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**SECTION 12  
REGULATORY PROCEDURES**

**12.1 GENERAL PROVISIONS**

**12.1.1 REGULATORY PROCEDURES**

The Regulatory Procedures set forth in this Section 12 define review standards, submittal requirements and review processes for each Development Project within the PUD, including but not limited to, processes for review of every Development Project, Variations, Appeals and amendments. In accordance with the provisions of the Development Agreement, subject to approval by City Council, the Regulatory Procedures shall govern all development within the PUD and shall expressly supersede and modify any provisions of Title 14, 16 and 17 of the BMC which are set forth in the variance list set forth as Appendix B in Section 15 of the PUD or are otherwise approved by the City and County Manager in accordance with Section 12.2.4.A hereof (the variance list and any variances added thereto are collectively referred to herein as the "Variance List").

**12.1.2 NORTH PARK DESIGN REVIEW COMMITTEE**

The Regulatory Procedures incorporate a review process by the North Park DRC, a private committee created for the purpose, among others, of evaluating every Development Project within the PUD, for compliance with the PUD and the Private Design Guidelines adopted by the North Park DRC.

Copies of the organizational documents of the North Park DRC which evidence its authority to review every Development Project within the PUD, together with copies of the Private Design Guidelines adopted by the North Park DRC for application to Development Projects within the PUD, shall be filed with the Planning Division. The North Park DRC shall at all times be comprised of a minimum of three (3) voting

members and one non-voting member. Voting members shall include one (1) individual representing the Developer, and two (2) or more additional individuals, as deemed appropriate by the Developer, which may include any combination of the following: a registered architect, a certified planner, a licensed landscape architect, a registered professional civil engineer, a sustainability consultant, or any other professional/technical person with expertise in a relevant development field. All voting members of the North Park DRC shall be appointed by the Developer. The non-voting member shall be an individual representing Broomfield who shall be appointed by the City and County Manager. The City and County Manager may also designate an individual as an alternate for Broomfield’s non-voting member who may attend the meetings in the absence of its regular non-voting member. The role of the North Park DRC in the evaluation of development within the PUD is described in detail in Section 12.3.1.

**12.2 REVIEW STANDARDS**

**12.2.1 CONTROLLING DOCUMENTS**

- A. The primary review standards for each Development Project within the PUD are: the Special Conditions which are applicable to every Development Project within a designated PUD Parcel or Subparcel and are attached as appendices to Sections 2 through 5 of this PUD; the General Conditions which are applicable to every Development Project within the PUD and are attached as an appendix to Section 1 of this PUD; and the Design Standards for architecture, site planning, landscaping, streetscape and signage which are applicable to each PUD Development Project and are contained in Sections 6 through 10 of this PUD. In connection with the Design Standards, the City Council has approved certain variances from the provisions of Titles 14, 16 and 17 of the BMC which are set forth in the Variance



List. Finally, the provisions of the Development Agreement and the Vesting Agreement, subject to approval by City Council, govern every Development Project within the PUD. The Special Conditions, General Conditions, Design Standards, Variance List and the Development Agreement are referred to herein as the “Controlling Documents”.

- B. In the event of a conflict or inconsistency between provisions of the Controlling Documents applicable to a Development Project, the following hierarchy shall prevail: (1) the Vesting Agreement; (2) the Development Agreement; (3) the Special Conditions; (4) the General Conditions; and (5) any other provision of the PUD.

#### 12.2.2 APPLICABILITY OF BMC

In accordance with the Development Agreement and Vesting Agreement, if such agreements are approved by City Council, the provisions of the BMC shall also apply to all projects within this PUD except to the extent that any such provision is inconsistent with or in conflict with the terms and conditions of the Controlling Documents.

#### 12.2.3 BROOMFIELD REVIEW/APPROVAL AUTHORITY

- A. Broomfield shall have the right and responsibility to interpret and enforce the Controlling Documents and any applicable provisions of the BMC and the right to refuse to approve any Development Project within the PUD if such Development Project fails to comply with the applicable requirements of the Controlling Documents or the BMC, as applicable.
- B. Section 12.2.3.A shall not be construed as a waiver by the Developer of any right to challenge a Broomfield interpretation or Broomfield’s denial of a Development Project. If appli-

able, any such challenge shall first be processed as an appeal in accordance with BMC.

#### 12.2.4 BMC VARIANCES/VARIATION OF THE DESIGN STANDARDS

- A. The Variance List in Section 15 and approved by the City Council concurrently with its approval of this PUD is intended to be a comprehensive list of all variations from BMC Titles 14, 16 and 17 for the PUD, however in recognition of the possibility that minor variances were inadvertently not included in the Variance List, such variances may be approved in accordance with this Section 12.2.4. All other variances from provisions of BMC Titles 14, 16 and 17 must be approved by the City Council consistent with Section 12.2.2.

The City and County Manager, in his sole discretion, has the authority to approve additions to the Variance List if such variances meet all of the following criteria: are minor in nature, clearly shown or described in the PUD documents, and are consistent with the intent and purpose of the PUD.

If an Applicant desires an addition to the Variance List, a written request therefor shall be submitted to Broomfield with a letter from the North Park DRC stating its approval of such additional variance.

In the event that a requested addition to the Variance List is denied by the City and County Manager, the Applicant may propose such addition to the Variance List in conjunction with a Subdivision Plat or Site Development Plan application. .

- B. If an Applicant desires a Variation from the requirements of the Design Standards (other than the Variance List), the Variation shall be noted on the Site Development Plan and a written request therefor shall be submitted to Broomfield



concurrent with the submittal of the Site Development Plan which incorporates the requested Variation. A letter from the North Park DRC stating its approval of such Variation shall accompany the written request.

In the granting of a request for a Variation of the Design Standards, the LURC and City Council shall find that the implementation of the requested Variation would not pose a health, safety or welfare risk to the general public and that: (i) the proposed Variation is equal to or better than the provision of the Design Standards sought to be varied; (ii) the application of the provision sought to be varied would create a site specific hardship (other than a financial hardship) on the Applicant; or (iii) the proposed Variation reflects a design solution or a distinct recognized architectural style that is appropriate for the project and results in the quality of the project being equal to or better than the result of complying with the Design Standards sought to be varied.

A decision on a request for a Variation of Design Standards shall be issued as part of the Site Development Plan approval process.

### 12.3 REVIEW PROCESS

#### 12.3.1 NORTH PARK DRC REVIEW

A. An application for a Development Project within the PUD (including applications for a Site Development Plan with Permitted Uses, a Site Development Plan with Uses by Special Review, a building permit, a sign permit, a Minor Subdivision plat, Major Subdivision plat, building permit and planned sign program), a third party owner Minor PUD amendment, a third party owner Major PUD amendment, any SDP amendment, and any subdivision amendment shall be accompanied by a letter from the North Park DRC stating its recommendation for final approval of the

proposed Development Project, with or without conditions, based upon its compliance with the PUD and a copy of the documents reviewed by the North Park DRC and upon which its recommendation was made.

- B. A Development Project which incorporates a Variation from the applicable Design Standards shall also be accompanied by a letter from the North Park DRC that states its recommendation for final approval of the requested Variation, with or without conditions, and a copy of the documents relied upon by the North Park DRC in taking such actions.
- C. The North Park DRC may assign certain review and decision-making responsibilities to a subcommittee of the North Park DRC. Recommendations of the North Park DRC regarding the final approval of any application for a Development Project or a Variation shall be made by a majority vote of a quorum of the North Park DRC. A quorum is defined as at least three (3) voting members including the Developer representative.
- D. Broomfield shall take into consideration the statement of the North Park DRC regarding compliance with the PUD, but Broomfield shall have the right and responsibility to determine each Development Project's compliance with applicable provisions of all Controlling Documents and the BMC in accordance with the provisions of Section 12.2.3 of these Regulatory Procedures.

#### 12.3.2 COMPLETE APPLICATION

A. For purposes of these Regulatory Procedures, a Complete Application is a Development Project submittal for which all of the following requirements have been met:



1. The Applicant has submitted a complete development application form for the type of application(s) being submitted;
2. The Applicant has submitted every item listed on the approved Submittal Checklist for the type of development application(s) being submitted, unless such item has been waived by the designated Broomfield official as set forth on the applicable Submittal Checklist;
3. The Applicant has submitted the documentation from the North Park DRC as required by Section 12.3.1; and
4. The Applicant has paid all required fees for the type of development application(s) being submitted.

Submittal Checklists for each type of Development Project within the PUD are the Broomfield standards.

- B. If an Applicant proposes a Development Project containing a land use that is not specifically listed as either a Permitted Use or Use by Special Review for such Subparcel of the PUD, the Applicant shall obtain an interpretation from the City and County Manager as to the proper categorization of the desired use prior to submittal of a Site Development Plan which contains such use. The City and County Manager's determination, in its reasonable discretion, shall be based upon the similarity of the desired use to the character of the uses specifically listed for the Subparcel in which the new use is desired.

A use which is not, in the reasonable discretion of the City and County Manager, similar in character to a specifically listed Permitted Use or Use by Special Review shall not be permitted, unless such use is approved by the City Council as a Major PUD Amendment.

### 12.3.3 SITE DEVELOPMENT PLANS

A Development Project with Permitted Uses or Uses by Special Review, a combination of Permitted Uses and Uses by Special Review, and a Planned Sign Program shall require the submittal of a Site Development Plan. Site Development Plans shall be processed in accordance with the BMC consistent with Section 12.2.2 of the PUD and in accordance with Section 12.3.1 of the PUD.

#### A. REVIEW STANDARDS

All recommendations of the LURC, and decisions of the City Council regarding a Site Development Plan shall comply with applicable provisions of the Controlling Documents and based on whether the Applicant has demonstrated that the proposed Site Development Plan meets the following standards:

1. The review standards set forth in BMC Sections 17-38-220(A), (B), (C), (D), (E), (F), (I) and (K); and
2. The following review standards as varied from the review standards set forth in BMC Sections 17-38-220 (G), (H), (J) and (L) pursuant to the Variance List:
  - a) The land uses within the Site Development Plan should be reasonably compatible with one another and with nearby properties taking into consideration the mixed-use nature of the PUD and that compatible does not mean "the same uses";
  - b) The proposal should provide open area as required by Sections 9 and 10 for residential uses and Sections 6 and 9 for non-residential uses;
  - c) The proposal should justify, in terms of the overall quality of the plan, any proposed deviations from the BMC which are not already approved in the Controlling Documents;



- d) For residential Site Development Plans, the proposal should be consistent with the applicable residential design standards in Sections 7, 9 and 10.
- 3. The proposal should be consistent with the applicable Design Standards and any approved Variations therefrom.

**B. PERMITTED USES**

Section 1.3 of the PUD contains a list of Permitted Uses for each of the land use categories within the PUD (i.e. MUD and MUS). The land use legends on the maps in Section 11 of the PUD depict the locations of the MUD and MUS land use categories described in Section 1.

**C. USES BY SPECIAL REVIEW**

Section 1.3 of the PUD contains a list of Uses by Special Review for each of the land use categories within the PUD (i.e. MUD and MUS). The land use legends on the maps in Section 11 of the PUD depict the locations of the MUD and MUS land use categories described in Section 1.

In addition to the review standards for Site Development Plans set forth in Section 12.3.3.A, Uses by Special Review within the Site Development Plan shall be evaluated by the LURC and the City Council for compliance with the applicable provisions of the Controlling Documents and based on whether the Applicant has demonstrated that the proposed Use by Special Review meets the applicable review criteria of BMC Section 17-30-040.

**D. CHANGES IN USE**

Changes in the use of an existing building on an existing Lot to a Permitted Use which do not require a building permit are not required to submit a Development application to Broomfield, provided that the applicable development standards for the new use

are met with the current conditions of the site and that no modification to the exterior of the site, including building architecture, landscaping, parking or other external elements, is proposed. In the event that changes in the use of an existing building on an existing Lot to a Permitted Use do require a building permit or that modifications to the building architecture, landscaping, parking or other external elements are proposed, then an application for a Site Development Plan shall be processed in accordance with Sections 12.3.1 and 12.3.3.

**12.3.4 SUBDIVISION PLATS**

**A. GENERAL PROVISIONS**

- 1. Subdivision plats shall be processed in accordance with BMC Title 16 to the extent consistent with Section 12.2.2 of this PUD and in accordance with Section 12.3.1 of this PUD.
- 2. Prior to the development of a Lot or the issuance of a building permit (excluding grading and Footing and Foundation permits) or certificate of occupancy for a building on a Lot, the subdivision plat including such Lot shall be approved pursuant to this Section 12.3.4 and recorded in the Broomfield County Records.
- 3. Each subdivision plat within the PUD shall be evaluated for compliance with the applicable provisions of the Controlling Documents, provisions of the BMC which are not in conflict or inconsistent with the Controlling Documents, and the review standards set forth in BMC Title 16.
- 4. The subdivision improvement agreement or improvement agreement related thereto may, pursuant to the Variance List, modify or waive the performance guarantee requirements of BMC Chapter 16-32 for improvements that are to be constructed by a Metropolitan District in accordance with Section 7 of the Development Agree-



ment which is subject to approval by City Council.

## B. REPLATS

In the event a subdivision plat is submitted in which the proposed Development Project does not include all of the property within a legal parcel, the remaining property which is not then being developed shall be shown as a Tract on the subdivision plat, and such Tract shall be replatted prior to Broomfield approval of any Development Project within such Tract.

### 12.3.5 BUILDING PERMITS

An application for a building permit shall be preceded by a Site Development Plan and shall be subject to review in accordance with BMC Title 15 as set forth in Section 12.2.2 of this PUD.

Nothing herein shall waive or modify the requirements of the Technical Standards or amendments thereto adopted by Broomfield pursuant to BMC Title 15 (Buildings and Construction).

### 12.3.6 PUBLIC NOTICE REQUIREMENTS

Notice for any public hearing required by this Section 12 shall be in accordance with the requirements of BMC Chapter 17-52, as amended and to the extent consistent with Section 12.2.2 of the PUD.

### 12.3.7 MINERAL ESTATE OWNER NOTIFICATION

The notification of mineral estate owners of the property which is the subject of a public hearing shall be given in accordance with the requirements of C.R.S. §24-65.5-101 et seq. and an affidavit of the Applicant's compliance with such requirements shall be provided to Broomfield prior to the public hearing for which the notice was given.

## 12.4 APPEALS

Appeals shall be processed in accordance with BMC consistent with Section 12.2.2 of this PUD.

## 12.5 AMENDMENTS

### 12.5.1 AMENDMENTS TO THE PUD

#### A. AUTHORITY TO AMEND THE PUD

Subject to the approval of the Development Agreement by City Council, the Developer has the right to amend the PUD without the consent of any owners of property within the PUD except in certain limited circumstances, all as set forth as approved in the Development Agreement. The amendment of the PUD by any party other than the Developer is prohibited by covenants applicable to the property within the PUD. However, third party owners within the PUD may propose amendments to the PUD, but no such application shall be accepted by the City unless accompanied by a letter from the North Park DRC that states its recommendation for approval of the application. In accordance with the Variance List and the Vesting Agreement, the provisions of BMC Section 17-38-137 are not applicable to the North Park PUD.

#### B. PUD AMENDMENTS

PUD amendments shall be processed in accordance with BMC Title 17 to the extent consistent with Section 12.2.2 of this PUD and, if a third party owner, in accordance with Section 12.3.1 of this PUD. For PUD Amendments that directly affect less than the entire PUD or less than the entire North Park Preliminary Plat, the public notice requirement shall be specific to the Parcels or Subparcels of the PUD included within or directly affected by the PUD Amendment, as determined by the City and County Manager in his or her reasonable discretion, and the areas within five hundred feet (500') thereof.



12.5.2 AMENDMENTS TO APPROVED SITE DEVELOPMENT PLANS

A. MINOR SDP AMENDMENTS

A Minor SDP Amendment is an amendment to an approved Site Development Plan which, in the reasonable discretion of the City and County Manager, is generally consistent with the approved PUD and Site Development Plan and which is limited to the following:

1. Those items set forth in BMC Sections 17-38-230(A)(1) through (5); and
2. Those modifications which, in the opinion of the City and County Manager, are minor in scope, will not have a detrimental effect on the neighborhood or the project and satisfy the review standards of Section 12.3.3.A.

A Minor SDP Amendment shall be approved by the City and County Manager in accordance with BMC Section 17-38-230 (A) to the extent consistent with Section 12.2.2 of the PUD and in accordance with Section 12.3.1 of the PUD. In the event that the City and County Manager denies a Minor SDP Amendment or finds that the proposed amendment does not fall within the limitations set forth above, the Applicant may process the proposed amendment as a Major SDP Amendment.

B. MAJOR SDP AMENDMENTS

For purposes of these Regulatory Procedures, an amendment to a Site Development Plan which does not qualify as a Minor SDP Amendment pursuant to Section 12.5.2.A above shall be considered a Major SDP Amendment.

Any Major SDP Amendment to an approved Site Development Plan requires the same review as the original Site Development Plan.

12.5.3 AMENDMENTS TO APPROVED SUBDIVISIONS PLATS

Any amendment to an approved Subdivision Plat requires the same review as the original Subdivision Plat.

