

- (4) **Public Improvement Guarantee.** In order to ensure installation of necessary public improvements planned to accommodate the development, the Subdivision Agreement shall provide a guarantee for no less than one hundred (100) percent of the current estimated cost of such public facility improvements, as estimated by the County Engineer. The guarantee shall be in a form approved by the County Attorney. As portions of the public facilities improvements are completed, the County Engineer shall inspect them, and upon approval and acceptance, shall authorize the release of the agreed costs for that portion of the improvements except that ten (10) percent shall be withheld until all proposed improvements are completed and approved by the County Engineer.

## SECTION 5-290. MINOR SUBDIVISION

- A. Purpose.** A Minor Subdivision shall be reviewed in accordance with the provisions of this Section for Type A and Type B Subdivisions, and Amended Final Plats.
- B. Definitions.**
1. **Type A Subdivision.** A Type A Subdivision is a subdivision creating not more than three (3) lots within property that has not previously been platted, or a conservation subdivision creating any number of lots within property that has not previously been platted, which shall be administered in accordance with Section 5-295., Conservation Subdivision. (am 11/07/07)
  2. **Type B Subdivision.** A Type B Subdivision is a subdivision creating new lots within a legally approved subdivision. The Minor Type B Subdivision process is intended to serve three separate functions: (am 11/08/05)
    - a. If the subject property is unimproved and vacant then, no more than three new lots may be created via this Minor Type B Subdivision process, unless the subdivision is pursuant to or a conservation subdivision creating any number of lots within a legally approved subdivision, which shall be administered in accordance with Section 5-295., Conservation Subdivision. (orig 11/08/05) (am 11/07/07)
    - b. This Minor Type B Subdivision process is the mechanism by which duplex, townhome and condominium units may be subdivided for individual sale. Subdivision of a townhome structure may also include the land upon which each unit is situated. The balance of the land area included within the Minor Type B Subdivision may be defined as a general or limited common element. Any number of duplex, townhome or condominium units may be subdivided utilizing this Minor Type B Subdivision process. (orig 11/08/05)
    - c. This Minor Type B Subdivision process is the mechanism by which one or more patio home structures may be subdivided for individual sale. Subdivision of patio homes may define a separate lot for each unit, as well as, general or limited common elements. (orig 11/08/05)

3. **Amended Final Plat.** An Amended Final Plat may be used only in the following instances:
  - a. The proposed Amended Final Plat is part of a previously approved Final Plat.
  - b. The proposed amendment to the Final Plat is not inconsistent with the intent of the Final Plat.
  - c. The proposed amendment to the Final Plat does not adversely affect adjacent property owners.
  - d. The proposed amendment to the Final Plat does not create a new lot or lots.

C. **Procedure.**

1. **Initiation.** An application for either a Type A or Type B Subdivision or an Amended Final Plat shall only be submitted by the owner, or any other person having a recognizable interest in the land, or their authorized agent. Other than for Conservation Subdivisions (Refer to Section 5-295., Conservation Subdivision) the application shall contain the materials specified in Section 5-210 D.2., Minimum Contents of Application, and shall also contain the following additional materials, as applicable: *(am 11/07/07)*
  - a. **Final Plat.** A final plat of the proposed subdivision in conformance with Final Plat requirements as delineated in Section 5-280.B.5.a.(1) & (2). *(am 05/08/12)*
  - b. **Zoning.** Demonstration that the land included within the proposed subdivision is properly zoned for the proposed use. Conformance with existing zoning on the property is required.
  - c. **Access.** Demonstration that all lots in the proposed subdivision have legal and physical access to a public street or rights-of-way by conventional vehicle.
  - d. **Water Supply.** Satisfactory evidence demonstrating the existence of a legal, physical, adequate and dependable water supply for each lot.
  - e. **Waste Water Disposal.** Satisfactory evidence, for each proposed lot, demonstrating the existence of a waste water disposal system, or other lawful means of disposing of human wastes, which complies with all applicable public health laws.
  - f. **Fire Protection.** Satisfactory evidence demonstrating adequate fire protection for each proposed lot.
  - g. **Hazards.** Satisfactory evidence demonstrating that all site conditions associated with the subdivision will not create hazards and all lots will contain safe, adequate building sites.
  - h. **Site Plan.** A site plan, if applicable, depicting existing and proposed building locations, access drives, parking areas, landscaping, fences, signs, and any other pertinent site data.

- i. **Agreements.** A Subdivision Improvements Agreement, off-site road improvements agreement or other agreement if required by the Board of County Commissioners.
  - j. **Restrictions.** Any protective covenants, declarations, party wall agreements or other restrictions to be placed on the subdivision which shall be filed for recording in the Office of the Clerk and Recorder at the time of Final Plat recording.
  - k. **Schools.** Demonstration that all applicable school land dedication or cash-in-lieu requirements have been satisfied.
- 2. **Public Notice.** Minor Subdivisions shall comply with the provisions of Section 5-210.E Notice of Public Hearing, except that Type Minor B Subdivisions are exempt from this requirement unless the application is for the creation of three (3) or fewer lots from otherwise unimproved land. (am 9/27/99)
  - 3. **Review of Applications.** The submission of an application for minor subdivision, and determination of its sufficiency, shall comply with the procedures established in Section 5-210, Common Procedures for Review of Applications. In addition, the Staff Report shall outline any revisions that need to be made to the Type A or Type B Subdivision to ensure that it complies with the requirements of this Section. (am 9/27/99)
  - 4. **Revised Subdivision Mylar.** Prior to scheduling the application for hearing before the Board of County Commissioners, the applicant shall submit to the Planning Director all Improvement Agreements for Board signature, and a properly signed and notarized Mylar of the Subdivision showing all necessary revisions as required by the Planning Director, together with two (2) paper copies of it. Upon review and approval by the Eagle County Attorney, the plat shall be scheduled for the next available hearing date of the Board of County Commissioners. (am 9/27/99)
  - 5. **Other.** If required within a PUD the Community Development Certificate may also be required to be on the Plat. (am 3/12/02)
- D. **Action on Type A Subdivision.** After receipt of the Staff Report on the Type A Subdivision and the revised subdivision Mylar, Improvement Agreements, and certificates, the Board of County Commissioners shall review the application and other support materials and approve, or disapprove the Type A Subdivision based on the standards in Section 5-290.G., Standards.
  - E. **Action on Type B Subdivision.** After receipt of the Staff Report on the Type B Subdivision and the revised subdivision Mylar, Improvement Agreements, and certificates, and in the event the application is for the subdivision of a duplex, patio homes or a structure containing condominiums or townhomes, the Planning Director shall review the application and other supporting materials and administratively approve, or disapprove the Type B Subdivision based on the standards in Section 5-290.G., Standards. If the Planning Director approves the Type B Subdivision, as specifically provided above, the Final Plat shall be signed by the Chair of the Board of County Commissioners. If the application is for the creation of three (3) or fewer lots from otherwise unimproved, vacant land that has previously been subdivided then, the Board of County Commissioners shall review the application and other supporting materials and approve or disapprove the Minor Type B Subdivision Plat based on the standards of Section 5-290.G., Standards. (am 11/08/05)

**F. Action on Amended Final Plats.** After receipt of the Staff Report on the Amended Final Plat and the revised Amended Final Plat Mylar, Improvements Agreements, and certificates, the Board of County Commissioners shall review the application and other support materials and approve, or disapprove the Amended Final Plat based on the standards in Section 5-290.G., Standards.

**1. Administrative Approval of Amended Final Plats.** The Planning Director may administratively approve an application for an Amended Final Plat (“Administrative Amended Final Plat”) with the exception of applications that request the removal of a restrictive plat note. Application requesting removal of a restrictive plat note will be reviewed by the Board of County Commissioners pursuant to 5-290.F. No less than fifteen (15) calendar days prior to the date of the Director’s approval or denial of an application for Administrative Amended Final Plat, the Director, or its assigns, shall send a notice containing all the information required under Section 5-210.E.1., Notice in Newspaper, by mail, first-class postage prepaid, to all owners of land adjacent to the affected property. The Planning Director, or assigns, shall also be responsible for placing notice in the newspaper in accordance with Section 5-210.E.1, Notice in Newspaper. The Director shall consider the application, relevant supporting materials and any public comment submitted in response to the application for Administrative Amended Final Plat. On the date set for issuance of the Director’s determination, the Director shall approve or disapprove the Administrative Amended Final Plat based on whether the division is within the purposes of Section 5-290, Minor Subdivision; adequate access, potable water, and sewage are available; whether the Administrative Amended Final Plat will not create hazards; and whether the lot will contain a safe, adequate building site. The Director’s determination will be posted on Eagle County’s website. The Director’s determination shall be final thirty (30) calendar days from the date of the Director’s decision on the Administrative Amended Final Plat, unless the determination is appealed to the Board under the provisions of Section 5-2400. Once the Director’s determination is final, the Director will present the Amended Final Plat to the Chair of the Board for signature.

**G. Standards.** The Board of County Commissioners and the Planning Director shall consider the following in the review of a Type A Subdivision, a Type B Subdivision, and an Amended Final Plat.

**1. Standards for Type A Subdivision.** (*orig 3/12/02*)

- a. Consistent with Comprehensive Plan.** The proposed subdivision shall be in substantial conformance with the purposes, intents, goals and policies of the Eagle County Comprehensive Plan, Area Community Plans and any applicable ancillary County adopted documents pertaining to natural resource protection, affordable housing or infrastructure management. (*am 11/08/05*) (*am 05/08/12*)
- b. Consistent with Land Use Regulations.** The proposed subdivision shall comply with all of the standards of this Section and all other provisions of these Land Use Regulations, including, but not limited to, the applicable standards of Article 3, Zone Districts, and Article 4, Site Development Standards.
- c. Spatial Pattern Shall Be Efficient.** The proposed subdivision shall be located and designed to avoid creating spatial patterns that cause inefficiencies in the delivery of public services, or required duplication or premature extension of public facilities, or result in a leapfrog pattern of development.
  - (1) Utility and Road Extensions.** Proposed utility extensions shall be consistent with the utility=s service plan or shall require prior County

approval of an amendment to the service plan. Proposed road extensions shall be consistent with the **Eagle County Road Capital Improvements Plan.**

- (2) **Service Ultimate Population.** Utility lines shall be sized to serve the planned ultimate population of the service area in order to both avoid future land disruption, and the necessity of upgrading under-sized lines.
  - d. **Suitability for Development.** The property proposed to be subdivided shall be suitable for development, considering its topography, environmental resources and natural or man-made hazards that may affect the potential development of the property, and existing and probable future improvements to the area.
  - e. **Compatible with Surrounding Uses.** The proposed subdivision shall be generally compatible with the existing and currently permissible future uses of adjacent land and other substantially impacted land, services or infrastructure improvements. *(am 05/08/12)*
  - f. **Improvements Agreements.** The adequacy of the proposed Improvements Agreement, where applicable.
  - g. **Conformance with Final Plat Requirements.** Its conformance with the Final Plat requirements and other applicable regulations, policies, standards, and guidelines.
2. **Standards for Type B Subdivision** *(am 3/12/02)*
- a. **Access, Water and Sewage.** The adequacy of access, potable water, and sewage disposal on the land to be subdivided;
  - b. **Conformance with Final Plat Requirements.** Its conformance with the Final Plat requirements and other applicable regulations, policies, standards, and guidelines;
  - c. **Improvements Agreements.** The adequacy of the proposed Improvements Agreement, where applicable.
3. **Standards for Amended Final Plat.**
- a. **Adjacent Property.** Review of the Amended Final Plat to determine if the proposed amendment adversely affects adjacent property owners.
  - b. **Final Plat Consistency.** Review of the Amended Final Plat to determine that the proposed amendment is not inconsistent with the intent of the Final Plat.
  - c. **Conformance with Final Plat Requirements.** Review of the Amended Final Plat to determine if the proposed amendment conforms to the Final Plat requirements and other applicable regulations, policies and guidelines.
  - d. **Improvements Agreement.** Adequacy of the proposed improvements agreements and/or off-site road improvements agreement when applicable.

- e. **Restrictive Plat Note Alteration.** If the amendment is an alteration of a restrictive plat note at least one of the following criteria must be met:
- (1) That the area for which the amendment is requested has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area; or
  - (2) That the proposed amendment is necessary in order to provide land for a demonstrated community need.

## SECTION 5-295. CONSERVATION SUBDIVISION *(orig. 11/07/07)*

A. **Purpose.** In a Conservation Subdivision, previously referred to in these Land Use Regulations as Cluster Development, lots smaller than would otherwise be allowed by the governing zone district are grouped or “clustered” in one or more limited areas on the subject property, the location of which is determined through adherence to certain design standards. A density bonus may be allowed. In exchange, the balance of the property must be set aside, in a manner acceptable to the County Attorney, as a permanent Conservation/Agricultural Lands Tract (see example diagrams under the definition for ‘Conservation Subdivision’ in Article 2). The potential for a density bonus and reduced infrastructure costs provide incentive to a landowner, while the residents of the subdivision and the public benefit from creative designs and layouts that reduce site disturbance and preserve scenic quality, wildlife habitat, sensitive lands, and agricultural uses. *(am 05/08/12)*

### B. Applicability.

1. **Zone Districts.** A Conservation Subdivision is a use allowed by Special Review in the Resource (R), Resource Limited (RL), Agricultural Residential (AR) and Agricultural Limited (AL) zone districts.
2. **Minimum Land Area.** The following minimum land areas are required:

| <u>Zone District</u>          | <u>Minimum Land Area</u> |
|-------------------------------|--------------------------|
| Resource (R)                  | 70 acres                 |
| Resource Limited (RL)         | 40 acres                 |
| Agricultural Residential (AR) | 20 acres                 |
| Agricultural Limited (AL)     | 10 acres                 |

C. **Uses.** The zoning designation on a property approved for a Conservation Subdivision shall remain unchanged. As such, lots created through this process will be considered legal non-conforming lots, with uses detailed in Section 6-120, Nonconforming Lots of Record.

### D. Procedure

1. **Initiation.** Applications for a Conservation Subdivision may be submitted at any time to the Department of Community Development by the owner, or any other person having a recognizable interest in the land for which the Conservation Subdivision is proposed, or their authorized agent. Prior to submission of an application for a Conservation Subdivision, the