

ORDINANCE NO. 2138

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLES 2, 10, 12, 15, 16, AND 17 OF THE BROOMFIELD MUNICIPAL CODE REGARDING THE DEVELOPMENT REVIEW PROCESS AND PLANNING AND ZONING COMMISSION

WHEREAS, the City Council discussed various approaches to updating the land use review process at public meetings on April 21, 2020 and May 12, 2020; and

WHEREAS, the updates included herein are intended to offer a more streamlined review process for property owners and developers and to provide an incentive for businesses to choose to develop and invest in Broomfield; and

WHEREAS, an increase in the number of zoning variance applications and changes to the development review process necessitate dividing the current responsibilities of the Planning and Zoning Commission into two separate boards.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. Chapter 2-40, Planning and Zoning Commission, of the Broomfield Municipal Code, is repealed in its entirety and shall be replaced to read as follows:

Chapter 2-40 - Board of Adjustment

2-40-010 - Created.

Pursuant to the authority conferred by chapter XI of the Charter, there is created a neighborhood board of adjustment (the “board”) for the city.

2-40-020 - Members; term of office.

- (A) The board shall consist of seven members, who shall not be members of the city council, but who shall be appointed by city council. Council may also appoint an alternate member.**
- (B) Upon appointment of board members for the first time after the creation of the neighborhood board of adjustment, the term of three regular members shall be for one year, the term of four regular members shall be for three years, and the term of the alternate shall be for one year. Thereafter, regular members shall serve four-year terms or until his or her successors take office, provided that any appointment made to fill an unexpired term shall be for the balance of such term, and alternate members shall serve two-year terms. A member may not serve more than two successive four-year terms, but may be appointed as an alternate after serving two successive four-year terms. An alternate may serve any number of successive terms. For purposes herein, a member must have served for twenty-four months or greater in**

order to have served a term. Any term limit required pursuant to this section may be waived by a super majority of eight affirmative votes of the city council.

- (C) If any regular member is absent from any meeting of the board, the alternate member may serve in such member's place with all the powers and duties of the absent member.

2-40-030 - Members; qualifications.

All members of the board shall be bona fide residents of the city, and if any member ceases to reside in the city, his or her membership shall immediately terminate. All members of the board shall serve as such without compensation.

2-40-040 - Organization; term of office.

The board shall elect its chair from among the appointed members and create and fill such other of its offices as it may determine. The term of the chair shall be one year, with eligibility for re-election. The board shall hold at least one regular meeting in each month, and such meetings may be held consecutively on the same date, unless there are no cases scheduled to be heard before the board for that month. The board shall adopt rules for transaction of business, and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. Each appointed member is expected to attend all regularly scheduled meetings. Members who have missed an excessive number of regularly scheduled meetings or who have three or more consecutive unexcused absences may be removed from their appointment by act of the city council. Unexcused absences are those absences that were not communicated to the chair or to the city staff member assigned to the board prior to a regularly scheduled meeting. Members may also be removed from office by the city council under the provisions of section 11.2 of the Charter.

2-40-050 - Reserved

2-40-060 - Powers and duties generally.

- (A) The board shall have all of the powers and perform each and all of the duties specified in this chapter and in titles 16 and 17, B.M.C.
- (B) The board shall have all of the powers, duties, and responsibilities, and shall perform all functions of the following:
- (1) The Board of Appeals, as set forth in the International Building Code, as adopted in title 15 of this code.
 - (2) The Board of Appeals, as set forth in the Uniform Code for the Abatement of Dangerous Buildings, as adopted in title 15 of this code.
 - (3) The Housing Advisory and Appeals Board, as set forth in the Uniform Housing Code, as adopted in title 15 of this code.
 - (4) The Board of Appeals, as set forth in the International Mechanical Code, as adopted in title 15 of this code.

- (5) The Board of Appeals, as set forth in the International Plumbing Code, as adopted in title 15 of this code.
- (6) The Board of Appeals, as set forth in the International Fire Code, as adopted in title 15 of this code.
- (7) The Contractor Licensing Board, as set forth in chapter 15-32 of this code.
- (8) Any appellate board or body established by the provisions of any other provision of title 15 of this code, including any codes adopted therein by reference.

2-40-070 - Powers, duties, and procedures to grant variances and make adjustments to zoning.

The neighborhood board of adjustment shall also have the following powers and duties:

- (A) As established elsewhere throughout this code, to hear and decide appeals from, and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of the regulations established by titles 15, 16, and 17, B.M.C.
- (B) To authorize variances from the terms of title 17, B.M.C., where, by reason of exceptional conditions, the strict application of any regulation enacted in this title would result in peculiar and exceptional practical difficulties to, or undue hardship upon, the owner of such property, provided that such relief may be granted without substantial detriment to the neighborhood or to the public good and without substantially impairing the intent and purposes of title 17, B.M.C., and provided that no variance shall authorize any use other than the use permitted in the zoning district, except as authorized in subsection (C) below.
- (C) To authorize, as variances, alterations in nonconforming buildings or uses, provided that the board determines:
 - (1) That the total area (and volume in the case of buildings) devoted to the altered nonconforming use will not be greater than the total area devoted to the current nonconforming use, and
 - (2) The altered nonconforming building or use will not have any greater adverse impact on the neighborhood than the current nonconforming building or use. The factors that the board may consider include, but shall not be limited to:
 - a. The purpose of title 17, B.M.C.;
 - b. Noise;
 - c. Visual impact;
 - d. Dust;
 - e. Odors;
 - f. Traffic; and
 - g. Impact on public services.
- (D) To perform each and all of the duties specified in section 31-23-307, C.R.S., together with all other duties or authority that may hereafter be conferred upon it by the laws of the state or ordinances of the city.
- (E) The board shall not be authorized to vary the terms of the sign code but may grant special exceptions as set forth in sections 17-44-320 through 17-44-370, B.M.C.

- (F) When acting pursuant to this section, the board shall hold a public hearing on all applications and appeals subject to the following:
- (1) Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.
 - (2) Unless otherwise stated in the board's minutes, all uses permitted by variance pursuant to subsections (B) and (C) above shall be commenced within six months of the time such variance is granted, otherwise the variance shall be null and void.
 - (3) A fee of \$25.00 shall be charged for all appeals and variance requests, which fee shall be paid by the applicant or appellant in addition to the notice fees required by chapter 17-52, B.M.C.
 - (4) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant in order to effect any variance.
- (G) Every appeal to the neighborhood board of adjustment shall be filed not later than thirty days from the date of the order, requirement, decision, or determination being appealed. The board shall have no jurisdiction to hear any appeal not brought within thirty days from the date of such order, requirement, decision, or determination.
- (H) The order, requirement, decision, or determination by an administrative official shall become a final order of the board upon the happening of any one of the following events:
- (1) The failure of the applicant to appeal the order, requirement, decision, or determination of the administrative official to the board within the time period prescribed in subsection (G) above.
 - (2) The failure of the applicant to appeal the order of the board to the district court in accordance with Colorado law.

Section 2. A new Chapter 2-41, Land Use Review Commission, of the Broomfield Municipal Code is created to read as follows:

2-41-010 - Created.

Pursuant to the authority conferred by chapter XI of the Charter, there is created a land use review commission (the "commission") for the city.

2-41-020 - Members; term of office.

- (A) The commission shall consist of seven members, who shall not be members of the city council, but who shall be appointed by city council. Council may also appoint an alternate member.
- (B) Upon appointment of commission members for the first time after the creation of the land use review commission, the term of three regular members shall be for one year, the term of four regular members shall be for three years, and the term of the alternate shall be for one year. Thereafter, regular members shall serve four-year terms or until his or her successors take office, provided that any appointment made to fill an unexpired term shall be for the balance of such term, and alternate members

shall serve two-year terms. A member may not serve more than two successive four-year terms, but may be appointed as an alternate after serving two successive four-year terms. An alternate may serve any number of successive terms. For purposes herein, a member must have served for twenty-four months or greater in order to have served a term. Any term limit required pursuant to this section may be waived by a super majority of eight affirmative votes of the city council.

- (C) If any regular member is absent from any meeting of the commission, the alternate member may serve in such member's place with all the powers and duties of the absent member.

2-41-030 - Members; qualifications.

All members of the commission shall be bona fide residents of the city, and if any member ceases to reside in the city, his or her membership shall immediately terminate. To the extent possible, each ward shall be represented by at least one member. If there is not a qualified applicant for any given ward at the time of application, a member may be appointed at large. Additionally, it is preferred that all members should have knowledge or experience in the following: architecture, construction, landscape design, land use development, or land use or real estate law. All members of the commission shall serve without compensation.

2-41-040 - Organization; term of office.

The commission shall elect its chair from among the appointed members and create and fill such other of its offices as it may determine. The term of the chair shall be one year, with eligibility for re-election. The commission shall hold at least one regular meeting in each month, and such meetings may be held consecutively on the same date, unless there are no cases scheduled to be heard before the commission for that month. The commission shall adopt rules for transaction of business, and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. Each appointed member is expected to attend all regularly scheduled meetings. Members who have missed an excessive number of regularly scheduled meetings or who have three or more consecutive unexcused absences may be removed from their appointment by act of the city council. Unexcused absences are those absences that were not communicated to the chair or to the city staff member assigned to the board prior to a regularly scheduled meeting. Members may also be removed from office by the city council under the provisions of section 11.2 of the Charter.

2-41-050 - Review of development proposals.

The commission shall review and approve development proposals as provided in titles 16 and 17, B.M.C.

2-41-060 - Review of urban renewal site plans.

The commission shall hold a public hearing on urban renewal site plans and make recommendations to the Broomfield Urban Renewal Authority as to the conformity of the urban renewal site plans to applicable urban renewal plans and urban renewal design standards. To the extent the Broomfield Urban Renewal Authority has delegated its approval authority to the commission, the commission may, subject to a call-up by the city council consistent with section 17-38-190, B.M.C., approve, approve with conditions, or deny an urban renewal site plan based on the conformity of the urban renewal site plan to applicable urban renewal plans and urban renewal design standards.

Section 3. Section 10-20-04 of Chapter 10-20, Administering State Highway Access Code and Permit Fees, of the Broomfield Municipal Code is amended to read as follows:

10-20-040 - Permit; platting prerequisite.

If the property for which the permit is sought is subject to the platting requirements of title 16 of this code, no application may be made and no permit may be granted unless ~~the planning and zoning commission and the city council have first approved~~ a final subdivision plat for the property **has been approved consistent with requirements of title 16**. No application shall be granted that is not in substantial compliance with any approved final subdivision plat, final PUD plan, and the zoning requirements of title 17 of this code.

Section 4. Section 12-26-050 of Chapter 12-26, News Racks, of the Broomfield Municipal Code is amended to read as follows:

12-26-050 - Appeals.

- (A) Any person or entity aggrieved by a finding, determination notice, or action under the provisions of this chapter may appeal and shall be apprised of his or her right to appeal to the ~~planning and zoning commission~~ **board of adjustment**. An appeal must be perfected within thirty days after receipt of notice of any protested decision or action by filing with the city manager a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held by the ~~planning and zoning commission~~ **board of adjustment** on a date no more than thirty days after receipt of the letter of appeal. Appellant shall be given at least ten days' notice of the time and place of the hearing. The ~~planning and zoning commission~~ **board of adjustment** shall give the appellant and any other interested party an opportunity to be heard in order to show cause why the determination of the city manager or the city manager's designee should not be upheld. At such hearing the appellant shall have the right to examine the evidence upon which the city manager or the city manager's designee acted, to examine any witnesses who may have appeared before it, and to offer any evidence that may tend to show that **the finding, determination notice, or action should not be upheld** ~~the subject news rack does not violate any provision of this chapter~~. In all such cases, the burden of proof shall be upon the city to show that there was evidence to support the action taken by the city manager or the city manager's designee. At the conclusion of the hearing, the ~~planning and zoning commission~~ **board of adjustment** shall make a final and conclusive determination.

- (B) The perfection of any appeal to the ~~planning and zoning commission~~ **board of adjustment** shall stay the ~~removal of any news rack~~ **implementation of any finding, determination notice, or action** until the ~~planning and zoning commission~~ **board of adjustment** makes its final determination, unless ~~said news rack presents~~ **there is** a clear and present danger of imminent personal injury or property damage. Nothing contained in this chapter shall be interpreted to limit or impair the exercise by the city of its police power, in the event of an emergency, ~~to remove any such news rack.~~

Section 5. Sections 15-03-060(H) and 15-03-060(J) of Chapter 15-03, Building Codes: Adoption and Administration, of the Broomfield Municipal Code are amended to read as follows:

15-03-060 - Duties and powers of building official.

- (H) *Liability.* The building official, member of the ~~planning and zoning commission~~ **board of adjustment**, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.
- (J) *Modifications.* Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.
- (1) Areas prone to flooding. The building official shall not grant modifications to any provision related to areas prone to flooding as established by:
- a. Table R301.2(1) of the IRC without the granting of a variance to such provisions by the ~~planning and zoning commission~~ **board of adjustment**, or
 - b. Chapter 17-40, B.M.C., without the granting of a variance to such provisions by the ~~planning and zoning commission~~ **board of adjustment**.

Section 6. Section 15-03-070(C)(2) of Chapter 15-03, Building Codes: Adoption and Administration, of the Broomfield Municipal Code is amended to read as follows:

15-03-070 - Permits.

(C) *Application for permit.*

- (2) Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.
- a. Determination of substantially improved or substantially damaged existing buildings in flood hazard areas. For applications for reconstruction, rehabilitation, addition, or other improvement of existing buildings or structures regulated by the IRC located in an area prone to flooding as established by Table R301.2(1), the building official shall examine or cause to be examined the construction documents, and shall prepare a finding with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its pre-damage condition. If the building official finds that the value of proposed work equals or exceeds 50% of the market value of the building or structure before the damage has occurred or the improvement is started, the finding shall be provided to the ~~planning and zoning commission~~ **board of adjustment** for a determination of substantial improvement or substantial damage. Applications determined by the ~~planning and zoning commission~~ **board of adjustment** to constitute substantial improvement or substantial damage shall meet the requirements of Section R322.

Section 7. Sections 15-03-140(A) and 15-030-140(B)(1) of Chapter 15-03, Building Codes: Adoption and Administration, of the Broomfield Municipal Code are amended to read as follows:

15-03-140 - Powers of ~~planning and zoning commission~~ **board of adjustment**.

- (A) *General.* The authority to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this code shall be vested in the ~~planning and zoning commission~~ **board of adjustment**.
- (B) *Limitations on authority.* An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The ~~commission~~ **board** shall have no authority relative to interpretation of the administrative provisions of this code, nor shall the ~~commission~~ **board** be empowered to waive requirements of this code. Appeals made concerning the regulations of this code shall be heard and decided by the ~~planning and zoning commission~~ **board of adjustment**.
- (1) Determination of substantial improvement in areas prone to flooding. When the building official provides a finding required in subparagraph 15-03-070(C)(+2)a. of this chapter, the ~~planning and zoning commission~~ **board of adjustment** shall

determine whether the value of the proposed work constitutes a substantial improvement. A substantial improvement means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50% of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, all repairs are considered substantial improvement, regardless of the actual repair work performed. The term does not include:

- a. Improvements of a building or structure required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or
- b. Any alteration of an historic building or structure, provided that the alteration will not preclude the continued designation as an historic building or structure. For the purpose of this exclusion, an historic building is in accordance with chapter 17-72, B.M.C.

Section 8. Section 15-16-010(O) of Chapter 15-16, International Fire Code of the Broomfield Municipal Code, is amended to read as follows:

15-16-010 - Amendments to the International Fire Code.

The following amendments are hereby made to the 2018 International Fire Code, which shall be referred to in this chapter 15-16 as the IFC:

- (O) Section 109, of the IFC, is deleted in its entirety and replaced with language to read as follows:

SECTION 109
APPEALS

109.1 Appeals procedure - general. Any person, firm, or corporation aggrieved by any application, interpretation, or order made by fire district personnel pursuant to any provision of this code or the standards adopted herein may appeal such decision, interpretation, or order to the fire chief. The fire chief shall establish reasonable rules for such appeal and shall make a record of all proceedings. The decision of the fire chief shall be considered a final administrative decision.

109.2 Appeals procedure - administrative decisions. The authority to **hear appeals of decisions of the fire chief, including the authority to** determine the suitability of alternate materials and types of construction and to provide reasonable interpretations of the provisions of this code, shall be vested in the ~~planning and zoning commission~~ **board of adjustment**. The ~~planning and zoning commission~~ **board of adjustment** shall adopt reasonable rules and regulations for conducting its investigation and shall render decisions and findings in writing to the fire chief and the Chief Building Official, with a duplicate copy to the appellant.

Section 9. Section 15-32-060, Contractor licensing board, of the Broomfield Municipal Code is amended to read as follows:

15-32-060 - Contractor licensing board.

The ~~planning and zoning commission~~ **board of adjustment** shall be assigned the duties and role of a contractor licensing board. The contractor licensing board shall have the following authority:

- (A) To develop rules, regulations, and procedures relating to contractor license applications;
- (B) To advise the building official on all matters pertaining to licensing;
- (C) To conduct appellate hearings in the event the building official exercises his or her authority to suspend, revoke, or decline to issue a license;
- (D) To elect a ~~chairman~~ and vice ~~chairman~~ from among its members; and
- (E) To adopt reasonable procedural rules and regulations to carry out its responsibilities, as set forth in this chapter.

Section 10. Section 15-32-070, Application; contents, of the Broomfield Municipal Code is amended to read as follows:

15-32-070 - Application; contents.

Applications for contractor's licenses shall be on such forms and shall contain such information as may be required by the building official. Applicants may at any time, or from time to time, be required to furnish additional information with respect to their qualifications and financial status, or other matters relating to or affecting their licenses, as may be deemed necessary or desirable by the building official or the contractor licensing board. Failure to furnish such information within a reasonable time, or to furnish supplemental information as may be required by the building official or the ~~planning and zoning~~ **land use review** commission, shall be grounds for denial or revocation of license.

Section 11. Section 16-16-060 of Chapter 16-16, Preliminary Plat, of the Broomfield Municipal Code is amended to read as follows:

16-16-060 - Preliminary plat; hearing and notice; ~~planning and zoning~~ **land use review** commission.

The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the preliminary plat. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 12. Section 16-16-070 of Chapter 16-16, Preliminary Plat, of the Broomfield Municipal Code is amended to read as follows:

16-16-070 - Preliminary plat; recommendation; ~~planning and zoning~~ **land use review** commission.

Within thirty days of the conclusion of its public hearing, the ~~planning and zoning~~ **land use review** commission shall adopt a resolution of approval, disapproval, or conditional approval. If the recommendation is for conditional approval, the conditions under which the preliminary plat would be acceptable shall be set forth.

Section 13. Section 16-16-090 of Chapter 16-16, Preliminary Plat, of the Broomfield Municipal Code is amended to read as follows:

16-16-090 - Preliminary plat; decision; city council.

Within thirty days of the conclusion of its public hearing on preliminary plat, the city council shall adopt a resolution of approval, disapproval, or referral back to the ~~planning and zoning-land use review~~ commission for further study. **Once the city council issues a decision, the decision shall not be effective until 15 calendar days after the date of the decision. No documents shall be recorded and no permits based on the decision shall be issued until after the 15 day period has expired.**

Section 14. Section 16-16-100(B) of Chapter 16-16, Preliminary Plat, of the Broomfield Municipal Code is amended to read as follows:

16-16-100 - Preliminary plat; time limit.

- (B) The validity of the preliminary plat may be extended by the ~~planning and zoning-land use review~~ commission if it is satisfied that the preliminary plat remains consistent with current standards and specifications and review standards.

Section 15. Section 16-16-110 of Chapter 16-16, Preliminary Plat, of the Broomfield Municipal Code is amended to read as follows:

16-16-110 - Review standards.

The recommendation of the ~~planning and zoning-land use review~~ commission and the decision of the city council shall be based on whether the applicant has demonstrated that the proposed preliminary plat meets the following standards:

- (A) The project should not create, or should mitigate to the extent possible, negative impacts on the surrounding property.
- (B) The project should provide desirable settings for buildings, make use of natural contours, protect the view, and afford privacy and protection from noise and traffic for residents and the public.
- (C) The project should preserve natural features of the site to the extent possible.
- (D) The proposed traffic flow and street locations should be consistent with the city's master plan, should be in accordance with good engineering practice, and should provide for safe and convenient movement.
- (E) The lots and tracts should be laid out to allow efficient use of the property to be platted.

- (F) The proposed public facilities and services should be adequate, consistent with the city's utility planning, and capable of being provided in a timely and efficient manner.
- (G) The proposal should comply with the design standards of chapter 16-28, B.M.C., the improvement requirements of chapter 16-32, B.M.C., and the standards and specifications of chapter 14-04, B.M.C.
- (H) The proposal should be consistent with the need to minimize flood damage.
- (I) The proposal should have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and designed to minimize flood damage.
- (J) The proposal should have adequate drainage provided to reduce exposure to flood damage.

Section 16. Sections 16-20-030(P) and 16-20-030(Q) of Chapter 16-20, Final Plat, of the Broomfield Municipal Code are amended to read as follows:

16-20-030 - Final plat; contents.

- (P) Certification and approval by the ~~planning and zoning commission~~ **land use review commission**, with signature lines for the chairman and secretary.
- (Q) Certification for approval by the city council with signature lines for the mayor and city clerk, **when applicable**.

Section 17. Section 16-20-050 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is amended to read as follows:

16-20-050 - Final plat; hearing and notice; ~~planning and zoning~~ **land use review** commission.

The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the final plat. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 18. Section 16-20-060 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is amended to read as follows:

16-20-060 - Final plat; ~~recommendation~~ **decision**; ~~planning and zoning~~ **land use review** commission.

- (A) ~~Within thirty days of the conclusion of its public hearing on the final plat, the~~ ~~planning and zoning~~ **land use review** commission shall adopt a resolution ~~recommending approval, disapproval, or conditional approval. If the approval is conditional, the conditions under which the final plat would be acceptable shall be set forth.~~ **to approve, approve with conditions, or deny the proposed final plat, based on the review standards set forth in section 16-20-090, B.M.C. Once the land use review commission issues a decision, the decision shall not be final, and the final plat shall not be recorded and no permits based upon the decision shall be issued, for 15 calendar days after the date of the decision, in order to allow time for the applicant to appeal, or for the city council to call-up the decision for further review, pursuant to section 16-20-065, B.M.C.**

- (B) Notwithstanding the above, in such cases where an applicant is seeking approval of any of the following documents in addition to the final plat, the final decision on the final plat shall be made by the city council:**
- (1) A site development plan for seven acres or greater;**
 - (2) An urban renewal site plan for seven acres or greater;**
 - (3) A use by special review that includes any oil and gas facilities or wireless communications facilities as an approved use; and**
 - (4) A development agreement, reimbursement agreement, subdivision improvement agreement, or improvement agreement requiring a financial incentive or financial obligation to be paid by the city.**
- (C) For any final plat that requires final approval by the city council pursuant to subsection (B) herein, the land use review commission shall adopt a resolution recommending approval, disapproval, or conditional approval of the final plat, which shall be referred to the city council for final decision.**

Section 19. A new Section 16-20-065 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is created to read as follows:

16-20-065 - Final plat; appeal; call-up by city council.

(A) Appeal.

- (1) The decision of the land use review commission to approve, approve with conditions, or deny a final plat may be appealed to the city council by the applicant or other interested party. An appeal shall be filed in writing with the planning director not more than fifteen days after the action taken by the land use review commission. The appeal shall state all reasons for dissatisfaction with the action of the land use review commission.**
- (2) City council shall hold a noticed public hearing on the appeal. The decision by the city council to approve or deny a final plat shall be final and binding. The appeal will be placed on the first possible public hearing agenda of the city council, to be determined and coordinated by the city clerk's office, but in no event shall the public hearing be held more than 45 calendar days after the city's receipt of the applicant's request for an appeal. City council shall hold a public hearing on the proposed final plat application and approve, approve with conditions, or deny the proposed final plat, based on the review standards set forth in section 16-20-090, B.M.C.**

(B) Call-up by city council.

- (1) At the same time a decision concerning the final plat is provided to the applicant, the planning director shall forward to the city council a written statement including at a minimum the following:**
 - (a) The location of the affected property**
 - (b) A description of the proposed final plat**
 - (c) Summary of public comments received regarding the application**
 - (d) The basis for the land use review commission's decision**

- (2) Upon receiving the planning director's statement, and no later than 15 calendar days after the date of the approval, a city councilmember may call-up the commission's decision for review before the city council.
- (a) The city council shall review the commission's decision at a public hearing held as soon as practical after the commission's decision. Prior written notice of this hearing shall be provided to the applicant and the public pursuant to chapter 17-52, B.M.C.
- (b) At the public hearing, the city council shall consider evidence related to the commission's decision, which may be presented by the city manager or designee, the applicant, or interested members of the public. The city council shall not be limited in their review to the subject of the call-up, but may review any aspect or component of the application that was called-up. Based upon this evidence, the city council may affirm the commission's decision, alter conditions, add new conditions, or reverse the commission's decision on any aspect or component of the application. In the case of a denial of a final plat, the city council shall state its reasons for its decision based upon the final plat review standards in section 16-20-090, B.M.C. No final plat that is the subject of a call-up shall be recorded, and no permits based upon the final plat shall be issued, until such time that a public hearing has been conducted by the city council and a final decision approving the final plat has been made by the city council.

Section 20. Section 16-20-070 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is amended to read as follows:

16-20-070 - Final plat; hearing and notice; city council.

~~The city council shall hold a public hearing on the final plat.~~ **Any time the city council conducts a public hearing regarding a final plat,** notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 21. Section 16-20-080 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is amended to read as follows:

16-20-080 - Final plat; decision; city council.

Within thirty days of the conclusion of ~~its public hearing on the final plat~~ **any public hearing conducted by the city council concerning a final plat,** the city council shall adopt a resolution of approval, disapproval, or referral back to the planning and zoning commission for further study. ~~to approve, approve with conditions, or deny the final plat.~~ **The city council may also refer the final plat back to the land use review commission for further study. Once the city council issues a decision, the decision shall not be effective until 15 calendar days after the date of the decision. No documents shall be recorded and no permits based on the decision shall be issued until after the 15 day period has expired.**

Section 22. Section 16-20-090 of Chapter 16-20, Final Plat, of the Broomfield Municipal Code is amended to read as follows:

16-20-090 - Review standards.

~~The recommendation of the planning and zoning~~ **The decisions of the land use review** commission and ~~the decision of~~ the city council shall be based on whether the applicant has demonstrated that the proposed final plat meets the standards set forth in section 16-16-110, B.M.C., and is generally consistent with an approved preliminary plat, if there is one. No final plat will be ~~recommended by the planning and zoning commission or approved by the city council~~ until such maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials as may be required herein have been submitted and reviewed, and found to meet the planning, engineering, and surveying requirements of the city ~~required~~; provided, however, that the city engineer may waive any final plat requirement for good cause shown.

Section 23. Section 16-22-010 of Chapter 16-22, Minor Subdivision, of the Broomfield Municipal Code is amended to read as follows:

16-22-010 - Application.

Any subdivider or developer may apply to the city for a minor subdivision of a tract of land. The city manager, or a designee thereof, must first approve all such applications. At the discretion of the city manager, the city manager may refer the application to the ~~planning and zoning~~ **land use review** commission ~~or city council~~ for a ~~recommendation~~ **review and decision consistent with chapter 16-20, B.M.C.** Should any such application be disapproved by the city manager, it may be further processed as provided in chapters 16-16 and 16-20, B.M.C.

Section 24. Section 16-28-080 of Chapter 16-28, Design Standards, of the Broomfield Municipal Code is amended to read as follows:

16-28-080 - Street names.

Street names shall be subject to the approval of the ~~planning and zoning~~ **land use review** commission ~~and or~~ city council. Street names shall not be used which will duplicate or be confused with the names of existing streets.

Section 25. Section 16-28-090(B) of Chapter 16-28, Design Standards, of the Broomfield Municipal Code is amended to read as follows:

16-28-090 - Blocks.

- (B) Blocks shall normally be at least 400 feet in length and not more than 1,320 feet in length between street intersections. Long blocks shall be broken by a pedestrian cross-easement through the block, when it is determined by the ~~planning and zoning~~ **land use review**

commission or city council that such access is needed to provide adequate safety and convenience.

Section 26. Section 16-28-150(A) of Chapter 16-28, Design Standards, of the Broomfield Municipal Code is amended to read as follows:

16-28-150 - Dedication; policy determination considerations.

- (A) In determining which of the above policies to implement, the ~~planning and zoning~~ **land use review** commission and the city council will consider the following: the size of the development and its adequacy for accommodating a suitable public use site; the public facility aspects of the city's master plan and the applicable school district's master plan; existing parks and other public uses in the area; the topography, geology, and location of land in the subdivision available for dedication; the needs of the people in the area; and any other appropriate factors.

Section 27. Section 16-32-010(A) of Chapter 16-32, Improvements, of the Broomfield Municipal Code is amended to read as follows:

16-32-010 - Installation or guarantee required.

- (A) Before a final plat is approved ~~by the city council~~, all required improvements must be installed by the subdivider or arrangements satisfactory to ~~the city council~~ **city manager** and city attorney for a bond, letter of credit, or other performance guarantee must have been made, except as hereinafter provided.

Section 28. Section 16-32-050 of Chapter 16-32, Improvements, of the Broomfield Municipal Code, is amended to read as follows:

16-32-050 - Subdivision agreement; ~~terms~~; **call-up; effective date.**

- (A) No final plat shall be recorded or be effective until the owner of the property has entered into a subdivision agreement with the city in a form and content satisfactory to the ~~city council~~ **city manager and city attorney**, obliging the owner to make and install within the period of time determined by the ~~city council~~ **city manager** all improvements required in this chapter and such other improvements as may be determined to be necessary by the city engineer. The subdivision agreement shall also include any other provisions ~~which that~~ the city deems necessary to protect the public's health, safety, and welfare.
- (B) **All subdivision agreements creating a financial obligation of the city must be approved by the city council. Additionally, the city manager, in their sole discretion, may, without the need for explanation, require any subdivision agreement to be approved by the city council. Should any such subdivision agreement be disapproved by the city manager, it may be further processed as provided in chapters 16-16 and 16-20, B.M.C.**

- (C) Any subdivision agreement approved by the city manager shall be subject to a call-up by any member of the city council consistent with the provisions of section 16-20-065(B), B.M.C.
- (D) The effective date of any subdivision improvement agreement shall not occur until the final plat has been approved consistent with the provisions of sections 16-20-060 and 16-20-065, B.M.C.

Section 29. Section 16-36-010 of Chapter 16-36, Variances, of the Broomfield Municipal Code is amended to read as follows:

16-36-010 - Granting when; conditions to be in writing.

The ~~planning and zoning~~ **land use review** commission and city council may authorize variances from these regulations in cases where, due to exceptional topographical conditions or other conditions peculiar to the site, an unnecessary hardship is placed on the subdivider. Such variances shall not be granted if it would be detrimental to the public good or impair the intent and purposes of this title. The conditions of any variance authorized shall be stated in writing. The variance shall be in keeping with the intent of the master plan for the city.

Section 30. Section 16-40-040 of Chapter 16-40, Vested Property Rights, of the Broomfield Municipal Code is amended to read as follows:

16-40-040 - Approval by ordinance.

- (A) As part of the application for a final plat, a site development plan, a development agreement, or a PUD plan, a landowner may submit a written request to the city for a vested property right and to designate the final plat, the site development plan, development agreement, or PUD plan as the site specific development plan. An application for a final plat, site development plan and PUD plan to be designated as the site specific development plan shall require review by the ~~planning and zoning~~ **land use review** commission prior to being placed on the city council agenda for its consideration as a site specific development plan. The site specific development plan shall be submitted to the city council with an ordinance for consideration and decision regarding designating a vested property right in the site specific development plan.
- (B) No final site specific development plan shall be placed on the city council agenda until the submission is complete and all agreements necessary for the development have been executed by all nongovernmental parties, all ~~planning and zoning~~ **land use review** commission conditions have been completed, all third party approvals have been received, and all fees tendered by the landowner.

Section 31. Section 17-13-040 of Chapter 17-13, E-3 Estate District, of the Broomfield Municipal Code is amended to read as follows:

17-13-040 - Permitted uses; review and approval by ~~planning and zoning~~ **land use review** commission.

Final Amended Version

- (A) After review and upon approval by the ~~planning and zoning~~ **land use review** commission, the following animals may be kept on the property, provided that the number of such animals does not exceed the total number permitted by subsection 17-13-020(D):

<i>Type of Animal</i>	<i>Number of Animals</i>
Cattle (no bulls)	2 per acre
Chickens (no more than one rooster)	5 per acre
Ducks	2 per acre
Goats	2 per acre
Llamas	2 per acre
Mules	2 per acre
Sheep	2 per acre
Turkeys	2 per acre

- (B) In considering an application to keep any of the animals listed in subsection (A) above, the ~~planning and zoning~~ **land use review** commission, after notice in accordance with chapter 17-52, B.M.C., and public hearing, shall consider the following criteria:
- (1) Testimony by adjoining property owners regarding the impact of the proposed animals on the enjoyment and use of their property;
 - (2) Submission of an animal management plan that minimizes the impacts of noise, odor, vermin, flies, and dust on adjacent properties;
 - (3) Control of stormwater runoff from pasture areas to adjoining properties;
 - (4) Adequacy of fencing to contain animals; and
 - (5) Intensity of use of the property.

Section 32. Section 17-30-010 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-010 - Approval required.

Uses permitted by special review may be allowed in the designated districts upon approval ~~by the city council following recommendations by the planning and zoning commission~~ **consistent with this chapter.**

Section 33. Section 17-30-020 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-020 - Request; submittal when.

All requests for a use permitted by special review shall be submitted in writing to the secretary of the ~~planning and zoning~~ **land use review** commission meeting and shall include an application fee of \$500.00.

Section 34. Section 17-30-030(A) of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-030 - Application; contents.

- (A) The application shall contain a site plan showing, when applicable, the location of the building, off-street parking areas, off-street loading areas, service and refuse areas, ingress and egress to the property; major landscaping or other screening proposals, signs, pedestrian areas, a time schedule for development, and any other items ~~which that~~ **may help the ~~planning and zoning~~ land use review commission or city council to make a reasonable recommendation decision.**

Section 35. Section 17-30-040 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-040 - ~~Request~~ Notice; review **standards.**

~~The planning and zoning commission shall hold a public hearing on the request. Any public hearing held pursuant to this chapter 17-30, B.M.C., shall have been properly noticed shall be given~~ in accordance with the provisions of chapter 17-52, B.M.C.

- (A) Except for oil and gas wells or injection wells, factors to be considered are the relation of the requested uses to the character of the surrounding neighborhood, the desirability and need for such a use in the specific area of the community, adverse environmental influence that might result from its location, and, in general, compliance with the intent of this title.
- (B) For oil and gas wells or injection wells, the review criteria shall be the factors set forth in section 17-54-080, **B.M.C.**

Section 36. Section 17-30-050 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-050 - ~~Request; recommendation~~ **Decision**; conditions; **land use review commission.**

~~After completing its review of a special review request, the planning and zoning commission shall submit its written report and recommendation to the city council. The recommendation shall either be a recommendation to approve, to approve with conditions, or to deny the request.~~

- (A) The land use review commission shall hold a public hearing on the proposed use by special review application and approve, approve with conditions, or deny the proposed use by special review, based on the applicable factors noted in section 17-30-040, B.M.C. Once the land use review commission issues a determination, the determination shall not be final, and no permits based upon the determination shall be issued, for 15 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the city council to call-up the determination for further review, pursuant to section 17-30-055, B.M.C. If the recommendation decision is to approve with conditions, the ~~recommendation~~ resolution shall set forth the conditions and those requirements as deemed necessary to protect the health, safety, and welfare of the community.**
- (B) Notwithstanding the above, in such cases where an applicant is seeking approval of any of the following, either as a part of an application for a use by special review or in relation thereto, the final decision on the use by special review shall be made by the city council:**
- (1) A site development plan for seven acres or greater;**
 - (2) An urban renewal site plan for seven acres or greater;**
 - (3) A use by special review that includes any oil and gas facilities or wireless communications facilities as an approved use; and**
 - (4) A development agreement, reimbursement agreement, subdivision improvement agreement, or improvement agreement requiring a financial incentive or financial obligation to be paid by the city.**
- (C) For any use by special review that requires final approval by the city council pursuant to subsection (B) herein, the land use review commission shall adopt a resolution recommending approval, disapproval, or conditional approval of the use by special review, which shall be referred to the city council for final decision.**

Section 37. Section 17-30-055 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is added to read as follows:

17-30-055 - Appeal; call-up by city council.

(A) Appeal.

- (1) The decision of the land use review commission to approve, approve with conditions, or deny a use by special review may be appealed to the city council by the applicant or other interested party. An appeal shall be filed in writing with the planning director not more than fifteen days after the action taken by the land use review commission. The appeal shall state all reasons for dissatisfaction with the action of the land use review commission.**

- (2) The city council shall hold a noticed public hearing on the appeal. The decision by the city council to approve or deny a use by special review shall be final and binding. The accepted appeal will be placed on the first possible public hearing agenda, to be determined and coordinated by the city clerk's office. City council shall hold a public hearing on the proposed use by special review application and approve, approve with conditions, or deny the proposed use by special review, based on the applicable approval criteria in section 17-30-040, B.M.C.
- (B) Call-up by city council.
- (1) At the same time a decision concerning the use by special review is provided to the applicant, the planning director shall forward to the city council a written statement including at a minimum the following:
- (a) The location of the affected property
 - (b) A description of the proposed use by special review
 - (c) Summary of public comments submitted regarding the application
 - (d) The basis for the land use review commission's decision
- (2) Upon receiving the planning director's statement, and no later than 15 calendar days after the date of the decision, a city councilmember may call-up the commission's decision for review before the city council.
- (a) The city council shall review the commission's determination at a public hearing held as soon as practical after the commission's decision. Prior written notice of this hearing shall be provided to the applicant and the public pursuant to chapter 17-52, B.M.C.
 - (b) At the public hearing, the city council shall consider evidence related to the commission's decision, which may be presented by the city manager or designee, the applicant, or interested members of the public. The city council shall not be limited in their review to the subject of the call-up, but may review any aspect or component of the application that was called-up. Based upon this evidence, the city council may affirm the commission's decision, alter conditions, add new conditions, or reverse the commission's determination on any aspect of the use by special review application. No use by special review that is the subject of a call-up shall be recorded, and no permits based upon the use by special review shall be issued, until such time that a public hearing has been conducted by the city council and a final decision approving the use by special review has been made by the city council.

Section 38. Section 17-30-060 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-060 - ~~Request; approval; conditional approval; denial~~ **Decision; city council.**

The city council shall consider **any recommendation it receives from the land use review commission and any matter that has been called-up by any member of the city council pursuant to section 17-30-055, B.M.C., at a public hearing.** ~~the request and the planning and zoning commission's recommendation and~~ **Upon closing the public hearing, the**

city council shall make a final decision of approval, or approval with conditions, or of denial. Factors to be considered are those specified in section 17-30-040, **B.M.C.** **Once the city council issues a decision, the decision shall not be effective until 15 calendar days after the date of the decision. No documents shall be recorded and no permits based on the decision shall be issued until after the 15 day period has expired.** ~~The city council shall hold a public hearing prior to making its final decision. Notice shall be given in accordance with chapter 17-52.~~

Section 39. Section 17-30-070 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-070 - Decision to be stated in official minutes.

Any decision of the ~~planning and zoning~~ **land use review** commission or city council on special reviews shall state in the official minutes the reasons for such decision.

Section 40. Section 17-30-090 of Chapter 17-30, Uses Permitted by Special Review, of the Broomfield Municipal Code is amended to read as follows:

17-30-090 - Approval; period; void when.

All special review requests ~~approved by city council prior to January 1, 1988, shall be valid for one year from the approval date. All special review requests approved by city council after January 1, 1988,~~ shall be valid for three years from the approval date. If the approved use is in operation by the end of the specified period, the approval shall remain valid so long as the use continues. If the approved use is not in operation at the end of the specified period, or if it thereafter ceases, the approval shall be deemed void and of no further force and effect, and no building or other construction permits shall be issued until and unless the special review request is reapproved ~~by the city council pursuant to chapter 17-30, B.M.C.~~

Section 41. Section 17-33-040(E) of Chapter 17-33, Household Group Living Facilities, of the Broomfield Municipal Code is amended to read as follows:

17-33-040 - Permit.

(E) Appeal of suspension or revocation: A final decision of the city may be appealed to the ~~planning and zoning commission~~ **board of adjustment.**

Section 42. Section 17-34-060(B) of Chapter 17-34, Supplementary Regulations, of the Broomfield Municipal Code is amended to read as follows:

17-34-060 - Refuse and recycling areas.

(B) Significantly remodeled, for purposes of this section, means structures where the value of additions or renovations is 50% or more of the fair market value of the structure prior to the additions or renovations. The value of the additions shall be as determined by the chief

building official or the chief building official's authorized representative. The fair market value of the structure shall be the current actual value of the structure as determined by the county assessor. A party who disagrees with the decision of the chief building official or his or her authorized representative may appeal the decision to the ~~planning and zoning commission~~ **board of adjustment**.

Section 43. Section 17-35-020(C) of Chapter 17-35, Wireless Communications Facilities, of the Broomfield Municipal Code is amended to read as follows:

17-35-020 - Administrative approval.

- (C) At the discretion of the city manager or his or her designee, any application for administrative approval may be referred to the ~~planning and zoning~~ **land use review** commission and city council for special review in accordance with this chapter.

Section 44. Section 17-35-050 of Chapter 17-35, Wireless Communications Facilities, of the Broomfield Municipal Code is amended to read as follows:

17-35-050 - Review criteria for wireless communications towers.

The recommendation of the ~~planning and zoning~~ **land use review** commission and the decision of the city council shall be based on whether the applicant has demonstrated that the proposed wireless communications tower meets the following standards:

- (A) The site plan complies with the requirements of subsection 17-35-030(A);
- (B) The vicinity map complies with the requirements of subsection 17-35-030(B);
- (C) The narrative for the application complies with the requirements of subsection 17-35-030(C);
- (D) When applicable, compliance with the setback and heights requirements of section 17-35-070.

Section 45. Section 17-36-020(D) of Chapter 17-36, Nonconforming Uses, of the Broomfield Municipal Code is amended to read as follows:

17-36-020 - Nonconforming uses and buildings.

- (D) A nonconforming building or use may not be altered except upon grant of a variance by the ~~planning and zoning commission~~ **board of adjustment** as provided in chapter 2-40, B.M.C.

Section 46. Sections 17-38-030(A) and (D) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code are amended to read as follows:

17-38-030 - Concept plan review.

- (A) Prior to any official submittal of a PUD plan or site development plan or an amendment to a PUD or site development plan, the applicant shall submit a concept plan for initial concept review. Such concept plan shall be made available on a publicly available website for a minimum of 30 calendar days for review and comment by the public, ~~planning and zoning~~ **land use review** commission, and city council. The city manager may also, at their discretion, require the review of any concept plan at a public meeting of the city council. It is intended that the ~~planning and zoning~~ **land use review** commission or the city council discuss with the applicant any significant concern about the plan either through submitting comments in writing or during a public meeting. Comments received regarding the application shall be available for review on the public website for a minimum of 30 days. No official action is taken at this stage by either the ~~planning and zoning~~ **land use review** commission or the city council. Plan amendments ~~which~~ **that** meet the criteria for administrative modifications as included in section 17-38-230, **B.M.C.**, shall not be subject to concept plan review.
- (D) Any comment, suggestion, or recommendation made by any member of the ~~planning and zoning~~ **land use review** commission or by any council member on any concept review plan is gratuitous and does not bind or otherwise obligate either the ~~planning and zoning~~ **land use review** commission or the city council to any course of conduct or decision after an applicant makes an official submittal of a plan to the city.

Section 47. Section 17-38-060(H) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-060 - PUD plan; contents.

- (H) Certification for approval by the ~~planning and zoning~~ **land use review** commission with signature lines for the ~~chairman~~ and secretary.

Section 48. Section 17-38-080 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-080 - PUD plan; hearing and notice; ~~planning and zoning~~ **land use review** commission.

The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the PUD plan. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 49. Section 17-38-090 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-090 - PUD plan; recommendation; ~~planning and zoning~~ **land use review** commission.

Within thirty days of the conclusion of its public hearing, the ~~planning and zoning~~ **land use review** commission shall adopt a resolution of approval, disapproval, or conditional approval. If the recommendation is for conditional approval, the conditions under which the PUD plan would be acceptable shall be set forth.

Section 50. Section 17-38-110(A) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-110 - PUD plan; decision; city council; recording.

- (A) Within thirty days of the conclusion of its public hearing on the PUD plan, the city council shall adopt a resolution of approval, disapproval, or referral back to the ~~planning and zoning~~ **land use review** commission for further study. **Once the city council issues a decision, the decision shall not be effective until 15 calendar days after the date of the decision. No documents shall be recorded and no permits based on the decision shall be issued until after the 15 day period has expired.**

Section 51. Section 17-38-120 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-120 - PUD plan; review standards.

The recommendation of the ~~planning and zoning~~ **land use review** commission and the decision of the city council shall be based on whether the applicant has demonstrated that the proposed PUD plan meets the following standards:

- (A) The proposal should be consistent with the intent of this chapter as set forth in section 17-38-010.
- (B) The proposal should be consistent with the master plan.
- (C) The proposal should identify and mitigate potential negative impacts on nearby properties, other areas of the city, and the city as a whole.
- (D) The proposal should identify and maximize potential positive impacts on nearby properties, other areas of the city, and the city as a whole.
- (E) The proposal should include adequate facilities for pedestrians, bicyclists, and motorists.
- (F) The proposal should include adequate public improvements (both on and off site) to be provided in a timely fashion.
- (G) The proposal should optimize conservation of energy, water, and other resources on a broad scale.
- (H) The land uses within the plan should be compatible with one another and with nearby properties.
- (I) The proposal should provide for open space at a rate of not less than 40% of the developable site in residential areas and 25% in other areas as provided in section 17-38-240 below.
- (J) The proposal should adequately provide for an organization for ownership and maintenance of any common areas.
- (K) The proposal should justify any proposed deviations from the Broomfield Municipal Code in terms of the overall quality of the plan.

Section 52. Section 17-38-130 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-130 - PUD plan; modification.

Any modification to an approved PUD plan requires the same review by the ~~planning and zoning~~ **land use review** commission and the city council as the original PUD plan.

Section 53. Sections 17-38-135(C), (D), and (F) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code are amended to read as follows:

17-38-135 - Site development plan required; PUD plan revocation.

- (C) Prior to a city council revocation hearing, the city council shall refer the matter to the ~~planning and zoning~~ **land use review** commission for a public hearing and for a recommendation on revocation of the PUD plan.
- (D) Public notice for a revocation hearing by the city council and by the ~~planning and zoning~~ **land use review** commission shall be given in accordance with the provisions of chapter 17-52, B.M.C.
- (F) The ~~planning and zoning~~ **land use review** commission recommendation and the city council decision shall take into consideration the following applicable standards in determining whether to revoke a PUD plan:
 - (1) Compliance of the PUD plan with the master plan;
 - (2) Compatibility of the PUD plan with the area surrounding the PUD plan;
 - (3) The need for the uses in the area included within the PUD plan;
 - (4) The effect of the PUD plan upon future development of the area;
 - (5) The impact of traffic generated by the PUD plan on the neighborhood and the surrounding area;
 - (6) The effect of the PUD plan on community facilities in the neighborhood and on the surrounding area, including but not limited to schools, library, police and fire protection, recreation facilities, park lands, and open space;
 - (7) The impact of the PUD plan on municipal infrastructure in the area, including but not limited to water service, wastewater service, storm water service, transportation systems, and street systems;
 - (8) Compliance of the PUD plan with the Standards & Specifications for Design and Construction of Public Improvements in force at the time of the public hearing;
 - (9) Failure by the owner to meet a date established in the PUD plan for the commencement of construction of the PUD plan or for a phase of the PUD plan; and
 - (10) Compliance of residential PUD plans with the uniform standards for residential use PUD plans in force at the time of the public hearing.

Section 54. Sections 17-38-137(B), (C), (D), and (E) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code are amended to read as follows:

17-38-137 - Amendment to PUD plans proposed by the city manager.

- (B) The city manager shall notify the owner or owners of any property subject to the PUD that an amendment to the PUD has been proposed, and that a hearing on the proposed amendment will be held before the ~~planning and zoning~~ **land use review** commission and before the city council. The city manager's notification to the owner or owners shall set forth the reasons for the proposed amendment to the PUD plan and specify the proposed amendment or amendments. Notification to the owner or owners by the city manager shall be by personal service or by certified mail not less than thirty days prior to the public hearing before the ~~planning and zoning~~ **land use review** commission.
- (C) The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the city manager's proposed amendment to the PUD plan. Notice of the public hearing shall be given in accordance with the provisions of chapter 17-52, B.M.C. Within thirty days of the conclusion of its public hearing, the ~~planning and zoning~~ **land use review** commission shall adopt a resolution recommending to the city council the approval, disapproval, or conditional approval of the proposed amendment to the PUD plan. If the recommendation is for conditional approval, the conditions under which the proposed amendment to the PUD plan would be acceptable shall be set forth.
- (D) The city council shall hold a public hearing on the city manager's proposed amendment to the PUD plan. Notice of the public hearing shall be given in accordance with the provisions of chapter 17-52, B.M.C. Within thirty days of the conclusion of its public hearing on the proposed amendment to the PUD plan, the city council shall adopt a resolution of approval, disapproval, or referral back to the ~~planning and zoning~~ **land use review** commission for further study. If the resolution is for approval, it shall be recorded in the county in which the PUD plan was recorded.
- (E) The standards of review for the city council and ~~planning and zoning~~ **land use review** commission, as they may be applicable to a proposal by the city manager to amend a PUD plan, are as follows:
- (1) Compliance of the PUD plan with the master plan in force at the time of the public hearing;
 - (2) Compatibility of the PUD plan with the area surrounding the PUD plan;
 - (3) The need for the uses in the PUD plan or in the area surrounding the PUD plan;
 - (4) The effect of the PUD plan upon future development of the area;
 - (5) The impact of traffic generated by the PUD plan on the neighborhood and the surrounding area;
 - (6) The effect of the PUD plan on community facilities in the neighborhood and area, including but not limited to schools, library, police and fire protection, recreation facilities, park lands, and open space;
 - (7) The impact of the PUD plan on municipal infrastructure in the area, including but not limited to water service, wastewater service, storm water service, transportation systems, and street systems;
 - (8) Compliance of the PUD plan with the Standards & Specifications for Design and Construction of Public Improvements in force at the time of the hearing; and
 - (9) Compliance of residential PUD plans with the uniform standards for residential use PUD plans in force at the time of the public hearing.

Section 55. Section 17-38-180 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-180 - Site development plan; hearing and notice; ~~planning and zoning~~ **land use review** commission.

The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the site development plan. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 56. Section 17-38-190 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-190 - Site development plan; recommendation **or decision**; ~~planning and zoning~~ **land use review** commission.

~~Within thirty days of the conclusion of its public hearing, the planning and zoning commission shall adopt a resolution of approval, disapproval, or conditional approval. If the recommendation is for conditional approval, the conditions under which the site development plan would be acceptable shall be set forth.~~

- (A) **Within thirty days of the conclusion of its public hearing, the land use review commission shall adopt a resolution to approve, approve with conditions, or deny the proposed site development plan, based on the applicable factors noted in section 17-38-220, B.M.C. Once the land use review commission issues a determination, the determination shall not be final, and no permits based upon the determination shall be issued, for 15 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the city council to call-up the determination for further review, pursuant to section 17-38-195, B.M.C. If the decision is for conditional approval, the conditions under which the site development plan would be acceptable shall be set forth.**
- (B) **Notwithstanding the above, in such cases where an applicant is seeking approval of any of the following, either as a part of an application for a site development plan or in relation thereto, the final decision on the site development plan shall be made by the city council:**
- (1) **A site development plan for seven acres or greater;**
 - (2) **An urban renewal site plan for seven acres or greater;**
 - (3) **A use by special review that includes any oil and gas facilities or wireless communications facilities as an approved use; and**
 - (4) **A development agreement, reimbursement agreement, subdivision improvement agreement, or improvement agreement requiring a financial incentive or financial obligation to be paid by the city.**
- (C) **For any site development plan that requires final approval by the city council pursuant to subsection (B) herein, following a public hearing, the land use review commission shall adopt a resolution recommending approval, disapproval, or**

conditional approval of the site development plan, which shall be referred to the city council for final decision.

Section 57. A new Section 17-38-195 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code, is added to read as follows:

17-30-055 - Site development plan; appeal; call-up by city council.

(A) Appeal.

- (1) The decision of the land use review commission to approve, approve with conditions, or deny a site development plan may be appealed to the city council by the applicant or other interested party. An appeal shall be filed in writing with the planning director not more than fifteen days after the action taken by the land use review commission. The appeal shall state all reasons for dissatisfaction with the action of the land use review commission.**
- (2) The city council shall hold a noticed public hearing on the appeal. The decision by the city council to approve or deny a site development plan shall be final and binding. The accepted appeal will be placed on the first possible public hearing agenda, to be determined and coordinated by the city clerk's office. City council shall hold a public hearing on the proposed site development plan application and approve, approve with conditions, or deny the proposed site development plan, based on the applicable approval criteria in section 17-38-220, B.M.C.**

(B) Call-up by city council.

- (1) At the same time a decision concerning the site development plan is provided to the applicant, the planning director shall forward to the city council a written statement including at a minimum the following:
 - (a) The location of the affected property**
 - (b) A description of the proposed site development plan**
 - (c) Summary of public comments submitted regarding the application**
 - (d) The basis for the land use review commission's decision****
- (2) Upon receiving the planning director's statement, and no later than 15 calendar days after the date of the approval, a city councilmember may call-up the commission's decision for review before the city council.
 - (a) The city council shall review the commission's determination at a public hearing held as soon as practical after the commission's decision. Prior written notice of this hearing shall be provided to the applicant and the public pursuant to chapter 17-52, B.M.C.**
 - (b) At the public hearing, the city council shall consider evidence related to the commission's decision, which may be presented by the city manager or designee, the applicant, or interested members of the public. The city council shall not be limited in their review to the subject of the call-up, but may review any aspect or component of the application that was called-up. Based upon this evidence, the city council may affirm the commission's decision, alter conditions, add new conditions, or reverse the commission's determination on any aspect of the site development plan application. No****

site development plan that is the subject of a call-up shall be recorded, and no permits based upon the site development plan shall be issued, until such time that a public hearing has been conducted by the city council and a final decision approving the site development plan has been made by the city council.

Section 58. Section 17-38-200 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code, is amended to read as follows:

17-38-200 - Site development plan; hearing and notice; city council.

When tThe city council ~~shall~~ holds a public hearing on the site development plan. ~~N~~, notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 59. Section 17-38-210 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows.

17-38-210 - Site development plan; decision; city council; recording.

(A) Within thirty days of the conclusion of ~~its public hearing on the site development plan~~ **any public hearing conducted by the city council concerning a site development plan**, the city council shall adopt a resolution of approval, disapproval, or referral back to the ~~planning and zoning commission for further study.~~ **to approve, approve with conditions, or deny the site development plan. The city council may also refer the site development plan back to the land use review commission for further study. Once the city council issues a decision, the decision shall not be effective until 15 calendar days after the date of the decision. No documents shall be recorded and no permits based on the decision shall be issued until after the 15 day period has expired.**

(B) The site development plan shall include a legal description of the real property within the boundaries of the site development plan and a vicinity map showing the location in the city of the site development plan, which shall be recorded in the ~~office of the director of recording, elections, and motor vehicles~~ **city clerk's office.**

Section 60. Section 17-38-220 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-220 - Review standards.

The ~~recommendation~~ **decisions** of the **land use review** commission and ~~the decision~~ of the city council shall be based on whether the applicant has demonstrated that the proposed site development plan meets the following standards:

(A) The proposal should be consistent with the intent of this chapter as set forth in section 17-38-010.

(B) The proposal should identify and mitigate potential negative impacts on nearby properties.

- (C) The proposal should identify and maximize potential positive impacts on nearby properties.
- (D) The proposal should include adequate facilities for pedestrians, bicyclists, and motorists.
- (E) The proposal should include adequate public improvements (both on and off site) to be provided in a timely fashion.
- (F) The proposal should optimize conservation of energy, water, and other resources on a site-specific scale.
- (G) The land uses within the plan should be compatible with one another and with nearby properties.
- (H) The proposal should provide for open area at a rate of not less than 40% of the developable site in residential areas and 25% in other areas as provided in section 17-38-240 below.
- (I) The proposal should include any common areas serving the site, and adequate provisions should be made for the ownership and maintenance of such areas.
- (J) The proposal should justify any proposed deviations from the Broomfield Municipal Code in terms of the overall quality of the plan.
- (K) The proposal should be consistent with the approved PUD plan.
- (L) For residential-use PUD plans and site development plans, the proposal should be consistent with adopted uniform standards.

Section 61. Section 17-38-225 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-225 - Building permits required; site development plan revocation.

- (A) Within three years from the date on which a site development plan is approved ~~by the city council~~, the owner is required to apply for and be issued building permits for construction on the property consistent with the site development plan. If the owner is not issued building permits within three years, the city council is authorized to revoke the site development plan as hereinafter provided.
- (B) The city council is authorized to issue to the owner a notice to show cause why the site development plan should not be revoked for failure by the owner to receive a building permit. After service of the notice to show cause on the owner, the city council shall set a site development plan revocation hearing. Service of the notice shall be by personal service or by certified mail.
- (C) Prior to a revocation hearing, the city council shall refer the matter to the ~~planning and zoning~~ **land use review** commission for a public hearing and for a recommendation on revocation of the site development plan.
- (D) Public notice for a revocation hearing by the city council and by the ~~planning and zoning~~ **land use review** commission shall be given in accordance with the provisions of chapter 17-52, B.M.C.
- (E) Within thirty days of the conclusion of the public hearing on a site development plan revocation, the city council may revoke the site development plan by resolution. Such resolution shall be recorded in the county in which the site development plan was recorded.
- (F) The ~~planning and zoning~~ **land use review** commission recommendation and the city council decision shall take into consideration the following applicable standards in determining whether to revoke a site development plan:

- (1) Compliance of the site development plan with the master plan;
 - (2) Compatibility of the site development plan with the surrounding area;
 - (3) The need for the uses in the area included within the site development plan;
 - (4) The effect of the site development plan upon future development of the area;
 - (5) The impact of traffic generated by the site development plan on the neighborhood and the surrounding area;
 - (6) The impact of the site development plan on community facilities in the neighborhood and area, including but not limited to schools, library, police and fire protection, recreation facilities, park lands, and open space;
 - (7) The impact of the site development plan on municipal infrastructure in the area, including but not limited to water service, wastewater service, storm water service, transportation systems, and street systems; and
 - (8) Compliance of the site development plan with the Standards & Specifications for Design and Construction of Public Improvements in force at the time of the revocation hearing.
- (G) On and after the effective date of this section, site development plans approved by the city council shall include the following notation: “This site development plan may be revoked by the City Council if building permits are not issued to the owner by the City of Broomfield within three years from the date of approval of this site development plan ~~by the City Council.~~”

Section 62. Section 17-38-230(B) of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-230 - Modification.

- (B) Except as provided in subsection (A) of this section, any modification to an approved site development plan requires the same review by the ~~planning and zoning~~ **land use review** commission and the city council as the original site development plan.

Section 63. Section 17-38-350 of Chapter 17-38, Planned Unit Development, of the Broomfield Municipal Code is amended to read as follows:

17-38-350 - Exceptions.

For good cause shown by the applicant, the city council may eliminate, alter, or vary some or all of these uniform subdivision standards for a residential PUD plan ~~or for a residential site development plan.~~ **A site development plan that does not comply with the uniform subdivision standards for a residential site development plan must include such deviations in the required list of deviations per section 17-38-160(A)(8), B.M.C.**

Section 64. Sections 17-40-140(A) and (C) of Chapter 17-40, Floodplain, of the Broomfield Municipal Code are amended to read as follows:

17-40-140 - Variance procedure.

- (A) *Appeal board.*
- (1) The ~~planning and zoning commission~~ **board of adjustment** as established by chapter 2-40, B.M.C., shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - (2) The ~~planning and zoning commission~~ **board of adjustment** shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city engineer in the enforcement or administration of this chapter.
 - (3) Those aggrieved by the decision of the ~~planning and zoning commission~~ **board of adjustment** on any appeals made pursuant to this section, may appeal such decisions to the district court as provided in C.R.C.P. 106(a)(4).
 - (4) In passing upon such applications, the ~~planning and zoning commission~~ **board of adjustment** shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter; and
 - (5) Upon consideration of the factors set forth in paragraph (4) above and the purposes of this chapter, the ~~planning and zoning commission~~ **board of adjustment** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 - (6) The city engineer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.
- (C) *Hearing and notice.* The ~~planning and zoning commission~~ **board of adjustment** shall hold a public hearing on any appeal or request for a variance. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.

Section 65. Section 17-42-020 of Chapter 17-42, Mobile Home Communities, of the Broomfield Municipal Code is amended to read as follows:

17-42-020 - Development standards generally.

In those zones where mobile home communities are indicated as being permitted subject to special review, an application shall be submitted to the ~~planning and zoning~~ **land use review** commission for a planned unit development (PUD) in accordance with chapter 17-38, **B.M.C.** The standards in sections 17-42-030 through 17-42-240, **B.M.C.**, shall become part of the PUD design of the mobile home community.

Section 66. Section 17-42-310 of Chapter 17-42, Mobile Home Communities, of the Broomfield Municipal Code is amended to read as follows:

17-42-310 - Recreation facilities.

A swimming pool and clubhouse shall be provided. Facilities of equal importance and investment may be substituted if approved by the ~~planning and zoning~~ **land use review** commission and the city council.

Section 67. Section 17-42-450 of Chapter 17-42, Mobile Home Communities, of the Broomfield Municipal Code is amended to read as follows:

17-42-450 - Court; location.

Mobile home courts shall be located only in zoning districts in which they are specifically permitted under the zoning ordinance, subject to approval by the ~~planning and zoning~~ **land use review** commission and city council.

Section 68. Section 17-44-230(M)(4) of Chapter 17-44, Sign Code, of the Broomfield Municipal Code is amended to read as follows:

- (M)(4) The owner or builder of any building ~~which~~ **that** is classified as a sign by the building official shall have the right to appeal such interpretation to the ~~planning and zoning commission~~ **board of adjustment** in the manner provided for in chapter 2-40, B.M.C.

Section 69. Section 17-44-335 of Chapter 17-44, Sign Code, of the Broomfield Municipal Code is amended to read as follows:

17-44-335 - Special exceptions; jurisdiction of ~~planning and zoning~~ **land use review** commission.

Jurisdiction is expressly conferred upon the ~~planning and zoning~~ **land use review** commission only for the review of those matters specifically enumerated in subsections (A) through (F) of section 17-44-330, **B.M.C.**, and in the manner provided in this section. This section shall not be construed nor interpreted as granting the ~~planning and zoning~~ **land use review** commission any powers to vary the terms of this chapter in any way other than as specifically enumerated in this chapter.

Section 70. Section 17-44-340(H) of Chapter 17-44, Sign Code, of the Broomfield Municipal Code is amended to read as follows:

17-44-340 - Special exceptions; application; contents.

- (H) Such additional information ~~which~~ **that** the department of community development or the ~~planning and zoning~~ **land use review** commission determines necessary to adequately review the request; and

Section 71. Section 17-44-350 of Chapter 17-44, Sign Code, of the Broomfield Municipal Code is amended to read as follows:

17-44-350 - Special exceptions; jurisdiction.

The ~~planning and zoning~~ **land use review** commission shall have jurisdiction to hear all applications for special exceptions. No special exception shall be granted unless the proposed sign or structure meets each and every one of the following requirements:

- (A) The proposed sign will not be contrary to the intent of this chapter, as declared in section 17-44-020, **B.M.C.**;
- (B) The proposed sign will be in accordance with the intent of sections 17-44-320 through 17-44-370, **B.M.C.**;
- (C) The proposed sign will comply with all applicable provisions of this chapter unless any such provisions are expressly permitted to be varied by the special exception procedure;
- (D) The proposed sign is reasonably necessary, and the degree of the exception is the minimum necessary to accomplish the purpose of the sign itself; and
- (E) The proposed sign will not result in adverse effects upon neighboring properties, or the health, safety, and general welfare of the public.

Section 72. Section 17-44-360 of Chapter 17-44, Sign Code, of the Broomfield Municipal Code is amended to read as follows:

17-44-360 - Special exceptions; approval procedure.

- (A) Within forty-five days after the receipt of an application, or as soon thereafter as possible, the ~~planning and zoning~~ **land use review** commission, after giving notice, shall hold a public hearing on the application. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C.
- (B) After hearing the application, the ~~planning and zoning~~ **land use review** commission shall make its findings, which shall be recorded in the official minutes of the meeting, either:
- (C) The decision of the ~~planning and zoning~~ **land use review** commission shall not become effective until thirty days after the date the commission renders its decision.
- (D) The city council shall retain the right, on its own initiative, to review, approve, disapprove, change, alter, or in any other way amend the decision of the ~~planning and zoning~~ **land use review** commission. In such event, the city council shall, within thirty days from the date of the ~~planning and zoning~~ **land use review** commission's decision, notify the commission and the applicant that the city council has exercised its right to hear the application and to review the commission's decision. In such event, the following procedures shall apply:
 - (1) Within ten days of receipt of notification, the ~~chairman~~ of the ~~planning and zoning~~ **land use review** commission shall submit to the city clerk the application and all supporting materials and documentation pertaining thereto, and a written report of the commission's findings, decisions, and reasons therefor.
- (E) All approved plans for the proposed sign shall be endorsed by the ~~chairman~~ of the ~~planning and zoning~~ **land use review** commission or by the mayor, as the case may be, and shall be filed with the building official, who shall then issue a permit for the sign as approved.
- (F) Any modification of the proposed sign or sign structure after approval has been granted by the ~~planning and zoning~~ **land use review** commission, or by the city council in the event

the city council exercises its right of review, shall not be permitted unless specifically approved in accordance with all of the procedures applicable to the initial approval of the sign. If approval has been granted by the city council, any modification shall need to be approved by the city council. Nothing in this section shall be construed as preventing the city council from exercising its right of review for requested modifications for signs ~~which~~ **that** the city council did not exercise said right for an initial approval granted by the ~~planning and zoning~~ **land use review** commission.

Section 73. Sections 17-44-370(B) and (C) of Chapter 17-44, Sign Code, of the Broomfield Municipal Code are amended to read as follows:

17-44-370 - Special exceptions; existing signs.

- (B) The application shall be processed and reviewed in the manner provided for in sections 17-44-350 and 17-44-360. The ~~planning and zoning~~ **land use review** commission shall either:
- (1) Grant the application, as requested by the applicant, and confirm that the existing sign will thereafter be considered as a conforming sign;
 - (2) Require any modifications or conditions which it deems necessary to insure that the sign is in compliance with the intent of this chapter and the intent of sections 17-36-070 through 17-36-180, **B.M.C.**, and establish the conforming status of the sign according to the required modifications or conditions; or
 - (3) Deny the application.
- (C) If the owner of the sign fails to make application for a special exception within the specified time period, or if the ~~planning and zoning~~ **land use review** commission denies the application, the sign shall be considered a nonconforming sign and shall be subject to the amortization requirements of sections 17-36-070 through 17-36-180, **B.M.C.**

Section 74. Sections 17-48-020(A), (B), and (C) of Chapter 17-48, Amendments, of the Broomfield Municipal Code are amended to read as follows:

17-48-020 - Procedure for rezoning.

- (A) The owner of any property may apply to the ~~planning and zoning~~ **land use review** commission for rezoning of his or her property. The applicant shall pay an application fee of \$650.00 for rezoning ten acres or more of land and \$250.00 for rezoning less than ten acres of land.
- (B) The city manager is authorized to apply to the ~~planning and zoning~~ **land use review** commission for rezoning of any property within the city.
- (1) The city manager shall notify the owner or owners of any property subject to the application for rezoning that a hearing on the rezoning application will be held before the ~~planning and zoning~~ **land use review** commission and before the city council.
 - (2) The city manager's notification to the owner or owners shall set forth the reasons for the rezoning application.

- (3) Notification to the owner or owners by the city manager shall be by personal service or by certified mail not less than thirty days prior to the public hearing before the ~~planning and zoning~~ **land use review** commission.
- (C) The ~~planning and zoning~~ **land use review** commission shall hold a public hearing on the application. Notice shall be given in accordance with the provisions of chapter 17-52, B.M.C. Following the hearing, the ~~planning and zoning~~ **land use review** commission shall make recommendations to the city council concerning the application.

Section 75. Section 17-48-040 of Chapter 17-48, Amendments, of the Broomfield Municipal Code is amended to read as follows:

17-48-040 - Reclassification; development; time limit.

At the time the ~~planning and zoning~~ **land use review** commission and the city council consider an initial zoning request, a rezoning request, or any amendments to the zoning district map, the applicant shall be advised that the land must be developed in accordance with the designated zoning classification within two years after the date of granting same, and that in the event such development is not completed or substantially commenced within the two-year period, the city may, at its sole and exclusive option, review the zoning classification and initiate proceedings to rezone the land to the classification the land held immediately prior thereto, or to such other zoning classification as may be determined by the city council.

Section 76. Section 17-52-010 of Chapter 17-52, Public Notice Requirements, of the Broomfield Municipal Code is amended to read as follows:

17-52-010 - Uniform notice requirement established.

Whenever, pursuant to this title 17 or pursuant to title 16, B.M.C., a public hearing before the city council or the ~~planning and zoning~~ **land use review** commission is held, a neighborhood meeting is conducted or a concept review is conducted, public notice shall first be given as provided in this chapter. Failure to give full notice as required by the terms of this chapter due to a clerical or administrative oversight or omission shall not affect the validity of any hearing, meeting or decision. The provisions of this chapter shall not apply to amendments to title 16 or title 17.

Section 77. Sections 17-54-050(H), (J), (K), and (L) of Chapter 17-54, Oil and Gas Land Use Regulations, of the Broomfield Municipal Code are amended to read as follows:

17-54-050 - Use by special review application requirements.

- (H) Staff review. Following receipt of the operator's written summary of the neighborhood meeting, city staff shall review the application. An application may require review by outside agencies such as the U.S. Army Corps of Engineers, if the project impacts a floodplain, and may also be referred to any life-safety providers, adjacent jurisdictions, local public health department, and other as may be deemed appropriate by staff. The city

may require that the application materials, including requests for variances based on operational conflicts, be submitted to a technical consultant deemed by the city to be appropriate and necessary to complete the review. Reasonable costs associated with such review shall be paid by the operator. The applicant will be notified of any outstanding issues in connection with application materials upon completion of this review and will be required to address any issues or deficiencies in connection with the application materials. If necessary, a meeting will be held to discuss any issues that need to be resolved. If necessary, the applicant will then submit an amended application, plan or other submittals, as appropriate, to staff for verification that deficiencies have been addressed by the applicant. If revisions were necessary, staff shall review such revised application. Upon determination by staff that all issues have been resolved, staff will submit the application to the ~~planning and zoning~~ **land use review** commission.

- (I) ~~Staff recommendation. After completing its review, staff shall submit its written report and comments to the city council, along with the Alternative Site Analysis Report required by section 17-54-050(D). The recommendation shall either be a recommendation to approve, to approve with conditions, or to deny the request. If the recommendation is to approve with conditions, the recommendation shall set forth the conditions and those requirements as deemed necessary to protect the health, safety, and welfare of the community.~~
- (J) Notice and hearing before the ~~planning and zoning~~ **land use review** commission. Upon public notice as required by the B.M.C., the ~~planning and zoning~~ **land use review** commission will hold a public hearing. ~~Planning and zoning~~ **Land use review** commission may decide to recommend to approve, to approve with conditions, or to deny the application. If the recommendation is to approve with conditions, the recommendation shall set forth the conditions and those requirements as deemed necessary to protect the health, safety, and welfare of the community and the environment. If necessary, the applicant will then submit an amended application to staff to address any deficiencies identified by the ~~planning and zoning~~ **land use review** commission.
- (K) City council. The city council shall consider staff's and the ~~planning and zoning~~ **land use review** commission's recommendations and the testimony and evidence of record at the public hearing and shall make a final decision of approval, or approval with conditions, or of denial. Factors to be considered are those specified in this chapter. The city council shall hold a public hearing prior to making its final decision. Notice shall be given in accordance with chapter 17-52.
- (L) Decision to be stated in official minutes. Any decision of the ~~planning and zoning~~ **land use review** commission or city council on special reviews shall state in the official minutes the reasons for such decision.

Section 78. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on March 2, 2021, and ordered published in full.

INTRODUCED A SECOND TIME and approved on April 6, 2021, and further ordered published.

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO



Mayor

ATTEST:

Samantha Monroe

Assistant City Clerk



APPROVED AS TO FORM:

NCR

Nancy Rodgers

City and County Attorney

First Publication: March 7, 2021

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