

PALMER LAKE LUC UPDATE: ARTICLE 1 GENERAL LAND USE PROVISIONS

This document is Article 1 General Land Use Provisions. This combines the general provisions from both Titles- 16 Subdivision and 17-Zoning is the first step in creating critical updates to the Town's land use regulations. We will be sending out suggested updates by Article.

Since Article 1 combines both the General Provisions from Title 16 and 17, most of the text is new and expanded. Palmer Lake has a limited staff. We believe the more robust text will guide both staff, contract staff, the Planning Commission, and the Trustees in the review of land uses.

Article 2-Zoning will be next. Processes and Procedures will be tackled once we complete Article 3 General Standards Applicable to all Zone Districts Article 4- Special Requirements and Article 5- Subdivision Requirements.

We will provide a worksheet with each Article we draft for the Planning Commission and staff consideration.

APPROACH TO UPDATING THE DOCUMENT AND TRACKING OF CHANGES

- 1) As discussed with Staff and the Planning Commission, the Land Use Code Update will be repealed and replaced given the extent of the update and reorganization.
- 2) The following are used to indicate proposed changes.
 - a. ~~Strikeout~~ – Text to be deleted.
 - b. **Yellow highlight** - New sections or substantially simplified sections.
 - c. **Green highlight** - When Code sections get moved, the current section reference is noted. Section numbering highlighted in **green** simply means the new section number will need to be checked once that Article is complete. Final numbering will be addressed once the Code is reorganized.
 - d. **Blue highlight** - If an item requires further discussion, this will be noted in the footnotes and highlighted in **blue**.
 - e. *Commentary and sidebar comments* – Commentary and comments provide a rationale for the changes.
 - f. *Footnotes*- Footnotes to clarify why the text was updated or to indicate text that requires guidance from the Town Administrator or the Planning Commission
- 3) Once the Code Update is complete, the final draft will be reviewed to conform to the hyphenated numbering system used by MuniCode, the codifiers used by the Town of Palmer Lake.

TITLE 16 and Title 17 are combined

TITLE 16 LAND USE CODE

Commentary: *The table of contents for each article will be removed in the final draft.*

ARTICLE I – GENERAL LAND USE PROVISIONS

Commentary: *This article lays the foundation for all subsequent articles. It has been simplified and several sections required by Statute have been moved to this Title (e.g., Vested Rights). Definitions have been moved to the final article of Title 16. This Article combines all general provisions sections found in the Land Use Code.*

Article 1: General Land Use Provisions

- 16-1-10 Title
- 16-1-20 Jurisdiction
- 16-1-30 Legal Authority
- 16-1-40 Purpose and Intent
- 16-1-50 Interpretation and Rules of Construction
- 16-1-60 Transition from Previous Regulations and Effective Date
- 16-1-70 Pre-existing Development- Non-conforming uses, structures, signs, or lots
- 16-1-80 Relationship to the Palmer Lake Comprehensive Plans and Other Plans
- 16-1-90 Expiration of Land Use Approvals
- 16-1-100 Vested Property Rights
- 16-1-110. Application Fees and Cost Reimbursement Required¹
- 16-1-120 Correction of Obvious Errors
- 16-1-130 Enforcement
- 16-1-140 Violation Penalties
- 16-1-150 Severability

¹ **DISCUSSION:** In order to save staff time and the headache of accounting for deposits, we recommend that each applicant pay a non-refundable fee and then sign a cost reimbursement agreement to cover actual costs. This is what is now in place. As staff time permits, the Town staff should review its current 2023 master fee schedule for land use applications to ensure you are in line with nearby jurisdictions. Land Use application fees are well below those of neighboring jurisdictions. You do not want developers shopping for the least expensive jurisdiction. Also, there are a few adjustments recommended- i.e., add Pre-application- usually no charge, PUD plan and Final PUD Development Plan, CMRS facilities, and signs. There may be more, but we suggest waiting until the revised Land Use Code is adopted.

Sec. 16-1-10. - Title.

This Code shall be known and may be cited as the *Palmer Lake Land Use Code as it may be amended*. Within this Code, the Palmer Lake Land Use Code shall simply be referred to as *this Code*.

Sec. 16-1-20. Jurisdiction **NEW**

Commented [BC1]: NEW SECTION

- (a) The provisions of this Code apply to all land, subdivision of land or buildings, buildings, structures, land uses, changes of land use, and development within the boundaries of the Town. No person shall use, develop, or subdivide any tract of land which is located within the Town except in conformity with the provisions of this Code.
- (b) A copy of a map showing the boundaries of the Town, the Official Zoning Map, and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town offices.²

Sec. 16-1-30. Legal Authority.

Commented [BC2]: This is expanded from the existing 17.04.020

- (a) This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Authority is granted to municipalities to establish a Planning Commission and to regulate subdivisions (Sections 31-23-202 and 31-23-214, C.R.S.); to regulate the division of land and buildings (Section 29-20-101, et. seq., C.R.S., and Section 29-20-104 C.R.S.); to regulate land use and zoning (Section 31-23-301, C.R.S.); to provide for planned developments (Section 24-67-101, et. seq., C.R.S.); to provide for vesting of property rights (Section 24-68-101, et. seq., C.R.S.); to enforce its major street plan within three (3) miles of its boundaries (Sections 31-15-401—31-15-601, Section 31-23-212, and Section 31-23-213, C.R.S.); to adopt a comprehensive plan; and to generally plan for and regulate the use of land.
- (b) In addition to the above authority, the following powers are also granted to municipalities in Colorado: Title 16, Article 13, Part 3, C.R.S., Restraint and Abatement of Nuisances; Title 24, Article 65.1, C.R.S., Areas and Activities of State Interest (1041 regulations); Title 29, Article 1, C.R.S., Intergovernmental Relationships; Title 29, Article 20, C.R.S., Local Government Land Use Control Enabling Act; 7. Title 31, Article 15, C.R.S., Powers and Functions of Cities and Towns; 9. Title 38, Article 30.5, C.R.S., Conservation Easements; Title 40, Article 5, C.R.S., New Construction of Utilities; and Title 43, Article 2, C.R.S., State, County, Municipal and Public Roads.
- (c) Pursuant to Section 31-23-227, C.R.S., the Board of Trustees assumes and reserves to itself the final authority over all acts, powers, and duties assigned to a municipal planning commission under Part 2 of Article 23, Title 31, C.R.S.
- (d) As provided in these regulations, the Planning Commission is delegated the authority to review and make recommendations to the Board of Trustees regarding such matters, but such recommendations shall not be binding on the Board of Trustees.³
- (e) This Code is administered and enforced by the Town Administrator or a designee of the Town Administrator.

Commented [BC3]: Which format do you prefer for Statutory citations? Does MuniCode have a preference? See (a) vs. (b)

² Statute requires the adoption of an 'Official Map' sometimes referred to as an Official Zoning Map.

³ This section was missing statutory references.

Section 16-1-40 Purpose and Intent

- (a) The purpose of this Code is to promote the health, safety, convenience, order, prosperity, and welfare of the present and future residents of the Town of Palmer Lake as identified in the adopted Community Master Plan. This Code is designed to:
- (1) Implement the Town's goals, policies, plans, and programs.
 - (2) Preserve and enhance the quality of life of Palmer Lake citizens and ensure that new development produces sound living environments with the necessary open spaces for people, traffic, utilities, public protection, light, air, recreation, and other community facilities.
 - (3) Maintain and enhance livable neighborhoods that foster and preserve a sense of community.
 - (4) Provide a diversity of housing types at various densities and cost.
 - (5) Promote the economic well-being of the Town by encouraging economic diversity.
 - (6) Provide adequate services and facilities to support existing and projected areas of population and growth including adequate water supply to meet the needs of residents, businesses, and users of any development now and in the future.
 - (7) Promote logical extensions of and efficient use of existing infrastructure.
 - (8) Regulated land use based on impacts to the surrounding area and minimize or mitigate conflicts between different land uses.
 - (9) Provide a safe, efficient, and connected transportation network and ensure that streets will be laid out in relation to existing streets or according to the comprehensive plan of the town, and that said streets will be built to adequate construction standards.
 - (10) Ensure that the fiscal impact of subdivision and development is borne by those parties who receive the benefits therefrom.
 - (11) Support programs and help provide facilities that meet the recreational, cultural, public safety, and educational needs of the community.
 - (12) Promote cooperation and coordination in planning and growth management between the Town and neighboring jurisdictions.
 - (13) Protecting the natural resources of the community.
 - (14) Manage hazard risks; and provide protection from geologic, flood, and fire hazards and other dangers.

Commented [BC4]: Combines 17.04.030 and 17.04.040; incorporates basic themes of the recently adopted Community Master Plan. This also adds some of the purpose statements from Subdivision BUT does not include the addition of the MS4 citation- is too specific

Sec. 16-1-50. - Interpretation and Rules of Construction

- (a) The interpretation and application of the provisions of this Code shall be held to be the minimum requirements for the promotion of public health, safety, convenience, prosperity,

Commented [BC5]: Slightly expanded text regarding interpretation and new subsection on rules of construction

and general welfare. Where any provision of this Code imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by any other ordinance or by state statutes, the provisions of this Code shall govern.

(b) These regulations are not intended to abrogate any private easement, covenant, agreement, or restriction. It is not the intent of these regulations, and it may not be implied or inferred, that the Town will enforce any private easement, covenant, agreement, or restriction, such provisions being a function of the right of individual property owners to further or separately restrict the use of their property. These regulations shall not be interpreted to either enhance or diminish such private restrictions, and the existence of such private restrictions shall not affect the application or enforceability of these regulations.⁴

(c) Rules of construction are:

- (1) The words *shall* or *must* are mandatory and not discretionary.
- (2) The word *may* is optional and discretionary.
- (3) The word *lot* shall include the words *building site, site, parcel, plot, or tract and any other portion of real property however described*.
- (4) The term *occupied* or *used* shall be construed to also include *intended, arranged, or designed to be used or occupied*.
- (5) A building or structure includes any part thereof.
- (6) The word *person* includes a corporation, association, partnership, firm, or joint venture, as well as an individual.
- (7) Singular words include the plural.
- (8) Words used in the present tense include the future unless the context clearly indicates the contrary.
- (9) The particular controls the general.
- (10) In case of any difference of meaning or implication between the text of these regulations and the captions for each section, the text shall control.

Commented [BC6]: Do you think this is needed?

Sec- 16-1-60 Transition from Previous Regulations and Effective Date **NEW**

Commentary: This section outlines when the new rules are effective and how to handle development applications that are in process. It also addresses development applications that were approved under different rules.

- (a) This Code is effective as of thirty (30) days after final publication hereof.
- (b) Development Applications. Any application for development submitted to the Town or any action taken pursuant to this Code shall be reviewed pursuant to the review process and standards set forth in this Code.

⁴ Added additional language about easements and covenants as most of recent development applications contains both. See existing 17.04.050.

(c) Pending Complete Applications. The enactment or amendment of this Code shall not affect the processing of any application that the Town has determined to be complete under previous land use regulations prior to the Effective Date.

(d) Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right, provided that all terms and conditions of the site-specific development plan are followed. Existing legal uses that may become nonconforming by adoption of this Code shall become legal nonconforming uses subject to the provisions of Section 16-X-XX of this Code.

(e) New Applications Initiated after the Effective Date or amendment to this Code.

1) No building or structure shall be erected, and no existing building or structure shall be moved, altered, or extended, nor shall any land, building, or structure be used for any purpose other than as listed in the district regulations for the zone district in which such land, building or structure is located.

2) No building or structure shall be erected, nor shall any existing building or structure be moved, altered, or extended, nor shall any area surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the dimensional regulations, design and development standards, and supplementary regulations or other provisions provided in the district regulations for the zone district in which such building or structure is located.

3) The provisions of this Code shall apply to all uses as follows:

- i. All new structures and uses of land.
- ii. Additions involving the expansion of the gross floor area of any structure existing in the Town by twenty percent (20%) or more.
- iii. A change of use. Prior to being issued a building permit or being granted a change in use, an applicant shall demonstrate that the property will comply with all applicable regulations of this Code.
- iv. The division of land or buildings.⁵

4) All subdivisions, buildings, structures, parking areas, landscaping, signs, and other improvements addressed by the design and development standards in this Code or in the adopted Public Works Manual shall be constructed and installed in accordance with the approved plans filed with the Town prior to the issuance of a certificate of occupancy for the building or use.

5) The Town Administrator or designee may allow certain improvements to be constructed or installed within an agreed-upon time allowing for seasonal changes. Such arrangements may involve performance bonds or other methods as deemed appropriate by the Town Administrator to assure eventual compliance with this Code.

6) Every building shall be located and maintained on a lot as defined in this Code.

(b) No parcel of land that has less than the minimum width, depth, and area requirements for the zone in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

Commented [BC7]: NEW RULE less restrictive: We are going to expand what is allowed to be repaired under non-conforming uses. Current code does not allow any repair or addition:
17.88.020. - Enlargement or alternation.

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[SECTION](#)

No enlargement or alteration of a **nonconforming** use or structure shall take place. Once a use or structure is made to conform to the provisions of this title it may not revert to **nonconformance** either in part or in whole.

⁵ We will be adding provisions for condominiums, townhomes, and cooperatives per Statutory provisions.

Sec- 16-1-70 Pre-existing Development- Non-conforming uses, structures, signs, or lots **NEW SECTIONS AND MORE DETAILED**

Commentary: Currently nonconformities are addressed in Chapter 17.88. However, this section of the code only deals with non-conforming uses. IT DOES NOT ADDRESS NON-CONFORMING STRUCTURES, SIGNS, OR LOTS. It also does not allow any repair or expansion of a non-conforming use. CMI recommends that this section on nonconformities follow the previous section above that addresses the transition from previous regulations. We believe that leniency is important because there are a lot of uses, structures, and lots that preceded the current land use regulations.

- (a) Applicability. All permitted land uses, structures, lots, signs, and site features that were legally created or initiated, but do not conform to the applicable regulations of this Code as a result of either governmental action or an action that was not initiated by the property owner, including but not limited to the adoption or amendment of this Code, acquisition of property by a governmental entity, or a Court decision authorizing or prohibiting a land use, structure, or division of land in a manner not authorized by this Code.
- (b) Non-conforming uses.
 - 1) Unless otherwise prohibited by other provisions of this Code, a nonconforming use may be continued and normal or routine maintenance of the structure containing a nonconforming use shall be allowed. The right to continue the use shall pass to a future buyer, lessee, or occupant of the property, use, or business or entity that operates the use.
 - 2) Enlargement or Alteration of Nonconforming Use. The gross floor area of a nonconforming land use that is located in a conforming or nonconforming building may be expanded by up to 20 percent beyond the portion of a building(s) or parcel(s) of land that it occupied on the date it became nonconforming, provided that the Town Administrator or designee determines that the alteration or expansion does not create a threat to public health or safety, and provided the expansion complies with all other portions of the Code. The installation of a solar energy system or device on a building containing a nonconforming use shall not be considered an enlargement of the building and shall be permitted.
 - 3) A nonconforming use shall be deemed to be terminated or abandoned if a nonconforming is discontinued or unused for [1] year or more for reasons within the control of the property owner or occupant.
 - 4) Substitution of Nonconforming Use. A nonconforming use may be replaced by another use that is not permitted in the zoning district where the property is located if the Planning Commission determines that the proposed use creates fewer adverse impacts on surrounding properties than the current nonconforming use. In making this determination the Planning Commission shall consider impacts including but not limited to levels of auto and truck traffic, hours of operation, noise, dust, vibration, and nighttime lighting and glare.

Commented [BC8]: This is the same rule as you have now.

Commented [BC9]: This adds additional leniency to uses that were allowed over the last 50 years.

(c) Nonconforming Structures

- 1) Continued Use. Unless otherwise prohibited by the Pikes Peak Regional Building Department (PPRBD) a nonconforming structure may continue to be occupied and used, and normal or routine maintenance of the structure shall be allowed, unless and until the PPRBD determines that the structure is no longer safe for occupancy. The right to continue use and occupancy of the structure shall pass to a future buyer, lessee, or occupant of the structure.
- 2) Alteration of a Nonconforming Structure. A nonconforming structure may be altered as necessary to install a solar energy device, or to comply with applicable provisions of the Americans with Disabilities Act, the Fair Housing Amendments Act, or similar Colorado legislation, or to install any other feature or improvement that the Town Administrator or PPRBD determines is necessary to protect public health and safety.
- 3) Expansion of a Nonconforming Structure. A nonconforming structure may be expanded by up to 20 percent beyond the size that it became nonconforming, provided that the PPRBD determines that the expansion does not create a threat to public health or safety, and provided the expansion complies with all other portions of this Code.
- 4) Damage or Destruction of a Nonconforming Structure. A nonconforming structure or structure containing a nonconforming use shall be deemed destroyed when:
 - i. More than 50 percent of its floor area is destroyed; or
 - ii. The cost to repair the damage is more than 50 percent of the actual value of the structure before the damage, as determined by PPRBD or
 - iii. A nonconforming structure or structure containing a nonconforming use that has been damaged – but not destroyed as defined above – may be reconstructed, provided that the repairs are begun within 6 months after the date on which the structure was damaged and are completed within 1 year of the date of the damage and the repairs comply with all applicable building and fire codes and building construction permitting procedures;

Commented [BC10]: This is not covered in the existing code- again this provides leniency - we believe this is important, especially throughout areas of Town like the Glen.

(d) Nonconforming Lots

- 1) Continued Use. A legally created lot that is nonconforming as to size, width, configuration, or other factors may continue to be used for any purpose permitted in the zone district in which it is located, and nonconforming uses or structures on the property may continue in use, subject to subsections (a), (b) and (c) above, notwithstanding its nonconforming status.
- 2) Change of Use The use of a nonconforming lot may be changed to any use permitted in the zone district in which it is located unless the Town Administrator or designee determines that the proposed use creates a threat to public or safety due to the nonconforming features of the lot.
- 3) Development or Redevelopment A new structure may be developed on a nonconforming lot, or an existing structure on a nonconforming lot may be altered, expanded, or redeveloped, provided that the resulting structure and the use of that structure complies with all applicable provisions of this Code.

(e) Nonconforming Signs. Nonconforming Signs are addressed in Chapter 17.76.020(f).

- (f) Nonconforming Status. The burden of showing that a use, building, lot, site feature, or sign is nonconforming shall be on the property owner or occupant of the property asserting nonconforming status. Upon the written request of a property owner, the Town Administrator or designee will confirm in writing the nonconforming status or uses, buildings, lots, site features, and signs subject to this Code.

Sec. 16-1-80 Relationship to the Community Master Plan, and Other Plans NEW

- (a) It is the intention of the Town that this Code generally implement the Community Master Plan and other plans adopted by the Town and its extraterritorial planning area as they may be from time to time be amended.
- (b) Requirement for Community Master Plan Amendment or other plan amendment. Where a development proposal would be in substantial conflict with the Community Master Plan or other plan, an amendment to the Community Master Plan or other plan will be required prior to any zoning or subdivision approvals.
- (c) Criteria for Evaluating Amendment Proposals. Amendments to the Community Master Plan or other plans resulting from development proposals under this Code shall be evaluated according to the amendment process outlined in the Community Master Plan.

Sec- 16-1-90 Expiration of Land Use Approvals. NEW

- (a) Approval by the Board of Trustees of any Planned Unit Development District PUD plan, Final PUD development plan (FDP), subdivision plat, conditional review use, site plan, or any other land use approval that does not constitute an amendment to the Official Zoning Map shall remain in effect for three (3) years. After three (3) years have expired, the land use approval shall be deemed obsolete if no building permit has been applied for nor any public improvements installed.
- (b) Any approval of such an application for which a building permit has not been applied for nor any public improvements installed, or for which the use has not been otherwise commenced within three (3) years after approval has been obtained, shall be null and void. An extension of time may be granted by the Board of Trustees upon a finding of good cause. If such an approval expires, the applicant shall be required to resubmit a new application and fee for the same project.

Commented [BC11]: Do you want the amendment process outlined in the adopted Community Master Plan in this Code?

Commented [BC12]: This clarifies the status of old PUDs per Matt Krob February 2023 memo. Also, there are NO records or approved PUD plans for any of the existing PUDs that are decades old.

Sec- 16-1-100 Vested Property Rights (SEE EXISTING 17.96)

Commentary: This Statutory section outlines how to vest a development for 3 threes or through a negotiation with the Town. Since 1987, this is standard language in all Colorado Municipal Codes though the detail often differs.

The question is WHERE in the Code should this be placed? Some jurisdictions place it in the general provisions and some place it in the Article on procedures. There are NO existing PUDs, subdivision plats, or other land use approvals that have asked to vest their development. Municipal attorneys concur that without the plat or plan note, there is no vesting! If a longer vesting period is requested and granted through a Development Agreement or annexation, the recorded plat or plan must include the certificate stating this is what was vested.

- (a) Purpose. The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an

approved site-specific development plan. No vested rights shall be created within the Town except through a site-specific development plan.

(b) Request for site-specific development plan approval. For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request such an approval renders the plan not a site-specific development plan, and no vested property rights shall be deemed to have been created.

(c) Site Specific Development Plan. The following documents when approved by the Town shall constitute a site-specific development plan establishing a vested property right when the procedures and requirements of this Code are met by the applicant.

- 1) A subdivision exemption map
- 2) A final plat for a major or minor subdivision;
- 3) A site plan; or
- 4) A final PUD plan.

(d) Notice and hearing. No site-specific development plan shall be approved until after a public hearing preceded by notice of such hearing published as provided by law at least twenty-one (21) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.

(e) Approvals, effective date, amendments, referendum, and review.

5) A site-specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.

6) The Board of Trustees may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.

7) In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.

8) The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.

(d) Notice of approval creating a vested property right.

- 1) Each map, plat or site plan, or other document constituting a site-specific development plan shall contain the following notice: "Approval of this plan may

create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.⁶

- 2) In addition, the Town shall publish a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected and stating that a vested property right has been created.

(e) Duration of a vested property right.

A property right which has been vested as provided herein shall remain vested for a period of three (3) years. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Board of Trustees in the ordinance approving such amendments.

(f) Vested Rights by Separate Agreement.⁷

- 1) The Town Board may, at its sole discretion, enter into a development agreement with a landowner and provide for the vesting of property rights for a period exceeding three (3) years where warranted in light of all relevant circumstances, including but not limited to:
 - (a) The project will clearly and significantly reduce impacts on the existing infrastructure.
 - (b) The project will construct public facilities, water, sanitary sewer, drainage facilities, and/or public streets that are oversized or extended to be of obvious strategic value to the community.
 - (c) The project will provide public open space and/or public parkland significantly greater than required and/or provide public recreational facilities that are of obvious strategic value to the community.
 - (d) A commercial project or commercial component of a mixed-use project must result in clear benefits to the city as evidenced by new jobs and tax revenue.
 - (e) The project will make special contributions that are clearly in the public interest.
 - (f) Subsequent reviews. Such agreement shall provide for subsequent reviews and approvals by the Board of Trustees to ensure compliance with the terms and conditions of the original approval.

(g) Other provisions unaffected.

Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of property.

~~(h) Payment of costs.~~

~~In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs occasioned to the Town pertaining to such~~

⁶ ATTORNEY KROB- if the language is not placed on the Plan or Plat is any vesting invalid? Most attorneys I work with say it is not valid.

⁷ This provides criteria to extend the 3-year vesting period.

application, including but not limited to publication of notices, public hearing and review costs, county recording fees and review costs. The site specific development plan shall not be recorded until all fees have been paid.

Commented [BC13]: This is directly from the Statute but is not needed because there is a separate section on cost reimbursement.

(h) Limitations.

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

Sec. 16-1-110. Application Fees and Cost Reimbursement Required NEW

Commented [BC14]: This new section encompasses 16.60.020, 16.68.010, 17,12.055, and the above cost language in Vested Rights. This is in addition to the checklists the Town provides to the applicant.

(a) All applications submitted to the Town pursuant to this Code are subject to a nonrefundable fee as set forth in the Town of Palmer Lake Fee Schedule, as the same may be amended from time to time by resolution of the Board of Trustees. This application fee partially offsets the Town's expenses incurred during the application process, including but not limited to legal publications, notices, reproduction of materials, public hearing expenses, recording of documents, planning fees, engineering fees, and legal services in reviewing the application, consultant fees and other staff costs incurred by the Town which are incurred as a result of, or which are otherwise related to, the application submitted and its subsequent review.

(b) In addition to such fee, the applicant shall enter into a cost reimbursement agreement to reimburse all of the Town's actual costs of reviewing and processing any application filed pursuant to this Code, including but not limited to zoning or rezoning, site plan approval, application for a planned development, application for a variance, conditional review use permit, subdivision of land, and special use permit for oil and gas operations. A sample cost reimbursement agreement is set forth in Appendix A to this Code and may be administratively amended from time to time. Unless exempted herein, no application submitted pursuant to this Code shall be processed unless the Town has received the applicable fee and a signed cost reimbursement agreement.

Commented [BC15]: Dawn and Attorney Krob to concur with the list of reimbursable costs. Does this reflect current practice?

Commentary: OPTION FOR CONSIDERATION. The Town need not perform or continue any review or processing services for the applicant if payment is not received within thirty (30) days after the date of the invoice. We often suggest this language so that if a developer is not paying their invoices per the signed cost reimbursement agreement, the Town stops the review and sometimes this avoids costly legal proceedings. **Krob Law to comment.**

(d) All incurred costs shall be paid in full prior to recording final documents and the issuance of permits.

Sec. 16-1-120. – Correction of Obvious Errors NEW

Nothing in this Code shall be construed as a limitation upon the power of the Board of Trustees, Town Administrator, or Town Attorney to correct obvious typographical or compositional errors, provided that:

- (a) Such corrections shall not change the legal effect of this Code or any part thereof.
- (b) Such corrections will be reported to the Planning Commission.

(c) An errata supplement shall be attached to all copies of this Code distributed subsequent to the making of such corrections.

Sec. 16-1-150. - Severability

- (a) If any part, section, subsection, sentence, clause, or phrase of this Land Use Code is for any reason held to be invalid or unconstitutional, such invalidity shall not affect the validity of the remaining sections of this Code.
- (b) If the application of any provision of these regulations to any lot or tract of land shall be judged invalid, the same shall not affect, impair, or invalidate these regulations or the application of any provision thereof to any other tract of land.

Commented [BC16]: There is a Severability section in the Municipal Code- 1.01.070- Should this be repeated here? Krob Law/Dawn to opine