing and approve a specific document/application as a SSDP; and/or
 - b. State law requires that a vested property right be granted in which case the Planning Commission shall determine, at its discretion, which, if any document/application shall constitute a SSDP.
- D. **Approval Criteria.** The application shall demonstrate compliance with all of the following:
 1. The provisions stated in Sections 24-68-101 *et seq.*, C.R.S.; and
 2. The more stringent of the Final Development Plan review criteria of Section 2.12.D.2 or any other specific document/application review criteria that the Planning Commission shall determine to be applicable.
- E. **Decision-Maker.** The Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny all applications for vested property rights.
- F. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B, with the following modifications:
 1. **Waiver prior to Annexation.** Any landowner requesting annexation shall waive in writing any preexisting vested property rights in the petition for annexation, when such rights are consistent with ordinances or regulations which are general in nature and are applicable to property subject to land use regulation. An owner may consent in writing to waive any prior vested property rights.
 2. **Concurrent Review.** An application for approval of a SSDP shall be submitted and reviewed concurrently with an application for a final development plan or any other document that Planning Commission shall determine, at its discretion, constitutes a site specific development plan.
 3. **Payment of Costs.** In addition to any and all other fees and charges imposed by this Code, the applicant shall pay all costs incurred by the City as a result of the SSDP review, including publication of notices, public hearing and review costs.
 4. **Notice of Approval.** It is the applicant's responsibility to ensure that each final plan, map, plat or site plan, or other document constituting a SSDP contains the following language: "Approval of this plan may create a vested property right pursuant to Sections 24-68-101, *et seq.* C.R.S." Omission of this statement shall invalidate the creation of the vested property right. In addition, the applicant shall, within fourteen (14) calendar days after the approval of the SSDP, satisfy the notice requirements of Section 24-68-103(1), C.R.S. by publishing at his expense a notice, in a newspaper of general circulation within the City, advising the public of the SSDP approval and creation of vested property rights pursuant to law, together with a legal

- description of the property at issue in the SSDP.
5. **Notice to City.** Within fourteen (14) calendar days after the approval of a SSDP, the applicant shall acknowledge by written instrument that he confirms his obligation to satisfy all other requirements under the City Codes, rules and regulations including, but not limited to, all studies that may be required. Such studies may concern traffic, drainage, erosion control and utilities.
 6. **Other Provisions Unaffected.** Approval of a SSDP shall not constitute an exemption from, or waiver of, any other provisions of this Code pertaining to the development or use of property.
 7. The duration of any vesting shall be no longer than required by state law, unless a different duration is provided by written agreement between the owner and the City. Failure to comply with any condition of approval of a SSDP shall result in forfeiture of vested rights and the SSDP shall be declared void and lapsed and shall be reverted in accordance with Section 2.12 of this Code.
 8. **Approval, Effective Date, Amendments.** A SSDP shall be deemed approved upon the last action by the City Council relating thereto. No amendment of a SSDP shall extend or change the effective date of vesting of a property right unless specifically provided by written agreement. In the event amendments to a SSDP are proposed and approved, the effective date of such amendments, for purposes of duration of vested property right, shall be the initial date of the approval of the SSDP.
 9. **Waiver of Vesting.** Any waiver, be it in part or in full, of a vested property right shall be accomplished by written agreement between the owner and the City and shall be recorded in the Mesa County land records.
 10. **Limitations.** Nothing in this Section 2.15 is intended to create any vested property right, but only to implement the provisions of Sections 24- 68-101, *et seq.* C.R.S. and Sections 29-20-101, *et seq.* C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section 2.15 shall be deemed to be repealed, and the provisions hereof no longer effective.

2.16 VARIANCES

- A. **Purpose.** A variance is a departure from the dimensional or numerical requirements of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of the action of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship. Variances are permitted only to those portions of this Code as specified herein.
- B. **Applicability.**
 1. The Director may approve variances of up to ten percent (10%) of any bulk requirement. Requests for variances to the bulk, standards that are greater than ten percent (10%) and variances to the performance or use-specific standards of Chapter Four, all overlay district regulations of Chapter Seven, excluding corridor overlay districts, and the sign regulations of Chapter Four shall be heard by the Zoning Board of Appeals. Planning Commission shall hear variances to all other standards, unless otherwise specified.

2. Variances shall not be heard or granted for:
 - a. The establishment or expansion of a use in a district in which such use is not permitted by this Code;
 - b. Residential development which would result in an increase in density greater than that permitted in the applicable zoning district; and
 - c. Changes or modifications to any definition contained in this Code.

C. Approval Criteria.

1. Minor Deviation.
 - a. The Director may permit up to a ten percent (10%) deviation from any bulk standard upon a finding of compliance with the criteria of this Section 2.16. The purpose of this process is to permit inconsequential deviations from the zoning district bulk standards that are created through construction errors or where additions to existing structures are desirable but cannot be accommodated through a strict application of the bulk standards.
 - b. A property may receive approval of a minor deviation to only one (1) bulk standard for the life of the structure. A contractor seeking relief for a construction error may receive approval of a minor deviation only once every three (3) years. All other requests shall be processed as variances as per this Section 2.16. Minor deviation shall be granted only when the applicant establishes that all of the following criteria are satisfied.
 - (1) **Additions.** Requests for a minor deviation to accommodate an addition to an existing structure shall comply with all of the following:
 - (A) Conforming locations for the addition are impractical, significantly more expensive or have a significant adverse impact on the site plan in terms of overall site design or relationships between site plan elements including, but not limited to, structures, patios, driveways and landscaping;
 - (B) The location of the addition represents a logical extension of the existing floor plan in terms of function and design;
 - (C) The location of the addition does not result in the creation of unsafe conditions or create circulation conflicts;
 - (D) The exterior design of the addition represents a logical extension of the existing structure and is consistent with the design of the existing structure;
 - (E) Site and structural design elements of the addition shall be considered. Such elements include, but are not limited to:
 - (i) Height of the addition relative to neighboring structures;
 - (ii) The location, number and size of windows,

- doors, porches, balconies and outdoor lights;
 - (iii) The location of patios and walkways;
 - (iv) The location, size and types of hedges, walls and fences; and
 - (v) The level of privacy to occupants of both neighboring properties and the addition. Such privacy shall be equal to or greater than that provided if the addition were located within the required setback;
 - (F) The addition complies with all building, fire and other adopted codes and policies;
 - (G) The requested deviation is only ten percent (10%) or less of a single bulk standard; and
 - (H) The deviation shall not result in physical encroachment into an easement, right-of-way or neighboring property.
 - (2) **Construction Errors.** Requests for a minor deviation to accommodate a construction error shall comply with all of the following:
 - (A) All of the criteria applicable to additions;
 - (B) The error shall have been inadvertent; and
 - (C) The contractor responsible for the error shall not have been the recipient of another approved minor deviation in the past three (3) years.
2. **Decision-Maker.** The Director shall approve, approve with conditions or deny all requests for a minor deviation. Appeals from the Director shall be processed as a variance using the procedures provided in Section 2.16, but with the review criteria provided herein.
 3. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.2.B. In addition, the applicant shall provide proof that the requested minor deviation does not conflict with any recorded covenants applicable to the property, or demonstrate in writing that the entity responsible for enforcing the covenants has approved the requested deviation. In the event there is no single entity responsible for enforcing the covenants, and the requested minor deviation does not conform to the covenants, the Applicant shall provide a written statement acknowledging the inconsistency and that he shall indemnify and hold the City harmless for any action, damages claims or suits brought in the event the minor deviation is approved.
 4. **Variance Requests from Bulk, Performance, Use-Specific and Other Standards.** A variance is not a right. It may be granted to an applicant only if the applicant establishes that strict adherence to the Code will result in practical difficulties or unnecessary hardships because of site characteristics that are not applicable to most properties in the same zoning district. The following criteria shall be used to consider variances from the bulk, performance and use-specific standards contained in Chapter Four, and any

other standard in this Code for which specific variance criteria is not provided. Such variances shall be granted only when the applicant establishes that all of the following criteria are satisfied:

- a. **Hardship Unique to Property, Not Self-Inflicted.** There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
 - b. **Special Privilege.** The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;
 - c. **Literal Interpretation.** The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;
 - d. **Reasonable Use.** The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
 - e. **Minimum Necessary.** The variance is the minimum necessary to make possible the reasonable use of land or structures;
 - f. **Compatible with Adjacent Properties.** The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements or be detrimental to the public health, safety or welfare. In granting a variance, the Board may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Code. The Board may consider prospective financial loss or gain to applicant but consideration thereof shall not be sole reason for granting a variance;
 - g. **Conformance with the Purposes of this Code.** The granting of a variance shall not conflict with the purposes and intents expressed or implied in this Code; and
 - h. **Conformance with the Growth Plan.** The granting of a variance shall not conflict with the goals and principles in the City's Growth Plan.
5. **Variance from Sign Regulations.** A variance may be granted from the provisions or requirements of the sign regulations only if the applicant establishes that all of the following criteria are satisfied:
- a. **Undue and Unnecessary Hardship.** The literal interpretation and strict applications of the sign regulations would cause undue and unnecessary hardship to the sign owner because of unique or unusual conditions pertaining to the specific building or property in question;
 - b. **Not Contrary to Property Values.** The granting of a variance would not be materially detrimental to the property owners in the vicinity;
 - c. **Hardship Unique to Property, Not Self-Imposed.** The unusual

conditions applying to the specific property do not apply generally to other properties in the City; and

- d. **Conformance with Character of Area, Corridor Plans.** The granting of a variance shall not be contrary to the goals and objectives of any applicable corridor overlay district or to the general objective of moderating the size, number, and obtrusive placement of signs and the reduction of clutter.

- 6. **Variance from Floodplain, Geologic and Wildfire Hazard Regulations (Hazards).** A variance may be granted from the requirements of the overlay district provisions of Chapter Seven, except the corridor overlay districts, only after consideration is given to all technical evaluations, all relevant factors, the standards specified in applicable Sections of this Code, and:

- a. The danger that materials or fire may be swept onto other lands to the injury of others;
- b. The danger to life and property due to the presence of hazardous condition;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity of the facility to a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to hazards;
- g. The compatibility of the proposed use with the existing and anticipated development;
- h. The relationship of the proposed use to the Growth Plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after hazard conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

- 7. **Limitations on Floodplain Variances.**

- a. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result

- conflicting uses are anticipated for the property;
 - 4. The proposed use shall be compatible with the adjacent land uses;
 - 5. The proposed use shall not negatively impact access, traffic circulation, neighborhood stability or character, sensitive areas such as floodplains or natural hazard areas;
 - 6. The proposed use is in conformance with and in furtherance of the implementation of the goals, objectives and policies of the Growth Plan, other adopted plans and the policies, intents and requirements of this Code and other City policies; and
 - 7. The application complies with the submittal requirements as set forth in the Section 127 of the City Charter, this Chapter Two and the SSID Manual.
- D. **Decision-Maker.** The Director shall make recommendations and the City Council shall approve, conditionally approve, or deny all applications for a revocable permit, except the Director shall approve, conditionally approve, or deny all applications for a revocable permit for landscaping and/or irrigation in a public right-of-way.
- E. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B.

2.18 REHEARING AND APPEALS

- A. **Purpose.** The purpose of Section 2.18 is to provide for a rehearing and appeal process for decisions and actions by the Director, Zoning Board of Appeals, Planning Commission and City Council.
- B. **Appeal of Director's Interpretations.** Any person, including any officer or agent of the City, aggrieved or claimed to be aggrieved by an interpretation of this Code rendered by the Director may request an appeal of the interpretation in accordance with Section 2.18.
- 1. **Approval Criteria.** In granting an appeal of a Director's interpretation, the Zoning Board of Appeals shall determine whether the interpretation by the Director was in accordance with the intent and requirements of this Code.
 - 2. **Decision-Maker.** The Zoning Board of Appeals shall affirm, reverse or remand the decision. In reversing or remanding the interpretation back to the Director, the Board shall state the rationale for its decision.
 - 3. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B, with the following deviations:
 - a. **Application Materials.** The appellant shall provide a written statement citing the specific provision(s) of this Code that the appellant believes the Director has incorrectly interpreted and the appellant's interpretation of the provision(s).
 - b. **Notice.** Notice of the hearing is not required to anyone other than the appellant.
 - c. **Director's Report.** The Director shall prepare a report detailing the specific provision(s) of this Code that are in question, his

interpretation of the provision(s), and the general basis of the interpretation.

- C. **Appeal of Final Action on Administrative Development Permits.** Any person, including any officer or agent of the City, aggrieved or claimed to be aggrieved by a final action of the Director on an administrative development permit, may request an appeal of the action in accordance with Table 2.1 and Section 2.18.C.
1. **Approval Criteria.** In granting an appeal of an administrative development permit, the appellate body shall find that the Director:
 - a. Acted in a manner inconsistent with the provisions of this Code or other applicable local, state or federal law; or
 - b. Made erroneous findings of fact based on the evidence and testimony on the record; or
 - c. Failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
 - d. Acted arbitrarily, acted capriciously and/or abused his discretion.
 2. **Decision-Maker.** The appellate body for a particular administrative development permit shall be as specified in Table 2.1. The appellate body shall affirm, reverse or remand the decision. In reversing or remanding a decision, the appellate body shall state the rationale for its decision. An affirmative vote of four (4) members of the appellate body shall be required to reverse the Director's action.
 3. **Application and Review Procedures.** Requests for an appeal shall be submitted to the Director in accordance with the following:
 - a. **Application Materials.** The appellant shall provide a written request that explains the rationale of the appeal based on the criteria provided in Section 2.18.C.1.
 - b. **Notice to Applicant.** If the appellant is not the applicant, the Director, within five (5) working days of receipt of the request for appeal, shall notify the applicant of the request and the applicant shall have ten (10) working days to provide a written response.
 - c. **Preparation of the Record.** The Director shall compile all material made a part of the record of the Director's action. As may be requested by the appellate body, the Director also may provide a written report.
 - d. **Notice.** No notice of the appeal is required.
 - e. **Conduct of Hearing.** The appellate body shall hold a evidentiary hearing to determine whether the Director's action is in accordance with the criteria provided in Section 2.18.C.1. The appellate body may limit testimony and other evidence to that contained in the record at the time the Director took final action or place other limits on testimony and evidence as it deems appropriate.
- D. **Rehearing.** Any person, including any officer or agent of the City, aggrieved by or claimed to be aggrieved by a decision or final action of the Zoning Board of Appeals,

Planning Commission or City Council may request a rehearing in accordance with Section 2.18.D. A rehearing does not have to be requested in order to perfect an appeal.

1. **Approval Criteria.** In granting a request for a rehearing, the decision-maker shall:
 - a. Find that the person requesting the rehearing was present at the original hearing or otherwise on the official record concerning the development application;
 - b. Find that the rehearing was requested in a timely manner; and
 - c. Find that in making its decision, the decision-maker may have failed to consider or misunderstood pertinent facts in the record or that information crucial to the decision was not made available at or prior to the decision being made.
2. **Decision-Maker.** A motion to grant a rehearing may be made only by a member of the decision-making body that voted in the majority of the decision requested to be reheard. Any other member may second the motion. If no motion is made or dies for lack of second, the request shall be considered to be denied.
3. **Application and Review Procedures.** Requests for a rehearing shall be submitted to the Director in accordance with the following:
 - a. **Application Materials.** The person desiring the rehearing shall provide a written request that specifically identifies the pertinent facts in the hearing record that he/she asserts that the decision-maker failed to consider or misunderstood and/or describes the information that was not made available at or prior to the decision. The person shall submit evidence of his/her attendance at the original hearing or other testimony or correspondence from him/her that was in the official record at the time of the original hearing.
 - b. **Application Fees.** The appropriate fee, as may be approved by the City Council, shall be submitted with the request.
 - c. **Application Deadline.** A request for a rehearing shall be submitted within ten (10) calendar days of the action taken by the decision-maker.
 - d. **Notice to Applicant.** If the person requesting the rehearing is not the applicant, the Director, within five (5) working days of receipt of the request for rehearing, shall notify the applicant of the request and the applicant shall have ten (10) working days to provide a written response.
 - e. **Hearing.** The Director shall schedule the rehearing request within forty-five (45) calendar days of receipt of a complete request.
 - f. **Notice.** Notice of the request for rehearing shall be provided in the same manner as was required with the original action as shall notice for the rehearing itself if one is granted.
 - g. **Conduct of Hearing.** The decision-maker shall first decide whether to

grant a rehearing. At its discretion, the decision-maker may permit limited testimony as to the nature of and grounds for the rehearing request itself before making this decision. If a rehearing is granted, the rehearing shall be scheduled within forty-five (45) calendar days of the decision. The conduct of the rehearing shall be the same as that required for the original hearing.

- h. Status of Appeal. If a rehearing is not granted, only the person requesting the rehearing shall have five (5) working days to file an appeal of the original decision. If a rehearing is granted, a new appeal period for any aggrieved party shall begin at the time a decision is made at the rehearing, even if the decision is the same as that made originally.

E. **Appeal of Action on Nonadministrative Development Permits.** Any person, including any officer or agent of the City, aggrieved by or claimed to be aggrieved by a final decision of the Planning Commission may appeal the action in accordance with Table 2.1 and Section 2.18.E.

1. **Approval Criteria.**

a. Findings. In granting an Appeal to action on a nonadministrative development permit, the appellate body shall find:

- (1) The decision maker may have acted in a manner inconsistent with the provisions of this Code or other applicable local, state or federal law; or
- (2) The decision maker may have made erroneous findings of fact based on the evidence and testimony on the record; or
- (3) The decision maker may have failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
- (4) The decision-maker may have acted arbitrarily, acted capriciously, and/or abused its discretion; or
- (5) In addition to one (1) or more of the above findings, the appellate body shall find the appellant was present at the hearing during which the original decision was made or was otherwise on the official record concerning the development application.

2. **Facts on Record.** In considering a request for appeal, the appellate body shall consider only those facts, evidence, testimony and witnesses that were part of the official record of the decision-maker's action. No new evidence or testimony may be considered, except City staff may be asked to interpret materials contained in the record. If the appellate body finds that pertinent facts were not considered or made a part of the record, they shall remand the item back to the decision-maker for a rehearing and direct that such facts be included on the record.

3. **Decision-Maker.** The appellate body for a particular development permit shall be as specified on Table 2.1. The appellate body shall affirm, reverse or

remand the decision. In reversing or remanding the decision back to the decision-maker, the appellate body shall state the rationale for its decision. An affirmative vote of four (4) members of the appellate body shall be required to reverse the decision-maker's action.

4. **Application and Review Procedures.** Requests for an appeal shall be submitted to the Director in accordance with the following:

- a. **Application Materials.** The appellant shall provide a written request that explains the rationale of the appeal based on the criteria provided in Section 2.18.E.1. The appellant also shall submit evidence of his/her attendance at the original hearing or other testimony or correspondence from him/her that was in the official record at the time of the original hearing.
- b. **Application Fees.** The appropriate fee, as may be approved by the City Council, shall be submitted with the request.
- c. **Application Deadline.** A request for an appeal shall be submitted within ten (10) calendar days of the action taken by the decision-maker.
- d. **Notice to Applicant.** If the appellant is not the applicant, the Director, within five (5) working days of receipt of the request for appeal, shall notify the applicant of the request and the applicant shall have ten (10) working days to review the request and provide a written response.
- e. **Preparation of the Record.** The Director shall compile all material made a part of the official record of the decision-maker's action. As may be requested by the appellate body, the Director also may provide a summary report of the record.
- f. **Notice.** Notice of the appeal hearing shall be provided in the same manner as was required with the original action.
- g. **Hearing.** The Director shall schedule the Appeal before the appellate body within forty-five (45) calendar days of receipt of the appeal. The appellate body shall hold a hearing and render a decision within thirty (30) calendar days of the close of that hearing.
- h. **Conduct of Hearing.** At the hearing, the appellate body shall review the record of the decision-maker's action. No new evidence or testimony may be presented, except that City staff may be asked to interpret materials contained in the record.

F. **Planning Commission Recommendation to City Council.** All recommendations, including recommendations of denial, which the Planning Commission makes to the City Council (i.e., the Planning Commission is not the final decision-maker) shall be heard by the City Council without necessity of Appeal. The applicant may withdraw in writing an application that has been heard by the Planning Commission and recommended for denial. Such hearings shall be de novo before the Council. An affirmative vote of five (5) members of the City Council shall be required to approve rezones and Growth Plan Amendments recommended for denial by the Planning

Commission. Procedural requirements provided elsewhere in this Code shall be applicable.

2.19 DEVELOPMENT IMPROVEMENTS AGREEMENTS (DIAs)

- A. **Development Improvements Agreement Authorized.** The Director may defer the requirement for the completion of required improvements if the applicant enters into a Development Improvements Agreement (DIA) by which the applicant agrees to complete all required public improvements in accordance with an agreed schedule. The Director may require the Applicant to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a DIA for completion of the remainder of the required improvements. The City Attorney shall approve any DIA as to form.
- B. **Agreement to Run with the Land.** The Development Improvements Agreement shall provide that the requirements contained therein shall run with the land and bind all successors, heirs, and assignees of the Applicant. The DIA for subdivisions shall be recorded with the Mesa County Clerk and Recorder. All other DIA's may, at the Director's discretion, be recorded or deposited with the City Clerk. All existing lienholders shall be required to subordinate their liens to the guarantees contained in the DIA.
- C. **Performance Security.**
1. Whenever the Director permits an applicant to enter into a Development Improvements Agreement, the applicant shall be required to provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of a cash deposit made to the City, a letter of credit or disbursement agreement from an authorized financial institution, a subdivision bond, or a completed, unrecorded plat. The letter of credit, disbursement agreement, or subdivision bond shall be in a form approved by the City Attorney.
 2. The guarantee shall be in an amount estimated by the Director of Public Works as reflecting 120 percent (120%) of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the DIA.
 3. In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.
 4. The issuer of any guarantee shall be subject to the approval of the City in accordance with adopted policies.
- D. **Maintenance Bond for DIA.**
1. The applicant shall guarantee the improvements against defects in workmanship and materials for a period of one (1) year from the date of City acceptance of such improvements. The maintenance guarantee shall be secured by a letter of credit, cash escrow, maintenance bond, or other form acceptable to the Director.
 - a. If the security is a letter of credit or cash escrow, then it shall be in an

amount reflecting twenty percent (20%) of the cost of the completed improvements.

b. If the form of security is a maintenance bond, it must be in a form acceptable to the City Attorney, in the principal amount of twenty percent (20%) of the value of the project's public improvements, for a period of one (1) year from the date of final acceptance by the City of all improvements in the project, or as applicable, the phase or filing of a project for which improvements are constructed and accepted.

c. If repairs, replacement or modifications to the project's public improvements are made by the applicant(s) or are required to be made by the City during the one (1) year maintenance period, then the City, at its sole option and discretion, may require an extension of the security in an amount equal to the actual or estimated repair, replacement or modification costs plus twenty percent (20%). If the Public Works Director has reason to believe that the security will be extended beyond the one (1) year initial term, then the Public Works Director shall notify the applicant(s) in writing no later than thirty (30) days before expiration of the security. Mailing of an extension notice shall cause the applicant(s) to extend the security (bond, cash or letter of credit) for an additional twelve (12) months. The extension shall be on the same terms as the security being extended. The security may be extended for (1) additional year as may be necessary for the bond to be called or for the improvements to be repaired, modified or replaced in a manner that satisfies the City. If the Public Works Director has reason to believe that the type or extent of the repair, replacement or modification does not warrant extension of the maintenance security, then the security may be released after the initial one (1) year period. In making the decision to extend the security the Public Works Director may consider any facts or information deemed relevant, which may include but is not limited to, whether the failed improvements are above or below grade, whether the failed improvements may reasonably be found to constitute life, health and/or imminent safety hazard(s); whether other phase(s) or filing(s) depend on the improvements and/or the degree of failure(s) of the improvements.

2. If the applicant has not warranted and guaranteed required improvements pursuant to a DIA, the applicant shall give the City security equal to at least fifty percent (50%) of the cost of the required improvements.

E. Offers to Dedicate Streets, Roads, and other Lands.

1. **Acceptance of Dedication.** The City Council, or its designees, may accept, accept with conditions, or reject any offer to dedicate any land or facility. Any offer to dedicate made pursuant to or as a condition of a review or approval pursuant to this Code constitutes the owner(s) irrevocable warranty

that such owner has the right, title and interest to convey to the City and that no hazardous or other regulated substance are present on, under or in the property.

2. **Acceptance of Maintenance.** Approval of a subdivision does not mean the City will accept any road, street or public site for maintenance. The City shall not be obligated to maintain any land(s) unless it explicitly agrees to do so in writing.

F. **Temporary Improvements.** The Developer shall construct and pay for all costs of temporary improvements required by the City to protect the public, neighborhood or another person. The applicant shall maintain said temporary improvements for the period specified.

G. **Completion of Improvements.**

1. **Construction of Required Improvements.**

- a. Before construction begins, the developer must be familiar with the submittal, construction, plans and inspection requirements of each utility or agency.
- b. After the City and/or other utility providers has inspected and approved all or a portion of the required improvements, the Developer may request, in writing, that the approved portion be accepted for maintenance by the appropriate agency. The City shall establish the Developer's limits of responsibility for the improvements. The City may condition its acceptance and may require additional guarantees and assurances for at least one (1) year following acceptance.
- c. Even if the City does not accept all or a portion of the required improvements, or delays any acceptance, the City may require the Developer to correct such defects or deficiencies identified by the City, in which case, final acceptance may be extended for one (1) additional year.

2. **Release of Improvements Agreement and Guarantee.**

- a. The Developer shall submit a written request for a release from the Development Improvements Agreement for the improvements that have been accepted for maintenance by the appropriate agency proof of acceptance for maintenance and proof that there are no outstanding judgments or liens against the property shall accompany this request.
- b. The City Council, or its authorized representative, shall review the request. If the requirements of the DIA concerning that portion requested for release have been complied with, the appropriate document of release shall be recorded with the Mesa County Clerk and Recorder's Office.
- c. Release of the DIA does not constitute a Certificate of Completion and Release of Responsibility.

3. **Certificate of Completion and Release of Responsibility.** Upon expiration of the limits of responsibility established in this Code, the Developer may

request a Certificate of Completion and Release of Responsibility from the appropriate agency.

H. **Extension of Development Improvements Agreement and Security.**

1. If the applicant is unable to complete all required improvements contained in an executed Development Improvements Agreement within the time stated therein, he shall provide written notice of same to the Director at least thirty (30) calendar days prior to the deadline of the milestones he will be unable to meet. The applicant shall make a formal written request for an extension of the completion date for performance in the DIA and security and provide a revised development schedule, which shall be reviewed by the Director. The Director shall approve, approve with conditions or deny the request for an extension. Based on the Director's decision the existing DIA may be amended, a new DIA drawn up and executed, or the Director may exercise any default provisions contained in the approved DIA. Any amendments or new agreements shall be recorded in the same manner as the original DIA, if required by the Director.
2. If the DIA is to be extended or a new DIA is to be executed, the applicant shall provide sufficient security which may be the same as or greater than the original security, up to 120 percent (120%), as was required with the original guarantee. No amendment or replacement DIA shall be executed, recorded or effective until security acceptable to the Director is provided.

2.20 INSTITUTIONAL AND CIVIC FACILITY MASTER PLANS

- A. **Purpose.** The purpose of a Master Plan review process is to provide an opportunity for the early review of major institutional and civic facilities that provide a needed service to the community, but might impact the surrounding community. The Master Plan review allows the City, through a public process, to assess any impacts early in the review process and direct the applicant on how best to address the impacts.
- B. **Applicability.** A Master Plan shall be required for any institutional and/or civic use, as that term is defined in Chapter Three, Table 3.5, when such project: consists of multiple phases of construction and when constructed will include 100,000 square feet in one (1) or more buildings; will result in significant modification of the existing transportation circulation patterns; and/or when the Director deems the project and/or the City would benefit from such a review.
- C. **Approval Criteria.** In reviewing a Master Plan, the decision-making body shall consider the following:
 1. Conformance with the Growth Plan and other area, corridor or neighborhood plans;
 2. Conformance with the Grand Valley Circulation Plan and general transportation planning requirements;
 3. Compatibility with the surrounding neighborhood in terms of capacity of safety of the street network, site access, adequate parking, adequate storm water and drainage improvements, minimization of water, air or noise pollution, limited nighttime lighting and adequate screening and buffering

- potential;
- 4. Adequacy of public facilities and services; and
- 5. Community benefits from the proposal.
- D. **Decision-Maker.** The Director and Planning Commission shall make recommendations and the City Council shall approve, conditionally approve or deny a Master Plan.
- E. **Application and Review Procedures.** The application and processing procedures shall be as follows:
 - 1. The review of a Master Plan shall precede, or be concurrent with, any other required review process.
 - 2. The content of the Master Plan document shall be sufficient to generally assess the following:
 - a. Site access, traffic flow, pedestrian circulation/safety;
 - b. Adequate parking;
 - c. Location of open space and trails;
 - d. Drainage and storm water management;
 - e. General building location and size; and
 - f. Adequate screening and buffering.
 - 3. A General Meeting shall be required.
 - 4. A Neighborhood Meeting is mandatory.
 - 5. Required notice shall include public notice in the newspaper, mailed notice and sign posting notice.
- F. **Validity.** The Master Plan shall be valid for a minimum of five (5) years unless otherwise established by the decision-maker. All phases of projects being developed shall be in conformance with the approved plan. Amendments to the Master Plan may be proposed at any time through the regular Master Plan review process. An amended Master Plan is required if significant changes are proposed. Generally, significant changes are anything not deemed to be minor amendments as defined in Section 2.12.F.3.a.

2.21 SIGN PACKAGE

- A. **Purpose.** A Sign Package allows the review and approval of signs on a developed site or abutting developed sites that function as one with the sharing of vehicular access through, across, over, entrance onto, and/or exit from the site(s) and/or parking.
- B. **Applicability.** The Sign Package provides detailed graphical information of the location, height, illumination, sign dimensions, and sign design, including but not limited to letter heights.
- C. **Approval Criteria.**
 - 1. All sign(s) included on the site(s) shall be in conformance with the criteria set forth in Section 2.2.E.2.b, except as allowed to deviate based on the other criteria in this Section.
 - 2. The application of the Sign Package is not contrary to and better implements the goals and objectives of the Growth Plan, including but no limited to

- applicable neighborhood plans, corridor plans, and other adopted plans.
3. The application of the Sign Package is not contrary to and better implements the goals and objectives of moderating the size and number of signs as well as the reduction of clutter and obtrusive placement of signs.
 4. The Sign Package is found to be compatible with the signs and uses on the adjacent parcels.
- D. **Decision-Maker.** The Director shall make recommendations and the Planning Commission shall approve, conditionally approve or deny all applications for a Sign Package Permit.
- E. **Application and Review Procedures.** Application requirements and processing procedures are described in Table 2.1 and Section 2.3.B.
- F. **Validity.**
1. The Sign Package Permit must be established within 180 days of the approval by Planning Commission. A Sign Package is established upon the installation of the first sign included within the package. Once established the Sign Package Permit shall run with the land as long as a use on a site has not changed and the site(s) continue to share vehicular access through, across, over, entrance onto, and/or exit from the site(s) and/or parking. All the parcels functioning as one shall be considered the land to which the Sign Package Permit is applicable.
 2. A Sign Package Permit limits the characteristics of each sign within the Sign Package. Any increase in any sign characteristic must be reviewed and approved as a new Sign Package. Any changes to the Sign Package Permit, including modification or termination, other than termination due to change of use on a site or termination of the shared access or parking, shall require the written consent of all landowners of each of the sites included within the approved Sign Package.