

**TOWN OF PALISADE, COLORADO  
ORDINANCE NO. 2019-07**

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO  
AMENDING ARTICLES 2, 3, 4 AND 9 OF THE PALISADE LAND  
DEVELOPMENT CODE BY ESTABLISHING NEW STANDARDS OF  
REVIEW, NOTICE AND HEARINGS FOR MAJOR SUBDIVISIONS.**

**WHEREAS**, pursuant to the powers granted and limitation imposed on the Town of Palisade by the Constitution of the State of Colorado Sections 31-23-101, C.R.S. (Planning and Zoning); Sections 29-20-101, C.R.S. (Land Use Control and Conservation); Sections 24-65-10 C.R.S. (Colorado Land Use Act); Sections 24-67-101, C.R.S. (Vested Property Rights' Law); Title 29, Article 20, C.R.S. (Local Government Control Act of 1974) and Sections 31-23-214, 31-23-227, 31-23-305, C.R.S., the Board of Trustees may adopt alter or amend zoning and subdivision regulations; and

**WHEREAS**, Pursuant to Section 4.01 D of the Palisade Land Development Code the Board of Trustees, following recommendations of the Planning Commission, and following a public hearing, may amend the text of the Land Development Code; and

**WHEREAS**, the Palisade Board of Trustees desires to amend the Land Development Code by adding new review and notice requirements for the consideration of a concept plan by the Planning Commission and the Board of Trustees prior to receiving an application for a preliminary plat for a major subdivision ; and

**WHEREAS**, the Palisade Board of Trustees also desires to amend the Land Development Code by adding new review and notice requirements for consideration of a preliminary plat for a major subdivision by the Board of Trustees prior to the submittal of a Final Plat; and

**WHEREAS**, the Palisade Board of Trustees also desires to amend the Land Development Code by adding new review requirements for consideration of a final plat for a major subdivision by the Board of Trustees prior to final recording; and

**WHEREAS**, the amendment to the text of the Palisade Land Development Code has been initiated by application of the Board of Trustees; and

**WHEREAS**, the Town's Planning Commission has recommended to the Board of Trustees that the amendment to the text of the Palisade Land Development Code contained in this Ordinance be adopted as set forth; and

**WHEREAS**, on March 4, 2019, a public hearing was held before the Town of Palisade Planning Commission to consider a recommendation of the amendment to the text of the Palisade Land Development Code, following public notice as required by law; and

**WHEREAS**, on March 12, 2019 a public hearing was held before the Town of Palisade Board of Trustees to consider adoption of the amendment to the Land Development Code as set forth herein, following public notice as required by law; and

**WHEREAS**, the Board of Trustees of the Town of Palisade finds and determines that the

amendment to the text of the Palisade Land Development Code, as contained herein, is necessary and designed for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town of Palisade, and is consistent with the Town's Comprehensive Plan and the Town's other goals, policies and plans.

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

**Section 1.** That Section 2.01 Board of Trustees (Town Board) is hereby amended as follows with double underlined text added and ~~strike through language deleted~~:

**A. General Authority**

The Town Board may exercise powers as may be described elsewhere in this LDC and as permitted by Colorado Revised Statutes.

**B. Final Action Authority**

In execution of the provisions of this LDC, the Town Board shall be responsible for final action regarding the following:

1. Conditional use;
2. Floodplain development permit variance;
3. Major Subdivision Concept Plan
4. Major Subdivision Preliminary Plat
5. Major Subdivision Final Plat
- ~~36.~~ Performance action;
- ~~47.~~ Planned development;
- ~~58.~~ Rezoning;
- ~~69.~~ Text amendment; and
- ~~710.~~ Vacation.

**Section 2.** That Section 2.02 Planning Commission is hereby amended as follows with double underlined text added and ~~strike through language deleted~~:

**A. General Authority**

The Planning Commission may exercise powers as may be described elsewhere in this LDC, as permitted by Colorado Revised Statutes and as directed by the Town Board.

**B. Review Authority**

The Planning Commission shall make recommendations regarding the following:

1. Conditional use permit;
2. Floodplain development permit variance
3. Major Subdivision Concept Plan
4. Major Subdivision Preliminary Plat
- ~~35.~~ Performance action;
- ~~46.~~ Planned development;
- ~~57.~~ Rezoning;
- ~~68.~~ Text amendment; and
- ~~79.~~ Vacation.

**C. Final Action Authority**

The Planning Commission shall be responsible for final action regarding the following:

1. Design variance; ~~and~~
- ~~2. Major Subdivision preliminary plat.~~

**Section 3.** That Section 3.02 Summary of Review Procedures is hereby amended as follows with double underlined text added and ~~strike through language deleted~~:

The following table summarizes the procedures for review and approval of applications for land use and development activity in the Town of Palisade. Not all review and approval procedures are addressed in this table, see subsequent sections of this article for information on other procedures.

<b>Table 3.1: Summary of Review Procedures</b>						
KEY: R = Review and Recommendation D = Review and Decision A = Appeal [R] or [D] = Public Hearing						
Action	Pre-Application Conference Required	Community Development Director	Board of Adjustment	Planning Commission	Town Board	Section
Administrative Adjustment		D			A	Sec. 4.13
Administrative Appeal			[D]			Sec. 4.14
Conditional Use	✓	R		[R]	*[D]	Sec. 4.07
Design Variance		R		[D]	A	Sec. 4.15
Floodplain Development Permit		D		A		Sec. 11.01
Floodplain Development Permit Variance		R			[D]	Sec. 11.02
<u>Major Subdivision Concept Plan</u>	<u>✓</u>	<u>R</u>		[R]	[R]	<u>Sec. 4.05</u>
Major Subdivision Preliminary Plat	✓	R		[D],[R]	A[D]	Sec. 4.05
Major Subdivision Final Plat		<del>D</del> <u>R</u>			A D	Sec. 4.05
Minor Subdivision	✓	[D]		A		Sec. 4.04
Performance Action	✓	R		[R]	*[D]	Sec. 4.18
Planned Development	✓	R		[R]	*[D]	Sec. 4.03
Planning Clearance		D				Sec. 4.08
Rezoning	✓	R		[R]	*[D]	Sec. 4.02
Sign Permit		D				Sec. 4.10
Site Plan	✓	*D		A		Sec. 4.06
Temporary Use Permit		D				Sec. 4.09
Text Amendment		R		[R]	*[D]	Sec. 4.01
Vacation (ROW or Easement)	✓			[R]	[D]	Sec. 4.17
Variance	✓	R	[D]			Sec. 4.12

Written Interpretation		D				Sec. 4.11
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\*Vesting of property rights through site specific development plan pursuant to Section 24-68-102(4)(a), C.R.S.

**Section 4.** That Section 3.08 Notice of Public Hearing is hereby amended as follows with double underlined text added and ~~strike-through language deleted~~:

**A. Summary of Notice Required**

Notice shall be required for applications as shown in the table below.

Application	Type of Notice Required			Timing (number of days before hearing)
	Published	Posted	Mailed	
Administrative Adjustment				
Administrative Appeal	✓	✓	✓	14
Conditional Use	✓	✓	✓	14
Design Variance	✓	✓	✓	14
Floodplain Development Permit				
Floodplain Development Permit Variance	✓	✓	✓	14
<u>Major Subdivision Concept Plan</u>	✓	✓	✓	<u>7</u>
Major Subdivision Preliminary Plat	✓	✓	✓	14
Major Subdivision Final Plat				
Minor Subdivision	✓	✓	✓	14
Performance Action	✓	✓	✓	14
Planned Development	✓	✓	✓	14
Planning Clearance				
Rezoning <sup>1</sup>	✓	✓	✓	14
Sign Permit				
Site Plan				
Temporary Use Permit				
Text Amendment	✓			14
Vacation (ROW or Easement)	✓	✓	✓	14
Variance	✓	✓	✓	14
Written Interpretation				

<sup>1</sup>Where rezoning action involves numerous parcels or regions of the Town, mailed notice is not required.

**B. Public Notice Requirements**

1. Published notice
 

The Town Clerk shall publish notice of public hearing in a newspaper of general circulation in the Town. The notice shall be published no less than fourteen (14) days in advance of the public hearing, except in the case of notice for a major subdivision concept plan, which shall be no less than seven (7) days in advance of the first scheduled public hearing to review the major subdivision concept plan.
2. Posted notice (sign)
 

~~For applications requiring posted notice, t~~The applicant shall post a sign on the subject property no less than seven (7) days in advance of the first scheduled public hearing to review a major subdivision concept plan application, and no less than fourteen (14) days in advance of the first scheduled public hearing for all other applications requiring posted notice and be in conformance with the following:

  - a. Each sign shall be a minimum of four (4) feet in height and a minimum of two (2) square feet by three (3) square feet in size. The sign(s) shall have a white background with black letters at least two (2) inches in height
  - b. Required content of each sign:
    - i. Date, time and place of the public hearing;
    - ii. Who will conduct the public hearing;
    - iii. Type of action;
    - iv. Where a rezoning is proposed, the current and proposed districts; and
    - v. A phone number to contact the Town.
  - c. Corner lots or properties that include over three hundred (300) feet of frontage on a single public right-of-way shall require two (2) signs.
  - d. The sign(s) shall be updated by the applicant if there is a continuance or delay in the public hearing dates.
  - e. If the applicant is the Town and the application involves multiple contiguous properties, a separate sign shall not be required on each property. In such case, the number of signs, location and duration of posting shall be specifically authorized by the Community Development Director.
3. Mailed notice
  - a. Upon confirmation of the posting of public notice signs as described above, the Town Clerk shall mail notice to all owners of property within a three hundred-foot radius of the exterior boundary of the subject property at least fourteen (14) days before the scheduled public hearing: or, except in the case of notice for a major subdivision concept plan, at least seven (7) days before the scheduled public hearing to review the major subdivision concept plan.
  - b. Applicants may be required to provide a certified list of property owners within a three hundred-foot radius of the exterior boundary of the subject property.
  - c. Required content of notice:
    - i. Date, time and place of the public hearing;
    - ii. Who will conduct the public hearing;
    - iii. Type of action;
    - iv. Where a rezoning is proposed, the current and proposed districts; and
    - v. A phone number to contact the Town.
    - vi. The legal description of the property and street address or approximate location in the Town;
4. Constructive notice
 

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.
5. Major activity notice

Pursuant to Section 31-23-225, C.R.S., when a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the Community Development Director shall send notice to the State Geologist and the Mesa County Board of Commissioners of the proposal prior to approval of any zoning change, subdivision or issuance of a planning clearance for a building permit associated with such a proposed activity.

6. Mineral estate notice

Pursuant to Section 24-65.5-103, C.R.S., notice to mineral estate owners, in addition to other notices described in this Subsection, not less than thirty (30) days before the date scheduled for the first public hearing on an application for a preliminary plat for a subdivision, a planned development control document, an application for a conditional use permit where such application is in anticipation of new surface development, the applicant shall provide notice to mineral estate owners, as defined in Section 24-65.5-102(5), C.R.S. The notice shall contain all of the information required by Section 24-65.5-103, C.R.S., and shall be sent by first class mail. Proof of the giving of such notice shall be submitted by the applicant to the Community Development Director prior to commencement of the applicable public hearing. Such notice is not required for applications for boundary adjustments, applications for platting of an additional single lot or applications for lot site plans.

**Section 5.** That Section 4.05 Major Subdivision is hereby amended as follows with double underlined text added and ~~strike through language deleted~~:

A major subdivision is any division of land into four (4) or more lots or a division of land that requires dedication of public rights-of-way or easements. Subdivisions of ten (10) or more lots or ten (10) or more dwelling units shall occur in three (3) stages, beginning with review of a concept plan, followed by review of a preliminary plat, and a final plat. Major subdivisions for fewer than ten (10) lots or dwelling units, shall occur in two (2) stages, beginning with review of a preliminary plat, followed by review of a final plat.

**A. Major Subdivision - Concept Plan**

1. Purpose

The purpose of the concept plan is to allow the Planning Commission and the Board of Trustees to preview the proposed subdivision and offer an initial evaluation regarding the subdivision layout and design, public open space, public dedications and public improvements.

2. Applicability

A concept plan is required for any residential subdivision of ten (10) or more lots or ten (10) or more dwelling units.

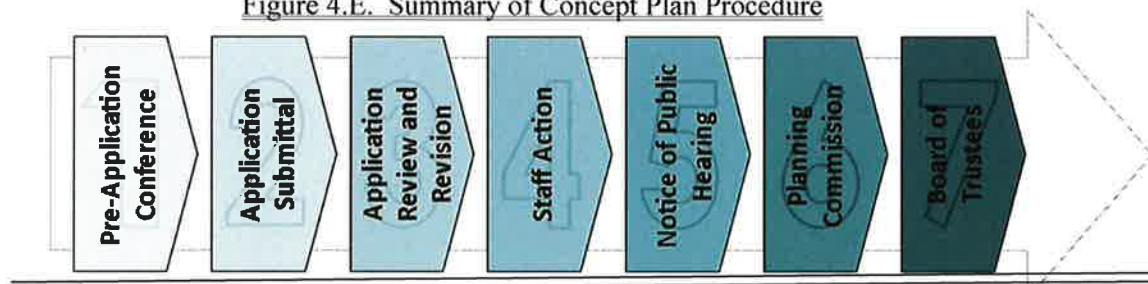
3. Initiation

A request for a concept plan review shall be initiated by an owner of land within the jurisdiction of the Town or a duly authorized agent or representative of the owner.

4. Procedure

Figure 4.E identifies the application steps in Article 3, General Review Procedures, which apply to the review of concept plan applications.

Figure 4.E. Summary of Concept Plan Procedure



a. Pre-application conference

At the time of the pre-application conference, applicants shall submit a concept plan for review by the Community Development Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions.

b. Application submittal

i. Applications for a concept plan shall be submitted in accordance with Section 3.05.

ii. The concept plan shall include the following information presented as a graphic concept or as a statement on the plan:

(a) vicinity map

(b) legal description of the site

(c) general topographic features

(d) labeled access to the site from existing street network

(e) location of common (shared) areas

(f) location and areas of lots, rights-of-way, public open space, school land, irrigation and drainage features, and water ways

(g) land use summary that includes the total area; acreage of developable land; number of residential dwelling units by type of dwelling units; and residential units per acre of developable land

(h) separate phases

(i) any other information required by the Community Development Director for Planned Developments or Cluster Subdivisions to demonstrate how the major subdivision Concept Plan embraces the general provisions described in Section 8.01 for Planned Developments or in Section 9.14 for Cluster Subdivisions

c. Application review and revision

The Community Development Director shall review and may distribute the application to appropriate internal and external review agencies pursuant to Sections 3.06.

d. Staff Action

The Community Development Director shall prepare a staff report with an initial summary review.

e. Notice and public hearings

The Town shall hold all required public hearings and give notice in accordance with Section 3.08.

f. Planning Commission Action

The Planning Commission shall review the application and forward its evaluation and any comments or concerns to the Board of Trustees for consideration.

g. Town Board Action

The Town Board shall review the Concept Plan along with the Planning Commission's comments or concerns and may offer additional evaluation and comments regarding the subdivision layout and design and public dedications and improvements.

**A.B. Major Subdivision – Preliminary Plat**

1. Purpose

The subdivision procedure provides a process to evaluate the orderly and efficient development of land and to promote the health, safety and welfare of the residents of the Town.

2. Applicability

~~A major subdivision is any division of land into four (4) or more lots or a division of land that requires dedication of rights-of-way or easements. A preliminary plat is required for all major subdivisions.~~

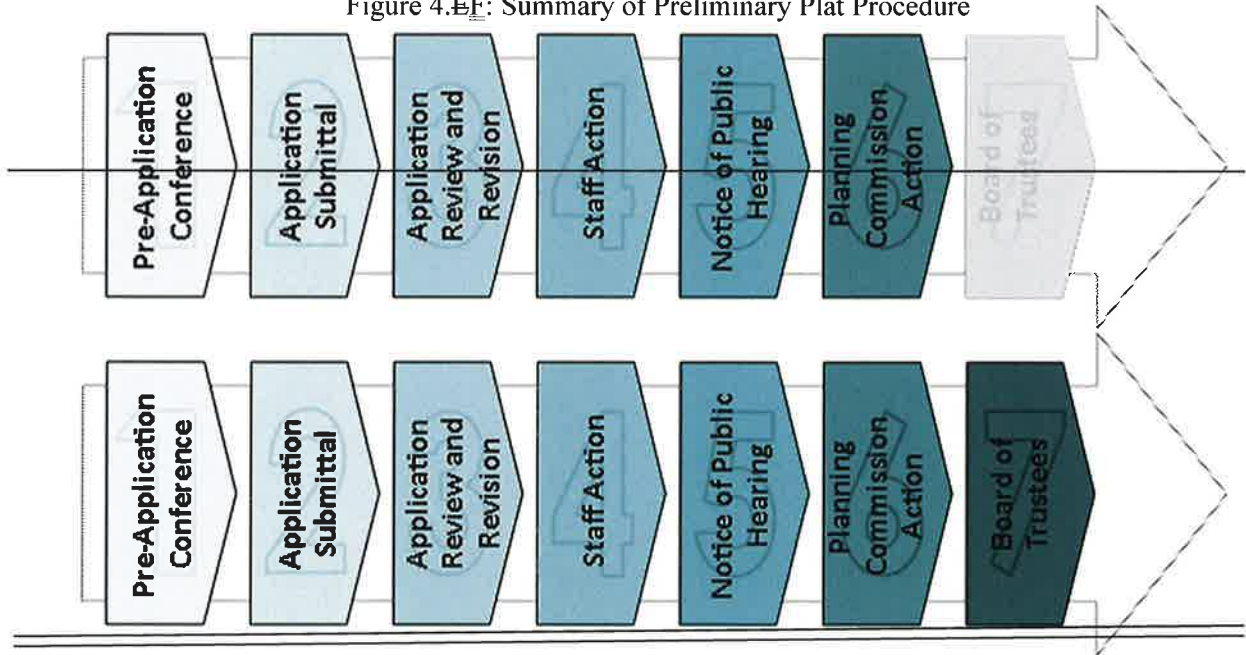
3. Initiation

A request to subdivide property may be initiated by an owner of land within the jurisdiction of the Town or a duly authorized agent or representative of the owner.

4. Procedure

Figure 4.EF identifies the application steps from in Article 3, General Review Procedures, which apply to the review of preliminary plat applications. Additions or modifications to the general review procedures are noted below.

Figure 4.EF: Summary of Preliminary Plat Procedure



a. Pre-application conference

- i. All applicants seeking subdivision approval shall schedule a pre-application conference with the Community Development Director in accordance with Section 3.04.
- ~~i. At the time of the pre application conference, applicants shall submit a concept plan or sketch plan for review by the Community Development Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions. During the pre application phase, a developer may request an audience before the Planning Commission to review a concept plan or sketch plan in order to further refine his or her intentions.~~

b. Application submittal

- i. Applications for a preliminary plat shall be submitted in accordance with Section 3.05.
- ii. Applications shall be accompanied by a certificate of design, signed by the professional engineer preparing the plat stating that they have, to the best of their ability, designed the subdivision in accordance with the requirements of Article 9, Subdivision Regulations; and other applicable requirements of this LDC.
- iii. An application for a waiver from any of the provisions of Article 9, Subdivision Regulations, shall be submitted in writing by the applicant at the time the preliminary plat is filed. The application shall state the grounds for the waiver and all the facts relied upon by the applicant pursuant to Section 4.05.A.6.



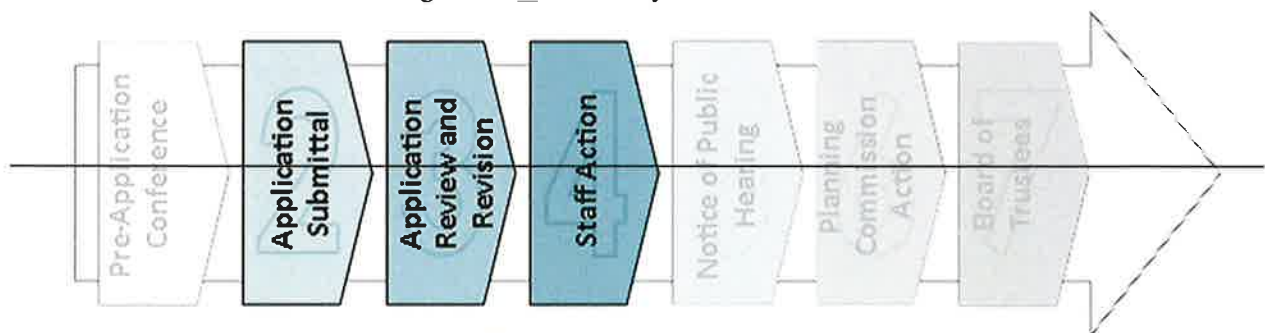
- iv. When a subdivision is to be developed in stages, a subdivision phasing document shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.
  - c. Application review and revision  
The Community Development Director shall review and distribute the application to appropriate internal and external review agencies pursuant to Sections 3.06.
  - d. Staff Action  
The Community Development Director shall prepare a staff report and recommendation pursuant to Section 3.07.
  - e. Notice and public hearings  
The Town shall hold all required public hearings and give notice in accordance with Section 3.08.
  - f. Planning Commission Action  
The Planning Commission shall review the application and make a decision pursuant to ~~Section 3.09, within ninety (90) days of the submittal date, unless additional time is agreed to by the subdivider a recommendation pursuant to Section 3.09.~~
  - g. Town Board action  
The Town Board shall review the application and make a decision pursuant to Section 3.10 within ninety (90) days of the submittal date, unless additional time is agreed to by the subdivider.
5. Findings of fact required  
No preliminary plat may be approved by the ~~Planning Commission~~ Town Board unless all of the following findings are made concerning the subdivision:
- a. Consistency with the adopted plans of the Town.
  - b. The subdivision meets all required specifications of Article 9, Subdivision Regulations, and other applicable requirements of this LDC.
  - c. The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.
  - d. The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure and will not materially endanger the environment, public health, safety or the general welfare.
6. Waivers
- a. Whereby affirmative vote of three-fourths (3/4) of its membership, the ~~Planning Commission~~ Town Board finds that extraordinary hardships or practical difficulties may result from strict compliance with Article 9, Subdivision Regulations, and the intent of this LDC may be served to a greater extent by an alternative proposal, a waiver may be granted. A waiver shall not have the effect of nullifying the intent and purpose of this LDC, and the ~~Planning Commission~~ Town Board shall not grant a waiver unless the ~~Planning Commission~~ Town Board makes findings based upon the evidence presented in each case that:
    - i. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
    - ii. The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;
    - iii. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as

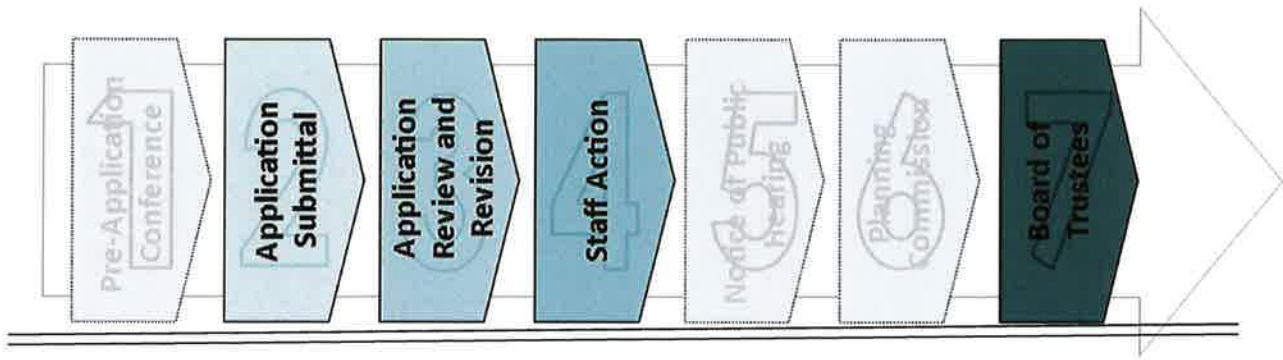
- distinguished from a mere inconvenience, if the strict letter of this LDC are enforced; and
- iv. The purpose of the wavier is not based primarily upon financial consideration.
  - b. In granting a waiver, the ~~Planning Commission~~ Town Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this LDC.
7. Action following approval
- a. Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. Any applicant wishing to exercise this right does so completely at his or her own risk. The Town shall be held harmless from any costs or damages in the event the applicant does not ultimately receive final plat approval. Additionally, the applicant will be required to provide the Town with a performance guarantee such as a letter of credit or surety performance bond to cover the costs of reclamation in the event the applicant does not receive final plat approval. Prior to constructing any necessary public improvements, a complete set of construction drawings shall be submitted to and approved by the Town Engineer. All work shall be performed in compliance with the requirements of Article 9, Subdivision Regulations, and other applicable regulations of the Town and the state.
  - b. Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for final plat approval as specified in Section 4.05.B, below, have been fulfilled and after all other specified conditions have been met.
8. Continuing validity of preliminary plats
- a. Within twelve (12) months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one (1) section of the subdivision; otherwise the preliminary plat shall be null and void unless the ~~Planning Commission~~ Board of Trustees agrees to an extension of time. A formal request for extension and reasons thereof must be submitted prior to the one (1) year deadline date. Extensions may be granted for a period of one (1) year and may not be granted more than two (2) times.
  - b. All sections of an approved preliminary plat must be submitted for final plat approval within three (3) years of preliminary plat approval for a preliminary plat unless approval for extension beyond three (3) years has been granted by the Town Board.

**B.C. Major Subdivision – Final Plat**

1. Applicability  
A final plat shall be required for all major subdivisions of land in the Town.
2. Procedure  
Figure 4.FG identifies the application steps from ~~in~~ Article 3, General Review Procedures, which apply to the review of final plat applications. Additions or modifications to the general review procedures are noted below.

Figure 4.FG: Summary of Final Plat Procedure





- a. Application submittal
  - i. Applications for a final plat shall be submitted in accordance with Section 3.05.
  - ii. Final plat applications shall include final construction plans for all required improvements, signed and sealed by a professional engineer, licensed to practice in the State of Colorado.
- b. Application review and revision
 

The Community Development Director shall review and distribute the application to appropriate internal and external review agencies pursuant to Sections 3.06.
- c. Staff Town Board Action

The ~~Community Development Director~~ Board of Trustees shall make a decision pursuant to Section 3.07.
3. Final plat approval criteria
 

Final plats shall be approved when the following conditions exist:

  - a. Consistency with the adopted plans and policies of the Town;
  - b. The plat substantially complies with the approved preliminary plat;
  - c. The plat complies with the standards of Article 9, Subdivision Regulations, and the other applicable requirements of this LDC;
  - d. New and residual parcels will conform to the requirements of this LDC and other applicable regulations;
  - e. All necessary right-of-way has been offered for reservation or dedication; and
  - f. All necessary drainage easements have been provided.
4. Endorsements
 

Major subdivision plats received by the Town shall contain, at least, the following information:

  - a. Certificate of ownership and dedication;
  - b. Certificate of survey by professional surveyor, signed, sealed and acknowledged;
  - c. Certificate for release of mortgage for any part dedicated to the public, signed and acknowledged;
  - d. Certificate of ~~Community Development Director~~ Town Board of Trustees approval;
  - e. Title certificate;
  - f. Reference to any separate instruments, including restrictive covenants, filed in the office of the County Clerk and Recorder which directly affects the land being subdivided.
5. Action after approval
  - a. No plat or other land subdivision instrument shall be recorded in the office of the County Clerk and Recorder until it shall have been approved by the ~~Community Development Director~~ Board of Trustees as required.
  - b. After the final approval of the plat and, the affixing of all required signatures, the Town Clerk shall file one (1) contact reproducible cloth tracing or Mylar with the County Clerk and Recorder. The subdivider shall also provide the Community Development Director with three (3) white background prints and one (1) contact reproducible Mylar as well as an electronic copy. The subdivider shall pay all required County recording fees.

- c. The Town Clerk shall record the approved final plat in the office of the County Clerk and Recorder for recording within sixty (60) days after the date of approval. The Community Development Director, upon receipt of a written request, may extend this date an additional thirty (30) days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this LDC.
- d. Although clear indication of any dedications shall be noted on the plat, the approval of a final plat shall not be deemed to constitute or affect the acceptance by the Town of the dedication of any street or other ground, public utility line or other public facility shown. The Town Board may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes when the lands or facilities are located within the Town.

**C.D. Required Dedications**

The developer may be required to dedicate or convey to the Town right-of-way, parks, open space or a variety of easements such as access, drainage easements, access easements, bicycle and pedestrian trail easements, utility easements, multi-purpose easements, etc. This should occur at the time of approval of the site plan or development improvements agreement.

**D.E. Required Improvements**

The applicant shall bear the costs of the installation of all on-site improvements as required by this LDC, including provision for surface drainage, pavement, landscaping and utilities. Any applicant required to install or construct off-site improvements pursuant to this Section may, with the approval as a condition of subdivision approval and upon a determination by the ~~Community Development Director~~ Board of Trustees that such improvements are not necessary or desirable at the time but will be needed in the future, make a payment in lieu of such improvements or part thereof plus any funds in amount sufficient to address inflation. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date.

6. Guarantees of improvements

Guarantee of improvements shall be made in accordance with Section 9.06.

7. Inspections of required improvements

Inspections of improvements shall be made in accordance with Section 9.07c.

**E.F. Approved Plat Modifications**

8. Minor modifications

a. Preliminary plat

Minor revisions to an approved preliminary plat may be approved by the Community Development Director if the revisions are within the scope and intent of the original approval. Such revisions may include but not be limited to:

- i. Reducing the lot count;
- ii. Modifying phase lines; or
- iii. Minor adjustments to lot or street locations.

b. Final plat

A final plat may be rerecorded with the Mayor's signature on the Town Board of Trustees Certificate. The re-recording of the final plat would be to:

- i. Revise or correct dimensions;
- ii. Change street names;
- iii. Add, delete or modify easements or private covenants;
- iv. Change subdivision name; or
- v. Other minor modifications that are within the scope and intent of the original approval subject to approval of the Community Development Director.

- c. Procedures
  - i. Preliminary plat
    - (a) When minor revisions are proposed to an approved preliminary plat, the applicant shall submit a written request to the Community Development Director delineating the revisions and requesting authorization for administrative revision.
    - (b) The Community Development Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.
    - (c) The Community Development Director shall distribute copies of the revised plat to the appropriate agencies.
  - ii. Final plat
    - (a) When minor revisions are proposed to an approved final plat, the applicant shall submit a written request to the Community Development Director delineating the revisions and requesting authorization for administrative revision.
    - (b) If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Community Development Director signature and date of signing.
    - (c) If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.
    - (d) In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Community Development Director for processing and rerecording the revised plat.
    - (e) The Community Development Director shall distribute copies of the recorded final plat to the appropriate agencies.
- 9. Major modifications
  - Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this Section.

**Section 6.** That Section 9.13 Open Space Requirement is hereby amended as follows with double underlined text added and ~~strike through language deleted~~:

**A. Purpose**

The Board of Trustees declares it is the policy of the Town that dedications of real property for public parks, open space, recreation and other municipal purposes and/or exactions in the form of monetary payments shall be required in those instances where the Board of Trustees determines that a proposed subdivision: (1) will create the need for new public park, open space, recreation or other municipal facilities; or (2) will result in increased use of existing public park, open space, recreation or other municipal facilities in such a manner as to require the expansion or eventual replacement thereof. In those instances, this Section shall be applied to provide a method whereby such dedication or fee in lieu thereof shall be quantified to assure that a fair and equitable proportionality is established between the cost of the improvements or facilities, which are attributable to the proposed subdivision (and which are therefore the responsibility of the developer), and the overall public cost of the provision of such improvements or facilities. In interpreting and implementing the provisions of this Section, the Board of Trustees shall give due weight to the needs of the general public, and especially the residents of the subdivision proposed, so as not to burden disproportionately the general public and existing residents with costs or expenses to provide public park, open space, recreation or other municipal facilities and improvements or services, the need for which are generated by the proposed new development.

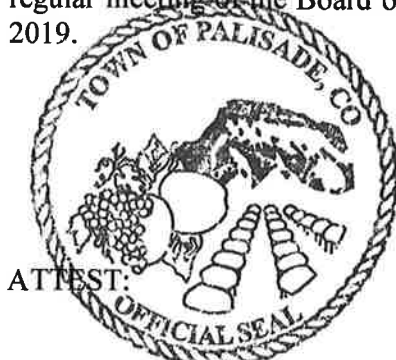
**B. Authority to Impose Dedication or Fee Requirements**

1. Pursuant to the provisions of applicable law, authority is hereby specifically granted to the Board of Trustees, upon the recommendations of the Planning Commission, following a public hearing before the Planning Commission and the Board of Trustees at the time of preliminary plat review, in conjunction with any requested subdivision approval to impose public land dedication requirements or the payment of fees in lieu thereof for public park, open space, recreation or other municipal purposes.
2. The ~~Planning Commission~~ Town Board, in its discretion, shall accept or reject any proposed dedication of land to the Town prior to final approval of a proposed subdivision. Any land dedicated to the Town shall be free and clear of all liens and encumbrances.

**C. Open Space Dedication.**

1. The developer of any residential development of ten (10) or more lots or dwelling units shall dedicate ten percent (10%) of the gross acreage of the property or the equivalent of 10 percent of the value of the property. The decision as to whether to accept money or land as required by this Section shall be made by the Board of Trustees upon the recommendations of the Planning Commission. Subdivisions with less than ten (10) lots or residential dwelling units are not required to dedicate ten percent (10%) of the gross acreage of the property or the equivalent of ten percent (10%) of the value of the property unless the developer or owner owns land adjacent to the proposed subdivision, in which case the Board of Trustees, upon the recommendations of the Planning Commission, shall determine the open space requirement.
2. For any residential development required to provide open space, the owner shall hire an MAI appraiser to appraise the property. For purposes of this requirement, the property shall be considered the total acreage notwithstanding the fact that the owner may develop or propose to develop the property in filings or phases.
3. The appraiser's report shall be submitted to the Town for purposes of determining fair market value and otherwise determining compliance with this Section. The developer shall pay all costs of the appraisal. The developer waives any privilege and/or protection that may exist or be asserted to exist over the details of the appraisal. The appraisal is and shall be considered by the Town as an open record under the Colorado Open Records Act.
4. The required dedication and/or payment shall be subject to and made in accordance with this LDC. The Town may accept the dedication of land in lieu of payment so long as the fair market value of the land dedicated to the Town is not less than ten percent (10%) of the value of the property.
5. As part of any project approval, the developer shall dedicate, at no cost to the Town, public trails, rights-of-way and waterfront greenbelts/access as designed on and as needed to implement adopted plans of the Town. If such dedication is claimed to exceed constitutional standards, the developer shall so request that the Town pay a fair share of the value of such dedication or waive all or part of such required dedication.

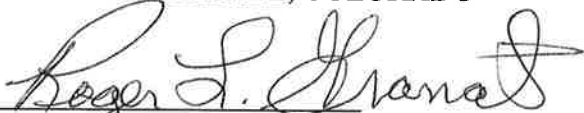
**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED** at a regular meeting of the Board of the Trustees of the Town of Palisade, Colorado, held on 3/12 2019.



ATTEST:

TOWN OF PALISADE, COLORADO

By:

  
Roger L Granat, Mayor

Lindsey Chitwood  
Lindsey Chitwood, Town Clerk

Publication Date:

Mar 16, 2019

Trustee Granat introduced, read and moved the adoption of the ordinance titled,

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO  
AMENDING ARTICLES 2, 3, 4 AND 9 OF THE PALISADE LAND  
DEVELOPMENT CODE BY ESTABLISHING NEW STANDARDS OF  
REVIEW, NOTICE AND HEARINGS FOR MAJOR SUBDIVISIONS.**

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee Nikolai seconded the motion. On roll call, the following

Trustees voted "Aye":

Somerville, Granat,

Nikolai, Chase,

L'Homme dieu, Sundermeier.

\_\_\_\_\_.

Trustees voted "Nay":

\_\_\_\_\_.

\_\_\_\_\_.



**Palisade Board of Trustees**

**Regular Meeting**

**Item A under Public Hearing I**

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**Meeting Date:** March 12, 2019

**Presented By:** Ron Quarles, Community Development Director

**Department:** Community Development

**Submitted By:** Ron Quarles, Community Development Director

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**SUBJECT:**

Text Amendment to Palisade Land Development Code amending Articles 2, 3, 4 and 9 of the Palisade Land Development Code by establishing new standards of review, notice and hearings for major subdivisions.

**RECOMMENDATION:**

Staff recommends approval of Ordinance 2019-07 amending Articles 2, 3, 4 and 9 of the Palisade Land Development Code by establishing new standards of review, notice and hearings for major subdivisions.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission considered the text amendment at its regular meeting of March 4 and recommended by a vote of 3 to 1 to approve the amendment as submitted by staff.

**EXECUTIVE SUMMARY:**

Since the update of the Palisade Land Development Code in 2017, staff has determined that improvements to the major subdivision review process are necessary to compel an adequate level of review by the public and the Board of Trustees. Although the intent



was to streamline the process with the 2017 update, staff has determined that opportunities for public notice and review are insufficient. At the same time, the process limits the role of the Board of Trustees until final decisions are required for public dedications and acceptances. The changes that are proposed by this ordinance will establish new review procedures to increase the role of the Board and the public early in the process.

**SUGGESTED MOTION:**

I move to adopt Ordinance 2019-07 entitled "An Ordinance of the Town of Palisade, Colorado Amending Articles 2, 3, 4 and 9 of the Palisade Land Development Code by establishing new standards of review, notice and hearings for major subdivisions."

**Information**

**Proposed Changes:**

Changes are proposed to specific sections under Articles 2, 3, 4 and 9 of the Palisade Land Development Code. The changes are summarized as follows:

**Major Subdivision Concept Plan**

Staff is adding the concept plan as a "first step" in the process for major subdivisions of 10 or more lots or 10 or more residential dwellings. With this new step, applicants must first submit a concept plan application for the Planning Commission and the Board of Trustee review before a preliminary plat is submitted. The concept plan is the first opportunity by the Town to offer an evaluation regarding the layout, design and specifications for open space and public dedications and improvements. Public hearings for concept plan review will be scheduled with the Planning Commission and the Board, following public notice. Although, no formal decisions will result from the hearings, the applicants should receive direction from the public on any issues or concerns that are raised. The process may encourage some changes to the layout and design before the preliminary plat is submitted for review. It is also an opportunity for both the Planning Commission and the Board of Trustees to not only be informed of future development but to provide initial advice and guidance.

Because the process is an additional step, the period for public notice is no more than 7 days prior to the hearings, compared to the standard 14-day notice. The notice period should provide a balance between adequate notice for the public and minimal additional time required for applicants to get through the approval process.

**Preliminary Plat**

Currently the Preliminary Plat is the only opportunity for public notice and review for a major subdivision application. The Planning Commission has the authority to grant final approval in a single public hearing. The Board of Trustees currently has no opportunities to review the major subdivision either at the preliminary plat or final plat stages. The change adds the Board of Trustees as the final approval authority for preliminary plats, subject to public notice and a second public hearing. The Planning Commission will

continue to have review authority in a separate hearing but will only make recommendations to the Board of Trustees.

As a part of the preliminary plat review, the Board of Trustees will make the formal decision to accept or reject land dedications for public park land or determine if payment of fees in lieu of dedications is required. Since the Board has the final decision authority for public dedications, and improvements, this change validates the Board's role at the most reasonable stage in the process. The change also informs the applicant of the Board's decisions earlier in the process rather than at the final stages.

### **Final Plat**

Currently, the Community Development Director has the authority to grant final administrative approval of the Final Plat. The process establishes no formal process for the Board of Trustees, even though public dedications (parks, roads) and improvement agreements must be considered and granted by the Board. The change removes the final authority from the Community Development Director and places it with the Board of Trustees. This modification in the code clarifies the Boards' role in its authority to grant final approvals in the subdivision process. Because the final plat must be consistent with the preliminary plan approval, no additional public notice or public hearings are required.

### **Approval Criteria (Section 4.01E of the Palisade Land Development Code)**

A. In evaluating any proposed amendments of the text of the Land Development Code, the Planning Commission and the Town Board shall consider the following:

1. The extent to which the proposed text amendment is consistent with the remainder of the LDC, including, specifically, any purpose and intent statements;

*The major subdivision process is intended to provide a "process to evaluate the orderly and efficient development of land and to promote the health, safety and welfare of the residents of the Town." The text amendment validates the role of the Board of Trustees in the major subdivision process. Without this change, there is some confusion as to how the Board accepts public dedications and makes formal decisions on accepting park land and other public improvements. The amendment also establishes additional opportunities for public notice and public hearings. Public hearings will be expanded from one public hearing with the Planning Commission to two hearings at the concept plan stage and two hearings at the preliminary plat stage with the Planning Commission and Board of Trustees respectively. Finally, the amendment benefits the applicant by adding a clearer understanding of the Board's decisions at the earlier stages of the process rather than at the final stages.*

2. The amendment must not adversely affect the public health, safety or general welfare;

*No adverse impacts are anticipated to result from this amendment. The only change is to clarify the major subdivision process with the Board of Trustees and expand opportunities for public notice and review.*

3. The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected;

*Without the proposed amendment, the major subdivision process limits the role of the Board of Trustees and restricts public notice and review to a single public hearing with the Planning Commission. The change to the subdivision process is necessary as subdivision activity continues to increase since the start of the economic recovery.*

4. Whether or not the proposed text amendment revises the LDC to comply with state or federal statutes or case law; and

*The proposed changes are not in conflict with any state or federal statutes or case law. The amendment is consistent with the powers granted to the Board of Trustees by the Colorado Revised Statutes: Sections 31-23-101; 29-20-101; 24-65-10; 24-67-100; Title 29, Article 20; 31-23-214; 31-23-227; and 31-23-305.*

5. Whether or not the proposed text is found to be consistent with the Town's adopted comprehensive plan.

*The adopted Comprehensive Plan establishes goals and policies for future land uses; transportation; infrastructure; parks and recreation and trails; community facilities and services; and open space. The proposed amendments clarify the subdivision process and expand opportunities for public review, both of which are consistent with the goals and policies of the Comprehensive Plan.*