

## Chapter 15 SUBDIVISIONS\*

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**\*Cross references:** Planning and zoning commission, § 2-91 et seq.; buildings and building regulations, Ch. 4; flood hazard area requirements for subdivisions, § 8-64; curblines specifications on residential streets, § 14-44.

**State law references:** Subdivisions, C.R.S. § 31-23-101 et seq.

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## **ARTICLE I. IN GENERAL**

### **Sec. 15-1. Title**

The ordinance codified in this chapter shall be cited as the Subdivision Ordinance of the City of Monte Vista.

(Code 1978, § 17.08.010)

### **Sec. 15-2. Rules of construction of language.**

- (a) The particular controls the general.
- (b) 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.
- (c) The word "shall" is always mandatory and not directory. The word "may" is permissive.

(Code 1978, § 16.04.050)

### **Sec. 15-3. Authority.**

The city subdivision regulations are designed and enacted in accordance with C.R.S. § 31-23-101 et seq., and are hereby declared to be in accordance with all provisions of those statutes. No final part of a subdivision shall be approved and accepted by the city council unless it conforms to the provisions of this chapter and must meet or exceed city standard construction specifications.

(Code 1978, § 16.08.020; Ord. No. 710, 6-18-98)

### **Sec. 15-4. Purpose.**

This chapter is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the city by:

- (1) Encouraging the proper arrangement of streets in relation to existing or planned streets and to the master plan.
- (2) Providing for adequate and convenient open spaces for traffic, utilities, access of firefighting equipment, civil defense, recreation, sites for school and educational facilities and related structures, light and air.
- (3) Avoiding congested population, including minimum area and width of lot.
- (4) The promotion of good civic design.
- (5) Relating such other matters as the planning and zoning commission and the city council may deem necessary in order to protect the best interests of the public.

(Code 1978, § 16.08.030)

**Sec. 15-5. Interpretation.**

In the interpretation and application of the provisions of these regulations, the following criteria shall govern:

- (1) Whenever both a provision of this chapter and any other provisions of this chapter or any other provision in any other law, ordinance, resolution, rule, statute or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards of requirement shall govern.
- (2) This chapter is not intended to abrogate or annul any plat, easements, covenants or permits recorded or issued before the effective date of the ordinance codified in this chapter.

(Code 1978, § 16.08.050)

**Sec. 15-6. Jurisdiction.**

- (a) The territorial jurisdiction of this chapter shall include all of the incorporated land located within the city, and land in the process of annexation.
- (b) This chapter shall apply without qualification to all of the incorporated land lying within the city and land in the process of annexation, but land lying within three miles of the corporate limits of the city and not located in any other municipality and nonmunicipal land lying within five miles of more than one municipality shall be subject to this chapter only for the purposes of attaining conformance with the major street plan.

(Code 1978, § 16.08.060)

**Sec. 15-7. Amendments or additions.**

After study and recommendation by the planning and zoning commission, these regulations may be amended and sections added thereto by ordinance of the city council.

(Code 1978, § 16.24.040)

**Sec. 15-8. Effective date.**

These regulations shall be in effect from the date of adoption by the planning and zoning commission and the city council pursuant to local provisions and procedures as required by the statutes of the state. The city council finds, determines and declares that this ordinance is necessary for the immediate preservation of the public health, peace and safety of the city and that it shall take effect immediately upon final approval by the city council, after final adoption, after public hearing.

(Code 1978, § 16.24.050)

**Secs. 15-9--15-34. Reserved.**

**ARTICLE II. ADMINISTRATION\***

**Sec. 15-35. Review process; generally**

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- (a) The following chart establishes the required review steps applicable to different forms of approval which may be requested. Applicants should refer to the chart to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of this chapter under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

**Table 1: Review Process**

<b>Approval Requested</b>	<b>Staff</b>	<b>P&amp;Z</b>	<b>CC</b>
Minor Subdivision	A	H	M
Sketch Plat	A	M	
Preliminary Plat	A	H	
Final Plat		M	M
Variance	A		M
Vested Property Right		H	M

Key: P&Z Planning & Zoning Commission  
 CC City Council  
 A Application Required  
 M Meeting Required  
 H Hearing Required

- (b) In the event the planning and zoning commission or city department with jurisdiction under this section recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before the city council, the application may not be further processed following a denial. If, in the opinion of the city manager, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until deemed complete.

**Sec. 15-36. Variance.**

- (a) Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardships to the subdivider because of unusual topography, or other such non-self-inflicted condition, or that these conditions would result in inhibiting the achievement of the objectives of this chapter, the city council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided that any such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter.
- (b) In no case shall any variation, modification or waiver be more than a minimum easing of the requirements and in no instance shall it be in conflict with any existing zoning ordinance.
- (c) Such variances, modifications and waivers may be granted only by the affirmative vote of four of the members of the city council and only after the city council has received and duly considered the recommendation of the planning and zoning commission concerning such variance.
- (d) In granting variances, modifications and waivers, the city council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so affected. The subdivider requesting a variance shall be notified by the city council of its decision within 90 days of receipt of written request for such variance.

(Code 1978, § 16.24.010; Ord. No. 710, 6-18-98)

**Sec. 15-37. Control over platting.**

- (a) All subdivision plats of land laid out in blocks of building lots and the parks, open space, streets, alleys, easements or other portions of the same intended to be dedicated to a public use, shall be submitted to the city planning and zoning commission for approval before they are recorded. Acceptance of such proposed dedication to the public shall be given by action of the city council.
- (b) Acceptance of the parks, open space, streets, alleys, easements or other portions of the same intended to be dedicated to the City does not constitute acceptance for maintenance by said City. Until such dedications meet City standards and are approved by the city council in a site specific development plan, the maintenance, construction and all other matters pertaining to or affecting said dedications, are the sole responsibility of the owners of the land embraced within this subdivision, until the warranty acceptance form has been approved by City Council, signed by the mayor and recorded with the Rio Grande County Clerk.
- (c) In any territory for which the city planning and zoning commission has adopted a major street plan, no building shall be erected, nor shall a building permit be issued therefore unless the street giving access to the lot upon which such building is proposed to be placed has received the legal status of a public street prior to the adoption of such plan or corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the city planning and zoning commission or with a street on a street plat made and adopted by the city planning and zoning commission or with a street accepted by

the city council, after submission to the city planning and zoning commission, by favorable vote as required in section 15-128.

- (d) Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector or other appropriate official may cause it to be vacated or have it removed.
- (e) The city council shall withhold all public street improvements and public maintenance from all rights-of-way which have not been accepted for such purposes by the city council.
- (f) Any subdivider, or agent of a subdivider, who transfers or sells or agrees to sell or offer to sell any subdivided land before a final plat for subdivided land has been approved by the city council and recorded in the office of the county clerk and recorder shall be guilty of an ordinance violation and shall be subject to a fine not to exceed \$500.00 or by imprisonment in jail not exceeding 90 days, or both such fine and imprisonment for each parcel or interest in subdivided land which is sold or offered for sale. Each day of continuance of such violation shall be deemed a separate offense. All fines collected under this section shall be credited to the general fund of the city.
  - (1) The city council shall have the power to bring an action to enjoin any subdivider from selling, agreeing to sell, or offering to sell subdivided land before a final plat for such subdivided land has been approved by the city council.
  - (2) The description of such lot or parcel by metes and bounds in the instrument of transfer shall not exempt the transaction from such penalties or from the remedies provided in this section.
- (g) No changes, erasures, modifications or revisions shall be made in a final plat after approval of the plat has been given to the city council, except for the corrections of typographical errors, with consent of the council.
- (h) No subdivision shall be approved until such data, surveys, analysis, studies, plans, and designs as required by these regulations have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the city contained in these subdivision regulations.
- (i) Every plat shall be recorded in the office of the county clerk and recorder.

(Code 1978, § 16.08.070; Ord. No. 710, 6-18-98)

**Sec. 15-38. Application to subdivision.**

- (a) Unless the method of disposition is adopted for the purpose of evading this chapter, these regulations shall not apply to any subdivision:
  - (1) Which creates parcels of land each of which comprise 35 or more acres of land, none of which is intended for use by multiple owners.
  - (2) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in 35 or more acres per interest.
  - (3) Which is created by order of any court in the state or by operation of law,

or which could be created by any court in this state pursuant to the law of eminent domain.

- (4) Which is created by a lien, mortgage, deed of trust, or any other security instrument.
  - (5) Which is created by a security or unit of interest in any investment trust regulated under the laws of the state or any other interest in an investment entity.
  - (6) Which creates cemetery lots.
  - (7) Which creates an interest or interests in oil, gas, minerals or water which are now or hereafter severed from the surface ownership of real property.
  - (8) Which is created by the acquisition of interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common, and any such interest shall be deemed for purposes of these regulations as only one interest.
  - (9) Which is created by any transfer of a part of another lot or parcel for the purpose of enlarging an existing lot or parcel that does not create an additional lot.
- (b) Common, corporate, syndicated or other similar ownership which creates multiple building sites shall be subject to this chapter.
- (c) Any division of land which is not excepted but which is a division of land by metes and bounds description shall constitute a subdivision of land and shall require compliance with this chapter.
- (d) No land shall be subdivided for any use where the city council finds that the land has severe limitations for such use by reason of: flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, unfavorable load bearing strength, slow permeability, erosion susceptibility, high groundwater table, inability of subdivision to be served city sewer and water likely to be harmful to the health, safety, prosperity, esthetics and general welfare of the future residents of users of the proposed subdivision or of the city.
- (1) The city council, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for certain uses.
  - (2) The subdivider shall have an opportunity to present evidence contesting such findings, if he so desires. Thereafter, the city council may affirm, modify or withdraw its determination that the land is not suitable for certain uses.
- (e) For any such division, a plat shall be required to be approved by the city council, and shall be recorded in the office of the county clerk and recorder after such approval is granted. Said plat shall:
- (1) Be developed in accordance with the design standards set forth in article IV of this chapter.
  - (2) Indicate the boundaries of all tracts, lots, sites, plats or parcels included in the proposed subdivision.



- (3) Accurately show all new and existing streets included in the subdivision.
- (4) Clearly label all streets as either public or private.
- (f) All public streets shall be dedicated to the city and notice given on the plat that the streets will not be accepted by the city for maintenance until such streets meet city street standards.

(Code 1978, § 16.08.080; Ord. No. 707, 12-18-97; Ord. No. 710, 6-18-98)

**Sec. 15-39. Minor subdivision.**

- (a) When any person desires to subdivide any lot or tract of land, which is in the city into not more than three lots, not involving any new street or road or the extension of any municipal facilities and not adversely affecting the development of the remainder parcel or adjoining property and not in conflict with any provision or portion of the city master plan, official map, zoning ordinance, or subdivision regulations, the applicant or his legal representative may file an application for such division of land with the city manager and pay the required application fee. The application shall be accompanied by a sketch plan of the property, drawn to scale, showing the location of existing structures (if any), the location of existing and proposed roads and the location of city water, sewer and storm drains. The plan shall include the corners and boundaries of the land to be divided and the subdivided parcels, easements and rights-of-way (if any) and access roads.
- (b) The planning commission may recommend city council approval of the application only if it finds:
  - (1) There have been no previous applications for minor subdivision of the land or parcels under consideration by the same or any previous owner of the property.
  - (2) The proposed subdivided lots will conform to lot size and all other requirements of the city zoning ordinance.
  - (3) All lots shall have access to a public road.
  - (4) All lots shall have access to city water and sewer.
  - (5) The proposed division of land shall not be created for the purpose of evading the provisions of the city subdivision regulations or the city zoning ordinance. If the proposed division of land is only a boundary line adjustment or "split off" of property between neighboring property owners which conveys a portion of a lot to an adjacent existing lot in conformity with the city zoning ordinance, it shall be presumed, absent a finding by the planning commission to the contrary, that the division of land was not created for the purpose of evading subdivision regulations or zoning ordinance.
- (c) The city planning commission shall hold a public hearing, prior to approving the application for division of land, in which case all property owners within 300 feet of the land proposed to be divided, shall be given notification of the date, time and place of consideration of the proposed division before the city planning commission. Notice of the time or place of the public hearing shall be sent by

mail with return receipt to the applicant/developer and owners of land within 300 feet of the platted land or project not less than 20 days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the city at least 30 days prior to such hearing.

- (d) If the planning commission recommends approval, the applicant shall prepare three copies of the mylar plat prepared and approved by a state licensed surveyor which shall include a description of the present lot or parcels and detailed description of the lot or parcels into which the property is to be divided, including corners, distances, lot numbers (where applicable) and other surveying information, and containing the surveyor certificate and planning commission approval required under section 15-96, which plat shall be submitted to the city manager. The planning commission's recommendation will be referred to the city council and the city manager will review the mylar plat.
- (e) If the city council approves the planning commission's recommendation and plat, the approval shall also be noted on the mylar plat, the plat shall be filed for record with the clerk and recorder of Rio Grande County. If the planning commission does not approve the application as a minor subdivision, then the applicant will be required to proceed under the balance of the subdivision regulations if he desires to subdivide the property.

#### **Sec. 15-40. Vested property rights.**

- (a) *Site specific development plan.* For all developments the final approval step, irrespective of its title, which occurs prior to issuance of building permits, shall be considered the "Site Specific Development Plan" for purposes of C.R.S., tit. 24, art. 68. Such final approval step shall include the city council's approval of a final plat, and designated by the council as a portion of the site specific development plan for the purpose of creating a vested property right together with an infrastructure improvements plan, subdivision improvements guarantee and any appended documents, which are specifically approved by the city council, concerning such final plat, for the purpose of creating such vested property rights. Such approvals may be effected after receiving the recommendation of the planning and zoning commission of the city in accordance with procedures in this section. Said approval process includes the recorded approval of the final plat and any appended documents.
- (b) *Procedure.* No site specific development plan shall be approved until after a public hearing preceded by written notice of such hearing. Such notice may, at the city's option, be combined with any notices or hearings required by the subdivision regulations or zoning regulations of the city. At such hearing, interested persons shall have an opportunity to be heard. Such hearings shall be conducted before the planning and zoning commission, which shall transmit its recommendation forthwith to the city council for final approval or disapproval. Such approval may be transmitted at the same time of any recommendation of approval or disapproval of a final plat. Notice of the time or place of the public hearing shall be sent by certified mail with return receipt to the applicant/developer and owners of land within 300 feet of the platted land or project not less than 20 days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the city at least 30 days prior to such hearing.

- (c) *Approval; effective dates; amendments.* A site specific development plan shall be deemed approved upon the effective date of the city council's approval of the same (and any appended referenced documents). If amendments to a site specific development plan are proposed and 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 city council specifically finds to the contrary and incorporates such findings in its approval of the amendment.
- (d) *Notice of approval.* Each map, plat, site plan, or the document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to C.R.S. § 24-68-101 et seq., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created, shall be prepared and published once by the applicant, approved by the city manager, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation within the city.
- (e) *Costs.* In addition to any and all other fees and charges imposed by this section, the applicant for approval of the site specific development plan shall pay all costs occasioned to the city as a result of the site specific development plan review, including publication notices, public hearing, and engineering review costs, at the time of recording.
- (f) *Revocation.* The city council may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the city council shall provide a public hearing to the affected landowner and shall provide at least 15 days prior written notice mailed to the property address of record in the county assessor's office, as well as providing notice by publication. The mailed notice to the landowners shall specifically identify the terms and conditions, which are not in compliance with the site specific development plan approval. During the period of determining compliance with the terms and conditions of the site specific development plan, the city may administratively withhold any building, utility, excavation, road cut, or other city permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site specific development plan.
- (g) *Other provisions unaffected.* Approval of a site specific development plan shall not constitute an exemption from or a waiver of any other provisions of the subdivision regulations or zoning ordinances of the city pertaining to the development and use of property.
- (h) *Applicable Law.* A pending site specific development plan application will be governed by the newly adopted laws and regulations in effect at the time the application is submitted, with the exception that the city reserves the right, pursuant to C.R.S., § 24-6-102.5 (2), to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by ordinance, for the purposes of preparing planning studies and considering land use regulations related to public

health and safety or for the purpose of promoting concurrency of the essential public infrastructure, equipment or services with increased demand.

- (i) *Limitations.* Nothing in this section is intended to create any vested property right, but only to implement the provisions of C.R.S., tit. 24, art. 68. In the event of the repeal of said article or judicial determination that said article is invalid or unconstitutional, this section shall be deemed to be repealed, and the provisions hereof no longer effective.

(Ord. No. 604, §§ 1--8, 3-3-88; Ord. No. 710, 6-18-98; Ord No. 723, 12-2-99)

**State law references:** Vested property rights, C.R.S. § 24-68-101 et seq.

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### **Sec. 15-41. Public hearing notices; generally**

- (a) **Published notice.** At least thirty (30) days prior to any public hearing which requires published notice (see Table 2), the city manager shall cause to be published in the legal section of a newspaper of general circulation within the city a notice of public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration, by both address and legal description. Publication of the notice is the responsibility of the applicant. The applicant shall submit proof of publication of the notice with the hearing authority before the hearing may take place.
- (b) **Posted notice.** At least twenty-one (21) days prior to any public hearing which requires posted notice (see Table 2), the city manager shall cause to be prepared, and the applicant shall post a sign (one (1) per street frontage) upon the parcel under consideration which provides notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by both address and legal description. The signs shall be of a size and form prescribed by the city and shall consist of at least one sign facing each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period may not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.
- (c) **Mailed notice.** At least twenty (20) days prior to any public hearing which requires notification by letter (see Table 2), the city manager shall cause to be sent, by certified mail, a letter to:
  - (1) All property owners within 300 feet;
  - (2) Owners of property included within the application.

The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letters shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to

receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.

**Table 2: Public Hearing Notice Summary**

Approval Requested	Publish	Publish	Post	PO Distance/ Mail
	P&Z	CC		
Minor Subdivision	30 days			300 ft / 20 days
Preliminary Plat	30 days		21 days	300 ft / 20 days
Vested Property Right	30 days	No later than 14 days after approval	21 days	300 ft / 20 days

Key: P&Z Planning and Zoning Commission  
 CC City Council  
 PO Property Owner

**Secs. 15-42--15-60. Reserved.**

## **ARTICLE III. PLAT REQUIREMENTS AND PROCEDURES\***

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\*State law references: Procedure, C.R.S. § 31-23-215.

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### **DIVISION 1. SKETCH PLAN**

#### **Sec. 15-61. Preapplication Conference.**

Prior to preparing a sketch plat for presentation to the city planning and zoning commission, the subdivider shall make known their intentions to the city manager and discuss informally any city plans or standards that would affect the proposed development.

(Code 1978, § 16.12.010; Ord. No. 710, 6-18-98)

#### **Sec. 15-62. Copies Submitted**

Ten copies, unless additional or fewer copies are requested by the city manager, of the sketch plan contents shall be organized into packet form with one copy of each required item included in each packet, and such packets shall be presented by the subdivider to the city manager at least 30 days prior to a regular planning and zoning commission meeting.

#### **Sec. 15-63. Review Process**

The city manager shall review the sketch plan and turn all sketch plan materials over to the planning and zoning commission.

The planning and zoning commission shall review the sketch plan and shall offer its comments and suggestions regarding the plan within 15 days after receipt of the sketch plan materials from the city manager.

#### **Sec. 15-64. Contents**

A sketch plan shall include the following items:

- (a) The name of the subdivision. No subdivision in the city shall bear the same name as another subdivision unless adjoining and using consecutive filing numbers.
- (b) The name and address of the owner(s) and of the subdivider(s).
- (c) A map or maps (drawn to an appropriate scale) showing the general location of the subdivision and the property boundaries of the subdivision area and True North, and significant natural and man-made features on the site and within one-half mile of any portion of the site.

- (d) A map or maps drawn to a scale of 1" = 100' showing:
- (1) Park or open space dedication and lot and street layout with dimensions.
  - (2) Existing topographic contours at appropriate intervals drawn from available data, such as United States Geological Survey (USGS) maps.
  - (3) The acreage of the entire tract and the percent of total area to be devoted to streets and to each other type of use.

**Secs. 15-65--15-70. Reserved.**

## **DIVISION 2. PRELIMINARY PLATS**

### **Sec. 15-71. Generally.**

After receiving comments and suggestions on the sketch plan from planning and zoning and the subdivider has reached preliminary conclusions concerning the feasibility and design of his proposed subdivision, he will prepare a preliminary plat and required supplemental information for presentation to the city planning and zoning commission for its consideration. The purpose of this preliminary review is to check the proposed subdivision against the design standards and improvement requirements stated herein and to be sure that city zoning and master plan objectives can be met. Thorough analysis of the problems at this stage will expedite approval of the final plat and will prevent the repetition of expensive calculations and drafting required for the final plat.

(Code 1978, § 16.12.020; Ord. No. 710, 6-18-98)

### **Sec. 15-72. Filing fee.**

- (a) A filing fee is required for review of the plat, and shall be submitted with the preliminary plan. The filing fee shall be set annually by City Council resolution.
- (b) Any additional costs made necessary by either 1) unusual circumstances, 2) more than ordinary review, and/or 3) other services being provided by the city or authorized personnel, are to be paid by the subdivider prior to approval of the final plat.

(Code 1978, § 16.12.020(A)(1); Ord. No. 710, 6-18-98)

### **Sec. 15-73. Copies submitted.**

Ten copies, unless additional or fewer copies are requested by the city manager, of the preliminary plat and required supplemental material shall be organized into packet form with one copy of each required item included in each packet, and such packets shall be presented by the subdivider to the city manager at least 30 days prior to a regular planning and zoning commission meeting.

(Code 1978, § 16.12.020(A)(2); Ord. No. 710, 6-18-98)

### **Sec. 15-74. Review process.**

- (a) Within 30 days of receipt of the preliminary plat, the preliminary plat shall be reviewed in general by the city manager and, if in acceptable form for further processing, may be referred to City, County, State, utility, emergency service, school and special district offices and other agencies as appropriate:
- (b) In order to be considered, all recommendations from the preceding listed offices shall be submitted to the city manager at least 10 days prior to the next regular city planning and zoning commission meeting, unless a necessary extension of not more than 30 days has been consented to by the subdivider and the city manager. The failure of any agency or office to respond within the prescribed time period shall for the purpose of the hearing on the plan be deemed an



approval of such plan.

(Code 1978, § 16.12.020(A)(3); Ord. No. 710, 6-18-98)

**Sec. 15-75. Public hearing.**

- (a) The preliminary plat, along with available comments from the above listed offices, agencies, and governmental bodies, shall be presented at a public hearing before the city planning and zoning commission.
- (b) Notice of the time and place of the public hearing shall be sent by certified mail with return receipt to the subdivider and owners of land within 300 feet of the platted land not less than 20 days prior to the public hearing. Additionally, notice of the public hearing shall be published in a newspaper of general circulation within the city at least 30 days prior to such hearing.

(Code 1978, § 16.12.020(A)(4); Ord. No. 710, 6-18-98)

**Sec. 15-76. Commission action.**

Within 30 days following its public hearing, the city planning and zoning commission shall recommend approval, disapproval or approval with modifications of the preliminary plan.

(Code 1978, § 16.12.020(A)(5))

**Sec. 15-77. Time limitations for a preliminary plat.**

Approval of a preliminary plat shall be effective for a period of 18 consecutive months. One 12-month extension may be granted by the planning and zoning commission upon application for same. Notice of the granting of such application shall be furnished in writing by the planning and zoning commission to the applicant. If a final plat is not submitted within the granted time, a preliminary plat must again be submitted before action may be taken on a final plat. Any fees that have previously been paid are forfeited.

(Code 1978, § 16.12.020; Ord. No. 710, 6-18-98)

**Sec. 15-78. Contents.**

The preliminary plat will show the following information:

- (1) Name of subdivision.
- (2) Minimum scale: 1" = 100' (i.e. 1" = 50' is acceptable; 1" = 200' is not acceptable).
- (3) Total acres to be subdivided.
- (4) Name and address of landowner.
- (5) Location of the subdivision as a part of some larger subdivision or tract of land and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner.

- (6) Names and addresses of the subdivider, the designer of the subdivision, and the surveyor (who shall be licensed by the state board of examiners for land surveyors).
- (7) Names and locations of abutting subdivisions and the names and addresses of all abutting landowners.
- (8) Location of section lines, and location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use, and other important features within and adjacent to the tract to be subdivided.
- (9) Date of preparation and north sign.
- (10) Location by preliminary survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow, water level elevations and typical depths and location and extent of areas subject to inundation, whether such inundation is frequent, periodic or occasional.
- (11) Proposed sites, if any, for multifamily residential uses, business areas, industrial areas, churches and other nonpublic uses exclusive of one-family residential areas.
- (12) Total number of proposed dwelling units.
- (13) Total number of square feet of proposed nonresidential floor space.
- (14) Total number of proposed off-street parking spaces, excluding those associated with single-family residential development.
- (15) Boundary lines and dimensions of subdivision.
- (16) Location of existing and/or proposed utility facilities to include water, sewer, electric, gas, telephone, drainage and cable television.
- (17) Estimated total number of gallons per day of sewage to be treated.
- (18) Estimated total number of gallons per day of water system requirements.
- (19) Location map drawn to scale showing the relationship of the proposed subdivision to the city.
- (20) Proposed street names.

(Code 1978, § 16.12.020(B); Ord. No. 710, 6-18-98)

**Sec. 15-79. Supplementary information.**

The following supplemental information shall be submitted with the preliminary plat:

- (1) Application for a Subdivision filled out in detail.
- (2) Perimeter property survey and disclosure of ownership.
- (3) Relevant site characteristics and analysis applicable to the proposed subdivision including the following:

- a. Reports concerning streams, lakes, topography, water table, and vegetation.
  - b. Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision.
  - c. In areas of potential radiation hazard to the proposed future land use, these potential radiation hazards shall be evaluated.
  - d. Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with the local Natural Resources Conservation Service soil survey.
  - e. Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the developer by the city.
  - f. Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed.
  - g. Evidence that public or private sewage treatment facilities can and will provide adequate sewage treatment for the proposed subdivision if such service is to be provided by an existing district.
- (4) The applicant shall enter into an agreement with the city, providing that the applicant shall be responsible for reimbursing the city for all legal, engineering, planning and other professional or consultant fees or costs related to the application.

(Code 1978, § 16.12.020(C); Ord. No. 710, 6-18-98)

**Secs. 15-80--15-90. Reserved.**

### **DIVISION 3. FINAL PLAT**

#### **Sec. 15-91. Generally.**

The final plat shall conform substantially to the preliminary plat as approved, except that if desired by the subdivider, the final plat may constitute only a portion of the approved preliminary plat. If only a portion of the preliminary plat is included on the final plat, letters of acknowledgement shall be obtained by the subdivider from all public utility companies involved in the subdivision, and copies of such letters shall be submitted with the final plat. However, division 2 of this article will apply on the remainder of the preliminary plat.

(Code 1978, § 16.12.030; Ord. No. 710, 6-18-98)

#### **Sec. 15-92. Filing.**

After approval of the preliminary plat and within the time limitations provided in section 15-77, the subdivider shall submit to the city manager the original and four copies of the final plat and the required supplemental material. The final plat shall be submitted at least 30 days prior to a regular planning and zoning commission meeting.

(Code 1978, § 16.12.030(A)(1); Ord. No. 710, 6-18-98)

#### **Sec. 15-93. Planning and zoning commission review.**

The planning and zoning commission shall review the final plat and approve, disapprove or approve the final plat with modifications and submit the plat together with the commission's recommendations in writing to the city council.

(Code 1978, § 16.12.030(A)(2))

#### **Sec. 15-94. City council resolution.**

The city council shall review the final plat and approve, disapprove, or approve the final plat with modifications approved by the planning and zoning commission, or in the event of the planning and zoning commission's disapproval, the council by an affirmative vote of four of its members, may modify such plat and adopt the modified plat. If the plat is disapproved or referred, the reasons shall be stated in writing and furnished to the subdivider.

(Code 1978, § 16.12.030(A)(3))

#### **Sec. 15-95. Recording.**

Following the approval of the final plat by the city council, the plat shall be signed by the mayor and attested by the city clerk. After all fees have been paid, the city clerk shall then record the plat in the office of the county clerk and recorder. The subdivider shall furnish the city clerk the recording fee required by the county clerk and recorder prior to recording of the plat.

(Code 1978, § 16.12.030(A)(4))

## Sec. 15-96. Contents.

The final plat will meet the following requirements and show the following information:

- (1) The final plat shall be drafted at a minimum scale of 1" = 100', i.e. 1" = 50' is acceptable, 1" = 200' is not acceptable. The final plat shall be drafted by the use of permanent black ink, on linen or mylar drafting media with outer dimensions of 24 inches by 36 inches together with an electronic file. Good draftsmanship shall be required in order for all of the following information to be shown accurately and legibly.
- (2) Titles, scale, north sign and date.
- (3) Primary control points or descriptions and "ties" to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred. These primary control points shall be determined prior to the final approval; also the monuments and ties to monuments shall actually exist in the field before final approval. Elevation data shall be referred to U.S.G.S. datum.
- (4) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or angles and radii, arcs or chords, and central angles of all curves.
- (5) Name of each street and right-of-way width of each street or other right-of-way.
- (6) Any easements granted to public utility companies or required by the city planning and zoning commission shall be included, and the location, dimensions and purpose of all easements shall be given.
- (7) Number to identify each lot or site and each block, and the area of each lot.
- (8) Location and description of monuments.
- (9) Certificate of acceptance, as outlined below:

### NOTICE

Public notice is hereby given that acceptance of this platted subdivision by the City does not constitute an acceptance of the parks, open space, streets, alleys and easements reflected hereon for maintenance by said City.

Until the parks, open space, streets, alleys and easements meet City standards and are specifically accepted by the City Council in a site specific development plan, the maintenance, construction and all other matters pertaining to or affecting said parks, open space, streets, alleys and easements are the sole responsibility of the owners of the land embraced within this subdivision.

Notice is further given that no building permit will be issued by officials of this City for improvements of any nature on any property reflected on this platted subdivision until such time as the "acceptance" as hereinabove described has been filed for record with the clerk and recorder of Rio Grande County.

(10) Certification of final plat as outlined below:

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

THAT \_\_\_\_\_ (a Colorado Corporation,) is the owner of that real property situated in the City of Monte Vista, Rio Grande, County, Colorado, and lying within the exterior boundary of (subdivision name).

THAT it has caused said real property to be laid out and surveyed as (subdivision name), and does hereby dedicate and set apart all of the streets, alleys, and other public ways and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements.

IN WITNESS WHEREOF (corporation name) has caused its name to be hereunto subscribed by its President and its Corporate Seal to be hereunto affixed, attested by its Secretary, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

ATTEST:

(Secretary's name)

(Corporation name)  
(President's name)

STATE OF COLORADO )

SS

COUNTY OF RIO GRANDE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_ by (President's name) as President and (Secretary's name) as secretary of (Corporation name) (a Colorado Corporation).

My commission expires \_\_\_\_\_

(Notary's name)

Notary Public

SURVEYOR'S CERTIFICATE

I, (Surveyor's name), a duly registered land surveyor in the State of Colorado, do hereby certify that this part of (Subdivision name) truly and correctly represents the results of a survey made by me or under my direct supervision.

(Surveyor's name)

Surveyor

(Surveyor's stamp shall appear with this Certificate)

PLANNING COMMISSION  
CERTIFICATE

Approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_ City  
Planning Commission, City of Monte Vista, Colorado.

\_\_\_\_\_

Chairman

CITY'S CERTIFICATE

Approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, City Council, Monte Vista, Colorado. This approval does not guarantee that the size, or soil conditions of any lot shown hereon are such that a building permit may be issued. This approval is with the understanding that all expenses involving necessary improvements for all utility services, paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the City of Monte Vista.

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_

City Clerk





- (14) Show design benchmarks data on plans, and submit one set of traverse closure computations and solar or polaris computations of the exterior boundary of the subdivision.
- (15) Submit final construction plans for all structures, e.g., box culverts, bridges, etc. All structure plans must bear the seal of a registered professional engineer and must be approved by the city council or its designated representative.
- (16) Submit drainage plans as required by section 15-157. If the final plat is to be presented in stages, a general drainage plan for the entire area shall be presented with the first section and appropriate development stages for the drainage system for each section shall be indicated.
- (17) The subdivider shall be responsible for providing a computer check on the final plat to ensure that all exterior and interior lines of the subdivision join or close. If this is not provided, the city shall order the computer check and have it charged to the subdivider.

(Code 1978, § 16.12.030(C); Ord. No. 710, 6-18-98)

**Sec. 15-98. Time limitations.**

After approval of the final plat, substantial construction must be completed within the proposed subdivision in one year and all infrastructure construction shall be completed within three years or said plat shall be deemed abandoned and vacated, which vacation shall be evidenced by certificate filed by the city manager in the office of the county clerk and recorder attesting that all final construction and improvements have not been completed within the three-year period as required by this section and that said plat is therefore deemed to be abandoned and vacated; provided that, by development improvements agreement, a certain percentage of improvements and construction may be agreed between the subdivider/developer and the planning commission to be completed each year and that said three-year development requirement may be extended upon good cause shown and for a successive period as the planning and zoning commission and the subdivider/developer may agree in writing. Stoppage of work for 120 consecutive days shall deem the final plat abandoned and vacated.

(Ord. No. 710, 6-18-98)

**Secs. 15-99--15-120. Reserved.**

## ARTICLE IV. DESIGN STANDARDS

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### Sec. 15-121. General requirements.

- (a) Consideration shall be given to the influence of topography of a subdivision insofar as it affects street pattern, proper drainage and maintenance of scenic views. The design and development of subdivisions shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil, mature trees, and scenic views.
- (b) Where railroads, canals or ditches are abutting or contained within a proposed subdivision, provisions for safety and noise buffering and other protective treatments shall be made.

(Code 1978, § 16.16.010)

### Sec. 15-122. Alleys.

- (a) Alleys shall be provided in commercial and industrial developments, except that the city planning and zoning commission may waive this requirement where other definite provision is made for service access and off-street parking adequate for the uses proposed.
- (b) Alleys may be provided in residential developments, with the approval of the city planning and zoning commission.
- (c) The width of an alley shall be either 1) a minimum of 20 feet, or 2) consistent with the extension of an existing alley.
- (d) Alleys shall have access to the public streets from either end.

(Code 1978, § 16.16.020; Ord. No. 710, 6-18-98)

### Sec. 15-123. Easements.

- (a) Utility easements normally shall be 16 feet in width measuring eight feet on each side of abutting rear lot lines. Easements along side lot lines where required will measure five feet on each side. On subdivision perimeter rear lot lines adjacent to unsubdivided property, easements will measure ten feet in width. Where front lot line easements are required, a minimum of ten feet shall be allocated adjacent to the public street. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use of utility companies due to drainage, irrigation ditches, timbered areas, or other obstructions, suitable width easements will be provided adjacent to such areas of obstruction.
- (b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further widths as may be required for necessary flood control measures. The minimum requirements for such easements shall be based on the greatest flood of record in the county.

(Code 1978, § 16.16.030)

**Sec. 15-124. Blocks.**

- (a) The lengths, widths and shapes of blocks shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - (2) Zoning requirements as to lot sizes and dimensions.
  - (3) Needs for convenient access, circulation, control and safety of street traffic.
  - (4) Limitations and opportunities of topography.
  - (5) Adjacent street and block patterns.
- (b) Block lengths shall not exceed 800 feet, nor be less than 320 feet (length requirements may be waived by the planning and zoning commission when the proposed density of the subdivision is not more than one dwelling unit per acre).
- (c) Pedestrian crosswalks, not less than 14 feet wide, shall be designed and are required to provide access to schools, playgrounds, shopping centers or other community facilities.

(Code 1978, § 16.16.040; Ord. No. 710, 6-18-98)

**Sec. 15-125. Lots.**

- (a) The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision, for the type of development and use contemplated, and for future resubdividing where appropriate.
- (b) Residential lot dimensions shall conform to the requirements of the zoning ordinance.
- (c) Depth and width of properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (d) The frontage of lots shall be subject to the following:
  - (1) Lot frontage widths shall conform to the requirements of the zoning ordinance.
  - (2) Double frontage lots should be avoided except where essential to provide separation of residential development from expressways and arterial streets or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet in width, and across which there shall be no vehicular right of access, may be required along the property line of lots abutting such a traffic artery or other disadvantageous use.
- (e) On corner lots, building setback from and orientation to both streets shall conform to front setback requirements of the zoning ordinance.

(f) Side lot lines shall be substantially at right angles or radial to street lines.

(Code 1978, § 16.16.050)

### **Sec. 15-126. Streets.**

The arrangement, character, extent, width, grade and location of all streets shall conform to existing topographical conditions to enhance public convenience and safety, and such streets shall be designed in accordance with the following provisions:

- (1) The proposed street layout shall be made according to sound land planning practice for the type of development proposed and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation of appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.
- (2) Whenever a subdivision abuts or contains an existing or proposed arterial street, the planning and zoning commission may require frontage streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots or such other treatment as may be necessary for adequate protection of residential property and to afford separation of arterial and local traffic.
- (3) Local streets shall be laid out so that their use by arterial traffic will be discouraged.
- (4) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the planning and zoning commission and the city council may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.
- (5) Reserve strips controlling access to streets shall be prohibited except where their control is placed in the city under conditions approved by the planning and zoning commission and the city council.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be required of the subdivider.
- (7) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easement.
- (8) A tangent of at least 400 feet long shall be introduced between reverse curves on arterial streets.
- (9) The dedication of a half street shall not be accepted unless:
  - a. The subdivider obtains for the city a dedication from the abutting

landowner of the other one-half of the street.

- b. The subdivider obtains from the abutting landowner an agreement in a form satisfactory to the city attorney that guarantees the cost of the improvements and construction of the same on the half street within a time suitable to the planning and zoning commission.
  - c. The subdivider guarantees the construction of the improvements on the half street which he is dedicating.
  - d. Any other similar arrangement approved by the planning and zoning commission and city council.
- (10) Cul-de-sacs shall not be longer than 400 feet measured from the entrance to the rear of the turnaround, and shall be provided at the closed end with a turnaround having an outside right-of-way diameter of at least 100 feet of paved road surface (length requirements may be waived by the planning and zoning commission when the proposed density of the subdivision is not more than one dwelling unit per acre).
- (11) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall meet the following standards unless otherwise approved by the planning and zoning commission:

The following suffixes (Table 3) are to be used for new street names.

**Table 3: Street Name Suffixes**

Suffix	Abbreviation	Description
Avenue	AVE	An east-west street generally running in a straight line.
Boulevard	BLVD	A street, which is seventy feet (70') wide or greater, which is usually separated by a raised median strip, usually landscaped, and which consists of four (4) or more lanes.
Circle	CIR	A street that ends on the road from which it began.
Court	CT	A north-south, permanently dead-end street or terminating in a cul-de-sac, not longer than 400 feet in length.
Drive	DR	A street generally meandering in an north-south direction
Lane	LN	A private road greater than one thousand (1,000) feet in length.
Parkway	PKWY	A thoroughfare designated as a collector or arterial, with a median reflecting the parkway character implied in the name.
Place	PL	An east-west, permanently dead-end street, terminating in a cul-de-sac, not longer than 400 feet in length.
Road	RD	A designated street, which extends through both urban and rural areas.
Street	ST	A north-south street generally running in a straight line.
Way	WAY	A curvilinear street generally meandering in an east-west direction.

- a. Use only accepted suffixes identified in Table 3.

- b. Within the Joint Consultation Area around Monte Vista, roads will be named using city names, not county road numbers.
  - c. Continuous roads should have continuous names (with the exception of circle roads). Names should not change except at the Joint Consultation Area boundary however, names are not required to change at the Growth Management Area boundary.
  - d. Cardinal directions cannot be used in the name. Directions are used only to designate the portion of an existing road. (not acceptable - North Road, East Fort Road, Northstar Drive.)
  - e. No curse words or derogatory terms shall be used for road names.
  - f. These are meant to be minimum standards for the city. The main objective is to provide clear street names for citizens and for emergency dispatch and to minimize the possibility of emergency personnel being unable to find a location.
  - g. All names shall be of the commonly acceptable spelling, according to a standard dictionary.
  - h. Street names cannot contain any punctuation or special characters. Only alphabetical symbols A through Z, and numbers 0 through 9 and blank spaces may be used in street names.
  - i. Anytime that a street makes a directional change of approximately ninety degrees, the street name shall change. A directional change of approximately ninety degrees shall mean a horizontal curve where a reduction in the design speed is required (i.e. a sharp turn vs. a sweeping curve).
  - j. Existing street names shall continue across intersections and roundabouts.
- (12) Intersections:
- a. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70 degrees.
  - b. Street jogs with centerline offsets of less than 125 feet shall not be permitted.
  - c. Approved street name signs shall be installed at all intersections in the subdivision according to the street names shall be recommended by the planning commission and approved by the city council.

- (13) Street and alley right-of-way widths, curves and grades shall meet the standards shown on Table 4 unless otherwise approved by the planning and zoning commission:

**Table 4: Street Standards**

<b>Classification</b>	<b>Minimum Right-of-way (feet)</b>	<b>Minimum Pavement Width (feet)</b>	<b>Minimum Centerline Curve Radii (feet)</b>	<b>Maximum Grade (percent)</b>
Arterial Street	120	66	850	.5
Collector Street	80	32	600	.5
Local Street	60	28	100	.5
Frontage Street	40	20	100	.5
Alley	20	0	100	.5

- a. Freeway standards shall conform to the state highway standards.
- b. Minimum grade shall be one-half of one percent.
- c. Maximum grade through intersections shall be four percent. Such maximum grade shall extend a minimum of 50 feet each direction from the centerline of the intersecting streets.

(Code 1978, § 16.16.060; Ord. No. 710, 6-18-98)

**Cross references:** Streets, § 14-86 et seq.

**Sec. 15-127. Public sites and open spaces.**

- (a) The city council, upon consideration of the master plan and the particular type of development proposed, shall require the dedication or reservation of ten percent of the total area of the subdivision for public purposes other than streets. The land so dedicated or reserved shall be of a character, extent, and location suitable for public use for parks, open spaces, historic sites, scenic areas or other necessary public purposes as determined by the city council after receiving recommendation from the Parks and Recreation Department.
- (b) If the city council finds that land dedication or reservation is not appropriate, the subdivider shall make a cash contribution to the city calculated at ten percent of the fair market value of the land as zoned for development, which funds will be used for the purchase of land for parks, open spaces, historic sites, scenic areas or other necessary public purposes as determined by the city council.
- (c) If the city council finds it appropriate, the subdivider shall be required both to dedicate or reserve land within the subdivision and to make a cash contribution. In such case, the amounts shall be calculated so that the total percentage of the land dedicated and the cash contributed does not exceed ten percent.

(Code 1978, § 16.16.070)

- (d) The subdivider will be required to design, landscape, purchase playground equipment and provide water and sewer service to irrigate and provide sanitation facilities for the park. Open spaces are required to be accessible to fire fighting equipment.



**Sec. 15-128. Acceptance of public lands.**

- (a) Approval of a subdivision plat by the city council shall not constitute an acceptance by the city for maintenance of the parks, open space, streets, alleys, easements or other public lands dedicated on the subdivision plat by the owners thereof. The acceptance of any of these lands for a public use of any nature within the city shall be only by appropriate action of the city council.
- (b) In any territory for which the city planning and zoning commission adopted a major street plan, the city shall not accept any street or authorize water mains or sewers or storm drains to be laid out in any street unless such street:
  - (1) Has received the legal status of a public street prior to the adoption of a major street plan; or
  - (2) Corresponds with a street shown on the official master plan or with a street on a subdivision plat made and adopted by the city planning and zoning commission.
- (c) However, the city council may accept any street if the ordinance accepting such street is first submitted to the city planning and zoning commission and if approved, is enacted by not less than a majority of the entire membership of the city council, or if disapproved by the commission, is enacted by the affirmative vote of four members of the city council.

(Code 1978, § 16.08.040; Ord. No. 710, 6-18-98)

**Sec. 15-129. Street trees.**

- (a) Two street trees shall be provided in residential subdivisions for each lot of 100 feet frontage or less and at least three trees for every lot in excess of 100 feet frontage. For corner lots at least two trees shall be required for each street. The subdivider shall ensure that trees are located so as not to interfere with sight distance at driveways and intersections. The type, size, and location of trees required to be installed shall be determined by the city planning and zoning commission in consultation with the city tree board.
- (b) Installation of trees on a lot shall take place within one year following the improvement of the adjacent street. The subdivider shall guarantee the replacement of any tree which dies within one year following installation.

(Code 1978, § 16.20.070; Ord. No. 710, 6-18-98)

**Cross references:** Maintenance of trees and shrubbery on public rights-of-way, § 14-86.

**Secs. 15-130--15-149. Reserved.**

## **ARTICLE V. IMPROVEMENTS**

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### **Sec. 15-150. General responsibility of subdividers, developers and contractors.**

- (a) The subdivider shall be responsible for complying with the requirements of this article and he shall present evidence prior to final approval of any plat that necessary arrangements have been made with each of the serving utilities, including payment for any construction or installation charges, for the installation of facilities in compliance herewith.
- (b) All improvements for the subdivision are the up-front responsibility of the subdivider/developer. Any phased development of improvement in a subdivision shall only be allowed pursuant to a written phased plan of development submitted by the subdivider/developer, approved by the planning commission, subject to final approval by the city council and providing for such security as the city council and planning commission may deem adequate to secure such phased development.
- (c) All subdividers, developers, and contractors shall adhere to the city standard construction specifications, incorporated herein by reference, as the same may be from time to time amended, except where any federal or state code preempts or provides more stringent specifications and standards.

(Code 1978, § 16.20.050; Ord. No. 710, 6-18-98)

### **Sec. 15-151. Plan preparation.**

Plans for the public improvements herein required shall be prepared by a qualified engineer, registered in the state. Two sets of prints of the plans and specifications for all public improvements shall be filed with the city clerk together with an electronic file at the time of submission of the final plat. One set of "as built" plans and specifications, certified and signed by an engineer registered in the state, shall be filed with the city manager prior to the acceptance by the city council of any public improvement installed by the subdivider and three copies of the "as built" plans shall be filed with the city clerk. All public improvements must meet or exceed the city standard construction specifications, the city reserves the right to determine final design configurations and the City requires an approval of the final design.

(Code 1978, § 16.20.010; Ord. No. 710, 6-18-98)

### **Sec. 15-152. Guarantee of completion of public improvements.**

- (a) The approved site specific development plan shall contain:
  - (1) A subdivision improvements guarantee agreeing to construct all required public improvements shown in the infrastructure improvements plan together with collateral which is sufficient, in the judgment of the city council, to make provisions for the completion of such improvements in accordance with design and time limitations. Such collateral may be, but is not limited to one of the following at the City's discretion:

- a. Cash, certified funds, a certificate evidencing good and sufficient performance and payment bond or letter of credit to secure the performance and completion of the public improvements to be dedicated to the city, in an amount equal to one hundred twenty percent (120%) of the estimated cost of said improvements.
  - b. No letter of credit or performance bond drawn upon a company, bank or financial institution having any relationship to the developer or any principal, director, officer or shareholder of the developer (other than the relationship of depositor or checking account holder), shall be acceptable. The city may reject any security for any reason.
- (2) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the site specific development plan, which, in the judgment of the city council, will make reasonable provision for completion of such improvements in accordance with design and time limitations.
- (b) As public improvements are completed, the subdivider may apply in writing to the city council for a release of part or all of the collateral deposited with the council. Upon inspection and approval, the council shall release such collateral. Approval of the public improvements is a preliminary acceptance before the completion of the warranty period and a final acceptance. If the council determines that any such improvements are not constructed in substantial compliance with specifications, it shall furnish the subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the city council determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the city council may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. During preliminary acceptance, the City may authorize the use of the public improvements by the general public.

(Code 1978, § 16.20.020; Ord. No. 710, 6-18-98)

**Sec. 15-153. Monuments.**

All subdivision boundary monuments, block corners and lot corners shall be established pursuant to Colorado Revised Statutes, 38-51-101. Any monuments set or found, including control corners, shall be clearly described on the plat.

**Sec. 15-154. Street improvements.**

- (a) Streets must be constructed to city standards and a paved surface shall be developed to assure passability by ordinary traffic under all weather conditions.
- (b) Curbs, gutters and sidewalks shall be required on both sides of the street.
  - (1) Curb and gutter will be 6 inch vertical face and a minimum of 2 feet wide.
  - (2) Sidewalk attached to the curb will be a minimum of 5 feet wide and 3 ½ inch thick. Detached sidewalk is permitted to be 4 feet wide and 3 ½ inch

thick.

- (c) Where bridges and culverts are necessary as part of the improvements in a subdivision, the subdivider shall be responsible for their construction.

(Code 1978, § 16.20.040; Ord. No. 710, 6-18-98)

**Cross references:** Streets, § 14-86 et seq. ; Streets, § 15-126

#### **Sec. 15-155. Water system.**

- (a) A public water distribution system shall be required in all subdivisions. The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend public water service to any building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending the main line of the municipal water system to the proposed subdivision, the cost of connecting the municipal water system and the distribution system of the proposed subdivision, and the cost of extending the water distribution system to each lot within the proposed subdivision.
- (b) Water lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.
- (c) Fire hydrants shall be required in all subdivisions. Hydrants shall be spaced not more than 320 feet apart and shall be located at least one hydrant per intersection.

(Code 1978, § 16.20.050(A); Ord. No. 710, 6-18-98)

- (d) If oversized waterlines or off-site improvements are required, arrangements for reimbursement shall be made whereby the subdivider may be allowed to recover the cost of the waterlines or off-site improvements that have been provided by him beyond the needs of his development; further, the method and time of payment under the reimbursement shall be established in accordance with the city's current policies relating to the emplacement of such oversized waterlines or off-site improvements.

**Cross references:** Water service, § 17-21 et seq.

#### **Sec. 15-156. Sanitary sewer system.**

- (a) A public sanitary sewer collection system shall be required in all subdivisions. The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend public sanitary sewer service to any building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending the main line of the municipal sewer system to the proposed subdivision, the cost of connecting the municipal sewer system and the collection system of the proposed subdivision, and the cost of extending the sewage collection system to each lot within the proposed subdivision.
- (b) Sewer lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.

(Code 1978, § 16.20.050(B))

- (c) If oversized sewer lines or off-site improvements are required, arrangements for reimbursement shall be made whereby the subdivider may be allowed to recover the cost of the sewer lines or off-site improvements that have been provided by him beyond the needs of his development; further, the method and time of payment under the reimbursement shall be established in accordance with the city's current policies relating to the emplacement of such oversized sewer lines or off-site improvements.
- (d) Pretreatment of industrial discharge into the city sewage system or treatment plant shall be required if in the opinion of the city, the concentration of such discharge results in shock loading or contains elements or compounds untreatable by normal city treatment methods.

**Cross references:** Sewer services, § 17-56 et seq.

**Sec. 15-157. Storm drainage.**

- (a) The subdivider provides a complete drainage system, designed by a professional engineer, licensed in the state and qualified to perform such work, and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall also be identified.
- (b) The entire subdivision area shall comply with all flood prevention and protection requirements of Chapter 8, Flood Prevention and Protection.
- (c) The drainage and floodplain systems shall be designed to permit the unimpeded flow of natural watercourses and to ensure adequate drainage of all low points.

(Code 1978, § 16.20.050(C))

- (d) If oversized storm drain lines or off-site improvements are required, arrangements for reimbursement shall be made whereby the subdivider may be allowed to recover the cost of the storm drain lines or off-site improvements that have been provided by him beyond the needs of his development; further, the method and time of payment under the reimbursement shall be established in accordance with the city's current policies relating to the emplacement of such oversized storm drain lines or off-site improvements.

**Cross references:** Flood prevention and protection, Ch. 8.

**Sec. 15-158. Electric, gas, telephone and cable service.**

- (a) The subdivider shall meet with appropriate utility companies prior to submitting the preliminary plat in order to resolve problems of servicing the proposed subdivision with electric, gas, telephone and cable utilities.
- (b) The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend electrical, gas, telephone and cable service to the building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending public utility facilities to the proposed subdivision, the cost of connecting public utility facilities and the distribution lines within the proposed subdivision. The installation of all utilities shall be subject to all other applicable city and state regulations. Such facilities shall be placed within easements or public streets, as herein provided, or upon private

easements or rights-of-way provided for particular facilities.

- (c) If the location of utility easements adjacent to property lines is unsuitable for use by utility companies due to drainage, irrigation ditches, timbered areas, or other obstructions, suitable easement will be provided adjacent to such areas or obstructions. Modification of the easement width requirement may be granted only in accordance with procedures under section 15-36 and approval by the public utility or utilities concerned.
- (d) All public utility facilities normally shall be located in rear or side lot easements except crossings thereof to accomplish a continuous connection of the utility company system, unless there is adequate evidence that the same cannot be accomplished by a reasonably available means. This provision shall not apply to street lighting facilities and gas facilities.
- (e) All electric and communication utility lines and services, and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting shall be provided by means of the utility's standard ornamental facilities.
  - (1) Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility easement provided therefor, or within the street or other public place as approved.
  - (2) All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or aboveground facilities.
  - (3) It shall not be necessary for the servicing utility to remove or replace existing utility facilities used or useful in serving the subdivision.

(Code 1978, § 16.20.050(D); Ord. No. 710, 6-18-98)

### **Sec. 15-159. Warranty term and final acceptance of public improvements.**

The preliminary acceptance of the public improvements is for the duration of the one year warranty term on all public improvements. After the term of warranty, the City and developer will conduct a physical inspection of the public improvements and provide a written list of deficiencies to be corrected within 30 days by the developer prior to final acceptance. The warranty period for deficiencies shall start over and extend for an additional one year as to the portion of the public improvements reconstructed. When all deficiencies have been corrected, the City shall grant final acceptance to all or only a portion of the public improvements, and continue the preliminary acceptance period and warranty requirements for any portion not granted final acceptance. Upon final acceptance of all public improvements, the City shall release any remaining collateral. If the deficiencies are not corrected in 30 days, the City may at its discretion, contract for repairs or repair the deficiencies and draw from the collateral.

### **Sec. 15-160. Building permits.**

Building permits may be issued on the first day of the warranty period.

**Sec. 15-161. Other improvements.**

Other improvements not specifically mentioned herein but found necessary due to conditions peculiar to the site and necessary for the protection of the surrounding properties, the neighborhood, or the general welfare of the public shall be required by the city planning and zoning commission. These requirements may:

- (1) Increase requirements in the standards, criteria, or policies established by these regulations;
- (2) Require structural features or equipment as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic; or
- (3) Contain restrictions or provisions deemed necessary to establish parity with uses permitted in the same zone with respect to avoiding nuisance generating features.

(Code 1978, § 16.20.060)

**Secs. 15-162--15-170. Reserved.**

## ARTICLE VI. DEFINITIONS

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### Sec. 15-171. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Block* shall mean a parcel of land intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or open spaces, rural land or drainage channels, or a combination thereof.

*City clerk* shall mean the duly designated city clerk for the City of Monte Vista.

*City manager* shall mean the Monte Vista City Manager, or his designee.

*Dedication* shall mean the setting aside by the subdivider of land within the subdivision for a public purpose pursuant to the terms and conditions of the site specific development plan.

*Developers Agreement* shall mean an agreement between the developer or subdivider and the City concerning time tables, responsibilities including the subdivision regulations and modifications, and indicating security for infrastructure improvements.

*Disposition* shall mean a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

*Easement* shall mean authorization of a property owner for the use by the public, a corporation, or persons, of any designated part of his property for specific purposes.

*Engineer or licensed professional engineer* shall mean a person licensed as a professional engineer by the State of Colorado.

*Evidence* shall mean any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained by the subdivider.

*Infrastructure improvements plan*, engineered drawings to include a utility plan, grading plan, general construction notes, plans and profiles for streets, water, sanitary sewer and storm drain systems for the entire subdivision including parks and open space.

*Lot* shall mean a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of the following provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirement of this chapter:

- (1) A single lot of record.
- (2) A portion of a lot of record.



- (3) A combination of complete lots of record; complete lots of record and portions of lots of record; or portions of lots of record.
- (4) A parcel of land described by metes and bounds.

*Lot, corner*, shall mean a lot located at the intersection of and abutting on two or more streets.

*Lot, double frontage*, shall mean a lot which runs through a block from street to street and which has two nonintersecting sides abutting on two or more streets.

*Lot of record* shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk and recorder, or a parcel of land, the deed for which was recorded in the office of the county clerk and recorder prior to passage of this chapter.

*Major street plan* shall mean the plan which has been officially adopted for the city showing the city planning and zoning commission's recommendations for circulation for the territory within the subdivision control of the city.

*Master plan* shall mean the Monte Vista Plan Element of the Rio Grande County Joint Master Plan which has been officially adopted for the city, which includes, among other things, the plan for land use, circulation, and public facilities.

*Municipality or municipal* shall include or relate to cities, towns, villages, and other incorporated political subdivisions but does not include incorporated improvements districts formed for special classes of improvements.

*Planning and zoning commission* shall mean the officially appointed planning and zoning commission of the city.

*Plat, final*, shall mean a plat map of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

*Plat, preliminary*, shall mean the map or maps of a proposed subdivision and specified supplemental information, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

*Pubic improvements* include streets and alleys, curb and gutter, sewer, water and storm drain systems, parks and open spaces and other public infrastructure.

*Pubic improvements guarantee*, document to secure performance by the developer, subdivider or contractor i.e. bond, letter of credit or other means approved by City Council.

*Reservation* shall mean the setting aside by the subdivider of land within the subdivision for a public purpose pursuant to the terms and conditions of the site specific development plan. "Reservation" does not import acceptance by the city of any land or improvements thereon which has been set aside for a public purpose.

*Site specific development plan* is a collection of documents to include, a final plat, developers agreement, infrastructure improvements plan, public improvements guarantee, warranty-acceptance and other information required by planning and zoning commission and the procedures enacted under section 15-91 et seq., together with any appended documents described under section 15-40 unless another definition is

otherwise agreed upon in writing between the city and the applicant or developer.

*Sketch plan* shall mean a map of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations, to evaluate feasibility and design characteristics at an early stage in the planning.

*Streets and alleys* shall mean:

- (1) *Streets* shall mean public ways for vehicular traffic, however designated, which includes the entire width between the boundary lines of such public way. The term "street" includes, but is not limited to, streets, avenues, boulevards, roads, lanes, circles, courts, drives, parkways and other ways.
- (2) *Arterial* shall mean a right-of-way serving major traffic movements which is designed primarily as a traffic carrier between cities, or between various sections of the city, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.
- (3) *Collector* shall mean a right-of-way which collects traffic from local streets and serves as the most direct route to an arterial.
- (4) *Local* shall mean a right-of-way, the primary purpose of which is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.
- (5) *Cul-de-sac* shall mean a street having one end open to vehicle traffic and having one closed and terminated by a turnaround.
- (6) *Frontage* shall mean a local street auxiliary to and located on the side of a collector or arterial for providing and controlling access to abutting properties and adjacent areas.
- (7) *Alley* shall mean a right-of-way dedicated to public use, which gives a secondary means of vehicular access to the backs or sides of properties otherwise abutting a street and which may be used for public utility purposes.

*Street tree* shall mean a tree located, as required by the planning and zoning commission, along public streets.

*Subdivider* or *developer* shall mean any person who shall participate as owner, promoter, developer, applicant or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

*Subdivision* shall mean the division of a lot, tract, or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided.

*Subdivision improvements guarantee* shall mean one or more security arrangements which may be accepted by the city to secure the construction of such public improvements as are required by these regulations within the subdivision and shall include collateral such as but not limited to performance or property bonds, private or public escrow agreements, loan commitments, assignments of receivables, liens on

property, deposit of certified funds, letter of credit, or similar surety agreements.

*Variance* shall mean a minimum easing of the terms of this chapter, where such easing will not be contrary to the public interest or to the interest and purposes of this chapter, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship, and the condition or situation is not of so general or recurrent a nature as to make reasonable and practical the formulation of an amendment containing a general regulation for such condition or situation.

*Vested property right* shall mean the right to undertake and complete the development and use of property under the terms and conditions of the site specific development plan.

*Warranty and acceptance form* is a document stating date of warranty period (1 year), start date, stop date, and extensions. Final acceptance date indicates City has accepted designated public improvements. Signed by Mayor and recorded with County Clerk.

(Code 1978, §§ 16.04.010--16.04.320; Ord. No. 710, 6-18-98; Ord. No. 723, 12-2-99)