

# Staff Report – Code Text Amendment / PUBLIC HEARING



June 18, 2013 Planning & Zoning Commission Meeting

<b>Report date</b>	June 14, 2013
<b>Project type</b>	Code Text Amendment
<b>Zoning</b>	N/A
<b>Address</b>	N/A
<b>Prepared By</b>	Matt Pielsticker, Senior Planner 

## Introduction

This report summarizes Avon Municipal Code (“AMC”) amendments for consideration by the Planning and Zoning Commission (“PZC”). The Town Council initiated a series of AMC text amendments earlier this year. Given the breadth of amendments, and in order to prioritize the review, Council broke the amendments into two “tiers”. The PZC already reviewed part of the first tier amendments which included changes to the Natural Resource chapter. This report summarizes the remainder of first tier amendments. The major changes included are to Chapter 7.16.020, *General Procedures and requirements*, AMC, and changes to Chapter 7.16.060, *Planned Unit Development*, AMC. The amendments will be explained in detail in the Planning Analysis below.

Please find Resolution 13-05 (**Attachment A**) attached to this report for your review, which includes a redline strikethrough of the pertinent code changes. After conducting a public hearing and taking public comments into consideration, PZC’s recommendation will be forwarded to the Town Council for final action by Ordinance.

## Planning Analysis

The proposed modifications outlined in Resolution 13-05 will not only provide clarity, but will also cleanup sections that are either redundant, contradictory, or have been found to be troublesome for code users. For example, when processing amendments to a Final PUD plan you are directed to Section 7.16.020(g), *Minor Amendment*, AMC; this section is intended to apply to approved development applications and not to approved zoning standards that are tied to Final PUD plans. Following is a section by section review, in order of appearance, outlining the changes:

### **Table 7.16-1, Development Review Procedures and Review Authority – Page 52**

This table is amended to show the newly created Minor and Major PUD review categories. The other changes to the table are not substantive, but are intended to make the table easier to read and find the applicable process. The 1041 permit procedure was absent from the table, and the term “rezoning” was changed to “zoning amendment” in order to provide consistency with that code section (§7.16.050).

### **Section 7.16.020(e), Step 5: Public Hearings – Pages 56-57**

The PZC or Council can continue a public hearing on its own initiative for a maximum of thirty-five (35) days after the date of the first public hearing, or up to ninety-five (95) days with the consent of the applicant. During the course of reviewing a difficult application this past year PZC expressed the desire to lengthen the time-frame based on the size or complexity of the application. PZC should review this section and provide a recommendation for changes, if any, to this section. The thirty-five (35) day review window provides the PZC up to three (3) regularly scheduled meeting for review and also allows for the ability to schedule special meetings. The ninety-five (95) day review window provides the PZC up to seven (7) regularly scheduled meetings and additional special meetings. Staff has no recommended changes to the

public hearing review timeframes at this time as they view this timeframe acceptable for the majority of applications.

**Section 7.16.020(g), Minor Amendment** – Pages 58-59

This section will be removed in its entirety for a variety of reasons. First, the section deals with amendments to already approved development applications (i.e. changes between approval and building permit), and these instances are already handled through the Minor Design and Development Plan process. Secondly, Code users are cross-referenced to this section only in the instance of an Amendment to a Final PUD. Staff has found this code section inadequate and inappropriate in the case of PUD Amendments because it deals with approved “development applications” and not PUD plans which are two entirely different types of approval. Furthermore, this section does not contain process requirements or review criteria which are essential to reviewing a PUD amendment. Since this section does not translate well to PUD Amendment situations Staff has provided other amendments to §7.16.060, *Planned Unit Development*, to deal with those cases. Those changes are discussed further below.

**Section 7.16.060(e)(4), Review Criteria** – Page 65

Currently, if a PUD amendment is being processed via the *Minor Amendment* section mentioned above, there are not a clear set of review criteria for Staff, PZC, or Council to consider. This amendment clarifies that the same review criteria for a Preliminary and Final PUD can be used as the basis for the review of a PUD Amendment (Major or Minor).

**Section 7.16.060(h), Amendments to a Final PUD** – Pages 67-68

This section is the impetus for the other related amendments discussed herein. As mentioned, the cross-reference to §7.16.020(g), *Minor Amendment*, is removed because that section will be functionally obsolete with the creation of new Minor and Major amendment language for PUDs.

This section breaks down PUD amendments into three categories: 1) Administrative; 2) Minor; and 3) Major. Administrative amendments are intended only to address corrections to errors or mistakes that are determined to be “non-substantive” by the Director. Table 7.16-1, *Development Review Procedures and Review Authority*, has included reference to Administrative PUD Amendments but there was no section to explain what can be processed in this fashion. Criteria were added to help distinguish what can be processed as Minor vs. Major. Lastly, the review procedure is further defined and Major PUDs would continue to go through a Preliminary and Final stage of review. Minor PUDs would continue to be processed through the PZC/Council public hearing process as it is a zoning amendment requiring Ordinance approval.

**Section 7.16.080(b)(2) Minor Development Plan** – Page 75

As mentioned above, there is redundancy in the Code for processing changes to an approved development plan. Staff has and will continue to process these types of changes to an approved development plan application via the Minor Development Plan process. This amendment further clarifies that this section applies not only to changes to an existing developed property, but also to design approvals that may have changed slightly since PZC approval but have not gone to building permit. It is typical to have minor changes to approved design plans when architectural drawings are updated due to engineering or other considerations.

**Section 7.16.090, Design Review** – Page 77

The reference to the Avon Design Guidelines is being removed as that document was repealed with the adoption of Title 7 two years ago.

## **Review Criteria**

§7.16.040(c), Code Text Amendment Review Criteria. The PZC shall use the following review criteria as the basis for recommendations on applications to amend the text of the Avon Municipal Code:

- (1) The text amendment promotes the health, safety, and general welfare of the Avon Community;
- (2) The text amendment promotes or implements the goals and policies of the Avon Comprehensive Plan;
- (3) The text amendment promotes or implements the purposes stated in the Development Code; or
- (4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts, or other social or economic conditions.

Staff Response: The proposed amendments appear to implement the purposes stated in the Development Code. The Development Code was intended to streamline development processes, and not unduly restrict property owners who wish to change their development rights; especially when there is no increased impacts to the natural environment (i.e. a down-zoning application, or Minor PUD Amendment). The other amendments clearly fall into the “cleanup” category and will help with the future implementation of the code sections for property owners, Staff, and PZC.

## **Staff Recommendation**

Staff recommends that the Planning and Zoning Commission approve Resolution No. 13-05, recommending approval of the amendments to the Town Council.

## **Attachment**

DRAFT Resolution 13-05, including redline strikethrough AMC text

**TOWN OF AVON, COLORADO  
PLANNING COMMISSION RESOLUTION 13-05  
SERIES OF 2013**

**A RESOLUTION RECOMMENDING APPROVAL OF AMENDMENTS TO CHAPTER  
7.16.060 OF THE AVON DEVELOPMENT CODE TO MODIFY THE AMENDMENT  
PROCEDURES FOR PLANNED UNIT DEVELOPMENTS, AND CLEARLY DEFINE  
REVIEW CRITERIA FOR MINOR PUD AMENDMENTS**

**WHEREAS**, the Town of Avon (“Town”) adopted Ordinance No. 10-14 adopting the Avon Development Code (“ADC”);

**WHEREAS**, the Planning and Zoning Commission (“PZC”), Town Council, and Staff have identified several code sections that warrant amendments including the *General Procedures* and *Planned Unit Development* sections;

**WHEREAS**, The Town Council initiated this code text amendment on April 3, 2013, pursuant to their powers granted by §7.16.040(a), *Review Procedures*, Avon Municipal Code (“AMC”);

**WHEREAS**, the PZC of the Town of Avon held a public hearing on June 18, 2013, after publishing and posting notice as required by law, considered all comments, testimony, evidence and staff reports provided by the Town staff, considered such information prior to formulating a recommendation;

**WHEREAS**, the PZC finds the Application complies with the review criteria set forth in §7.16.040(c), *Review Criteria*, AMC as described below; and,

**WHEREAS**, it is the PZC’s opinion that the health, safety and welfare of the citizens of the Town of Avon would be enhanced and promoted by the adoption of the amendments.

**NOW THEREFORE, BE IT RESOLVED**, that the PZC hereby recommends that the Town Council of the Town of Avon approve the attached amendments (“Exhibit A to Resolution 13-05”) with the following finding:

- (1) The amendments comply with the criteria set forth in Section 7.16.040(c) of the Avon Municipal Code.

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**ACCEPTED, APPROVED AND ADOPTED THIS 18<sup>th</sup> DAY OF JUNE, 2013  
AVON PLANNING AND ZONING COMMISSION**

**Signed:**

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James Clancy, PZC Chairperson

## Chapter 7.16

## Development Review Procedures

## 7.16.010 Purpose.

This chapter contains regulations and the procedures for development applications. §7.16.020 contains regulations that are generally applicable to all development application review procedures, described in a series of sequential steps. The purpose is to establish uniform procedures for application types to the extent possible. Subsequent sections identify the applicability of the common steps to specific procedures, noting any differences between the common procedures and those for the specific procedure. Specific procedure provisions supplement, rather than replace, provisions of the common steps, unless the provisions conflict, in which case the provisions of the specific procedure control. Table 7.16-1 indicates the specific review and approval procedures of this chapter, with section references.

Table 7.16-1: Development Review Procedures and Review Authority			
Procedure	Director	PZC	TC
Comprehensive Plan Amendment (§7.16.030)	R	H-R	H-D
Code Text Amendment (§7.16.040)	R	H-R	H-D
<del>Rezoning</del> Zoning Amendment (§7.16.050)	R	H-R	H-D
Planned Unit Development (§7.16.060)	Administrative PUD	D	A
	<del>Minor PUD Amendment</del>	<del>R</del>	<del>H-D</del>
	<del>Major PUD Amendment</del>	<del>R</del>	<del>H-D</del>
	Preliminary PUD	R	H-R
	Final PUD	R	H-R
<del>Major Subdivision</del> (§7.16.070)	<del>Administrative Subdivision</del> (§7.16.070)	<del>D</del>	<del>A</del>
	<del>Minor Subdivision</del> (§7.16.070)	<del>R</del>	<del>H-D</del>
	Preliminary Plan	R	H-R
	Final Plat	R	H-D
<del>Development Plan</del> (§7.16.080)	<del>Minor Development Plan</del> (§7.16.080)	<del>D</del>	<del>A</del>
	<del>Major Development Plan</del> (§7.16.080)	<del>R</del>	<del>H-D</del>
	<del>Major Development Plan</del> in Town Core (§7.16.080)	<del>R</del>	<del>H-D</del>
Design Review (§7.16.090)	R	H-D	A
Special Review Use (§7.16.100)	R	H-D	A
Variance (§7.16.110)	R	H-D	A
Alternative Equivalent Compliance (§7.16.120)	R	H-D or H-R	A or H-D
Right-of-Way Vacation (§7.16.130)	R		H-D
Vested Property Right (§7.16.140)	R	H-R	H-D
Location, Character, and Extent (§7.16.150)	R	H-D	A
Appeal (§7.16.160)			H-D
Annexation (§7.36)	R	H-R	H-D
<del>1041 Permit</del> (§7.40)	<del>R</del>	<del>H-R</del>	<del>H-D</del>
R=Review/Recommendations; H=Public Hearing; D=Decision; A=Appeal			

**7.16.020 General Procedures and Requirements.**

The following procedures shall apply to all development applications which are reviewed under this Chapter 7.16.

**(a) Step 1: Pre-application Conference.** A pre-application conference is required for all development applications unless waived by the Director. The pre-application conference serves to assist the applicant with (1) identifying information which must be provided for a complete development application, (2) understanding the development application review process, (3) identifying appropriate referral agencies for review and comment, (4) achieving compliance with development standards, understanding relevant planning issues, and (5) determining appropriate fees. The Director may include other Town representatives in the pre-application conference as deemed appropriate. The applicant shall provide sufficient information to the Director at least five (5) business days prior to a scheduled pre-application conference, unless such time frame is waived by the Director. Minimum information shall include applicant information, property description, description of proposed development or nature of development application, and conceptual site plans or drawings which illustrate the nature of the development application. The Director may determine that the information provided is insufficient and request additional information. If the applicant fails to provide sufficient information for a pre-application meeting and seeks to proceed with the application process, the Director may notify the PZC and Council of the lack of adequate information submitted at the pre-application conference. The Director may provide a written letter after the pre-application conference summarizing application submittal requirements, review procedures, development standards, planning issues, and required fees. The informal evaluation of the Director and staff provided at the pre-application conference are not binding upon the applicant or the Town. Critical issues relevant to a development application may not be apparent at the pre-application conference and may require additional review, submissions, or studies later in the application process.

**(b) Step 2: Application Submittal.**

**(1) Applicant.** The owner of real property, or authorized representative of the owner with a properly acknowledged power of attorney, may submit a development application. No development application shall be received for processing or approved, and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the Town.

**(2) Application Submittal Requirements.** The applicant shall submit the application to the Director. Application submittal requirements for every application type shall be established by the Director on submittal forms available in the Administrative Manual from the Department of Community Development or on the Town's website. The Director may adopt standards and requirements for three dimensional electronic and graphic information for application submittal requirements. The Director may waive submission requirements where appropriate to specific applications; however, the waiver of any submission requirement shall not preclude the Planning Commission or Town Council from requiring such information where deemed necessary for evaluation of the development application with the applicable review criteria. The minimum submittal requirements for all applications shall include:

(i) Completed application form;

(ii) Owner's signature or an acknowledged power of attorney if the owner has authorized an agent or representative to act as the applicant;

(iii) Title insurance commitment which has been updated within sixty (60) days of the application submittal along with copies of all documents listed in the exceptions;

(iv) Legal description of the property subject to the development application;

(v) Development application review fees; and

(vi) Survey no more than three (3) years old stamped by a surveyor licensed in the State of Colorado.

**(3) Required Studies and Reports.** Reports or studies may be necessary to adequately evaluate the development application for compliance with the review criteria. Such reports include but are not limited to: studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts, and/or environmental impacts. The applicant shall furnish the reports or studies needed at the applicant's sole expense. The Town may require independent peer review of any report or study provided by the applicant. The applicant and the Town may agree to retain a mutually acceptable consultant to prepare a report or study, which cost shall be paid by the applicant. All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. The form and content of reports or studies may be established by the Director and set forth in the Administrative Manual.

**(4) Concurrent Review Permitted.** Where multiple development applications concern the same property then the Director may permit concurrent review of the development applications for efficiency and practicality.

**(5) Multiple Applications.** A single property shall not be permitted to have more than one (1) application of the same type being processed concurrently.

**(6) Fees.** Fees shall be paid in accordance with §7.04.100, *Fees*.

**(c) Step 3: Application Processing.**

**(1) Determination of Completeness.** A development application shall be reviewed for completeness by the Director within ten (10) business days after receipt. If the application is determined to not be complete then a written communication shall be promptly provided to the applicant indicating the specific deficiencies in the application. The determination that an application is complete or the failure to determine an application is incomplete within ten (10) days shall not preclude the Town from requiring information which is necessary and relevant to evaluate the development application for compliance with the review criteria. A determination by the Director that the application is incomplete may be appealed to the Town Council in accordance with the procedures in §7.16.160, *Appeal*.

**(2) Referral to Other Agencies.** Development applications may be referred to other agencies for review and comment. The Director shall attempt to identify appropriate referral agencies and shall consider the comments from referral agencies as part of the staff review and report. The Planning Commission and Town Council may determine that referral of a development application to an agency for review and comment is appropriate where such referral agencies may provide comments relevant to evaluating the development application for compliance with the review criteria. Referral of development applications to other agencies shall provide a minimum timeframe for review and comment of fourteen (14) days for development plans, design review, variances, amendments to text of Development Code, and minor subdivisions; and twenty-one (21) days for preliminary subdivision, planned unit development, planned unit development amendments, re-zoning, and 1041 permits; however, the timeframe for review and comment may be extended if the development application presents technical issues which require additional review, if additional information is provided by the applicant, or the application is modified. Referral agencies may include, but are not limited to:

**(i)** Any utility, local improvement or service district, or ditch company, when applicable;

**(ii)** The Colorado Department of Transportation when the proposed development is adjacent to or in sufficient proximity to affect a right-of-way, interchange, or other facility;

**(iii)** The Colorado Geological Survey for findings and recommendations pertaining to geologic factors, including geologic hazards, mineralized areas, and sand and gravel areas that would have a significant impact on the proposed use of the land;

**(iv)** Any other agency concerned with a matter or area of local interest that could be affected by the application;

**(3) Staff Review and Report.** The Director shall review the application in accordance with the criteria established in this chapter and shall prepare written findings of fact. If authorized as the decision-making authority, the Director shall inform the applicant in writing of the findings and determination. If not authorized as the decision-making authority, the Director shall prepare a recommendation and submit the recommendation and findings to the appropriate review and decision-making authority.

**(4) Required Processing.** Applicants shall be required to continuously and diligently pursue their development applications which shall include responding in a timely manner to staff comments and requests. An Applicant which fails to respond to staff comments or requests for a period of four (4) months shall be administratively withdrawn by the Director unless the Director determines that good cause exists to extend the application timeframe and approves such extension in writing.

**(d) Step 4: Notice.** Notice shall be required for all public hearings conducted by the Planning Commission and Town Council.

(1) **Published and Posted Notice.** Notice shall be published in a newspaper of general circulation within the Town and posted in the designated official places of posting by the Town at least eleven (11) days prior to the hearing date.

(2) **Mailed Notice.** For procedures that require mailed notice, notice shall be sent by first-class mail to all real property owners within three hundred (300) feet of the property which is the subject of a development application, as measured from the boundary of the property. If a property within three hundred (300) feet that requires notification is a condominium project, notice may be mailed to the managing agent, registered agent, or any member of the board of directors of the project. Mailed notice shall be postmarked at least eleven (11) days prior to the meeting. Mailed notice shall be sent by the Town at the applicant's expense. The Eagle County Assessor's records may be used to determine the addresses of real property owners. The Town shall include a certificate of mailing in the public record.

(3) **Notice Content.** Every required form of notice shall state the time and place of the hearing, the name of the applicant, a general description of the subject property indicating its location (which shall be shown by map), a brief summary of the subject matter of the hearing, a description of the proposed development, a statement that the application or information relating to the proposed change or amendment is available in the Director's office during regular business hours for review or inspection by the public, and a statement that written comments may be submitted to the Community Development Department. All required notices shall be approved by the Director prior to posting or distributing.

(4) **Constructive Notice.** Minor defects in any 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. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. Any person who appears at a public hearing is deemed to have received constructive notice and waived any grounds to challenge defective notice. If a question arises at the hearing regarding the adequacy of notice, the reviewing or decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Code. When the records of the Town document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice was given as required by this Section. If the reviewing or decision-making body takes action to continue a hearing to a future specified date, time and location, then constructive notice is deemed to have been provided for such continued hearing date and additional notices shall not be required.

(e) **Step 5: Public Hearings.** The Director shall schedule a public hearing date before the PZC and/or Town Council after a complete application has been received, town staff has completed town staff review and referral agencies have had an opportunity to provide comments. The Director may delay the scheduling of a public hearing to a subsequent meeting where an agenda of the PZC or Town Council is full. A complete application shall be scheduled for an initial public hearing within seventy-five (75) days after the date that the application is determined to be complete unless the applicant consents to scheduling the public hearing on a later date. The PZC or Council may continue a public hearing on its own initiative for a

maximum of thirty-five (35) days after the date of the initial public hearing without the consent of the applicant. PZC or Council may continue a public hearing for a maximum of ninety-five (95) days with the consent of the applicant.

**(f) Step 6: Review and Decision.** The following rules shall apply to review, recommendations, and decisions conducted at public hearings.

**(1) Review Criteria.** The reviewing authority shall be Director when the Director has the authority to administratively approve a development application. The reviewing authority shall be the PZC and/or Town Council for all development applications which are subject to public hearing. The reviewing authority shall review development applications for compliance with all relevant standards and criteria as set forth in the specific procedures for the particular application in this Development Code as well as the following general criteria which shall apply to all development applications:

**(i)** The development application is complete;

**(ii)** The development application provides sufficient information to allow the reviewing authority to determine that the development application complies with the relevant review criteria;

**(iii)** The development application complies with the goals and policies of the Avon Comprehensive Plan; and,

**(iv)** The demand for public services or infrastructure exceeding current capacity is mitigated by the development application.

**(2) Authority to Require Additional Studies.** If the reviewing authority finds that the submittal materials are not adequate to evaluate the development against the review criteria, it may require additional studies as necessary. In doing so, the reviewing authority shall indicate the specific consequence(s) or concern(s) for which the standard submittal requirements fail to provide adequate means of evaluation and the data or information needed for proper evaluation. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project.

**(3) Findings.** The reviewing authority shall adopt written findings which document that a recommendation or decision is based upon a determination of whether the development application complies with the applicable review criteria. The written findings shall state the conditions or mitigation.

**(4) Conditions.** The reviewing authority may recommend approval, or may approve, a development application with conditions where such conditions are deemed necessary to ensure compliance with the applicable review criteria and the purpose and intent of this Development Code. Conditions shall be in written form and attached to the approved plan, plat, or permit. Conditions may include specific time limits for performance of any condition. Conditions may include financial performance guarantees from the applicant where the condition requires improvements for mitigation, where deemed necessary to public health, safety, or welfare, or where deemed necessary to protect adjacent property or public

infrastructure. Financial performance guarantees shall be in the form of an agreement which is acceptable to the Town and shall be executed by the applicant.

**(5) Final Decision.** A decision by the Director or the PZC shall become final unless a written appeal is timely submitted to the Town in accordance with §7.16.160, *Appeal*. The date of the decision shall be the date that the reviewing authority renders a decision. The Town shall mail the written findings and notification of decision to the applicant within five working days of the decision of the reviewing authority. The Town Council reserves the authority to render a final decision on all decisions rendered under this Development Code and only a decision of the Town Council may be subject to legal challenge. The failure to timely submit a written appeal of a decision of the Director or the PZC shall be deemed to be a waiver of any right to legally challenge such decision.

~~(g) **Minor Amendment.** The applicant may apply to the Director for minor amendments to an approved development application. Minor amendments to an approved development application may be approved, approved with conditions, or denied administratively by the Director. The Director is authorized to approve minor amendments only if the development approval, as so amended, complies with the standards of the Development Code. The Director may refer a minor amendment to the decision-making body that was responsible for the original approval if the Director determines the amendment may result in a material change to the approved development application. Proposed amendments to an approved development application which are determined by the Director to not be a minor amendment shall be reviewed and processed in the same manner as would be required under this Development Code for the original application for which the amendment is sought and shall include full application fees. Minor amendments shall consist of any of the following:~~

~~(1) Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original application from administrative review under this Development Code had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten percent (10%) in the amount of square footage of a land use or structure and does not result in a change in the types of uses in the project.~~

~~(2) Correction of any errors caused by mistakes that do not materially alter the substance of the development plan or plat as represented to the Council.~~

~~(3) A change to an approved design which results in a ten percent (10%) or less increase to lot coverage; ten percent (10%) or less increase to building height; adjustments to building footprints, access and parking configurations which are less than ten (10) feet; alterations to the landscaping plan or drainage plan which substantially comply with the original approval; and, changes to doors, windows, roofs, or building articulation which are less than two (2) feet and which do not alter or diminish the overall design character as approved; as are all determined by the Director.~~

~~(4) Changes to an approved development application which do not result in:~~

~~(i) An increase in the approved number of dwelling units;~~

~~(ii) An increase in the amount of square footage of a non-residential land use or structure;~~

~~(iii) A change in the housing mix or use mix ratio; or,~~

~~(iv) A change in the character of the development.~~

**(h) Termination of Approval.** All development approvals shall expire and become void two (2) years after the date of the approval if a building permit has not been issued prior to the expiration date, except when a different duration is specified in the development approval, a different duration is specified in the specific procedures for the development approval, or a request for extension is approved by the reviewing authority which granted the original development approval. The owner shall submit a written request for an extension to the Director prior to the expiration date and shall state the reasons and circumstances for such extension request. The Director and the PZC may provide one (1) extension for a maximum of one (1) year. Town Council may provide multiple extensions and may provide extensions greater than one year.

#### **7.16.030 Comprehensive Plan Amendment.**

This section sets forth procedures for reviewing proposed amendments to the texts and maps of the Avon Comprehensive Plan. The amendment process is established in order to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of the Town.

**(a) Review Procedures.** Applications to amend the Avon Comprehensive Plan shall follow the general review procedures set forth in §7.16.020, *General Procedures and Requirements*. Applications to amend the Comprehensive Plan may be initiated by the Town Council, any registered voter of the Town of Avon, or any property owner in the Town of Avon.

**(b) Review Authority.** The PZC shall review applications for amendments to the Avon Comprehensive Plan and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall render the final decision on an application to amend the Avon Comprehensive Plan after conducting a public hearing. Amendments to the Avon Comprehensive Plan shall be approved by ordinance of the Town Council.

**(c) Review Criteria.** The PZC and Town Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the Avon Comprehensive Development Plan:

**(1)** The surrounding area is compatible with the land use proposed in the plan amendment or the proposed land use provides an essential public benefit and other locations are not feasible or practical;

**(2)** Transportation services and infrastructure have adequate current capacity, or planned capacity, to serve potential traffic demands of the land use proposed in the plan amendment;

(3) Public services and facilities have adequate current capacity, or planned capacity, to serve the land use proposed in the plan amendment;

(4) The proposed land use in the plan amendment will result in a better location or form of development for the Town, even if the current plan designation is still considered appropriate;

(5) Strict adherence to the current plan would result in a situation neither intended nor in keeping with other key elements and policies of the plan;

(6) The proposed plan amendment will promote the purposes stated in this Development Code; and,

(7) The proposed plan amendment will promote the health, safety or welfare of the Avon Community and will be consistent with the general goals and policies of the Avon Comprehensive Plan.

#### **7.16.040 Code Text Amendment.**

The Council may amend the text of the Development Code, including the adoption, modification, or replacement of appendices to the Development Code, pursuant to this section. The purpose of a code text amendment is to address changed conditions, unintended consequences or changes in public policy, to advance the general welfare of the Town.

**(a) Review Procedures.** Applications to amend the text of the Development Code shall follow the general review procedures set forth in §7.16.020, *General Procedures and Requirements*. Applications to amend the text of the Development Code may be initiated by the Town Council, any property owner within the Town of Avon, or any registered elector within the Town of Avon.

**(b) Review Authority.** The PZC shall review applications to amend the text of the Development Code and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall render the final decision on an application to amend the text of the Development Code after conducting a public hearing. Amendments to the text of the Development Code shall be approved by ordinance of the Town Council.

**(c) Review Criteria.** The PZC and Town Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the text of the Development Code:

(1) The text amendment promotes the health, safety, and general welfare of the Avon Community;

(2) The text amendment promotes or implements the goals and policies of the Avon Comprehensive Plan;

(3) The text amendment promotes or implements the purposes stated in this Development Code; or

(4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts, or other social or economic conditions.

**7.16.050 Zoning Amendments.**

The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this section. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town.

(a) **Review Procedures.** Applications for a zoning amendment shall follow the general review procedures set forth in §7.16.020, *General Procedures and Requirements*. Applications for zoning amendments may be initiated by the Town Council or the property owner and may not be initiated by any other person.

(b) **Review Authority.** The PZC shall review applications for zoning amendments and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall render the final decision on an application for zoning amendment after conducting a public hearing. Zoning amendments shall be approved by ordinance of the Town Council.

(c) **Review Criteria.** The PZC and Town Council shall use the following review criteria as the basis for recommendations and decisions on applications for zoning amendment:

- (1) Evidence of substantial compliance with the purpose of the Development Code;
- (2) Consistency with the Avon Comprehensive Plan;
- (3) Physical suitability of the land for the proposed development or subdivision;
- (4) Compatibility with surrounding land uses;
- (5) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned
- (6) Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;
- (7) Whether the rezoning is consistent with the stated purpose of the proposed zoning district(s);
- (8) That, compared to the existing zoning the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (9) That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;

(10) For rezoning within an existing PUD, consistency with the relevant PUD Master Plan as reflected in the approval of the applicable PUD; and,

(11) Adequate mitigation is required for zoning amendment applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.

**(d) Mitigation.** Zoning amendment applications which propose a greater intensity of land use or increased demands on public services or infrastructure shall be required to provide adequate mitigation of such impacts. Greater intensity of land use or increased demands on public facilities and infrastructure shall include, but are not limited to: transportation, water, sewer, schools, emergency services, police, parks and recreation, medical, and library. Adequate mitigation may include providing dedications of land or cash-in-lieu for the proportionate share of capital investment in public facilities and infrastructure related to the potential incremental increase of demand created from the existing zoning classification to the proposed zoning classification.

#### **7.16.060 Planned Unit Development (PUD).**

**(a) Purpose.** This section is intended to allow flexible development patterns that are not specifically provided for in this Development Code. It is the purpose of this section:

(1) To promote and permit flexibility that will encourage innovative and imaginative approaches in land development and renewal that will result in a more efficient, aesthetic, desirable, and economic use of land while maintaining density and intensity of use consistent with the applicable adopted plans, regulations, and policies of the Town;

(2) To promote development within the Town that can be conveniently, efficiently, and economically served by existing local utilities and services or by their logical extension;

(3) To promote design flexibility including placement of buildings, use of open space, pedestrian and vehicular circulation systems to and through the site, and off-street parking areas in a manner that will best utilize potential on-site characteristics such as, topography, geology, geography, size, and proximity;

(4) To provide for the preservation of historic or natural features where they are shown to be in the public interest, including but not limited to such features as: drainage ways, flood plains, existing topography or rock outcroppings, unique areas of vegetation, historic landmarks, or structures;

(5) To provide for compatibility with the area surrounding the project site;

(6) To provide for usable and suitably located open space such as, but not limited to, bicycle paths, playground areas, courtyards, tennis courts, swimming pools, planned gardens, outdoor seating areas, outdoor picnic areas, and similar open space;

(7) To minimize adverse environmental impacts of development;

(8) To improve the design, quality and character of new development; and

(9) To provide compensating community benefits to offset any impacts of the development and in recognition of design flexibility.

**(b) Eligibility Criteria.** All of the following criteria must be met for a property to be eligible to apply for PUD approval.

**(1) Property Eligible.** All properties within the Town of Avon are eligible to apply for PUD approval.

**(2) Consistency with Comprehensive Plan.** The proposed development shall be consistent with the Avon Comprehensive Plan.

**(3) Consistent with PUD Intent.** The proposed development shall be consistent with the intent and spirit of the PUD purpose statement in §7.16.060(a).

**(4) Compatibility with Existing Uses.** The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Development Code or planned for in the Avon Comprehensive Plan.

**(5) Public Benefit.** A recognizable and material benefit will be realized by both the future residents and the Town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.

**(6) Preservation of Site Features.** Long-term conservation of natural, historical, architectural, or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.

**(7) Sufficient Land Area for Proposed Uses.** Sufficient land area has been provided to comply with all applicable regulations of the Development Code, to adequately serve the needs of all permitted uses in the PUD projects, and to ensure compatibility between uses and the surrounding neighborhood.

**(c) Dimensional and Development Standards.** The following dimensional and development standards shall apply to all PUDs.

**(1) Overlay District.** A PUD shall be an overlay district and shall be applied over an underlying zone district. If there is no underlying zone district one shall be established prior to or concurrently with a PUD approval. The rezoning process set forth in §7.16.050 shall be used to establish the underlying zone district.

**(2) Permitted Uses.** PUD uses shall be limited to those allowed either as permitted, accessory, or special review uses in the underlying zone district.

**(3) Development Standards.** Chapter 7.28, *Development Standards*, shall apply to PUD projects.

**(d) General Procedures.** All PUDs are processed in two stages: 1) the preliminary PUD and 2) the final PUD. The final PUD can only be filed with the Town for review and processing

after the preliminary PUD has been approved or conditionally approved by the Town Council. The filing of a PUD in the office of Community Development shall not constitute the effective dedication of easements, rights-of-way, or access control, nor shall the filed PUD plan be the neither the equivalent of nor substitute for the final platting of land. Specific procedures for preliminary PUD and final PUD are outlined below.

**(1) Coordination with Subdivision Review.** It is the intent of this Development Code that subdivision review required under §7.16.070, *Subdivisions*, if applicable, be carried out concurrently with the review of PUD development plans under this section. If subdivision approval is required for the subject property, the PUD plans required under this Section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals. If any provisions of this section conflict with the subdivision procedures or standards of this Development Code, the more restrictive or detailed requirements shall be met, unless specifically altered by the Town Council.

**(e) Procedures for Preliminary Planned Unit Development.** The general procedures set forth in §7.16.020 shall apply to preliminary Planned Unit Development applications. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary PUD plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing, and review for a PUD as prescribed in this section shall apply to the application.

**(1) PUD Master Plan and Guide Required.** The application for PUD rezoning shall include a preliminary PUD plan. The Director shall require sufficient detail in the preliminary PUD plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The plan shall include, at a minimum:

- (i)** A quantitative summary of existing conditions on the subject property;
- (ii)** A list of uses to be allowed within the PUD by right, a list of uses to be allowed only with a special review use permit, and a list of temporary uses;
- (iii)** Parking analysis based on proposed uses;
- (iv)** Density of uses proposed;
- (v)** Location of public and private open space;
- (vi)** Location of existing and proposed buildings on the site;
- (vii)** Road, street, and pedestrian networks proposed;
- (viii)** Drainage facilities;
- (ix)** Existing or proposed utilities and public services;
- (x)** If development is to be phased, a description of the phase components and timing;

(xi) A statement that development on the site will meet applicable standards of the underlying zoning district and this Development Code, or a statement specifying the standards of the underlying district and this Development Code to which modifications are proposed and the justification for such modifications; and

(xii) A statement specifying the public benefit(s) to be contained in or associated with the PUD.

(2) **Notice.** Where subdivision approval will be required to implement development in a proposed PUD, the public hearing notice requirements for preliminary subdivision plan approval shall be combined and shall run concurrently with the PUD public notice and hearing requirements.

(3) **Reviewing Authority.** The PZC shall review a preliminary PUD applications and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall review and render a final decision on a preliminary PUD application after conducting a public hearing. Unless otherwise approved by the Town Council, approval of a preliminary PUD application shall vest no rights to the applicant other than the right to submit a final PUD development plan.

(4) **Review Criteria.** The PZC and Town Council shall consider the following criteria as the basis for a recommendation or decision to rezone a property to PUD Overlay, ~~and~~ approve a preliminary PUD plan, or process a PUD amendment:

(i) The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.

(ii) The PUD rezoning will promote the public health, safety, and general welfare;

(iii) The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);

(iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

(v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

(vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

(vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.

**(5) Submission Deadline for Final PUD Master Plan.** Within six (6) months following approval of the preliminary PUD plan, the applicant shall initiate the second stage of their application process by filing with the Director a final PUD plan, and subdivision plat if necessary, containing in final form all the information required in the preliminary PUD plan, along with such other documents as may be necessary to implement the plan or to comply with all applicable requirements of this Development Code. Upon written request by the applicant prior to the application lapsing, the Planning and Zoning Commission, for good cause, may extend the period for filing the final PUD plan for a period not to exceed six (6) months.

**(f) Procedures for Final Planned Unit Development Approval.** The general procedures set forth in §7.16.020, *General Procedures and Requirements*, shall apply to final Planned Unit Development applications subject to the following exceptions and additions:

**(1) Pre-Application Conference.** A pre-application conference shall be required, unless waived by the Director.

**(2) Contents of the Final PUD Master Plan.** The final PUD master plan shall contain all of the materials included in the preliminary PUD development plan, together with revisions, if any, that may be approved by the Planning and Zoning Commission without an additional public hearing, as described in subsection b. below. In addition to the materials required in the administration manual, the final PUD master plan shall include the following:

**(i) Phasing Program.** A document describing any proposed phasing program of the development for all structures, recreational and other common facilities, and open space improvements, including time schedule for commencement and completion dates of construction of each phase. Intermediate phases shall not exceed overall project density and a pro rata allocation of common open space shall be made as each phase is developed.

**(ii) Common Open Space Agreement.** A copy of the formal agreement with a public agency or private association for the ownership and maintenance of the common open space is required.

**(iii) Plats for Recording.** A copy of any subdivision plat, plat of dedication, or plat of vacation that may be necessary part of the PUD rezoning is required.

**(iv) Covenant.** A restrictive covenant in a form acceptable to the Town Attorney limiting development of construction upon the tract as a whole to such development and construction as shall comply with the final PUD development plan as approved by the Town Council, which document shall include a provision granting the Town a right to enforce the same.

**(3) Permitted Minor Changes from a Preliminary PUD Master Plan.** Minor changes in the location, siting, and height of structures, streets, driveways, and open spaces may be authorized by the PZC to be included in the final PUD master plan in accordance with the following procedure without additional public hearings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary PUD development plan is approved. No change authorized by this subsection may cause any of the following:

- (i) A change in the use or character of the development;
- (ii) An increase by more than one percent (1%) in the overall coverage of structures;
- (iii) An increase in the density or intensity of use;
- (iv) An increase in the impacts on traffic circulation and public utilities;
- (v) A reduction of not more than one percent (1%) in approved common open space;

**(4) Reviewing Authority.** The PZC shall review all final PUD applications and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall review and render a final decision on a final PUD application after conducting a public hearing.

**(5) Review Criteria.** The PZC and the Town Council shall review the final PUD development plan and PUD rezoning according to the same approval criteria listed above for preliminary PUD development plans.

**(g) Recordation.** The applicant shall record the approved final PUD, as approved, in the office of the Eagle County Clerk and Recorder within thirty (30) days after the date of approval. If the final PUD is not recorded, the approval of the Town Council shall be deemed to have been withdrawn; and the approval shall be null and void.

**(h) Amendments to a Final PUD.** ~~The provisions of §7.16.020(g), *Minor Amendment*, are applicable to PUDs. Unless a Final PUD contains different amendment procedures, amendments to a Final PUD are governed by this section. The PUD amendment process is dependent on the type of amendment.~~

**(1) PUD Amendment Categories.** ~~Categories of PUD Amendments are established and defined as follows for the purpose of determining the appropriate review procedure:~~

**(i) Administrative Amendment.** ~~A proposed PUD amendment is considered administrative if it provides for the correction of any errors caused by mistakes that do not materially alter the substance of the PUD Development Plan as represented to Council.~~

**(ii) Minor Amendment.** ~~A proposed PUD amendment is considered minor if it meets the following criteria for decision and has been determined as such by the Director:~~

(A) The PUD Amendment does not increase density, increase the amount of nonresidential land use, or significantly alter any approved building scale and mass of development.

(B) The PUD Amendment does not change the character of the development, and maintains the intent and integrity of the PUD.

(C) The PUD Amendment does not result in a net decrease in the amount of open space or result in a change in character of any of the open space proposed within the PUD.

(iii) Major Amendment. A PUD Amendment that is not classified as an administrative or minor amendment is considered a major amendment.

(2) Reviewing Authority

(i) Administrative Amendments. The Director shall review and render decisions on Administrative Amendments. A decision of the Director may be appealed to the Town Council pursuant to Section 7.16.160, Appeal.

(ii) Minor Amendments. The general procedures set forth in Section 7.16.020, General Procedures and Requirements, shall apply to minor PUD amendment applications. The PZC shall review all minor PUD amendment applications and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall review and render a final decision on a minor PUD amendment application after conducting a public hearing.

(iii) Major Amendments. The general procedures set forth in §7.16.020 shall apply to major PUD amendment applications. All major PUD Amendment applications shall be processed as a Preliminary PUD and Final PUD applications.

(3) Review Criteria. The PZC and Town Council shall review a PUD amendment according to the same approval criteria listed above for preliminary PUD development Plan.

**(i) Lapse.** Unless otherwise provided by Town Council, development of an approved PUD shall commence within twelve (12) months from the approval of the final PUD plan. If development has not commenced within twelve (12) months, the Director shall initiate a public hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification, or in light of other conditions, to another zoning classification, and revocation of all permits issued and action taken.

**(j) Revocation of a Final PUD.** A final PUD may be revoked pursuant to the procedures and criteria set forth in this section.

**(1) Initiation of Revocation Proceedings.** Revocation of a PUD may occur if:

**(i)** The landowner or a majority of the owners of property within the subject PUD, petition for revocation of such PUD plan in whole or in part;

(ii) The project falls more than three (3) years behind the phasing plan or schedule filed with the final PUD;

(iii) Construction and or application for building permits have not commenced within one (1) year of approval of the final PUD by the Town Council; or

(iv) The construction and provision of landscaping, buffers, open space, and public streets and facilities that are shown on the final development plan are proceeding at a substantially slower rate than other project components.

**(2) Public Notice Requirements.** Prior to the Planning and Zoning Commission meeting and the Town Council meeting notice shall be given in accordance with the provisions of §7.16.020(d).

**(3) Review Authorities.**

(i) **Planning and Zoning Commission Public Hearing.** The Planning and Zoning Commission shall hold a public hearing and make a recommendation to revoke the final PUD, keep the final PUD in force, or postpone the application. The Planning and Zoning Commission shall not recommend revocation of the final PUD to the Town Council unless the Planning and Zoning Commission makes the findings required for revocation. The Planning and Zoning Commission may impose reasonable conditions on such revocation in order to advance the health, safety, and welfare of the citizens, such as vacation of the underlying final plat.

(ii) **Town Council Public Hearing.** The Town Council shall hold a public hearing and determine whether to revoke, postpone, or keep the final PUD in force. The Town Council shall not revoke the final PUD unless it makes the findings required for revocation. The Town Council may impose reasonable conditions on such revocation in order to advance the health, safety, and welfare of the citizens, such as vacation of the underlying final plat.

**(4) Required Findings for Revocation.** The Planning and Zoning Commission shall not recommend revocation and the Town Council shall not revoke any final PUD unless the following findings are made:

(i) Revocation proceedings were initiated pursuant to this section; and

(ii) The property owner(s) were notified no less than sixty (60) days prior to Planning and Zoning Commission action on the revocation; and

(iii) Public notice was mailed prior to the PZC hearing on the revocation and prior to the Town Council hearing on the revocation pursuant to the provisions of §7.16.020(d); and

(iv) The PUD is not compatible with the surrounding area; or

(v) There is not a need for the uses in the area included within the PUD plan; or

- (vi) The PUD will have adverse impacts on future development of the area; or
- (vii) The traffic generated by the PUD plan will have adverse impacts on the neighborhood and the surrounding area; or
- (viii) The PUD will have adverse impacts on community facilities in the neighborhood and on the surrounding area, including but not limited to schools, library, police, and fire protection, recreation facilities, park lands, and open space; or
- (ix) The PUD will have adverse impacts on municipal infrastructure in the area, including but not limited to water service, wastewater service, storm water service, transportation systems, and street systems; or
- (x) The PUD will not comply with the standards and specifications for design and construction of public improvements in force at the time of the public hearing; or
- (xi) The owner or applicant has not met all dates established in the PUD plan for the commencement of construction of the PUD or for a phase of the PUD plan; or
- (xii) The revocation is in conformance with the provisions contained in applicable sections of this Code, consistency with the adopted comprehensive plan for the Town, and applicable specific plans and relevant Town policies.

**7.16.070 Subdivisions.**

The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this development code, and encourage quality development consistent with the goals, policies, and objectives in the comprehensive plan.

**(a) Applicability.** The procedures of this section and the standards in Chapter 7.32, *Engineering Improvement Standards*, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including land used for condominiums, apartments, or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land or airspace has been subdivided as one type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this development Code. Unless the method of disposition is adopted for the purpose of evading the requirements of the Development Code, this procedure shall not apply to any division of land that:

- (1) Is created by a lien, mortgage, deed of trust, or any other security instrument;
- (2) Is created by any interest in an investment entity;
- (3) Creates cemetery lots;

(4) Creates an interest or interests in oil, gas, minerals, or water that are severed from the surface ownership of real property;

(5) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common of such interest. For the purpose of this paragraph, any interest in common owned in joint tenancy shall be considered a single interest;

(6) Creates a leasehold interest with a term of less than twenty (20) years and involves no change in use or degree of use of the leasehold estate;

**(b) Subdivision Categories.** Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

**(1) Major Subdivision.** Major subdivisions include all subdivisions which would create four (4) or more separate parcels of land or which would require or which propose public improvements.

**(2) Minor Subdivisions.** Minor subdivisions include all subdivisions which would create less than four (4) separate parcels of land, subdivisions which do not require or propose public improvements, subdivisions which consolidate two (2) or more lots into a single lot in a previously recorded subdivision plat, and subdivisions which move any lot lines by more than two (2) feet; but shall not include subdivisions which are administrative subdivisions. Condominium and timeshare subdivisions more than four (4) units which do not propose public improvements shall be processed as minor subdivisions.

**(3) Administrative Subdivisions.** Administrative subdivisions are subdivisions which include dividing a parcel of land for a duplex, subdivisions for the purpose of correcting survey errors, condominium and timeshare subdivisions up to four (4) units, and subdivisions which adjust lot lines by two (2) feet or less and which do not change the number of lots. The Director shall have the authority to determine that an administrative subdivision application shall be processed as a minor subdivision where the character of the subdivision application, or multiple applications, presents issues which warrant review and approval by the Town Council. All administrative subdivisions are exempt from notice requirements outlined in §7.16.020(d).

**(c) Review Procedures.** Applications for a subdivision shall follow the general review procedures set forth in §7.16.020, *General Procedures and Requirements*. Applications for subdivision must be initiated by the owner of real property. The Director may combine preliminary plan and final plat review where the subdivision application can be reviewed efficiently and effectively with a combined process. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing, and review for a PUD as prescribed in the Development Code shall apply to the application.

**(d) Review Authority.** The review authority for a subdivision application shall be determined by the subdivision category.

**(1) Major Subdivision.** Major subdivisions shall be required to obtain approval for preliminary plan and for final plat. The PZC shall review a preliminary plan for a major subdivision application and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall render the final decision on a preliminary plan for a major subdivision application after conducting a public hearing. The Town Council shall review the final plat for major subdivision applications and render a final decision after conducting a public hearing. The preliminary plan and final plat for major subdivisions shall be approved by resolution or ordinance of the Town Council.

**(2) Minor Subdivision.** Minor subdivisions shall require final plat review and approval only where no public improvements are proposed; however, the review criteria for a preliminary plan shall apply to review of minor subdivision final plats in addition to the review criteria for a final plat. The Town Council shall render the final decision on a minor subdivision application after conducting a public hearing. Minor subdivisions shall be approved by resolution or ordinance of the Town Council.

**(3) Administrative Subdivisions.** Administrative subdivisions shall require final plat review and approval only; however, the review criteria for a preliminary plan shall apply to review of administrative subdivisions in addition to the review criteria for a final plat. Director shall review and render decisions on administrative subdivisions. A decision of the Director may be appealed to the Town Council pursuant to §7.16.160, *Appeal*.

**(e) Preliminary Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for preliminary plan subdivision applications:

**(1)** The proposed subdivision shall comply with all applicable use, density, development, and design standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Chapter and that would affect or influence the layout of lots, blocks, and streets. Applicants shall not create lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible;

**(2)** The subdivision application shall comply with the purposes of the Development Code;

**(3)** The subdivision application shall be consistent with the Avon Comprehensive Plan and other community planning documents;

**(4)** The land shall be physically suitable for the proposed development or subdivision;

**(5)** The proposed subdivision shall be compatible with surrounding land uses;

**(6)** There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;

(7) The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the Town of Avon Comprehensive Plan & Comprehensive Transportation Master Plan;

(8) The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;

(9) The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;

(10) A proposed subdivision for an existing PUD shall be consistent with the relevant PUD Master Plan as reflected in the approval of that PUD;

(11) Appropriate utilities, including water, sewer, electric, gas and telephone utilities, shall provide an "conditional capacity to serve" letter for the propose subdivision;

(12) That the general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes of this Development Code;

(13) Evidence that provision has been made for a public sewage disposal system or, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with state and local laws and regulations;

(14) Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;

(15) The subdivision application addresses the responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision and that Town can afford any proposed responsibilities to be assumed by the Town;

(16) If applicable, the declarations and owners' association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this Development Code or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the Town; and,

(17) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.

**(f) Final Plat Review Criteria.** After approval of a preliminary plan, the applicant may submit an application for a final plat. The following criteria shall apply to review of a final plat subdivision application:

(1) The Town Engineer shall compare the legal description of the subject property with the County records to determine that:

(i) The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel of less than thirty-five (35) acres in size;

(ii) The lots and parcels have descriptions that both close and contain the area indicated; and

(iii) The plat is correct in accordance with surveying and platting standards of the state.

(2) The final plat conforms to the approved preliminary plan and incorporates all recommended changes, modifications, and conditions attached to the approval of the preliminary plan;

(3) The final plat conforms to all preliminary plan criteria;

(4) The development will substantially comply with all sections of the Development Code;

(5) The final plat complies with all applicable technical standards adopted by the Town; and,

(6) Appropriate utilities shall provide an ability to serve letter including, but not limited to, water, sewer, electric, gas, and telecommunication facilities.

(g) **Public Improvements Guarantee.** Guarantees for public improvements shall comply with §7.32.100(c).

(h) **Revocation.** An approval of a final plat is revoked pursuant to this section.

(1) **Recording.** The applicant shall cause the final plat and restrictive covenants, if any, to be recorded within ninety (90) days from the date of approval and acceptance of the Council. In the event that the plat is not recorded, the approval of the Council shall be deemed to be void and such plat shall not thereafter be recorded, unless and until the Mayor executes a written authorization for recording the final plat.

(2) **Vacation.** The final plat approval shall include a determination of a reasonable time by which the project should be completed. All plats given final approval shall contain a notation indicating the date by which a project is expected to be completed, that shall be prima facie evidence of a reasonable time by which the project should have been completed. A plat or any portion thereof that has been finally approved by the Council and has been recorded shall be subject to vacation proceedings if the project that is the subject of the subdivision is not completed within the time set by the Council.

(3) **Extension.** Extensions of the time limit for project completion may be obtained from the Council for good cause shown, upon request by the applicant or owner of the tract, if made before vacation proceedings are instituted.

**7.16.080 Development Plan.**

The purpose of the development plan review process is to ensure compliance with the development and design standards and provisions of this Development Code. It is designed to encourage quality development reflective of the goals, policies, and objectives of the Comprehensive Plan.

**(a) Applicability.** A development plan shall be required for all new development and any modification to an existing development or development plan.

**(b) Development Plan categories.** Categories of development plans are established and defined as follows for the purpose of determining the appropriate development plan review procedure:

**(1) Major Development Plan.** Major development plans include all new building construction over six hundred (600) square feet;

**(2) Minor Development Plan.** Minor development plans include the following:

**(i)** All new building construction six hundred (600) square feet or less;

**(ii)** Modifications to dumpster locations;

**(iii)** Screen wall modifications;

**(iv)** Landscape modifications including, but not limited to, removal of existing vegetation and addition of new vegetation;

**(v)** Deck modifications including, but not limited to, additions, new construction, and materials or color modifications;

**(vi)** Mechanical equipment modifications;

**(vii)** Modifications to the exterior of an existing building including, but not limited to, windows, doors, minor architectural details, colors, and materials; ~~and~~

**(viii)** Modifications to approved development plans; and

**(ix)** Other similar changes to a structure or property that do not significantly impact the site layout or design of a building.

**(c) Review Procedures.** The general review procedures described in §7.16.020, *General Procedures and Requirements*, shall apply to development plan applications. All development plan applications shall also comply with the procedures listed in §7.16.090, *Design Review*. Specific additions and modifications to the general review procedures are identified below.

**(d) Notice and Hearing.** Notice and public hearing shall not be required for development plan review.

(e) **Review Authority.** The review authority for a development plan application shall be determined by the subdivision category.

(1) **Major Development Plan.** The Director shall review and provide a recommendation to the PZC on all major development plan applications. The PZC shall render the final decision on a major development plan, unless the application is located within the Town Core. The decision of the PZC may be appealed to the Town Council pursuant to §7.16.160, *Appeal*. If an application is located within the Town Core, the Director shall review and provide a recommendation to the PZC. The PZC shall review and provide a recommendation to the Town Council. The Town Council shall render the final decision on a major development plan within the Town Core.

(2) **Minor Development Plan.** The Director shall review and render decisions on all minor development plan applications. The decision of the Director may be appealed to the PZC pursuant to §7.16.160, *Appeal*. The Director may refer to the PZC any development plan application that the Director determines warrants review by the PZC.

(f) **Review Criteria.** The following review criteria shall be considered as the basis for a decision on development plan applications:

(1) Evidence of substantial compliance with the purpose of the Development Code as specified in §7.04.030, *Purposes*;

(2) Evidence of substantial compliance with the §7.16.090, *Design Review*.

(3) Consistency with the Avon Comprehensive Plan;

(4) Consistency with any previously approved and not revoked subdivision plat, planned development, or any other precedent plan or land use approval for the property as applicable;

(5) Compliance with all applicable development and design standards set forth in this Code, including but not limited to the provisions in Chapter 7.20, *Zone Districts and Official Zoning Map*, Chapter 7.24, *Use Regulations*, and Chapter 7.28, *Development Standards*; and

(6) That the development can be adequately served by city services including but not limited to roads, water, wastewater, fire protection, and emergency medical services.

(g) **Expiration.** A development plan approval expires pursuant to §7.16.020(h).

(h) **Revocation.** Approved site plan documents shall be binding upon the applicants and their successors and assigns. No permit shall be issued for any building or structure or use that is not in accord with the approved documents or any approved modifications thereto. The construction, location, use, or operation of all land and structures within the site shall conform to all conditions and limitations set forth in the documents. No structure, use, or other element of approved design review documents shall be eliminated, altered, or provided in another manner unless an amended site plan is approved. Any deviation from the approved development plan as approved shall be grounds for revocation of the development plan approval.

**7.16.090 Design Review.**

The purpose of the design review process is to ensure compliance with the development and design standards of the Development Code ~~and conformance with the Avon Design Guidelines~~ prior to the issuance of a building permit or concurrent with other required permits, and to encourage quality development reflective of the goals and objectives of the Avon Comprehensive Plan.

(a) **Purpose.** Specific purposes of design review include:

(1) To prevent excessive or unsightly grading of property that could cause disruption of natural watercourses or scar natural landforms;

(2) To ensure that the location and configuration of structures, including signs and signage, are visually harmonious with their sites and with surrounding sites and structure and that there shall be conformance to the Comprehensive Plan of the Town;

(3) To ensure that the architectural design of structures and their materials and colors are visually harmonious with the Town's overall appearance, with natural and existing landforms, and with officially approved development plans, if any, for the areas in which the structures are proposed to be located; and

(4) To ensure that plans for the landscaping of property and open spaces conform with adopted rules and regulations and to provide visually pleasing settings for structures on the same site and on adjoining and nearby sites.

(b) **Applicability.** A design review application shall be required for all new development and improvements as well as any modification to an existing development or improvement.

(c) **Review Procedures.** The design review process shall be a supplemental review for all development plan applications.

(d) **Notice and Hearing.** Public notice and hearing shall not be required for this application type.

(e) **Reviewing Authority.** All design review applications shall be subject to the review authority of the accompanying development plan application.

(f) **Review Criteria.** The PZC and Town Council shall apply the following review criteria for the basis of recommendations and decisions on design review:

(1) The design relates the development to the character of the surrounding community; or, where redevelopment is anticipated, relates the development to the character of Avon as a whole;

(2) The design meets the development and design standards established in this Development Code; and