

## Chapter 15.07

### SUBDIVISION AND IMPROVEMENTS STANDARDS

#### Sections:

15.07.010	Applicability, procedures and other relevant provisions.
15.07.020	Dedications and provisions for community facilities.
15.07.030	Lot standards.
15.07.040	Cluster lot subdivisions.
15.07.050	Subdivision design and improvements.
15.07.060	Survey monuments.
15.07.070	Property or home owners associations.
15.07.080	Repealed.

#### 15.07.010 Applicability, procedures and other relevant provisions.

##### A. Applicability.

1. General. Unless otherwise exempted by this chapter, all subdivisions or resubdivisions of land within the city and any additional lands over which the city has control under CRS Section 31-23-212 shall be reviewed and approved according to the standards stated in this Development Code. In addition, this chapter shall apply to all land in the process of annexation to the city. No land shall be conveyed or developed until a plat has been approved, except as specifically exempted, under the provisions of this Development Code (please refer to Section 15.01.050B.). A plat is also required to consolidate lots, or reconfigure existing lots, except as specifically exempted by this Development Code (please refer to Section 15.01.080B.).

2. Exemptions. Review and approval of a subdivision plat shall not be required for the creation of lots or plots for sale in a cemetery.

##### B. Applicable Procedures and Other Relevant Provisions.

1. Subdivision Review Process. All applications for subdivision approval are reviewed according to the applicable procedures in Section 15.02.060E. ("Preliminary Subdivision Plats"), Section 15.02.090A. ("Minor Subdivision Plats"), or Section 15.02.090B. ("Final Subdivision Plats").

2. Plat Requirements. Submittal requirements for subdivision plats are found in Appendix B to this Development Code.

3. Improvement Guarantees. For standards governing improvement guarantees, including performance and maintenance guarantees for public and private on-site improvements, please refer to Section 15.05.210, "Improvement Guarantees."

4. Development Agreements. For standards and procedures governing development agreements, which may—among other things—allow vesting of property rights attached to an approved final subdivision plat for more than the statutory three-year period, please refer to Section 15.02.070, "Development Agreements." (Ord. 0-2006-72 § 2; Ord. 0-2001-78 § 1 (part))

#### 15.07.020 Dedications and provisions for community facilities.

##### A. General Rules.

1. Applicants shall identify and provide community facilities during the subdivision review process. During the preliminary subdivision plat review (see Section 15.02.060E), the city shall refer for comment proposed subdivision plats to applicable agencies.

2. In order to facilitate the future acquisition of land areas required to implement this Development Code, the city may require that land be reserved, dedicated, or donated for the future acquisition and development of schools, parks, playgrounds, and other public uses and purposes.

3. The city shall have the discretion to accept any offered donation or dedication of land area.

B. Parks, Greenways, and Open Space. All residential subdivisions shall reserve land for public parks according to the LACP, or dedicate land, or pay fees in-lieu of dedication, for the purpose of providing a proportionate share of public parks, greenways, and open space. All dedications for parks, greenways, and open space shall comply with the standards stated in Section 15.05.040, "Open Space," of this Development Code.

##### C. Fair Contribution for Public School Sites.

1. Applicability/Dedication or Payment In-Lieu Required.

a. Unless exempt under subsection C.2. below, applicants shall, before final plat approval, provide proof that the school district has received fair contribution for public school sites in accordance with the following:

## SCHOOL PLANNING STANDARDS AND CALCULATION OF IN LIEU FEES

	Projected Student Yield	Student Faculty Standard Acres	Site Size Acres	Acres Contribution	Developed Land Value	Cash in-lieu per unit
Single-Family						
Elem.	0.21	/ 525	X 10	= 0.00408		
Middle	0.12	/ 750	X 25	= 0.00397		
High	<u>0.16</u>	/ 1200	X 50	= 0.00683		
Total	0.50			0.01488	x \$100,062	= \$1489
Duplex/Triplex						
Elem.	0.20	/ 525	X 10	= 0.00375		
Middle	0.09	/ 750	X 25	= 0.00297		
High	<u>0.09</u>	/ 1200	x 50	= 0.00358		
Total	0.38			0.01030	x \$100,092	= \$1031
Multi-family						
Elem.	0.15	/ 525	x 10	= 0.00286		
Middle	0.06	/ 750	x 25	= 0.00183		
High	<u>0.06</u>	/ 1200	x 50	= 0.00254		
Total	0.25			0.00636	x \$100,092	= \$714
Condo/Townhouse						
Elem.	0.07	/ 525	x 10	= 0.00133		
Middle	0.04	/ 750	x 25	= 0.00133		
High	<u>0.04</u>	/ 1200	x 50	= 0.00167		
Total	0.15			0.00433	x \$100,092	= \$434
Mobile Home						
Elem.	0.16	/ 525	x 10	= 0.00301		
Middle	0.09	/ 750	x 25	= 0.00283		
High	<u>0.09</u>	/ 1200	x 50	= 0.00375		
Total	0.33			0.00959	x \$100,092	= \$960

b. If a subdivision plat includes land identified in the LACP for a public school site, the applicant shall:

i. Plat and dedicate such land as fair contribution for public school sites, provided such dedication is, as determined by the school district, properly configured and located so as to accommodate a school campus; and

ii. Convey to the school district by general warranty deed title to the land slated for dedication free and clear of all liens, encumbrances, and exceptions (except those approved in writing by the school district), including without limitation, real property taxes, which will be prorated to the date of conveyance or dedication; and

iii. At the time of conveyance, provide an ALTA title insurance policy insuring the title described above in an amount equal to the fair market value of the dedicated property; and

iv. Satisfy the city's raw water requirement for the land conveyed, before conveying the property to the school district; and

v. In addition to any lands dedicated or conveyed, provide to the school district an option to purchase abutting lands identified as a school site in the Longmont Area Comprehensive Plan (LACP) at their fair market value so that the dedicated or conveyed and purchased

lands together form a contiguous parcel meeting the school district's land area requirements listed in the LACP.

c. The applicant shall, not later than the issuance of the first building permit for the subdivision, provide, or provide for payment of the cost of:

i. Construction of one-half of adjacent street development costs for land dedicated to the school district under this section;

ii. Connections for water, sewer, gas, electric, and other normal utilities stubbed to the dedicated land;

iii. Overlot grading of the dedicated land.

The applicant shall also, by issuance of the first building permit, furnish any off-site easements that the school district needs to develop the site.

d. The school district may, at its discretion, accept a payment in-lieu of land dedication for public school sites.

2. Exemptions from Contribution Requirement. Subject to school district approval, the following uses are exempt from the fair contribution for public school sites requirement:

a. Construction of any nonresidential building or structure;

b. Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;

c. Construction of any building or structure for limited term stay or for long-term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family-care homes, group-care homes, halfway houses, hotels, motels, nursing homes, or hospices; and

d. Construction of any residential building or structure classified as housing for older persons, under the Federal Fair Housing Act then in effect.

3. "Fair Contribution" Defined. See Section 15.10.020(A)(113) for definition of "fair contribution for public school sites."

D. Easements and Rights-of-Way. Easements shall be provided where necessary for utilities, drainage, ditch companies, or other public purposes, as required in Chapter 13.36 of the Longmont Municipal Code. Public right-of-way dedication is required for streets and primary greenways as shown on the LACP. (Ord. 0-2006-72 § 3; Ord. 0-2006-50 § 2; Ord. 0-2002-72 § 2; Ord. 0-2001-78 § 1 (part))

#### **15.07.030 Lot standards.**

The size, shape, and orientation of lots shall be appropriate to the location of the proposed subdivision and to the type of development contemplated. The following lot design standards shall apply to all subdivisions:

A. Buildable Lots. All lots created through the subdivision process shall be developable and conform to the minimum zoning, development, and floodplain standards stated in this Development Code. No subdivision shall create lots that prohibit development due to configuration of the lots, steepness of terrain, location of watercourses or floodplain, natural physical conditions, or other existing conditions.

B. Lot Dimensions. The minimum area and dimensions of all lots shall conform to the requirements of Chapters 15.03 (Zoning Districts) and 15.05 (Development Standards) relating to the zoning district in which the lot is

located. This subsection does not apply to planned unit developments.

C. Compliance with Residential Design Standards.

1. All residential subdivisions shall comply with the residential design standards stated in Section 15.05.110, "Residential Design Standards," including a requirement for variation in lot sizes.

2. One-family and two-family residential developments in a PUD District and Cluster Lot Subdivisions are exempt from the lot variation requirements in Section 15.05.110, "Residential Design Standards."

D. Lot Lines. To the maximum extent practical, the sidelines of all lots shall be at right angles to the street upon which the lot fronts, or approximately radial to the center of curvature if the street is curved. If side lot lines are not radial, it shall be noted as such on the plat.

E. Frontage. No lot shall normally have a street frontage less than forty feet, or thirty feet on a cul-de-sac bulb or street curve unless otherwise allowed in Chapter 15.05 (Development Standards), other provisions of this Development Code, or other applicable city standards.

F. Corner Lots. Corner lots for residential use shall be platted wider than interior lots in order to facilitate conformance with the setback (yard) requirements of Chapter 15.05, "Development Standards."

G. Division of Lots. No lot shall be divided by a city boundary line.

H. Lot Depth. The lot depth shall not exceed three times the lot width, except as allowed by this Development Code.

I. Flag (or Flagpole) Lots. Flag lots are not allowed, unless a modification or variance is granted by the decision-making body.

J. Double Frontage Lots.

1. Double frontage lots as defined in Chapter 15.10 are not allowed adjacent to local streets, unless a modification or variance is granted by the decision-making body.

2. If approved, double frontage lots on collector and arterial streets shall have an average lot depth of not less than one hundred thirty feet.

3. See Sections 15.05.100(D) through (E) regarding standards for fences and walls erected on the perimeter of subdivisions and developments.

K. Lots Divided by a Zoning District Boundary. Lots that are divided by a zoning district boundary are not allowed, unless a modification or variance is granted by the decision-making body.

L. Outlots. No outlots are permitted unless required to satisfy a requirement of this Development Code or to serve a public, common open space, or private access purpose. If city maintenance is requested, such outlots adja-

cent to other city-maintained access shall be subject to a perpetual maintenance agreement or other means of maintenance acceptable to the city, and the outlots shall be dedicated to the city. (Ord. 0-2006-72 § 4; Ord. 0-2001-78 § 1 (part))

#### 15.07.040 Cluster lot subdivisions.

A cluster lot subdivision is a residential development in which the lots are allowed to be smaller or narrower than otherwise required in the zoning district ("cluster lots"), but in which the overall number of lots does not exceed the maximum number of lots allowed in the subdivision by the zoning district. Cluster lot subdivisions are intended to create a more compact residential development to preserve and maintain open areas and natural lands in excess of what would otherwise be required by this Development Code. Cluster lot subdivisions shall meet all of the following requirements.

A. Zoning Districts Where Allowed. Cluster lot subdivisions are allowed in the R1 and R2 Zoning Districts.

B. Minimum Parcel Size. Cluster lot subdivisions shall be at least ten acres.

C. Garages Accessed from Alleys Encouraged—Density Bonus Available. Alleys, and lots with garages accessed from alleys, are encouraged. See Section 15.05.050(D)(8) ("Alleys") regarding development standards and density bonuses for alleys.

#### D. Common Open Space.

1. General. The amount of common open space required in this section for a cluster subdivision is in addition to lands reserved for public parks or fees paid for purposes of public parks and other public open space, except that primary and secondary greenways dedicated to the city may be used to meet up to twenty-five percent of the common open space set-aside requirement stated below. See Section 15.05.040, "Open Space," of this Development Code for provisions governing public open space dedication requirements.

2. Minimum Requirement. At least thirty percent of the property shown on the subdivision plat shall be preserved as common open space. Of that area, at least three-fourths shall be designed as contiguous, common open space located according to Section 15.05.040(E) and designed according to Section 15.05.040(G).

3. Organization. Common open space shall be organized, and pedestrian connections to such open space provided, so that:

a. At least thirty-five percent of all lots in a cluster subdivision shall be platted adjacent to designated common open space (an "Open Space Frontage Lot");

b. For each lot that is not an open space frontage lot, the walking distance between such lot and a portion of the common open space, measured along street frontages or pedestrian walkways, shall not exceed one thousand three hundred twenty feet (one quarter mile); and

c. The provisions in Section 15.05.030(F) governing pocket parks shall apply to cluster subdivisions.

4. Landscaping. Each portion of the designated common open space shall be landscaped according to Section 15.05.090, "Landscaping, Buffering, and Screening."

5. Dedication. The minimum required common open space shall be preserved from development in perpetuity through the use of a dedication, and shall be conveyed to a property owners association or other organization with responsibility for maintenance of the open space and the ability to collect assessments or dues for such purpose. The applicant must submit proof that (a) such a deed restriction or easement has been recorded, and that (b) the property owners association or other organization has been established before any building permits for construction in a cluster lot subdivision shall be issued.

E. Cluster Lot Development Standards. All cluster lots shall comply with the development standards stated in Table 15.07-A below. In the case of conflict between the provisions of Table 15.07-A and any other portion of this Development Code, the provisions of this Table 15.07-A shall govern.

<b>Table 15.07-A: Cluster Lot Development Standards</b>	
<b>Item</b>	<b>Standard</b>
Minimum Cluster Lot Size	3,000 square feet
Types of Housing Permitted	<p>Lots of 5,000 sq. ft. or more: One-family or two-family dwelling, as allowed by the applicable zoning district. To the maximum extent feasible, two-family dwellings on cluster lots shall be sited on corner lots, with the primary entrance to each dwelling unit facing a different street.</p> <p>Lots of less than 5,000 sq. ft.: One-family dwelling.</p>
Minimum Lot Width	40 feet
Minimum Front Setback (These setbacks are allowed provided no portion of a building encroaches upon or overhangs an easement)	<p>15 feet from back of sidewalk to house, exclusive of unenclosed porches and bay windows.</p> <p>20 feet from back of sidewalk to a garage door facing the street.</p> <p>10 feet to unenclosed porches or bay windows.</p>
Minimum Side Setback	<p>Corner lots: The side setback facing the street shall be the same as the required front setback.</p> <p>A 10-foot minimum separation distance shall be maintained between adjacent principal dwelling structures.</p> <p>A 6-foot minimum separation distance shall be maintained between all other structures on adjacent lots.</p>
Zero Lot Line Development	<p>Zero Lot Line Development. The side setback on one side of the house may be reduced to zero for a grouping of cluster lots sharing a common street frontage, subject to the following requirements:</p> <p>The subdivision plat shall specify the specific location of each zero-lot line house on the cluster lot.</p> <p>The side setback reduction shall not apply to the side building setback adjacent to a street or to lots that are not part of the zero lot line cluster lot project.</p> <p>A 10-foot minimum separation distance shall be maintained between adjacent principal dwelling structures.</p> <p>An easement between adjacent property owners for maintenance shall be required if the sidewall or eaves of one house is closer than 4 feet to the adjacent property line.</p> <p>If the side wall of the house is 3 feet or less from the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows or other openings that do not allow visibility into the side yard of the adjacent lot, such as a translucent window, are allowed.</p>
Minimum Rear Setback	From alley right-of-way to an alley facing garage door = 6 feet with 20 foot wide alley; All other structures = 15 feet.
Street Standards	Cluster lot subdivisions shall comply with adopted residential street standards, unless an exception is approved under to Section 15.02.090(I), "Exceptions to Street/Road and Access Standards."
Maximum Block Length	600 feet.
Perimeter Buffer	A 30-foot landscaped buffer as stated in Section 15.05.090 shall be established along any boundary of a cluster subdivision that abuts existing one-family residential uses and public rights-of-way to establish a visual screen between the adjacent uses. This perimeter buffer shall be in addition to required building setbacks.
Additional Site Planning Requirements [covering landscaping, adjacent setbacks, and non-repetitive design]	To the extent not covered by this section, the provisions in Chapter 15.05 (Development Standards) shall apply to cluster subdivisions.
Fences	If applicable, the applicant shall install standardized fences for side and rear lot lines as approved by the city.

(Ord. 0-2006-72 § 5; Ord. 0-2001-78 § 1 (part))

#### 15.07.050 Subdivision design and improvements.

A. **Applicability.** The provisions of this section shall apply to all subdivisions unless otherwise expressly stated in an approved development agreement, PUD development plan, or annexation agreement.

B. **City of Longmont Public Improvements Design Standards and Construction Specifications.**

1. **Standards and Specifications Incorporated by Reference.**

a. Under Section 4.9 of the Municipal Charter, the City of Longmont Public Improvements Design Standards and Construction Specifications (referred to collectively as "city standards"), as amended July 1, 2007, are adopted by reference as ordinances of the city, and are incorporated into this Development Code by reference.

b. Under Section 4.9 of the Municipal Charter, the City of Longmont Storm Drainage Criteria Manual (1984, as amended), is incorporated into this Development Code by reference. See also Section 14.24.010 of the Longmont Municipal Code.

c. Copies of the city standards and Storm Drainage Criteria Manual are on file with the department of public works and water utilities, and available for public inspection or purchase during normal business hours.

2. **Compliance with City Standards.** All public improvements, public streets, and private common open space areas and pocket parks shall be constructed to comply with all applicable city standards, with the standards established by this chapter, and with all other applicable city regulations, standards, and specifications.

C. **Consistency with Plans and Regulations.** All subdivisions shall be consistent with:

1. The LACP and this Development Code, including, but not limited to, the quality of life benchmarks/adequate public facilities standards of Section 15.05.150 and the affordable housing standards of Section 15.05.220;

2. The requirements of any preliminary development plan or other precedent plan approved for the specific property.

D. **Plans for Remainder Parcels.** Where an entire parcel under the applicant's control or ownership is not subdivided for development, the applicant shall submit a concept plan for the remainder of the parcel, including major road connections and intended land uses.

E. **Noise Reduction Required.**

1. Where a subdivision borders a railroad right-of-way, federal or state highway, or arterial street, the subdivision design shall include adequate provisions for traffic noise reduction. The city may also refer the proposed subdivision to the Colorado Department of

Transportation and other appropriate federal or state agencies for comment and recommendations addressing noise reduction and compliance with other applicable state/federal highway controls. Solutions for noise reduction may include, but are not limited to: a parallel street, a landscaped buffer area including berming, or lots with increased depth or building setbacks.

2. Where a proposed subdivision produces noise that may adversely affect the peace, tranquility, and privacy of inhabitants of adjacent property, the city may require an acoustical analysis and a plan for noise reduction.

3. When the city requires acoustical analysis, a qualified acoustical engineer shall conduct the analysis, which shall include a description of the noise environment and the construction or other methods necessary to reduce the noise to an acceptable level. The acoustical analysis shall be submitted with the preliminary plat. As a result of the analysis, the decision-making body may attach conditions to the approval necessary to mitigate any identified adverse noise impacts.

F. **Ditch Improvements.** The city may require ditches to be concrete-lined or piped in any proposed subdivision if necessary to promote public safety and welfare, subject to the consent of the applicable ditch company.

G. **Protection of Existing Vegetation and Natural Features.**

1. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within all proposed subdivisions shall be designed to minimize land disturbance and preserve existing trees, vegetation, watercourses, and other natural features. Applicants shall refer to the development standards stated in Section 15.05.090H.3., "Preservation of Existing Trees and Vegetation," and shall apply them in the layout of the subdivision to avoid creating lots or patterns of lots that will make compliance with such standards difficult or infeasible.

2. Under Section 15.05.090H.3., the city shall determine which existing site trees are to be saved, replaced, or relocated. The applicant or owner shall not remove any trees from the subdivision or change the grade of the land affected until the final plat is approved. All trees on the plat required to be retained shall be preserved and, as needed, protected against change of grade.

H. **Streets.**

1. **General Rule.** Any access way that provides public access and provision of public services shall be shown on the subdivision plat, shall be dedicated to the

public, and shall be constructed as a public street according to the standards stated in this Development Code and applicable city standards.

2. Lot Access and Street Connectivity. See Section 15.05.050D, "Streets."

3. Determination of Street Versus Drive. Where designation of an access way as a street or a drive is unclear, the planning director shall consider all of the following criteria and determine if the access way, as proposed, shall be a public street or private drive. Staff designations may be appealed to the P/Z for final determination.

a. Drives are generally non-through ways, do not provide an easy, convenient connection between streets, or encourage use by the general public.

b. Unless the city determines that it is in its best interests to do otherwise, the publicly owned and maintained portions of the water and sewer systems are generally constructed within a street. In most cases, maintenance and repair of service lines are the property owner's responsibility (see Section 14.04.290I. and Section 14.08.225).

c. Public services are generally provided on streets, not on private drives. In a situation where drive design makes it difficult for the city to provide its services in a standard fashion, or makes it difficult for residents to utilize the standard public services, and where the difficulty can be eliminated by utilizing a street instead of a drive, a street is appropriate.

I. Pedestrian Access and Circulation. All subdivisions shall include a system of sidewalks, pedestrian walkways, and trails that interconnect to all uses, lots, open space, and parks. All subdivisions shall comply with the pedestrian and bicycle access and connectivity standards stated in Section 15.05.060, "Pedestrian and Bicycle Access and Connectivity."

J. Water Supply/Fire Protection.

1. All subdivisions shall include a water supply system designed according to city standards and with any applicable utility rules and regulations.

2. No building permits shall be issued for any construction involving combustible materials until such time as working fire hydrants and all-weather driving surface are in place per the approved public improvement plans, and as approved by the fire chief. The fire chief shall determine the number and location of fire hydrants to be provided and installed by the applicant.

3. See also Section 15.05.150E. for standards requiring provision of an adequate level of fire and emergency medical response services and facilities.

K. Wastewater Systems. All subdivisions shall include a wastewater system designed according to the city standards.

L. Stormwater Management.

1. In addition to the one-hundred-year floodplain, other lands subject to flooding, or land, which if developed or improved, would cause improved areas within the city to be subject to flooding shall not be platted for residential occupancy or for any other use that may increase danger to health, life, or property, or aggravate the flood hazard to surrounding properties.

2. All subdivisions shall include a stormwater management system designed according to city standards and the City of Longmont Storm Drainage Criteria Manual. See also Section 15.05.150D. for standards requiring provision of an adequate level of service in the areas of drainage and water quality management.

M. Other Utilities and Public Improvements. All subdivisions shall incorporate those additional utility and improvement designs contained in Titles 13 and 14 of the Longmont Municipal Code.

N. Underground Utilities.

1. All utility lines shall be placed underground. The applicant shall be responsible for complying with the requirements of this provision and shall make the necessary arrangements, including any construction or installation charges, with each of the serving utilities for the installation of such facilities and shall be subject to all other applicable city and state regulations.

2. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, street lighting and other facilities necessarily appurtenant to such underground utilities may be placed above ground. High-voltage electric transmission and distribution feeder lines and necessary appurtenances thereto may be placed above ground. All utility lines and facilities shall be placed within easements of public streets, as herein provided, or upon private easements or rights-of-way provided for particular facilities. Subject to review by applicable utility agencies, aboveground utilities allowed by this subsection shall be screened from public view with landscaping, fences, or walls to the maximum extent practicable taking into consideration applicable clearance, access and maintenance requirements.

O. Grading and Erosion Control.

1. No site grading shall occur on land included within any proposed subdivision prior to the issuance of stormwater quality and grading permits as required by the Longmont Municipal Code and the City of Longmont Storm Drainage Criteria Manual.

2. All subdivisions shall be designed to avoid and/or minimize soil erosion, both during construction and at final stabilization, according to city standards, the City of Longmont Storm Drainage Criteria Manual, and applica-

ble state and county regulations. (Ord. No. O-2007-46, § 9; Ord. 0-2006-72 § 6; Ord. 0-2003-83 § 2; Ord. 0-2003-04 § 2; Ord. 0-2001-78 § 1 (part))

#### 15.07.060 Survey monuments.

Survey monuments shall be installed within subdivisions according to city standards and applicable Colorado law. (Ord. 0-2001-78 § 1 (part))

#### 15.07.070 Property or home owners associations.

A. Declaration of Covenants and Restrictions Required. If open space or other common areas and facilities within a subdivision or development are to be owned and maintained by a property or home owners association, the applicant shall file a declaration of covenants and restrictions that will govern the association. The declaration must be submitted with the application for final plan or plat approval.

B. Declaration Contents. The declaration provisions shall include, but not be limited to, the following:

1. The property or home owners association shall be established before the homes or lots are sold;
2. Membership shall be mandatory for each lot or home buyer and any successive buyer;
3. Any open space restrictions shall be in perpetuity, unless the city approves a shorter time period;
4. The association or, if applicable, the developer shall be responsible for liability insurance, local taxes (if any), and the continuing maintenance of common open space and areas, recreational facilities, and all other community facilities;
5. Property or home owners shall pay their pro rata share of the costs incurred by the association unless the covenants provide for a different means of assessment;
6. Assessments levied by the association can become a lien on the property if allowed in the master deed establishing the property owners association; and
7. The association shall be able to adjust the assessment to meet changing needs and demands.

C. Proof of Establishment of Association; Submission of Recorded Covenants and Restrictions. Prior to recording a final development plan or plat, or as otherwise agreed to by the city, the applicant shall submit evidence that the property owners association has been legally established, typically in the form of articles of incorporation filed with the Colorado Secretary of State. The applicant shall also submit signed originals of the covenants and restrictions for recording prior to recording the final development plan or plat. (Ord. 0-2006-72 § 7; Ord. 0-2001-78 § 1 (part))

#### 15.07.080 Special improvement districts.

A. General. Special improvement districts, authorized by CRS Section 31-25-501 et seq., are typically formed to finance infrastructure improvements within newly emerging urban areas. Such districts are authorized to issue tax-exempt bonds to fund the installation of streets, sidewalks, water and sewer lines, street lighting, and other public improvements. Bonds are paid with a property tax levied on all property located in the district.

B. Formation of District Discretionary with City Council. Consistent with the provisions of Section 10.4 of the Charter for the city, nothing in this section and nothing in any general laws of the state shall be deemed to impose any obligation upon the city council to create any particular special improvement district. Such findings and the decision as to whether any particular special improvement district shall or shall not be created shall remain within the sole discretion of the city council. The exercise of that discretion shall not be questioned in any action or proceeding.

C. General Law to Control. Except as provided by the City Charter and except as provided in this section, the procedure for the creation of special or local improvement districts, the method and manner of making improvements, the assessment of costs, and the issuance of bonds, shall be as provided by the general laws of the State of Colorado relating to special or local improvement districts (Title 31, Article 25, Part 5 CRS) as such laws now exist or as they may be amended.

D. Types of Improvements. The improvements authorized to be acquired, constructed, or installed in special or local improvement districts may consist of the construction, reconstruction, repair, replacement, and extension of improvements that result in a special benefit to the real property included within the district. Without limiting the generality of the foregoing, such improvements may include grading, paving, curbing, guttering, lighting or otherwise improving any street or alley; traffic safety improvements; including signals and signs; sidewalk and bike path improvements, park, open space and recreational improvements; storm drainage and flood-control improvements; water, sewer, gas, electrical and other utility improvements, and aesthetic improvements and amenities. Improvements authorized by this section shall be located in or on public rights-of-way or other public property, except as may be otherwise provided in the ordinance creating the district.

E. Method of Assessment. In all cases where the cost of a local improvement is assessed wholly or in part upon the real property within the district, the cost shall be assessed in proportion to the special benefit received. Such assessment may be made in a frontage, area, zone,

unit or other equitable basis according to special benefits, as determined by the city council. Two or more methods of assessments for different kinds of improvements may be included in a single district.

F. **Waiver of Hearing.** If the petition for the creation of a special or local improvement district is signed by one hundred percent of the owners of the real property to be included within the district and to be assessed, and contains a request for waiver of the notice, publication, mailing and the hearing on the creation of the district, or if each of the property owners otherwise executes a waiver agreement satisfactory to the city council, the city council may, in its discretion, waive any or all of the requirements for notice, publication, mailing and the hearing on the creation of the district.

G. **Application Fee.** All petitions shall be accompanied by an application review fee.

H. **Requirements Relating to Undeveloped Real Property.**

1. In the event that the proposed district consists of undeveloped real property, or is substantially undeveloped, then prior to filing a petition and waiver described in subsection F above, the following shall be required:

a. Submission of the detailed set of plans and specifications showing the proposed improvements to be consistent with official city land use and infrastructure plans and specifications;

b. A title insurance policy or other evidence acceptable to the city council indicating ownership of the real property in the name of the petitioner or petitioners;

c. In the petition and waiver referred to in subsection F above, inclusion of a waiver of the right to contest or challenge the creation of the district, the method and amount of assessments to be levied or imposed, and the issuance of bonds for the payment of the costs and expenses of the improvements;

d. Provisions to insure the payment of special assessments to become due and payable upon the sale of each lot or parcel to a third party; and

e. An independent appraisal satisfactory to the city certifying the market value of the real property to be included in the district, after the acquisition, construction and installation of the improvements, will be at least two times the amount of the proposed assessments.

2. The city council may, by resolution or ordinance, waive or modify any of the above requirements.

I. **Incontestability Provision in Bonds.** Any ordinance that authorizes the issuance of special assessment bonds may provide that each bond therein authorized shall recite that it is issued under the authority of the City Charter and the procedure ordinance codified in this section adopted under to the City Charter. Such recital shall conclusively impart full compliance with all of the

provisions thereof, and all bonds issued containing such recitals shall be incontestable for any cause whatsoever after their delivery for value.

J. **Legal Proceedings.** No action or proceeding, at law or in equity, to review or to question the validity or enjoin the performance of any act or the issuance or collection of any bonds or the levy or collection of any assessments authorized herein, or for any other relief against any acts or proceedings done or had under to this section or under the provisions of the City Charter, with reference hereto, whether based upon irregularities or jurisdictional defects, shall be maintained unless commenced within thirty days after the performance of the act or the passage of the resolution or ordinance complained of, and all such actions or proceedings shall be thereafter perpetually barred.

K. **Costs of Improvements.** The total cost of the improvements that may be included in the assessment roll and assessed against the property within the district includes all direct or incidental costs, whether incurred or to be incurred, in connection with creation and administration of the district, acquisition or construction of improvements, levying and collection of assessments, issuance of bonds, and all other matters required or permitted by this section. Without limiting the generality of the foregoing, such cost shall include initiating and creating the district; publishing or posting notices; printing costs; holding meetings and hearings; designing, constructing or acquiring improvements, including acquiring land, easements and other property rights; contingencies and reserves; inspection and collection; issuing and securing bonds, including capitalized interest for such period as the city council may deem necessary, capitalized bond reserves, and credit enhancements; levying and collecting assessments; legal, engineering, appraisal, financial and other professional fees and expenses connected with the creation of the district, the acquisition or construction of improvements, issuing or securing bonds, levying and collecting assessments, or any other matter under this section, including the costs of confirming, proving or defending the validity of any district, bond or assessment; administrative costs; supplies and equipment; and all other incidental costs.

L. **Repealed.**  
(Ord. No. O-2007-46, § 10; Ord. O-2006-72 §§ 8, 9; Ord. O-2001-78 § 1 (part))