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Sec. 02-01. OVERVIEW

This Article contains all provisions relating to processing of development applications, zoning map amendments, special procedures, subdivision, and other land development related procedures.

Sec. 02-02. PUBLIC HEARING

A. Published and Posted Notice.

General.

1. Applicability. This Section applies to petitions to amend, supplement or change the regulations, zoning district boundaries or classification of property now or hereafter established or any other permit or request that requires a Public Hearing.

2. Petition Completeness. The Department of Public Services (the Department) shall, within 15 calendar days of receipt of any petition for change of zoning or special procedure permit accompanied by the appropriate filing fees, notify in writing all parties of interest as named in the petition, including the project engineer, architect, and developer, as applicable, either that the petition is certified as meeting all pertinent submittal requirements and will be scheduled for hearing by a specified date or specifically in what manner the petition does not comply with minimum petition submission requirements. If the Department does not respond in writing within 15 days, the petition may be deemed accepted and shall be scheduled for Public Hearing within the period established by the applicable provisions of this Article. If the petition has been determined not to comply with minimum petition requirements, the parties so notified shall be required to submit additional information or otherwise correct any noted deficiencies within 15 days from receipt of the Department's letter. If the deficiencies are not corrected within the 15 day period, the Department shall return the petition to the petitioner.

3. Hearing Date. Upon filing with the Planning and Development Services Director a petition to amend, supplement or change the regulations, zoning district boundaries or classification of property now or hereafter established, or upon initiation of a resolution of intention by the Planning Commission or the City Council, a Public Hearing shall be set before the Planning Commission within 90 days.

4. Notice Provided. The applicant shall provide notice to all adjacent property owners of their request and the Public Hearing at least seven (7) calendar days prior to said Public Hearing. Upon scheduling of a Public Hearing for the same, the Department shall:

a.) Provide notice per R.S.Mo. Chapters 89 and 493, and;

b.) Post Public Hearing sign(s) on the site for which the Public Hearing is being held, and;

c.) Send notice of the Public Hearing to one (1) paper of general circulation to be advertised 15 calendar days in advance of the Public Hearing, and;

d.) Send notice of the Public Hearing to property owners within 225 feet of the subject site and all residential subdivision trustees within one (1) square mile of the subject site as the information is available to the City.

5. Penalty for Removal or Replacement of Signs. Any person or persons, firm, association, or corporation, who shall remove, mar, scratch, obliterate or in any manner deface, hide from view or tamper with any such sign or signs shall be deemed guilty of a violation of this Unified Development Code (UDC) and upon conviction shall be punished as provided for in Article 08 of this UDC.

Sec. 02-03. PROCEDURE FOR AMENDING THE CITY OF CHESTERFIELD ZONING DISTRICT BOUNDARIES OR CLASSIFICATIONS OF PROPERTY

A. Scope of Provisions.

This Section contains procedures for amending the zoning district boundaries or classification of property. Included are regulations for the filing of petitions, required Public Hearing notices and powers of the Planning Commission and the City Council in reviewing requested changes.

B. General Provisions.

1. City Council Action. Whenever the public necessity, convenience, general welfare, and good zoning practice require, the City Council may, after a Public Hearing and report thereon by the Planning Commission and subject to the procedure provided in this Section, amend, supplement, or change the regulations, zoning district boundaries or classification of property now or hereafter established by this Article.

2. Simultaneous Public Hearings Allowed. The Planning Commission may hold a Public Hearing on a petition for a change of zoning to any Zoning District, and a petition for a Planned District or a Special Procedure at the same Public Hearing and on the same parcel of land, and make recommendations thereon.

3. Initiating an Amendment, Supplement, Reclassification or Change. An amendment, supplement, reclassification or change may be initiated by the Planning Commission or the City Council, or by a verified application

of one (1) or more of the owners or authorized representatives of the owners of property within the area proposed to be changed.

4. Denial and Reconsideration. If an application for the amendment, supplement, reclassification or change of any property is denied by the City Council, the matter may be reconsidered if any member of the City Council introduces a motion for reconsideration at either of the next two (2) regularly scheduled meetings after the denial, and said motion is passed by a majority of the entire City Council. If the matter is not reconsidered within said period, no subsequent application requesting the same classification of conditional use permit of, or with reference to, the same property or part thereof shall be filed with the Department within 12 months from the date of the receipt and filing by the City Council of the Planning Commission's report on the application. If a bill granting or denying the application is not introduced in the City Council within 90 days after a report thereon by the Planning Commission is received by the City Council at a regular meeting, it shall be deemed denied unless extended by resolution of the City Council during the 90 day period.

C. Petition for Zoning Map Amendment.

1. Form of Petition and Filing Fees. Petitions for any change of zoning district boundaries or any reclassification of districts, as shown on the zoning district maps, shall be addressed to the City Council and filed with the Planning and Development Services Director upon forms prescribed for that purpose by the Commission and accompanied by such data and information so as to assure the fullest practicable presentation of facts. At the time the petition is filed, the fees established by this UDC shall be paid to the City of Chesterfield.

2. Petition Verification Required. Each such petition, other than those initiated by the Planning Commission or the City Council, shall be verified by at least one (1) of the owners or authorized representatives of the owners of property within the area proposed to be changed, attesting to the truth and correctness of all facts and information presented therein.

3. Additional Petition Requirements. The Planning Commission may require perspectives and/or 3-D models, which may include other properties, for change of zoning petitions if:

a.) The petitioned site is adjacent to residential development; or

b.) The petitioned site has a grade differential of 3:1 or more; or

c.) The proposed development contains multiple buildings; or

d.) Necessary to better understand the proposed development.

4. Meetings with Adjacent Property Owners. The petitioner shall be required to meet or make a good faith and diligent attempt to meet with adjacent property owners at least seven (7) days prior to the Public Hearing concerning the petition. Verification of the above shall be provided to the Department prior to the Public Hearing.

D. Notice.

Requirements for public notice are listed in Section 02-02 of this Article.

E. Planning and Development Services Director Review and Report.

The Planning and Development Services Director shall submit a written or oral report to the Planning Commission prior to the forwarding of a decision or recommendation by the Planning Commission to the City Council.

F. Approval of Change of Zoning/Zoning Map Amendment Portion of Property.

The Planning Commission may recommend that a petition for a change of zoning district classification be approved, approved as amended or denied for all or part of the property described in the petition. The City Council may enact by ordinance such a partial granting of a petition for a change in zoning district classification.

G. Approval of Different Classification.

The Planning Commission may recommend and the City Council may enact by ordinance a zoning district classification other than that requested in the petition, provided that the recommendation or ordinance is for a district classification of the same use type as that requested by the petitioner. This shall apply to all commercial, industrial and residential zoning districts.

H. City Action on Request for Withdrawal.

Any request for withdrawal of a legally filed application for amendment or supplement to the City of Chesterfield UDC may be denied, approved with prejudice, or approved without prejudice by the Planning Commission.

I. Time Limitation on Petitions.

Petitions for zoning map amendments and ordinance amendments must be scheduled for subsequent meetings before the Planning Commission within six (6) months of the time of their Public Hearing. If a petition is not scheduled for subsequent meetings within six (6) months, then the petition shall be deemed automatically inactive by the Department unless delay is approved by the Planning Commission.

1. "Inactive status" is defined as the period that is more than six (6) months after the Public Hearing and is no longer progressing forward as set out

above. Once a petition is in the inactive status it may not proceed forward unless it complies with all of the following:

a.) New review and public hearing fees paid to the Planning and Development Services Director; and

b.) A new Public Hearing has been scheduled.

2. An inactive petition shall remain inactive until it complies with the provisions above or until such time as the Planning Commission or City Council directs that the petition be considered for withdrawal or review. Inactive status of a petition is not considered a "withdrawal" under Section 02-03.H. if this Article.

3. Before the time that a petition is deemed inactive, the petitioner may request an extension of the time limitations from the Planning Commission. If the petitioner does not request an extension, then they must comply with Section 02-03.I.1. of this Article.

a.) Requests for extension must be submitted in writing and include:

1. Specific reason as to why an extension is needed;

2. The petitioner's plan for addressing the issues involving why an extension is needed; and

3. The amount of time being requested.

b.) If an extension is approved, said extension shall not exceed six (6) months and each petition is limited to one (1) extension.

4. Said petitions shall be managed by the Department as if it were an initial review. If the petition is reviewed by the Planning Commission or City Council at their request, then the petition will be reviewed based upon the status of the submittal at the date it became inactive.

Sec. 02-04. PROCEDURE FOR ESTABLISHING PLANNED DISTRICTS AND SPECIAL PROCEDURES

A. Applicability.

The requirements of this Section shall apply to all proposed developments attempting to establish a planned district or to utilize a special procedure. Further, this Section shall also apply to any proposed amendment to an existing Planned District or Special Procedure.

Planned Districts are as follows:

Planned Commercial District	"PC"
Planned Commercial District	"C8"
Planned Industrial District	"PI"
Planned Industrial District	"M3"
Urban Core District	"UC"
Medical Use District	"MU"
Neighborhood Business District	"NB"
Mixed Use District	"MXD"
Planned Commercial & Residence District	"PC&R"
Planned Unit Development	"PUD"

Special Procedures are as follows:

Adult Entertainment Area	"AEA"
Conditional Use Permit	"CUP"
Residence Business Use Procedure	"RBU"
Museum and Arts Area	"MAA"
Wild Horse Overlay	"WH"

B. Procedures.

The procedures for the establishment of or amendment to any Planned District or Special Procedure are outlined in this Section.

1. Application. The owner or owners of record, or owners under contract of a lot or tract of land, or their authorized representatives, shall petition the City Council on forms prescribed for this purpose by the Planning Commission. These forms are to be submitted to the Department and accompanied by the following:

   a.) Filing fee per the requirements of Article 09 of this UDC.

   b.) Narrative, including the following:

      1. A document, which may include architectural renderings, pictures, mock plans, etc., describing the character of, and rationale for the proposed development;

      2. Proposed land uses and development standards, density and height limitation, yard requirements all of which shall be compatible with other nearby uses and developments and ensuring consistency with the Comprehensive Plan;

      3. A listing of all land uses per tract of land within the proposed development, if applicable;

4. Exceptions, variances, or waivers from the UDC, if being requested;

5. A statement regarding tree preservation and proposed landscaping;

6. A description of any proposed amenities or recreational facilities;

7. A description of lands to be dedicated for public facilities;

8. Proposed phasing and time schedule if the development is to be done in phases; and

9. Proposed phasing and time schedule for land to be dedicated for public facilities.

c.) Legal description of the property.

d.) Outboundary survey of the property.

e.) Preliminary Development Plan.

1. A key map showing the tract and its relation to the surrounding area.

2. A north arrow and scale. The scale shall be no larger than one (1) inch equals 100 feet.

3. Names of the owners of all property adjoining the tract as disclosed by the most recent St. Louis County Assessors record.

4. Depict existing and proposed improvements within 150 feet of the site as directed by the City. Improvements include, but are not limited to, roadways, driveways, and walkways adjacent to and across the street from the site, and significant natural features, such as wooded areas and rock formations, that are to remain or be removed.

5. Proposed preliminary location of land uses, in single lot developments approximate location of buildings and other structures as well as parking areas, shall be indicated. In multiple-lot developments, preliminary location and configuration of buildings, including locations of common ground areas, major utility easements, and stormwater retention areas shall be indicated. Where applicable, preliminary location and number of residential density units.

6. Proposed structure and parking setbacks.

7. Perimeter buffers.

8. Proposed maximum structure heights.

9. Proposed area to be dedicated for open space.

10. Approximate location of all tree masses, and a concept landscape plan indicating location, general type, size and quantities of trees. Shall meet all requirements of the City's Tree Preservation and Landscape Requirements in Article 04 of this UDC.

11. Approximate location of any historical artifacts, buildings, or historically significant buildings as identified by the Chesterfield Historic and Landmark Preservation Committee (CHLPC) or St. Louis County within the boundaries of the property.

12. Proposed ingress and egress to the site, including adjacent streets, and approximate alignments of internal roadway systems.

13. Preliminary plans for sanitation and drainage facilities.

14. Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.

15. Two (2) section profiles through the site showing preliminary building form, existing natural grade, and proposed final grade.

16. Any other information as requested by the City of Chesterfield.

2. Public Hearing. A Public Hearing on the petition shall be held by the Planning Commission in accordance with Section 02-02 of this Article.

3. Planning Commission Review and Recommendation. No action shall be taken by the City Council with respect to the petition until it has received the recommendation of the Planning Commission. The recommendation shall address the proposed development and its relation to all applicable Sections of this UDC, the City of Chesterfield Comprehensive Plan, and compatibility with adjoining permitted developments and uses. A recommendation of approval or approval as amended shall include recommended conditions to be included in the ordinance, preliminary development plan, or permit authorizing the establishment of the Planned

District or Special Procedure. Such conditions shall include, but not be limited to, the following:

a.) Permitted uses, including maximum floor area.

b.) Performance standards.

c.) Height limitations.

d.) Minimum yard requirements.

e.) Off-street parking and loading requirements.

f.) Sign regulations.

g.) Minimum requirements for site development plans.

h.) Time limitations for commencement of construction.

i.) Trust funds, impact fees, surcharges and connection fees. Applicants shall make contributions to and/or pay all applicable trust funds, impact fees, surcharge fees, and connection fees as defined by all governmental units, utility companies or other jurisdictional entities.

j.) Architectural and landscape review. Applicants shall submit appropriate plans to the Architectural Review Board.

k.) Right-of-way dedication and road improvements. Applicants shall dedicate rights-of-way as necessary for future roadways, and shall construct reasonable road improvements based on the size and impact of their proposed development.

4. Conditional Use Permit (CUP) Performance Standards. All uses established by a CUP shall operate in accord with the appropriate performance standards contained in Article 04-13 "Zoning Performance Standard Regulations" of this UDC. These performance standards are minimum requirements and may be made more restrictive in the conditions governing the particular development or use authorized by the CUP.

5. Residential Business Use (RBU) Recommendations Subject to Conditions. When approval has been recommended subject to conditions and the conditions would cause substantial change in the site plan presented at Public Hearing, the Planning Commission shall withhold forwarding a recommendation to the City Council pending receipt of a revised plan from the petitioner reflecting compliance with the conditions.

a.) The petitioner shall be allowed a maximum of 45 days to submit the revised plan to the Department.

b.) Said plan shall be reviewed by the Planning Commission at its next meeting. If the petitioner fails to submit the revised plan, the Planning Commission shall forward its recommendation to the City Council.

c.) Designation of the residential business use area qualifies property for certain uses as granted by the residential business use area in the residential zoning district in which the property is located. Permitted land uses and developments shall be established in the conditions of the ordinance governing the particular planned district as described in Section 02-04 of this Article.

d.) The Planning Commission shall also consider the architectural, landscape, and other relationships, which may exist in the proposed development and the character of the surrounding neighborhood, and shall prescribe and require such physical treatments or other limitations as will, in its opinion, enhance the neighborhood character.

e.) The recommendation, along with preliminary plans and conditions where approval has been recommended, shall be forwarded to the City Council for its consideration.

f.) Conditions may relate to, but need not be limited to:

1. The type and extent of improvements and landscaping.

2. The governing development and improvements.

3. The maximum or minimum gross floor area per residential business use.

4. Sign regulations.

5. Performance standards.

6. City Council Action. Upon receipt of the Planning Commission's recommendation, the City Council shall approve, approve as amended or deny the request for a Planned District or Special Procedure by approving an ordinance or approval authorizing the development or deny the application. If the application is approved, the matter shall be returned to the Planning Commission for consideration of a site development plan, site development concept plan, or site development section plan.

7. City Council Action for a Conditional Use Permit (CUP).

a.) Permit effective, when. Unless the City Council exercises its Power of Review as described in Section 02-20 of this Article or a duly filed protest is received by the City Clerk, a conditional use permit or an amendment thereto shall become effective after 15 days of the City Council's receipt of the Planning Commission's report granting the application. In the event that a conditional use permit is filed in conjunction with a required change of zoning, the permit shall not become effective until the date of enactment of the ordinance authorizing the zoning change.

b.) Effect of denial. Upon denial by the Planning Commission of an application for a conditional use permit, the Planning Commission shall notify the applicant of the denial. If no appeal is filed from the denial and if the City Council does not exercise its Power of Review, no subsequent application for a permit with reference to the same property or part thereof shall be filed by any applicant until the expiration of 12 months after the denial. No provision herein shall be construed to prevent the Planning Commission or the City Council from initiating the procedure provided in this Section by a resolution of intention at any time.

c.) Appeal, protest or City Council review of Planning Commission decision for CUP.

1. Appeal by petitioner from decision of denial. The petitioner may file an appeal to the City Council of a Planning Commission denial of an application for a conditional use permit or an amendment thereto in accord with the provisions of Section 02-19 of this Article.

2. Protest by specified nearby property owners to decision of approval. Specified nearby property owners may file a protest with the City Council against the Planning Commission's approval of an application for a conditional use permit or an amendment thereto in accord with the provisions of Section 02-19 of this Article.

3. City Council may exercise Power of Review on the decision of the Planning Commission in accord with the provision of Section 02-20 of this Article.

d.) Development of conditional uses and permitted land uses on same tract of land. Nothing shall prevent the establishment of land uses for developments authorized by conditional use permit on the same tract of land with one or more permitted land uses and developments specified in the regulations of the governing zoning district. However, the development or use authorized by a

conditional use permit shall abide by the conditions of the permit and the permitted land use and development shall adhere to the regulations of the governing zoning district. A permitted land use or development existing at the time of submittal of a site development plan for a development or use authorized by conditional use permit shall be shown on the plan. No permitted use or development shall at any time cause the violation of any condition imposed by a conditional use permit.

e.) Recording. Prior to the issuance of any building permit or permit authorizing the use of the property in question, the property owner shall record a copy of the approved conditional use permit, including attached conditions, and any subsequent amendments thereto and the legal description of the tract with the St. Louis County Recorder of Deeds, with a copy to be filed with the City of Chesterfield.

f.) Time limit of conditional use permits. Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in a particular permit, the property owner may request that the conditional use permit be reviewed by the Planning Commission, which may extend it for an unlimited period or for a specified additional period of years.

8. Appeal or Protest of a Planned District or Special Procedure.

a.) Appeal by petitioner to recommendation of denial. The petitioner may file an appeal to the City Council of a Planning Commission recommendation of denial of an application for a Planned District or Special Procedure or an amendment thereto in accord with the provisions of Section 02-19 of this Article.

b.) Protest by specified nearby property owners to recommendation of approval. Specified nearby property owners may file a protest with the City Council against the Planning Commission's recommendation of approval of an application for a Planned District or Special Procedure or an amendment thereto in accord with the provisions of Section 02-19 of this Article.

C. Procedure for Amendment of Conditions of a Planned District or Special Procedure.

1. In order to amend the provisions of any planned district ordinance or special procedure approval; including the permitted uses, the procedure shall be as follows:

a.) The process to amend a planned district ordinance or a special procedure approval shall be the same as the establishment of the same.

b.) Where the Planning and Development Services Director has determined that the request for amendment is minor in nature, the requirement to submit a new Preliminary Plan shall be waived.

2. To amend any recorded site development (section or concept) plan approved for a planned district, see Section 02-10 of this Article.

D. Guarantee of Improvements.

1. Unless otherwise provided for in the conditions of the ordinance governing a particular Planned District or Special Procedure Approval, no permits authorizing the occupancy or use of a building, facility, Planned District or Special Procedure establishment, or service concern may be issued until required related off-site improvements are constructed or a deposit, performance bond, irrevocable letter of credit, or other acceptable instrument is posted covering their estimated cost as determined by the Department.

2. This requirement shall not apply to foundation permits or permits necessary for the installation of required related off-site improvements.

3. Required related off-site improvements shall include, but not be limited to streets, sidewalks, sanitary and storm sewers, street lights, and street trees.

4. If any Planned District or Special Procedure is developed in sections, the requirement shall also apply to all major improvements necessary to the proper operation and function of the section in question, even though such improvements may be located outside of the section in question.

E. Failure to Commence Construction.

Substantial construction shall commence within the time period specified in the conditions of the ordinance or approval governing the Planned District or Special Procedure Approval, unless such time period is extended by the Planning Commission. If substantial construction or development does not begin within the time period specified in the conditions of the ordinance governing the Planned District or Special Procedure Approval, or extensions authorized therein, the Planning Commission shall within 45 days of the expiration date initiate a resolution of intent for the purpose of a new Public Hearing to revert the property to its prior zoning classification in accord with proceedings specified in Section 02-03 of this Article. No building or occupancy permit shall be issued for the development or use of the property until completion of action by the City Council on the proceedings to rezone the property in accord with the provisions of the above noted Section.

F. Trust Indentures and Warranty Deed.

1. In developments where common open areas, which may include open spaces, recreational areas, or other common grounds, are provided and the acreage of which is included in the gross acreage for density calculation purposes, a trust indenture shall be recorded simultaneously with the record plat. The indenture shall provide for the proper and continuous maintenance and supervision of said common land by trustees to be selected and to act in accordance with the terms of such indenture and the common land shall be deeded to the trustees under said indenture by general warranty deed. In addition, the trust indenture shall contain the following provisions:

a.) That the common areas, including common open spaces, recreational areas, or other common grounds, shall be for the sole benefit, use, and enjoyment of the lot or unit owners, present and future, of the entire Planned District or Special Procedure or that the common areas may also be used by residents outside the Planned District or Special Procedure. If residents outside the Planned District or Special Procedure are permitted to use the common areas, the indenture shall contain provisions which shall provide, in essence, the following:

1. No resident shall be denied the use of the open space, recreational facilities, or other common ground for any reason related to the extension of such privilege to non-residents of the Planned District or Special Procedure;

2. All rules and regulations promulgated pursuant to the indenture with respect to residents of the Planned District or Special Procedure shall be applied equally to the residents;

3. All rules and regulations promulgated pursuant to the indenture with respect to non-residents of the Planned District or Special Procedure shall be applied equally to the non-residents;

4. At any time after the recording of the indenture, a majority of the residents of the Planned District or Special Procedure, by election duly called, may elect to allow or disallow usage of the open space, recreational facilities or other common grounds by non-residents of the Planned District or Special Procedure.

b.) The indentures shall contain provisions for the maintenance of all common areas and facilities and the means of collecting assessments necessary for the maintenance thereof.

c.) In Planned Districts or Special Procedures containing attached units, the indenture shall contain provisions for maintenance of common walls.

SEC. 02-05 FLOOD PLAIN "FP" OVERLAY DISTRICT USE AND DEVELOPMENT

A. Use and Development of Floodway.

All development or use of the floodway is prohibited involving any encroachment, including fill, new construction or material improvement of any existing structure unless certification by a registered professional engineer is provided to and approved by the Department that the development will not result in any increase in flood levels during occurrence of the base flood discharge. If and only if this subsection is complied with, use or development of the floodway may be carried out subject to the restrictions of the remainder of this Section.

B. Use and Development in the "FP" Overlay District.

No use or development in this district shall increase the flooding problems of other properties. Prior to any use or development of property pursuant to the permitted or conditional uses designated in this district, if such use or development involves manmade change to real property below the flood elevation, including construction or erection of any building or structure, or any filling, grading, paving, mining, dredging, excavation or drilling, the following procedure shall be complied with:

1. The property owner or user shall submit to the City of Chesterfield a development plan. The plan shall be approved if it demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

2. The plan shall include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan to avoid flooding problems of other properties and such other hydrologic problems as may result from the improvements. Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

3. The City of Chesterfield may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan.

C. Use and Development under Underlying District Regulations.

Property in this district may be used and developed in accordance with the regulations of the underlying zoning upon compliance with Article 5 of this UDC and the following procedure:

1. The property is placed in such conditions as to effectively and without increasing the flooding problems of other properties, remove the property from flooding based on the flood elevation study approved by the United States Federal Emergency Management Agency (FEMA) and used as basic data for determining the boundaries of the Flood Hazard Boundary Map, being the "FP" Floodplain District as governed by this Section. Effective removal of the property from flooding requires provision of adequate freeboard as determined by the City of Chesterfield in light of the reasonably anticipated ultimate development of the watershed. If the standards required by this subsection are satisfactorily met in respect to any lot or tract of land in the "FP" Floodplain District, the property may then be used for such uses and under such regulations as are contained in the district regulations of the district designated after the "FP" code designation as the underlying district for the particular property.

   a.) The property owner or user shall submit to the City of Chesterfield a plan for flood protection. The plan shall be approved if its implementation would adequately protect against the amount of water that would flow past the property in cubic feet per second during the base flood, as determined by the flood elevation study approved by FEMA and used as basic data for determining the boundaries of the Flood Insurance Rate Map and the Flood Hazard Boundary Map, and if the plan further demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

   b.) The plan must include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan for flood protection relative to the elevation of the floodplain and the flow as determined in the flood elevation study approved by FEMA, the effect of the proposed improvement on the flood problems of other properties, and such other hydrologic problems as may result from the improvements. Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

c.) The City of Chesterfield may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan for flood protection.

D. Effect of Plan Approval.

1. The approval by the City of Chesterfield of such plans for flood protection does not constitute a representation, guarantee, or warranty of any kind by the City of Chesterfield or by any officer or employee of either as to the practicality or safety of any protective measure and shall create no liability upon or cause of action against such public body, officers, or employees for any damage that may result pursuant thereto.

2. Approval of the plan by the City of Chesterfield does not relieve an owner or user from fulfilling the requirements set forth in Article 5 of this UDC and any other City ordinance regarding construction or development within the floodplain.

E. Floodplain Boundary.

In order to establish a minimum lot area outside of the floodplain, an engineer's seal and signature verifying the location of the floodplain boundary must be submitted. for review and approval by the Department. The plat must be certified by a registered professional engineer, of demonstrated competence, licensed to practice in the State of Missouri.

Sec. 02-06. LANDMARK AND PRESERVATION AREA (LPA) AND HISTORIC (H) DESIGNATION PROCEDURES

A. Scope of Provisions.

Nominations for an LPA or H designation shall be made to the Chesterfield Historic and Landmark Preservation Committee (CHLPC) and may only be submitted by the owner of record of the nominated property or structure, by a member of the CHLPC, or by elected members of the City Council. Nominations shall be submitted to the City Clerk, who will within seven (7) days of receipt mail a notification of intent to nominate to the owner of record of the nominated property. Forms and criteria for nomination will be available at the Office of the City Clerk.

B. Criteria for Consideration of Nomination.

1. The CHLPC shall, after such investigation as it deems necessary, make a determination as to whether a nominated property, structure, site, area or district meets one or more of the following criteria:

a.) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state or country;

b.) Its overall setting and harmony as a collection of buildings, structures, objects where the overall collection forms a unit;

c.) Its potential to be returned to an accurate historic appearance regardless of alterations or insensitive treatment that can be demonstrated to be reversible;

d.) Its location as a site of significant local, county, state, or national event;

e.) Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;

f.) Its embodiment of distinguishing characteristics of an architectural type valuable for the study of a period, type, method of construction, or use of indigenous materials;

g.) Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or country;

h.) Its embodiment of design, detailing, materials, or craftsmanship that render it architecturally significant;

i.) Its embodiment of design elements that make it structurally or architecturally innovative;

j.) Its unique location or singular physical characteristic that make it an established or familiar visual feature of the neighborhood, community or city;

k.) Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

l.) Its suitability for preservation or restoration; and

m.) Its potential to yield information important to history and prehistory.

2. Any structure, property, or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration.

C. Public Hearing on Landmark Preservation Areas and Historic Designations.

Upon receipt of a completed nomination of a Landmark Preservation Area (LPA) or Historic Designation, the CHLPC shall schedule within 30 days, a Public Hearing through the Department to solicit input and comment on the proposed nomination and guidelines for Certificates of Appropriateness. A Public Hearing shall be held per the requirements of Section 02-02 of this Article.

D. Report and Recommendation of CHLPC.

The CHLPC shall within 90 days from receipt of a completed nomination in proper form adopt by resolution a recommendation that the nominated LPA or Historic Designation does or does not meet the criteria for designation in this Article. The resolution shall be accompanied by a report to the Planning Commission containing the following information:

1. Explanations of the significance or lack of significance of the nominated Landmark or Historic Designation as it relates to the criteria for designation;

2. Explanation of the integrity or lack of integrity of the nominated Landmark or Historic Designation;

3. In the case of a nominated Landmark found to meet the criteria for designation, the following shall be provided:

   a.) The significant exterior architectural features of the nominated Landmark that should be protected;

   b.) The types of construction, alteration, demolition and removal other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of this Article;

   c.) Archaeological significance and recommendations for interpretation and protection.

4. In the case of a nominated Historic Designation found to meet the criteria for designation, the following shall be provided:

   a.) The types of significant exterior architectural features of the structures within the nominated Historic Designation that should be protected;

   b.) The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of this Article;

   c.) The type and significance of historic and prehistoric archaeological sites within the nominated Historic Designation;

d.) Proposals for design guidelines and CHLPC review of Certificates of Appropriateness within the nominated Historic Designation;

e.) The relationship of the nominated Historic Designation to the ongoing effort of the CHLPC to identify and nominate all potential cultural resources that meet the criteria for designation;

f.) Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, lot size, and parking regulations necessary or appropriate to the preservation of the nominated Historic Designation, including recommendations for buffer zones to protect and preserve visual integrity;

g.) A map showing the location of the nominated Historic Designation area.

E. Recommendations and Report.

The recommendations and report of the CHLPC shall be sent to the Planning Commission within seven (7) days following the vote on the resolution and shall be available to the public in the office of the City Clerk.

F. Notification of Nomination.

The Planning Commission shall schedule and hold a hearing on the nomination following receipt of a report and recommendation from the CHLPC that a nominated LPA or Historic Designation meets the criteria for designation. The meeting shall be scheduled, held and conducted in the same manner as other meetings to consider applications for zoning amendments or ordinance amendments. Notice of the date, time, place and purpose of the meeting and a copy of the completed nomination form shall be sent by regular mail to the owner(s) of record and to the nominators.

G. Public Hearing.

Oral or written testimony concerning the significance of the nominated Landmark or Historic Designation shall be taken at the Public Hearing before the Planning Commission from any person concerning the nomination. The CHLPC may present expert testimony or present its own evidence regarding the compliance of the nominated Landmark or Historic Designation with the criteria for consideration of a nomination set forth in this Article. The owner of any nominated Landmark or of any property within a nominated Historic Designation shall be allowed reasonable opportunity to present evidence regarding significance and shall be afforded the right of representation by counsel and reasonable opportunity to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.

H. Determination by Planning Commission.

Within 60 days following close of the Public Hearing, the Planning Commission shall make a determination upon the evidence whether the nominated Landmark or Historic Designation does or does not meet the criteria for designation. Such a determination shall be made upon a motion and vote of the Planning Commission and shall be accompanied by a report stating the findings of the Planning Commission concerning the relationship between the criteria for designation of this Article and the nominated LPA or Historic Designation and all other information required by this Article.

I. Notification of Determination.

Notice of determination of the Planning Commission, including a copy of the report, shall be sent by regular mail to the owner of record of a nominated Landmark and of all property within a nominated Historic Designation and to the nominator within seven (7) days following the decision of the Planning Commission.

J. Appeal.

A determination by the Planning Commission that the nominated Landmark or Historic Designation does or does not meet the criteria for designation shall be a final administrative decision reviewable under the Missouri Administrative Procedure and Review Act, unless that the nominator or any owner of the nominated Landmark or Property within the nominated Historic Designation, within 15 days after the postmarked date of the notice of the determination file with the City Clerk a written appeal to the City Council.

K. Action by City Council.

The City Council may within 30 days after receiving the recommendation that the nominated Landmark or Historic Designation be designated or receiving a written appeal, either reject the recommendation or written appeal by formal resolution or designate the Landmark or Historic Designation by an ordinance. The City Council may hold a Public Hearing before enacting the resolution or ordinance and a written statement explaining the reasons for the action of the City Council shall accompany the ordinance. The City Clerk shall provide written notification of the action of the City Council by regular mail to the nominator, the appellant, and the owner(s) of record of the nominated Landmark or of all property within a nominated Historic Designation. The notice shall include a copy of the designation ordinance or resolution passed by the City Council and shall be sent within seven (7) days of the City Council action. A copy of each designation ordinance shall be sent to the CHLPC, Planning Commission, and the Planning and Development Services Director.

L. The Designation Ordinance.

Upon designation, the Landmark or Historic Designation shall be classified as a "LPA" Landmark Preservation Area or "H" Historic Designation, and the designating ordinance shall prescribe the significant exterior architectural features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, lot size, sign regulation and parking regulations. The official zoning map of the City of Chesterfield shall be amended to show the location of the "H" Historic Designation or "LPA" Landmark Preservation Area.

M. Interim Control.

No Municipal Zoning Authorization shall be issued for alteration, construction, demolition, or removal of a potential Landmark or of any property or structure identified as a potential Historic Designation while the CHLPC, Planning Commission or City Council is considering said property for a "LPA" Landmark Preservation Area or Historic Designation, unless such alteration, removal or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare or safety. In no event shall the delay be more than 180 days.

N. Amendment and Rescission of Designation.

Designation may be amended or rescinded upon petition to the CHLPC and compliance with the same procedure and according to the same criteria set forth herein for designation.

O. Applications for Certificates of Appropriateness.

1. An Application for a Certificate of Appropriateness must be made prior to applying for a demolition permit or a building permit affecting the exterior architectural appearance of any Landmark or any structure within a Historic Designation including but not limited to the following:

   a.) Any construction, alteration, or removal requiring a building permit from the City of Chesterfield;

   b.) Any demolition in whole or in part requiring a demolition permit from the City of Chesterfield;

   c.) Any construction, alteration, demolition or removal affecting a significant exterior architectural feature or appearance as specified in the ordinance designating the Landmark or Historic Designation;

d.) Any construction, alteration or removal involving earth-disturbing activities that might affect archaeological resources;

e.) Any actions to correct a violation of a minimum maintenance standard.

2. Applications for a Certificate of Appropriateness shall include accompanying plans and specifications affecting the exterior architectural appearance of a designated Landmark or a property within a designated Historic Designation; and applications for building and demolition permits shall include plans and specifications for the contemplated use of the property. The Department shall forward applications for building and demolition permits to the CHLPC within seven (7) days following the receipt of the application. A building or demolition permit shall not be issued until the CHLPC has issued a Certificate of Appropriateness. Any applicant may request a meeting with the CHLPC before the application is reviewed by the CHLPC or during the review of the application. Application for review of construction, alteration, demolition, or removal not requiring a building permit for which a Certificate of Appropriateness is required shall be made on a form prepared by the CHLPC and available at the Office of the City Clerk. The CHLPC shall consider the completed application at its next regular meeting.

3. Stop Work Order. Whenever the CHLPC has reason to believe that an action for which a Certificate of Appropriateness is required has been initiated, or is about to be initiated, or that a violation of the conditions of a permit has occurred, it shall request that the Planning and Development Services Director make every reasonable effort to contact the owners, occupants, contractors or subcontractors and inform them of proper procedures. If the CHLPC determines that a stop work order is necessary to halt an action, it shall request the Planning and Development Services Director to send a copy of the stop work order by certified mail return receipt requested to the owners, occupants, contractors and subcontractors, and notify them of the process of applying for a Certificate of Appropriateness. A copy of the proper application form shall be included in the notice. If necessary, a second or subsequent stop work order may be issued for the same project.

Sec. 02-07. WILD HORSE CREEK ROAD (WH) OVERLAY DISTRICT

A. Procedure.

1. The "WH" District is established as an Overlay District. An Overlay District is a special procedure which addresses circumstances or environmental safeguards and is superimposed over the underlying existing zoning district.

2. Properties required to zone to the "WH" Overlay District per Article 03.05 of this UDC must zone to one of the Estate District zoning classifications found in Article 03 of this UDC concurrently.

3. All properties in utilizing the "WH" Overlay District shall follow the procedures set forth for establishment of special procedures or amendments thereto in Section 02-04 of this Article of the UDC.

4. Development requirements are established by the underlying zoning district, the "WH" Overlay District, and the preliminary development plan.

5. Approval of development plans or amendments thereto shall be in accordance with Article 02-10 of this UDC.

B. Review Process.

1. As set forth in the purpose and intent of this Section all properties in the Wild Horse Creek Road Sub Area Study shall be required to utilize planned districts to develop under this District.

2. The governing ordinance for each developed property shall contain a specific section addressing adherence to the specific criteria set forth in this UDC.

3. Separate vote will be required for adherence to this UDC and underlying zoning district requirements.

Sec. 02-08. REVIEW AND APPROVAL OF DEVELOPMENT NEAR CITY OR COUNTY PARKS

A. Scope of Provisions.

The regulations contained in this Section shall apply to any development, other than a detached single-family residence, within 600 feet of an established or authorized public park or reservation.

B. Statement of Intent.

The purpose of this Section is to provide for review of proposed development, other than the construction of detached single-family residences, in the neighborhood of public parks and reservations to insure the preservation of public investment in such parks by reducing the harmful effects of conflicting adjacent development.

C. Review, Approval, and Appeal Procedures.

The review, approval, and appeal procedures for developments near City parks shall be as follows:

1. Prior to the issuance of a building permit for any development subject to the regulations contained in this Section, the Department shall require the applicant to submit for review:

   a.) A site plan of the proposed development showing proposed uses and structures, landscaping, parking and circulation, grading or other changes in the elevation of the land, and the location and size of all isolated trees having a diameter at the base of two (2) inches or more and all tree masses, indicating which are to be removed; and

   b.) Architectural elevations of that side of the development closest to the park and of each side facing a public right-of-way. The finish and material of all exterior surfaces visible in such elevation shall be specified. All proposed fences shall be shown, and their height, type, material, and finish indicated. All signs or other advertising devices which will be visible from any point on the perimeter of the park shall be shown, and their material, finish, and message indicated.

2. The Parks Division shall review the plans and, within ten (10) days, forward its recommendations to the Department for its comments and recommendations.

3. The Planning Commission shall review the plans, comments, and recommendations of the Department. If the Commission finds that the nature, construction or design of the proposed development will be harmful to the beneficial use of the park by the public, it shall reject the

plans. The rejection shall be in writing, shall indicate the reasons therefore, and shall specify modifications necessary and sufficient to protect the nature and use of the park.

4. The determination of the Planning Commission may be appealed within 15 days by the developer, or any aggrieved party, upon filing of a notice of appeal and payment of an appeal fee of $50.00. Such notice of appeal shall be directed to the City Council and referred to an appropriate committee, which may hold a Public Hearing on the appeal in the same manner and in accordance with the same procedure as is required for an appeal from a change of zoning. The Council may reverse, affirm or modify the determination of the Planning Commission.

5. The requirements of this Section are in addition to the Building Code, Subdivision criteria, other provisions of this UDC and any other applicable law. Review of development under this Section shall be coordinated, insofar as possible, with review of plans under other provisions of this UDC and the Subdivision criteria, under the direction of the Planning and Development Services Director. The Department shall authorize the requested building permits, if:

   a.) Plans for the proposed development have been approved, or not rejected, within 60 days by the Planning Commission unless an appeal is filed; and

   b.) All other provisions of law applicable to building permits are satisfied.

Sec. 02-09. SITE PLAN REVIEW PROCEDURE

A. Applicability.

The requirements of this Section shall apply to the review of plans where one (1) or more buildings are to be erected on a single lot, excepting the following:

1. Developments conditioned by Planned District or Special Procedure approval.

2. Single-family residential detached dwellings, including associated garages.

3. Non-residential buildings less than 1,000 square feet in gross floor area.

4. Additions to existing non-residential buildings when the addition is less than ten percent (10%) of the existing building's gross floor area, the addition does not exceed 5,000 square feet, no new curb cuts are required, and where new construction does not reduce existing parking or significantly modify existing on-site circulation as determined by the Planning and Development Services Director.

5. Enclosed stairwells.

6. Canopies constructed over existing walkways, loading docks or pump islands, where new construction does not reduce existing parking or significantly modify existing on-site circulation, as determined by the Planning and Development Services Director.

B. Procedures.

1. Site plans shall be reviewed and approved by the City of Chesterfield and the Department in accord with the following:

a.) Compliance of the site plan with UDC requirements shall be established by the Planning and Development Services Director or their designee.

b.) The Department (or St. Louis County Department of Highways and Traffic as applicable) shall review and approve the right-of-way, pavement required, curb cuts, and other design features of abutting public streets or private or new streets, other than multiple-family access drives within the development connecting the development with a major street or streets. Additional streets may be required for the public health, safety and welfare, when determined necessary by the City of Chesterfield. On such streets, the City of Chesterfield shall determine the requirements for rights-of-way, street width, width of curb cuts, street trees, sidewalks, and any other improvements in adjacent rights-of-way where not covered elsewhere in the UDC.

The City of Chesterfield shall review and approve the plans for conceptual compliance with the various codes and ordinances relating to grading, drainage, silt control, storm sewer services, floodplain (as it affects the development), and other applicable requirements.

At such times as a development is proposed adjacent to a street that is accepted and maintained by the City of Chesterfield, that street shall be improved in accordance with the City of Chesterfield Standards and the cost of improvement of and the dedication of half of the right-of-way adjacent to the proposed development shall be included in the overall development improvements.

c.) The Department shall review and approve the internal traffic and pedestrian circulation system, landscaping, parking areas, and additional characteristics of site design, as deemed appropriate. Landscaping may include re-contouring, building of earth berms, vegetative covering, screening or other material alteration of the site as deemed appropriate to enhance areas outside the public

right-of-way or to preserve the integrity of adjacent properties. Internal circulation shall include the location, nature, extent, construction and design of internal driveway lanes (including multiple family access streets), parking lots, driveways to or through parking lots, and any other facilities that provide vehicular access to buildings, structures, and improvements upon a given lot or tract.

2. The Department shall review and approve the plans for conceptual compliance with the various codes and ordinances relating to sanitary sewer laterals and other applicable requirements of the Building and Plumbing Codes.

3. Prior to Site Plan approval, provide a geotechnical report, prepared by a registered professional engineer licensed to practice in the State of Missouri, as directed by the Department of Public Services. The report shall verify the suitability of grading and proposed improvements with soil and geologic conditions and address the existence of any potential sinkhole, ponds, dams, septic fields, etc., and recommendations for treatment. A statement of compliance, signed and sealed by the geotechnical engineer preparing the report, shall be included on all Site Plans and Improvement Plans.

4. For all procedures (including site plan review), where the City Council does not have final review authority, the City Council or the Mayor shall have the Power of Review as provided in Section 02-20 of this Article.

C. Site Plan Contents.

1. For a site plan to be accepted for review, the following information shall be either placed on the site plan or on a separate sheet accompanying the plan:

a.) Location map, north arrow, and plan scale.

b.) Zoning district, subdivision name, lot number, dimensions and area, and zoning of adjacent parcels where different than site.

c.) Name, address, and telephone number of the person or firm submitting the plan and the person or firm who desires the review comments forwarded to them.

d.) Proposed use of the building and its construction type and distance from adjacent property lines.

e.) Off-street parking spaces, required and proposed, including the number, size, and location of those designated for the handicapped.

f.) Type of sanitary sewage treatment and stormwater drainage facilities, including retention ponds.

g.) Dimensions of existing and proposed roadway pavement and right-of-way width for streets abutting the site.

h.) Existing and proposed landscaping, including name and size of plant material.

i.) Existing and proposed contour lines or elevations based on mean sea level datum, unless otherwise waived by the Department.

j.) Location and size of existing and proposed freestanding signs.

k.) Location and identification of all easements (existing and proposed).

l.) Location and height of all light poles.

m.) Overall dimensions of all buildings and the gross floor area of each building.

n.) Approximate location of any stormwater detention facilities, sink holes and springs, silt berms, ponds and other silt control facilities.

o.) Floor area ratio of proposed development, except in single-family attached and detached residential developments.

p.) Open space percentage of proposed development.

q.) Tree stand delineation for area to be developed.

2. Additional information to be placed on the site plan beyond the requirements listed above may be requested based on a joint review of the plans by authorized departmental representatives of the City of Chesterfield.

D. Review Schedule.

Upon verification of compliance with the site plan requirements stated in subsection C., the plan shall be reviewed by the Department. A letter shall be forwarded to the person or firm submitting the plan stating the comments of the reviewing Department. Within thirty (30) days from the date on the comment letter, revised plans addressing the listed comments shall be submitted for further review. If revised plans are not submitted within the specified time limit, review of the site plan will be terminated.

E. Minimum Requirements.

The requirements for site plan review contained in this Section shall apply as the minimum requirements. Additional requirements may be stated, as necessary, and written into a policy memorandum.

Sec. 02-10. SITE DEVELOPMENT PLANS, SITE DEVELOPMENT CONCEPT PLANS AND SITE DEVELOPMENT SECTION PLANS

A. Submittal of Plans.

1. After passage by the City Council of an ordinance authorizing the establishment of a Planned District or a Special Procedure and requiring submission of a site development plan or site development concept plan, such plans shall be submitted in accord with the provisions of the site's governing Planned District or Special Procedure and all provisions of this Article. No building permits or authorization for improvement or development for any use requested under provisions of this UDC shall be issued prior to approval of such plans.

2. Plans shall be submitted to the Planning Commission for review and approval. These plans shall contain the minimum requirements established in the conditions of the specific ordinance governing the Planned District or approval of the Special Procedure, and further, shall comply with provisions of the Subdivision requirements Section 02-11 of this Article and all other applicable City codes.

3. Prior to Site Development Plan approval, provide a geotechnical report, prepared by a registered professional engineer licensed to practice in the State of Missouri, as directed by the Department of Public Services. The report shall verify the suitability of grading and proposed improvements with soil and geologic conditions and address the existence of any potential sinkhole, ponds, dams, septic fields, etc., and recommendations for treatment. A statement of compliance, signed and sealed by the geotechnical engineer preparing the report, shall be included on all Site Development Plans and Improvement Plans.

4. At a minimum, all site development plans and site development section plans shall provide all required information as detailed in the Site Plan Contents, Section 02-09.C of this Article.

5. Within 60 days of approval, the site development plan or site development concept plan shall be recorded with the St. Louis County Recorder of Deeds and thereby authorize development as depicted thereon, with a copy to be filed with the City of Chesterfield.

6. In the case of single lot/multiple building developments or multiple-lot developments where a site development concept plan is required, site development section plans shall be submitted to the Department for

review and approval per individual building, lot, phase, or plat representing a portion of the site development concept plan. The approved plans shall be kept on file with the Department.

B. Amendment to the Recorded Site Development Plan or Site Development Concept Plan.

To amend the recorded site development plan or site development concept plan approved for the Planned District or Special Procedure:

1. The property owner or authorized representative shall submit an amended site development (or concept) plan to the Department for review. The Department shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for Public Hearing, and the preliminary development plan approved by the City Council.

2. If the Department determines that the proposed amendment to the site development (or concept) plan is major in nature and is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the Planned District ordinance or Special Procedure approval, said plan shall be reviewed and approved by the Planning Commission. Said amended plan shall be recorded with the St. Louis County Recorder of Deeds within 60 days of Commission approval, with a copy to be filed with the City of Chesterfield.

3. If the Department determines that the proposed amendment to the site development (or concept) plan is minor in nature and is not in conflict with the original proposal advertised and the preliminary development plan, and meets all conditions of the Planned District ordinance or Special Procedure approval, the Department may approve said amended plan. Said plan shall be retained on file by the Department.

4. If the Department determines that the proposed amendment to the site development (or concept) plan is not consistent in purpose and content with the nature of the proposal as originally advertised for Public Hearing, or with the preliminary development plan approved by the City Council, the Department shall so report to the applicant and the Planning Commission. The Planning Commission shall then review the proposed site development (or concept) plan amendment and make a final determination. The Planning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new Public Hearing on the matter in accord with proceedings specified in Section 02-03 "Procedure for Amending the City of Chesterfield Zoning District Boundaries or Classifications of Property".

5. All amendments to site development (or concept) plans shall be recorded with the St. Louis County Recorder of Deeds within 60 days of Planning Commission approval, with a copy to be filed with the City of Chesterfield.

6. The Planning Commission may approve partial amended site development plans, site development concept plans, and site development section plans for developments approved prior to enactment of this UDC even though the conditions of the ordinance governing such Planned District or Special Procedure do not permit the review of development plans in accord with the provisions of this Section. Such partial amended plans shall be recorded with the St. Louis County Recorder of Deeds within 60 days of Commission approval, with a copy to be filed with the City of Chesterfield.

C. Amendment to Site Development Section Plan.

To amend a site development section plan approved for a Planned District or Special Procedure:

1. If the Department determines that the proposed amendment to the site development section plan is not in conflict with the approved site development concept plan and meets all conditions of the Planned District ordinance or Special Procedure approval, the Department may approve said amended plan. Said plan shall be retained on file by the Department.

2. If the Department determines that the proposed amendment to the site development section plan is not consistent in purpose and content with the approved site development concept plan, the Department shall so report to the applicant and the Planning Commission. The Planning Commission shall then review the proposed amended site development section plan and make a final determination.

D. Appeal to Commission of a Decision by the Department in Reviewing Development Plans.

The petitioner/developer may appeal a decision by the Department in cases where the Department is authorized to review development plans, to the Planning Commission. The petitioner shall have a 15 day period in which to file a written appeal and plan with the Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Department. The Commission will make the final determination of the matter. No exceptions will be granted that are in violation of the particular ordinance governing the development plan.

Sec. 02-11. SUBDIVISION

A. Administration.

The Department may adopt, amend, and publish rules and instructions within the intent of this Article for the administration of this Article to the end that the public be informed and that approval of plats be expedited.

B. Approval of Subdivision Plats.

Every subdivision and resubdivision of land within the City of Chesterfield shall be shown upon a plat and submitted to the Department for its approval or disapproval. All final plats, with the Department's approval or disapproval endorsed thereon, shall be submitted to the City Council for its consideration and approval or disapproval. No plat shall be recorded in the Office of the Recorder of Deeds unless and until as provided for in this Article. No lot subject to this Article shall be sold unless first established by provisions of this Article. No building permit shall be issued for construction on a parcel or lot created in violation of this Article.

C. Parcels of Land Recorded without Required Approvals.

The owner of a lot or parcel of land created prior to the adoption date of this UDC in violation of Section 02-11.B. of this Article may apply to the Planning and Development Services Director for a variance from the subdivision regulations for the construction of any one use allowed in the single-family "R" zoning districts ("R-1" thru "R-5"), or a single-family detached residence in the remaining "R" Districts ("R-6A" thru "R-8"). The Planning and Development Services Director shall investigate the situation, and finding that:

1. The lot was created by record plat or recorded deed prior to adoption date of this UDC; and

2. But for the failure to comply with this Article, the lot or parcel of land could be developed; and

3. The lot or parcel of land was acquired by the present owner for a valuable consideration and in ignorance of the requirements of this Article; and

4. Had proper application been made at the time of the creation of the lot, approval would have been given for lot size and frontage; shall forward the findings to the City Council which may by order grant the variance upon such terms and conditions as will most equitably preserve the purpose and intent of this Article.

D. Sketch Plan.

1. Sketch Plan Contents. Prior to submitting a preliminary plat for the subdivision of land within the City of Chesterfield, a developer may submit to the Department a sketch plan for the tract which shall include the following information, all of which may be based on sources of information other than field survey data:

a.) The location of the tract in relation to the surrounding area.

b.) The approximate location of all existing structures within the tract proposed to be retained and wooded areas within the tract and within 100 feet thereof.

c.) The names of the owners of all property adjoining the tract as disclosed by the most recent assessor's record.

d.) All existing streets, roads, and approximate location of wet and dry weather water courses, floodplain areas, sink holes, and other significant physical features within the tract and within 150 feet thereof.

e.) Approximate location of proposed streets and property lines.

f.) A rough sketch of the proposed site plan.

g.) A north arrow and scale.

h.) Direction of and approximate distance to nearest existing major street intersection.

i.) Approximate location of any historical building within the boundary tract, as identified by the St. Louis County Historic Building Commission or the Chesterfield Historic and Landmark Preservation Committee.

2. Department Review and Report. The Department shall review and evaluate the sketch plan as soon as practicable and shall report to the developer its opinion as to the merits and feasibility of the improvements contemplated by the sketch plan.

3. In the event a developer elects not to submit a sketch plan, all information contained thereon shall be submitted on or with the preliminary plat.

E. Preliminary Plat.

1. Preliminary Plat Contents. The developer shall prepare and submit to the Department such number of copies of a preliminary plat of the tract as shall be required. Such preliminary plat shall be submitted after receipt of the Department's report on the sketch plan, if a sketch plan was submitted. The preliminary plat shall be any scale from one (1) inch equals 20 feet through one (1) inch equals 200 feet, so long as the scale is an increment of ten (10) feet and shall contain the following information:

a.) All information required in Section 02-11.D.1, "Sketch Plan Contents", if no sketch plan has been submitted.

b.) A key map showing the tract and its relation to the surrounding area.

c.) A north arrow and graphic scale.

d.) The name proposed for the tract or such part thereof as is proposed to be subdivided, which shall be original and not a duplication of the name of any previously recorded subdivision or development in the City of Chesterfield. The developer shall include a certification from the Recorder of Deeds Office of St. Louis County to this effect.

e.) The date of plan submission to the Department and the following names and addresses:

1. The record owner or owners of the tract.

2. The party who prepared the plat.

3. The party for whom the plat was prepared.

4. The engineer and land surveyor who will design improvements for and survey the tract or such part thereof as is proposed to be subdivided.

f.) The approximate area of the tract stated in tenths (0.1) of an acre.

g.) Sufficient existing and proposed contour data to indicate the slope and drainage of the tract and the high and low points thereof. Contour data shall extend 150 feet beyond the limits of the subdivision boundaries. U.S.G.S. data is required.

h.) The location of existing and proposed property lines, water courses, sink holes, areas within the tract subject to inundation by stormwater, railroads, bridges, culverts, storm sewers, sanitary sewers, easements of record, existing buildings including use or other identified improvements that are to remain, and significant natural features such as wooded areas and rock formations.

i.) The location of existing and proposed streets including additional right-of-way along existing streets as required in Article 04 of this UDC.

j.) The results of any tests made to ascertain subsurface rock and soil conditions and the water table.

k.) The zoning district, including delineation of floodplain zoning district, if any, and the township, range, section, and U.S. Survey,

school district, fire district, water company, and other special districts in which the tract is located.

l.) Any proposed alteration, adjustment, or change in the elevation or topography of any area in a floodplain zoning district or shown on the Federal Emergency Management Agency's (F.E.M.A.) Flood Boundary and Floodway Maps.

m.) Approximate area in square feet of minimum and maximum size of lots, if less than one (1) acre in area, and in acres and tenths (0.1) of acres if one (1) acre or more in area, into which the tract is proposed to be subdivided.

n.) Indicate approximate location of existing and proposed sidewalks and pedestrian walkways.

o.) Indicate proposed building lines and setback requirements.

p.) Proposed type of treatment or method of sewage disposal to include name of trunk line, lateral or qualified sewage treatment system, where applicable.

q.) If the developer intends to subdivide any portion of the parcel into a multiple dwelling unit subdivision or a subdivision being developed under a special procedure section of the UDC, then the preliminary plat shall, in addition, include the following data:

1. Gross area of tract.

2. Area in street.

3. Net area of tract.

4. Maximum number of units allowed.

5. Maximum number of units proposed.

6. Parking ratio.

7. Distance between structures.

r.) A certification by registered land surveyor or engineer who prepared the plat that the plat is a correct representation of all existing and proposed land divisions.

s.) Fire District comments must be received prior to preliminary plat approval for developments that have a single ingress and egress, and where variances are requested for pavement width reduction, maximum cul-de-sac length and number of units or lots served on a cul-de-sac.

2. Parcels within a Floodplain. Development of parcels within the floodplain shall require approval of a floodplain study in accord with The "FP" Flood Plain Overlay District in Article 03 of this UDC.

3. Special Procedures Developments. In the case of any subdivision developed under any special procedures in the UDC, which require the submission of development plans to the Department or the Planning and Development Services Director for review or approval, a concept plan required by the UDC shall include all information required on a sketch plan, and may be used therefore. A development section plan required by the UDC shall comply with all requirements of this Article for a preliminary plat and may be used therefore.

4. Department Review. The Department shall review the preliminary plat with regard to requirements described in this Article as soon as practicable and:

   a.) If the plat is satisfactory, the Planning and Development Services Director or his authorized representative shall thereupon affix a notation of approval, date of approval, and his signature on the plat, denoting satisfactory compliance with the requirements of this Article. The plat shall be returned to the developer who may then proceed in compliance with Section 02-11.N. of this Article.

   b.) If the preliminary plat is unsatisfactory, the Department shall give notice to the submitting party in writing, setting forth the conditions causing the disapproval, and the unsatisfactory conditions shall be remedied prior to further consideration by the Department.

   c.) Whenever a preliminary plat includes a proposed establishment of common land, and the Department finds that such land is not suitable for common land due to terrain, benefit to a small portion of the lot owners, difficulty of maintenance, or any similar reason, the Department may either refuse to approve such an establishment, or it may require the rearrangement of the lots in the proposed subdivision to include such land.

   d.) The approval by the Department of the preliminary plat shall be valid for a period of two (2) years from the date of approval or such longer period as the Planning and Development Services Director may determine to be advisable if after review by the Department such longer period is necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds, or other public requirements. If no record plat of a subdivision of any part of the tract for which a preliminary plat has been approved is recorded within the two (2) year period, or such longer period as the Planning and

Development Services Director shall permit, a re-submission and review thereof by the Department may be required.

F. Record Plat.

1. Applicability and Exceptions. The record plat shall substantially conform to the preliminary plat. A record plat shall delineate all developed lots created by the plat except as follows. If a record plat does not include all property in an approved preliminary plat, or all remaining property where previous record plats of a portion of the subdivision have been recorded:

a.) In a single-family or multiple-family subdivision, no property may be omitted:

1. If a resulting tract is less than ten (10) acres in area or any resulting side of an omitted tract is less than 300 feet in length, unless such a side is the original boundary of the original legally-existing tract. Until subdivided, such omitted tract is a developable lot, on which no more than one (1) residence may be constructed; or

2. Unless the development is a density development or Planned Unit Development, in which case the omitted property is not developable and does not constitute a lot of record for any purpose under this Article until included in a record plat.

b.) In a non-residential subdivision, omitted property is not developable and does not constitute a lot of record for any purpose under this Article until included in a record plat.

2. Multiple-Family Subdivision Record Plats.

a.) A multiple-family subdivision tract may be developed in two (2) or more phases, which shall be clearly indicated on the record plat. The record plat for each phase shall include all previous phases and a reference to the book and page of their recording, and all future phases. Areas designated as future phases need not indicate easements or parking and drive locations, and are not developable until such phases are recorded. Improvement plans and installation or guarantee of improvements are not required for areas designated as future phases, except that the Department may require such improvements as are necessary to serve the phase proposed for present development.

b.) Multiple-family subdivision record plats, or the phase proposed for present development of multiple-family tracts to be developed in phases, shall establish all necessary easements and parking and

drive locations. The plat shall contain script restricting parking and drive areas to such purposes.

3. Record Plat Procedure.

   a.) The record plat shall be on tracing cloth, drafting film, or the equivalent, together with copies of any deed restrictions which are required by ordinance, where such are too lengthy to be shown on the plat, and shall be submitted to the Department for its approval.

   b.) A copy of the plat should be submitted to the City of Chesterfield for review and comment. Script corrections can be made after approved by City Council, but prior to recording. Upon approval on the final plat by the City Council, the Planning and Development Services Director shall place a signature on the plat with the date of such approval.

4. Time Period for Filing. The record plat shall be filed with the Recorder of Deeds within 60 days after approval by the City Council. If any record plat is not filed within this period, the approval shall expire.

5. Scale and Size. The record plat shall be prepared by a registered land surveyor, at any scale from one (1) inch equals 20 feet to one (1) inch equals 100 feet in any increments of ten (10) feet from an accurate survey on one (1) or more sheets whose maximum dimensions are 36 inches by 42 inches. In certain unusual instances where the subdivided area is of unusual size or shape, the Department may permit a variation in the scale or size of the record plat. If more than one (1) sheet is required, a key map on Sheet No. 1 showing the entire subdivision at reduced scale shall be provided if required by the Department.

6. Execution. The record plat shall be executed by the owner and lienors.

7. Record Plat Contents. The record plat shall show and be accompanied by the following information:

   a.) North arrow and graphic scale.

   b.) The boundary lines within the outboundary lines of the subdivision with accurate distances and bearings; also all sections, U.S. Survey and congressional township and range lines; and the boundary lines of municipalities; sewers, schools, and other legally established districts within and the name of or description of any of the same adjacent to or abutting on the subdivision.

   c.) The lines of all proposed streets and alleys with their widths and names.

d.) An accurate delineation of any property offered for dedication to public use.

e.) The line of departure of one street from another.

f.) The boundary lines of all adjoining lands and the right-of-way lines of adjacent streets and alleys with their widths and names.

g.) All lot lines and an identification system for all lots and blocks.

h.) Building lines, including minimum side and rear yard setbacks on a typical lot and easements or rights-of-way provided for public or private use, services, or utilities, with figures showing their dimensions, and listing types of uses that are being provided.

i.) All dimensions and bearings, both linear and angular, radii and arcs, necessary for locating the boundaries of the subdivision, blocks, lots, streets, alleys, easements, building lines, and of any other areas for public or private use. The linear dimensions are to be expressed in feet and decimals of a foot.

j.) All survey monuments, together with the descriptions.

k.) Area in square feet for each lot or parcel on the plat or a supplemental sheet showing same.

l.) Name of subdivision and description of property subdivided, showing its location and area.

m.) Certification by a land surveyor who performs the property survey to the effect that the plat represents a survey made by him, and that the locations of all required survey monuments, installed or to be installed, are correctly shown thereon. The month and year during which the survey was made shall also be shown.

n.) Private restrictions and trusteeships where required by ordinance and their periods of existence. Should such restrictions and trusteeships be of such length as to make the lettering of same on plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.

o.) When elderly housing is being developed on site and a variance has been granted in accordance with this UDC, this shall be indicated in the title.

p.) The subdivision name approved on record plat shall constitute the subdivision's official name. When a subdivision name has been changed, all subsequent plats submitted for processing shall

reference the original name, which should include names recorded on site development concept and section plans. Any other name used for advertising or sales purposes does not constitute an official revised name unless approved on a plat of record approved by the City Council.

q.) If the developer places restrictions on any land contained in the subdivision that is greater than those required by this Unified Development Code, such restrictions or references thereto should be indicated on the plat.

r.) Zoning district, and zoning district boundary line when property is located in more than one (1) district, special procedure or planned district and ordinance numbers or date of order (density development) when applicable.

s.) Accurately note elevation referring to mean U.S.G.S. datum for permanent benchmark.

t.) Cumulatively, all record plats shall contain enough common land to support the lots platted. All remaining common ground is to be platted with the recording of the final lot, unit, or phase of the development.

u.) The outboundary corners of the tract is to be tied into the State Plane Coordinate System in accordance with the Missouri Minimum Standards for Property Boundary Surveys.

8. Additional Record Plat Contents if Applicable. Prior to the Department forwarding the record plat to City Council, the developer shall provide the Department with the following documents as they may be applicable:

a.) Guarantee of installation of water mains from St. Louis County Water Company.

b.) Street lighting contract from Ameren Missouri. Submittal of contract is optional and is to be accepted in lieu of an increased value for escrow of actual construction costs.

c.) Verification of street names and addresses from U.S. Postal Service-Customer Services Department.

d.) Verification of location of fire hydrants and adequacy of water supply from applicable fire district.

e.) Tax certificate or copy of paid tax bill from the Office of the St. Louis County Collector of Revenue.

f.) Highway inspection fees or payment verification from the City of Chesterfield Department of Public Services, St. Louis County Department of Highways and Traffic of highway inspection fees paid.

g.) Subdivision processing fees.

h.) Any special study or engineering calculations required.

i.) Trust indenture and warranty deed for common land conveyance, accompanied by a letter of compliance from an attorney.

j.) Letter from sanitary sewer company certifying connection fees have been paid.

k.) Verification of proper placement of survey monuments from the Department.

l.) That when a record plat is prepared electronically and submitted to the City for approval, the digital version of the plat also be submitted in a format compatible with the City's mapping software.

G. Minor Subdivision.

1. A subdivision shall be considered a minor subdivision if the division or redivision of land does not establish more than four (4) lots wherein all the following criteria are met:

a.) That the proposed subdivision of land does not include an improvement within a street right-of-way, other than concrete sidewalks, landscaping, monuments, lateral extensions of sanitary and storm sewers, and water mains. Establishment of a right-of-way only shall not be construed as an improvement in this Section. However, concrete sidewalks, landscaping, street lights, monuments, and water mains shall be required unless waived. Requirement of any additional improvements or the use of any special procedure of this UDC shall disqualify the proposed subdivision from consideration as a minor subdivision.

b.) That the proposed subdivision of land does not include a provision for common land or recreational facilities.

c.) That the proposed subdivision of land does not adversely affect, as determined by the Planning and Development Services Director, the development of the parcel proposed for subdivision as well as the adjoining property.

d.) That the proposed subdivision of land is not in conflict with any provisions of this UDC.

2. Procedures.

a.) Where a minor subdivision is proposed that fronts on the existing City or County maintained road that is proposed for widening improvements as determined by the Department, the developer may request to have waived the submission of improvement plans for the construction of sidewalks which involve extensive grading, steep topography, or other unusual conditions which would prohibit construction, verified by the Department of and, in lieu thereof, post bond or escrow to insure that the sidewalks will be installed as part of the street widening improvement. The bond or escrow agreement shall have a 25 year term.

b.) The Planning and Development Services Director may waive without a variance request the requirement of submission of all other plans except the record subdivision plat. However, in such cases, pertinent data as required by the Department and set forth in Section 02-11.E. of this Article shall be submitted to the Department for review.

c.) If the requirement of submission of all other plans except the record subdivision plat has not been waived, improvement plans for sidewalks may be required and shall be submitted for review and approval in accord with provisions of Section 02-11.N. of this Article. Further, the developer shall prepare and submit to the Department such number of copies of a preliminary plat of the tract as required by Section 02-11.E. of this Article.

d.) All requirements of Section 02-11.F., "Record Plat," shall be likewise required prior to approval of any minor subdivision.

H. Dwelling Unit Display Plat Procedure.

1. Purpose. To provide a procedure whereby the construction of a display house or multiple family display unit can begin prior to the recording of the record subdivision plat.

2. Procedure. After receiving approval of a preliminary plat of a proposed subdivision from the Department, the developer may submit a display plat to the Department for review and approval. There may be two (2) display houses or units for subdivisions proposing less than ten (10) lots or units. Developments containing at least ten (10) lots or units and not more than 60 lots or units proposed shall be allowed three (3) display houses. For developments containing greater than 60 lots or units, one (1) additional display house or unit for every 20 houses or units proposed

beyond 60 will be permitted, not to exceed ten (10) display houses or units.

3. Display Plat. The display plat shall include a complete outboundary survey of the proposed subdivisions, and the location of each display in relation to proposed lots. The script shall comply with the requirements of the Department including, but not limited to, the following:

   a.) The display plat shall be recorded in the Office of the St Louis County Recorder of Deeds prior to issuance of a building permit for any display with a copy to be filed with the City of Chesterfield.

   b.) The display plat shall become null and void upon the recording of a record plat which establishes that each display is on an approved lot.

   c.) No part of the proposed subdivision may be conveyed, nor an occupancy permit issued, for any structure therein until the display house or units have been located on an approved lot.

   d.) If initial construction of a display has not commenced within 60 days, the Department's approval shall lapse and the display plat shall be null and void.

   e.) Lots should be on an approved lot of record within one (1) year of the display plat's recording or such longer period as may be permitted by the Planning and Development Services Director. If the record plat is not filed, the then-owner shall remove or cause to be removed all display houses or units from the property. Failure of owner to remove the display houses or units from the property within one (1) year plus 30 days of date of approval shall constitute the granting of authority of the City to remove or cause the display houses or units to be removed, the cost of which shall be borne by the owner and shall become a lien against the property.

4. The display plat shall be executed by the owner and lienors.

5. The display plat shall show the location and number of off-street parking spaces. Once the display homes are sold, the developer shall tear down the display parking located on the remaining lot within 30 days or as directed by the City of Chesterfield.

I. Lot Split.

1. No lot split shall be recorded in the Office of the Recorder of Deeds unless and until approved by the City of Chesterfield in compliance with this Article.

2. Whenever there is a tract or previously subdivided parcel under single ownership which is to be re-subdivided into two (2) lots, and which exists as a legal lot of record, such a division shall be exempt from provisions of Section 02-11.B. of this Article, and shall be designated as a "lot split" if the following criteria are met:

   a.) That no additional improvements are required that would necessitate the posting of an escrow or bond, including concrete sidewalks, water mains, and landscaping within a street right-of-way dedication. Establishment of a right-of-way only shall not be construed as an improvement in this Section.

   b.) That no provisions for common land or recreational facilities are included in the proposal.

   c.) That the use of the lot split procedure does not adversely affect the subject parcel or any adjoining properties.

   d.) That the proposed lot split is not in conflict with any provisions of this UDC or any special procedure permit.

   e.) No variances are required from this division.

3. The procedure for approval of a lot split shall be as follows:

   a.) Two (2) drawings of a certified survey, prepared by a land surveyor registered in the State of Missouri on paper not less than 8 ½ inches by 11 inches in size showing the following shall be submitted:

      1. A legal description of both the original lot and each of the proposed lots. This must be surveyed and performed by a registered surveyor.

      2. North arrow and graphic scale.

      3. Location of proposed and existing streets and adjoining property.

      4. Location of all existing buildings.

      5. Within their boundaries approval of the St. Louis County Water Company and the Metropolitan St. Louis Sewer District shown on the tract drawings.

      6. Name, address, and telephone number of the owner of record and copy of the deed of record.

b.) The following items shall accompany the required survey:

1. Filing fee as set forth in Article 09 "Fees" of this UDC.

2. Certificate from the Office of the St. Louis County Collector of Revenue showing that there are no delinquent taxes outstanding.

3. Verification of fire hydrants and adequacy of water supply from applicable fire protection district.

4. Verification of proper placement of survey monuments from the City of Chesterfield, or an escrow agreement or land subdivision bond to guarantee installation of survey monuments in accord with Section 02-12 of this Article.

c.) The Department shall review the proposed lot split to insure compliance with all design and improvement requirements of this UDC. Lot splits found to be in compliance with the above requirements shall be forwarded to the City Council for their review and approval and shall be recorded with the Recorder of Deeds of St. Louis County, with a copy filed with the City of Chesterfield.

J. Boundary Adjustments.

1. Purpose. The purpose of this Section is to allow adjustments to be made to lot lines of platted lots or other lawful parcels for the purpose of adjusting the sizes of building sites; however, it is not intended that extensive replatting be accomplished by use of this Section.

2. Boundary adjustments must meet the following criteria:

a.) No additional lot shall be created by any boundary adjustment.

b.) The resulting lot or lots shall not be reduced below the minimum sizes and dimensions required by this Article.

3. Procedure.

a.) A boundary adjustment may be accomplished by plat or by deed, but must include an adequate legal description of the boundaries of the original lots and of the adjusted lots.

b.) The boundary adjustment plat or deed shall be submitted to the Department for review and approval prior to its recording with the Recorder of Deeds of St. Louis County, with a copy to be filed with the City of Chesterfield.

c.) Processing fees as prescribed in Article 09 "Fees" of this UDC shall be filed in conjunction with any boundary adjustment plat or deed.

4. Lots in Non-compliance. Boundary adjustments shall be allowed for lawful lots existing in non-compliance with minimum area, frontage, and dimensional requirements of this Article provided that the resulting adjustment of lot lines does not increase the degree of non-compliance with this Article.

K. Trust Indentures.

1. In any case where the establishment of common land (including pedestrian walkways and cul-de-sac islands), private streets, street lighting, drainage facilities such as detention basins and drainage pipe and ditches or any other improvement that requires continuous maintenance, a trust indenture shall be recorded simultaneously with the record plat. The indenture shall provide for proper maintenance and supervision by the trustees who are selected to act in accordance with the terms of such indenture and the applicable provisions of this UDC. For single lot developments and developments with no common ground, the Department may accept script certifying the means of maintenance on the record plat. Common land shall be conveyed by the owner in fee simple absolute title by warranty deed to trustees whose trust indentures shall provide that the common land be used for the benefit, use, and enjoyment of the lot owners present and future and shall be the maintenance responsibility of the trustees of the subdivision and that no lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

2. Any trust indenture required to be recorded, or recorded for the purpose of compliance with provisions of this UDC, shall provide for not less than the following representation of purchasers of developed lots among the trustees; one-third (1/3) of the trustees shall be chosen by purchasers of developed lots after 50% of the lots have been sold; two-thirds (2/3) of the trustees shall be chosen by purchasers of developed lots after 95% of the lots have been sold; all of the trustees shall be chosen by purchasers of developed lots after all of the lots have been sold.

3. Where the provisions of such a trust indenture cannot be fulfilled by reason of unfilled vacancies among the trustees, the City Council may upon the petition of any concerned resident or property owner of the subdivision, appoint one or more trustees to fill vacancies until such time as trustees are selected in accordance with the trust indenture. Any person so appointed who is not a resident or property owner within the subdivision shall be allowed a reasonable fee for his services by the order of appointment, which fee shall be levied as a special assessment against the property in the subdivision, and which shall not be subject to any

limitation on special assessments contained in the trust indenture or elsewhere.

4. A trust indenture shall be required for a large lot subdivision only in the event that common land is contained within the subdivision.

5. Each trust indenture and warranty deed shall be accompanied by a written legal opinion from an attorney licensed to practice in the State of Missouri, setting forth the attorney's legal opinion as to the legal form and effect of the deeds and trust indenture. The deeds and indenture shall be approved by the Department and the City Attorney prior to being filed with the Recorder of Deeds of St. Louis County simultaneously with the recording of the record plat, with a copy to be filed with the City of Chesterfield.

6. Term of indentures for all types of subdivisions, including planned districts and special procedures, shall be for the duration of the subdivision. In the event the subdivision is vacated, fee simple title shall vest in the then lot or unit owners as tenants in common. The rights of the tenants shall only be exercisable appurtenant to and in conjunction with their lot or unit ownership. Any conveyance or change of ownership of any lot or unit shall convey with it ownership in the common land, and no interest in the common land shall be conveyed by a lot or unit owner except in conjunction with the sale of a lot or unit. The sale of any lot or unit shall carry with it all the incidents of ownership of the common land although such is not expressly mentioned in the deed; provided, however, that no right or power conferred upon the trustees shall be abrogated.

L. Vacation of Subdivision.

The following procedure shall be followed for the vacation of subdivisions.

1. Petition. Whenever any person may desire to vacate any subdivision or part thereof in which he shall be the legal owner of all of the lots or may desire to vacate any lot, such person or corporation may petition the City Council giving a distinct description of the property to be vacated and the names of the persons to be affected thereby.

2. Filing Fee and Notice. The petition shall be filed together with a filing fee in the sum of $200.00 with the Department who shall review and provide comment for said request. Upon completion of review, the Department shall give notice of the pendency of the petition in a public newspaper in the same manner as set forth in Section 02-02 of this Article.

3. City Council Action. If no opposition be made to the petition, the City Council may vacate the same with such restrictions as they may deem for the public good. If opposition be made, the petition shall be set down for Public Hearing before the City Council.

4. Initiation of Vacation by Planning and Development Services Director. If the developer fails to cure all non-compliance with improvement requirements, the Planning and Development Services Director may initiate proceedings to vacate the undeveloped portion of the subdivision. For the purpose of this Section the undeveloped portion of the subdivision does not include lots which have been sold or are under bona fide contract for sale to any person for personal use or occupancy.

M. Violations and Penalties.

1. No property description of any subdivision within the jurisdiction of this UDC shall be entitled to be recorded in the St Louis County Office of the Recorder of Deeds or have any validity until it has been approved in a manner prescribed herein. In the event any such unapproved property description is recorded, it shall be considered invalid and the City Attorney may cause proceedings to be instituted to have such plat or deed declared invalid.

2. Any person, firm, association, or corporation violating any provisions of this Article, or any employee, assistant, agent, or any other person participating or taking any part in, joining, or aiding in, a violation of any provision of this Article will be subject to the fines and penalties of Article 08-05 of this UDC.

3. In addition to the penalties hereinabove authorized and established, the City Attorney may take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violation of this Article.

N. Improvement Plans.

After the preliminary plat is approved, improvement plans for the subdivision of all or any part of the tract shall be submitted for review to the Department.

1. Applicability. No improvement plans are required for large lot subdivisions, unless the streets therein are proposed by the developer for dedication to the City of Chesterfield. Any alterations of the common land or improvement within the common land will require the submission of detailed improvement plans and will be considered a required improvement.

2. Non-residential Subdivision. The non-residential developer may submit improvement plans after the preliminary plat is approved on part of the non-residential subdivision only, and the review of the partial improvement plans shall be as though they were being submitted in their entirety for the complete subdivision, so that the non-residential developer may proceed with the construction and installation of the necessary improvement to a specific industrial site. The land subdivision bond or escrow agreement guaranteeing the installation of the

improvements as set forth in Section 02-12 of this Article shall cover only that portion of the subdivision improvements required to serve the specific industrial site, and the record plat for such an industrial site shall be approved by the Department in accordance with the terms set forth in Section 02-12 of this Article as though improvement plans submitted covered the entire installation of the applicable improvements.

3. Improvement Plan Contents.

a.) The plans, which detail the construction and types of materials to be used in conjunction with the development of the subdivision, shall be prepared by a registered professional engineer.

b.) Improvement plans shall be prepared on an exhibit not to exceed 24 inches by 36 inches and shall contain the following information:

1. Title page, which shall include key map showing the relationship of the area to be subdivided to the tract and which shall reflect areas of the tract previously subdivided plus adjacent streets. In addition, the name, address, and telephone number of the developer and engineering firm, as well as a registered professional engineer's seal, should be indicated.

2. North arrow and graphic scale shall be indicated on each plan sheet.

3. One or more benchmarks, in or near the subdivision, to which the subdivision is referenced. The identity and elevation shall be based on U.S.G.S. datum.

4. List of the standards and specifications followed, citing volume, section, page, or other references.

5. Grading and paving details conforming to the City of Chesterfield standard specifications and requirements.

6. Details of streets including location and width of all proposed public or private rights-of-way and private roadway easements, existing and proposed sanitary sewers, drainage channels, swales, storm sewers, including adequate natural discharge points, detention facilities, and silt control measures.

7. Plans and profiles of streets and sewers, scale not less than one (1) inch equals 50 feet horizontal and one (1) inch equals 10 feet vertical.

4. Improvement Plan Procedures. The procedure for reviewing improvement plans shall be as follows:

   a.) Subdivisions within the operating limits of MSD: There shall be submitted copies of paving and street grade plans, together with drainage maps and run-off sheets for stormwater, and sanitary sewer plans. The plans may be reviewed concurrently by the Department (for review of sanitary laterals and private sanitary mains) and MSD. The Missouri Department of Natural Resources shall be included as one of the reviewing agencies when:

      1. The tract to be developed is located within the operating limits of a private sewer company, other than MSD or

      2. If the tract to be developed requires a sanitary treatment facility. Corrections or additions shall be made, if required. Complete approval of the plans by all reviewing agencies and payment of inspection fees constitute authority to proceed with construction of improvements necessary to serve the development.

   b.) Subdivisions not within the limits of MSD: There shall be submitted the required number of paving and street grade plans together with drainage maps and run-off sheets for stormwater. The plans may be reviewed concurrently by the Department and the Missouri Department of Natural Resources. Corrections or additions shall be made, if needed. When the plans are satisfactory to those agencies reviewing same, they shall then be submitted for review and verification by the Department. Complete approval of the plans by all reviewing agencies and payment of inspection fees constitute authority to proceed with construction of improvements necessary to serve the development.

5. Time Period for Approval Validity. Approval of the improvement plans by the respective agencies described above shall be valid for a period of two (2) years from the date of approval, or for such longer period as the Planning and Development Services Director may determine to be advisable if after review by the Department such longer period is necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds, or other public requirements. If the construction of the improvements shall not have been completed within the two (2) year period or such longer period as the Planning and Development Services Director may permit, a re-submission of the improvement plans to the appropriate agencies may be required by the Department.

6. As-Built Drawing of Subdivision Improvements. After the sanitary sewers, storm sewers, sidewalks, and pavement have been constructed and

installed, but before the inspecting agencies recommend final approval or acceptance, the developer shall submit the required number of as-built drawings of the above improvements.

Sec. 02-12. IMPROVEMENTS INSTALLED OR GUARANTEED.

A. Completion Guarantee by Developer.

After the improvement plans have been substantially complete and all inspection fees and review fees paid, but before approval of the record subdivision plat, the developer shall guarantee the completion of required improvements. The developer shall either:

1. Complete the improvements in accordance with the approved improvement plans under the observation and inspection of the appropriate inspection agency; or

2. Deposit cash under an escrow agreement or post a land subdivision bond or provide the appropriate surety as set forth in this UDC to guarantee the construction, completion, and installation of the improvements shown on the approved improvement plans within the improvement completion period approved by the Planning and Development Services Director, which shall not exceed two (2) years. The land subdivision bond or escrow agreement or other required surety shall be prepared and executed on forms furnished by the Department and shall be submitted to the City Council for approval or disapproval after review and approval by the Planning and Development Services Director and the City Attorney.

3. For plats approved after the effective date of this UDC, any guarantee or deposit required by the City for sanitary and storm sewers within the jurisdiction of MSD may be reduced proportionally, by the amount of any guarantee or escrow collected and held by MSD if MSD confirms that its requirement for assurance of completion is satisfied. This provision shall not affect the intent or enforcement of any existing guarantee, escrow, or renewal, extension or replacement thereof.

4. The Planning and Development Services Director may require any specific improvement to be installed prior to approval of the record plat where failure to install such improvement prior to further development could result in damage to the site or surrounding properties.

5. The City shall not permit or accept the posting of any bond issued or proposed to be issued by a surety or an affiliate of a surety which has, in the preceding ten (10) years, refused to pay upon formal demand all or part of a claim of the City on any other surety bond. Any individual, corporation or property owner aggrieved by this section may appeal to the City Council to request the City to accept the posting of such bond. The City Council may consider whether the refusal to pay resulted in litigation, mediation or arbitration of the claim, whether the claim was

wholly or partially determined in favor of the City, whether the prior refusal to pay was settled between the City and surety or any other hardship evidence presented by the individual, corporation or property owner. In no instance shall a bond be accepted from a surety while in litigation, mediation or arbitration with the City.

6. The City shall not accept the posting of any bond issued or proposed by any surety or an affiliate who has refused to pay upon formal demand of the City or been involved in any litigation pertaining to said failure to pay within the past ten (10) years as of the effective date of this section of the UDC.

B. Deposit Options.

Deposits required by this Article shall be in conjunction with a deposit agreement and may be in the form of cash or letter of credit as follows:

1. Deposit Agreements. Deposit agreements shall provide that there shall be deposited with the City of Chesterfield a cash amount by escrow or surety not less than the Department estimate of the cost of the construction, completion, certifications and installation of the required improvements indicated on approved improvement plans.

2. Cash deposited with the City Director of Finance to be held in an interest-bearing account dedicated for that purpose, with all interest accruing to the City to offset administrative and other costs of maintaining the cash deposits;

3. An irrevocable letter of credit drawn on a local financial institution acceptable to and in a form approved by the City Attorney and the Director of Planning and Development Services. The instrument may not be drawn on any financial institution with whom the developer or a related entity has any ownership interest or with whom there is any joint financial connection that creates any actual or potential lack of independence between the institution and the developer. The letter of credit shall be with a local banking institution in the Greater St. Louis Metropolitan Area of Missouri and not Illinois. The letter of credit shall provide that the issuing institution will pay on demand to the City such amounts as the City may require to fulfill the obligations herein and may be reduced from time to time by a writing of the Director of Public Services (the Director) or their designee. The letter of credit shall be irrevocable for at least two (2) years and shall state that any balance remaining at the expiration, if not renewed, shall automatically be deposited in cash with the Director of Finance, unless a new letter of credit is issued and agreed to by the City or the City issues to the institution a written release of the obligations for which the letter of credit was deposited. The developer shall pay a non-refundable fee of $200.00 to the City with submission of a letter of credit and $100.00 for any amendment or extension thereto, to partially reimburse the City's

administration and review costs in accepting and maintaining such letter of credit.

4. Certificates of deposit, treasury bill, or other readily negotiable instruments, the type of which has been approved by the Department, endorsed to the City and the cash value of which shall be in an amount not less than the amount specified by the Department in its estimate of the cost of the improvements and/or maintenance as reflected by the approved improvements plan.

C. Amount of Deposit.

The amount of the deposit required by this Article shall be calculated as follows:

1. Construction deposit. The deposit required of a developer establishing a deposit agreement pursuant to this Section shall be, in addition to the separate maintenance deposit sum, in the amount of 110% of the Department estimate of the cost of the construction, completion and installation of the required improvements. The Planning and Development Services Director shall adopt, to the extent practical, schedules reflecting current cost estimates of typically required improvements.

2. Maintenance deposit. The deposit required of a developer pursuant to this Section for maintenance obligations shall be in the amount of ten percent (10%) of the Department estimate of the cost of the construction, completion and installation of all required improvements. The maintenance deposit shall be established by cash sum or submission of a separate letter of credit.

3. Where certain improvements are installed and approved by the City prior to approval of the record plat pursuant to subsection A.1., the gross amount for the construction deposits shall be reduced by the estimated cost of such improvements.

4. Other sureties as established in this UDC. The deposit required of a developer for any and all other required sureties pursuant to this Section shall be as set forth in the applicable Section of this UDC.

D. Deposit Agreement – Releases.

The deposit agreement shall be entered into with the City of Chesterfield, and shall require the developer to agree to fulfill the obligations imposed by this Article, and shall have such other terms as the City Attorney may require consistent with this Article. The agreement shall authorize the Director (or designee) to release the cash or reduce the obligation secured under the letter of credit as permitted herein. Such releases or reductions may occur upon completion, inspection and approval by the Director of all required improvements within a category of improvements, or may occur from time to time, as work on

specific improvements is completed, inspected and approved, provided however, that:

1. Releases – General. The Director shall release the cash or release the letter of credit as to all or any part of its obligation only after construction, completion and installation of some phase of work on the improvements indicated on the approved improvement plans, receipt of requisite written notification from the appropriate inspecting public authority, and approval by the Department; and only in the amounts permitted herein.

2. Extension of completion period. If, at the end of the improvement completion period, all the improvements shown on the approved improvement plans have not been completed, the developer may request and the Director may grant an extension to the improvement completion period for a period of up to one (1) year if after review by the Department such longer period is deemed necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds, or other required improvements, facilities or requirements so long as all guarantees are extended and approved by the City Attorney; provided, that the Director may require as a condition of the extension completion of certain items, execution of a new agreement, recalculation of deposit amounts, satisfaction of new code requirements or other reasonable conditions as may be needed to ensure that the extended agreement fully complies with the terms of Section 02-12 of this Article.

3. Construction deposit releases. After an inspection of any specific improvements, the Director may at their discretion release no more than 95% of the original sum deposited for the construction of such specific required improvements. Irrespective of any discretionary prior releases that may be authorized by the Director after completion of any component of the guaranteed improvements (i.e. less than all of the improvements in a given category), the remaining amount held for any category of improvements for the entire subdivision shall be released within 30 days of completion of all of the improvements in such category of improvement, minus a retention of five percent (5%) which shall be released only upon completion of all improvements for the subdivision. The Director shall establish the improvement categories, which may consist of improvement components or line items, to be utilized for calculation of deposit amounts, but such categories, components, and line items shall in no way modify or reduce the developer's guarantee as to all required improvements, irrespective of any release or completion of any category, or underlying component or line item. All improvements in a category shall be deemed complete only when:

   a.) Each and every component and line item within a category for the entire subdivision has been constructed and completed as required,

b.) The developer has notified the Director in writing of the completion of all components of the category, provided all necessary or requested documentation, and requests an inspection,

c.) The developer is not in default or in breach of any obligation to the City under this Article including, but not limited to, the Director's demand for maintenance or for deposit of additional sums for the subdivision,

d.) The inspection has been completed and the results of the inspection have been approved in writing by the Director,

e.) The developer has paid any sums due related to the project. Releases of the maintenance deposit amounts shall be as provided elsewhere in this Article for maintenance deposits.

4. Releases of other sureties as established in this UDC. The release procedure for any and all other sureties required of a developer pursuant to this Section shall be as set forth in the applicable Section of this UDC.

5. Effect of release – Continuing obligations. The developer shall continue to be responsible for defects, deficiencies and damage to streets and other required improvements during development of the subdivision. No inspection approval or release of funds from the construction deposit as to any component or category shall be deemed to be City approval of improvement or otherwise release the developer of its obligation relating to the completion of the improvements until the final subdivision release on all improvements and maintenance is issued declaring that all improvements have in fact been constructed as required. Inspection and approval of any or all required improvements shall not constitute acceptance of the improvement by the City as a public improvement for which the City shall bear any responsibility.

6. Deficient improvements. No approval of required improvements shall be granted for improvements that fail to meet the specifications established herein or otherwise adopted by the Department or City Council.

7. Final construction deposit release. Upon final inspection and approval of all required improvements, the remaining amount of the construction deposit shall be released; provided, that no such funds shall be released on a final inspection until the development of the subdivision is complete, as determined by the Director. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form, the specific items have been inspected, all identified deficiencies have been corrected and the work has been approved by the City.

8. Appeals. If the developer believes that a release or certificate of completion has been improperly denied, including, but not limited to,

under this Section, an appeal shall be filed pursuant to the City's Public Works Board of Variance, and no such denial shall be deemed final until such appeal procedure has been exhausted.

E. Maintenance Guarantee.

1. Scope and duration. Upon commencement of installation of the required improvements within the subject subdivision, the developer shall be responsible for the maintenance of the improvements, including, but not limited to: undeveloped lots, streets, sidewalks, trees, common areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of 12 months after occupancy permits have been issued on 80% of all of the lots in the subdivision plat(s), or (2) 12 months after completion of the subdivision and acceptance/approval of all required improvements by the City, whichever is longer, subject to the deposit agreement. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with City specifications and standards. Any maintenance on improvements accepted by the City for public dedication shall be completed under the supervision of and with the prior written approval of the Director. The maintenance obligation for required improvements to existing public roads or other existing public infra-structure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected, deposit released, and accepted by the City or appropriate agency for dedication. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the City for public maintenance. The maintenance requirements and procedures for improvements guaranteed by any and all other sureties required of a developer pursuant to this Section shall be as set forth in this UDC.

2. Maintenance deposit – Amount – Use.

a.) The maintenance deposit shall be retained by the City to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of subsection G. and other remedies of this UDC, shall be subject to the immediate order of the Director to defray or reimburse any cost to the City of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by

the City, or its agents. Where the amount of maintenance deposit remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the City for maintenance, the Director shall have the authority to require the maintenance deposit to be replaced or replenished by the developer in any form permitted for an original deposit.

b.) In determining the amount of maintenance deposit that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

3. Final maintenance deposit release. Upon expiration of the maintenance obligations established herein, the Director shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations, including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages caused by any construction, improvement or development for which any deposit has been released.

F. Acceptance and Final Approval.

Before the developer's obligation to the City of Chesterfield is terminated, all required improvements shall be constructed under the observation and inspection of the inspecting agency and accepted for maintenance or given final approval by the City of Chesterfield.

G. Failure to Complete Improvements.

The obligation of the developer to construct, complete, install and maintain the improvements indicated on the approved improvement plans and provide for street maintenance shall not cease until the developer shall be finally released by the Director, nor shall any deposit agreements or obligations hereunder be assignable by developer. If, after the initial improvement completion period, or after a later period as extended pursuant to this Section, the improvements indicated on the approved improvement plans are not constructed, completed, installed, accepted and maintained as required, or if the developer shall violate any provision of the deposit agreement, the Director may notify the developer to

show cause within not less than ten (10) days why the developer should not be declared in default. Unless good cause is shown, no building or other permit shall be issued to the developer in the subdivision during any period in which the developer is in violation of the deposit agreement or Subdivision Code relating to the subdivision. If the developer fails to cure any default or present compelling reason why no default should be declared, the Director shall declare the developer in default and may take any one (1) or more of the following acts:

1. Require the developer to submit an additional cash sum sufficient to guarantee the completion or maintenance of the improvements indicated on the approved improvement plans after recalculation in order to allow for any inflated or increased costs of constructing, maintaining, or redesign of the improvements.

2. Deem the balance under the deposit agreement not theretofore released as forfeited to the City to be then placed in an appropriate trust and agency account subject to the order of the Director for such purposes as letting contracts to bring about the completion or maintenance of the improvements indicated on the approved improvement plans or other appropriate purposes in the interest of the public safety, health and welfare; or

3. Require the developer or surety to pay to the City the balance of the deposit not therefore released.

The failure of a developer to complete the improvement obligations within the time provided by the agreement (or any extension granted by the City), including the payment of funds to the City due to such failure, or an expiration of a letter of credit, shall be deemed an automatic act of default entitling the City to all remedies provided in this Section without further or prior notice. It shall be the sole responsibility of the developer to timely request an extension of any deposit agreement if the improvements are not completed in the original time period provided by the deposit agreement, or extension granted by the City. No right to any extension shall exist or be assumed.

H. Other Remedies for Default.

If the developer or surety fails to comply with the Director's requirements for payment as described above, fails to complete the improvements as required or otherwise violates the deposit agreement provisions, the Director may in addition or alternatively to other remedies:

1. Suspend the right of anyone to build or construct in the subdivision by issuance of a stop work order (SWO). Issuance of a SWO shall result in a suspension of all construction activity on the site, until the cause is resolved to the City's satisfaction. The SWO shall also suspend the right of the permittee, applicant, owner, contractor, developer or any related entity to build or construct any structure or public improvement on any portion of the site. The Director of Public Services and the Planning and

Development Services Director, upon the issuance of a SWO, are authorized to suspend the issuance of building permits and occupancy permits for structures on any portion of the site, and to suspend all inspections and plan review related to any work on the site, until such time as the cause is resolved to the City's satisfaction. SWO's shall specifically state the provisions of this Article being violated. Any person, who shall continue any work in or about the site after a SWO has been posted, except such work related to remediation of the violation, shall be subject to penalties specified in this UDC. The Director shall give the developer ten (10) days' written notice of an order under this subsection, with copies to all known sureties, as appropriate, who have outstanding obligations for any undeveloped portion of the subdivision, and shall record an affidavit of such notice with the Recorder of Deeds. If, within the ten (10) day period after notice is given, the Director is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Director shall order construction suspended on the undeveloped portion of the subdivision. The order shall be served upon the developer, with a copy to the issuer/holder of the surety as appropriate, and a copy recorded with the Recorder of Deeds. Public notice of said order shall be conspicuously and prominently posted by the Director at the subdivision. The notice shall contain the following minimum language, which may be supplemented at the discretion of the Director:

> THIS SUBDIVISION, (name of subdivision), HAS BEEN DECLARED IN DEFAULT BY THE CITY OF CHESTERFIELD DIRECTOR OF PUBLIC SERVICES. NO DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER SHALL TAKE PLACE WITHIN THE LIMITS OF THIS SUBDIVISION UNTIL SUCH TIME AS THE CITY OF CHESTERFIELD DIRECTOR OF PUBLIC SERVICES REMOVES THIS PROHIBITION. ANY DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER WHILE THIS PROHIBITION IS IN EFFECT IS ILLEGAL AND SHALL BE ENFORCED PURSUANT TO ARTICLE 02 OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF CHESTERFIELD.

The Director of Public Services (the Director) and the Planning and Development Services Director shall not thereafter authorize construction to take place contrary to the Director's order. The suspension shall be rescinded in whole or in part only when the Director is convinced that completion of the improvements is adequately assured in all or an appropriate part of the subdivision and a guarantee of public street maintenance provided; or

2. Suspend the rights of the developer, or any related entity, to construct structures in any development platted after the effective date of such suspension throughout the City of Chesterfield. The Director shall give the

developer ten (10) days' written notice of an order under this clause, with a copy to sureties known to the Director to have obligations outstanding on behalf of the developer or related entities and shall record an affidavit of such notice with the Recorder of Deeds. If, within the ten (10) day period after notice is given, the Director is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Director shall order construction suspended. The order shall be served upon the developer, with a copy to the surety as appropriate, and a copy recorded with the Recorder of Deeds. The Director of Public Services (the Director) and the Planning and Development Services Director shall not thereafter authorize construction to take place contrary to the Director's order. The suspension shall be rescinded only when the Director is convinced that completion of the improvements is adequately assured and public street maintenance is assured.

I. Suspension of Development Rights.

From and after the effective date of this Section if a developer, or any related entity, has a subdivision development improvement guarantee that is in default, as determined by the Director, including any escrow, fees, or bond under any prior version of this Section:

1. The Director shall be authorized, but not be limited, to thereafter pursue the remedies of subsection H. of this Section; and

2. The rights of the developer, or any related entity, to receive development approval, which approval shall include, but not be limited to, approval of any plat or deposit agreement for new or further development in the City, shall be suspended. The suspension shall be rescinded only when the Director is convinced that completion and maintenance of the improvements is adequately assured.

J. Additional Remedies.

If any party or related entity fails to comply with any obligation of this Section, the Director may recommend that the City Attorney take appropriate legal action and may also withhold any building or occupancy permits to this developer or related entities until such compliance is cured. The City shall also have the right to partially or wholly remedy a developer's deficiencies or breached obligations under this UDC by set-off of any funds or assets otherwise held by the City of the developer to the maximum extent permitted by law. Such set-off shall occur upon written notice of such event by the Director of Public Services or the Planning and Development Services Director to the developer after the developer has failed to timely cure the deficiencies. It shall be deemed a provision of every deposit agreement authorized under this Article that the developer shall pay the City's costs, including reasonable attorney's fees, of enforcing such agreement in the event that the developer is judicially determined to have violated any provision herein or in such agreement. The developer may appeal any decision

taken pursuant to this Section by filing an appeal under the City's administrative review procedure.

K. Related Entities.

For purposes of this Section, "*related entity*" has the following meaning: a developer is a "related entity" of another person:

1. If either has a principal or controlling interest in the other, or

2. If any person, firm, corporation, association, partnership, or other entity with a controlling interest in one has a principal or controlling interest in the other. The identification of related entities shall be supported by documentation from the Secretary of State's Office, Jefferson City, Missouri.

Sec. 02-13. BUILDING PERMITS

Building permits shall be granted as provided for in Article 02 of this UDC. Further, no building permit or municipal zoning approval (MZA) shall be issued for the erection, reconstruction or alteration of any structure, or part thereof, nor shall any such work be started until approved by the Planning and Development Services Director or their authorized representative. No building permit shall be issued for any building unless such building is in conformity with the provisions of this UDC. An MZA shall be required prior to issuance of any building permit.

Sec. 02-14. CERTIFICATES OF OCCUPANCY

No building or structure or part thereof shall hereafter be constructed or altered until issuance of a proper permit. No new use, extension or alteration of an existing use, or conversion from one use to another, shall be allowed in any building, structure or land or part thereof until issuance of a proper permit; except that no permit shall be required for the raising of agricultural crops, orchards or forestry. No occupancy permit shall be issued for any use or change in use unless such use or change in use is in conformity with the provisions of this UDC.

Sec. 02-15. FUTURE LAND USE AND LOCAL NOISE IMPACT

A. General.

1. It shall be unlawful for any seller or landlord to contract for the sale, lease or rental of any residential property and it shall be unlawful for any real estate broker, to procure a contract for the sale, lease, or rental of any residential real property without first having disclosed to the prospective buyer or tenant the availability of an information resource with respect to the future land use of a nearby real estate as contemplated by the Comprehensive Plan of the City of Chesterfield and

with respect to the Spirit of St. Louis noise impact zone. The disclosure shall be in substantially the same format as is incorporated herein.

2. A generic version of this disclosure, one pertaining to all municipalities and/or unincorporated areas, will suffice in lieu of this disclosure so long as it contains the essential elements regarding future land use of nearby real property and noise impact zone(s).

3. Disclosure language as set out in Section 02-15.A.5. of this Article shall be required for every contract for sale, lease or rental of any residential dwelling unit within the City of Chesterfield. Said disclosure shall be contained on a separate sheet of paper at least 8 ½" by 11" in size and shall require signature acknowledgement by the prospective purchaser(s) or renter(s) which shall be kept on file by the seller or lessor for five (5) years. If a real estate broker is involved in the transaction, then the real estate broker shall maintain said disclosure in their files for a period of not less than five (5) years.

4. In new subdivisions where the developer(s) maintain an active sales office, or in developments where there is an active sales office for sales in that development of any kind, there shall be a sign of at least 18" by 24" prominently displayed inside the sales office. The sign shall use readily legible type and be located adjacent to or attached to any map or plat used for marketing purposes in said subdivision.

5. The Disclosure statements required by this Section of the UDC shall, at a minimum contain the language set out in this Section. The use of language, which is contained herein, shall satisfy the requirements of this Section of this UDC. The Disclosure shall read as follows:

   "This disclosure, as required by the City of Chesterfield, is for the purpose of informing prospective buyers and tenants of any residential property in Chesterfield that there may be a potential for development of nearby real estate and there is a possibility of noise from the Spirit of St. Louis Airport.

   Prospective buyers and tenants who may have concerns about future land use of nearby properties should refer to the current Comprehensive Plan of the City of Chesterfield, located and available at the Chesterfield City Hall.

   Prospective buyers and tenants who may have concerns about the Spirit of St. Louis Airport noise impact zone should refer to the current impact zone map(s) located and available at the Spirit of St. Louis Airport.

   Buyers' and tenants' independent investigation of their concerns, if any, should occur before executing a purchase, lease or rental agreement."

6. In addition to the disclosure statement prospective buyers or renters shall be furnished a copy of the Chesterfield Conceptual Land Use Map showing the area within one (1) mile of the property for sale or rent and a copy of the Spirit of St. Louis Airport noise impact maps to satisfy the requirements of this Section.

7. The violation of this Section of the UDC shall be punishable as provided for in Article 08 of this UDC.

Sec. 02-16. REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL TEAR DOWNS AND ADDITIONS

The following requirements shall apply for single-family residential tear downs and additions in established districts:

A. General.

1. Tear downs and additions shall adhere to the development standards of the City of Chesterfield UDC as well as any other element of the UDC that shall be deemed applicable.

2. The following items are required with the submittal for all tear downs and new construction and/or additions:

a.) A Municipal Zoning Approval Application.

b.) Photos of the adjacent residential properties when Planning Commission review is required.

c.) Architectural elevations and building materials addressing City of Chesterfield Architectural Review Board Design Standards when Planning Commission review is required.

d.) Documentation that all adjacent property owners and subdivision trustees were notified of the proposed new construction.

e.) Five (5) copies of a Plot Plan/Site Plan, drawn to scale and including the following information:

1. All specific information required by the ordinance authorizing the development;

2. Location and size, including height of the residential dwelling and all other structures located on the property;

3. Proposed driveway;

4. All existing and proposed easements/rights-of-way on the site;

5. Specific structure setbacks in accordance with the structure; and

6. Setbacks established in the governing zoning district.

B. Review.

Applications for residential additions are reviewed by the Department except as follows:

1. Any addition larger than 1,000 square feet and where the proposed addition increases the gross livable floor space by more than 30% shall be reviewed for approval by the City of Chesterfield Planning Commission.

C. Exceptions.

Where a developed property in a residential zoning district is found to be non-conforming with regards to the dimensional requirements of the particular zoning district in which it resides and said property submits an application for tear down and construction or addition, the Planning Commission shall make a determination of approval or denial based on the intent of this UDC.

D. Appeal.

Decisions of the Planning and Development Services Director regarding the application of this UDC may be appealed to the Board of Adjustment in accordance with applicable procedures as established by the Board of Adjustment.

Sec. 02-17. SIGN PERMITS

A. General.

1. Unless excepted by these regulations or the City of Chesterfield Building Code, no sign shall be erected, constructed, posted, altered, enlarged, maintained, or relocated, until a zoning authorization has been issued by the Department and a sign permit issued by St. Louis County Department of Public Works. Before any zoning authorization is issued, an application, provided by the Department, shall be filed, together with drawings and specifications as may be necessary to fully advise and acquaint the Department and St. Louis County Department of Public Works with the location, construction, materials, manner of illuminating, and securing or fastening, and the wording or delineation to be carried on the sign. All signs that are to be illuminated by one (1) or more sources of artificial light shall require a separate electrical permit and inspection conducted by St. Louis County Department of Public Works.

2. Structural and safety features and electrical systems shall be in accordance with the requirements of the City of Chesterfield Building

Code or any applicable building codes being enforced by the City of Chesterfield. No sign shall be approved for use unless it has been inspected by the Department issuing the permit and is found to be in compliance with all the requirements of this UDC and applicable technical codes. Signs found to be in violation of the requirements of this UDC and/or applicable technical codes and which are determined to be a danger to public health, and safety may, after 15 days of an inspection determining said violation and after notification to the property owner, be dismantled and removed by the City of Chesterfield. The expense for such action shall be charged to the owner of the property on which the sign is erected and shall be filed as a special lien thereon.

B. Planning Commission Approval.

The proponent of a sign subject to Planning Commission Approval as set out in subsequent Sections of this UDC shall file with the Department, in addition to those document requirements specified in Section 02-17.A. of this Article, a written statement addressing the following information:

1. The underlying business, directional, or informational purpose of such a sign.

2. Why such a sign should exceed the maximum height and/or outline area specification for a particular sign in order to accomplish the underlying purpose as stated in item 1. above.

3. What the proponent of such a sign believes the adverse impact may be upon the underlying business, directional, or informational purpose of such a sign if the proponent is compelled to reduce the height and/or outline area of such a sign to within the maximum height and/or outline area specification for any one (1) sign and the factual basis supporting such belief.

4. The approximate distance the proposed sign will be from other existing or planned structures visible or planned to be visible within a radius of 1,000 feet from said sign, identifying such structures with sufficient particularity to enable the Planning Commission to determine whether there is a reasonable likelihood of an adverse public health, convenience, welfare and/or safety impact within the 1,000-foot radius area while maintaining the high aesthetic quality of said area.

5. What steps, if any, the proponent has taken to integrate the design with the surrounding environment including, but not limited to, use of colors and materials, size and character of typeface(s), regularity of overall shape, type of illumination, orientation and situation of such a sign in order to minimize the amount of visual clutter, and to avoid the distraction to pedestrians and motorists beyond that necessary to convey the underlying business, information, or directional purpose of said sign.

6. If no steps (referred in item 5. above) have been taken, why such steps should not be required of the proponent.

7. Any other information, such as length of frontage, special speed limit or topographic considerations, that the proponent deems pertinent to the approval of such a sign request.

Sec. 02-18. VARIANCES

A. Zoning.

1. General Provisions. The Board of Adjustment shall have the following powers:

a.) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, the Board of Adjustment shall have authority to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done;

b.) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these sections or any ordinance adopted pursuant therefore;

c.) Permit reconstruction of a non-conforming building, which has been damaged by explosion, fire, act of God, or public enemy, to the extent of more than 60% of its reasonable value, where the Board finds some compelling public necessity requiring a continuance of a non-conforming use, and the primary purpose of continuing the non-conformity use is not to continue a monopoly;

d.) Yard variance. To permit a variation in the yard requirements of any zoning district or the building or setback lines from major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare of the public;

e.) Sign variance. To permit a variation in the sign requirements of any zoning district of up to 50% increase in sign area and up to 50% increase in height and width where petitioner files a plot plan and scale layout design in duplicate and demonstrates that otherwise there would be a hardship to the public seeing its particular commodity or service and where petitioner

demonstrates that the increased sign area, height and width would not be injurious to the neighborhood or otherwise detrimental to the public welfare. When a petition for a variance to sign regulations has been filed with the Board of Adjustment, the Department shall review said petition and file a report thereon containing conditions which the Department recommends that the Board of Adjustment consider placing upon the sign variance if granted. In making its decision, the Board of Adjustment must be satisfied that the granting of such variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty which is unique to the petitioner in his use, so great as to warrant a variation from the sign regulations as established by the City of Chesterfield UDC or any Zoning Ordinance enacted by the City of Chesterfield and at the same time place conditions upon said variance, if necessary, so that the surrounding property will be properly protected.

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of Sections 89.010 to 89.140 Revised Statutes of Missouri reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made to that end and shall have all the powers of the officer from whom the appeal is taken.

2. Duration of Variance. A decision of the Board granting a variance that permits the erection or alteration of a building shall be valid for a period of six (6) months, unless a building permit for such erection or alteration is obtained within this period and the erection or alteration is started and proceeds to completion in accordance with the terms of the decision.

B. Subdivision.

1. Variances.

a.) Grounds. The Planning and Development Services Director may modify or authorize a variance to all provisions of this Article of the UDC, when the following circumstances apply:

1. The tract to be subdivided is of such unusual size or shape, or is surrounded by such development, or contains such topographic conditions or characteristics, or is intended for the construction of improvements of such unusual design or arrangement, that the strict application of requirements in this Article would impose practical difficulties or particular hardship.

2. Criteria for variances established elsewhere in this Article for a specific requirement have been met.

3. The granting of a variance will not be detrimental to the public interest.

4. In granting variances, the Planning and Development Services Director may require such conditions which in his judgment secure the objectives of this Article.

b.) Application for variance. Shall be made in writing and state fully and clearly all facts necessary to support the request. All requests shall be accompanied by the processing fee established in Article 09 of this UDC. The application shall be accompanied by maps, plans, or additional data which may aid in the complete analysis of the request.

c.) Decision time frame. The Planning and Development Services Director shall make a decision regarding the variance request or request additional information within 20 working days of receipt of the request. The petitioner shall be notified in writing of the decision of the Planning and Development Services Director.

d.) Low cost housing variances. It is the intent of this Article to permit and facilitate housing for low and moderate income families and individuals of the City of Chesterfield. It is also the intent of this Article to facilitate such housing without lowering the requirements contained in this Article. However, the use of varied designs, new design techniques, and other similar alternatives are encouraged as an alternate to reducing the minimum requirements listed herein. Therefore, there is hereby established provision for variances in lot size requirements, flexibility in building types, varied relationships between buildings, alternate

improvement standards, and other alternate approaches when such accompany or are a part of a planned unit development under the UDC. Such a development must have adequate provisions for supporting recreational facilities and provide for the development of a diverse and interesting urban environment. Nothing in this Article shall prohibit the sale of an apartment, townhouse, duplex, or other type of dwelling unit as individual units or on individual lots under the Condominium Law of the State of Missouri. Utilization of this law in order to attain a high degree of private ownership in such housing developments for low and moderate income families and individuals is encouraged.

e.) Under the provisions of this Section, variances may be received, considered and acted upon by the Commission as a part of and under the planned unit development, subject to payment, if approved, of one-half (1/2) the appropriate fee for such variances. Under this procedure, such special variances will be considered only when there is adequate assurance that the development actually will be utilized for low and moderate income families.

2. Appeal Procedures.

a.) Upon the denial of an application for a variance by the Planning and Development Services Director, petitioner may file a formal appeal upon payment of an additional variance fee to the Commission, requesting a formal determination from the Commission. The Commission may affirm, reverse, or modify, in whole or in part, any determination by the Department.

b.) Right-of-way requirements:

1. The developer may appeal to the City Council the right-of-way required by the Department on request by the Department under Article 04-09 of this UDC when the requirement for right-of-way is in excess of 20 feet on either side of a street.

2. The Department may appeal to the City Council when the preliminary plat has been approved which does not reflect a request by the Department for dedication under Article 04-09 of this UDC along an existing street for right-of-way in excess of 20 feet on either side of a street.

3. Appeals filed under this provision shall be filed with the City Council within 15 days after date of action on the determination of right-of-way requirements by the Department.

C. Flood Damage Prevention.

1. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Public Works Director in the enforcement or administration of this Article.

2. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of St. Louis County as provided in RSMo ch. 89.

3. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Article, and:

a.) The danger that materials may be swept onto other lands to the injury of others;

b.) The danger to life and property due to flooding or erosion damage;

c.) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d.) The importance of the services provided by the proposed facility to the community;

e.) The necessity to the facility to a waterfront location, where applicable;

f.) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g.) The compatibility of the proposed use with existing and anticipated development;

h.) The relationship of the proposed use with existing and anticipated development;

i.) The safety of access to the property in times of flood for ordinary and emergency vehicles;

j.) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k.) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Additional Information.

For additional information on the Board of Adjustment or Public Works Board of Variance, see Chapters 2 and 23 of the Chesterfield City Code.

Sec. 02-19. APPEALS AND PROTEST

A. Appeal and Protest Procedure for Change of Zoning and Special Procedures.

1. Scope of Provisions. This Section contains the regulations governing the filing and review of an appeal or protest from a Planning Commission decision or recommendation regarding a change of zoning or special procedure authorized under Section 02-04 of this Article.

2. Statement of Intent. The purpose of this Section is to provide a formal method by which a petitioner may request further consideration by the City Council of a Planning Commission denial or recommendation of denial of a change of zoning or certain special procedures as specified herein; and to provide a formal method by which the owners of property located within a specified proximity to a petitioned tract of land may present to the City Council a petition and statement of their opposition to a Planning Commission decision or recommendation of approval of a change of zoning or certain special procedures as specified herein.

3. Filing of Appeal or Protest. The following regulations shall govern the filing of an appeal or protest;

a.) Appeal by petitioner to decision or recommendation of denial. Upon the denial or recommendation of denial by the Planning Commission of an application for a change of zoning or certain special procedure as specified herein, the applicant may file an appeal with the City Council requesting a determination from that body. The appeal shall be filed within 18 days after the Planning Commission decision (or if the filing date falls on a weekend or holiday, the next regular business day). The appeal shall be submitted in writing to the City Council, and shall be filed in duplicate with the City Clerk, accompanied by a fee of $200.00. In the case of a special procedure, the applicant shall state in the appeal how the application, as initially filed or subsequently modified, meets the criteria set forth in the regulations of the special procedure in question.

b.) Protest by nearby property owners to recommendation of approval. Owners of 30% (by area exclusive of streets and alleys) of the property within 185 feet of the property in question may file a protest with the City Council against the Planning Commission's decision or recommendation of approval of a change of zoning or special procedure as specified herein. The protest shall be filed within 18 days after the Planning Commission

decision (or if the filing date falls on a weekend or holiday, the next regular business day). The protest shall be in writing and shall be filed in duplicate with the City Clerk, accompanied by the signatures of property owners in opposition, each signature being individually acknowledged. In the case of a special procedure, the protest shall include notarized verification from the person(s) collecting protestants' signatures that all signatures are correct and real. The protest shall specifically state how the application, as initially filed or subsequently modified, fails to meet the criteria set forth in the regulations of the special procedure in question.

4. Review of Appeal or Protest. The following regulations shall govern the review of an appeal or protest:

a.) Referral of appeal or protest to Planning and Public Works Committee. Upon receipt of an appeal or a protest, the City Council shall refer it to the Planning and Public Works Committee.

b.) Public Hearing by the City Council. Before acting on any appeal or protest the City Council, or its Committee on Planning and Public Works, shall set the matter for hearing. The City Council shall give written notice of such hearing to the applicant and all other persons who appeared and spoke in opposition to the application at the Public Hearing before the Planning Commission or to the protestants in the case of a protest. The applicant and the protestants in the case of a protest shall be heard at the hearing. In addition, any other person or persons who, in the discretion of the City Council, will be aggrieved by any decision or action with respect to an appeal or protest may also be heard at the hearing.

c.) City Council decision. Following the hearing by the City Council or its Committee on Planning and Public Works on an appealed or protested application, the City Council may affirm, reverse or modify, in whole or in part, any determination of the Planning Commission. An affirmative vote of two-thirds (2/3) of the members of the whole City Council shall be required to approve a protested change of zoning or special procedure, or to overrule the disapproval of the Planning Commission. In all other instances, a majority vote of the whole City Council shall be required to approve, deny or modify any recommendation of the Planning Commission with respect to a change of zoning or special procedure. A valid protest petition shall have the effect of extending the time for introduction of a bill beyond the 90 day period established in Section 02-03.B. of this Article.

Sec. 02-20. CITY COUNCIL POWER OF REVIEW

A. City Council Review of Planning Commission Decisions. (Power of Review)

1. Either Councilmember of the Ward where a development is proposed or the Mayor may request that the conditional use permit or plan for a development be reviewed and approved by the entire City Council.

2. This request must be made no later than 24 hours after decision of the Planning Commission. The project will then be placed on Planning and Public Works Committee for review with a final recommendation then forwarded to the City Council. The City Council will then take appropriate action relative to the proposal.

3. The plan for a development, for purposes of this Section, may include the site development plan, site development section plan, site development concept plan, landscape plan, lighting plans, architectural elevations, sign package or any amendment thereto or any other plan reviewed by the Planning Commission.

4. Written notice of Power of Review shall be provided to the applicant and all other persons who appeared and spoke in opposition to the application at the Public Hearing before the Planning Commission or to the protestants in the case of a protest. The applicant and any other person or persons who, in the discretion of the City Council, will be aggrieved by any decision or action may be heard at the hearing before the Planning and Public Works Committee.

5. The City Council may affirm, reverse or modify, in whole or in part, any determination of the Planning Commission. An affirmative vote of two-thirds (2/3) of the members of the whole City Council shall be required to approve a protested conditional use permit or to overrule the disapproval of the Planning Commission. In all other instances, a majority vote of the whole City Council shall be required to approve, deny or modify the determination of the Planning Commission.