

Proposed Changes to the Land Development Code for Location and Extent Reviews

5-7.3. Location and Extent

A. INTENT

The regulation of the location and extent of public facilities is provided by Colorado Revised Statutes, Section 30-28-110, as amended. The paragraphs of this Section intend to conform to the provisions of the State Statute, to define the factors to be considered in the “Location and Extent” process, and to prescribe procedures for the orderly consideration of Location and Extent applications in order to effectuate the purposes of the state statute.

B. GENERAL REQUIREMENTS AND PROCEDURE

1. Applicability

- a. No road, park, public way, ground, or space, no public building or structure, and no major facility of a public utility shall be constructed or authorized in the unincorporated areas of Arapahoe County unless and until the proposed location and extent thereof has been submitted to and approved by the Arapahoe County Planning Commission.
- b. Public Schools. Public school site locations and site development plans are governed by state statute. As required by Section 22-32-124(1)(a), Colorado Revised Statutes, prior to acquiring land or contracting for the purchase of land for a school site, the board of education for the school district shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Comprehensive Plan as far as is feasible. Prior to the construction of any structure or building, the school district shall submit a site development plan for review and comment to the Planning Commission. The Planning Commission may request a public hearing before the board of education on such proposed site location or site development plan and the board of education shall promptly schedule same.
- c. Charter Schools. Charter school facilities are governed by state Statute. As required by Section 22-32-124(1.5)(a), Colorado Revised Statutes, prior to contracting for a facility, a charter school shall advise in writing the planning commission and the planning commission, within ten (10) days of such written advisement, may request the charter school to submit a site development plan for the propose facility and, if requested, the charter school shall submit a site development plan for the planning commission’s review and comment. The planning commission shall provide comments within thirty (30) days of receiving such plan. The planning commission, if not satisfied with the charter school’s response to such comments, may request a hearing before the board of education on the charter School’s proposed development plan.
- d. The following facilities or actions are exempted from location and extent review, but shall comply with any other permit or development requirements:
 - i. Routine extensions of public utility lines and minor modifications to existing utility lines and/or facilities.

- ii. Capital road projects within Arapahoe County or Colorado Department of Transportation rights of way.
- iii. Operation, maintenance, repair, and replacement of existing water and sewage collection, treatment, storage, and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility.
- iv. **Operation, maintenance, repair, and replacement of existing electrical substations, transmission, and distribution facilities and associated works, provided that improvements or replacements of existing facilities do not materially alter the existing facility.**
- v. The extension of any utility facility or line necessary to serve a particular subdivision or other use approved under this Code and provided that a permit under the Arapahoe County Regulations Governing Areas and Activities of State Interest (1041 Regulations) is not otherwise required.
- vi. A facility identified within a PUD, where the Administrative Site Plan has been submitted and reviewed through the County's PUD process.
- vii. Expansion of existing facilities does not require the submittal of a new application if the expansion was identified and approved in the original application.
- viii. Certain minor changes to existing L&Es can proceed as administrative amendments. [For instance, adding a new or reconfigured ballfield or new equipment, new or trails or trailheads or even amphitheaters to existing parks or open spaces can be decided by staff without hearing and might need to have some manner of notice to the PC. Similarly, perhaps certain amendments to cell tower L&Es can be exempted or treated administratively with notice to PC.]

2. Procedures

- a. Location and Extent applications shall follow the application procedures in Section 5-2.1.B.
- b. When the application is determined to be complete, staff will set a hearing date before the Planning Commission.
- c. Once the hearing before the Planning Commission has commenced, the Planning Commission shall render its decision within thirty (30) days and no continuance may extend such decision for more than thirty (30) days without the written consent of the applicant.
- d. The Planning Commission will use the following criteria in its review:
 - a. The compatibility with the existing and allowable land uses in the surrounding area.
 - b. The degree of conformance with the County's Comprehensive Plan and applicable subarea plans.
 - c. The applicant's efforts for public outreach concerning the project.
 - d. The ability to mitigate negative impacts upon the surrounding area.
 - e. The availability of infrastructure and services.
 - f. The public way, ground, space, building, structure, or utility, does not conflict with that of another authorizing or financing entity as contemplated by C.R.S. sec. 30-28-110(c).

- g. The effect on the health, safety, and welfare of the residents and landowners in the surrounding area.
- e. If the Planning Commission disapproves a proposed public facility authorized or financed by the County, or approves it with conditions the applicant is not willing to accept, the Planning Commission shall communicate the reasons for such disapproval to the Board of County Commissioners and the applicant may appeal such decision to the Board, who may overrule such disapproval by a majority vote.
- f. If the project is not required to be authorized or financed by the County, the Planning Commission's disapproval may be overruled by the body or official having jurisdiction consistent with the provisions of CRS 30-28-110f.
- g. Public Schools and Charter Schools. Public schools and charter schools do not require a location and extent and shall be processed in accordance with the provisions of CRS 22-32-124. Upon receipt of the written advisements specified under CRS 22-32-124 concerning site locations for new school facilities or site development planning or construction of new facilities for public or charter schools, an agenda item for the Planning Commission to consider and propose such comments as it desires to communicate to the School District Board shall be scheduled within such time frame as may be required under CRS 22-32-124 and in accordance with said law.

3. Public Notice

- a. The applicant shall be responsible for providing public notice prior to the Planning Commission hearing in compliance with the public notice requirements in Section 5-2.2 of this Code.
- b. If a Planning Commission decision is appealed, the applicant shall be responsible for providing notice of the Board of County Commissioners hearing in compliance with the requirements in Section 5-2.2 of this Code.

4. Decision and Findings

- a. The Planning Commission and the Board of County Commissioners, when applicable, may approve the facility as submitted, approve it with conditions, or deny the facility. The conditions to be imposed are those necessary, at the discretion of the Planning Commission and Board of County Commissioners, to mitigate or eliminate any adverse impacts of the proposed facility on the surrounding area and may include the posting of sufficient performance guarantees with the County to guarantee the construction of any public improvements.
- b. Upon approval of the Location and Extent, a photographic mylar or equivalent, prepared in accordance with the standards established in the Development Application Manual, Part 5, shall be submitted to the PWD Department for the Planning Commission's signature. The mylar will be kept on file at the PWD Department Planning Division.

C. POST APPROVAL ACTIONS

- a. Approval of a Location and Extent request shall be and may be subject to stipulations and/or conditions precedent which the applicant is deemed to accept by preparing a reproducible mylar for signature by the Chairman of the Planning Commission or Board, as applicable, within 60 days from approval date. If no mylar is submitted, the PWD Department will recommend the Planning Commission rescind approval of the request.

- b. After the Planning Commission or Board Chair signs the final mylar, building permits may be obtained (upon proof of an approved Final Plat before Location and Extent approval) if applicable. Many times, the land underlying a Location and Extent is not yet platted.

D. AMENDMENTS

An approved Location and Extent Plan may be amended pursuant to the provisions of Section 5-2.3. The Planning Division Manager will make the determination of whether an amendment is a major amendment or can follow the administrative amendment procedures. Appeals to the Planning Division Manager's determination may be made to the Planning Commission.