



Statement of Vision

*Lafayette's panoramic view of the Rocky Mountains inspires our view into the future.
We value our heritage, our unique neighborhoods, a vibrant economy and active life-styles.
We envision a future that mixes small town livability with balanced growth and superior City services.*

**Planning Commission
Workshop Agenda**

**Wednesday, January 29, 2014
7:00 pm**

**Lafayette Library – Upper Floor Conference Room
775 West Baseline Rd.
Lafayette, Colorado 80026**

- I. Call to Order**
- II. Scheduled Items**
 - A. Review/Discussion of Section 26-16 of the Development Code, Review Procedures**
- III. Other Business**
 - A. Commission Comments**
 - B. Department Comments**
- IV. Adjourn**

COMMUNITY DEVELOPMENT DEPARTMENT

MEMO

To: Planning Commission
From: Karen Westover, Planning Manager
Date: January 21, 2014
Subject: Application Review Procedures – Section 26-16 of the Development Code

A workshop has been schedule for **Wednesday** January 29th at 7:00 in the Upper Level Conference Room at the **Library**.

Attached is Section 26-16 from the Development Code. Staff plans to review the procedures and development application criteria. This is a good opportunity to discuss the application process and ask any questions about the procedures.

Attachments:

- Section 26-16, Development Code

SECTION 26-16. REVIEW PROCEDURES*

- § 26-16-1. Review procedures, general
- § 26-16-2. Required process
- § 26-16-3. Preapplication conference
- § 26-16-4. Sketch plans and preliminary plans
- § 26-16-5. Final plan
- § 26-16-6. Staff review of certain applications
- § 26-16-7. Site plan and architectural review
 - § 26-16-7.1. Site plan/architectural review criteria
- § 26-16-8. Zoning/rezoning criteria
 - § 26-16-8.1. Zoning/rezoning procedures
 - § 26-16-8.2. Waiver of certain rights
- § 26-16-9. Public notice requirement
- § 26-16-10. Amendments to approved applications
 - § 26-16-10.1. Termination of an approved special use
- § 26-16-11. Vested property rights

Sec. 26-16-1. Review procedures, general.

The purpose of this section is to set forth procedures for review of applications required by this chapter, including subdivision, planned unit development, special use, site plan and architectural review in connection with building permit applications, rezoning, and annexation applications. A single application procedure is utilized to the extent practicable in order to streamline development reviews and to allow an applicant to process simultaneously applications requiring more than one (1) approval. Additional or different procedural requirements are specified where they pertain to certain applications.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2001-43, § 1, 12-4-01)

Sec. 26-16-2. Required process.

- (a) *Annexation.* An annexation shall be processed in the same manner as a zoning or rezoning, in accordance with sections 26-5-1, 26-16-3 and 26-30 of this chapter, unless otherwise specified. In the event that additional procedural requirements are imposed by applicable state statute, the Community Development Director shall modify the annexation process to add any additional procedures required by state statute.
- (b) *Minor subdivision.* A minor subdivision shall be processed in accordance with section 26-16-6 of this chapter.
- (c) *PUD.* A planned unit development shall be processed concurrently with the subdivision, in accordance with sections 26-16-3, 26-16-4 and 26-16-5 of this chapter. If the expedited review exemption in section 26-18-4(b) can be met, the procedure outlined in section 26-16-6 of this chapter may be followed.
- (d) *Site plan/architectural review.* A site plan and architectural review required by sections 26-29-4 or 26-16-7(a) of this chapter shall be processed in accordance with section 26-16-7 of this chapter.

(e) *Special use.* A special use shall be processed in accordance with section 26-16-6 of this chapter.

(f) *Subdivision.* A subdivision shall be processed in accordance with sections 26-16-3, 26-16-4 and 26-16-5 of this chapter, unless otherwise specified.

(g) *Zoning/rezoning.* The procedures set forth in section 26-16-8.1 shall be followed.

(h) *Review of TDR/PUD.* Review and approval of any matter pursuant to the "Intergovernmental Agreement for City of Lafayette-Boulder County TDR Comprehensive Development Plan," such as the identification of sending and receiving sites, and the approval of any transferred development rights planned unit development within the plan area governed by said intergovernmental agreement, shall be processed as a PUD, in accordance with sections 26-16-3, 26-16-4, 26-16-5(b)(1), and 26-16-7 of this chapter; except that the provisions of section 26-16-4(e)(2) shall not apply to the approval of a TDR/PUD. Any matter pursuant to said intergovernmental agreement shall be referred to in this chapter as a "TDR/PUD."

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 1995-21, § 2, 12-5-95; Ord. No. 1998-29, § 19, 8-18-98; Ord. No. 2000-43, § 1, 11-21-00; Ord. No. 2001-9, § 6, 3-20-01; Ord. No. 2001-43, § 2, 12-4-01)

Sec. 26-16-3. Pre-application conference and neighborhood meeting.

- (a) Pre-application Conferences. Prior to submitting a formal application, the applicant shall schedule pre-application conferences with the Community Development Director or the director's representative in order to obtain information and guidance. The purpose of the first pre-application conference is to familiarize the applicant with the city's requirements, procedures and comprehensive plan before substantial time and financial commitments are made in the preparation of plans, surveys, and other studies. At this pre-application conference, the Community Development Director will furnish the applicant with a predevelopment questionnaire. Completion of the predevelopment questionnaire by the applicant shall be a prerequisite to filing a formal application. The purpose of the second pre-application conference is to allow city staff an opportunity to review the applicant's application package in order to verify compliance with the submittal requirements. The requirement for a second pre-application conference may be waived by the Community Development Director.
- (b) A pre-application conference fee shall be established pursuant to a resolution of city council.
- (c) Neighborhood Meeting. Prior to submitting a formal application, the applicant shall hold a neighborhood meeting/open house with residents in adjacent neighborhoods regarding the proposed development. Such neighborhood meeting will allow the applicant to present the proposed development to the adjacent neighborhoods prior to submitting the proposed development to the city; will allow members of the adjacent neighborhoods to provide input regarding the proposed development; and will allow the applicant the ability to propose strategies to address the neighborhood's input as part of the formal submittal. This requirement applies to those development applications as outlined in Section 26-16-2 that require a public hearing, with the

exception of a zoning/rezoning request. The applicant shall notify all property owners within the distance specified in Section 26-16-9 from the subject property by regular mail of the date, time and place of the neighborhood meeting/open house, and shall prominently post at least one sign with a minimum size of 18" x 24", which is to be visible from the nearest roadway, notice of such neighborhood meeting on the subject property. Such notifications shall be mailed and placed on the subject property ten (10) days prior to the date of the neighborhood meeting with a copy being sent to the Planning and Building Department of the City of Lafayette. Copies of sign-in sheets and comments received by the applicant at the neighborhood meeting shall be submitted as part of the formal application.

The Community Development Director may waive the requirement for a neighborhood meeting for modifications or amendments to approved plans when such modification or amendment is required to be reviewed at a public hearing per Section 26-16-10.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2005-22, 8-2-05, Ord. No. 2009-01, 1-20-09; Ord. No. 2011-15, § 5, 5-3-11.)

Sec. 26-16-4. Sketch plans and preliminary plans.

(a) *Purpose.*

(1) Sketch plans. The purpose of the sketch plan is to allow a review of the concept and the appropriateness of the proposed development in order to identify major problems which must be resolved and to assess the overall feasibility of the request.

(2) Preliminary plans. The preliminary plan shall provide the necessary information to allow the staff and planning commission to review a more detailed design and to resolve planning or engineering problems which may have been raised at the sketch plan phase.

(b) *Review procedure.*

(1) Technical review committee. Upon receipt of a complete application, the Community Development Director shall refer the application to the representatives of various departments and agencies assigned to the technical review committee. Copies of the application may be mailed to other agencies or utility companies. Within fifteen (15) days following the filing deadlines, the technical review committee shall meet to review the application, or the Community Development Department shall compile the written comments of the technical review committee. The applicant may attend the technical review meeting, if a formal meeting is scheduled. If any deficiencies in the application warrant additional work by the applicant or require further discussion by the technical review committee and the developer, or if additional information from the developer is received too late to be adequately processed and reviewed, the Community Development Director may defer sending the matter to the planning

commission until the applicant has adequately addressed all issues, to enable the technical review committee to review the application. Based upon the comments of the technical review committee, the Community Development Director shall then prepare a report and recommendations to the planning commission.

(2) Planning commission action. The planning commission, at its next regular meeting, a minimum of thirty (30) days after the filing of the complete application, shall hold a public hearing on the application and consider the recommendations of the planning staff and the merits of the proposed application. Using the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances, the planning commission may approve the application as submitted, approve it with modifications, deny the application, or refer the matter back to the applicant for further study. In approving any application, the planning commission may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances. A written notice of the planning commission action shall be submitted to the city council.

(3) Appeal to city council.

(i) Decisions by the planning commission may be appealed to the city council by the applicant, or by any property owner entitled to notice. Any such appeal shall be filed with the Department of Planning and Building, in writing, within fourteen (14) days following the planning commission decision and shall include the following information: name of the person submitting the appeal; date of the appeal; a statement regarding the grounds for the appeal; and a statement as to the desired modifications being requested.

(ii) All costs associated with the public hearing for an appeal shall be at the expense of the appellant. Such cost shall be limited to the cost of mailing public hearing notices to adjacent property owners and the publication of a public notice.

(4) City Council initiated review.

(i) Decisions by the planning commission may also be called-up and reviewed by initiation of the city council upon the request of three (3) city council members. In the case of a call-up, the call-up shall be initiated by city council at a regularly scheduled city council meeting occurring no later than the second regularly scheduled city council meeting after the planning commission decision.

(5) For those matters appealed to the city council, the city council shall, after giving ten (10) days' written notice to applicant and appellant, review the request at a public hearing. The written notice to the applicant shall include a copy of any document filed to initiate an appeal; however, any stated grounds for the appeal shall not limit the scope of review by the City Council. Using criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances, the city council

shall approve the application as submitted, approve it with modifications, or deny the application. In approving any application, the city council may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances.

(c) *Sketch plans; no vested rights.* The approval of the sketch plan does not bind the planning commission or city council to approve the preliminary plan, nor does it confer on the applicant any vested rights.

(d) *Official development plans (ODPs).* The city has approved certain plans, usually called "Official Development Plans" or "ODPs" following various processes which may or may not have complied with the requirements of this chapter. As of the effective date of this amendment, any approved ODP shall be considered an approved sketch plan for all purposes.

(e) *Withdrawal of approval.*

(1) Sketch plans. Unless extended by the planning commission, for good cause shown, approval of a sketch plan shall be valid for two (2) years. If the developer fails to submit to the Community Development Director a preliminary plan for at least the first phase of development, together with a phasing plan for the balance of the development, conforming to the approved sketch plan within two (2) years after final approval of the sketch plan, approval of the sketch plan by the city shall be deemed withdrawn.

(i) Existing sketch plans or official development plans. For any sketch plan or official development plan approved more than two (2) years prior to the effective date of this amendment, for which no preliminary plan has been filed during the two-year period preceding the effective date of this amendment, approval of the sketch plan or official development plan by the city shall be deemed withdrawn six (6) months from the effective date of this amendment, unless the owner obtains an extension of approval from the planning commission prior to that date.

(2) Preliminary plans. Unless extended by the planning commission, for good cause shown, approval of a preliminary plan shall be valid for ninety (90) days, unless a longer phasing plan is approved as a part of the preliminary plan. If the developer fails to submit to the Community Development Director a final plan conforming to the approved preliminary plan within ninety (90) days after final approval of the preliminary plan, or as otherwise required by a longer phasing plan, approval of the preliminary plan by the city shall be deemed withdrawn.

(Ord. No. 1993-6, § 9, 3-2-93)

Sec. 26-16-5. Final plan.

(a) *Purpose.* The purpose of the final plan, which includes the final plat, is to provide legal documents that will be a part of the city and/or county records. The final plan shall

include the development agreement and all other final agreements between the owner or developer and the City of Lafayette.

(b) *Review procedure.*

(1) City council action. On a finding by the Community Development Director that a complete plan has been submitted and approved by all applicable departments and public agencies, the final plan will be scheduled for consideration by the city council. Using criteria set forth in this chapter, the comprehensive plan and the Code of Ordinances, the city council may then approve the application as submitted, approve it with modifications or deny the application. In approving any application, the city council may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances.

(2) Recording and filing requirements. The city clerk shall cause the final plat, the development agreement, and any other written agreements or recordable documents to be recorded with the county clerk and recorder and shall return one (1) executed copy to the applicant. The clerk shall also file copies of the plats and annexation ordinances as required by state statutes.

(Ord. No. 1993-6, § 9, 3-2-93)

Sec. 26-16-6. Staff review of certain applications.

(a) *Purpose.* Many review procedures do not require a public hearing due to the limited impacts of the request on surrounding properties. This procedure has been designed to expedite minor review procedures.

(b) *Review procedure.*

(1) Conference with Community Development Director. The applicant shall schedule an informal conference with the Community Development Director prior to completing an application.

(2) Staff review.

(i) The Community Development Director shall refer the application to any appropriate representatives of various departments and agencies assigned to the technical review committee for review and comment fifteen (15) days prior to making a decision. The Community Development Director may require that the applicant reimburse the city for the cost of any legal or technical consultant fees incurred by the city in connection with reviewing the application.

(ii) The Community Development Director shall mail a notice to all real property owners who own property located within the distance specified in subsection 26-16-9(a) of the subject property. In the case of an oil and gas

special use application, said notice shall be mailed to those people whose names are listed in accordance with section 26-22.1-4(3)(xvii). Such notice shall be mailed at least ten (10) days prior to the decision of the Community Development Director and shall contain those items specified in section 26-16-9(d)(2) and (3).

(iii) Any property owner entitled to notice may submit oral or written comments on the application to the Community Development Director.

(iv) Using the criteria set forth in this chapter, specifically Section 26-22.1 for oil and gas operations and access thereto, the comprehensive plan, and the Code of Ordinances, the Community Development Director may approve the application as submitted, approve it with modifications, or deny the application no sooner than ten (10) days after mailing notice to neighboring property owners. In approving any application, the Community Development Director may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances. A written notice of the Community Development Director's decision shall be submitted to the planning commission.

(v) Unless extended by the Community Development Director, for good cause shown, approval of any application under this section 26-16-6 shall be valid for ninety (90) days, unless a longer time period was approved as part of the application. The applicant must submit to the Community Development Director final documents and evidence that all conditions or requirements for approval are satisfied within ninety (90) days after conditional approval was granted, or such longer time period approved as part of the application, otherwise approval of the application by the city shall be deemed withdrawn.

(3) Referral to planning commission for action. The Community Development Director may refer any application to the planning commission.

(4) Appeal to planning commission. The action of the Community Development Director may be appealed to the planning commission by the applicant, any property owner entitled to notice, or three (3) members of the planning commission. Any such appeal shall be filed, in writing, within fourteen (14) days following the director's decision.

(5) For those matters appealed or referred to the planning commission, the planning commission shall review the application at a public hearing. Using criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances, the commission shall approve the application as submitted, approve it with modifications, or deny the application. In approving any application the planning commission may impose any reasonable conditions to ensure that the

proposal satisfies the criteria set forth in this chapter, specifically Section 26-22.1 for oil and gas operations and access thereto, the comprehensive plan, and the Code of Ordinances.

(c) *Minor Subdivisions with dedications.* When a minor subdivision is proposed that includes dedications such as utility or access easements, street rights-of-way, or public land, such minor subdivision shall be referred to the City Council by either the Community Development Director or the Planning Commission for acceptance of the dedications.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 1994-7, § 5, 6-21-94; Ord. No. 1998-29, § 20, 8-18-98; Ord. No. 2004-20, § 1, 10-19-04; Ord. No. 2006-24, 6-6-06)

Sec. 26-16-7. Site plan and architectural review.

(a) *Staff review.* Upon referral by the building official pursuant to section 26-29-4 of this chapter or upon application in connection with a subdivision, PUD or other development application, and except as provided in subparagraph (b) of this section, the Community Development Director shall review each site plan and architectural application against the criteria provided in section 26-16-7.1 of this chapter and shall approve, approve with conditions, or deny said application. Notwithstanding the foregoing, the Community Development Director may refer any site plan and architectural application to the planning commission and city council for review in accordance with subparagraph (c) of this section.

(b) *Planning commission and city council review.* The planning commission and city council shall, in accordance with subparagraph (c) of this section, review each site plan and architectural application for the development of any residential structure containing five or more dwelling units, any commercial or industrial structure, and any application for the development of structures on five (5) or more lots or distinct parcels of land.

(c) *Planning commission and city council review process.* The planning commission shall review each site plan and architectural application submitted to it pursuant to subparagraph (a) or (b) of this section against the criteria provided in section 26-16-7.1 of this chapter and shall recommend approval, approval with conditions or denial of the application to the city council. Thereafter, the city council shall consider the planning commission's recommendation and review said application against the criteria provided in section 26-16-7.1 of this chapter before finally approving, approving with conditions or denying the application.

(d) *Approval of site plan and architectural review.* Unless extended by staff or the planning commission and city council, depending upon the original review and approval process, for good cause shown, approval of a site plan and architectural review shall be valid for two (2) years or as long as there exists a valid building permit. If the owner fails to submit to the Planning and Building Department a complete application for a building permit within two (2) years after the final approval of the site plan and architectural review, or if a timely issued building permits expires, then the approval of the site plan and architectural review by the city shall be deemed void. Upon a finding of good cause,

the two (2) year period provided for by this Section may be extended by the authority originally approving the site plan and architectural review (i.e. Community Development Director or City Council).

(e) *Final site plan and architectural review plan set.* Prior to submitting an application for a building permit the applicant or owner shall submit a final, revised site plan and architectural review plan to the Planning and Building Department complying with all conditions of approval. Staff will review such final, revised plan set for compliance with all conditions of approval. The Planning and Building Department will not accept applications for building permits until it has been determined that all conditions of approval have been met.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 1995-21, § 3, 12-5-95; Ord. No. 2001-43, § 3, 12-4-01, Ord. No. 2005-22, 8-2-05, Ord. No. 2009-09, 3-3-09)

Sec. 26-16-7.1. Site plan/architectural review criteria.

The following criteria shall be used in the review of all site plans and projects pursuant to section 26-16-7:

- (a) The scale is appropriate to the site and function of the project and/or building.
- (b) The architecture promotes a harmonious transition in scale and character of the proposed building to surrounding land uses.
- (c) The quality and overall design is compatible with the location and proposed use as demonstrated by building elevations.
- (d) Any diverse architectural treatments are integrated into the overall architectural theme in order to avoid a cluttered appearance.
- (e) The landscape design has been incorporated into the plan and takes into consideration the function and use of open areas and buffering.
- (f) The overall landscape treatment of exterior spaces enhances the quality of the project and creates usable open areas.
- (g) The traffic and pedestrian circulation system, including parking lots, contributes to the orderly and aesthetic quality of the site.
- (h) The screening of service yards, rooftop mechanical equipment and other items which tend to be unsightly has been accomplished through the placement of walls, fences, plantings, or a combination thereof; further, the screening is effective during all seasons of the year.
- (i) Monotony of design within a project has been avoided by providing variation of detail, form and siding that provides visual interest.

(j) The building materials are suitable to the type of building and design for which they are to be used. The building exteriors have the same materials, or those which contrast in pleasing ways as to be architecturally harmonious. Metal materials as a primary architectural feature have not been used.

(k) The materials selected are of a durable quality and offer protection from rot and/or corrosion through the use of commonly accepted maintenance procedures.

(l) For any design in which the structural frame is exposed to view, the structural materials are durable and compatible within themselves and harmonious to their surroundings.

(m) Building articulation and rooflines are varied by the use of architectural and site design.

(n) Building components such as windows, doors, eaves and parapets are visually attractive in proportion, scale and relationship to one another in each building.

(o) The colors, including accents, are harmonious and compatible.

(p) The materials used to buffer mechanical equipment, electrical equipment or other utility hardware on the roof, ground or building, are harmonious with the building.

(q) Exterior lighting, which is a part of the architectural concept, is harmonious with the building design, and does not shine directly on adjacent properties.

(r) Service yards, storage yards and exterior work areas are buffered from view from any public street, public pedestrian access or other public way, and from adjacent properties with less intensive uses through the placement of the building or buildings on the site or with the use of screening walls or enclosures constructed with materials that are harmonious to the building to which it is associated.

(s) Refuse, waste, and recycling collection areas shall be enclosed and screened from view from any public street, public pedestrian access or other public way, and from adjacent properties. The enclosure shall be constructed of materials harmonious to the building to which it is associated. Gates on the enclosure shall be of metal or some other comparable durable material and shall be finished to match the enclosure.

(t) Drive-up restaurants, and restaurants that include an outdoor eating area, shall develop a litter collection plan and submit such plan as part of the site and architectural plan review. Such plan shall obligate the restaurant operator to keep the area immediately surrounding said restaurant free of restaurant litter.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2001-9, § 7, 3-20-01, Ord. No. 2005-22, 8-2-05; Ord. No. 2006-10, 5-2-06)

Sec. 26-16-7.2. Additional site plan/architectural review criteria for drive-up restaurants, drive-up gas stations (fuel facilities), car washes, and other drive-up facilities.

In addition to the site plan/architectural review criteria specified in section 26-16-7.1 the following site plan/architectural review criteria shall apply to all drive-up restaurants, drive-up gas stations (fuel facilities), car washes, and other drive-up facilities.

- (a) For facilities containing a drive-up window, the drive-up windows, drive-up aisles, menu boards, and directional signs shall be orientated away from public street rights-of-way and to the interior of commercial subdivisions, where practical. In cases where a drive-up window or aisle is orientated to, or visible from, a public street right-of-way, the view of the drive-up facility shall be screened from the public street right-of-way by the use of a minimum three (3) foot high berm, slope or masonry wall, or other site design techniques. Landscaping shall be used to soften the berm, slope or masonry wall. In cases where menu boards and directional signs are orientated to, or visible from, a public right-of-way the view of the signage shall also be screened through the use of landscaping, berms, walls, or other site design techniques.
- (b) The solid wall of a car wash facility shall be sited parallel to any public street right-of-way.
- (c) Detached canopy structures shall be designed in such a manner to create a strong architectural association with the principal building. Columns shall provide a visual appearance of substance.
- (d) Drive-up restaurants, drive-up gas stations (fuel facilities), car washes, and other drive-up facilities shall be designed to minimize interference with access and circulation on public street rights-of-way, pedestrian and bicycle access, and within the parking lot. All drive-up restaurants, drive-up gas stations (fuel facilities), car washes, and drive-up facilities shall provide efficient traffic flow through the site.
- (e) Pedestrian walkways and/or bicycle paths shall not intersect the drive-up aisles, unless there is no other reasonable alternative. When no reasonable alternative exist such, walkways or paths shall be identified by signage, lighting, raised crosswalks, special paving or similar type of treatment.
- (f) Drive-up restaurants, drive-up gas stations (fuel facilities), car washes, and drive-up facilities shall provide stacking spaces for vehicles entering the facility. Stacking space is the minimum parking length of an on-site drive aisle necessary to allow for the movement of vehicles within a parking lot to a drive-up window service or other drive-up service without impeding the flow of traffic on-site and off-site. Information, such as studies or other forms of documentation, shall be submitted by the applicant in order to demonstrate that adequate stacking space is being provided.
- (g) The entrance to each drive-up lane/aisle and the direction of traffic flow shall be clearly designated by signs and pavement marking or raised curbs.

(h) Drive-up banks shall not contain greater than four (4) drive-up lanes/aisles for the purposes of window tellers, remote tellers, or automatic teller machines (ATMs).

(Ord. No. 2006-10, 5-2-06; Ord. No. 2011-15, § 4, 5-3-11)

Sec. 26-16-8. Zoning/rezoning criteria.

For the purpose of establishing and maintaining sound, stable and desirable development within the city, this chapter, including the zone district map, may be amended with respect to the uses allowed within a certain area of land if one (1) or more of the following criteria is met:

- (a) The land to be rezoned was initially zoned in error or the rezoning is of a technical or corrective nature in order to conform zone district boundaries with lot lines;
- (b) Because of changed or changing conditions in a particular area or in the city generally, it is in the public interest and reasonably necessary in promotion of the public health, safety or welfare to rezone a property to encourage development or redevelopment;
- (c) The rezoning is necessary to conform to the Lafayette Comprehensive Plan; or
- (d) The rezoning is necessary to provide land for a community related use that was not anticipated at the time of adoption of the Lafayette Comprehensive Plan, but which use is generally consistent with the policies and goals of said plan, is in the public interest and is reasonably necessary in promotion of the public health, safety or welfare.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2000-43, § 2, 11-21-00)

Sec. 26-16-8.1. Zoning/rezoning procedures.

Amendments to this chapter concerning the uses allowed within a certain area of land shall be considered by the city only when the following requirements have been complied with:

- (a) *Requests for amendment.* Requests for amendment may only be presented by an owner of real property within the area proposed for change or by the city planning commission or the city council. Requests for changes of the boundary of any zone district made by one (1) or more owner(s) of real property within the area proposed for change shall be accompanied by a petition requesting the change signed by the owners of at least fifty-one (51) percent of the land proposed for rezoning.
- (b) *Preapplication conference.* Prior to requesting any amendment to this chapter, an applicant shall confer with the Community Development Director or the director's representative in accordance with section 26-16-3 of this chapter. Requests for amendment shall be submitted no less than thirty (30) days prior to the planning commission meeting at which the applicant desires the request to be heard. Any of the foregoing notwithstanding, the Community Development Director shall have the discretion to schedule the application for the next planning commission meeting at which adequate time shall be available to consider the application in accordance with good planning practice and in consideration of then-existing agenda items.

(c) *Technical review and agency referral.* Upon receipt of an application for an amendment, properly and completely made as set forth in this chapter, the Community Development Department shall refer the application to the representatives of various departments and agencies assigned to the technical review committee and to any other agencies, either public or private, which might be affected by the amendment. If considered necessary, any such agency may require the applicant to furnish additional information of a pertinent and reasonable nature. Any such agency may transmit comments and recommendations concerning the application to the Community Development Department. The technical review committee shall meet to review the application, or the Community Development Department shall compile the written comments of the technical review committee. If any deficiencies in the application warrant additional work by the applicant or require further discussion by the technical review committee and the applicant, or if additional information from the applicant is received too late to be adequately processed and reviewed, the Community Development Director may defer sending the matter to the planning commission until the applicant has adequately addressed all issues, to enable the technical review committee to review the application. Based upon the comments of the technical review committee, the Community Development Director or the director's representative shall then prepare a report and recommendations to the planning commission.

(d) *Planning commission hearing.* The planning commission, not less than thirty (30) days after the filing of the complete application, shall hold a public hearing on the application and consider the recommendations of the planning staff and the merits of the proposed application. Using the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances, the planning commission may:

1. Recommend approval of the application as submitted;
2. Recommend approval of the application with modifications or conditions; or
3. Recommend denial of the application.

A written notice of the planning commission action shall be submitted to the city council.

(e) *City council hearing.* The city council shall hold a public hearing on the application and consider the recommendations of the planning staff and the planning commission and the merits of the proposed application. Using the criteria set forth in this chapter, the comprehensive plan, and the Code of Ordinances, the city council may:

1. Approve the application as submitted;
2. Approve the application with modifications or conditions;
3. Deny the application; or
4. Refer the matter back to the applicant for further study and reconsideration on a date certain.

A written notice of the city council action shall be submitted to the applicant. Any approval by the city council shall result in the adoption of an ordinance amending the zone district.

(f) *Approval of reasonable conditions.* Whenever public necessity, convenience, general welfare or good zoning practice justifies the attachment of reasonable conditions to an application for an amendment, the city council may adopt such conditions as a part of the ordinance amending the zone district map. Upon adoption of such ordinance, no zoning or building permits shall be issued except in strict compliance with the aforesaid conditions. Every ordinance containing conditions and changing the zoning classification of an area of land shall contain an exact description of such conditions and shall be recorded by the Community Development Department among the records of the city clerk and in the real property records of Boulder County, Colorado.

(g) *Limitation on filing.* No application for the change of a zoning classification shall be made by a property owner or an agent concerning any land area which land area or any portion thereof shall have been the subject of a public hearing conducted by the city council within the immediately preceding twelve-month period and which public hearing resulted in a rejection of the proposed zoning provided, however, that this limitation shall not apply to those land areas or portions thereof for which a different zone district classification is proposed than that which was rejected by council.

(Ord. No. 2000-43, § 3, 11-21-00)

Sec. 26-16-8.2. Waiver of certain rights.

(a) Whenever the zoning classification of an area of land is changed by legislative action and such change, in whole or in part, is based upon a representation by the applicant that the applicant will waive certain rights available to the applicant under the proposed district classification and that the applicant will use the area of land involved or erect structures thereon in a manner more restricted than otherwise would be required, no zoning permits or building permits shall be issued except in strict compliance with the aforesaid waivers. Any applicant for a change in zoning classification and any person who applies for a permit to alter or erect a structure in such area, including the successors and assigns thereof, shall be deemed conclusively to have assented to all such waivers and shall be deemed to have waived all objections to the same.

(b) Every ordinance changing the zoning classification of an area of land and based, in whole or in part, upon waivers as set forth in subsection (a) shall contain an exact description of such waivers and shall be recorded by the Community Development Department among the records of the city clerk and in the real property records of Boulder County, Colorado. Such ordinance, either before or after having been recorded, may be amended by the city council upon application for an amendment either by the original applicant or by a successor in interest; provided, however, that prior to such amendment notice, posting and other publication shall be given similar in all respects to the notice and publication required for every change in zoning classification.

(c) Nothing herein contained shall be construed as a requirement that all applications for rezoning must contain waivers by the applicant.

(Ord. No. 2000-43, § 4, 11-21-00)

Sec. 26-16-9. Public notice requirement.

For all actions requiring a public hearing, the following public notices are required:

(a) Notice shall be sent by first class mail to all real property owners owning property located within seven hundred and fifty (750) feet of the property in question, and, in the event of a PUD Amendment, all properties within seven hundred fifty (750) feet from the exterior boundary of the original PUD and all properties within the PUD, at least ten (10) days prior to the public hearing; however, the inadvertent failure to send or receive the notice shall not be deemed to deprive the city council, planning commission or board of adjustment of jurisdiction to conduct the public hearing.

(b) Notice of the hearing shall be published in a newspaper of general circulation within the city at least ten (10) days prior to the public hearing.

(c) Notice shall be prominently posted on the subject property at least ten (10) days prior to the public hearing.

(d) All notices shall include:

(1) The date, time and place of the public hearing;

(2) A statement of the nature of the matter to be considered, including a description of the location of any property directly affected by the subject matter of the hearing;

(3) The agency or office and telephone number where further information may be obtained.

A public hearing fee shall be included with all applications requiring a public hearing. Such fee shall be established by a resolution of the city council. This fee does not include the cost of publishing public notices. Such cost shall be borne by the applicant.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2004-14, § 1, 8-3-04; Ord. No. 2009-01, 1-20-09; Ord. No. 2011-15, § 6, 5-3-11)

Sec. 26-16-10. Amendments to approved applications.

Modification or amendments to an approved application shall be permitted by following the same procedures and application requirements as are required for approval of the original application, except as follows:

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

(b) The Community Development Director may authorize an extension of the initial time schedule for the completion of the improvements for a period not to exceed one (1) year. An extension beyond one (1) year must be approved by the planning commission.

(c) The planning commission shall be notified in writing of all actions of the Community Development Director authorizing changes to approved applications or for time extensions.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 2001-9, § 8, 3-20-01, Ord. No. 2009-09, 3-3-09)

Sec. 26-16-10.1. Termination of an approved special use.

(a) *By nonuse.* If an approved special use is not implemented on a property subject to an approved special use, in accordance with the approved time schedule, or within two (2) years, whichever is longer, the special use approval shall expire unless the applicant is in jeopardy of losing such special use approval can demonstrate to the planning commission that commencement of the special use has suffered an unavoidable delay, that the applicant still intends to implement the use, and that an extension of said special use approval would be in the best interests of the city. If the planning commission finds that the applicant suffered an unavoidable delay, intends to implement the special use and that extension of the special use approval is in the city's best interest, in its decision and for good cause, the planning commission may extend to a date certain the time for completion of construction and establishment of the special use.

(b) *By owner's action.* The owner of a property subject to an approved special use may petition the Community Development Director to rescind approval. Upon receipt of such petition, the Community Development Director shall terminate approval of the special use. Thereafter, only those uses permitted by right within the applicable zoning district will be allowed on the subject property.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 1995-4, § 1, 3-21-95)

Sec. 26-16-11. Vested property rights.

(a) *Purpose.* It is the purpose of this section to provide procedures necessary to implement Article 68 of Title 24, Colorado Revised Statutes, title "Vested Property Rights."

(b) *Definitions.*

(1) *Site specific development plan* means an approved plan which creates a vested property right.

(2) *Vested property right* means the right to undertake and complete the specific development and use of property under the terms and conditions of a "site specific development plan."

(c) *Plans which may be recognized as a "site specific development plan."* The following plans may be recognized as a "site specific development plan":

- (1) Planned unit developments as defined by this chapter.
- (2) Minor subdivisions as defined by this chapter.
- (3) Subdivisions as defined by this chapter.
- (4) Final plats as defined by this chapter.

(d) The following may not be recognized as a "site specific development plan":

- (1) Site plan reviews as defined by this chapter.
- (2) Architectural reviews as defined by this chapter.
- (3) Sketch plans as defined by this chapter.
- (4) Preliminary plans as defined by this chapter.
- (5) Preliminary plats as defined by this chapter.
- (6) Special use reviews as defined by this chapter.
- (7) Variances.
- (8) Any zoning classification or district.

(e) No "site specific development plan" shall be approved until after a public hearing, which hearing shall be requested by the landowner and which hearing follows the successful approval of the development at all other required stages of the development review process as required by this chapter. The request for such a hearing must be made in writing by the landowner to the city Community Development Director prior to the issuance of any building permit for the development. Unless the landowner requests such a hearing, the approval of the development shall not be considered a "site specific development plan," and no vested property right shall be deemed to have been created.

(f) The public hearing shall be preceded by written notice of such hearing. Such notice may, at the city's option, be combined with any notice required by this chapter. At such hearing interested persons shall have an opportunity to be heard.

(g) A "site specific development plan" shall be deemed approved upon the effective date of the city council approval action relating thereto as set forth in paragraph (e) above. In the event amendments to a "site specific development plan" are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall relate back to the date of the approval of the original "site specific development plan," unless the city council specifically finds to the contrary and incorporates such finding in its approval of the amendment.

(h) Each map, plat, site plan or other document constituting a "site specific development plan" shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure of the document to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific lots(s) or tract(s) of property affected and stating that a "vested property right" has been created shall be published once, not more than fourteen (14) days after approval of the "site specific development plan," in a newspaper of general circulation in the city.

(i) A vested property right shall be valid for a period of three (3) years from its effective date of approval, unless a longer period is agreed to in writing between the city council and the developer.

(j) The approval of a "site specific development plan" by the city council shall contain such terms and conditions as are reasonably necessary to protect the public health, safety and welfare. The failure of the developer to abide by such terms and conditions shall result in a forfeiture of the vested property right.

(k) In addition to any and all other fees and charges imposed by this chapter, the applicant seeking approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the developer's request for approval of a "site specific development plan," including publication of notices.

(l) The approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this chapter, or any other ordinances, codes and regulations of the city pertaining to the development and use of property.

(m) Nothing in this section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this section shall be deemed to be repealed and the provisions hereof no longer effective.

(Ord. No. 1993-6, § 9, 3-2-93; Ord. No. 1998-29, § 21, 8-18-98)