

**LAND DEVELOPMENT USE AND ZONING CODE**  
**TOWN OF BROOKSIDE, COLORADO**

**Adopted by Town of Brookside Board of Trustees on  
March 22, 2002**

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TOWN OF BROOKSIDE, COLORADO**

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The content of this amendment is also added in at the referenced points:

**TOWN OF BROOKSIDE  
ORDINANCE NO.04-08  
SERIES OF 2008**

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE TOWN OF BROOKSIDE LAND USE CODE; AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, pursuant to Article 23, Title 31 of the Colorado Revised Statutes, for the purposes of promoting health safety, morals and the general welfare of the community, the Town of Brookside (“Town”) has authority to regulate the development of land within the Town; and

WHEREAS, the Board of Trustees, after proper notice as required by law, has held a public hearing on this ordinance providing for the amendment and adoption of said changes; and

WHEREAS, the Town previously adopted, March 22<sup>nd</sup>, 2002

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF TOWN OF BROOKSIDE, COLORADO:

**Section 1.**

**Section I.** Section I.O. Is hereby amended to read as follows, definition added:

Junkyard means an industrial use contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. This will include the noncommercial storage of old mobile homes, dilapidated sheds, other structures and other items as designated by the Town Board. Junkyard shall not include a recycling facility.

**Section II.** Section II.A.1.1.2.2. Is hereby amended to read as follows:

To accommodate or house more than a single-family, (including a family member or companion) on an individual lot;

Section II.A.1.1.6 Is hereby amended to read, added:

The Land Owner and the Owner's contractor are responsible for controlling traffic flow and dust control to and from the construction site and will comply with any traffic flow and dust control requirements placed upon the project by the Town Administrator or Town Board either before or during the construction period. This will apply to new construction.

Section II.A.1.1.9 Is hereby amended to read, added:

No property may be used as a junkyard or storage yard without a special use permit granted by the Town Board annually. This will not include antique vehicles or commercial equipment used for the livelihood of the land owner as long as it does not become an eye sore as determined by the Town Board.

Section II.A.1.1.10 Is hereby amended to read, added:

Swine will not be allowed within the Town limits without a special use permit granted by the Town Board annually. This special use permit may be revoked at any time if the animals are determined to have become a nuisance by the Town Board after letter of complaint is received.

Section II.A.1.1.11 Is hereby amended to read, added:

Neither commercial Trucks, nor their refrigeration units, may be left running inside the Town limits for more than 30 minutes during a 24 hour period, unless a special use permit is issued.

Section II.A.4.2.2 Is hereby amended to read:

Single-family house home occupation (one per parcel)

~~Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities) Is deleted~~

Section II.A.4.2.4 Is hereby amended to read:

Licensed Childcare home

Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities) provided a special use permit is granted by the Town Board annually. This special use permit may be revoked at any time if the livestock, poultry and fowl are determined to have become a nuisance by the Town Board after letter of complaint is received.

**APPENDIX D**

Appendix D.1.6 Is hereby amended to read, added:

Swine will require an annual special use permit.

**Section 2.** The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

**Section 4.** The repeal or modification of any provision of the Land Use Code of the Town of Town of Brookside by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED  
PUBLISHED IN FULL this 14<sup>th</sup> day of April, 2008.

TOWN OF TOWN OF BROOKSIDE,  
COLORADO

—

\_\_\_\_\_  
Ronald D. Frederick, JR  
Mayor

Attest:

\_\_\_\_\_  
Renee Bolkema  
Town Clerk

## **Section I: General Provisions**



## **I. GENERAL PROVISIONS**

### **A. Title.**

This ordinance establishes the regulations and standards governing the use and development of land within the Town of Brookside. Included are provisions for the annexation, subdivision and zoning of land, as well as the administrative procedures governing the submission of application, administrative and public reviews, and appeals. Also included are Town standards for site design, landscaping, parking and public infrastructure.

All construction requirements, where not otherwise specified, are governed by the Uniform Building Code, adopted by the town of Brookside in 1994.

### **B. Short Title.**

This ordinance shall be known and may be cited as the Brookside Land Development Code. With this ordinance the Brookside Land Development Code shall simply be referred to as "this Ordinance."

### **C. Authority.**

This Ordinance is adopted pursuant to the authority contained in the Colorado Revised Statutes (CRS). Authority is granted to municipalities to establish a planning commission and regulate subdivisions (CRS 31-23-202, 214), to regulate land use through zoning (CRS 31-23-3), to prohibit or regulate nuisances and enforce its major street plan within three miles of its boundaries (CRS 31-15-401-601 and CRS 31-23-212, 213), as well as to adopt a comprehensive plan and generally plan for and regulate the use of land.

Whenever a section of the Colorado Revised Statutes that is referred to in this Ordinance is later amended or superseded, this Ordinance is deemed amended to refer to the amended section or section that most nearly corresponds to the superseded section.

### **D. Jurisdiction.**

This Ordinance shall be effective throughout the Town's corporate boundaries. The Town's planning jurisdiction includes all land within the Town of Brookside, and where applicable the land within three miles of the Town's boundaries. For purposes of zoning and subdivision, this Ordinance only applies to lands within the Town's corporate boundaries.

A copy of a map showing the boundaries of the Town and the area within the three-mile planning jurisdiction shall be available for public inspection from the Town Clerk.

**E. Intent.**

It is the intent of this Ordinance to ensure the orderly, efficient and integrated development of the Town in a way that both promotes the health, safety and general welfare of its residents and that is compatible and protective of the natural environment. Specifically the Town seeks to:

- Implement its adopted Brookside Master Plan;
- Provide for the adequate and concurrent provision of public infrastructure and services with the development and use of land in the Town, and in a manner consistent with the public improvements plans of the Town;
- Avoid traffic congestion and the overcrowding of land while providing adequate light and fresh air to residents;
- Prevent loss of life and property from fire, flooding, geologic hazards and other natural or man-made dangers;
- Conserve significant environmental features and integrate a high quality natural environment into the developed portions of the community;
- Develop a well-balanced land use pattern that will facilitate the development of an integrated community.
- Encourage the “Good Neighbor Policy.”

**F. Effective Date.**

The provisions of this Ordinance became effective and were originally adopted on March 11, 2002. Development plans approved under previous regulations that received vested property rights through a Site Specific Development Plan (SSDP) shall be valid for the duration of that vested property right provided that all terms and conditions of the SSDP are complied with. Existing uses that may become nonconforming by adoption of this ordinance are grandfathered, and shall become legal nonconforming uses subject to the provisions of Section II.F, “Nonconforming Situations.”

**G. Relationship to Existing Ordinances.**

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions in the Town's Code, they shall be considered as continuations thereof. It is not the intention of this Ordinance to repeal, but rather to reenact and continue in force the Town's powers and authority in land use regulation. In particular, situations not lawful and conforming under previous ordinances do not become lawful merely by repeal of those ordinances. The adoption of this Ordinance shall not adversely affect the Town's right to seek remedies for any violation of previous ordinances that occurred while those ordinances were in effect.

In cases where the provisions of this Ordinance substantially differ from existing ordinances, the provisions of this Ordinance supersede and replace the existing ordinances at the effective date of this Ordinance.

## **H. Relationship to Master Plan.**

It is the intention of the Town that this Ordinance implement the planning policies recommended by the Brookside Planning Commission and adopted by the Board for the Town and its extraterritorial planning area, as reflected in the Master Plan and other planning documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

### **1. Requirement for Master Plan Amendment.**

Where a development proposal would be in substantial conflict with the Master Plan, an amendment to the Master Plan will be required prior to any zoning or subdivision approvals. A substantial conflict will exist when a development proposal would result in changes from the designations of the zoning map, street planning map, or other maps contained in the Master Plan.

### **2. Criteria for Evaluating Amendment Proposals.**

Amendments to the Master Plan resulting from development proposals under this Ordinance shall be evaluated according to the criteria and procedure outlined in the Master Plan.

## **I. Interpretation of the “Good Neighbor Policy”**

In the Town of Brookside, we choose to live by and uphold the “Good Neighbor Policy.” If a resident of Brookside considers an act or condition to be offensive (or a nuisance), he or she is to:

1. First, speak directly to the person or persons that are responsible for the act or condition remembering to treat the responsible person or persons as he/she would like to be treated.
2. Second, if the situation is not considered to be sufficiently resolved, he/she may bring the offense to the attention of the Town Board at its regular monthly meeting in the form of a nuisance complaint. Complaints must be submitted in writing prior to the monthly meeting. A fee of ten dollars (\$10) will be charged to file a formal complaint.
3. Situations for which formal nuisance complaints have been filed will be investigated by the appropriate Town or County authority. Findings of his investigation will be reported to the Town Board, which will decide what, if any, action must be taken.
4. If a formal complaint is found to involve a situation which is in direct violation of the Brookside Zoning Code, Fremont County Codes or applicable statutes of the State of Colorado, the filing fee will be refunded and applicable penalties will be assessed against the offending party or parties.

**J. Application - No Use or Sale Except in Conformity with Ordinance.**

1. In their interpretation and application, the provisions of the Ordinance shall be held to be the minimum requirement for the promotion for the public health, safety, morals and welfare.
2. Where property is affected by the requirements of this Ordinance and by other governmental regulations, those that are more restrictive or which impose the higher standards or requirements shall prevail. No land use or development shall occur or be maintained in the Town in violation of any state or federal regulations.
3. Except for situations covered under Section II.F. Nonconforming Situations of this Ordinance, no person may use, occupy, modify or sell any land or buildings or authorize or permit the use, occupancy, modification or sale of land or buildings under their control except in accordance with all the applicable provisions of this Ordinance.
4. For the purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the structure or land so used unless governed by an approved development plan.

**K. Fees.**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicants for permits, plat approvals, zoning amendments, variances and other administrative relief where applicable. The fee schedule will be adopted periodically by the Town Board and is available from the Town office.

**L. Severability.**

It is hereby declared to be the intention of the Town that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable; and that if anyone of these is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the remainder of this Ordinance shall not be affected and will remain valid and in effect.

**M. Computation of Time.**

Unless specifically provided, all time references in this Ordinance will be business days and be computed by excluding the first day and including the last. Where the last day falls on a Saturday, Sunday or holiday, the next general

working day will be used. When the period of time prescribed is less than seven days, the intermediate Saturdays, Sundays and holidays shall be excluded.

**N. Miscellaneous.**

As used in this Ordinance, words used in the singular include the plural and words used in the plural include the singular.

The words "must," "shall" and "will" are mandatory; "may," "can" and "might" are permissive.

**O. Basic Definitions and Interpretations.**

The words and phrases used in this Ordinance shall have the meanings defined below unless otherwise specifically provided or unless clearly required by the context.

Questions of definition or working usage shall be interpreted by the Town Administrator based on the context of their usage and the intention of the section of this Ordinance in which they occur.

***Abutting Land.*** A parcel of land that has a common property line with another parcel of land.

***Accessory Building.*** A detached subordinate building, the use of which is incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

***Accessory Use.*** A use or structure incidental to or subordinate to the principal use of a lot or contiguous lots in the same ownership, or commonly associated with the principle use and integrally related to it.

***Administrator.*** The Town Administrator, Mayor or other duly authorized person of the Town of Brookside empowered to enforce the requirements of this Ordinance.

***Alley.*** The public right-of-way within a block upon which the rear of building lots generally abuts. Its use is for secondary access to the lot and/or service purposes. An alley shall not be considered to be a street.

***Appeal.*** A request for review by the Board of Adjustment for a variance to this Ordinance.

***Applicant.*** Any individual, partnership, corporation, association, company, or public body, including the federal government, or any political subdivision, agency, corporation or instrumentality of the state applying for a development permit pursuant to this Ordinance.

**Architectural Projection.** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including, within limitation, cornices, eave belt courses, sills, box or bay windows, fireplaces, roof overhangs, mansards, unenclosed exterior balconies, marquees, canopies, pilasters and fascias, but not including signs.

**Awning.** A fixed or movable shelter supported entirely from the exterior wall or a building that can be retracted, folded or collapsed against the face of the supporting building.

**Basement House.** A dwelling or structure constructed partly or wholly below the grade level of any property.

**Basement.** Any level of a building where more than one half of the vertical distance between the floor and the ceiling is below the grade of the site.

**Bed and Breakfast.** A residential building in which rooms are rented on a daily basis to short-term guests. The building typically is similar in character to the surrounding neighborhood, and meets all the requirements of the zoning district in which the facility is to be located.

**Block.** A group of lots existing within well defined and fixed boundaries within the town and usually being an area surrounded by street or other features such as parks, right-of-ways, or municipal boundary lines.

**Board of Adjustment.** A special review Board operating under the authority of this Ordinance for purposes of hearing and deciding appeals or variances to this Ordinance. The Board to be made up of members of the Town Board and designated members at large.

**Buffer Zone.** A strip of land established to separate and protect one type of land use from another, to screen from objectionable noise, odor, smoke or visual impact, or to provide for future public improvements or additional open space.

**Building Height.** The vertical distance from the average building grade to the uppermost point of the roof structure.

**Building.** A building is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, and where separated by a firewall, each such separated portion of such structure shall be deemed a separate building.

**Child Care Center.** A child care center provides less than 24-hour care including a Large Child Care Center, Small Child Care Center, School-age Child Care Center, Infant Nursery and Toddler Nursery as defined by the Colorado Department of Social Services. A Child Care Center may operate for 24 hours in a day.

**Child Care Home.** This is a facility receiving two or more children not related to each other or children from more than one family. Children received for care are not related to the caretaker and the care provided by the caretaker is for more than two full consecutive days on a regular weekly basis. A full day is seven or more hours. The number of children in a child care home shall not exceed program requirements established by the Colorado Department of Social Services

**Corner Lot.** A lot situated at the junction of a front street and a side street.

**Court.** An unoccupied space on a lot other than a yard designated to be partially surrounded by group dwellings.

**Curb Cuts.** A cut in the curb line for passage of vehicles, not to exceed 12 feet in width, for single drive and 20 feet for double drive.

**Domestic Livestock.** Animals, other than cats, dogs and other small or household pets kept on private property either on open land or in shelters other than the primary dwelling structure on the property.

**Driveway.** Private access for a vehicle to a single building site or lot not to exceed 12 feet in width for a single drive and 20 feet in width for a double drive.

**Front Yard.** That portion of a lot that abuts a street and extends across the width of the lot between the street and the set back line.

**Frontage Street.** Street on which the lots of a block, or subdivision thereof, generally front.

**Gable.** That portion of a roof that forms a triangle at the building end and extends from the ridge to the eaves.

**Good Neighbor Policy.** A policy which dictates that matters are to be settled in such a manner that all persons treats their neighbor as they wish to be treated through application of the "Golden Rule." The Golden Rule may be stated as: "do unto others as you would have done unto you".

**Grade.** The percentage incline gradient calculated as the incline's vertical rise or fall per standard horizontal distance. A 30% grade is an inclination or gradient of 30 feet vertical rise or fall in 100 feet of horizontal distance or approximately 16 degrees and 42 minutes incline or decline from horizontal.

**Home Occupation.** Any use conducted entirely within a dwelling unit and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part, which creates no additional traffic, requires

no additional parking space, where no persons are employed other than residents in connection with the home occupation. Provided further that no mechanical equipment is installed or used except such that is used for domestic purposes; and that there is no outdoor storage of materials, equipment and/or supplies other than that necessary for domestic purposes. For the purposes of this code child care homes and child care centers are not considered home occupations.

ADDED PER AMENDMENT: **Junkyard** means an industrial use contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. This will include the noncommercial storage of old mobile homes, dilapidated sheds, other structures and other items as designated by the Town Board. Junkyard shall not include a recycling facility.

**Lot Area.** Total square footage or acreage contained within lot lines.

**Lot Depth.** The mean distance from the street right-of-way line at the front of the lot to its opposite rear line measured in the general direction of the side lines of the lot. Where a right-of-way is not established, it shall be assumed to be sixty (60) feet. Where a major thoroughfare or collector street is designated, then the lot depth shall be measured from the proposed right-of-way line.

**Lot Line.** A property line bounding a lot, excluding any dedicated street or alley.

**Lot of Record.** A lot which is part of a subdivision, a plat of which has been legally recorded or a lot described by meters and bounds, the description of which has been so recorded.

**Lot Width.** Lot width is the width measured along the minimum building setback line.

**Lot.** Land occupied or to be occupied by a building and its accessory building together with such open spaces as are required under this ordinance and having its principal frontage on a street or officially approved place.

**Manufactured Housing.** Housing which meets criteria established in C.R.S. 31-23-501(5) and 31-23-303(3).

**Nonconforming Structure.** A building, structure or portion thereof which lawfully existed at the time of the adoption of this Ordinance but which does not conform to the height, yard or area regulations of the zone in which it is located, or which is so designed, erected or altered that it could not reasonably be occupied by a use permitted in the zone in which it is located.



**Nonconforming Lot.** A "lot" which was lawfully created but which does not conform to the minimum lot size specifications of the zone in which it is located.

**Nonconforming Use.** A use which lawfully occupied a building or lot at the time of the adoption of the Ordinance, and which does not conform with the use regulations of the zone in which the building and/or lot is located.

**Permit.** Legal authorization for construction or land use within the town of Brookside.

1. **Use-by-Right** – The permitted use of land, structures or both which are authorized by the district zoning classification. A use-by-right may not require prior review of the Planning and Zoning Committee or the Board of Trustees. A use-by-right does require a building permit.
2. **Conditional Use Permit** – Legal authorization for the use of land, structures or both requiring certain conditions to be met as reviewed by the Planning and Zoning Commission and approved by the Board of Trustees.
3. **Special Use Permit** – Legal authorization for the use of land, structures or both, which because of the unique characteristics cannot be classified as a use-by-right or conditional use. Special use permits require review by the Planning and Zoning Commission and approval by the Board of Trustees.

**Planning Commission.** For purposes of this Ordinance, shall mean the Planning and Zoning Commission of the Town of Brookside, Colorado, created by Ordinance Number \_\_\_\_\_ and approved on \_\_\_\_\_.

**Porch.** A roofed or unroofed open structure projecting from the front, side or rear wall of a building. For purpose of this ordinance a porch is considered a part of the principal building and is not permitted to extend into any yard requirements.

**Rear Yard.** That portion of a lot between two side lot lines that does not abut a street and that extends across the width of the lot between the rear set back line and the rear lot line.

**Setback Line.** A line in the back of and parallel to the street right-of-way line and at such horizontal distance from the street right-of-way line as required by the minimum front yard depth in the district in which it is to be located.

**Setback.** The minimum horizontal distance between the property line and the front line of the building or any projection thereof, excluding steps.

**Side Yard.** That portion of a lot that extends from the front set back line to the rear set back line between the side set back line and the side lot line, or that portion of a lot that is between a lot line and a set back line, but is not a front or rear yard.

**Signs.** Any form of publicity, directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trade marks, or trade names, or other pictorial matter, designed to convey such information and displayed by means of panels, posters, paints or other devices erected on an open framework or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports.

1. **Business Sign.** A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such a sign is located or to which it is attached.
2. **Advertising Signs.** A sign which directs attention to a business commodity, activity, service or product not necessarily conducted, sold or offered upon the premises where each is located.
3. **Identification Signs.** Signs identifying the name of a structure or use of land such as a subdivision, housing development, school, college, park, church or other public or quasi-public facility. Such signs shall bear information pertaining only to the premises on which such a sign is located.

**Sketch Plan.** A brief narrative of a site development plan, it states the project's purpose and general intent concerning land uses, circulation, open space, and design concepts.

**Slide Area.** A surface location having unstable soil movement under certain conditions. A slide area may or may not be physically evident as an unstable slope.

**Steep Slope-Steep Terrain.** Natural steep and potentially unstable slopes have a grade of 30% or greater, as designated by local or federal authority.

**Street.** A public thoroughfare 60 feet or more in width and not less than 40 feet between curbs if present.

**Structure.** Anything constructed or made, the use of which requires permanent location on the ground, or attached to something having more or less permanent location on the ground. The word "structure" shall include the word "building."

**Subdivision.** A parcel of land that has been subdivided into five (5) or more lots for the purpose of single-family housing units.

**Town.** For purposes of this Ordinance, shall mean the Town of Brookside, State of Colorado.

**Variance.** A variance is a relaxation of the terms of the zoning ordinance where such relaxation will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

**Yard.** An open space unoccupied and unobstructed from the ground upward, which is on the same lot with a building except as otherwise provided herein.

**P. Enforcement and Review.**

1. Complaints Regarding Violations.

Whenever the Administrator receives a written, signed complaint alleging a violation of this Ordinance, a town official shall investigate the complaint within ten days, and take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

2. Persons Liable.

The owner, tenant, or occupant of any building or land or part thereof as well as any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

3. Procedures Upon Discovery of Violations.

3.1 If the Administrator finds that any provision of this Ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and stating the action(s) necessary to correct it. The first written notice will also contain an invitation to discuss the violation and the Town's concerns, and the opportunity to negotiate a reasonable solution to the violation that meets the concerns identified in the written notice. Additional written notices may be sent at the Administrator's discretion, and may order the action(s) necessary to correct the violation.

3.2 The final written notice shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Adjustment. In all cases an agreement or other enforcement action to end the violation shall be

reached within ninety (90) days of the violation being recognized by the Town.

3.3 Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health or safety, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 4 below.

#### 4. Penalties and Remedies for Violations.

4.1 Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special-use or conditional-use permits, shall constitute a misdemeanor which will be prosecuted in civil or criminal court, whichever is appropriate.

4.2 Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special-use or conditional-use permits, shall also subject the offender to a civil penalty of \$25, as established by town code \_\_\_\_\_. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation and did not take an appeal to the Board of Adjustment within the prescribed time.

4.3 This Ordinance may also be enforced by any appropriate equitable action.

4.4 Each day that any violation continues after notification by the Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

4.5 In addition to any other penalty imposed by this Ordinance for a violation of the provisions of this Ordinance, the Town reserves and maintains the continued right to abate violations of this Ordinance.

4.6 Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

#### 5. Permit Revocation.

5.1 A zoning, sign, special-use, conditional-use or other permit may be revoked by the Town if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the Town or

if the information on which the permit approval was based is found to be false or inaccurate.

5.2 Before a conditional-use or special-use permit may be revoked, all of the notice, hearing and other requirements of this Ordinance shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

5.2.1 The burden of presenting evidence sufficient to convince the Town to revoke a permit for any of the reasons set forth in applicable subsections of this code shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

5.2.2 Revocation of a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the revocation.

5.3 Before a zoning or sign permit may be revoked, the Administrator shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons thereof.

5.4 No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special-use or conditional-use permit after such permit has been revoked in accordance with this section.

## 6. Judicial Review.

6.1 Every decision of the Town Board granting or denying a conditional-use permit and every final decision of the Board of proceedings can be appealed in the Fremont County Court.

6.2 The petition for the writ of certiorari must be filed with the Clerk of the Fremont District Court within 30 days after the later of the following occurrences:

6.2.1 A written copy of the board's decision has been filed with the Planning Commission.

6.2.2 A written copy of the board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

6.3 A copy of the writ of certiorari shall be served upon the Town of Brookside in accordance with CRCP 106.

## **Section II: Zoning**

## **II. ZONING**

### **A. General Provisions.**

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

#### **1. Uniformity of Regulations.**

The regulations established by this Ordinance within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Ordinance, the following interpretations shall apply:

- 1.1 No buildings, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, changed, constructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located.
- 1.2 No building or other structure shall be erected or altered:
  - 1.2.1 to exceed the height limitation of 35 feet.
  - 1.2.2 To accommodate or house more than a single-family, (including a family member or companion) on an individual lot; (CHANGED PER AMENDMENT)
  - 1.2.3 to occupy a greater percentage of the area; to have narrower or smaller rear yards, front yards, side yards, or other open spaces;
- 1.3 No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- 1.4 Any use not permitted in a zone either specifically or by interpretation by the Planning Commission is hereby specifically prohibited from that zone.
- 1.5 No construction allowed on slopes of 30% or more having a vertical height greater than or equal to the maximum building height of 35 feet. Also no construction is allowed within 60 horizontal feet of the crest or within 60 horizontal feet of the toe of such slopes of 35 feet or greater vertical height for wildfire and rolling debris dangers respectively.



- 1.6 Drainage features may not be filled, rechanneled, redirected or altered so that drainage, runoff, or flood water is directed onto neighboring property at any point other than that which is originally entered and/or at any greater drainage delivery rate than that which existed prior to such activity or alteration.
- 1.7 Surface drainage may not be redirected, increased, decreased, retarded, or retained by property owner, subdivision, or development so that water is backed up onto or into another's property.

**Section II.A.1.1.8 Is hereby amended to read, added:**

The Land Owner and the Owner's contractor are responsible for controlling traffic flow and dust control to and from the construction site and will comply with any traffic flow and dust control requirements placed upon the project by the Town Administrator or Town Board either before or during the construction period. This will apply to new construction.

**Section II.A.1.1.9 Is hereby amended to read, added:**

No property may be used as a junkyard or storage yard without a special use permit granted by the Town Board annually. This will not include antique vehicles or commercial equipment used for the livelihood of the land owner as long as it does not become an eye sore as determined by the Town Board.

**Section II.A.1.1.10 Is hereby amended to read, added:**

Swine will not be allowed within the Town limits without a special use permit granted by the Town Board annually. This special use permit may be revoked at any time if the animals are determined to have become a nuisance by the Town Board after letter of complaint is received.

**Section II.A.1.1.11 Is hereby amended to read, added:**

Neither commercial Trucks, nor their refrigeration units, may be left running inside the Town limits for more than 30 minutes during a 24 hour period, unless a special use permit is issued.

2. Conflict with Other Provisions of Law.

Where this Zoning Ordinance is in any way more restrictive than other provisions of law or ordinance, the provisions of this Zoning Ordinance shall control.

3. Conflict with Private Covenants or Deeds.

In case of a conflict between this Ordinance and any private restrictions imposed by covenant or deed, the responsibility of the Town Administrator shall be limited to the enforcement of this Ordinance.

4. One Principal Building to a Lot

Only one (1) principal building and its customary accessory buildings may hereafter be erected on a lot. No building shall be erected on any lot that does not have at least twenty-five (25) foot frontage on a publicly dedicated street.

**B. Zone Districts.**

1. General.

In order to implement the provisions of this Ordinance, Brookside, Colorado, is hereby and in the future may be, divided into the following zoning districts:

|      |                                    |
|------|------------------------------------|
| ER   | Estate Residential District        |
| R-1  | Single-family Residential District |
| MU   | Multiple Use District              |
| OS-R | Open Space - Recreation District   |

2. Overlay Districts.

Overlay districts are sites within the Town of Brookside in which additional uses-by-right or conditional uses may or may not be allowed due to the particular character of the land or other pertinent factors. They include the following zoning districts:

|      |  |
|------|--|
| PDD  | Planned Development District                     |
| SA   | Steep Terrain-Steep Slope-Slide District         |
| OS-E | Open Space - Environmental Preservation District |

Uses and development requirements for overlay districts are contained in Section III of the Land Development Code.

3. Use Categories.

Uses of property are categorized and allowed in each of the zoning districts in the following manner:

3.1 Use-by-Right – Uses-by-right include the use of land, structures or both which are authorized by the district zoning classification. These uses may not require prior review and approval by the Planning Commission or the Board of Trustees unless otherwise contained herein.

A use-by-right is the principal use(s) permitted in any given zone district. The design standards of any given zone district comprise the essential site plan

requirements for the placement of a use on a parcel or in a structure. To construct a use-by-right on a parcel, a building permit is needed. The building permit will require that the use is properly served by access and utilities and that a plot plan be submitted which is used to check the setbacks and other design standards of the district. Plot plan reviews and approvals are a function of Town staff.

3.2 Accessory Uses and Structures – These uses are naturally and normally incidental to a use-by-right and comply with all the following conditions:

- 3.2.1 is clearly subordinate, incidental and customary to and commonly associated with the operation of the use-by-right;
- 3.2.2 is operated and maintained under the same ownership as the use-by-right on the same zone lot;
- 3.2.3 includes only those structures or structural features consistent with the use-by-right;
- 3.2.4 The gross floor area utilized by all accessory uses, except a private garage, shall not exceed ten percent (10%) of the total floor area of the use-by-right on the same property or parcel; and
- 3.2.5 May include home occupations, as defined by the zoning regulations and/or by zone district.

Accessory uses must meet setback and other design standard requirements in each zone district. Construction of accessory uses may or may not require a building permit. If a permit is required, a plot plan showing the location of the accessory use on the zone lot will be required.

3.3 Conditional Use

Uses normally associated with uses-by-right and permitted in any given zone district upon compliance with certain conditions and after review and approval of a site plan. See Appendix A, “Conditional Use Permit Submission Requirements.”

3.4 Use by Special Review

A specific use of land or building or both described and permitted within a zone district that is subject to special provisions and which, because of its unique characteristics, cannot be properly classified as a use-by-right or conditional use. Special uses require review before the Planning Commission and a public hearing before the Board of Trustees. These uses are usually extraordinary in nature, and a complete site plan and

impact mitigation plan will be required to be reviewed and approved. See Appendix B, "Special Use Permit Submission Requirements."

### 3.5 Temporary Uses

3.5.1 The intent of this section is to provide for the regulation of temporary structures and uses. This Ordinance shall apply to temporary residences, temporary construction offices and temporary signs. For the purposes of this section, the term "temporary" shall mean a period of up to six (6) months.

#### 3.5.2 General Requirements and Procedures

Prior to the establishment and use of a temporary structure, the applicant shall be required to provide the following:

- (a) Submit a plot plan showing location of the use, setbacks and any other pertinent information to the Town Administrator for review. The plan must conform to all applicable zoning requirements of the district in which the use is to be located. See Appendix C, "Temporary Use Permit Submission Requirement."
- (b) Upon favorable review by the Town Administrator, the applicant may obtain a building permit for the requested use.
- (c) The permit granted by the Town Administrator shall expire six (6) months from the date of issuance. A maximum of three (3) permits may be granted per use. All temporary uses shall be removed at the expiration of the third permit.
- (d) All written requests for renewal shall be submitted to the Town Administrator a minimum of ten (10) working days prior to expiration date.
- (e) The applicant must meet any additional requirements necessary for the health, safety and welfare of the residents of the surrounding area as determined by the Town Administrator.

#### 3.5.3 Permitted Temporary Structures

- (a) Temporary Construction Office – A temporary structure for the storage of construction materials, and a construction office to be used for managing a construction job may be utilized in all districts with the following restrictions:

- (1) The unit is to be used only during normal construction hours by the construction superintendent, construction workers, contractors, etc.
- (2) While construction is occurring, a temporary construction office may be utilized provided that it is located within the area of a recorded final plat or an approved site plan.
- (3) The temporary construction office shall not be utilized as living quarters for a caretaker, property owner, contractor, or others except in approved cases where security necessitates such occupancy.

(b) Temporary Signs

All temporary signs shall be in conformance with Section IV of this Ordinance.

(c) Other Temporary Structures

Tents or other temporary structures used for bazaars, religious functions, festivals or other group activities are allowed in all zone districts except the Residential zone districts. All permits are to be obtained from the Administrator and must expire in a maximum of three (3) months within any calendar year.

### 3.6 Home Occupations

A home occupation shall be allowed as a permitted accessory use, provided that the following conditions are met:

- 3.6.1 the use must be conducted entirely within a dwelling and may employ a maximum of one (1) person other than those members of the immediate family residing on the premises. For the purposes of this Section, a dwelling unit may include attached garages and attached accessory buildings;
- 3.6.2 the use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof;
- 3.6.3 the total area used for home occupation uses shall not exceed twenty-five percent (25%) of the total floor area within a dwelling unit. The area used for the home occupation shall be considered to include all storage areas and workspace clearly utilized or essential in the operation of the home occupation;

- 3.6.4 there shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs or displays or advertising that solicits or directs persons to the address;
- 3.6.5 there shall not be conducted on the premises the business of selling stock, supplies or products, provided that incidental retail sales may be made in connection with other permitted home occupations;
- 3.6.6 there must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met;
- 3.6.7 No equipment or process shall be used in such home occupation which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling;
- 3.6.8 No traffic shall be generated by such home occupation in greater volumes than that generated by a single-family use in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and not in a required yard adjacent to a street;
- 3.6.9 Under no circumstances shall any of the following be considered a home occupation: antique shop, barbershop, beauty parlor, wig styling, clinic, mortuary, nursing home, restaurant, veterinarian's clinic, dancing studio, wood shop or cabinet-making shop; and
- 3.6.10 each home occupation shall tri-annually register with the Town Clerk, which registration shall include a review of compliance with the home occupation standards contained in this Ordinance. The person seeking to register said home occupation shall grant the Town reasonable access to the location of the home occupation for the purpose of verifying compliance with this Ordinance, as may be required by the Town.

### 3.7 Uses Not Itemized

- 3.7.1 On its own initiative, the Brookside Planning Commission may, by resolution, recommend to the Board of Trustees additions to the uses permitted and/or uses permitted by special review section of any zoning district, and any other similar use which conforms to the

conditions set forth in this section. The recommendation of the Planning Commission is then forwarded to the Board of Trustees for their action pursuant to Section II.C, "Zoning Amendments", of this Ordinance. The criteria to be considered when adding to the zone district use list are:

- (a) such use is more appropriate in the use group to which it is added;
- (b) such use conforms to the basic characteristics of the use group to which it is added; and
- (c) such use does not create any more offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses listed in the use group to which it is added.

3.7.2 Any use not specifically listed or under consideration by the Planning Commission for addition at the time of application must be approved as an addition and/or reviewed as a special use permit within an appropriate zone district.

3.7.3 When any use has been added to any use group in accordance with this Section 3.7, such use shall be deemed to be listed in the appropriate Section of that use group and shall be added thereto in the published text of this Ordinance at the first convenient opportunity, with a notation indicating that the addition was made in accordance with this Section.

#### 4. Zone District Descriptions.

##### 4.1 Estate Residential District (ER)

4.1.1 Purpose – The ER, Estate Residential district is designed to accommodate very low-density single-family residential uses and country estates on large lots that can possibly accommodate livestock at specified density limits. These areas may or may not be served by water utilities and must meet the respective Schedule of Requirements. (See subsection 4.5, Section II of this document)

##### 4.1.2 Uses-By-Right

- Single-family house (one per parcel)
- Public parks, playgrounds, and other public recreation areas
- Public utility distribution mains, lines, etc., which are underground facilities to service residences

- Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities)
- Satellite dish antennas without towers; ham radio towers
- Open space
- Accessory buildings and uses such as garages
- Livestock barns, not to exceed 35% of lot coverage, including residential dwelling structure and other buildings
- Gardens

#### 4.1.3 Conditional Uses

- Fire stations
- Factory built and manufactured housing on permanent and engineered foundations
- Small wind energy conversion systems
- Crop production, orchards, nurseries, and flower production
- Small horse boarding operations of four (4) or less animals not owned by operator; animal unit densities apply
- Home occupations

#### 4.1.4 Special Review Uses

- Accessory buildings greater than eight hundred fifty (850) square feet
- Public and private schools
- Churches and church schools
- Preschools, nursery schools, and child care centers
- Utility service facilities
- Communication facilities not exceeding height limits
- Bed and breakfast

### 4.2 Single-Family Residential District (R-1)

4.2.1 Purpose – The R-1 Single-Family Residential District is designed to accommodate single-family residential development at low density in areas within the Town of Brookside that are platted and must meet the respective Schedule of Requirements.

#### 4.2.2 Uses-By-Right

- Single-family house (one per parcel)
- Playgrounds, and other public recreation areas
- Public utility distribution mains, lines, etc., which are underground facilities
- Open space
- Gardens



- Satellite dish antennas without towers; ham radio towers
- Accessory buildings and uses such as garages
- ~~Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities)~~
- Single-family house home occupation

**Section II.A.4.2.2 Is hereby amended to read:**

Single-family house home occupation (one per parcel)

~~Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities)~~ Is deleted

4.2.3 Conditional Uses - None

4.2.4 Special Review Uses

- Public and private schools
- Churches and church schools
- Fire stations
- Communication facilities up to height limit
- Utility service facilities
- Licensed Childcare home
- Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities) provided a special use permit is granted by the Town Board annually. This special use permit may be revoked at any time if the livestock, poultry and fowl are determined to have become a nuisance by the Town Board after letter of complaint is received.

**Section II.A.4.2.4 Is hereby amended to read:**

Licensed Childcare home

Noncommercial domestic livestock, poultry and fowl less than or equal to defined animal unit densities (See Appendix D for animal unit densities) provided a special use permit is granted by the Town Board annually. This special use permit may be revoked at any time if the livestock, poultry and fowl are determined to have become a nuisance by the Town Board after letter of complaint is received.

4.3 Multi-Use District (MU)

4.3.1 Purpose – This zone designation shall allow multiple uses or a mix of uses otherwise allowed only in specific zone districts. Residential, commercial, and open space uses may be allowed upon approval of the Board. The various requirements and uses allowed by each specific zone district designation shall be applicable to that use within this zone.

4.3.2 Construction other than estate residential or single-family residential designations within the Multi-Use District must go through the special review process. Allowable commercial and business uses are listed in Section III (Overlay Districts), subsection 2.16.

4.3.3 Proposed construction projects within the Planned Development Overlay District, including subdivision developments, are subject to requirements as set forth in the Supplemental Development and Standards Requirement section. All such projects are subject to special review by the Planning Commission.

#### 4.4 Open Space and Recreation District (OS-R)

4.4.1 Purpose – The OS-R District is established to preserve the environment and natural character of the landscape within the district. Land within the district may be protected from development, but may also be used for trails, buffering between developed land uses, and preserving valuable natural features. In addition, this district is to provide open space areas for passive, active, and developed recreation activities.

##### 4.4.2 Uses-By-Right

- Parks
- Playgrounds and recreational areas
- Trails
- Public utility distribution mains, lines, etc., which are underground facilities
- Wildlife habitat

##### 4.4.3 Conditional Uses

- Recreation facilities, ballfields, etc.
- Fishing ponds
- Parking areas for all uses in this district
- Concession stands and commercial sales related to recreational uses located inside or attached to parks and other recreational facilities

##### 4.4.4 Special Review Uses

- \* Major facilities of a public utility

#### 4.5 Zone District Schedule of Requirements, Residential Districts

The Schedule of Requirements includes basic bulk, setback, density, intensity and open space requirements for each zone district. Additional requirements are listed for uses permitted by special review.

### SCHEDULE OF REQUIREMENTS RESIDENTIAL DISTRICTS

| <b>Standards</b><br>All requirements subject to Uniform Building Code standards for specific type of construction. | <b>E-R</b>    | <b>R-1</b>  |
|--|---------------|---|
| Minimum lot area.  | 2 acres       | 21,000 sq. ft. in platted areas;<br>1 acre in unplatted areas |
| Minimum dwelling space as measured by exterior wall.   | 1,200 sq. ft. | 1,200 sq. ft.   |
| Maximum building or structure height, subject to Uniform Building Code restrictions regarding type of construction | 35 ft.        | 35 ft.  |
| Maximum height of accessory uses   | 35 ft.        | 35 ft.  |
| Maximum number of stories, subject to Uniform Building Code restrictions regarding type of construction.           | 3             | 3   |
| Front yard setback from arterial (street or road).   | 25 ft.        | 25 ft.  |
| Backyard set back from alley.  | 10 ft.        | 10 ft.  |
| Set back from neighbor lot line.   | 10 ft.        | 10 ft.  |
| Set back of side yards of corner lots from arterial (principal and accessory uses).                                | 25 ft.        | 25 ft.  |

| <b>Standards</b><br>All requirements subject to Uniform Building Code standards for specific type of construction. | <b>E-R</b> | <b>R-1</b> |
|--|------------|------------|
|  |            |            |
| Rear yard set back from property line (principal uses):  | 10 ft.     | 10 ft.     |
| Rear yard set back from property line (accessory uses):  | 10 ft.     | 10 ft.     |
| Creek: Setback from center line of the creek. (principal and accessory uses)                                       | 50 ft.     | 50 ft.     |
| Maximum lot coverage   | 20%        | 35%        |
| Slide Area - crest set back  | 60 ft.     | 60 ft.     |
| Slide Area - toe set back  | 60 ft.     | 60 ft.     |

### **C. Zoning Amendments (Rezoning)**

Amendments to the text of this Ordinance or to the zoning map are made according to the provisions of this section.

#### **1. Initiation of Amendments.**

Amendments to either the text of this Ordinance or to the zoning map may be initiated by the Town or by citizen petition to the Town Board.

1.1 Requests to amend this Ordinance initiated by the Town Board or Planning Commission will be prepared as a draft ordinance by the Town attorney, after review and recommendation by the Planning Commission and presented to the Town Board for the scheduling of a public hearing.

1.2 Any citizen of the Town may petition the Town Board to amend this Ordinance by filing a petition with the Administrator. If the petition is to amend the text of this Ordinance, then one (1) typewritten copy of the text is to be submitted to the Administrator twenty (20) day prior to the next Town Board meeting. If the petition is to amend the zoning district classification, the petitioner must be the owner of the affected property, or accompany the amendment request with a petition signed by owners of a majority of the land affected by the amendment request. This petition shall include items listed in Appendix E as well as other information deemed relevant by the Administrator or required by this Ordinance.

1.3 Upon receiving said application, the Administrator shall schedule a date for Planning Commission review at a public hearing and a date for a public hearing before the Town Board.

2. Planning Commission Consideration.

2.1 The Planning Commission will review the proposed amendment ordinance in a timely manner so as to have recommendations to present to the Board at the public hearing. However the Planning Commission can also ask the Board to delay its final decision if the Commission is not ready to make recommendations at the public hearing.

2.2 The Town Board is required to have the recommendations of the Planning Commission before making a decision, but it is not bound by any recommendation of the Commission.

2.3 The Planning Commission shall review the proposed amendment relative to the goals and policies of the Town Comprehensive Plan, and any other appropriate approved plans. In particular the Planning Commission shall advise the Town Board if the adoption of the proposed amendment would necessitate a comprehensive plan amendment, and evaluate the amendment according to the criteria and procedure outlined in the comprehensive plan.

3. Notice of Hearing Required.

3.1 No amendment to this Ordinance may be adopted until a public hearing has been held on the proposal.

3.2 All proposed amendments shall follow the public notice requirements of Appendix E. If the amendment request was initiated by the Town, the Town shall be responsible for meeting the public notice requirements, but not any mailing requirements. The newspaper notice period is thirty (30) days; mailing notice period is fifteen (15) days; sign posting period is ten (10) days.

4. Town Board Action on Amendments

4.1 The Town Board is not required to take final action on a proposed amendment within any specific period of time, but shall proceed as expeditiously as practicable.

4.2 In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Town Board is whether the change advances the public health, safety and welfare. The Board must consider all potential uses that may result from a change in zoning and whether these uses are

more appropriate than the range of uses allowed in the existing classification.

## 5. Protests to Zoning District Changes

5.1 If a valid petition opposing a change in zoning classification is filed with the Town, the proposed amendment may then be adopted only by a favorable vote of two-thirds of all the members of the Town Board.

5.2 To be valid, the petition in opposition must:

- (1) Be signed by the owners of either twenty (20) percent or more of the land subject to the proposed change; or by twenty (20) percent or more of the area of land extending a radius of three hundred (300) feet from the boundaries of the land which is subject to the proposed change, disregarding intervening public streets and alleys;
- (2) Be received by the Town at least 72 hours prior to the Board's vote on the change; and
- (3) Be on a form provided by the Town and containing all the information requested on the form.

## 6. Vesting.

Properties that are rezoned and have an approved site specific development plan (SDP), the substance of which is outlined in Section 6 of this Ordinance, are eligible for vesting of property rights as specified in the Supplemental Development Standard and Regulations, Section II. Submittal requirements for SDPs are found in Appendix G.

## 7. Submittal Requirements.

Submittal requirements for zoning amendments are found in Appendix E.

## **D. Zoning Map.**

### 1. Official Zoning Map.

1.1 There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the Town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept by the Town Clerk.

1.2 The Official Zoning Map dated \_\_\_\_\_ is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Subsection 3 below.

1.3 Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further Town Board authorization or action is required so long as no district boundaries are changed in this process.

2. Interpretations of the Zoning Map.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

2.1 boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;

2.2 boundaries indicated as approximately following lot lines, town limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries;

2.3 where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map, and; and

2.4 where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

3. Amendments to Official Zoning Map.

3.1 Amendments to the Official Zoning Map are accomplished using the procedures that apply to other amendments to this Ordinance, as set forth in Section II-C. Map areas changed to PD shall be numbered sequentially and identified by their case reference number on the map.

3.2 The Administrator shall update Official Zoning Map as soon as possible after amendments to it are adopted by the Town. Upon entering any such amendment on the map, the Administrator shall change the date of the map to indicate its latest revision. New prints of the update map may then be issued.

3.3 No unauthorized person may alter or modify the Official Zoning Map.

3.4 The Town Clerk shall keep copies of superseded prints of the zoning map for historical reference.

**E. Board of Adjustment Appeals, Variances, Interpretations of Activities Administered by Staff.**

1. Appeals.

1.1 A final order or decision of the Administrator or Board of Adjustment, where there is an alleged error in the resulting requirement, decision or approval, may be appealed to the Town Board for review. An appeal is made by filing a written notice of appeal specifying the reasons for the appeal with the Town Board. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the town offices, and the date and time of filing shall be entered on the notice by the town staff.

1.2 An appeal must be made no later than 30 days after the date of the decision or order appealed from.

1.3 Whenever an appeal is filed, the Administrator shall forthwith transmit to the Board of Adjustment all records relating to the action appealed from.

1.4 An appeal stays all actions by the Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Administrator certifies to the Board of Adjustment the belief that due to the facts contained in the certification, a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, and after notice to the Administrator.

1.5 The Board of Adjustment may reverse, affirm or modify the order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the officer from whom the appeal is taken.

2. Variances.

2.1 An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. Applications shall be complete.



2.2 A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

2.2.1 if the applicant complies strictly with the provisions of the Ordinance, he can make no reasonable use of his property,

2.2.2 the hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public,

2.2.3 the hardship relates to the applicant's land, rather than personal circumstances,

2.2.4 the hardship is unique and unusual, or nearly so, rather than one shared by many surrounding properties,

2.2.5 the hardship is not the result of the applicant's own actions, and

2.2.6 the variance requested is the minimum that will afford relief and the least possible modification of the requirements of this Ordinance.

2.2.7 The variance will result neither in the extension of a nonconforming situation in violation of Section II.E, nor the authorization of the initiation of a nonconforming use of land, nor conflict with the goals and policies of the Master Plan.

2.3 In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

2.4 A variance may be issued for an indefinite duration or for a specified duration.

2.5 The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

3. Map Interpretations.

- 3.1 The Administrator interprets the official zoning map. The Board of Adjustment is authorized to hear appeals on the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions.
  - 3.2 An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
  - 3.3 Interpretations of the zoning map shall follow the guidelines of Section II.D.2.
  - 3.4 Interpretations of the location of steep terrain-slide areas, and Environmental Preservation Area boundary lines may be made by the administrator as provided in Section III.B.2. and may be appealed to the Board of Adjustment.
4. Requests to be Heard Expeditiously.

As provided in Section II.E.2 the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations consistent with the need to follow regularly established agenda procedures, provide notice and obtain the necessary information to make sound decisions.
5. Burden of Proof in Appeals and Variances.
  - 5.1 When an appeal is taken to the Board of Adjustment, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision under appeal. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
  - 5.2 The burden of presenting evidence sufficient to allow the Board of Adjustment to reach any conclusions, as well as the burden of persuasion on relevant issues, remains with the applicant seeking the variance.
6. Board of Adjustment Action on Appeals.
  - 6.1 The Board of Adjustment, before deciding requests for appeals or variances, shall hold a public hearing following standard hearing procedures, as noted in Section II, subsections E. 1.4 and subsection E. 2.2.

6.2 All motions to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, to the extent practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four votes necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by a majority of the Board's membership present

6.3 Before granting a variance, the board must take a separate vote and vote affirmatively (by four of the regular Board members) on the required findings stated in Subsection II.D.2.2 and II.D.3.1.

6.4 A motion to deny a variance may be made on the basis that more than one of the criteria set forth in Subsection II.D.2.2 and II.D.3.1 are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by a majority of the board's membership present.

## **F. Nonconforming Situations.**

### 1. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this section.

1.1 *Dimensional Nonconformity.* A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

1.2 *Effective Date of this Ordinance.* Whenever this article refers to the effective date of this Ordinance, the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a nonconforming situation.

1.3 *Expenditure.* A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

- 1.4 *Nonconforming Sign.* A sign that, on the effective date of this Ordinance does not conform to one or more of the regulations set forth in this Ordinance.
  - 1.5 *Nonconforming Situation.* The situation when, on the effective date of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum square footage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this Ordinance but shall be governed by the provisions of Supplemental Development Standards and Requirements, Section IV, subsection A.1.
2. Continuation of Nonconforming Situations and Completion of Nonconforming Projects.
    - 2.1 Unless otherwise specifically provided in this Ordinance and subject to the restrictions and qualifications set forth in Sections II.F.3 and II.F.8 below, nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued.
    - 2.2 Nonconforming projects may be completed only in accordance with the provisions of Section II.F.8 below.
3. Undeveloped Nonconforming Lots.
    - 3.1 When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except for the required lot minimums, then the lot may be used as proposed upon the granting of a variance by the Town Board.
      - 3.1.1 No variance granted by the Town Board and based upon the advice of a specific government entity may in any way fall back as a responsibility or liability of the Town Board.
      - 3.1.2 No use requiring a lot size greater than the established minimum lot size for a particular zone is permissible on a nonconforming lot.
    - 3.2 When the use proposed for a nonconforming lot is one that is conforming in all respects but the applicable setback requirements, then the Town may allow deviations from the applicable setback requirements if it finds that:

- 3.2.1 the property cannot reasonably be developed for the use proposed without such deviations;
    - 3.2.2 these deviations are necessitated by the size or shape of the nonconforming lot, and
    - 3.2.3 the property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.
  - 3.3 For purposes of subsection 3.2 above, compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
  - 3.4 Adjacent nonconforming lots under the same ownership at the date this ordinance becomes effective may not utilize the provisions of this subsection, nor may the successors in interest of these lots. The purpose of this section is to require undeveloped nonconforming lots to be combined with adjacent like lots to create conforming lots.
4. Extension or Enlargement of Nonconforming Situations.
- 4.1 Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
    - 4.1.1 an increase in the total amount of space devoted to a nonconforming use, or
    - 4.1.2 greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.
  - 4.2 A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section II.F.8 below (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

- 4.3 Subject to Section II.F.8 below, a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use involving the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of its existing permit within the lot.
- 4.4 Notwithstanding Subsection 4.1 above, whenever: (i) there exists a lot with one or more structures involving nonconforming uses on it, and (ii) a change to a conforming use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking or loading requirements of Supplemental Development Standards and Requirements, Section III. subsection B that would be applicable as a result of the proposed change cannot be satisfied on such lot because insufficient area is available on the lot practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Supplemental Development Standards and Requirements, Section III, subsection B if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available.

## 5. Repairs, Maintenance and Reconstruction.

- 5.1 Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 50 percent of the appraised valuation of the structure to be renovated may be done only in accordance with a building permit issued pursuant to this Ordinance.
- 5.2 If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 50 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this section.
- 5.3 For purposes of Subsections 5.1 and 5.2 above:
- 5.3.1 The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement, as reflected in the plans submitted for a building permit, or other materials supplied by the applicant.

- 5.3.1 The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections 5.1 or 5.2 above by doing such work incrementally.
- 5.3.3 The "appraised valuation" shall mean the valuation determined by a professionally recognized property appraiser.
- 5.4 The Administrator shall issue the building permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:
  - 5.4.1 No violation of Subsection 4 above will occur, and
  - 5.4.2 The permittee will comply to the extent reasonably possible with all provisions of this Ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

Reasonably possible compliance does not include increasing the size of a lot or moving a substantial structure sited on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

## 6. Change in Use of Property Where a Nonconforming Situation Exists.

- 6.1 A change in use of a nonconforming situation sufficiently substantial to require a new zoning, special-use, or conditional-use permit may be made only in accordance with Subsections 6.2 through 6.4 below.
- 6.2 If the intended change in use is to a principal use permissible in the district where the property is located, and all other requirements of this Ordinance can be complied with.
- 6.3 If the intended change in use is to a principal use permissible in the district where the property is located, but not all requirements of this ordinance can reasonably be complied with, provided that the proposed change does not add additional nonconformities or increase the extent of nonconformity.
- 6.5 If the intended change in use is to another principal use that is also nonconforming, then the permit issuing board must find that the proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the current use.

## 7. Discontinuation and Termination of Nonconforming Situations.

- 7.1 When a nonconforming use is discontinued or abandoned for a consecutive period of one (1) year, future uses may be for conforming purposes only.
- 7.2 The following uses must meet all the requirements of this Ordinance except those specific to that particular nonconformity if it cannot be reasonably eliminated. The permit shall specify which nonconformities need not be corrected.
- 7.3 For the purposes of this section, all of the buildings, activities, and operations maintained on a lot are generally considered as a whole. However, discontinuing an accessory nonconforming use for the required period shall terminate the right to maintain it thereafter.
- 7.4 When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the one (1) year period for purposes of this section begins to run on the effective date of this Ordinance.
- 7.5 When a formal complaint is filled against a nonconforming use or the Administrator determines that a nonconforming use is having an adverse impact on surrounding properties or the Town, then the Board of Adjustment shall hold a public hearing on these complaints. This hearing shall determine if a demonstrated adverse impact exists to the development, use, or enjoyment of the surrounding properties or the Town. If such a finding is made, the Board shall establish a termination date for the nonconforming use, including an amortization schedule if appropriate.

## 8. Completion of Nonconforming Projects.

- 8.1 Only nonconforming projects that have received vested property rights by the effective date of this Ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction or with vested rights.
- 8.2 Except as provided in 8.1 above, all projects may begin or may be continued only pursuant to a variance, zoning, special-use, conditional-use, or sign permit issued in accordance with this Ordinance by the Town.
- 8.3 The Administrator shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known



to be in some stage of development. This notice shall be sent by mail not less than 15 days before the effective date of this Ordinance.

**Section III  
Overlay Districts**

### **III. Overlay Districts**

#### **A. Planned Development Overlay District (PDD)**

##### **1. Purpose**

The Planned Development District is an overlay within the Multiple Use Zone. It is established to encourage innovation in residential, commercial, light industrial, and recreational development by allowing for mixed land uses, variations in development densities, and variety in the type design, and layout of buildings. The PDD overlay zone provides a means for clustering development and allowing for the preservation of open space, more effective land utilization, and for more cost-effective and efficient extensions of infrastructure. The PDD is intended to provide a means for developing tracts of land into building and use complexes with a continuity of design and development.

##### **2. PDD Requirements**

- 2.1 The PDD shall be consistent with the intent and policies of the Master Plan.
- 2.2 The PDD shall be designed in a manner such that it protects the environmental assets of the area including considerations of elements such as plant and wildlife, streams and storm drainage courses and scenic vista.
- 2.3 The planned development's relationship to and compatibility with its surroundings shall be considered in order to avoid adverse effects caused by traffic circulation, building height or bulk, lack of screening or intrusions on privacy.
- 2.4 The PD design and construction plans shall take into account characteristics of soils, slopes and potential geological hazards, in a manner intended to protect the health, safety, and welfare of potential users in the district. These aspects of the plan must be accompanied by a detailed soil engineering report on the suitability of the area for the intended use and the necessary precautions needed to bring the area to a state of structural soundness before building permits may be issued.
- 2.5 Design and construction of the PDD shall include adequate, safe, and convenient arrangements for pedestrian circulation, roadways, driveway, off-street parking and loading space where appropriate.

- 2.6 The mixture of uses and densities in a PD is negotiable. The applicant must demonstrate the positive benefits to the Town of the PDD classification.
- 2.7 The plans for the proposed planned development shall indicate the particular portions of the project that the developer intends to develop under various use categories. Densities, averages, and permitted uses shall be detailed for all development areas within the PDD.
- 2.8 Covenants shall be drafted by the developer and presented to the Town Council for review and approval prior to final approval of the planned development. The covenant, where applicable, shall require homeowners' or business associations be charged with keeping weeds under control in the development's open space areas.
- 2.9 A minimum of twenty-five percent (25%) of the total PDD area shall be devoted to open-recreation or other usable open space (public or quasi-public). "Usable open space" is defined as open areas designed and developed for use by the occupants of the development or by others for uses including, but not limited to, recreation, courts, gardens, parks and walkways. The term shall not include space devoted to streets, parking and loading areas. Open space percentages within separate land use areas of a PDD may vary from the 25% figure, but the total amount of open area must equal 25% of the overall acreage.
- 2.10 The total parking requirements of the PDD will not exceed the sum of the parking that would be required for each use. The total parking requirements may be reduced, if the developer demonstrates to the Town Council using industry standard that the total number of spaces is not needed within the PDD.
- 2.11 The PDD must have an adequate internal street circulation system. Public streets must serve all planned areas, and meet minimum Town construction standards for use by police and fire department vehicles for emergency purposes. All roads and streets within the PDD shall be provided by the developer, and constructed to meet the Town of Brookside's road specification.

Each nonresidential structure or use in the PDD must provide off-street loading spaces, loading berths, service courts, or accesses for delivery and service vehicles appropriate to the activity conducted in the structure.

- 2.12 Minimum lot size within the PD shall meet the acre or areas requirement associated with the type of proposed structure.

- 2.13 All water systems shall be installed and constructed at the developer's expense. Any non-passive water distribution system requirements shall be installed and maintained at the developer's and homeowner association's expense. The Town of Brookside shall not be responsible for any maintenance, repair, upkeep or improvement of such system, facilities, or equipment.
- 2.14 The Town of Brookside shall approve all installed water systems and septic or sewer systems prior to installation and may provide additional requirements of such installation prior to system installation.
- 2.15 All planned development proposals are subject to the Town's special review process.
- 2.16 All proposed commercial and business activities within the PDD are subject to approval by the Town Council. Commercial and business activities allowable within the PDD include, but are not limited, to the following:
- Retail establishments entirely enclosed within a structure
  - Personal service establishments entirely enclosed within a structure
  - Banking, savings and loans establishment
  - Churches
  - Commercial entertainment and recreation establishments
  - Eating establishments
  - Automobile service and repair stations
  - Public utility
  - Light industrial activity
- 2.17 Construction and development requirement, including acreage, parking, signage, and traffic circulation for business and commercial activities are contained in the Supplemental Development Standards and Regulations, Sections III and IV.
3. PDD Approval Process
- 3.1 Where PD zoning already exists on a parcel, the development shall conform to all standards and restrictions specified in the Official Development Plan (ODP). Subdivision of the property may be required, as well as an approved improvements agreements with the Town. If the PD consists of a Preliminary PD Plan, final PD approval (ODP) must be obtained prior to commencement of development and issuance of building permits.
- 3.2 Where a PDD zoning does not exist on a lot or lots and the PD designation is desired, the developer must first apply for an

amendment to the zoning map per Section II.C. Consideration of the zoning amendment request (rezoning) can occur simultaneously with consideration of the proposed PD preliminary plan. Sketch plan approval is necessary prior to preliminary PD approval. In approving the zoning amendment to a PD district, the Planning Commission and Town Board must find that (1) the PD as described in the preliminary plan conforms to the policies and intent of the Brookside Master Plan, (2) the application is complete, (3) the project is in the best interest of the residents of Brookside, (4) the project does not place an extraordinary financial burden on the Town, and (5) the intent of applicable ordinances in the Town are met.

### 3.3 Review Bodies

#### 3.3.1 Sketch Plan – Town Administrator

3.3.2 Preliminary PD - Town Administrator, public hearing before the Planning Commission, public hearing before the Town Board. Approval of the preliminary PD establishes the PD Zone District.

3.3.3 Final PD - Town Administrator, Planning Commission, public hearing, Town Board review.

All public hearings must be duly noticed according to standard noticing procedures. The property must be posted at the Preliminary PD stage. Formats for posting are found in Appendix F.

### 3.4 Amendments to PD Plans

Amendments to PD plans may be made under the following conditions:

3.4.1 minor changes in locations, siting, bulk of structures, height or character of building may be authorized by the Planning Commission if required by circumstances not foreseen at the time the final plan was approved; and

3.4.2 All other changes in use, any rearrangement in lots, or changes in the provision of open space must be approved by the Town Board, subject to the procedure for PD amendments.

### 3.5 Submission Requirements

The materials listed in Appendix H must be submitted, at minimum, to the Town for review of the PD. The Town Administrator will detail the submission requirements for each submittal stage. Additional items may be requested by the Town at each stage of the process.

### 3.6 Enforcement and Modifications of PD Provisions

- 3.6.1 To further the mutual interest of the residents, occupants, and owners of a planned development and of the public in the preservation of the integrity of the plan, the provisions of the plan relating to the use of land and the location of common open space shall be in the best interests of the Town and shall be enforceable in law or in equity by the Town without limitation on any powers or regulation otherwise granted by law.
- 3.6.2 All provisions of the PD shall run in favor of the residents, occupants, and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and, to that extent, said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced by law or in equity by residents, occupants, or owners acting individually, jointly, or through an organization designated in the plan to act on their behalf. However, no provisions of the plan shall be implied to exist in favor of residents, occupants, and owners except as to those portions of the plan that have been finally approved.
- 3.6.3 All those provisions of the plan authorized to be enforced by the Town may be modified, removed, or released by the Town, subject to the following:
- (a) No modification, removal, or release of the provisions of the plan by the Town shall affect the rights of the residents, occupants, and owners of the planned development to maintain and enforce those provisions at law or equity as provided above.
  - (b) No substantial modification, removal, or release of the provisions of the plan by the Town shall be permitted except upon a finding by the Town, following a public hearing called and held in accordance with the provisions of this Ordinance, that the modification, removal, or release is consistent with the efficient development and preservation of the entire planned development, does not affect in a substantially adverse manner either the

enjoyment of land adjacent from the planned development for the public interest, and is not granted solely to cover a special benefit upon any person.

- (c) Residents and owners of the planned development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove, or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the Town to enforce the provisions of the plan.

#### 4. Vested Rights

Requirements for approval of vested rights are contained in the Supplemental Development Standards and Regulations, Section II.

### **B. Environmental Preservation Overlay District (OS-E)**

#### 1. Purpose

The OS-E District is established to preserve the natural environment and natural character of the landscape within the district. Land within the district may include steep slopes, slide areas, geological formations, riparian areas, important wildlife habitat and archeological areas. In areas where a danger from wildfire could exist as a result of the natural vegetation and terrain, development is restricted. Such areas may be used for trails, buffering between developed land uses, and preserving valuable natural features. In addition, this district is to provide open space areas for passive and some active recreation activities.

##### 1.1 Uses-By-Right

- Public and private parks
- Open space areas
- Natural areas and geological features
- Wildlife habitat
- Archaeological sites

##### 1.2 Conditional Uses

- Trails
- Nature viewing
- Fish ponds

##### 1.3 Prohibited uses of Environmental Preservation Area Overlay Districts

All Uses not specifically permitted are prohibited.



#### 1.4 Location of Boundaries of Environmental Preservation Area Overlay Districts

As used in this article, the term Environmental Preservation Areas refers in the first instance to certain areas whose boundaries may be determined and can be located on the ground by reference to the specific qualities and/or characteristics set forth in the definitions of these terms. These terms also refer to overlaying or inlaid zoning districts whose boundaries are established on the maps provided to the Town or developed by the Town and for which boundaries are intended to correspond to the actual physical location of Environmental Preservation Areas, or having the potential to be designated for open space, and containing valuable environmental, archeological, biological, geological features, that potentially require limited property usage.

Therefore, the administrator is authorized to make necessary interpretations as to the exact location of the boundaries of Environmental Preservation Areas if there appears to be a conflict between a mapped boundary and actual field conditions, or property owners' interpretation of this code. Such interpretations, like other decisions of the administrator, may be appealed to the Board of Adjustment in accordance with the applicable provisions of this Ordinance.

### **C. Steep Terrain, Steep Slope, Slide Area Overlay District (OS-SA)**

#### 1. Purpose

The purpose of this District is to control development upon and near natural steep and potentially unstable slopes having a slope grade of 30% or greater so that the threat to life and property associated with steep and unstable slopes, natural geological and vegetative debris, and associated fire hazards is minimized and for providing guidelines for land use in areas within The Town of Brookside that may be considered Steep Terrain - Steep Slope - Slide Areas. Additionally the Town of Brookside wishes to preserve natural features and maintain the natural appearance and aesthetics indigenous to the natural topographic and vegetative features, provide open space and wildlife habitat corridors, and meet the requirements of the Brookside Land Development Code. The SA, Steep Terrain - Steep Slope - Slide Area District Buffer Zone width will be specified by the Town of Brookside as a 60 foot wide strip above a slope measured from the line following the transition point at the top of a slope and 60 foot wide strip below a slope measured from the line following the transition point at the bottom of the slope. The transition point is the point on a slope where its measurable gradient changes from a value of less than the specified grade to a value equal to or greater than the specified grade or from a value equal to or greater than the specified grade to a value less than

the specified grade. Steep Terrain - Steep Slope - Slide Areas will be defined by the Town of Brookside as natural terrain having an incline grade of 30% or greater or any location designated by the USDA Natural Resource Conservation Service as unstable and poorly suited for home site development or by Fremont County as a rockfall hazard zone.

## 2. Location of Boundaries of Steep Terrain - Steep Slope - Slide Area Districts

As used in this article, the terms Steep Terrain - Steep Slope - Slide Area refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific slope characteristics set forth in the definitions of these terms. These terms also refer to overlaying or inlaid zoning districts whose boundaries are established on the maps provided to the Town of Brookside or developed by the Town of Brookside and for which boundaries are intended to correspond to the actual physical location of Steep Terrain, Steep Slopes, and Slide Areas and which effect property damage, have potentially dangerous natural topographic and geological conditions or features, have potential to provide conditions conducive to wildfire dangers, and/or limit property usage. Therefore, the Town of Brookside is authorized to make necessary interpretations as to the exact location of the boundaries of Steep Terrain, Steep Slope, and Slide areas and if there appears to be a conflict between a mapped boundary and actual field conditions, or property owners interpretation of this code; such interpretations, like other decisions of the Town of Brookside, may be appealed to the Board of Adjustment in accordance with the applicable provisions of this Ordinance.

## 3. Setbacks from Slopes Within and Outside of Designated SA, Steep Terrain - Steep Slope - Slide Area

A buffer zone setback must be met in any area that is located adjacent to a designated SA, Steep Terrain - Steep Slope -Slide Area or is located outside a designated SA, Steep Terrain - Steep Slope -Slide Area but where a steep slope meeting the criteria previously defined exists and which has a vertical height equal to or greater than the maximum allowable building height or 35 feet, whichever is less. No building or development may be located within the buffer zone distances of 60 feet from transition point at the top of the slope and 60 feet from the transition point at the bottom of the slope.

## 4. Permissible Uses Within Steep Terrain - Steep Slope - Slide Areas

- (a) No permit to make use of land within a SA Steep Terrain - Steep Slope - Slide Area District may be issued unless the proposed use is listed in the following list:
  - (1) General ranching, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses.
  - (2) Open Space, geological interest, wildlife habitat, and natural scenic area.

- (3) Play or recreation areas, and other similar uses.
- (4) Parks, hiking or horseback-riding trails, open space, and other similar private and public recreational uses.
- (b) Any use of land is prohibited where wildfire or unstable slope materials would create a public or private health or safety problem.

## 5. Preservation of natural features

Native vegetation and geological features may not be removed or altered. No activity will be allowed which will lessen the stability of the slopes. No activity will be allowed which will increase the potential for ignition or generation of fire in the SA area. No storage of any materials other than those existing or growing naturally on the location will be allowed.

## 6. Construction Within Steep Terrain - Steep Slope - Slide Areas

6.1 No zoning, special-use, or conditional-use permit may be issued for any development upon a Steep Terrain - Steep Slope - Slide Area slope where the vertical height of the slope is equal to or greater than the maximum allowable building height or 35 feet whichever is less.

6.2 No building may be constructed and no substantial improvement of an existing building may take place within the buffer zone or upon any designated Steep Terrain - Steep Slope - Slide Area within any designated Open Space District or upon a location meeting the Steep Terrain - Steep Slope - Slide Area criteria stated above where the vertical height of the slope is equal to or greater than the maximum allowable building height or 35 feet whichever is less.

6.3 For purposes of this section, "substantial improvement" means for a building constructed prior to the effective date of this Ordinance, any repair, reconstruction, or improvement of a building with a cost equaling or exceeding 50 percent of the market value of the structure either (i) before the improvement or repair is started or (ii) if the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" occurs when the first alteration on any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either (i) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to ensure safe living conditions, or (ii) any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.

6.4 No zoning, special-use, or conditional-use permit may be issued for any development within a Steep Terrain - Steep Slope - Slide Area.

- 6.5 A Steep Terrain - Steep Slope - Slide Area may not be altered or treated in any way that will result in decreased slope stability, increased erosion, defoliation, increased fire danger loss of wildlife habitat that existed prior to this alteration.
  - 6.6 No property owner, subdivision, or development shall store, discard, deposit, redirect, or increase loose materials, construction materials, excavation materials, or flammable materials (natural or non-native), upon or within 60 feet of an area which meets the criteria for classification of SA, Steep Terrain - Steep Slope - Slide Area.
  - 6.7 No property owner, subdivision, or development shall discharge, inject or redirect water, wastewater, or runoff water in any form onto, into, or within 60 feet a Steep Terrain - Steep Slope - Slide Area.
  - 6.8 No property owner, subdivision, or development shall conduct activities that would affect soil stability conditions and which would destabilize any portion of a SA, Steep Terrain - Steep Slope - Slide Area.
7. Appeals and Variances of Steep Slope-Slide Area Overlay Requirements.

In addition to the preceding requirements set forth in Section II, subsection B 1 and 2 (Zoning Map), the Board of Adjustment shall include the factors of this section when considering appeals and variances to the requirements of policies for development in Steep Terrain and Slide Areas.

- 7.1 In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
  - 7.1.1 The danger that materials may be moved onto other lands to the injury of others;
  - 7.1.2 The danger to life and property;
  - 7.1.3 The susceptibility of the proposed facility and its contents to damage and the effect of such damage on the individual owners;
  - 7.1.4 The importance of the services provided by the proposed facility to the community;

- 7.1.5 The availability of alternative locations for the proposed use which are not subject to damage;
  - 7.1.6 The compatibility of the proposed use with the existing and anticipated development;
  - 7.1.7 The relationship of the proposed use to the comprehensive plan and management program for that area;
  - 7.1.8 The safety of access to the property in times of flood, wildfire, landslide, and severe weather for ordinary and emergency vehicles;
  - 7.1.9 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, the effects of wave action, and the likelihood of falling or rolling debris if applicable, expected at the site; and
  - 7.1.10 The costs of providing governmental services during and after flood, fire, or landslide conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- 7.2 Upon consideration of the factors of this Section and the purposes of this Ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

**Section IV**  
**Site Plans**

#### **IV. Site Plans.**

##### **A. When Required.**

A site plan shall be submitted for all proposed conditional use and special review use constructions in the ER, R-1, and OS-R districts. A site plan shall be submitted for all proposed commercial and industrial developments, and planned development projects in the MU district, and all proposed construction in the OS-SA and OS-E districts. Site plans shall be submitted for all proposed subdivision within the ER, R-1, and MU districts.

##### **1. Site Plan/Architectural Review.**

The review of site plans shall be done by the Administrator. The Town Board and Planning Commission shall review all projects for new commercial and industrial buildings. The Administrator may refer unusual or unique architectural features or projects to the Planning Commission for review at anytime. Notice, referral and appeal provisions of Section II, subsection E shall not apply unless the site plan review is combined with an application requiring such review.

##### **B. Submittal Requirements.**

Submittal requirements for the site plans are contained in Appendix G.

##### **C. Site Plan/Architectural Review Criteria.**

The following criteria shall be used in the review of all site plans:

1. The scale is appropriate to the site and function of the project and/or building.
2. The architecture promotes a harmonious transition in scale and character of the proposed building to surrounding land uses.
3. The quality and design is compatible with the location and proposed use as demonstrated by building elevations.
4. Any diverse architectural treatments are integrated in order to avoid a cluttered appearance.
5. The landscape design has been incorporated into the plan and takes into consideration the function and use of open space and buffering.
6. The overall landscaping treatment of exterior spaces enhances the quality of the project and creates usable open space.

7. The circulation system, including parking lots, contributes to orderly and aesthetic quality of the site.
8. The visual screening of service yards, rooftop mechanical equipment and other items that tend to be unsightly has been accomplished through the placement of walls, fences, and plantings, or a combination thereof; further the screening is effective during all calendar months of the year.
9. The monotony of design in a single or multiple building project has been avoided. Variation of detail, form and siding that provides visual interest shall be included.
10. The building materials are suitable to the type of building and design for which they are to be used. The building exteriors have the same material, or those that contrast in a pleasing way for how they are to be used. The building exteriors have the same materials, or they contrast in pleasing ways as to be architecturally harmonious.
11. The materials selected are of a durable quality and offer protection from rot and/or corrosion through the use of acceptable maintenance procedures.
12. In any design in which the structural frame is exposed to view, the structural materials shall be durable and compatible within themselves and harmonious to the surroundings.
13. Building articulation and rooflines are varied by the use of architectural and site design.
14. Building components such as windows, doors, caves and parapets are visually attractive in proportion, scale and relationship to one another in each building.
15. The colors, including accents are harmonious and compatible with the building.
16. The noise buffering materials used to buffer mechanical equipment, electrical equipment or other utility hardware on the roof, ground, or building are harmonious with the building.
17. Exterior lighting, which is part of the architectural concept, is harmonious with the building design.
18. Refuse and waste removal areas, service yards and exterior work areas are buffered from view with the use of materials that are harmonious to the building.



**SUPPLEMENTAL DEVELOPMENT STANDARDS  
AND REGULATIONS**

**Section I  
Subdivisions**

## **I. SUBDIVISIONS.**

Any parcel of land which can potentially be subdivided into five (5) or more lots within the Estate Residential or MU zoned district may be considered for subdivision development. The minimum lot size within any subdivision shall not be less than the zoning requirement applicable to the proposed structure(s). A minor subdivision, less than five (5) lots, must meet the same requirements as subdivisions.

### **A. Preapplication Conference.**

Prior to submitting a formal application, applicants shall confer with the Administrator or the Administrator's representative in order to obtain information and guidance. The Purpose of such a conference is to familiarize the applicant with the Town's requirements, procedures, and Comprehensive Plan prior to substantial commitments of time and money toward the preparation of plans, surveys, and other studies.

### **B. Filing Deadlines and Applications.**

Unless otherwise specified and agreed to by the Administrator, applications shall be filed with the Planning Commission at least 30 days prior to the date of hearing by the Planning Commission or Town Board. Reviews subject to the approval of the Administrator shall be submitted at least 15 days prior to the requested date for a decision.

Only complete applications shall be accepted as meeting the above deadlines. Partial or incomplete applications shall be accepted, but will not be scheduled for review and hearings until all required elements of the application package have been received by the Planning Commission. An application shall be considered complete for processing by the Administrator or designated representative if it includes information sufficient to meet the requirements of the specific application.

Nothing in this regulation shall prevent the Administrator, his representative, the Planning Commission, or the Town Board from requesting additional information in the course of the review if it is deemed necessary to determine compliance with the requirements of this regulation or any other governing the application.

### **C. Sketch Plan.**

#### **1. Purpose.**

The purpose of the sketch plan is to allow a review of the concept for development and the overall feasibility of the project. The review at this stage also allows the Planning Commission to judge the level of appropriateness of the proposed use, as well as identify potential

problems, which must be resolved prior to final approval of the plan. Submittal requirements for Sketch Plans are found in Appendix G.

2. Review Procedure.

2.1 Planning Commission. Within fifteen (15) days following the filing deadline for sketch plans, the Planning Commission shall meet to review the application and shall compile written comments from Town Board members and the Administrator. The Planning Commission, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, shall approve the application, grant approval with modifications, or deny the application.

2.3 Appeals to Town Board. Decisions of the Planning Commission may be appealed to the Town Council. A written appeal of any action by the Planning Commission shall be filed within fourteen (14) calendar days following the Planning Commission decision.

2.4 Town Board Action.

2.4.1 Appeals to the Town Board. Decisions of the Planning Commission appealed to the Town Board shall be heard after giving ten (10) day written notice to the applicant at a regularly scheduled meeting. The Town Board shall, using criteria established elsewhere in this regulation, the Comprehensive Plan, and the Town Ordinances, approve the application, grant approval with modifications, or deny the application.

2.4.2 Town Board Review. The Town Board may call up for review any sketch plan acted upon by the Planning Commission. Notice of such review must be requested in writing from three (3) or more Board members, or a majority decision of the Board members at a regularly scheduled Board meeting within fourteen (14) days following the Planning Commission decision.

2.4.3 Approval of the Sketch Plan does not bind the Planning Commission or Town Board to accept the Preliminary Plan or Final Plat

**D. Preliminary Plan.**

1. Purpose.

The purpose of the preliminary plan is to allow a full review of all technical aspects of the subdivision. Submittal requirements for preliminary plans are found in Appendix I.

2. Review Procedure.

2.1 The review procedure for the preliminary plan shall be the same as that for review of the sketch plan as stated in section C above.

**E. Final Plat.**

1. Purpose.

The purpose of the final plan or plat is to provide a legal document that will be a part of the Town and/or County records describing the development rights and land descriptions of the property. The final plan shall include all final agreements between the owner or developer and the Town of Brookside. Submittal requirements for Final Plats are found in Appendix I.

2. Review Procedure.

2.1 Town Board Action. On a finding by the Administrator that a complete plan has been submitted and approved by the Town Board, the final plan will be scheduled for consideration at a public hearing by the Town Board. A 30-day review and 15-day publication period shall occur between formal filing of the application and the public hearing before the Board. The Town Board may then approve the application, approve with modifications or deny the request using the criteria set forth in this chapter, the Comprehensive Plan and the Code of Ordinances. If the final plat is an annexation plat, the ordinance for annexation and zoning may be considered concurrently at the time of the first reading of the annexation ordinance.

2.2 Recording and Filing Requirements. The Town Clerk shall cause the final plat and written agreements to be recorded with the Fremont County Clerk and Recorder and shall return one executed copy to the applicant. The Clerk shall also file copies of the plats and annexation ordinances as required by State statutes.

2.3 Withdrawal of Subdivision Plat or Annexation Plat Request. If the developer fails to submit to the Administrator a final plat conforming

to the approved preliminary plat or any other requested document within ninety (90) days after the advertised public hearing on the preliminary plat or annexation request, all official approval of the Town Board or Planning Commission in regard thereto shall be deemed withdrawn.

- 2.4 Administrative Requirements. The Administrator may set reasonable deadlines for the filing of plans for consideration by the Planning Commission and the Town Board to allow adequate time for examination by their members. The Administrator shall also make available at a reasonable cost, copies of these regulations and other related documents, and shall provide a checklist to serve as a guide to the requirements of this chapter for the applicants.

**F. Concurrent Filing for Preliminary and Final Plans.**

For major developments with approved sketch plans, the applicant may file the preliminary and final plans concurrently when authorized by the Administrator. In no case shall an applicant be permitted to file these plans concurrently without a previously approved sketch plan. Applicants making concurrent filings shall be on notice that changes required of the preliminary plans must be made prior to the final plan approval.

**G. Utility Requirements.**

1. Drainage and Storm Sewers.
  - 1.1 The developer shall be responsible for the conveyance of all stormwater flowing through the site and for the planning, design, and installation of an adequate drainage system in accordance with all applicable Town standards and specifications.
  - 1.2 Drainage studies of existing and future flows into and out of the subdivision site shall be prepared by a registered engineer, and all studies shall be approved by the Town.
  - 1.3 No increase in runoff or rate of flow above that determined to be historical will be allowed from or through any subdivision or as a result of any subdivision construction or activities conducted within the subdivision.
  - 1.4 The Town shall not approve any subdivision plat that does not make adequate provisions for stormwater and flood runoff.
  - 1.5 The stormwater drainage system shall be separate from and independent of the sanitary sewer system.

- 1.6 The Town shall allow the use of streets for drainage within the limitations stated in the Town's standards and specifications.
- 1.7 When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage easements shall be secured by the developer, indicated on the final plat of subdivision, and shown by an appropriate instrument of grant shall be with the Fremont County Clerk and Recorder.
- 1.8 Drainage, flood, and watercourse areas and flow shall be retained in their natural state to the maximum extent feasible.
- 1.9 Drainage construction plans shall be submitted to the town for approval in accordance with this ordinance and other applicable Town codes and requirements.
- 1.10 In general, subdivision drainage facilities shall be located within the proposed subdivision and shall be designed to accommodate the minor and major storms, unless regional detention facilities exist within the subject watershed. The drainage facilities for the proposed subdivision shall be designed to accept the historic flows from areas upstream of the subdivision site and release flows from the subdivision site in a manner that does not adversely affect downstream properties.

## 2. Water Facilities.

- 2.1 The developer shall be responsible of the extension and/or creation of water transmission facilities and mains to and within the subdivision. The water mains shall be of sufficient size and pressure to transmit water for potable use, landscape watering, fire suppression and other uses permitted by the zoning classification of the land.
- 2.2 The water system shall be designed and installed by the developer in accordance with the requirements of Town of Brookside's standards and specifications, and at no cost whatsoever to the town.
- 2.3 Water mains shall be installed to serve each lot in the subdivision.
- 2.4 Water mains shall be located in dedicated street, alley right-of-ways, or other dedicated right-of-ways unless specifically approved on the final plat.
- 2.5 If water mains are allowed outside of dedicated right-of-way as described in Section III.F.3.4, all existing and proposed easements

for water lines shall be shown on the final plat and dedicated to the Town.

- 2.5.1 Easements for water lines shall be a minimum of 20 feet in width for one line and 30 feet in width for two lines, or as required by the Town to accommodate the installation and maintenance of the lines and facilities.
- 2.5.2 Easements for water lines shall be dedicated as exclusive easements and no structure or other obstruction other than fences or landscaping shall be allowed within a waterline easement.
- 2.5.3 Water line easements acquired in adjoining properties shall be recorded with the Fremont County Clerk and Recorder as a condition of final plat approval.

- 2.6 All non-tributary groundwater shall be dedicated to the Town.
- 2.7 The developer shall install and maintain the exterior fire suppression system, including fire hydrants, for the subdivision in accordance with the requirements of the Town of Brookside. Such maintenance shall continue until final acceptance of the system by the Town.
- 2.8 The fire suppression system shall be detailed in the construction drawings submitted to the Town.
- 2.9 The cost of installation operation, maintenance, and replacement of any facilities required specifically for a particular subdivision shall be bore solely by the developer or assumed in perpetuity by subsequent property owners or required owners association.

### 3. Wastewater Facilities.

- 3.1 The developer shall be responsible of the extension and/or creation of wastewater transmission facilities and lines to and within the subdivision. The wastewater collection lines shall be sufficient to transmit wastewater for uses permitted by the zoning classification of the land.
- 3.2 The wastewater system shall be designed and installed by the developer in accordance with the requirements of the Town of Brookside or Fremont County standards and specifications. The developer shall design for future availability of public wastewater facility (Fremont Sanitation district) access and services.

- 3.3 Wastewater collection lines shall be installed to serve each lot in the subdivision.
  - 3.4 Private sewage disposal systems will be discouraged unless access to the existing wastewater collection system cannot be reasonably obtained.
  - 3.5 If a private sewage disposal system is proposed, the following conditions will apply:
    - 3.5.1 the system shall conform to the requirements of the Town of Brookside and/or Fremont County standards and specifications;
    - 3.5.2 the developer shall obtain all required permits from the Fremont County Health Department and Colorado State Health Department, and
    - 3.5.3 all cost of maintenance and repair shall be borne by the developer, its successors and assigns, and shall be deemed an obligation running with the land. Indication of such responsibility shall be placed on the final plat prior to approval.
  - 3.6 All existing and proposed easements for wastewater lines and facilities shall be shown on the final plat and dedicated to the Town.
  - 3.7 Easements for wastewater lines shall be a minimum of 20 feet in width for one line and 30 feet in width for two lines, or as required by the Town to accommodate the installation and maintenance of the lines and facilities.
  - 3.8 Easements for wastewater lines shall be dedicated as exclusive easements and no structure or other obstruction other than fences or landscaping shall be allowed within a wastewater easement.
  - 3.9 Wastewater line easements acquired in adjoining properties shall be recorded with the Fremont County Clerk and Recorder as a condition of final plat approval.
  - 3.10 Grey water systems are and will be prohibited by the town of Brookside.
4. Other Utilities.
- 4.1 All new utility lines, including but not limited to gas, electric power, telephone, and cable television lines, shall be located underground throughout the subdivision.



- 4.2 Existing overhead utility lines shall be buried, with the exception of major transmission line facilities.
  - 4.3 Utility appurtenances, where feasible, shall be located underground and away from public activity areas such as parks and playgrounds within the subdivision.
  - 4.4 If utility appurtenances shall be located above ground in public activity areas such as parks and playgrounds, or in areas subject to public assembly, they shall be subject to the following conditions:
    - 4.4.1 above ground utilities shall be located in areas where they are visually unobtrusive, and
    - 4.4.2 above ground utilities shall be located sufficiently away from public rights-of-way to avoid potential danger to the public.
  - 4.5 Underground service connections to the street property line of each platted lot in a subdivision, and other utility improvement required by the Town and/or utility provider shall be installed and maintained at the developer's expense until such responsibility is assumed in perpetuity by a property owner or homeowner's association.
  - 4.6 Preparation of all utility plans shall be the responsibility of the developer in coordination with each utility provider and the Town. The plans shall adhere to all requirements of this ordinance, the Town, and the utility provider.
  - 4.7 Adequate easements shall be provided for all public and private utilities as determined by those utilities. All such easements shall be shown and dedicated on the final plat.
  - 4.8 Utility easements shall be located along the rear lot line of each lot in the subdivision.
  - 4.9 Where topographical or other conditions make the location of utility easements along the rear lot lines unfeasible, an unobstructed easement shall be provided along the side lot line with appropriate access to a public road or rear lot lines.
  - 4.10 Utility easements acquired in adjoining properties to provide service to the proposed subdivision shall be recorded with the Fremont County Clerk and Recorder.
5. Roads

All roads, curbs and gutters will be put in at the developer's expense and

to the specifications of the Town of Brookside.

## **H. Development Agreements.**

The Town of Brookside will execute agreements with property owners to assure each party that the Town and the owner will provide the public services or improvements required for development. These agreements will cover subdivision improvements, bulk land variances, annexation, and the costs of oversized or off site improvements. The developer shall maintain or insure maintenance, in perpetuity, of but not limited to water and drainage facilities, wastewater facilities, streets, alleys, sidewalks, curbs, gutters and fire hydrants.

### **1. Subdivision Improvements Agreements.**

After preliminary plat approval, the developer cannot obtain final subdivision plat approval until he provides for the installation of all public improvements required by the development. Except as otherwise provided in this section of the ordinance, the developer shall be responsible for the cost and construction of all wastewater, water or drainage facilities, streets, alleys, sidewalks, curbs, gutters, fire hydrants, and related appurtenance in and through his property or development.

The developer may install the improvements for acceptance by the Town before submitting the final plat. He also may obtain the final plat approval before completion of the required infrastructure, if he enters into a subdivision improvement agreement that provides financial guarantees for the completion of the required infrastructure.

The Subdivision Improvements Agreement will identify the required infrastructure improvements, which will be contained in construction documents approved by the Town. It will provide for the installation of the improvements to the satisfaction of the Town within two years. The Agreement will require the developer to provide a financial guarantee equal to 125% of the estimated cost of constructing the improvements. The guarantee must be irrevocable and may be in the form of a performance bond, letter of credit, cashier's check, escrow deposit, or other pledge of liquid assets. The agreement shall give the Town the right to draw upon the financial guarantee to collect sufficient funds if necessary to complete the improvements in accordance with the approved specifications if the developer defaults on the Agreement.

### **2. Bulk Land Subdivision Agreements.**

Bulk land subdivisions establish zone and parcel boundaries for planned developments, dedicate rights of way, grant easements, or convey properties to intermediate land holders who will not be the ultimate land

developers or end users. Bulk land subdivision plats usually do not result in construction until further subdivision or site plans are prepared.

In these cases, the Town may grant a delay or waiver of required financial guarantees for construction of some or all required improvements where: (a) The subdivision will facilitate a bulk land conveyance; (b) further subdivision or site plan review will occur prior to the use of the land for building purposes, and (c) it is possible to assure or guarantee the installation of necessary improvements to meet development requirements as they arise.

Upon approval of a bulk land subdivision, the developer and the Town will execute and record an agreement notifying subsequent purchasers that future subdivision or site plans for the property will require the provisions for the installation of infrastructure improvements before development.

#### 4. Cost Recovery Agreements.

##### 4.1 Sewer, Water, or Drainage Facilities

4.1.1 The Water and/or Sewer Superintendent may require a developer to construct a larger public facility than required for the development of the developer's property in order to serve the needs of adjacent property owners. When this occurs, the Town may enter into an agreement with the developer to collect from adjacent landowners a pro-rata share of the construction costs and refund such costs to the developer at the time of each connection.

When the developer needs to construct sewer and/or water service facilities through or adjacent to unserved or undeveloped lands, he shall pay the entire costs of such facilities. However, the Town may agree to charge a pro-rata assessment to each additional owner who connects into the facility. The town shall collect and refund each assessment to the developer at the time of each connection.

4.1.2 When lift stations or force mains are required, the cost of constructing said stations or mains shall be the responsibility of the property initially served. If the pump station and force mains can serve more area or land or if the Town requires more capacity than necessary to serve the initial development, the Town and the developer may enter into a cost recovery agreement that provides for the Town to collect a pro-rata share of the construction costs from adjacent owners at the time of their connection and refund such costs to the developer.

4.1.3 If lift stations and force mains are required, the system shall be designed where possible so as to permit an eventual connection into a gravity system with minimal expense. Where practicable, the developer shall grant easements and construct lines to tie into the gravity system. The Town may require deposits, when deemed necessary, to pay for the eventual construction of gravity lines.

4.2 Streets, Alleys, Sidewalks, Curbs, Gutters or Fire Hydrants

A developer shall pay the entire cost of streets, alleys, sidewalks, curbs, gutters, or fire hydrants that he constructs on, through, or adjacent to unserved or undeveloped lands. However, the Town may agree in writing to collect a pro rata share of the costs from the owner of property served by such facilities at the time of construction and refund such costs to the developer. All streets and related improvements are to be constructed to The Town of Brookside.

5. Recovery Cost Agreement Content.

5.1 If a developer desires to enter into a recovery agreement with the Town, he shall provide a complete detailed summary of all the construction costs to the Administrator within ninety (90) days after completion of construction.

5.2 The developer and the Administrator shall jointly determine the service area of the facilities constructed by the owner or developer, and shall jointly determine a per-front-foot, per-lot, or per-acre recovery charge for said service area based upon the total construction cost submitted by the developer and approved by the Administrator. If the developer and the Town disagree on the amount, the determination of the Administrator shall be final for the purpose of review by the Board of Trustees.

5.3 The amount of the unit recovery charge (per-front-foot, per-lot, or per-acre) shall be the total construction cost approved by the Administrator divided by the number of equal or nearly equal units (front-feet, lots, or acres) served by the facilities.

5.4 The developer's right to reimbursement under the provisions of the recovery agreement shall not exceed twenty (20) years unless the Board of Trustees approved a longer period. The developer's right to reimbursement is limited to the recovery of his total construction cost.

## **I. Public Notice Requirement.**

For all actions in this Land Development Code requiring a public hearing, the following public notices are required (also see Appendix F):

1. Notice shall be sent by Certified mail to all real property owners owning property located within 500 feet of the property in question at least twenty-one (21) days prior to the public hearing, however, the failure to send or receive this notice shall not be deemed to deprive the Town Board, Planning Commission or Board of Adjustment of jurisdiction.
2. Notice of the hearing shall be published in a newspaper of general circulation within the Town at least twenty-one (21) days prior to the public hearing.
3. Notice shall be posted on the subject property at least twenty-one (21) days prior to the public hearing.
4. All notices both posted and mailed, shall include (i) a statement of the nature of the matter to be considered, including total number of lots, and proposed zoning. (ii) the time, date and place of the public hearing; and (iii) the agency or office and phone number where further information may be obtained.

## **J. Limitations on Approval.**

Following approval of an application, all property described in the application must be developed in accordance with the approval, including, but not limited to, the written documents, site plans and development schedules.

It is unlawful for the owner, developer or applicant to use or develop the property for any other use or in a manner not consistent with the approved plan. Each day of violation shall be considered a separate violation of the provisions of this Chapter. Modification or amendments to an approved application shall be permitted by following the same procedures as required for approval of the original application, except as follows:

1. For minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties, the Administrator may authorize a modification to an approved site plan. Such changes authorized by this section shall not exceed ten percent (10%) of any measurable standard or modify the use, character, or density of an approved application. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town

2. The Administrator may authorize an extension of the time schedule for the completion of the improvements for a period not to exceed one year. An extension beyond one year must be approved by the Planning Commission
3. The Planning Commission shall be notified in writing of all actions of the Administrator authorizing changes to approved applications or for time extensions.

**K. Submittal Requirements.**

Submittal requirements for subdivisions are detailed in Appendix I.

**L. Dedications Required.**

1. General Policy.

The Planning Commission and Town Board, upon consideration of Town circulation and community facility plans and the particular type of development proposed in the subdivision, shall require the dedication or reservation of areas or sites of a character, extent and location suitable for public use for roadways, open spaces, parks, public safety and maintenance facilities, historic sites, scenic areas, and other necessary public purposes. All dedications and reservations for parks and open spaces must meet the requirements of the Zoning Ordinance for these uses.

2. Public Dedications to the Town of Brookside.

Reference shall be made to the Brookside Comprehensive Plan to determine general locations for various public facilities. Dedication of such sites and land areas shall be made at the time of final platting in one or any combination of the following ways:

- 2.1 By dedicating to the Town of Brookside, Colorado, in fee simple on the final plat;
- 2.2 By granting the land areas in fee simple on general Warranty Deeds to the Town of Brookside; or
- 2.3 By payment of fees in lieu of land dedications.
- 2.4 Payments made under the requirements of this section shall be made payable to the Town of Brookside.

2.4.1 Such funds shall be deposited with the Town Clerk to a special interest-bearing account. Each deposit shall be

credited to the name of the subdivision for which the payment was made. The status of these accounts shall be reported annually to the Board of Trustees.

2.4.2 Funds may be withdrawn from the special escrow account by the Board for the following purposes:

- (a) Purchase of land for public facilities and purposes,
- (b) Preparation of design drawings for improvement to existing public facilities within the Town,
- (c) Purchase of materials, including but not limited to trees, shrubs, benches, and equipment to be used in public parks or recreation facilities as approved by the Board,
- (d) Physical improvements made to existing public parks or recreational facilities as approved by the Board, or
- (e) Construction of all types of public facilities.

3. Special Conditions for Dedicated Public Purpose Lands.

Land areas that shall not be acceptable in determining the fulfillment of the requirements for the provision of land areas for public purpose facility sites shall include the following:

- 3.1 Natural drainage ways, streams, gullies, and rivers including all lands within the 100-year floodplain (Note: Unless the Board specifically accepts a certain portion for a reasonable use.),
- 3.2 Rights-of-way and/or easements for irrigation ditches and aqueducts, or
- 3.3 Steep, rugged, and hazardous geological land areas and such other areas as are not conducive for use as public purpose sites.

4. Usable Open Space

- 4.1 Except as provided Subsection (d), every development shall be developed so that a land area as specified by the zone district and as may be identified by the Master Plan remains permanently as usable open space.
- 4.2 For purposes of this section, usable open space means an area that:

- (a) Is not encumbered with any substantial structure;
  - (b) Is not devoted to use as a roadway or parking area;
  - (c) Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other recreation area;
  - (d) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation; and
  - (e) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to Section 6.4 below.
- 4.3 All developments are required to provide a trail or sidewalk system to accommodate pedestrian and bicycle circulation.
- 4.4 Subdivided residential developments of less than 25 dwelling units are exempt from the requirements of this section unless the Town agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made.

## 5 Dedication of Open Space

- 5.1 If any portion of a lot proposed for residential development lies within an area designated on the officially adopted recreation master plan as a neighborhood park or part of the greenway system or bikeway system, the area so designated (not exceeding 6 percent of the total development area parcel) shall be included as part of the area set aside. This area shall be dedicated to public use.
- 5.2 If more than 6 percent of a development parcel proposed for residential development lies within an area designated as provided in Subsection 5.1 above, the Town may attempt to acquire the additional land in the following manner:
- (a) The developer may be encouraged to dedicate the common open space thereby created to the Town; or
  - (b) The Town may purchase or condemn the land.



7. Ownership and Maintenance of Recreational Areas and Required Open Space.
  - 7.1 Except as provided in Section 5.2 above, recreation facilities and usable open space required to be provided by the developer in accordance with this Ordinance shall not be dedicated to the public but shall remain under the ownership and control of the developer (or his successor) or a homeowners association or similar entity.
  - 7.2 The person or entity as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.
  
8. Homeowners Associations  
Homeowners associations (HOAs) or similar legal entities that, pursuant to Section 7 above, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:
  - 8.1 Provision for the establishment of the association or similar entity according to state law, is to be made before final subdivision approval is made or any lot in the development is sold; legal documents are to be forwarded to the Town prior to final approval;
  - 8.2 The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
  - 8.3 The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities, and
  - 8.4 The Town retains the legal authority to compel HOAs to maintain their properties in proper condition.
  
9. Flexibility in Administration Authorized.
  - 9.1 The requirements set forth in this section concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the Board as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The

Board recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this section may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Town is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

9.2 Whenever the Town Board authorizes some deviation from the standards set forth in this section pursuant to Subsection 7.1 above, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

#### 10. Streets, Roads, Pathways, and Easements

All public streets, roads, pathways and easements for utilities are to be offered for dedication to the town or special district as appropriate at the time of Final Plat approval. Final plats are to allow for these dedications; however, the actual transfer of dedications of such streets, road, pathways and easements shall not occur until such improvements are "accepted" by the Town or special district through their normal improvement acceptance procedure. The dedicated rights-of-way and easements are to be shown on the final plat along with the dedication endorsement.

#### 11. Financial Responsibilities

At no time shall the town of Brookside be subjected to or responsible for the financial burden of maintaining a proposed subdivision or PD, including but not limited to waterways, wastewater, roads and utilities.

**Section II**  
**Vested Rights**

## **II. VESTED RIGHTS.**

### **A. When Development Rights are Vested.**

This vested rights section provides the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of a Site Specific Development Plan (hereinafter SSDP), applicable to Planned Development Projects and Subdivisions allowable in the Town of Brookside. No vested rights shall be created within the Town of Brookside except through a SSDP.

#### **1. Definition of Site Specific Development Plan.**

An SSDP within the Town of Brookside may be established at the final approval of a development plan by the Town that occurs prior to a building permit application. If a landowner wishes the approval of any of the following plans to have the effect of creating vested property rights pursuant to state law, the landowner must so request at least 20 days prior to the date said approval is to be considered and pay the applicable fee. Failure to so request approval of an SSDP and pay the fee therefore renders the approval not an "SSDP," and no vested rights shall be deemed to have been created. The Town may not approve an SSDP prior to the approval of any of the following, however, an SSDP may be approved concurrently with the following plan approvals:

- 1.1 For all property zoned PD under the Brookside Development Code, a Final Development Plan described in this Ordinance,
- 1.2 For all other properties within the Town of Brookside, the Final Plat for single-family detached residents defined in this Ordinance,
- 1.3 An approved Site Development Plan (SDP),
- 1.4 An approved Site Plan for a Special or Conditional Use Permit.

Notwithstanding anything above to the contrary, an SSDP may be defined in a development agreement between the Town and the landowner to supersede the definition of this Ordinance. Submittal requirements for an SSDP or Site Development Plan are found in Appendix 8.

#### **2. Notice and Hearing.**

No SSDP shall be approved until after public notice and a public hearing before the Town Board of Trustees.

#### **3. Approval-Conditions.**

An SSDP shall be deemed approved upon the effective date of the action of the Town Board. The approval of the Board shall be accompanied by any terms or conditions imposed on the SSDP.

**B. Waiver or Forfeiture of Vested Rights.**

1. Failure to abide by any terms or conditions of the approval of any SSDP imposed by the Town shall constitute forfeiture by the landowner of any vested right created by the Plan unless otherwise specifically agreed by the Town in writing.
2. Any petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the Petition, if any, and be accompanied by all SSDPs approved by any local government. Failure to so identify any previously approved vested property right and provide all approved SSDPs shall constitute a waiver of the vested right(s) created by any other local government upon annexation to the Town unless specifically provided otherwise in the ordinance of annexation adopted by the Town of Brookside.
3. The landowner shall be required to include with any Plan submitted for approval as an SSDP notice of any natural or manmade hazards on or in the immediate vicinity of the subject property that are known to the landowner or could reasonably be discovered at the time of submission of the Plan. Should a hazard on or in the immediate vicinity of the property be discovered subsequent to the approval of a SSDP, which would impose a serious threat to the public health, safety, and welfare and is not corrected by the landowner, the vested property right created by such SSDP shall be forfeited by the landowner.
4. An SSDP submitted by a landowner and approved by the Town forfeits any pre-existing vested rights for the property.
5. Failure of the landowner to publish the notice required by (6) below constitutes a waiver by the landowner of the vested right created by the approval of the SSDP.
6. Each SSDP, upon approval by the Town, shall contain a statement as follows: "This plan constitutes a site specific development plan as defined in ' 24-68-101, et seq., C.R.S. and Section 6 of the Town of Brookside Land Development Code." [And, if applicable] "The terms and conditions of such approval are contained in Resolution No. \_\_\_\_ adopted by the Town on \_\_\_\_\_ and available at \_\_\_\_\_, Brookside, Colorado." In addition, a notice describing the type and intensity of use proposed, the specific parcel or parcels of property affected, the terms and conditions of any approval and stating that a vested property right pursuant to Article 68 of Title 24, C.R.S., has been

created shall be published once, no later than 14 days after approval of the SSDP, in a newspaper of general circulation within the Town of Brookside by the landowner at the expense of the landowner. The period of time permitted by law for the exercise of a vested right shall not begin to run until the date of such publication. Failure to publish this notice constitutes a forfeiture of the vested right.

**C. Duration.**

A property right that is vested as provided herein shall be vested for a period of three (3) years from the date of approval of the SSDP upon compliance with all terms and conditions of such approval. This vesting period shall not be extended by any amendments to the SSDP, unless expressly authorized in writing by the Town.

**D. Subsequent Regulation Prohibited.**

Any vested property right, once established, shall not be subject to any zoning or land use action by the Town or by petition by third parties to the Town which would alter, prevent, or otherwise delay the development or use of the property as set forth in an approved vesting plan, with the following exceptions:

1. With the consent of the affected landowner;
2. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of vesting plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
3. To the extent that the affected landowner receives just compensation for all costs expenses, and liabilities incurred by the landowner that would be negated by the change in regulation. These may include but are not limited to, fees paid in consideration of financing, and architectural, planning, and marketing, legal, and other consultants' fees incurred after approval of the vesting plan by the Board, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property that is caused by such action.

**E. Extension and Amendments.**

No extension or amendment of the vesting period or the rights that are vested shall be granted unless such extension or amendment is approved by the Board following a public hearing. Such request for extension or amendment shall be filed by the landowner together with all materials and fees required by this Ordinance to be submitted for original approval. No extension shall be granted

by the Board for a period greater than one (1) year. Vested rights amendments shall be the same as the original or the extension in terms of duration.

**F. Other Provisions.**

1. Other Requirements Remain.

Approval of an SSDP shall not constitute an exemption from or waiver of any other provisions or requirements of the Town of Brookside pertaining to the development and use of the property adopted or applicable before or after the approval of an SSDP.

2. Limitations.

Nothing in this Section is intended to create a vested property right, but only to implement the provisions of 24-68-101, et seq., C.R.S. In the event of a repeal of said statute or a judicial determination invalidating or declaring unconstitutional part or all of said statute, this Section shall be deemed repealed and the provisions hereof no longer effective, or in the event only a portion of said statute is declared void or constitutional, then the portion of this Section corresponding thereto shall be deemed repealed and no longer effective.

3. Development Agreement.

Nothing herein shall be construed to limit the authority of the Town and a landowner to enter into a development agreement vesting property rights in the landowner. Such agreement shall be construed in accordance with the terms and conditions of said agreement and not be limited or expanded by the provisions of this Ordinance.

**Section III**  
**Subdivision and Commercial/Business**  
**Development Standards**



### **III. SUBDIVISION AND COMMERCIAL/BUSINESS DEVELOPMENT STANDARDS**

#### **A. Fences, Hedges and Walls.**

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

These provisions apply to all developments within the Town of Brookside. Variances to these regulations may be considered upon application to the Town Board.

Fences, hedges and walls may be permitted in the required yard areas of any district subject to the following conditions and requirements:

- 1.1 All fences and walls are subject to the applicable sections of the Building Code.
- 1.2 No fence, hedge or wall may extend beyond or across a property line unless with the joint agreement of the abutting property owners. It shall be the responsibility of the property owner to locate all property lines.
- 1.3 No fence, hedge or wall shall be placed nearer than 12 inches from a public sidewalk.

#### **B. Off-Street Parking and Loading.**

##### **1. When Off-Street Parking Spaces Are Required.**

Off-street parking spaces shall be provided with the construction of or addition to any of the buildings and uses within the MU district that have as their primary purpose commercial or business activities.

The number of required spaces will be determined by the nature of the proposed construction as part of the SSDP approval process.

##### **2. Off-site Parking**

For any commercial use, the off-street parking requirements for commercial uses only may also be met utilizing the following alternatives if applicable:

- 2.1 Off-street parking spaces may be provided on a site within 300 feet of the use that generates the parking requirements, provided that the site is owned or under the control of the owner of the parking generator.

2.2 The owner of the use may participate in a parking district or joint venture that assures the Town that the off-street parking requirements will be met. All parking districts or joint ventures shall be subject to the approval of the Town.

### 3 Parking Area Standards

31 All off-street parking areas shall be unobstructed and free of all other uses.

3.2 All off-street parking spaces shall have unobstructed access to and from a street.

3.3 All off-street parking areas, except those for single-family or two-family dwellings, shall be surfaced with asphalt or concrete.

3.4 Off-street parking areas with six or more spaces shall be adequately screened from any adjoining residentially zoned lot by landscaping or solid fencing.

3.5 Lighting from any parking area shall not be directed toward any adjacent residential area or public street.

3.6 Off-street parking areas may be located to jointly serve two or more buildings or uses, provided that the total number of spaces is not less than that required for the total combined number of buildings or uses. However, this number may be reduced based on the results of a shared parking demand analysis based on recognized standards and methodologies.

3.7 Off-street parking spaces shall be at least nine by 19 feet, except that up to 20% of the required spaces in a parking area with 10 or more spaces may be designated for compact cars with a minimum space of eight by 16 feet. If compact spaces are approved, designated areas shall be clearly marked by above-grade signage for small or compact cars only.

3.8 Where off-street parking areas designed for parallel parking are established, the dimensions of such spaces shall be not less than 22 by nine feet.

3.9 No more than 12 parking spaces shall be permitted in a contiguous row without being interrupted by a landscaped area of at least six feet wide and 16 feet long, or unless otherwise stated in the design policies of the Town.

**C. Streets, Sidewalks and Bicycle Lanes.**

1. General Provisions

The following requirements apply to proposed subdivisions and planned development projects within the Town of Brookside

2. Street Plan.

The arrangements, classification, extent, width, grade and location of all streets shall conform to the street plan of the Town and shall be designed in relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets.

3. Street Classification.

3.1 In all new developments and subdivisions, streets that are dedicated to public use shall be classified as provided in Subsection 2.2 below, as provided in the Roadway Design Criteria of the Town of Brookside:

3.1.1 the classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

3.1.2 the number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive;

3.1.3 whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or is expected to be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

3.2 The classification of streets shall be as follows:

3.2.1 Local

A street that provides direct access to adjacent property, including residential uses. Local streets typically are designed to discourage through traffic from neighborhoods.

3.2.2 Collector

A street that permits relatively unimpeded traffic movement, collects traffic from the local system, and where traffic

demands are relatively high, but where a higher classification street is not warranted. No back-out drives are permitted.

### 3.2.3 Arterial

A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets. Arterials can act as boundaries between neighborhood areas or different land uses.

## 4. Access to Lots.

Every lot shall have access to a public road or street that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

## 5. Access to Arterial Streets.

Whenever a development that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this development onto this street.

## 6. Entrances to Streets.

6.1 All driveway entrances and other openings onto streets within the Town's planning jurisdiction shall be constructed so that:

6.1.1 Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets, and

6.1.2 Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

6.2 If driveway entrances and other openings onto streets are constructed in accordance with the specifications and requirements of the Town of Brookside, if these exist, or the relevant special district, this shall be deemed prima facie evidence of compliance with the standard set forth in Subsection 5.1 above.

## 7. Coordination with Surrounding Streets.

7.1 The street system of a development or subdivision shall be coordinated with existing, proposed, and anticipated streets outside

it or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

- 7.2 Collector and arterial streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.
- 7.3 Local and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
- 7.4 Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the Town may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

## 8. Relationship of Streets to Topography.

Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff objectives set forth in Section III.F, and street grades shall conform as closely as practicable to the original topography.

## 9. Wheelchair Ramps.

Whenever curb and gutter construction is used on public or private streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with standards of the Town or appropriate special districts.

## 10. Street Names.

- 10.1 Street names shall be assigned by the developer subject to the approval of the Town. Proposed streets that are obviously in alignment with existing streets shall be given the same name.

Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Town's planning jurisdiction, regardless of the use of different suffixes (such as those set forth in Subsection (b)).

- 10.2 Street names shall include a suffix such as the following:  
 Cul-de-sacs: Way, Court or Lane  
 Short streets: Way, Place or Lane  
 Streets: Street, Parkway, Avenue or Drive  
 Circular Streets (both loops and at same street): Circle
- 10.3 Building numbers shall be assigned and/or approved by the Town Planning and Zoning Committee.

11. Sidewalks.

- 11.1 On streets other than local or minor collectors, landscaped parking strips of the following minimum widths must separate sidewalks from street flow line (and edge):

| Street Type | Parking Strip Width (Minimum) |
|-------------|-------------------------------|
| Collector   | 6                             |
| Arterial    | 12                            |

- 11.2 The sidewalks required by this section shall be at least four (4) feet in width and constructed according to the specifications of the Town if these exist, or of the relevant special district, except that the Town may permit the installation of walkways constructed with other suitable materials when it concludes that:
  - 11.2.1 Such walkways would serve the residents of the development as adequately as concrete sidewalks; and
  - 11.2.2 Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.
- 11.3 Whenever the Town finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least 10 feet in width to provide such access.

12. Bicycle Lanes.

Where trails or bike ways are shown on the Town Open Space and Parks Plan Map as crossing a parcel proposed for development, the developer shall work with the Town to establish an alignment through the parcel, and dedicate this alignment to the Town. In general the width for trail or bike way dedication shall be ten (10) feet if not associated with a street. Areas dedicated for trails or bikeways may be included in the open space requirements of the development.

13. Blocks and Lots.

13.1 Blocks shall not exceed 1,320 feet in length nor be less than 360 feet in length, unless no practicable alternative is available. The length of blocks shall be considered to be the distance from street centerline to opposite street centerline and shall be measured through adjacent back lot lines or through the center of the block. The total design should provide for convenient access and circulation for emergency vehicles. All blocks shall be abutted by a street or streets. Pedestrian walkways shall be provided to permit acceptable pedestrian access to abutting streets.

13.2 Service access to the interior of blocks may be permitted in certain instances, in which case such alleys must be indicated in the plan and plat.

13.3 Lot Standards

13.3.1 Division of Lots - No lot shall be divided by a municipal or county boundary line, road, alley or other lot.

13.3.2 Wedge-shaped Lots - In the case of wedge-shaped lots, no lot shall be less than 20 feet in width where the narrow side of the lot is at the front property line.

13.3.3 Lot Lines - Side lot lines shall be substantially at right angles or radial to street lines. Where lot lines are not at right angles to the street lines, this shall be indicated.

13.3.4 Corner Lots - Corner lots in all subdivisions are required to have the minimum front yard requirements, as required by the zone district, facing both streets.

## **Amendment to the Town of Brookside Land Development Use and Zoning Code: Lot Line Adjustment**

### **1) Lot Line Adjustment.**

- a) The purpose of a Lot Line Adjustment is to accommodate a transfer of land between adjacent separate lots in order to correct or adjust property lines or setback encroachments or access, create better lot design, or improve access without creating substandard lots or setbacks, or without creating additional building lots.
- b) The decision as to whether or not properties should be the subject of a lot line adjustment is made by the Board of Trustees of the Town of Brookside (Town Board) considering recommendation by the Planning and Zoning (P&Z) Committee. The recommendation and decision is based upon a review of the physical characteristics of the lots, the locations of any existing structures or access features on the lots, the requirements for lot size for the zone district in which the lots are located, unique circumstances requiring lot line adjustment to allow continued permitted use of the lot, and any other applicable provisions of the land use code.

### **2) Lot Line Adjustment Process.**

- a) Submit Lot Line Adjustment Application Package:
  - i) Land Use Application Form.
  - ii) Application Fee.
  - iii) Survey. Two (2) paper copies of a survey certified by a registered land surveyor licensed in the State of Colorado, drawn at 1" = 20' or other acceptable scale, containing the following information:
    - (1) Dimensions of lots before and after the lot line adjustment (include all bearings and distances of all lot lines, and square footage of each lot). Identify lots as "Lot A," "Lot B," etc.
    - (2) Adjacent street names, locations, and rights-of-way widths.
    - (3) Show how lots will obtain legal access and be served by water, sanitary sewer, and storm drainage if available.
    - (4) The location of all existing structures with their surveyed distances from the existing and proposed new lot lines.
    - (5) Building coverage calculations.
    - (6) Existing easements on the lots.
    - (7) Existing and proposed legal descriptions for each lot, described by metes and bounds.
    - (8) Signature and notary blocks for all parties with an ownership interest, as identified in the title certification.



- (9) Signature block for the Town Administrator (Mayor).
  - (10) Plat size shall be 24" x 36" or other agreed upon size.
  - (11) One reduced-size copy measuring 11" x 17" or other agreed upon size shall also be provided.
- iv) Proof of Ownership. A current (no more than thirty [30] days old) title company certification (such as a title commitment, title policy or ownership and encumbrance report) verifying the current ownership and title of all interested parties. The report shall also contain a description of all lien holders, as well as encumbrances or deed restrictions that limit the use of the property.
- b) Planning and Zoning Committee Reviews Lot Line Adjustment Application and Prepares Comments and Recommendation. The P&Z Committee will review the lot line adjustment application to make sure it is consistent with the Town of Brookside's Subdivision and Development Regulations, zoning code, minimum lot size requirements if applicable, the lot line adjustment review criteria and any special applicable requirements. Following the review, the P&Z Committee will prepare, if necessary, a written report outlining any changes that must be made before the lot line adjustment can be recommended to the Town Board for approval. Once the P&Z Committee has determined that all pertinent criteria and requirements are met, the P&Z Committee will provide recommendation to the Town Board for approval or disapproval of the Lot Line Adjustment.
- c) Applicant Addresses Staff Comments. If necessary, the Applicant shall make all changes to the lot line adjustment application and resubmit a revised copy to the Planning and Zoning Committee.
- d) Lot Line Adjustment Approval/Review Criteria. The Planning and Zoning Committee completes final review of the lot line adjustment to ensure compliance with all applicable regulations. The Planning and Zoning Committee shall use the following criteria to evaluate the Applicant's request:
- i) The adjustment does not increase the number of lots or parcels or create new lots or parcels.
  - ii) The adjustment affects only adjacent lots.
  - iii) The adjustment does not affect a recorded easement without the prior approval of the easement holder.
  - iv) The adjustment is no greater than ten (10) feet from the platted boundary or lot line.
  - v) Street locations will not be changed.
  - vi) The adjustment will not create any nonconformity, or increase the degree of nonconformity of any existing structure or use.
  - vii) The adjustment complies with all other applicable requirements of the Town

of Brookside Land Development Use and Zoning Code (“Land Use Code”) and all other applicable regulations and requirements.

viii) No more than one (1) lot line adjustment is allowed within any one-year time period for the same properties.

ix) All affected property owners agree to the adjustment in writing.

x) After the adjustment, both lots and the improvements thereon satisfy all applicable provisions of the Town of Brookside Land Development Use and Zoning Code and applicable building or fire codes, including but not limited to lot size and width, setbacks, and fire separation, unless otherwise waived, modified, or varied under the provision of the Land Use Code.

xi) All affected lien holders have ratified and consented to the lot line adjustment in writing.

xii) Requirements to correct deficiencies in existing infrastructure on or offsite may be made in manners such as street improvements, granting additional right-of-ways, water main improvements, drainage improvements, or other action deemed appropriate by the Town Board.

e) Post Approval Actions/Record Lot Line Adjustment.

i) One (1) original mylar of the lot line adjustment survey shall be recorded by the Brookside Town Clerk in the Office of the Fremont County Clerk and Recorder. The recording fee shall be paid by the Applicant(s).

ii) The approval of a lot line adjustment does not constitute a transfer of title. Separate deeds conveying title to the newly adjusted lots, from one owner to the other, must be recorded with the Fremont County Clerk and Recorder and are not subject to these provisions. Copies of the recorded deeds must be submitted to the Brookside Town Clerk. Any associated fees shall be paid by the Applicant(s).

f) Zoning District Considerations for Lot Line Is Adjusted Between Properties In Different Zoning Districts

i) If the total area of the parcel receiving the additional property does not increase by more than twenty-five (25) percent the zone district that exists for the property receiving the additional property shall prevail. Neighboring property owners must be given notice and afforded the opportunity to speak at a public meeting pursuant to Zoning Amendment (Rezoning) Section II.C. of the Land Use Code.

ii) If the property receiving the additional area increases in area by more than twenty-five (25) percent, a formal application for a zone change will be required pursuant to Zoning Amendment (Rezoning) Section II.C. of the Land

Use Code.

- iii) The area of the parcel at the time of the first application for Lot Line Adjustment shall be the area used for purposes of determining the amount of land area that may be added to such parcel through a Lot Line Adjustment procedure.

ADOPTED THIS 9<sup>th</sup> DAY OF JULY, 2007

ATTEST:

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Ron Frederick, Mayor of the Town of Brookside Colorado

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Renee Bolkema, Town Clerk of Brookside, Colorado

**D. Fire Hydrants.**

1. Every development served by a central water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.
2. The presumption established by this Ordinance is that to satisfy the standard set forth in Subsection (a), fire hydrants must be located so that all parts of every building within the development may be served from a hydrant by laying not more than five hundred (500) feet of hose connected to such hydrant. However, the fire district may authorize or require a deviation from this standard if another arrangement more satisfactorily complies with the standard set forth in Subsection (a).
3. The fire district shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter.
4. The fire district shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the fire district, all hydrants shall have two 2 1/2-inch hose connections and one 5-inch hose connection. The 2 1/2-inch hose connections shall be located at least 18 inches above the ground level. All hydrant threads shall be national standard threads.

5. Water lines that serve hydrants shall be at least six-inch lines, and, unless no other practicable alternative is available no such lines shall be dead-end lines.

**E. Sites For and Screening of Dumpsters.**

1. Every development that is required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
  - 1.1 Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way, and
  - 1.2 Constructed to allow for collection without damage to the development site or the collection vehicle.
2. All such dumpsters shall be screened to prevent them from being visible to:
  - 2.1 Persons located within any dwelling unit on residential property other than that where the dumpster is located.
  - 2.2 Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located.
  - 2.3 Persons traveling on any public street, sidewalk, or other public way.
3. Dumpsters shall be emptied on a regular schedule and shall not be allowed to constitute a health hazard or nuisance.

**Section IV**  
**Commercial and Business Developments**

#### **IV. COMMERCIAL AND BUSINESS DEVELOPMENTS.**

##### **A. General Provisions**

Commercial and business establishments are allowed only in the MU zoned district. The following requirements apply to commercial and business developments:

1. Permitted Signs.
  - (a) No more than two (2) signs advertising the commercial business.
  - (b) Signs may not exceed 5'X10' each.
  - (c) Signs may identify the property, its occupants, and its use only.
  - (d) Signs must be self-supported.
  - (e) Signs may not extend more than three feet above the roof line of the structure.
  - (f) Signs are located entirely on the owner's property.
  - (g) Signs may be illuminated from a concealed external light source or from an internal light source. The light source shall not blink, flash, or vary in intensity.
  - (h) Signs shall not be animated, oscillate, rotate, move, or have the illusion of motion.
2. Parking.
  - (a) One (1) parking space of two hundred (200) square feet, exclusive of maneuvering and roadway space, shall be provided for each two hundred (200) square feet of area devoted to sales and display in each retail establishment.
  - (b) One (1) parking space of two hundred (200) square feet, exclusive of maneuvering and roadway space, shall be provided for each three hundred (300) square feet of office space.
  - (c) One (1) parking space of two hundred (200) square feet, exclusive of maneuvering and roadway space, shall be provided for each four (4) seats in eating and drinking establishments.

(d) One (1) parking space of two hundred (200) square feet, exclusive of maneuvering and roadway space, shall be provided for each four (4) seats in theaters and auditoriums.

3. Access

Before approval of any installation, construction, licensing, or permitting by the Town of Brookside, the property owner or developing entity must demonstrate to the Town Board that access from and onto State Highway 115 is approved by the Colorado Department of Transportation and that appropriate rights or way have been acquired or exist for the business to conduct normal operations without increasing traffic on the streets surrounding residential areas of the town of Brookside. Under no conditions will a commercial development be approved that will rely on access from a street or roadway through a residential neighborhood or an area not designated or zoned to allow commercial development.

**Section V**  
**Annexation**



## **V. ANNEXATION.**

### **A. Purpose.**

All annexations to the Town of Brookside utilizing the petition method will follow the following process and standards to ensure that petitions are processed in an orderly manner, that municipal services are adequate and available to the property, that the costs of annexation are paid by the owners of the petitioning property, and that all requirements of CRS 31-12 are fulfilled.

### **B. Responsibilities.**

The applicant is required to prepare all necessary documents in a professional manner and submit all documents as required. General Development Plan submittal requirements are the same as Rezoning Requirements and are found in Appendix 7. The Planning Commission will provide recommendations to the Town Board who must approve a resolution for annexation. In addition the Town Clerk will publish the resolution and the public notice of hearing for four (4) successive weeks in the Town's official newspaper. The first publication shall be at least thirty (30) days prior to the public hearing before the Town Board. The Town Clerk will also send a copy of the notice to the Fremont County land use department, and to any special district or school district having territory within the area to be annexed at least twenty-five (25) days prior to the date fixed for such hearing.

### **C. Eligibility for Annexation.**

Properties proposed for annexation must meet the following requirements:

1. Owners of more than fifty percent of the area to be annexed including streets and alleys shall sign the petition for annexation.
2. Not less than one-sixth the outside perimeter of the area to be annexed shall be contiguous to existing town limits.
3. No property owned in a separate tract shall be divided by the boundary of the proposed annexation without consent of such property owner.

### **D. Who May Petition for Annexation.**

Only owners of the land or their legal representatives may petition the Town for annexation. Only the landowners may sign the petition.

**E. Required Annexation Impact Reports.**

1. An annexation impact report is required for parcels larger than ten acres, unless the County officials and the Town agree that the report may be waived. If a report is required, it must be completed at least twenty-five (25) days before the hearing date and filed with the County twenty (20) days before the hearing date. While it is the responsibility of the Town to prepare this report, the assistance of the petitioners will be necessary to complete the report. Information from the petitioners for the report would include:
  - 1.1 The existing and proposed land use pattern in the areas to be annexed;
  - 1.2 The identity of existing districts within the area to be annexed;
  - 1.3 The effect of the annexation upon the local public school district including the estimated number of students generated and the capital construction required to educate such students;
  - 1.4 A statement of the Town's plans for extending, financing and providing municipal services within the area to be annexed;
  - 1.5 A statement identifying all existing special districts within the area to be annexed;
  - 1.6 A map of the Town and adjacent area showing:
    - (1) Present and proposed boundaries of the Town in the vicinity of the proposed annexation; and
    - (2) The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
2. The Town may also require that a fiscal impact report be prepared under its direction at the petitioner's expense. This report should provide the information needed by the Town to evaluate the fiscal costs and benefits of the proposed annexation over a multi-year period.
3. Town staff must also review the proposed annexation and provide their evaluation and recommendations to the Board prior to the scheduled public hearing.
4. Town staff shall refer the annexation impact report to relevant review agencies.

**F. Required Dedications.**

1. The petitioners must dedicate or agree to dedicate sufficient land and rights-of-way to the Town for public streets and alleys as set forth in the standards and specifications of the Town, and the Town's Master Plan.
2. The petitioners must dedicate or agree to dedicate sufficient and unobstructed rights-of-way for utility easements and storm drainage to serve the proposed development. Petitioners also agree to pay utility development fee and tap fees as developed by the Town.
3. The petitioners must dedicate or agree to dedicate to the Town, or pay cash in lieu of at the time of platting, land to be used for public purposes of at least six (6) percent of all residential and two (2) percent of all nonresidential property proposed for annexation.
4. The petitioners must assign to the Town all rights, title and interest in any water rights associated with the property or in any and all water located beneath the property to be annexed.
5. The petitioners will be required to construct all roads, utilities, and other improvements at their sole expense and according to the requirements, standards and specifications of the Town. Connection of such improvements to existing Town systems and/or the dedication of such improvements to the Town shall be at the Town's convenience.

**G. Pre-Annexation Agreement.**

Petitioners will enter into a Pre-Annexation Agreement to establish the amount of deposit fees required to process the annexation petition, annexation agreement and General Development Plan review.

**H. Annexation Agreement.**

Petitioners must engage in negotiations to develop a formal Annexation Agreement that addresses timing and requirements of dedications outlined in Section SI. L. above and tied to the General Development Plan requirements of Section SV.M., below. The Town will begin this process using a model annexation agreement of its own making. Although annexation petitions may be accepted by the Town prior to conclusion of negotiations of an Annexation Agreement, no zoning of the property will occur until the Annexation Agreement is complete. Petitioners may include clauses regarding the de-annexation of property should the Annexation Agreement negotiations be terminated and/or the property not zoned to the satisfaction of the petitioners.

## **I. Proposed Zoning.**

The proposed zoning for the area to be annexed shall be included in the annexation agreement, and final annexation of the property contingent on the subsequent adoption of zoning. Processing of annexation petitions, findings of eligibility, annexation agreements and zoning may proceed concurrently through the review process, but approvals must be sequenced in order and according to this Ordinance and state law.

## **J. Standards for Annexation.**

In considering a petition for annexation, the Town Board shall make findings of facts and conclusions on the following standards for annexation.

1. The property to be annexed is a reasonable and logical extension of the Town, and compatible with the goals and intents of the Town Comprehensive Plan.
2. Areas proposed for annexation shall not divide tracts in order to prevent further annexation of adjoining parcels.
3. Areas proposed for annexation that due to their configuration cause excessive police, fire, utility, and street cost may not be accepted.
4. Zoning of the area proposed for annexation shall be reasonable in terms of existing Town zoning classifications and consistent with the Town Comprehensive Plan.
5. The area proposed for annexation shall be located where street extensions and water and sewer utility services are possible without undue expense to the Town. Where exceptional costs may be required in serving the area proposed for annexation, financial arrangements to extend streets, water or sewer mains shall be agreed upon prior to annexation.
6. Problems of storm drainage shall be considered prior to annexation to ensure that flooding problems within and adjoining the area proposed for annexation will not be increased by development of the tract.
7. Adequate water rights are provided to serve the proposed development on the property proposed for annexation and/or fees-in-lieu of water rights transfer are agreed to be paid.
8. Petitioner has deposited with the Town of Brookside monies in an amount determined by the Town Board upon a preliminary review of the petition for annexation according to the Pre-Annexation Agreement. The amount of monies to be deposited shall be solely in the discretion of the Town

Board and shall be intended to cover all costs to the Town resulting from the petition for annexation. No petition for annexation shall be deemed complete until such time as petitioner has deposited an amount of money as determined by the Town Board and petitioner has agreed to pay such additional sums to the Town as may be required to cover unexpected costs.

9. Any additional conditions or requirements that the Town Board deems necessary for the proper evaluation of the petition.

#### **K. Planning Commission Action.**

1. The Brookside Planning Commission shall review staff comments and the results of *staff* negotiations with the applicant concerning:
  - 1.1 Accuracy of annexation petitions and maps;
  - 1.2 Land use allocations, circulation plans, and proposed utility systems proposed in the General Development Plan;
  - 1.3 Proposed dedications;
  - 1.4 Proposed zoning;
  - 1.5 Completeness and accuracy of submittal documents; and
  - 1.6 Referral comments concerning the annexation and annexation impact report.
2. The Planning Commission will hold a public hearing on the annexation focusing on issues surrounding the General Development Plan and the proposed zoning of the property. The Planning Commission will make findings concerning the Standards for Annexation of Section IV.J.
3. The Planning Commission will make recommendations to the Town Board concerning issues to be covered in the Annexation Agreement but is not required to be part of formal Annexation Agreement negotiations.
4. The Planning Commission will make a full record of its findings and recommendation concerning the annexation and forward them to the Town Board at least fifteen (15) days prior to the Town Board's review of the Annexation.

#### **L. Town Board Action.**

The Town Board, after receiving all necessary recommendations, shall follow the procedure required by the state enabling statutes to include the following:

1. Following receipt of the Planning Commission recommendations, the Town Board, if appropriate, will adopt a resolution finding the petition to be in substantial compliance with the statutes. If the petition is signed by the owners of one hundred percent of the area proposed for annexation, the Board may annex the territory by resolution and ordinance after notice and a public hearing and, further, without an election unless additional terms and conditions are to be imposed. The Board will set the date, time and place for a public hearing to determine if the annexation meets the requirements of C.R.S. 31-12-104 and 105. This hearing will be held not less than thirty (30) days or more than sixty (60) days after the effective date of the resolution setting the hearing.
2. On the appointed date and time, the Town Board will hold the public hearing. The petitioners will present evidence in support of the petition. Town staff will testify as to:
  - 2.1 The validity of the surveys and legal descriptions of annexation maps;
  - 2.2 The 1/6 boundary contiguity requirement;
  - 2.3 No land held in identical ownership divided except with the consent of the landowners;
  - 2.4 No tract twenty acres or more having \$200,000 valuation without consent of land owners;
  - 2.5 The entire width of perimeter streets or alleys will be annexed;
  - 2.6 No proceedings are pending to annex the land to another city; and
  - 2.7 This annexation will not result in extending the Town's boundaries more than three miles in any direction in any one-year.

Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Town Board. All proceedings must be recorded.
3. At the conclusion of the hearing, the Town Board will adopt a resolution containing the findings of facts and conclusions, including:
  - 3.1 Whether or not the requirements of C.R.S. 31-12-104 and 105, and of this Ordinance have been met,
  - 3.2 Whether or not additional terms and conditions are to be imposed; and
  - 3.3 Whether or not an election is required either as a result of a petition for election or the imposition of additional terms and conditions.

If the Town Board finds that the area proposed for annexation does not comply with the items above, the annexation proceeding will be terminated.

4. If the Town Board finds the annexation to be compliance with the items above and no additional terms and conditions are to be imposed, the Town Board immediately may pass the annexation ordinance. If additional terms and conditions are to be imposed which are not agreed to voluntarily and in writing by the landowners, an election must be held.
5. After passage of the annexation ordinance, the area is annexed as of the effective date of the ordinance. The effective date for taxation will be the ensuing January 1.
6. After final passage of the annexation ordinance, the Town will file one copy of the annexation map with the original of the annexation ordinance in the office of the Town Clerk and file for recording two certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the county clerk and recorder. The Town will ask the county clerk to forward one copy of the map and ordinance to the Division of Local Government in the Colorado Department of Local Affairs.
7. After final passage of the annexation ordinance, the Town may zone the property either at the same meeting or within ninety (90) days of recording of the annexation.

#### **M. General Development Plan.**

A General Development Plan must be prepared describing the desired use of the property after annexation. Annexations that have no General Development Plan will be zoned OS-R unless determined otherwise by the Town Board. The General Development Plan is required to determine the development intentions of the petitioners, to use as a basis for the negotiation of an Annexation Agreement, and to properly zone the property after annexation. Requirements for processing and preparing the General Development Plan are the same as for Rezoning and are found in Section II and Appendix E. Petitioners who desire PD zoning will follow the Planned Development District zoning requirements in preparing the General Development Plan.

## **APPENDICES**



## **APPENDIX A**

### **CONDITIONAL USE PERMIT SUBMISSION REQUIREMENTS**

An application for a conditional use permit shall include the following items.

- (1) The name, address, and phone number of the applicant on a completed application form supplied by the Town.
- (2) Narrative description of the proposal.
- (3) Names and addresses of all property owners within 300 feet of the subject property, disregarding any intervening public right-of-way. The source of such list shall be the records of the Fremont County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Fremont County Clerk and Recorder.
- (4) Legal description of the property affected.
- (5) Vicinity map.
- (6) Site development plan drawing, 24" x 36" with 2-foot contours, as applicable.
- (7) Any other information deemed appropriate by the Administrator for complete review of the application.

## **APPENDIX B**

### **SPECIAL USE PERMIT SUBMISSION REQUIREMENTS**

An application for a special use permit shall include the following items.

- (1) The name, address, and phone number of the applicant on a completed application form supplied by the Town.
- (2) Narrative description of the proposal.
- (3) Names and addresses of all property owners within 300 feet of the subject property, disregarding any intervening public right-of-way. The source of such list shall be the records of the Fremont County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Fremont County Clerk and Recorder.
- (4) Legal description of the property affected.
- (5) Vicinity map.
- (6) Site development plan drawing, 24" x 36" with 2-foot contours, as applicable.
- (7) Certified boundary survey, documented with legal descriptions.
- (8) Performance guarantee (as applicable).
- (9) A written discussion explaining conformance with special use criteria, water and sewer system contemplated, and the street and circulation system contemplated and connections to off-site streets.
- (10) Any other information deemed appropriate by the Administrator for complete review of the application.

## **APPENDIX C**

### **TEMPORARY USE PERMIT SUBMISSION REQUIREMENTS**

The following information shall be required to accompany an application for a temporary permit.

- (1) The name, address, and phone number of the applicant on a completed application form supplied by the Town.
- (2) A description of the proposal, including a discussion of hours of operation, potential noise impacts, parking accommodation, impacts on adjacent property, any associated signs or lighting, and provision for temporary utility services, as applicable.
- (3) Appropriate filing fee amount.
- (4) Any other information deemed appropriate by the Administrator for complete review of the application.

## APPENDIX D

### ANIMAL DENSITY STANDARDS

1. Animal Unit Definition - A term and number used to establish an equivalency for various species of livestock (e.g., one (1) cow is equivalent to twenty-five (25) rabbits). The number of livestock allowed by right is dependent upon bulk requirements of the Zone District. All Livestock shall have the following bulk requirements:

| Type of Animal | Number of animals per animal unit |
|----------------|-----------------------------------|
| Cow            | 1 or:                             |
| Horse          | 1 or:                             |
| Llama          | 2 or:                             |
| Swine**        | 2 or: <b><i>See amendment</i></b> |
| Ostriches      | 4 or:                             |
| Emus           | 5 or:                             |
| Alpacas        | 5 or:                             |
| Sheep          | 5 or:                             |
| Goats          | 5 or:                             |
| Poultry        | 25 or:                            |
| Rabbits        | 25 or:                            |

2. Offspring of a cow, horse, llama, swine, ostrich, emu, sheep, and goat will not count against the number of permitted animals for a period of time not to exceed one (1) year, all other six months.
3. The Board of Trustees may determine the number of animal units on a case by case basis for any animal not listed.
4. There shall be fifteen thousand (15,000) square feet of open space for each animal unit of permitted livestock permanently on the premises. This allotted area may include a building for shelter of the animals. A minimum of fifteen thousand (15,000) square feet is required for the first animal unit; thereafter, every portion of land which calculates into more than one-half (1/2) animal unit allowed on the property will be considered as one for determining total number of animals.
5. Minimum setback requirements for housing livestock:
  - a) Front yard - Twenty-five (25) Feet
  - b) Side yard - Twenty-five (25) Feet
  - c) Rear yard - Twenty-five (25) Feet

Note: One (1) acre is equivalent to 43,560 square feet.

**\*\*Appendix D.1.6 Is hereby amended to read, added:**  
Swine will require an annual special use permit.

## APPENDIX E

### REZONING (ZONING AMENDMENT) SUBMISSION REQUIREMENTS

A petition for rezoning shall include copies of the following items:

- (1) The name, address and phone number of the petitioner on a completed application form supplied by the Town.
- (2) A general description of all land affected if the amendment is to the zoning district map and a vicinity map.
- (3) Appropriate filing fee amount.
- (4) A description of the proposed change and a narrative describing the reasons or logic necessitating the proposed change.
- (5) Legal description of the property affected.
- (6) Proof of ownership in the form of a Title Policy or Title Commitment, including a schedule of exceptions to title, dated within 60 days of the application, showing that the applicant is the fee title owner of all subject property.
- (7) A list of all property owners (names and addresses) within 300 feet of the subject property, disregarding any intervening public right-of-way. The source of such a list shall be the records of the Fremont County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Fremont County Clerk and Recorder.
- (8) Evidence that the property can be served by public sewer and water services. Such evidence shall be in the form of a written commitment by the appropriate provider stating that such service will be available to the property ("commitment to serve" letter).
- (9) A map showing the location of the property at an appropriate scale.
- (10) Documented proof of legal access if the property does not have direct contiguous access to a public street or road.
- (11) Any other information deemed appropriate by the Administrator for complete review of the application. Such information may include, but is not limited to, a certified boundary survey and/or a site plan.

**APPENDIX F**

**PUBIC NOTICE AND PROPERTY POSTING PROCEDURE**

Posting notice on property for which an annexation, special use or rezoning application is pending shall be required. Such notice shall be posted by the applicant at least ten (10) days prior to a public hearing before the Planning Commission and/or Town Board. Preliminary Planned Development (PD) Plans and major PD amendments are included under this requirement.

**Sign Format**

The required notice shall consist of at least one (1) sign facing each adjacent right-of-way. Such sign(s) shall measure not less than two feet by three feet (2' x 3') and shall be erected on posts no less than four feet (4') above the ground level. Such sign shall read as follows:

NOTICE OF PUBLIC HEARING BEFORE THE (PLANNING  
COMMISSION OR TOWN BOARD OF TRUSTEES)

Notice is hereby given that the property upon which this sign is posted shall be considered for ( nature of request ) pursuant to the Town of Brookside Land Development Code. For further information contact the Town of Brookside at  . The public hearing is to be held on ( date ), at ( time ), or as soon thereafter as possible.

Name of Proposal:    
Case Number:   Date of Posting:

**Additional Requirements**

An affidavit verifying the date of the sign posting is required at least ten (10) days prior to the scheduled Planning Commission or town Board hearing date. Such affidavit shall be submitted to the Town for the applicant's file as per the following form:

Town of Brookside Planning Commission  
Brookside, Colorado

RE: PROPERTY NOTICE SIGN POSTING

Case No(s).

Property Name (if applicable)

Property Location \_\_\_\_\_

Hearing Date \_\_\_\_\_

(Before:) Planning Commission \_\_\_\_\_ Town Board \_\_\_\_\_

This letter is to certify that a sign giving notice of a public hearing was posted for the above case(s) on or before \_\_\_\_\_ per the requirements of the Town of Brookside Land Development Code.

Signature of applicant/Representative:

Date: \_\_\_\_\_

(Please print or type)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Town of Brookside staff will verify by on-site inspection that the required sign has been posted as certified by the applicant.

The posted sign shall be removed by the applicant within two (2) weeks following the final decision by the Town Board.

## APPENDIX G

### SITE DEVELOPMENT PLAN (SDP) SUBMISSION REQUIREMENTS

#### SDP Sketch Plans

- (1) A brief narrative of the project's purpose and general intent concerning land uses, circulation, open space, design concepts of buildings, proposed heights, densities, utility connections, drainage concept plan, and any other relevant information deemed important by the applicant to explain the project.
- (2) Sketch map of the proposed site layout at a scale of 1" = 50' or larger; a bar scale shall also be included.
  - (a) The date, a bar scale, a north arrow, site topography lines (2 foot contours preferred), major physical features, and existing vegetation should be noted.
  - (b) The zoning and general landscaping schemes for all property within 300 feet.
  - (c) The general planning theme as well as general architectural and signage standards and materials for the project.
  - (d) An illustration of the general location, character, square footage, height and use of all proposed structures.
  - (e) The location and function of adjacent streets as well as vehicle circulation, parking areas, pedestrian and transit facilities, drainage facilities, and landscaping for the site.

#### Site Development Plans/Formal Submittal

The following information shall be required on all drawings of SDPs, landscape plans and grading and drainage plans.

#### *General Requirements*

- (1) The name of the proposed development and submittal phase (centered at the top of the sheet).
- (2) A north arrow and a scale of 1" = 50' or larger.
- (3) Sheet size of 24" x 36" with the long dimension horizontal; the title block located in the lower portion of the sheet with the date of preparation.
- (4) Development phasing lines.



- (5) Topography at two (2 or 5) foot intervals.
- (6) The name, address and telephone number of the individual or firm who prepared the plans.
- (7) Approved plans shall be black line mylar. No sepia, ink or pencil drawings will be accepted. No sticky backs, stick-ons, or press-type letters or symbols will be allowed on the final mylars that are to be recorded. All signatures are to be in black, permanent ink. Mylars shall be in duplicate for the county and town permanent files.

#### *Site Development Plan Submittal Requirements*

The site development plan will contain a narrative including a general description of:

- (1) The scope of the project and its principal features and attributes;
- (2) Overall impacts of the proposed development on the adjoining properties;
- (3) Relationship to the Brookside Master Plan;
- (4) Zoning of property;
- (5) Name and address of the property owner, the developer if different than the property owner and the person(s) preparing the site plan;
- (6) Proof of ownership (deed, current title policy or endorsement up to 120 days old);
- (7) Legal description or lot and block number, subdivision name, name of project, and address of site, when applicable.
- (8) Description of the proposed development schedule and phases of development when construction will not be in one phase;
- (9) Include any other pertinent descriptive information relevant to the project.
- (10) In addition to the above, a traffic study by a professional traffic engineer which describes the impacts of the proposed development on the existing or proposed street system and measures and means for dealing with these impacts. This requirement may be waived by the Administrator based on the size and scope of the project.
- (11) A drainage plan and study prepared by a professional engineer detailing the analysis and method for directing and containing the run-off over and above the historical flow from the site. This requirement may be waived by the Administrator based on the size and scope of the project.

- (12) A soils report and geological and subsidence investigation report prepared by a professional engineer must be submitted for the site.
- (13) A fiscal impact report may be required.
- (14) Accompanying the narrative exhibit will be a graphic map that shows existing site characteristics including:
  - (a) The zoning, easements of record, existing structures, other improvements, and vegetation on the site as well as view corridors to and from the site. Structures to be removed should be indicated as such.
  - (b) For all surrounding property within 300 feet, this study shall indicate as-built density and name of subdivision(s). It shall also include the existing structures, parking areas, public and private streets (including dimensions and median and curb cuts), pedestrian and transit facilities, drainage facilities and landscaping, and fire hydrant locations.
  - (c) The names and addresses of the property owners, developers, and adjacent property owners, including those across transportation rights-of-way, alleys, and waterways or bodies.

#### *Site Development Plan Drawings*

The plan drawings are suggested to be on at least four (4) separate sheets. Sheet information may be combined depending on the scope and scale of the project with the concurrence of the Administrator. Certain drawing requirements may be waived by the Administrator depending on the scope and scale of the project.

- (1) Sheet #1 shall be a Cover Sheet including:
  - (a) Name of the development at the top of the sheet.
  - (b) A general vicinity map at an appropriate scale and including all existing or proposed freeways, arterials and major collector streets within one mile of the site.
  - (c) Legal description of the property being planned including section, 3 section, township and range.
  - (d) Any special notes listed by the plan sheet they refer to.
  - (e) Signature blocks for the Town Board, Planning Commission, and Owners or their representatives.
  - (f) Names and addresses of Plan Sheet preparers.

- (2) Sheet #2 shall be a Site Plan showing all proposed improvements, in detail, including:
  - (a) Property dimensions, including lot lines and lot design.
  - (b) Dimensions and location of all proposed structures, their footprints and height, the number of floors, number of dwelling units, all overhangs or protrusions into the public or private access routes, location of entrances and loading points. All structures must be dimensioned and their locations must be tied out, meaning sufficient information to determine the coordinates of any corner of any structure. Any structure within 10 feet of an easement must show the distance between the closest point of the structure to the nearest point of the easement. Note total building coverage -- percent and square footage. Include setback dimensions from property lines.
  - (c) Name and dimension of all public and private road rights-of-way, points of access on or adjacent to the proposed site and surface materials.
  - (d) Location, dimension and surface materials of required off-street parking and loading areas. (Note total number of parking spaces provided, the percentages of small car spaces and lighting arrangements).
  - (e) The structure's use (for parking calculations), the gross floor area, and the number of vehicle trips generated by the various uses on the site. Vehicle trip generation charts by use may be included in the traffic study.
  - (f) Dimensions and locations for all curb cuts, driving lanes, bicycle lanes, pedestrian ways, garages, carports, public transportation pick-up points, and mail box kiosks. All public improvements should be labeled, with dimensions, and tied out to property lines.
  - (g) Various notes, as necessary, shall be included.
  - (h) Dimensions and location of all walls, fences, and screen plantings adjacent to public rights-of-ways and on the site, particularly around recreational vehicle and equipment storage areas and trash disposal facilities.
  - (i) Location and dimensions of all existing and proposed drainage, utility, and other easements, water and sewer lines, water meters, and fire lanes and hydrants. Location and size of drainage facilities, and the direction of flow.
- (3) Sheet #3 shall be a Landscape Plan showing all landscaping and buffering details.

- (a) Dimensions, square footage, percent of site and location of open space and common areas shall be shown on the plan.
- (b) Open space as required for an zone district as specified in this ordinance. Percentage calculations for open space shall be shown.
- (c) Note all building entrances, pedestrian walks or paths, pedestrian oriented areas, and vehicular drives and exterior parking areas (including dimensions, materials, and type of surface finish). All recreation areas, use and general equipment locations, as well as all fences, garden structures, and plazas shall be shown. Construction details showing methods of construction, materials, finishes, colors, and the type and location of the irrigation system shall be included.
- (d) All slopes and mound areas within the site shall be called out.
- (e) The plan shall identify and locate plant masses and type of plants.
- (f) All lawn areas and ground cover areas shall be identified including the square footage of the area and the living and non-living plant materials to be used.
- (g) Various notes, symbols, and general information shall be placed on all landscape plans as necessary. The following conditions shall apply:
  - ((1)) Landscape installation shall be completed prior to issuance of Certificate of Occupancy.
  - ((2)) A statement or note concerning quantity and method of application of suitable soil preparation as determined by soil type. Soil type shall be stated in the note.
  - ((3)) General description of the automatic landscape irrigation system. If the type of system varies on the site it shall be so stated.

((4))Sheet #4 shall show architectural elevations for all structures. It shall be 24" x 36" and be drawn at a scale of 1/8" - 1' or larger. All sides of the structures shall be shown. Descriptions of all materials and colors shall be included. Depending on the scale of the project, elevations may or may not be required at the discretion of the Administrator.

## SITE PLAN SUBMITTAL REQUIREMENTS

The site plan shall include a plan drawn to scale with the following information:

1. Topography of the land to be developed with a minimum 5 foot contour interval, but 2 foot intervals are encouraged.
2. Proposed access to the existing street system and proposed improvements to the street system including driveway access points and widths.
3. Existing development on the property and improvements to be made to the property including now buildings, landscaping, parking and proposed sign locations.
4. The location of any known natural hazard such as flood plains which may affect the property.
5. Detailed architectural drawings showing the color, exterior materials, screening of outside storage areas, lighting fixtures and buffering or screening of mechanical equipment.

## APPENDIX H

### SUBMITTAL REQUIREMENTS FOR PLANNED DEVELOPMENT DISTRICT AMENDMENTS

1. The applicant shall submit twenty (20) copies of graphic documents similar in format for PD Plans with specific approval signature blocks for ownership of the PD amendment area, Planning Commission approval, Board of Trustees approval and Clerk and Recorders Certificate, *plus* the legal description of the amendment area and the dates when the original Preliminary PD Plans or ODPs were recorded and the particular file, map, and recording page numbers. The word "amendment" shall appear under the PD title at the top of the page. The staff will indicate the level of detail necessary for the graphic and narrative submittals.
2. The proposed amendment(s) shall be clearly indicated on a site plan and a written narrative explaining in detail the changes from the original Preliminary or ODP approval must accompany the site plan.
3. A list of property owners both within and external to the PD amendment area and up to three hundred (300) feet from the boundary of the PD amendment area. The applicant shall give notice to these owners within fifteen (15) days of the hearings before the Planning Commission and the Board of Trustees by mail, return receipt requested. The Planning Director will determine which properties within the entire or original planned unit development would be affected by the proposed change, and all owners of such property shall also receive notice.
4. A land use chart showing all originally approved residential densities, numbers of units, nonresidential densities or Floor Area Ratios (FARs), and nonresidential square footage compared to the new densities, unit numbers, FARs and square footages.
5. Development Plan Sheet showing:
  - a. use list for all planning areas and maximum heights of uses;
  - b. major circulation system;
  - c. planning area acreages and densities;
  - d. open space areas/trails/parks/ recreation facilities;
  - e. utility facilities (water, sewer, drainage, etc., on a generalized engineering level);
  - f. public facilities locations and proposed dedication areas.

6. Initial Development Phasing Timetable.
7. Legal descriptions of amendment area tied to original boundary survey.
8. Title insurance commitment or policy dated a maximum of 15 days prior to the date of application.

### **FINAL PLANNED DEVELOPMENT PLAN SUBMITTAL REQUIREMENTS**

The submission requirements for a Final PD Plan shall contain the following material:

- (1) An application for approval of a Final PD Plan must be filed by a person having an interest in the property to be included in the planned development and must include a consent by the owners of all property to be included in the planned development.
- (2) A complete site plan showing the major details of the proposed planned development prepared at a scale of not less than 1" = 100' shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the final planned development. The site plan and supporting documents shall also indicate:
  - (a) A listing of all permitted uses within the PD and/or each separate planning area.
  - (b) The location of all existing and proposed buildings, structures, and improvements, separated into planning areas, if applicable.
  - (c) The maximum height of all buildings.
  - (d) The density and type of dwellings. Gross square footages and ground coverage of all nonresidential structures (Floor Area Ratio).
  - (e) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way.
  - (f) The location, height, and size of proposed signs, lighting and advertising devices.
  - (g) The areas which are to be conveyed, dedicated or reserved as general open space, common park areas, including public parks and recreational areas, and as sites for schools or other public buildings.
  - (h) The proportion of land to be left in a natural condition as major open space, stated in terms of acreage or square footage, as well as the ratio of open space in areas to be developed stated on a square feet per unit basis.

- (i) An explanation of the objectives to be achieved by the planned development, including building descriptions, sketches or elevations as may be required to describe the objectives.
- (j) A refined development phasing schedule indicating the approximate date when construction of the planned development or stages of the planned development can be expected to begin and be completed.
- (k) A description of snow removal methods or techniques to be utilized, as appropriate.
- (l) A description of the proposed method of providing ongoing (permanent) maintenance of all commonly owned or publicly dedicated buildings, facilities, areas and thoroughfares.
- (m) Copies of any special agreements, conveyances, restrictions, or covenants, which will govern the use, maintenance, and continued protection of the planned development and any of its common areas. Such documents shall be in conformance with the requirements of 24-67-101, et. seq. C.R.S. 1963, as amended and commonly referred to as the Planned Unit Development Act of 1972.
- (n) Sections (a), (c), (d), and (h) should be combined into a chart/table.

A description of drainage/runoff considerations within and outside the PD.



## APPENDIX I

### SUBMISSION REQUIREMENTS FOR SUBDIVISIONS

#### MINOR SUBDIVISION SUBMITTAL REQUIREMENTS

Applicants should submit three (3) copies of the following preliminary plan materials to the **Administrator**:

- (1) A title insurance commitment or policy including a schedule of exceptions to title, or an attorney's title opinion addressed to the Town, dated or endorsed to a date no more than fifteen (15) days prior to the date of application, showing that the applicant is the fee title owner of all subject property. If such property is encumbered, it shall be required that such lien holder join in the dedication. It is the responsibility of the applicant to keep title policies current.
- (2) Documented proof of availability of central sewer and potable water utility services.
- (3) Documented proof of legal access if the subject property does not have direct contiguous access to a public road or street.
- (4) Any other special reports required by the Planning Commission.
- (5) Any proposed Subdivision Improvements Agreement.
- (6) Legal documents pertaining to the organization of any homeowners association for the maintenance of private roads, open space, etc., and other documents as required.
- (7) Label the current zoning on the subject and adjoining properties.
- (8) Location of trash pick-up area, if required by the Commission.

The Plat shall contain the following information:

- (1) Title of plat and the phrase: "Minor Subdivision - Final Plat" underneath.
- (2) Legal descriptions of property location by subdivision.
- (3) Prior reception number of previous property transfer; original subdivision name, if any, and book/page reference in Fremont County records.
- (4) Basis of bearing and description and location of primary control points of monuments both found and set and ties to such control points to which all dimensions, angles, bearings and similar data on plat shall be referred.

- (5) A scale drawing of tract boundary lines, right-of-way lines of streets, easements and other rights-of-ways and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves with long chord bearings and distances.
- (6) Names and right-of-way width of each street or other rights-of-way together with block and lot numbers.
- (7) Location, dimensions and purpose of any easement, including reference by book and page to any preexisting recorded easements.
- (8) All dimensions necessary to establish the boundaries in the field.
- (9) Planned locations (with dimensions) of all improvements (building footprints, parking, etc.) on the site for airspace subdivision plats (condos, townhomes, etc.)
- (10) Dimensions of improvements.
- (11) Notation of scale of drawing or representative fraction of the drawing(s), a bar-type graphical scale, north arrow (north is to point to the top of the plat sheet) and date of drawing.
- (12) Notation of which areas, other than residential lots, are dedicated or reserved, such as for open space.
- (13) Dedications and certifications by the owner and lien holder platting the property dedicating the streets, rights-of-way, easements and any sites for the Town of Brookside's public uses or open spaces.
- (14) Certification by a surveyor insuring the accuracy of the survey and plat and certifying compliance with the requirements of C.R.S. Title 38, Article 51, and the requirements of these Regulations in the preparation of the final plat.
- (15) Certificate of approval by the Planning Commission and Town Board.
- (16) A general vicinity map showing the location of the subdivision being platted and the name of any underlying subdivision.
- (17) Location of sewer and water service lines and mains.
- (18) Contour lines at two foot (2') intervals after any grading is completed.
- (19) Statements describing improvements to the site such as revegetation measures, means of defining parking, surface material of parking and drives, etc.
- (20) Show by the use of dashed lines the required front, rear and side setbacks on typical lots or state setbacks by use type in a chart.

(21) Ownership title description reference.

(22) Planned drainage areas for accommodating historic flows plus any increased runoff on the property resulting from development.

## MAJOR SUBDIVISION SUBMITTAL REQUIREMENTS

### Sketch Plan Submittal Requirements

Developers should submit \_\_\_ copies of the sketch plan to the Administrator. The sketch plan should include the following items:

- (1) A map showing the general location of the proposed subdivision, its property boundaries, and the direction of True North.
- (2) The name and address of the developer,
- (3) The proposed name and location of the subdivision,
- (4) The approximate total acreage of the proposed subdivision,
- (5) The tentative street and lot arrangement,
- (6) Topographic contours from available data, such as United States Geological Survey topographic maps.
- (7) A lot and street layout indicating general scaled dimensions of lots to the nearest foot.
- (8) Evidence that prior to the subdivision of any unsubdivided land or the resubdivision of any land within the corporate limits of the Town of Brookside or prior to the annexation of any land to the Town for the purpose of subdividing, the developer shall be able to convey, transfer or assign to the Town adjudicated water rights of sufficient priority that the rights will yield annually to the Town a quantity of water equal to 1.5 times the water required to serve the proposed development.

In lieu of the conveyance of such water to the Town of Brookside, the developer, with the consent of the Board of Trustees, shall be prepared to pay to the Town the money equivalent of such water. The money equivalent shall be that amount determined by the Board of Trustees as being equal in value to the water required herein.

This evidence shall be provided by the developer to the Planning Commission at the sketch plan stage to prove that the water rights described above are available for conveyance and sufficient in terms of quality, quantity, and dependability to satisfy the requirements of this Ordinance. Such evidence may include, but shall not necessarily be limited to:

- (a) Evidence of ownership or rights of acquisition of or use of existing or proposed water rights.
- (b) Historic use and estimated yield of claimed water rights.

- (c) Amenability of existing rights to a change in use.
  - (d) Evidence concerning the potability of the claimed water rights.
- (9) The sketch plan shall contain a description of the water distribution system contemplated for the proposed development.
- (10) The sketch plan shall contain a description of the sewer collection system contemplated for the proposed development.
- (11) A report and map showing all the significant natural and man-made features on the site and within one-half mile of any portion of the site. This report will include streams, canals, lakes, vegetation and geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision. Specific emphasis should be placed on those portions of the site located in designated floodplain or undermined areas.
- (12) A map showing soil types and their boundaries, as shown on Soil Survey Maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, and also a table of all interpretations for the soil types shown on the soil map prepared by the Soil Conservation Service. (Requests for these maps and tables are made to the local Soil Conservation District; the subdivision does not need to be in a soil conservation district to obtain the map and table or have them prepared).
- (13) The scale of the Sketch Plan shall be not less than one inch (1") equals two hundred feet (200'). Some variation from this will be acceptable in the case of large subdivisions provided the plans and design are clearly legible. The sketch plan shall include the name of the subdivision, and block and lot numbers. In the case of large subdivisions requiring more than two sheets at such a scale, an area plan showing the total area on a single sheet and an appropriate scale shall also be submitted.
- (14) Any other information the developer believes necessary to obtain the informal opinion of the planning staff as to the proposed subdivision's compliance with the requirements of this chapter.

### **Preliminary Plat Submission Requirements**

The Preliminary Plat application shall contain the following:

- (1) One copy of an Application for Approval of a Preliminary Plat and all required supporting documents.
- (2) Certified check payable to the Town for filing fees as established by the Town Clerk.

- (3) A minimum of ten (10) black on white or blue on white prints of the Preliminary Plat and required supporting documents.
- (4) One additional set of materials is required when the property being subdivided abuts a State highway.
- (5) Summary Statement of Proposal including the following:
  - (a) Total acres to be subdivided.
  - (b) Total number of proposed dwelling units.
  - (c) Total number of square feet of non-residential floor space.
  - (d) Total number of off-street parking spaces, including those associated with single family residential use.
  - (e) Estimated total number of gallons of water per day required.
  - (f) Estimated total number of gallons per day of sewage to be treated.
  - (g) Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other facilities as may be necessary to complete the development plan.
- (6) List prepared by a licensed title or abstract company of all owners of record of property adjacent to and within 300 feet of the area of the proposed subdivision, including their addresses. This information will be utilized for notification of meeting time and date.
- (7) Such other preliminary information as may be required by the Planning Commission in order to adequately review the plat. Preliminary data should be prepared in graphic form avoiding time consuming final drafting procedures and detailed calculations.

The minimum data required for preliminary review are as follows:

- (a) Location Map

Select a scale from 1" = 500' to 1" = 1000', sufficient to show the proposed internal and the existing external road systems. Significant topographic features should be shown.

- (b) Preliminary Street Plans

1" = 50' with two (2) foot contours with alignment, graphic dimensions of right-of-way widths, curve radii, and tangent lengths. The proposed typical structural and geometric cross sections, location, type and approximate size of appurtenant structures, such as bridges, culverts, traffic control devices, lot lines and other design features should all be shown.

(c) Preliminary Street Profiles

Preliminary profiles based upon the contours and the sketched alignments should be provided showing graphic grades, proposed lengths of vertical curves, limits of horizontal curves, and locations of bridges and major culverts. Where streets are to be temporarily stubbed at site or plat boundaries, the profiles should extend sufficiently beyond the boundary to assure the feasibility of a future extension that can conform to standards.

(d) Preliminary Drainage Plan and Report

The preliminary plan and report should contain the following minimum data. A basin contour map defining the drainage basins and illustrating the existing drainage patterns and concentration points with rough estimates of contributory acreage and runoff amounts. A sketch of the proposed land development showing the consequent changes in the drainage patterns, concentration points and flooding limits with estimates of acreage, runoff coefficients and runoff amounts for the areas to be developed both now and in the future within each basin. A narrative of the proposed handling of the increased drainage at the concentration points or of internal pattern changes.

(e) Preliminary Design of Utilities

Preliminary plans and profiles of the proposed water and sewer facilities should be provided showing the location of all existing and/or proposed water and sewer and other utilities relative to the development. Indicate the size, type and other pertinent data for all existing and proposed utility improvements.

(f) Preliminary Landscaping Plan

A preliminary landscaping plan shall be submitted which shall show the approximate size and types of proposed planting and the location of the planting and its spacing. The plan shall also show the approximate location, type, height, spacing, and physical health of existing vegetation. A statement will be required explaining the intent of the preliminary landscaping plan, as for screening purposes and specimen tree plantings.

(g) Letter from the fire district concerning fire protection and fire flow requirements for the proposed subdivision.

## **Preliminary Plat Drawing Requirements**

The accuracy and location of alignments, boundaries, and monuments shall be certified by a registered land surveyor licensed to practice in the State of Colorado. A poorly drawn or illegible plat is sufficient cause for its rejection. The following data shall be included as part of the Preliminary Plat submission:

- (1) Name of proposed subdivision.
- (2) Location of subdivision as a part of some larger subdivision or tract of land and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner.
- (3) Names and addresses of the subdivider, the designer of the subdivision, and the engineer and surveyor both of whom shall be licensed by the State of Colorado Board of Registration for Professional Engineers and Land Surveyors.
- (4) Date of preparation, map scale, and north sign.
- (5) Location by survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes, or other water features, including direction of flow, water level elevations, and typical depths and location and extent of areas subject to inundation by a 100 year storm.
- (6) A traverse map of the documented perimeter of the proposed subdivision along with all survey notes of subdivision perimeter and copies of all monument records. The traverse shall have an error of closure of not greater than one part in 10,000. A survey tie to the State coordinate system or other permanent marker established by the Town is required if practical.
- (7) The existing topography of the proposed development site shall be shown. A two foot contour interval shall be used in areas where the predominant ground slope is less than five (5) percent. A five foot contour interval shall be used in areas where the predominant ground slope exceeds five (5) percent. In cases where predominately level topography occurs throughout a subdivision a one foot contour interval may be required. Elevation data shall be referenced to U.S.G.S. datum. The mapping accuracy shall be as specified by the American Society of Photogrammetry.
- (8) Lot and street layout.
- (9) Scaled dimensions of all lots to nearest foot and the area of each lot to the nearest square foot.
- (10) Total acreage of entire proposed subdivision.
- (11) Lots and blocks numbered consecutively.



- (12) Location and principal dimensions and identification of all existing and proposed public and private easements and rights-of-way.
- (13) Existing and proposed street names.
- (14) The plat shall be drawn to a scale of one inch (1") equals one hundred feet (100'), and shall indicate the basis of bearings, true north point, name of the subdivision, name of municipality, township, range, section and quarter section, block and lot number (of the property under consideration).
- (15) An affidavit or valid title commitment that the applicant is the owner or equitable owner or authorized by the owner, in writing, to make application for the land proposed to be subdivided.
- (16) Location of sites to be reserved or dedicated for parks, playgrounds, schools, or other public uses except streets and utility easements. The Planning Commission, upon consideration of Town circulation and facilities and the future requirements of the subdivision, shall require the dedication of areas or sites of a character extent and location suitable for public use for schools and parks.

At the time of submission of the preliminary plan, the developer shall submit an agreement for the dedication of land for public parks and school sites according to one of the following alternatives. Said proposal shall outline the conveyance of said lands or the payment of monies in lieu of land subject to the following guidelines:

- (a) Six (6) percent of the gross land area shall be dedicated to the Town for schools, parks, open space, police and fire stations, or other public uses.
  - (b) At the option of the Board of Trustees, the developer shall, in lieu of such conveyance of land, pay to the Town in cash or terms acceptable to the Board of Trustees, an amount equal to six (6) percent of the fair market value of the land as determined by appraisal on the date of the approval of the subdivision. If the Town of Brookside and the developer fail to agree on the fair market value of the land, the fair market value shall be fixed and established by a qualified appraiser selected by the Town and the developer.
  - (c) At the discretion of the Board of Trustees, the subdivider may provide a combination of (a) and (b) above to satisfy the public site requirements.
- (17) Sites, if any, for multifamily dwellings, shopping centers, community facilities, industrial or other uses, exclusive of single-family dwellings.
  - (18) Location, function, ownership and manner of maintenance of common open space not otherwise reserved or dedicated for public use. Information other than location of these areas is to be provided in a separate document.

- (19) A separate location and vicinity map showing the following information within a one-half (1/2) mile distance of the perimeter of the proposed plat.
  - (a) Names and outlines of abutting subdivisions.
  - (b) Related existing and planned streets and highway systems.
  - (c) Subdivision boundary lines.
  - (d) Zoning districts, taxing districts and other special districts, if any.
  - (e) Water courses.
  - (f) Significant vegetation patterns.
- (20) The subdivision street layout showing the following:
  - (a) Proposed future street layout in dashed lines for any portion or parcel of the plat which is not being subdivided at the present time.

### **Final Plat Submission Requirements**

The Final Plat shall conform to and include the following:

- (1) The Final Plat submission shall conform in all major respects to the Preliminary Plat as previously reviewed and approved by the Planning Commission and shall incorporate all modifications required in its review. The Planning Commission, however, may approve a Final Plat which has been modified to reflect improvements in design or changes which have occurred in its natural surroundings and environment since the time of the Preliminary Plat review and approval.
- (2) A Final Plat may be submitted in sections or filings covering representative and reasonable portions of the subdivision tract. In such cases submission shall include a map, indicating the sections designated for the entire tract, and each sheet numbered accordingly, including title, legend, matchlines, and other appropriate information. Where an entire parcel is not subdivided, the subdivider must indicate his intended plans for disposition of the remainder of the parcel.
- (3) One (1) copy of the application form for review of a Final Plat.
- (4) Three (3) black on white or blue on white prints of the Final Plat.
- (5) Three (3) copies of the engineering plans and all required supplemental material.

- (6) The original reproducible drawing of the Final Plat prepared in accordance with the requirements of this Ordinance. Submit after final approval of Town Board within 7 days.
- (7) A certified check payable to the Town of Brookside review and filing fees for a final plat as established by the Town.
- (8) All dedications, reservations, or agreements concerning parks, school sites, and access roads are subject to Brookside Town Board approval. Where such action involves another public agency, a letter of clearance from that agency shall accompany the Final Plat application.
- (9) A signed warranty deed conveying six (6) percent of such land designated for public use or, at the discretion of the Board of Trustees, a certified check for an amount as may have been agreed to at the time the Preliminary Plat was approved. The deed shall be accompanied by a title insurance policy or other evidence that the land is free and clear of all taxes, liens, or other encumbrances.
- (10) In the case of a planned unit development an official signed deed dedicating or reserving certain tracts or the development rights to such tracts for local use as may have been agreed to at the time the Preliminary Plat was approved. The deed shall be accompanied by a title insurance policy or other evidence that the land is free and clear of all taxes, liens or other encumbrances.
- (11) An official signed document conveying the water rights required by this Ordinance to the Town, or, at the discretion of the Board of Trustees, a certified check for an amount as may have been agreed to at the time the Preliminary Plat was approved. The document shall be accompanied by a title insurance policy or other evidence that the water is free and clear of all taxes, liens, or other encumbrances.
- (12) A bond acceptable to the Town of Brookside, or in the alternative, a letter of credit, or a certified or suitable check equal to the total estimated construction cost of all required subdivision improvements not yet completed at the time of application for final plat approval. Such improvements shall include but not necessarily be limited to streets, roads, paving, curb and gutter, sidewalks, storm sewers, sanitary sewers including collectors and outfall lines, water distribution and transmission lines, fire hydrants, street lights, street signs, traffic control devices, survey monuments, culverts, bridges and landscaping features. Bonds or letters of credit may be negotiated based on development phases of the subdivision.
- (13) An executed copy of the Subdivision Improvements agreement.
- (14) An exact copy of a certificate of a title insurance company or abstract of title suitably certified or certificate of title or title opinion submitted by an attorney which shall set forth the names of all owners of property included in the plat and shall include a list of all mortgages, judgments, liens, easements, contracts and agreements of record, which shall affect the property covered by such plats. If the

title opinion or commitment discloses any of the above, then at the option of the Planning Commission, the holders or owners of such mortgages, judgments, liens, easements, contracts, or agreements shall be required to join in and approve the application before the plat shall be acted upon by the Planning Commission.

- (15) Where a homeowners association or other entity is to be used for the administration and maintenance of private roads or open space and recreational facilities, a binding and perpetual agreement in regard to maintenance and access control shall be submitted with the Final Plat. Such agreement shall be in a form acceptable to the Town Attorney and the Planning Commission and shall include provisions for:
- (a) Adequate funding and self-enforcement by the homeowners association of the terms contained in the agreement.
  - (b) Continuous safety inspections and immediate follow-up maintenance to correct unsafe conditions.
  - (c) Receiving and processing complaints by authorized users of the private roads or open space and recreational facilities.
  - (d) Requiring written permission from the Board of Trustees before the association can be dissolved.
- (16) Where a portion of an existing easement is contiguous to a proposed easement for right-of-way of a new subdivision, proof of the dedication of the existing easement or right-of-way acceptable to the Town Planning Commission must be submitted.
- (17) When a new street will intersect with a State Highway, a copy of the State Highway permit shall be submitted
- (18) If a plat is revised, a copy of the old plat shall be provided for comparison purposes.
- (19) A summary statement shall be submitted which shall include the following:
- (a) Total development area.
  - (b) Total number of proposed dwelling units.
  - (c) Estimated total number of gallons per day of water system requirements.
  - (d) Estimated total number of gallons per day of sewage to be treated.
  - (e) Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, flood plain protection, storm drainage facilities, and such other facilities as

may be necessary. If improvements are not to be completed prior to approval of the Final Plat, the cost estimates included in this statement shall be identical to those included in the improvement agreement.

- (20) Certification of inclusion of the land represented by the Final Plat in any municipal or quasi-municipal district(s) formed for the purpose of providing sanitary sewer service and which has jurisdiction in the area platted.
- (21) Certification from any special district having jurisdiction that all applicable fees have been paid relative to the Final Plat including sewer connection fees and/or plant investment fees or that an agreement has been executed acceptable to the District for such payment.
- (22) A certified or suitable check payable to the Town of Brookside for the applicable water tap fees and/or plant investment fees represented by the area being platted. In the alternative, the developer shall submit a contract for payment of said fees in a manner and form acceptable to the Town.
- (23) No subdivision shall be approved until such data, surveys, analyses, studies, plans and designs have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the Town and the conditions contained in these subdivision regulations and all other applicable Ordinances of the Town. The minimum data required for Final Plat review are as follows:
  - (a) Street Construction Plans and Profiles.

The typical street geometric and structural cross section is to be shown on each plan sheet. The plan must show right-of-way lines and widths, street name, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths, intersections, structures, skew angles, curb lines, cross pans, traffic control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii, and all other features to enable construction in accordance with approved standards. Scale 1" = 50'.

The profiles are to include ground lines, grade lines, vertical curves, curve lengths, calculated grades, elevations, intersections and other critical points, structures, and all other features required to enable construction in accordance with approved standards. The scale to be 1" = 50" horizontal and 1" = 1' to 1" = 5' vertical in flat and rolling terrain. The horizontal to vertical distortion is to be chosen to best depict the critical elevation aspects of the design. Where centerline grades at intersections are steep, curb return profiles are to be submitted showing necessary modifications to eliminate unsightly bumps or water retaining depressions that many times result.

Sufficient data should be given to construct major structures and road appurtenances, such as bridges, large culverts, curbs, drives, walks, cross pans,

etc. Detail should include orientation, line and grade, cross sections, dimensions, reinforcement schedules, materials, quality, specifications, etc.

A structural section design report shall be submitted if a section other than the Town standard structure section is to be used. The design criteria set forth in the Street Standards and Specifications Ordinance of the Town of Brookside provided such ordinance exists, shall be used in the preparation of the final street construction plans and profiles.

(b) Final Drainage Plans and Reports.

Plans and specifications based upon the approved Preliminary Plat and associated reports are to be submitted detailing design of the final storm drainage system, including construction details and alignment of storm sewers, catch basins, manholes, ditches, slope protection, dams, energy dissipators, etc.

Flow line profiles and layout elevations shall be at minimum 100 foot stations, and natural ground elevations shown to indicate any significant irregularities for all proposed conduits, channels, structures, etc.

Cross-sections of each water carrier shall be shown showing high water elevations and adjacent features which may be affected thereby.

Construction details of curb, curb and gutter, valley gutter, driveway apron and ditch culvert, shall be included. Written approvals as may be required from other agencies or parties that may be affected by the drainage proposal shall also be submitted.

The drainage report shall include the supporting calculations for runoffs, times of concentration and flow capacity with all assumptions clearly stated and with proper justification when needed or requested.

The final drainage plan shall be prepared in conformance with the design criteria set forth in the Street Standards and Specifications Ordinance of the Town of Brookside, provided such exists.

(c) Final utility plans and profiles.

Plans and specifications based upon the approved Preliminary Plat and associated reports are to be submitted detailing the design of final water, sanitary sewer, natural gas, telephone, electric and cable television facilities to be installed in the area included in the final plat. In addition, final design is required of any off-site facilities related to the above described utilities which may be considered an integral part of the utilities plan for the subdivision.

Water utility facilities design shall conform to the criteria set forth in the Water System Design and Construction Standards Ordinance of the Town of Brookside, provided such Ordinance exists.

Sewer utility facilities design shall conform to the criteria set forth in the Sewer System Design and Construction Standards adopted by the Town or any special district of competent jurisdiction, provided such Ordinance exists.

### **Final Plat Drawing Requirements**

The Final Plat shall be prepared and certification made as to its accuracy by a registered land surveyor licensed to practice in the State of Colorado. A poorly drawn or illegible plat is sufficient cause for its rejection.

The following will be required of final plats:

- (1) Said plat shall be in the form of a black india inked mylar that is suitable for recording in Fremont County and capable of reproducing clear and sharp reproductions of all details, signatures, and notary seals.
- (2) No plats using sepia ink or pencil or containing stick-ons will be accepted.
- (3) All signatures on the plat are to be in black permanent ink.
- (4) The plat sheet shall have outer dimensions of 24" by 36". The plat drawing will be contained within a space defined by a one and one-half inch (1-2") margin from the left sheet edge and a one-half inch (2") margin from the other three sheet edges.
- (5) Applicants are encouraged to use more than one sheet to avoid the crowding of information on one sheet. Sheets are to be designated as sheet x of y sheets.
- (6) The scale of the plat drawing shall be one hundred feet equal to one inch (100' = 1"). Other scales may be approved by the Administrator.

Good draftsmanship shall be required in order for all of the following information to be shown accurately and legibly. It shall contain the following:

- (1) Title, scale, north sign, and date.
- (2) Primary survey control points, monuments, descriptions and ties, dimensions, angles, bearings, and similar data shall be shown on the Plat as may be needed to determine boundary and lot closures. Primary control points and monuments shall be as specified by State law and shall actually exist in the field before Final Plat approval. Road intersections and ends shall be suitably monumented and ties filed with the Town Clerk for engineering review prior to acceptance for maintenance.

- (3) Tract boundary lines, rights-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves.
- (4) Name and right-of-way width of each street or other rights-of-way.
- (5) Location, dimensions, and purpose of any easements.
- (6) Number to identify each lot or site and each block.
- (7) Location and description of monuments.
- (8) Certificate of Acceptance, as outlined below.

#### NOTICE

*Public Notice is hereby given that acceptance of this platted subdivision by the Town of Brookside does not constitute an acceptance of the roads and rights-of-way reflected hereon for maintenance by said Town.*

*Until such roads and rights-of-way meet Town Road Specifications and are specifically accepted by this Town by recording with the Clerk of this Town an official "acceptance", the maintenance, construction, and all other matters pertaining to or affecting said roads and rights-of-way are the sole responsibility of the owners of the land embraced within this subdivision. Town "acceptance" of the roads and rights-of-way of this platted subdivision shall not be given unless all utilities proposed to be installed in such roads have been constructed and the roads and rights-of-way completed thereafter to Town standards.*

*Notice is further given that no more than ten percent (10%) of the building occupancy certificates will be issued by officials of this Town for improvements of any nature on any property reflected on this platted subdivision until such time as the "acceptance" as hereinabove described has been filed for record with the Clerk of this Town.*

- (9) Excepted parcels shall be marked "Not included in this subdivision" and the boundary completely indicated by bearings and distances. A tie shall be provided to indicate the relationship of such a parcel to the area platted.
- (10) All land within the boundaries of the plat shall be accounted for either as lots, walkways, streets, alleys or excepted parcels.
- (11) Parcels not contiguous shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties



may be embraced in one plat, provided that all owners join in the dedication and acknowledgement.

- (12) Lengths shall be shown to hundredths of a foot, and angles and bearings shall be shown to seconds of arc.
- (13) Block and lot permanent reference points shall be set.
- (14) The surveyor preparing the plat shall certify on the plat that it conforms to these regulations and to all applicable State laws and that the monuments described in it have been placed as described. He shall affix his name and seal.

## APPENDIX J

### SIGN PERMIT SUBMISSION REQUIREMENTS

- (1) Name, address, and telephone number of applicant.
- (2) A map showing the location of the building, structure, or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings and thoroughfares: such a map must be to scale.
- (3) A plan showing design of sign, materials used, and method of construction and means of attachment to the building or the ground; such plans must be to scale.
- (4) Name of person, firm, corporation or association erecting, altering, or moving said sign.
- (5) Written consent of the owner of the land on which the sign is to be erected, altered, or relocated.
- (6) Any electrical or building permit required and issued for said sign under Town ordinances.
- (7) Any other information as the Building Inspector shall require in order to show full compliance with this and all other applicable laws of the Town.