

Chapter 146 - ZONING

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ARTICLE 1. - GENERAL PROVISIONS

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Sec. 146-101. - Title.

This chapter shall be known as the "Zoning Ordinance of the City of Aurora" and may be cited by that term or by the terms "zoning ordinance" or "zoning code." A copy of the zoning ordinance is on file in the office of the city clerk.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-102. - Purpose.

This chapter is enacted for the following reasons:

- (A) To promote the health, safety and general welfare of the public;
- (B) To ensure that all growth and development is consistent with the spirit and intent of the comprehensive plan, and with the plans and policies adopted by the city council.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-103. - Districts.

This chapter establishes districts, and all lands within the incorporated limits of the city shall be contained within those districts. Certain categories of uses are allowed in each district. Only those uses that are allowed by this chapter may occur within those districts.

A map entitled "Aurora Zoning Map" describes the boundaries of these districts. This map and all related zoning requirements are a part of this chapter. The director of planning shall maintain the

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zoning map. Where zoning boundaries are shown on the map as following property ownership lines or subdivision plat lines, the district boundaries shall be deemed to coincide with the recorded description of those lines. In general, the boundaries shall follow the specific descriptions included in rezoning ordinances adopted by city council. Where boundary lines are indicated on the zoning map as following streets and alleys, they shall be construed as following the centerlines thereof.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-104. - Application of Provisions.

No building or land shall be used or occupied and no building, structure, or part thereof shall be erected, moved, or altered except in conformity with the provisions of this Code. This chapter describes various application procedures that must be followed in order to establish uses of land or in order to erect, move, or alter buildings or structures. This chapter also contains requirements and standards that must be met by allowed uses.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-105. - Nonconforming Uses and Structures.

(A) *Continuation of Nonconforming Use or Structure.* A nonconforming use or structure may continue to exist subject to the following:

1. That the nonconforming use or structure shall not be reestablished if the use or structure is abandoned, discontinued, or ceases operation for more than one year;
2. That the nonconforming use was in operation on the same land area and in the same location in the structure when the use first became nonconforming;
3. A nonconforming use or structure shall not be enlarged upon, increased, or extended to occupy a land area or floor area larger than existed at the time the use became nonconforming. No change whatsoever in any aspect of feature, intensity, or character of the nonconforming use or structure shall occur unless such change is in conformance with this zoning ordinance.

(B) *Damage to a Building Containing a Nonconforming Use.* A building that contains a nonconforming use that has been damaged by fire, flood, wind or other calamity may be restored to its original condition or a safe condition provided such work is consistent with the requirements of the Building Code. Restoration work shall be started within six months of the damage occurring and completed within 12 months of the date in which the restoration commenced.

(C) *Termination of a Nonconforming Use.* A nonconforming use terminates and shall not be resumed when:

1. The nonconforming use is changed to a use conforming with this chapter;
2. The nonconforming use is discontinued or remains vacant for 12 months or more;
3. Whenever the structure in which the nonconforming use is operated and maintained is damaged or destroyed from any cause whatsoever and the cost of repairing such damage or destruction exceeds 50% of the replacement cost of such structure;
4. The nonconforming use is changed unlawfully to another nonconforming use.

(Ord. No. 2001-72, 12-3-2001)

Secs. 146-106—146-199. - Reserved.

ARTICLE 2. - ADMINISTRATION AND ENFORCEMENT

[Sec. 146-200. - Administration and Interpretation.](#)

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[Secs. 146-208—146-299. - Reserved.](#)

Sec. 146-200. - Administration and Interpretation.

The director of planning shall be responsible for the administration of this chapter, and is vested with the power necessary for such administration. The director of planning shall have the authority to interpret the provisions of this chapter, including the features shown on the zoning map.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-201. - Enforcement.

(A) *Generally.* The director of neighborhood services shall be responsible for inspections to determine violations of this chapter through the employment of inspectors who are vested with the power of enforcement.

(B) *Compliance.* No building permit or final certificate of occupancy shall be issued for any building or structure that does not fully comply with the provisions of this chapter. Nothing in this chapter shall be waived or superseded by the wrongful or erroneous issuance of a building permit, business license, or certificate of occupancy.

(C) *Injunctive Relief.* If the city manager, or his or her authorized representative, determines that irreparable harm or injury may result to person or property by the continued violation of this chapter, he or she may request the city attorney to seek injunctive relief in a court of proper jurisdiction.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-202. - Penalties.

(A) *General Penalties.* Unless a violation of this chapter is by its nature uncorrectable, each day of continued violation shall constitute a separate violation. The mandatory minimum penalty for each violation shall be the imposition of a fine in the amount of \$50.00. Any portion of the penalty may be suspended only on the condition that the violation be corrected within a period of 90 days. Any violation, which by its nature is determined to be uncorrectable, shall be punishable in accordance with

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the penalty as set forth in section 1-13 of the City Code.

(B) *Noise Violations.* Noise violations shall be penalized pursuant to section 146-1805

(Ord. No. 2001-72, 12-3-2001; Ord. No. 2005-12, § 149, 4-11-2005)

Sec. 146-203. - Denial of an Application Based on Past Applicant Performance.

(A) *Approvals.* City approval or authorization of any kind under this chapter or Chapter 147 may be denied to an applicant who:

1. Has not complied with all relevant statutory, charter, and ordinance requirements.
2. Has failed to pay all fees, charges, taxes, special assessments, and other debts or obligations that are due from the applicant and payable to the city regarding any matter.
3. Is not in compliance with representations made at public hearing or conditions regarding previous city approvals that have been granted to the applicant for any matter.

(B) *Building Permits.* The director of development services is authorized to withhold building permits on any project when the director has determined that the applicant or developer thereof is in violation of any requirement, condition, or representations made at a public hearing relating to a previous development. The director shall not release building permits until the director is satisfied that the applicant has provided sufficient safeguards to assure compliance with city requirements within a reasonable time after the city approval.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-204. - Development Application Procedures.

(A) *Generally.* Applicants shall be required to file a development application with the planning department for all the development requests required by this chapter. Applicants shall file a single development application on forms furnished by the planning department for all the development requests they seek at one time for a single area of land. Development applications shall be filed, processed, and approved or denied in accordance with the requirements of this chapter and additional rules and procedures as developed by the planning director.

All development applications shall be signed by the subject property owner and shall conform to all the application requirements established by the planning department. The planning director shall reject an application if he or she finds it to be incomplete or incorrect. The director shall inform the applicant concerning insufficiencies of the application.

The planning director, the planning and zoning commission, or the city council, after recommendation from the planning commission, shall consider or approve development applications, as specified by this chapter.

(B) *Waivers.* An applicant may request waivers from development standards. The planning department shall analyze the request and make an individualized determination concerning which standards shall be waived and concerning a roughly proportional increase in other standards to mitigate the impact of the proposed waiver. Requests for waivers shall be considered following the development application procedures described in this section or in accordance with procedures and criteria described in specific provisions of this chapter.

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(C) Public Hearings for Development Applications

1. *Planning and Zoning Commission.* The planning and zoning commission shall conduct a public hearing on all development applications that are required to come before it. The commission shall apply the criteria for review and approval as stated in this chapter when considering an application. At the conclusion of a public hearing, the commission shall approve the application as presented, approve with conditions, deny the application, or make a recommendation to city council, except if the applicant requests that the matter be deferred. The planning and zoning commission may defer an item for one meeting to allow for the receipt of additional information. The planning and zoning commission's decision becomes effective after the second city council meeting following the notice of the commission's decision on the application.

2. *City Council Call-ups.* Prior to the effective date of the planning and zoning commission's decision, any member of the city council may move to consider the development application. If the motion passes, the application shall be brought before the city council as soon as practicable for review and consideration in accordance with the criteria provided in this chapter. The city council shall have the authority to overrule the decision of the planning and zoning commission. Council may also remand the application back to the commission with direction for further consideration.

3. *City Council.* The city council shall conduct a public hearing on all development applications that come before it pursuant to the requirements of this zoning ordinance or the call-up provision in 2. above. At the conclusion of the hearing, the city council shall approve the application, approve with conditions, or deny the application. The city council may defer its decision in order to obtain additional information, or it may remand the application to the planning and zoning commission for further consideration.

(D) Public Notification for Development Applications

1. *Written Notice.* Notice of the time, date, and place of a public hearing before the planning and zoning commission or city council shall be mailed to the owner of the property affected and all owners of abutting property at least ten calendar days prior to the public hearing.

2. *Published Notice.* Notice of the time, date, and place of the public hearing on a development application before the planning and zoning commission or city council shall be published in a newspaper of general circulation within the city at least ten calendar days prior to such hearing.

3. *Posted Notice.* Development applications requiring a public hearing shall be posted at a point clearly visible from a public right-of-way for at least ten calendar days prior to the public hearing before the planning and zoning commission or the city council. The posted notices shall be of a number, size, and location as prescribed by the planning department and shall indicate the type of development applications proposed, the date, time, and place of the hearing. Posted notices may be furnished by the city.

(E) Appeals

1. *Planning Director.* Unless otherwise specified by this chapter for specific requirements, any administratively approved development application, interpretation or decision of the planning director concerning an allowed use, development standard, or design standard may be appealed. Such appeal of an interpretation may be submitted by an affected applicant, by the owner of property affected by the decision, or by the owner of a property that abuts the property affected. The notice of appeal must be filed with the city manager within ten calendar days of the director's

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decision. Such appeal shall specifically state the grounds for the appeal. If an appeal is filed, the planning and zoning commission shall schedule a public hearing according to the procedures described in this article. The planning and zoning commission shall review the appeal based on the various requirements of this chapter and shall ensure that the intent and specific requirements of this chapter are met. The commission's decision shall be in the form of a recommendation to city council.

2. *Planning and Zoning Commission.* A decision by the planning and zoning commission may be appealed to the city council provided such appeal is received by the planning director within ten calendar days after the planning and zoning commission's action on the application. Such appeal may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. The city council shall hold a public hearing on the application. At the conclusion of the hearing, council shall approve, approve with conditions, or deny the application. The city council shall consider the record of the planning and zoning commission proceeding and any new information.

3. *City Council.* A judicial review of a city council final decision can be made pursuant to the Colorado Rules of Civil Procedure 106.

(F) *Amendment of Previously Approved Development Applications.* Amendments to development applications shall be reviewed according to criteria and procedures in Article 4.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-205. - Vested Rights.

(A) *Termination of Site Plans.* The construction of a site pursuant to an approved site plan, redevelopment plan, or contextual site plan shall commence within three years of approval. Should no building permit for a principal building on the plan be issued within such period, the plan shall be voided and shall be of no force or effect. Notice of the termination of the site plan shall be mailed to the owner of the affected property. No construction or development shall be permitted to occur on the property unless and until a site plan is approved that authorizes such construction and development.

(B) *Established Vested Rights.* A vested property right shall be deemed established with respect to any property upon the approval or conditional approval of a site-specific development plan. Applicants must request vesting at the time of site plan application. A vested property right shall attach to and run with the applicable property. It shall confer upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific development plan.

(C) *Approval of Vested Rights.*

1. The planning and zoning commission or city council may approve vesting of a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such approval or conditional approval shall result in a vested property right, although failure to abide by such terms and conditions shall result in a forfeiture of vested property rights. Zoning shall not result in the creation of vested property rights.

2. If a development application for a site specific development plan does not require a public hearing by the planning and zoning commission or city council, the director of planning may approve vesting or a site-specific development plan upon such terms and conditions as may

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reasonably be necessary to protect the public health, safety, and welfare. Such approval or conditional approval shall result in a vested property right, although failure to abide by such terms and conditions shall result in a forfeiture of vested property rights. The vested property right shall be deemed established with respect to the property upon the director's approval following notice and an administrative public hearing conducted by the director or the director's designee. Notice of such hearing shall be published one time at least ten days prior to the hearing.

(D) *Notice.* Not later than 14 calendar days following approval of a site-specific development plan, a notice advising the public of such approval and creation of a vested property right shall be published in the designated newspaper for legal publications of the city. Such notice shall include the name of the plan, address of the project, and date of approval by the director of planning, planning and zoning commission or city council.

(E) *Termination of Vested Rights.* A property right that has been vested as provided in this section shall remain vested for a period of three years. If no building permit is issued within three years, the site-specific development plan shall be terminated. Notice of termination shall be mailed to the owner of the affected property by the planning department 30 calendar days prior to the date of termination. The affected landowner may request an extension of the site-specific development plan for up to three years. Such an extension, if granted, shall not create a vested property right. The procedure for an extension is provided below.

1. The affected landowner may request in writing an extension of a site-specific development plan within 30 calendar days of notice of termination. Upon receipt of the request, the planning director shall determine whether the plan may be extended for an additional three-year period. Notice shall be mailed to all owners of abutting property at least ten calendar days prior to the planning director's decision. An extension of a site-specific development plan shall not create a vested property right.

2. The planning director shall apply the following criteria in determining whether or not to grant an extension:

- a. There is no conflict with this Code, or that any conflict will be corrected by an amendment to the plan, which shall be presented with the request for extension. The applicant has demonstrated that the site plan continues to be compatible with adjacent properties and the surrounding area, or that compatibility may be established by an amendment to the plan, which shall be presented with the request for extension. The applicant has demonstrated that the site plan is consistent with the comprehensive plan. The applicant has demonstrated the site plan is consistent with the regulations, plans, and policies adopted by city council since the site plan was approved.

(E) *Subsequent Reviews and Approvals.* Following approval or conditional approval of a site-specific development plan, nothing in this section shall exempt such a plan or plat from subsequent reviews and approvals. These reviews and approvals include but are not limited to construction drawings, drainage plans, building permit, and certificate of occupancy to ensure compliance with the terms and conditions of the original approval. Such reviews and approvals shall not be inconsistent with the original approval.

(F) *General Ordinances and Regulations.* The establishment of a vested property right shall not preclude the application of ordinances or regulations that are general in nature and are applicable to all property. Such ordinances and regulations include but are not limited to building, fire, plumbing, electrical, mechanical codes, and other health and safety codes.

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(G) *Public Improvements.* The vested property rights provided in this section shall in no way diminish or alter the requirement for public improvements as provided in chapter 147 of this Code or other provisions of this Code.

(H) *Other Establishment of Vested Rights.* Absent a site-specific development plan, a vested right to develop shall be established when an applicant has taken substantial steps in reliance on a lawfully issued building permit, to the extent such permit authorizes construction.

(Ord. No. 2001-72, 12-3-2001; Ord. No. 2005-40, §§ 1, 2, 6-20-2005)

Sec. 146-206. - Comprehensive Plan.

(A) *Adoption and Application.* City council shall adopt a comprehensive plan for the orderly development and redevelopment of the city. The comprehensive plan shall serve to guide the city council and the planning and zoning commission in their decisions and recommendations in all land use and land development applications.

(B) *Amendments.* The planning department shall present all proposed changes to the comprehensive plan to the planning and zoning commission for their recommendation. The planning and zoning commission shall make all recommendations for changes to the comprehensive plan by not less than a two-thirds vote of the entire membership of the commission. Recommendations of the commission shall not be binding upon the city council. City council may change the comprehensive plan by an ordinance approved by a vote of not less than two-thirds of the entire membership of the city council.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-207. - Temporary Use Permits.

(A) *Uses Authorized.* Under this chapter, the city manager, or his or her designee, may issue a temporary use permit for the following uses, notwithstanding the existence of any prohibitory provisions in this Code, provided that under no circumstances shall any exception or temporary use permit be granted in order to permit a commercial use to be conducted in a residentially zoned area:

1. A requested use in a zone within the city where such use is permitted or not permitted in the underlying zone, either as a permitted use or as a conditional use, not to exceed 30 days per year.
2. Private use of a public right-of-way, excluding medians, by placement of a sign, advertisement, or merchandise within the right-of-way, not to exceed six permits per calendar year, each application not to exceed nine consecutive days, so long as such use does not constitute an obstruction or hazard to the right-of-way.
3. Use of the public roadway for purposes of conducting a civic function parade or organized non-vehicular use, including but not limited to walkathons, jogathons, bikeabouts, etc.; not to exceed two days per year.
4. A vehicle such as an automobile, truck, trailer, or van, licensed by the department of motor vehicles, which is used for the collection of recyclable materials, shall be considered a temporary use. Up to one temporary use permit may be issued per calendar year; however, the duration of the time period may be extended pursuant to subsection (C) below. Only one temporary use permit per site may be allowed.
5. A temporary outdoor food and/or merchandise establishment or stand, meeting the

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regulations as listed in section 146-1249 of this chapter, not to exceed four permits per calendar year. Each application not to exceed 90 consecutive days.

6. A farmers market, festival, or fair not to exceed 30 days per year. For purposes of a farmers market, festival, or fair, the performance guidelines applicable for temporary food and/or merchandise establishment or stands, including the 1,500-foot dispersal requirement, shall not be applicable.

7. A temporary use permit for a temporary CMRS facility may be issued for a period not to exceed 14 consecutive days so long as the commercial mobile service facility or antenna does not constitute an obstruction or hazard to the right-of-way or above ground utility lines. A longer period may be authorized only upon a finding by the city manager that such longer period is needed to address an emergency situation.

(B) *Block Party Permits.* The city manager is authorized to establish the procedures and requirements for the issuance of permits for the conducting of block parties. A block party shall be defined as the organizing of a neighborhood gathering using the street right-of-way with one or more entrances being closed to vehicular traffic. All provisions of this section shall be applicable to a block party permit.

(C) *Application.* Application for a temporary use permit shall be made through the planning department on a form that conforms with the requirements of that office. The time periods for permits granted under this section may, at the sole discretion of the city manager, or his or her designee, be extended.

(D) *Cleanup Bond.* Each applicant for a permit shall tender with the application a cash bond of \$150.00. Such bond shall be returnable at the conclusion of the proposed activity provided that the site of the proposed activity is returned to its original condition within 24 hours after the last day of the permitted use. If it is necessary to initiate cleanup operations because of trash, garbage, or debris attributable to the proposed activity, the cost of such cleanup operation shall be deducted from the cash bond. Nothing in this section shall prohibit the city from commencing appropriate legal proceedings against the applicant if the cost of cleanup operations exceeds the cash bond.

(E) *Issuance of Permit*

1. Under this article, the city manager, or his or her designee, after consultation with the appropriate representatives of the city attorney's office, public works department, planning department, police department, fire department, and other departments deemed appropriate, shall determine whether or not the permit should be granted. When the city manager finds and so determines that there is no danger to the health, safety, or welfare of the public, the city manager may waive any and all requirements relating to each or all of the following:

- a. Sanitary facilities.
- b. Adequate water supply.
- c. Additional fire protection measures.
- d. Steps to ensure traffic control.
- e. Liability insurance coverage.
- f. Cleanup bond.

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2. In granting or denying a temporary use permit, the city manager shall make a specific finding of fact as to the following:

- a. Will the exception requested injure the appropriate use of the adjacent conforming property within the same zone or adjacent zone?
- b. Will the exception requested endanger the health, safety, or welfare of the public?

If the answer to either of the questions in this subsection is in the affirmative, as determined by the city manager, the exception shall be denied.

(F) *Termination of Permit.* If any use is found to exist other than that for which the temporary use permit was issued, or if the applicant fails to abide by any of the conditions of the permit, the city manager shall immediately cause the permit to be terminated. This action shall be stated in writing and caused to be transmitted to the applicant or any of his or her agents, employees, or contractors. The permit shall be revoked and rendered void upon service of a written statement to any of the individuals stated in this section.

(G) *Appeal.* An applicant who has been denied a temporary use permit under this division or an applicant who objects to any or all of the conditions imposed by the city manager, may appeal the city manager's decision to the city council. The city council may deny, grant, or amend the city manager's findings and imposition of conditions in conformity with the council's rules.

(Ord. No. 2001-72, 12-3-2001; Errata of 2-20-2002, 1; Ord. No. 2004-17, § 1, 5-3-2004; Ord. No. 2005-71, § 1, 9-26-2005)

Secs. 146-208—146-299. - Reserved.

ARTICLE 3. - ANNEXATIONS AND DISCONNECTIONS

- [Sec. 146-300. - Procedure.](#)
- [Sec. 146-301. - Policy.](#)
- [Sec. 146-302. - Filing Fee.](#)
- [Sec. 146-303. - Final Annexation Plat.](#)
- [Sec. 146-304. - Reserved.](#)
- [Sec. 146-305. - Reserved.](#)
- [Sec. 146-306. - Development Fees.](#)
- [Sec. 146-307. - Disconnection.](#)
- [Sec. 146-308. - Waiver of fees.](#)
- [Secs. 146-309—146-399. - Reserved.](#)

Sec. 146-300. - Procedure.

Annexation of territory to the city shall be in accordance with the state statutes.

(Ord. No. 2001-72, 12-3-2001)

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Sec. 146-301. - Policy.

(A) *Facilities and Amenities.* The city council finds and determines that certain public facilities and amenities are necessary and must be constructed as a part of any territory annexed to the city so that the public needs may be served by such facilities. These facilities include, but not by way of limitation, major and minor arterial streets, bridges, public parks and recreation areas, school sites, fire and police station-sites, and storm drainage facilities.

(B) *Cost of Public Facilities.* The city council further finds and determines that the annexation of lands to the city shall be shown not to create any additional cost or burden on the then-existing residents of the city to provide such public facilities in any newly annexed area. No annexation shall be accepted until the city council, upon the recommendation of the city manager, determines that the current requirements for such public facilities in the area proposed to be annexed have been fulfilled and that the future requirements for such public facilities can be fulfilled.

(C) *School Districts.* Any annexor shall also show that he or she has negotiated with the appropriate school district for dedication of land or cash in lieu of land as may be agreed upon between the parties.

(D) *Information to Be Provided.* The annexor shall provide such building schedules, development information, and other data as determined by the city manager to fulfill the requirements described in subsection (B) of this section.

(E) *Fiscal Impact Analysis.* In its consideration of any proposed annexation, city staff shall provide to the city council an analysis of the fiscal impact of the proposed annexation. The council may request additional information or analysis from the annexor. The cost of such additional information and analysis shall be borne solely by the annexor.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-302. - Filing Fee.

To defray the costs of processing, investigating, conducting public hearings, filing and recording of annexation petitions and plats, a fee shall be required as established by the city council and shall be paid by any person filing a petition for annexation of territory to the city. The city council may waive all or a portion of the filing fee upon a recommendation from the city manager.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-303. - Final Annexation Plat.

The final annexation plat shall be provided and shall conform with applicable state statutes. It shall include all information required by the city.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-304. - Reserved.

Editor's note— Ord. No. 2008-45, § 2, adopted Oct. 13, 2008, repealed § 146-304, which pertained to urban service extension fee and derived from Ord. No. 2001-72, adopted Dec. 3, 2001.

Sec. 146-305. - Reserved.

Editor's note— Ord. No. 2008-45, § 5, adopted Oct. 13, 2008, repealed § 146-305, which pertained to unpaid fee

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declared a lien and derived from Ord. No. 2001-72, adopted Dec. 3, 2001; Ord. No. 2005-74, § 1, adopted Oct. 10, 2005.

Sec. 146-306. - Development Fees.

(A) *Generally.* Development fees are enacted pursuant to the authority granted in the City of Aurora Home Rule Charter and Article XX, Section 6 of the Constitution of the State of Colorado.

(B) *Fees.* The following development fees shall be levied and assessed upon land annexed to the city after December 31, 1984:

1. Water transmission development fee for extension of water transmission facilities, payable at the time of subdivision platting, per acre: \$1,100.00.
2. Sewer interceptor development fee for extension of sewer interceptor facilities, payable at the time of subdivision platting, per acre: \$500.00.
3. Park development fee for improvement of parks and recreation facilities, payable at time of issuance of building permit: see Table 3.1.
4. Storm drainage development fee for basin-wide drainage improvements, payable at the time of subdivision platting, shall be as provided in chapter 138 of this Code.

(C) *Dedicated Land.* Land dedicated to the city for public purposes pursuant to an approved annexation agreement shall be exempt from fees required by this section. This exemption shall not apply to land dedicated for easements, rights-of-way, streets, highways, or storm drainage, unless otherwise provided in the annexation agreement.

(D) *Computation of Fees.* Fees payable at the time of subdivision platting shall be payable pro rata and shall be computed on the basis of the gross acreage within each plat. Whenever less than the entire annexed parcel of land is included in a plat, the balance of fees for the remaining acreage may be due, if necessary to provide service to the annexed property.

(E) *Deferral of Fees.* The city manager or manager's designee is authorized to defer payment of a fee to a later date if he or she finds that the subdivision platting is for the sole purpose of conveyance, and not for development. The city manager shall provide notice to the city council of each deferral for its information. In any event, no site plan shall be approved or building permit issued unless and until the fees required by this section and by any other agreements have been paid to the city.

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|--------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------|--|
| Table 3.1 Park Development Fees | | | |
| A. Neighborhood Park Development Fee | | | |
| 1 | (Total Cost to Develop Neighborhood Parks ¹) X | Percentage of Project Population generated by Single Family Units | |
| S i n g | | | |

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| | | | |
|---|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------------------------------------|
| 1 | I e - F a m i l y U n i t F e e = | | |
| | | Number of Single Family Units | |
| 2 | | (Total Cost to Develop Neighborhood Parks ¹) X | Percentage of Project Population generated by Multi-Family Units |
| | M u l t i p l e - F a m i l y U n i t F e | | |

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| | | | |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------|
| | e = | | |
| | | Number of Multi-Family Units | |
| B. Community Park Development Fee | | | |
| 3 . | | (Total Cost to Develop Community Parks ¹) X | Percentage of Project Population generated by Single Family Units |
| | S i n g l e F a m i l y U n i t F e e = | | |
| | | Number of Single Family Units | |
| 4 . | | (Total Cost to Develop Community Parks ¹) X | Percentage of Project Population generated by Multi-Family Units |
| | M u l t i - F a m i | | |

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| | | |
|--------------------------------------------------------|------------------------------|--|
| I y U n i t F e e = | | |
| | Number of Multi-Family Units | |

¹ The cost to develop parks shall be determined annually by the city manager based on the city's actual cost of recent park development.

(F) An exemption from park development fees shall be granted for developments or portions of developments characterized as assisted living, continuing care retirement community and skilled nursing facility.

(Ord. No. 2001-72, 12-3-2001; Errata of 2-20-2002, 1; Ord. No. 2006-40, § 1, 8-7-2006; Ord. No. 2008-45, § 3, 10-13-2008)

Sec. 146-307. - Disconnection.

(A) *Application.* When the owner of a tract of land within and contiguous to the external boundary of the city desires to have said tract disconnected from the city, the owner may apply to the city council for disconnection. The owner shall apply for disconnection of such tract of land by filing an application with the city clerk and paying an administrative fee as established by the city manager. The application shall contain the following:

1. A description of the land sought to be disconnected;
2. The names and addresses of the owners of the land together with proof of such ownership;
3. Documentation that demonstrates that the land contains an area of 20 or more acres and is located contiguous to the exterior border of the city;
4. Documentation that demonstrates that no part of the land is encumbered by any obligations to the city for payment of fees, taxes, or assessments; and
5. Documentation that demonstrates that all taxes, fees, or assessments lawfully due upon the land at the time of the filing of application have been fully paid.

(B) *City Council Review.* Within 90 days of receipt of an application by the city clerk, the city council shall give due consideration to such application considering the following criteria:

1. Whether the tract is situated such that its disconnection would impair extension of roads,

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utilities, or other infrastructure to other tracts of land located within the city;

2. Whether the tract of land is contiguous to the exterior boundary of the city. Contiguity with unincorporated areas embraced within the limits of the city or enclaves shall not constitute contiguity with the exterior boundary of the city;
3. Whether the tract of land is situated such that its disconnection would impair or preclude future annexations identified in the city's comprehensive plan;
4. Whether the retention of the tract of land within the city would impose a cost for services and infrastructure significantly in excess of the benefit of such tract of land remaining in the city;
5. Whether the disconnection of the property would permit development in a manner that would negatively impact the city or abutting tracts of land that are located within the city;
6. Whether the city is reimbursed for public funds expended on the parcel for infrastructure or other costs;
7. Whether the water rights associated with the land have been received by the city and incorporated into the city's water supply plans;
8. Whether the tract of land is obligated contractually or otherwise expected to participate in the development of a general development plan or regional infrastructure; and
9. Such other matters the city council finds relevant to the application.

If the city council finds and determines that the disconnection of such tract will not prejudice the best interests of the city, considering the criteria herein, it shall adopt an ordinance effecting such disconnection.

(C) *Liability for Taxes.* Land disconnected shall not be exempt from the payment of any taxes lawfully assessed against it for the purpose of paying an indebtedness lawfully contracted by the city council while such land was within the limits of the city and which remains unpaid, and for the payment of which said land could be lawfully taxed.

(D) *Disconnection Agreement.* The city council may by a disconnection agreement establish terms and conditions for granting a disconnection, which terms shall survive the disconnection of the tract of land.

(E) *Effective Date.* An ordinance for disconnection shall be effective as established by the Home Rule Charter. A copy shall be recorded with the county clerk and recorder of the county in which such tract is situated.

(F) *Exclusive Procedure.* The procedure for disconnection described herein is the sole and exclusive procedure for seeking disconnection from the city. It is the intent of the city council of the City of Aurora to exercise the Home Rule powers granted to certain municipal corporations by section 6 of Article XX of the Colorado Constitution, to supersede all provisions in C.R.S., Title 31, relating to disconnection.

(Ord. No. 2001-72, 12-3-2001)

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Sec. 146-308. - Waiver of fees.

The city manager, with the advice and consent of the city council, is authorized to waive collection of any development related fee by the city when the city or an agency thereof is an applicant for the project or when an application is for a project that provides a substantial public purpose or benefit or promotes the health, safety and welfare of the community.

(Code 1979, § 2-202; Ord. No. 2005-12, § 14, 4-11-2005)

Secs. 146-309—146-399. - Reserved.

ARTICLE 4. - DEVELOPMENT APPLICATIONS

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DIVISION 2. - MASTER PLANS
DIVISION 3. - SITE PLANS
DIVISION 4. - DEVELOPMENT APPLICATIONS IN THE E-470 CORRIDOR AND NORTHEAST PLAINS ZONING DISTRICTS
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**DIVISION 1. - IN GENERAL, INITIAL ZONINGS AND REZONINGS,
AND CONDITIONAL USES**

[Sec. 146-400. - In General.](#)
[Sec. 146-401. - Initial Zonings and Rezoning.](#)
[Sec. 146-402. - Conditional Uses.](#)

Sec. 146-400. - In General.

Applicants shall be required to file a development application in accordance with section 146-204 for any development request as described by this article.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-401. - Initial Zonings and Rezoning.

(A) *Applicability*

1. *Initial Zonings.* All applicants filing an annexation petition in accordance with article 3 shall also be required to file a development application for initial zoning. Initial zoning applications shall be presented for a public hearing both to the planning and zoning commission, who shall render a recommendation to city council, and to city council for final decision. Initial zonings shall be

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approved, denied, or approved with conditions by the city council.

2. *Rezoning.* A rezoning request is required if the applicant is requesting zoning that differs from the existing zoning. The planning and zoning commission, city council, or an owner of land proposed to be rezoned may initiate a rezoning. Rezoning applications shall be presented for a public hearing both to the planning and zoning commission, who shall render a recommendation to city council, and to city council for final decision. Rezoning shall be approved, denied, or approved with conditions by the city council.

(B) *Application Requirements.* The property owner or his or her authorized representative shall file application for an initial zoning or rezoning with the planning department. Such application and plan shall conform to the requirements established by the planning department.

(C) *Criteria for Approval.* When considering initial zoning or rezoning applications, the planning and zoning commission and city council, at their respective proceedings, shall use the following criteria to determine whether the rezoning shall be approved:

1. The applicant has demonstrated that the proposed initial zoning or rezoning is consistent with the spirit and intent of the city's comprehensive plan and with other policies and plans adopted by the city council; or
2. The applicant has demonstrated that the proposed initial zoning or rezoning is compatible with surrounding development or that, through utilization of appropriate planning controls and techniques, the initial zoning or rezoning can be made compatible with surrounding development; or
3. A need exists to correct an error.
4. The city council and the planning commission are authorized to consider the past performance of an applicant in their consideration of any rezoning. The city council may deny any rezoning if the applicant or developer thereof is determined to be in violation of any requirements, conditions, or representations on a prior development.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-402. - Conditional Uses.

(A) *Applicability.* Certain uses, as specified in the zone district regulations in this chapter, are conditional uses, which may be allowed subject to the provisions set forth in this section. All conditional use requests shall be filed in conjunction with a request for approval of a site plan, redevelopment plan, or contextual site plan or site, redevelopment, or site plan amendment. Except in the E-470 corridor or northeast plains zoning districts, conditional uses are approved by the planning and zoning commission. Within the E-470 corridor or northeast plains zoning districts, conditional uses are approved by the director of planning through the process of considering an application for a contextual site plan. Uses listed as conditional uses in this chapter are only allowed if approved through the required process and in accord with the provisions described in this section.

(B) *Application Requirements.* Applications for a conditional use shall be filed with the planning department. The application shall conform to the submittal requirements established by the planning department.

(C) *Criteria for Approval.* The following criteria shall be applied in reviewing each application:

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1. The compatibility of the proposed use with existing and planned uses on abutting properties;
2. Any increase in density or intensity of the proposed use that will affect the compatibility of the use with existing and planned uses in the surrounding area;
3. The proposed use will not change the predominant character of the surrounding area;
4. The ability to mitigate adverse and undesirable impacts to the surrounding area, including but not limited to visual impacts, air emissions, noise, vibrations, glare, heat, odors, water pollution, electromagnetic interference, and other nuisance effects;
5. Amount of traffic generated and capacity and design of roadways to handle anticipated traffic;
6. The effect on infrastructure including water, wastewater, stormwater, utilities, and streets;
7. The incorporation and integration of architectural and landscape features to mitigate impacts from the proposed use.
8. The city council, planning commission, or planning director are authorized to consider the past performance of an applicant in their consideration of any conditional use. The planning commission, city council, or planning director may use as a basis for denial whether the applicant or developer is determined to be in violation of any requirements, conditions, or representations on a prior development.

(D) *Conditions of Approval.* In approving a conditional use, the approving authority may place conditions on the use necessary to meet the criteria in (C) above. Such conditions shall be enforceable in the same manner as any provisions of this Code.

(E) *Time Limits for Development of a Conditional Use.* For any applicant to exercise the right to develop a conditional use, a certificate of occupancy for development of the conditional use must be issued within three years of the date of approval.

(F) *Specific Uses.* The right to develop a conditional use approval shall only be applicable to that specific use for which it is approved. A reapplication for a conditional use shall be necessary whenever the specific use or the characteristics of the use for which it was granted have changed. A reapplication shall be required if the use is no longer conducted on the site or the use is discontinued for a period of one year or more.

(Ord. No. 2001-72, 12-3-2001)

DIVISION 2. - MASTER PLANS

[Sec. 146-403. - General Development Plans.](#)

[Sec. 146-404. - Other Types of Master Plans.](#)

Sec. 146-403. - General Development Plans.

(A) *Applicability.* Before development can occur in the planned development (PD) zoning district, a general development plan must be approved including all land contiguous to the site to be developed that is under common ownership. A general development plan (GDP) establishes and defines development regulations, urban design and architectural standards, and permitted land uses for individual or multiple parcels of land that are contiguous. Such land uses and development standards shall conform to the requirements established by the City Code. Planned development (PD) rezoning applications require a general development plan. General development plans shall be presented for a public hearing both to the planning and zoning commission, who shall render a recommendation to city council, and to city council for final decision.

(B) *Application Requirements.* The property owner or his or her authorized representative shall file application for a general development plan with the planning department. Such application and plan shall conform to the submittal requirements established by the planning department.

(C) *Criteria for Review and Approval.* Approval of a general development plan may include necessary conditions and limitations on the approval. The planning and zoning commission and city council shall base their respective decisions for approval on whether the applicant has demonstrated that the proposed general development plan is consistent with the spirit and intent of the comprehensive plan, with the requirements of the Code, and with other policies and plans adopted by city council.

(D) *Past Performance.* The city council and the planning commission are authorized to consider the past performance of an applicant in their consideration of any general development plan. The city council may deny any approval of a general development plan if the applicant or developer thereof is determined to be in violation of any requirements, conditions, or representations on a prior development.

(E) *GDP Amendments*

1. *Minor Amendments.* The director of planning may administratively amend general development plans if the amendments are necessitated, as technical corrections to address minor issues reflecting site conditions. Any such minor amendments shall conform with the criteria in (C) of this section.

2. *Major Amendments*

a. Major amendments to general development plans shall be presented for a public hearing both to the planning and zoning commission, who shall render a recommendation to city council, and to city council for final decision. The planning and zoning commission and city council may include necessary conditions and limitations. A decision for approval of major amendments shall be based on the criteria in (C) of this section.

b. An amendment to a general development plan that increases the residential density in any planning area shall be considered a major amendment. Any proposed transfer of residential density within the general development plan shall be subject to approval of the city council. Such approval shall only occur after the planning and zoning commission has conducted a public hearing and forwarded its recommendation to the city council.

(Ord. No. 2001-72, 12-3-2001)

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Sec. 146-404. - Other Types of Master Plans.

(A) *Applicability.* Where the zoning district requirements of this chapter require the filing of a master plan in conjunction with another approval, applicants shall submit a development application for a master plan. In addition, the director of planning may require that an application for a master plan be submitted in the following circumstances:

1. Prior to or in conjunction with the submittal of a development application for a site plan on contiguous land under common ownership containing more than 50 acres where three or more phases are proposed for development of the land and future phases are unplanned.
2. A rezoning is requested for a parcel of land containing more than five acres, except that initial zonings to planned development district and city-initiated rezonings shall not require a master plan.
3. A waiver is requested to allow a reduction of city standards, specifications, or code requirements, provided no site plan is included in the development proposal.
4. A development application for a site plan is submitted in the PD, PCZD, E-470 Corridor or Northeast Plains districts, when the previously approved general development plan or framework development plan is not of sufficient detail as determined by the director of planning.

(B) *Application Requirements.* The property owner or his or her authorized representative shall file an application for a master plan with the planning department. Such application and plan shall conform to the requirements established by the planning department.

(C) *Method and Criteria of Approval.* The method of approval and criteria for approval shall be as described by the requirements of the zoning district or by other requirements of this chapter. In cases where the master plan is in association with a rezoning, criteria for approval shall be those in section 146-401. In cases where the master plan is submitted prior to or in conjunction with a development application for a site plan, the criteria for approval shall be those in section 146-405

(D) *Preliminary Development Plans.* Previously approved preliminary development plans shall be considered to be master plans under this division.

(Ord. No. 2001-72, 12-3-2001)

DIVISION 3. - SITE PLANS

[Sec. 146-405. - Site Plans.](#)

[Sec. 146-406. - Redevelopment Plans.](#)

Sec. 146-405. - Site Plans.

(A) *Applicability.* A site plan complying with the requirements and procedures of this section shall be a prerequisite to the granting of any building permit for any improvement or construction, except as otherwise provided in this chapter. No land shall be used, occupied, or developed for any use without

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complying with the requirements and procedures in this section. No site plan shall be required for the following:

1. Single-family detached homes on lots in a subdivision of three or fewer lots and that are not a part of land for which a general development plan, framework development plan, or master plan have been approved.
2. Non-habitable accessory structures not including CMRS and major utilities facilities that have no significant external effects on adjacent lands as determined by the director of planning. Such uses shall conform with the requirements of section 146-1103 of this chapter.
3. Interior improvements and tenant finish.
4. Minor changes in architectural facade treatments, or architectural changes to buildings approved without architectural elevations, provided such changes do not produce any of the conditions in (H) 1 below. Such changes shall be subject to administrative approval procedures as established by the planning department.
5. Permitted additions to existing single-family detached dwellings.

(B) *Application Requirements.* The property owner or his or her authorized representative shall file an application for a site plan with the planning department. Such application and plan shall conform to the requirements established by the planning department.

(C) *Method of Review.* All site plans shall be presented to the planning and zoning commission for a public hearing except as otherwise allowed by previously approved general development plans.

(D) *Site Plans Required in Planned Development (PD) Zone Districts.* For sites with approved general development plans or master plans, site plans shall conform with the approved general development plan or master plans.

(E) *Site Plans for City Facilities.* A site plan in conformance with the provisions of this section shall be required for all city developments that contain permanent, habitable structures and require one or more staff persons at the site for operation of the facility. This requirement shall not apply to park facilities that are developed pursuant to an approved park master plan.

(F) *Criteria for Review and Approval.* Approval of site plans under this section may include conditions or limitations. The following criteria shall be considered by the planning and zoning commission and the city council in reviewing applications under this section:

1. *Consistency with comprehensive plan.* The proposed site plan is consistent with the provisions of the comprehensive plan, the City Code, and plans and policies adopted by city council that apply to the affected area.
2. *Impact on existing city infrastructure and public improvements.* The proposed development does not result in undue or unnecessary burdens on the city's existing infrastructure and public improvements, or that arrangements are made to mitigate such impacts.
3. *Density.* If the density is different from those of adjacent properties, specific steps are to be taken to achieve compatibility. For residential site plans abutting residential zones of lower density, the development shall provide for transitions in density and building height to protect the character of the lower-density residential areas.

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4. *Protection and appropriate use of environmental features and topography to enhance the development.* New development shall be designed, where reasonable, to preserve and protect the water quality and wildlife habitat of riparian corridors, wetlands, and floodplains affected by the proposed development. Open space and natural areas shall be preserved, where reasonable, and integrated into developed areas to provide visual diversity in the landscape and to define neighborhood and community character. The design and placement of buildings on a site incorporate and protect view corridors. Where reasonable, the design of the development shall maintain the approximate topographic form of major ridgelines, swales, and landforms.

5. *Landscaped area.* All site plans shall conform to adopted landscaping standards or guidelines adopted by city council. Certain portions of the city may be designated for special design treatments and standards.

6. *Internal efficiency of design.* The proposed design of the site plan achieves internal efficiency for its users, including safe and convenient pedestrian access to common areas for recreation and other services, facilities, and amenities provided by the development. The proposed design shall provide for safe and convenient access for service and maintenance personnel performing routine duties related to but not limited to mail delivery and pick-up, utility meter reading, and other services.

7. *Control of nuisance impacts.* The proposed development controls nuisance impacts on itself and surrounding land uses including heat and glare, traffic congestion, noise, arrangement of signs and lighting, features to prevent littering and accumulation of trash, the amount and quality of storm drainage, the provision of adequate light and air, compatible screening of rooftop mechanical units, and other factors deemed to affect public health, safety, and general welfare.

8. *Urban design, building architecture, and landscape architecture.* The site plan shall establish a high quality of design, demonstrate how compatibility with adjacent development and surrounding urban design elements will be achieved as well as internal consistency of design, and satisfy the city's adopted design standards and/or guidelines. The relationship between mass and space shall be combined and integrated to produce aesthetic and functional buildings and landscapes.

9. *Adequacy, accessibility, and connectivity of traffic and circulation plans.* The design, efficiency, and connectivity of vehicular, bicycle, and pedestrian transportation systems, linkages to open space and trails, availability of resident and guest parking, loading spaces, convenience of location, and access to public transit facilities shall be adequate and functional.

10. *Street standards.* Public and private streets included in the site plan shall conform with city street standards.

11. *Past Performance.* The city council and the planning commission are authorized to consider the past performance of an applicant in their consideration of any site plan. The planning commission or city council may deny any approval of a site plan if the applicant or developer thereof is determined to be in violation of any requirements, conditions, or representations on a prior development.

(G) *Site Plan Waivers.* An applicant may request waivers from development standards or requirements. The planning department shall analyze the request and recommend which, if any, plan modifications are necessary to mitigate potential waiver impacts. The planning commission shall approve the waiver as presented, approve with conditions, or deny the waiver.

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The planning director may approve a waiver of any height or setback requirements for any structure as long as the waiver does not result in the requirement being exceeded by more than 10 percent. Such waiver shall only be granted if it results in a site plan that still conforms with the criteria in subsection (F) above.

(H) *Amendments.*

1. Any approved site plan may be amended administratively as provided in this section, or entirely withdrawn by the landowner. The director of planning may approve administrative amendments to an approved site plan without notice or hearings, after consideration of the record from the original public hearing on the plan. Any site plan may be amended if the proposed change does not produce any of the following conditions as determined by the planning director:

- a. A significant change in the character of the development.
- b. A significant increase in the intensity of the use.
- c. An increase of problems related to circulation, safety, and provision of utilities.
- d. An intensification of the external effects on adjacent property.
- e. A reduction in building heights or setbacks, by as much as 10 percent of the setback distance at any given point, which would violate the requirements of the underlying zoning.
- f. An increase in ground coverage by structures on the site by more than 10 percent of the site area.
- g. A reduction in the amount of required off-street parking by no more than 10 percent of the total parking spaces.
- h. Significant visual impact inconsistent with the character of the surrounding area.
- i. No waivers of standards except as noted above.

2. Applications for administrative amendments to approved site plans shall be subject to administrative rules and regulations established by the director of planning. If a proposed amendment does not qualify for administrative approval, it shall be presented to the planning and zoning commission for consideration. The planning department shall make a recommendation to the planning commission concerning the amendment. Any proposed amendment shall comply with current regulations and standards for development.

(I) *Completion of Site Improvements.*

1. Before any building shall receive a certificate of occupancy, the owner, developer, or authorized agent(s) shall have completed the improvements in accordance with the approved site plan and subdivision plat—subject, however, to weather conditions, governmental restrictions, strikes, or other causes beyond reasonable control. In such occurrences, the owner or developer shall have substantially completed the necessary portion of improvements to provide all-weather access to buildings and all other improvements. This shall include but not be limited to completion of storm drains, paving of driveways and parking areas, landscaping, and screening necessary to protect the health, safety, and welfare of any users of the property. All improvements shall be completed if necessary to guarantee the safety of the site's users. In any event, all improvements

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will be accomplished in accordance with the approved site plan.

2. The site plan and any amendments thereto, upon approval by the city, shall be binding upon the owner, successors, and assigns. The site plan shall limit and control the issuance and validity of all building permits, and shall restrict and limit the construction, location, use, occupancy, and operation of all land and structures within the plan to all conditions, requirements, locations, and limitations set forth in the site plan.

3. The owner shall maintain the site in conformance with the approved site plan. All landscaping shall be maintained in conformance with the landscape plan and site plan. All landscaping shall be automatically irrigated, maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, and replacement of dead plants.

4. No changes shall be made to the premises, which are the subject of a site plan, without prior approval of an amendment to the site plan according to the procedures for amendment in this section.

5. It shall be unlawful to use or occupy a site, or place any improvement, structure, building, or vehicle on a site, in a manner that does not conform with the approved site plan. If the proposed redevelopment will significantly change the character of the development, or increase the external effects on adjacent property, as determined by the director of planning, the plan shall be presented to the planning and zoning commission for review. The planning commission shall review the plan using the criteria as found in section 146-405(F)1.

(J) *Expiration of Site Plans and Vested Rights.* See section 146-205(E), Termination of Vested Rights.

(Ord. No. 2001-72, 12-3-2001; Errata of 9-11-2002, 1, 2; Ord. No. 2004-77, § 4, 12-6-2004)

Sec. 146-406. - Redevelopment Plans.

(A) *Applicability.* An applicant proposing to make any alterations to an existing property which lacks an approved site plan but which would require one under the requirements of this chapter, shall submit an application to the planning department for approval of a redevelopment plan. A redevelopment plan shall be required instead of a site plan only when the proposed use is limited to existing structures lawfully constructed without a site plan.

(B) *Method of Approval.*

1. The director of planning is authorized to approve, without notice or hearings, plans for redevelopment of land and structures. However, the director of planning has the discretion to send the plan to the planning and zoning commission for review as a site plan.

2. The planning director is authorized to waive development standards for redevelopment projects when strict compliance with the standards in this chapter would make a redevelopment project infeasible. The planning director may waive such development standards only after he or she is satisfied that the applicant has used his or her best efforts to comply with the development standards. The planning director may waive the standards if the applicant has provided a compensating amenity or has properly mitigated adverse effects. The waiver shall be granted only if such variance will not adversely affect adjacent properties or the surrounding neighborhood.

3. Notwithstanding the provisions of section 147-14(b)(1) of the City Code, the public works

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director is authorized to grant a deferral of public improvements for redevelopment projects. Such deferral shall be subject to the conditions and limitations in section 147-14(b)(2) of the City Code.

4. Upon approval, a redevelopment plan shall restrict and limit the construction, location, use, and operation of all land structures included within the plan to all conditions and limitations set forth in the plan. All lands shall be maintained in compliance with the approved redevelopment plan.

(Ord. No. 2001-72, 12-3-2001; Errata of 2-20-2002, 3)

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[Sec. 146-407. - Amendment of E-470 Corridor and Northeast Plains Subarea Boundaries.](#)

[Sec. 146-408. - Framework Development Plan.](#)

[Sec. 146-409. - E-470 Corridor and Northeast Plains Contextual Site Plan \(CSP\).](#)

[Sec. 146-410. - Approval Procedures for Development Applications in the E-470 Corridor or Northeast Plains Zoning Districts.](#)

Sec. 146-407. - Amendment of E-470 Corridor and Northeast Plains Subarea Boundaries.

(A) *General Amendments.* A request to redesignate land in the E-470 corridor and northeast plains zone districts from one subarea to another, or to adjust the boundaries of an E-470 corridor or northeast plains zone district subarea, shall be treated as an application to rezone land. Such a request shall be subject to all of the procedural requirements of this chapter, unless it qualifies as an administrative amendment pursuant to (B) of this section. In addition to the criteria for approval in section 146-400, in order to redesignate land, a determination shall also be made that:

1. The proposed change would be consistent with the intended purpose of the proposed subarea stated in article 9;
2. The change is to accommodate proposed development that will be consistent with the E-470 and northeast plains zoning regulations and design standards in article 9, including without limitation provisions related to the permitted size and location of NAC, CAC, SAC and RAC areas.
3. The proposed change is consistent with the spirit and intent of the city's comprehensive plan and other plans and policies adopted by city council.
4. To correct an administrative or technical error.
5. The director of planning, city council or the planning commission are authorized to consider the past performance of an applicant in their consideration of any framework development plan. The director of planning, planning commission or city council may deny any approval of a framework development plan if the applicant or developer thereof is determined to be in violation of any requirements, conditions, or representations on a prior development.

(B) *Administrative Amendments.* A request to adjust the boundaries of an E-470 corridor or northeast

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plains zone district subarea may be processed by the director of planning as an administrative amendment pursuant to section 146-408(G). Such a request to adjust the boundaries may be approved provided that the proposed change would move the boundary between two adjacent subareas so that no more than two acres of land is redesignated to a new subarea. An administrative amendment to E-470 corridor or northeast plains subarea boundaries shall be approved if the director of planning determines that:

1. The proposed change would be consistent with the intended purpose of the proposed subarea stated in article 9;
2. The change is to accommodate proposed development that will be consistent with the E-470 or northeast plains zoning regulations and design standards in article 9, including without limitation provisions related to the permitted size and location of NAC, CAC, SAC and RAC areas; and
3. All other applicable provisions of section 146-400 have been met.

(Ord. No. 2001-72, 12-3-2001)

Sec. 146-408. - Framework Development Plan.

(A) *Applicability.* A framework development plan (FDP) complying with the requirements and procedures of this division shall be a prerequisite to any development or subdivision of land in the E-470 corridor or northeast plains zone districts, unless explicitly exempted by this chapter. When an FDP is required, it shall be approved prior to or simultaneously with the approval of the first contextual site plan (CSP) or subdivision plat covering all or any part of the same property, unless explicitly exempted by this chapter. An FDP and a CSP and/or a subdivision of land may be processed simultaneously. The FDP shall include all land contiguous to the site to be developed that is under common ownership.

(B) *Exemptions.* An FDP shall not be required for proposed developments containing less than five acres of area where (1) the parcel was legally created prior to the adoption of this ordinance, and (2) the director of planning determines that all planning issues concerning the internal organization of the development and the relationship of the development to the surrounding area can be resolved through the review and approval of a contextual site plan for the development.

(C) *Application Requirements.* The property owner or his or her authorized representative shall file development application for a framework development plan with the planning department. Such application and plan shall conform to the requirements established by the planning department.

(D) *Required Elements.* Each FDP application shall conform with requirements established by the planning department. At minimum it shall contain the following elements unless the director of planning determines that one or more elements are not necessary because all planning issues concerning the internal organization of the development and the relationship of the development to surrounding area can be resolved through the review and approval of a contextual site plan for the development:

1. *Land Analysis Element Identifying:*
 - a. *Natural Features and Amenities.* Including water features, high points, major ridgelines and drainages, significant views, parks and public open spaces, historic or archeological sites or areas, and actual and potential wildlife habitat (as identified by the Colorado Division of Wildlife);

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- b. *Hazards*. Including airport influence areas, identified accident potential zones, noise contours and other noise boundaries; and
- c. *Planning Context*. Including the adjacent existing or approved land uses, open spaces, streets, and trails.
- d. *Neighborhood Definition Element Identifying*:
 - i. distinct residential neighborhoods and non-residential development areas consistent with subdivision regulations; and
 - ii. natural or man-made features used to divide the land into those defined residential neighborhoods and development areas.

2. *General Organization of Land Uses and Densities*. Including the general placement of activity centers and multi-family areas. An FDP may also include identification of general locations of conditional uses if the property owner chooses, but approval of an FDP shall not constitute approval of specific conditional uses. Where property is located in an airport influence area, identified accident potential zone, noise contour, or other noise boundary, this element must also identify proposed mitigation steps appropriate for those areas.

3. *General Auto and Pedestrian Circulation Network* meeting all applicable requirements of the E-470 corridor or northeast plains design standards, and Chapter 147, Subdivision Regulations.

4. *General Open Space Network*, including both dedicated and non-dedicated lands, and meeting all applicable requirements of the E-470 corridor or northeast plains design standards, and article XVIII, Subdivision Regulations.

5. *Conceptual Drainage Plan* that incorporates drainage features as enhancements to open space and neighborhood focal points wherever possible.

6. *Public Facilities Element* showing proposed school sites, public facility sites, and general utility systems and phasing.

7. *Design Themes* for any proposed activity centers, including common architectural themes, landscaping themes, general materials, and general styles.

(E) *Criteria for Review and Approval*. All FDPs shall be reviewed by the director of planning, and by the planning and zoning commission if an appeal is filed, and shall be approved, approved with conditions, or denied based on the following criteria:

- 1. Consistency with the spirit and intent of the comprehensive plan and the E-470 and Northeast Plains Land Use Studies.
- 2. Consistency with E-470 corridor or northeast plains zone district requirements and design standards in this chapter; and
- 3. Consistency with all other applicable standards, guidelines, policies, and plans adopted by city council.

(F) *Waiver of FDP Development Standards*.

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1. *Criteria for Waivers.* When an FDP proposes one or more waivers from design or development standards or other development requirements, the waivers may be granted by city council. In return for the waiver, the FDP shall exceed other appropriate standards. City council may grant the waiver if it finds that:

- a. The requested waiver is necessary to compensate for some unique aspect of the land or some natural or man-made feature not generally shared by other properties in the zoning district;
- b. The need for the waiver was not created by the size or shape of land parcels created or sold after the date on which the zoning district ordinance(s) were adopted;
- c. The requested waiver will not reduce the degree to which the development is consistent with the comprehensive plan and the E-470 Corridor/Land Use Study;
- d. The requested waiver will not reduce the degree of connectivity between major developments, the number or quality of focal points in the development, or the level of architectural quality in the development; and
- e. The proposed waiver will not adversely affect the adjacent properties or surrounding neighborhood.

2. *Conditions on Waivers Allowed.* The city council may establish conditions upon the granting of a waiver. A waiver shall have no effect if the conditions are not satisfied.

3. *Administrative Waivers.* At his or her election, an applicant may first request a waiver from the planning director. The director is authorized to grant waivers of design or development standards at his or her discretion when the application exceeds other standards to such an extent that the waiver is merited and will not adversely affect the adjacent properties or surrounding neighborhood. The director's waiver shall enumerate which standards have been exceeded and which have been waived, and shall be noted on the subject plan. If the director denies the waiver, an applicant may apply to city council for the waiver as provided in subsection 1 above. The director shall provide notice of approved waivers to the city council. At the next regular meeting, the city council may call up the waiver application for consideration by the city council in accordance with the standards provided in this section. City council has the authority to overrule the decision of the director.

(G) *FDP Amendments.* Any approved FDP may be amended as provided in this section or entirely withdrawn by the landowner.

1. *Administrative Amendments.* The director of planning may approve, or approve with conditions, an administrative amendment to an approved FDP without notice to the public if the proposed change does not produce any of the following conditions:

- a. An increase in residential density, non-residential floor-area ratio, or ground coverage of structures of more than 10 percent;
- b. An increase in external effects, concerning traffic;
- c. An increase in impacts associated with traffic circulation, safety, noise, or provision of utilities;

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- d. A reduction in building heights or setbacks which would violate the requirements of the E-470 or northeast plains standards by more than 10 percent; and
- e. A reduction in the amount of required off-street parking by more than 10%.

2. *Other Amendments.* Any proposed amendment that does not qualify for review and approval as an administrative amendment to an FDP shall be reviewed and approved in the same manner as an application for a new FDP. It shall be subject to the same approval criteria and appeal and call-up provisions as a new application for an FDP.

3. *Administrative Rules and Regulations.* Applications for administrative amendments to approved FDPs shall be subject to administrative rules and regulations established by the director of planning. Any proposed amendment shall comply with current regulations and standards for developments.

(Ord. No. 2001-72, 12-3-2001; Errata of 9-11-2002, 3, 4; Ord. No. 2004-42, § 1, 7-12-2004; Ord. No. 2007-34, § 1, 6-4-2007)

Sec. 146-409. - E-470 Corridor and Northeast Plains Contextual Site Plan (CSP).

(A) *Applicability.* A contextual site plan complying with the requirements and procedures of this division shall be a prerequisite to the granting of any building permit for any improvement or construction, except as otherwise provided in this chapter. No land in the E-470 corridor or northeast plains zone districts shall be used, occupied, or developed for any use without complying with the requirements and procedures provided in this section. An FDP and a CSP and/or a subdivision of land may be processed simultaneously.

(B) *Exemptions.* A contextual site plan shall not be required for:

- 1. Development in a subdivision with three or fewer single-family lots;
- 2. Nonhabitable structures that have no significant external effects on adjacent lands, as determined by the director of planning;
- 3. Interior improvements and tenant finish.

(C) *Area Required to Be Shown.* Each CSP shall show all land included in the subject parcel, plus all existing development, roads, utilities, and approved FDPs and CSPs within 300 feet of the subject parcel.

(D) *Criteria for Review and Approval.* All CSPs shall be reviewed by the director of planning, and by the planning and zoning commission if an appeal is filed, and shall be approved, approved with conditions, or denied based on the following criteria:

- 1. Consistency with the spirit and intent of the comprehensive plan and the E-470 and Northeast Plains Land Use Studies.
- 2. Consistency with E-470 corridor or northeast plains zone district requirements and design standards in this chapter;
- 3. Consistency with all other applicable standards, guidelines, policies, and plans adopted by city council; and

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4. Consistency with the FDP approved for the site.

5. The director of planning, city council or the planning commission are authorized to consider the past performance of an applicant in their consideration of any contextual site plan. The director of planning, planning commission or city council may deny any approval of a contextual site development plan if the applicant or developer thereof is determined to be in violation of any requirements, conditions, or representations on a prior development.

(E) *Required Elements.* The property owner or his or her authorized representative shall file application for a contextual site plan with the planning department. Such application and plan shall conform to the requirements established by the planning department. Each CSP shall contain the following elements, each of which shall be consistent with any approved FDP covering the property (or with a new or amended FDP being processed simultaneously with the CSP):

1. *Land Use Element* including the same elements required for approval of an FDP, unless a land use element was completed for the FDP and is incorporated by reference.

2. *Neighborhood Definition Element* including the same elements required for approval of an FDP, unless a land use element was completed for the FDP and is incorporated by reference.

3. *Detailed Plans Showing:*

- a. Land uses and densities, including identification of any conditional uses;
- b. Building locations;
- c. Building elevations and materials;
- d. Finished site grading and surface treatments;
- e. Required activity center elements (main streets, etc.);
- f. Auto and pedestrian circulation;
- g. Parking and loading areas;
- h. Open space;
- i. Landscaping, buffering, and fencing;
- j. Drainage and utility easements; and
- k. Signage.

(F) *Completion of Contextual Site Plan Improvements.* Before any building shall receive a certificate of occupancy, the owner, developer, or authorized agent(s) shall have completed the improvements in accordance with the approved contextual site plan and subdivision plat, subject to weather conditions, governmental restrictions, strikes, or other causes beyond reasonable control. In such occurrences, the owner or developer shall have substantially completed the necessary portion of improvements to provide all-weather access to buildings, and all other improvements. This shall include but not be limited to completion of storm drains, paving of driveways and parking areas, landscaping and screening necessary to protect the health, safety, and welfare of any users of the property. In any event, all improvements will be accomplished in accordance with the approved contextual site plan.

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(G) *Nature of Restrictions.*

1. The contextual site plan and any amendments thereto, upon approval by the city, shall be binding upon the owner, successors, and assigns. The contextual site plan shall limit and control the issuance and validity of all building permits, and shall restrict and limit the construction, location, use, occupancy, and operation of all land and structures within the plan to all conditions, requirements, locations, and limitations set forth in the contextual site plan.
2. The owner shall maintain the site in conformance with the approved contextual site plan. All landscaping shall be maintained in conformance with the landscape plan and contextual site plan. All landscaping shall be automatically irrigated, maintained in a neat, clean, and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, and replacement of dead plants.
3. No changes shall be made to the premises, which are the subject of a contextual site plan, without prior approval of an amendment to the contextual site plan according to the procedures for amendment in this section.
4. It shall be unlawful to use or occupy a site, or place any improvement, structure, building, or vehicle on a site, in a manner that does not conform with the approved contextual site plan.

(Ord. No. 2001-72, 12-3-2001; Errata of 9-11-2002, 5)

Sec. 146-410. - Approval Procedures for Development Applications in the E-470 Corridor or Northeast Plains Zoning Districts.

(A) *General Requirements.* All FDPs and CSPs required under this article shall be reviewed and approved by the director of planning based on those approval criteria in this article, following notice to the public as pursuant to article 2. The director of planning may approve the FDP or CSP as presented, approve the FDP or CSP with conditions, or deny the FDP or CSP. The director's decision shall become effective after the second city council meeting after notice of the director's decision is provided to the council, during which time the city council may request council review of the contextual site plan as provided in this section.

(B) *Appeals.*

1. *Appeal to Planning and Zoning Commission.* A decision by the director may be appealed to the planning and zoning commission provided such appeal is filed with the city manager within ten calendar days of the director's decision. Such appeal may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. If an appeal is filed, the planning and zoning commission shall schedule a public hearing on the appeal within 30 calendar days after the date on which the appeal was filed, and the public shall be given notice pursuant to subsection (D) of this section. The planning and zoning commission shall review the appeal based on those approval criteria in sections 407 and 408, and may approve the FDP or CSP as appealed, approve the FDP or CSP with conditions, or deny the FDP or CSP. The commission's decision shall become effective after the second city council meeting after notice of the commission's decision is provided to the council, during which time the city council may request council review of the plan as provided in subsection (C) of this section.
2. *Appeal to City Council.* A decision by the planning and zoning commission may be appealed to city council provided such appeal is filed with the city manager within ten calendar days of the

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commission's decision. Such appeal may be filed by the applicant or any abutting property owner and shall specifically state the grounds for appeal. If an appeal is filed, city council shall schedule a public hearing on the appeal within 30 calendar days after the date on which the appeal was filed, and the public shall be given notice of the date, time, and grounds of the appeal pursuant to subsection (B) of this section. City council shall have the authority to affirm, modify, or overrule the decision of the planning and zoning commission.

(C) *Call-Up Provisions.* Prior to the effective date of an approval by the director of planning pursuant to subsection (A) of this section, or prior to the effective date of an appeal decision by the planning and zoning commission pursuant to subsection (B) 1 of this section, any member of the city council may move to consider the FDP or CSP. If the motion passes, the FDP or CSP site plan shall be brought before the city council as soon as practicable for review and consideration. The city council shall have the authority to affirm, modify, or overrule the decision of the director or the planning and zoning commission or it may refer the plan back to the commission with direction for further information or study.

(D) *Notice to the Public.* At least ten calendar days prior to making a decision on a proposed FDP or CSP, and at least 10 calendar days prior to any hearing before the planning and zoning commission or the city council pursuant to subsections (B) or (C) of this section, written notice of the proposed FDP or CSP shall be mailed to each abutting property owner and each neighborhood association pursuant to the City's administrative procedures for such notification. The notice shall include:

1. A summary of the proposed FDP or CSP;
2. A statement concerning where the full application may be reviewed;
3. The grounds for any pending appeal; and
4. The date of the proposed decision by the director, or the time and place of any scheduled hearing before the planning and zoning commission or city council, as applicable.

The public shall have the opportunity to offer written comments on the proposed FDP or CSP prior to the date of the proposed decision by the director. The public shall also have the opportunity to attend and offer testimony at any appeal or call-up hearing pursuant to subsections (B) or (C) of this section.

(E) *CSP Waivers.* An applicant may request waivers from development standards or requirements. The planning department shall analyze the request and recommend which, if any, plan modifications are necessary to mitigate potential waiver impacts.

The planning director may approve a waiver of any height or setback requirements for any structure as long as the waiver does not result in the requirement being exceeded by more than 10 percent. Such waiver shall only be granted if it results in a site plan that still conforms with the criteria in subsection 146-409(D) above.

| | | |
|---------------------------|---------------------------------------------------|-------------|
| Table 4.1 Level of Review | | |
| Procedure | Review and Decision-Making Authority ¹ | P u b |

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| | | | | | I c N o t i c e |
|---------------------------------------------------------------------------------|----------------------------------------|---------------------------|-------------------------------|---------------------|-----------------------------------------------------------|
| | | (A) Staff ² | (B) Planning Commission | (C) City Council | (D) (N)ewspaper (M)ailing to abuttor (P)osted |
| 1 | Annexations | R | N | [DM] | NMP |
| Development Applications — Generally | | | | | |
| 2 | Rezoning | R | [R] | [DM] | NMP |
| 3 | Conditional Uses | R | [DM] | A | NMP |
| 4 | General Development Plans | R | [R] | [DM] | NMP |
| 5 | Master Plans | R | [R] ² | [DM] | NMP |
| 6 | Site Plans | R | [DM] | A | NMP |
| 7 | Redevelopment Plans | DM | N | N | NMP |
| Development Applications — E-470 Corridor and Northeast Plains Zoning Districts | | | | | |
| 8 | Amendment of Sub-Area Boundaries | R | [R] | [DM] | M |
| 9 | Framework Development Plans | DM | A | A | M |
| 10 | Contextual Site Plans | DM | A | A | M |
| 11 | Conditional Uses | DM | A | A | M |

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Notes:

A = authority to hear and decide appeals of decision-making body's action. Appeals are not required to go to PC and CC. City Council acts as appellate body only if the Planning Commission's decision is appealed. Public hearings and notices are required only if the action being appealed required a public hearing and notice.

N = no review

R = review body (responsible for review and recommendation)

[] Public hearing required.

¹ Minor amendments to plans and plats may be approved administratively. In all cases, staff has the authority to refer amendments to PC for action.

DM = decision-making body (responsible for final decision to approve or deny)

² In the City Center, the Planning Commission is the decision-maker.

(Ord. No. 2001-72, 12-3-2001; Errata of 2-20-2002, 4; Errata (2) of 12-30-2002, 1; Ord. No. 2004-77, § 5, 12-6-2004)

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[Sec. 146-411. - Public Art Plan.](#)

[Sec. 146-412. - Capital Impact Fees for Residential Development.](#)

Sec. 146-411. - Public Art Plan.

(A) *Requirement.* Each development application for any development that benefits from a Title 32 District organized pursuant to and in accordance with Title 32, Article 1, C.R.S, and chapter 122 of this Code shall include a public art plan.

(B) *Submittal.* The public art plan shall be submitted along with the first site plan or contextual site plan for the development. Alternatively, if the first site plan or contextual site plan has been approved as of the effective date of this section, the public art plan shall be submitted along with the next ensuing site plan or contextual site plan or the first application for a building permit, whichever is appropriate. At the time of submittal, each applicant shall pay to the city a review fee in an amount established by the director of library, recreation, and cultural services in accordance with the provisions of section 2-587 of this Code.

(C) *Content.* The public art plan shall provide for the acquisition of exterior works of art in compliance with the rules and regulations promulgated by the director of library, recreation, and cultural services.

(D) *Minimum Expenditure.* The total amount to be expended by the property owner on such art shall be calculated by multiplying the total gross acreage of land included in the framework development plan, general development plan, or other type of master plan, or, in the absence of such plan,

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addressed in the development application, by the following amount:

- (1) For that portion of the acreage located in a residential zone or subarea \$260.00
- (2) For that portion of the acreage located in a mixed-use zone or subarea 400.00
- (3) For that portion of the acreage located in a non-residential zone or subarea 540.00

(E) *Annual Adjustment.* Commencing January 1, 2008, the per acre amounts in subsections (D)(1) and (2) of this section shall be adjusted annually by the percentage change in the twelve-month construction cost index published by the Engineering News-Record.

(F) *Exemption.* Nothing in this subsection shall apply to any development located within a Title 32 District, where the district is obligated by virtue of the district service plan or an intergovernmental agreement with the city to provide for public art.

(Ord. No. 2007-34, §§ 2, 3, 6-4-2007)

Editor's note— Ord. No. 2007-34, adopted June 4, 2007 states that "with respect to § 146-411(e) indicating that commencing January 1, 2007, the per acre amounts in subsections (D)(1) and (2) shall be adjust annually by the percentage change in the twelve-month construction cost index published by the Engineering News- Record."

Sec. 146-412. - Capital Impact Fees for Residential Development.

(A) *Generally.* Capital impact fees are enacted pursuant to the authority granted in the Charter, Article XX, Section 6 of the Constitution of the State of Colorado and section 29-20-104(1)(G), C.R.S., and in accordance with the requirements of section 29-20-104.5, C.R.S. said fee shall be in addition to all other development fees levied and assessed by the city.

(B) *Fees.* Commencing January 1, 2009, and as a condition of issuing a building permit for any new dwelling in the city, the following capital impact fees shall be levied and assessed on a per-unit basis for the purpose of defraying the projected impacts on capital facilities of the city caused by proposed development:

| Capital Impact Fee Per Dwelling Unit | Single-Family Detached Dwellings | Single-Family Attached Townhome, Two-Family Home, And Duplex Dwellings | Multi-Family Dwellings |
|--------------------------------------|----------------------------------|------------------------------------------------------------------------|------------------------|
| Transportation | \$589.00 | \$500.00 | \$413.00 |
| Police | 94.00 | 80.00 | 66.00 |
| Fire | 92.00 | 78.00 | 64.00 |
| Large Urban And Special Use Parks | 240.00 | 204.00 | 168.00 |
| General Government | 189.00 | 161.00 | 132.00 |
| Total | \$1204.00 | \$1023.00 | \$843.00 |

(C) *Inflation.* Commencing in 2010, on January 1 of each year, the capital impact fees levied and assessed pursuant to subsection (B) shall be adjusted for inflation in accordance with the following indices:

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1. Transportation: The Colorado Construction Cost Index published by the Colorado Department of Transportation.
2. Police: The Denver Building Cost Index published by the Engineering News Record.
3. Fire: 41.9% of the total index based on the Denver-Boulder-Greeley Consumer Price Index for all urban consumers and 58.1% of the total index based on the Denver Building Cost Index published by the Engineering News Record.
4. Large urban and special use parks: The Denver Construction Cost Index published by the Engineering News Record.
5. General government: The Denver Building Cost Index published by the Engineering News Record.

Adjusted capital impact fees shall be established annually by the finance director in accordance with the provisions of section 2-587 of this Code.

(D) *Administration.* The city manager is hereby authorized to adopt rules and regulations regarding the administration and application of the fees established by this section.

(Ord. No. 2008-45, § 1, 10-13-2008)