

**HOW TO NEGOTIATE THE
IMPROVEMENT AGREEMENT PROCESS**

**from Construction Planning
through Completion of the Warranty Period**

**for Properties within the
Estes Valley Planning Area**

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OVERVIEW - HOW TO NEGOTIATE THE IMPROVEMENT AGREEMENT PROCESS

Subdividing and Developing Property

When subdividing or developing property, the developer may be required to install public and/or private improvements, for example, water mains or service lines, sewer mains or service lines, road improvements, and landscaping.

Construction Plans and Security (Financial Guarantee)

Approved construction plans are required prior to installation of improvements and provision of security (a financial guarantee) is required. This security protects the public in the unlikely event that a developer defaults on their obligation to install the required improvements.

Warranty

In most cases, the developer warrants the improvements for a two-year period after they are accepted on behalf of the public. If repairs are needed to the during this two-year period, the developer is responsible for making the repairs.

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STEP 1

Submittal and Approval of Construction Plans and Engineer's Cost Estimate — Process for SUBDIVISIONS and CONDOMINIUM CONVERSIONS

Submit the following items to the Planning Department with the application for a final subdivision plat or final condominium map:

_____ **Final construction plans** showing all proposed phasing for the required improvements.

_____ **Engineer's cost estimate**

Cost estimates should be prepared using the standard Planning Department format (see sample attached). The cost estimate details the *estimated* costs of the required improvements and shows all proposed phasing.

Refer to the Estes Valley Development Code Appendix B for a complete list of submittal requirements.

Routing and Review

The Planning Department will route the final construction plans and engineer's cost estimate to each affected agency or department for review and approval. Any proposed phasing is reviewed by the appropriate agency/department. Final approval of the construction plans and cost estimate (including phasing plans) rests with that particular agency/department.

For example ... the sanitation district will review the plans and cost estimate for sewer line construction, and will notify the Planning Department of concerns or approval. The Light and Power Department will review electric plans and costs, the Planning Department will review landscaping improvements, etc.

Submit the following items to the appropriate agency(ies)/department(s) PRIOR to plat/map recordation:

_____ **You must provide copies of the approved construction plans that have been stamped and signed by an engineer to the appropriate agency(ies) or department(s).**

The Planning Department will request verification from each agency/department that they have approved the construction plans and that you have provided them with signed construction plans in all formats required (such as mylar, digital, and/or paper copies).

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**Submittal and Approval of Construction Plans and
Engineer's Cost Estimate — Process for
SUBDIVISIONS and CONDOMINIUM CONVERSIONS
continued**

**Submit the following items to the Planning Department PRIOR plat/map
plat/map recordation:**

_____ **Verification of the engineer's cost estimate in standard format**

Once the final construction plans have been approved by each reviewing agency, the engineer's cost estimate will be reviewed to ensure that any changes made to the plans are reflected in the final cost estimate. The Planning Department will reroute the cost estimate for final approval (via email and .pdf). You may be required to submit an updated cost estimate.

_____ **A signed improvement agreement, including the final approved
engineer's cost estimate (see STEP 2)**

_____ **11"x17" copy of approved plans showing the improvements listed in the
engineer's cost estimate**

_____ **Security / Financial guarantee (Letter of credit, cash guarantee, or bond—see STEP 2)**

Submittal and Approval of Construction Plans and Engineer's Cost Estimate — Process for DEVELOPMENT PLANS

Submit the following with the first permit application for grading or building.

Properties within Town limits—submit information to the Town Building Department.

Properties outside Town limits—submit information to the Planning Department.

_____ **Final construction plans** showing all proposed phasing for the required improvements.

_____ **Engineer's cost estimate**

Cost estimates should be prepared using the standard Planning Department format (see sample attached). The cost estimate details the *estimated* costs of the required improvements and shows all proposed phasing.

Refer to the Estes Valley Development Code Appendix B for a complete list of submittal requirements.

Routing and Review

The Town Building Department or the Planning Department will route the final construction plans and cost estimate to each affected agency or department with the first building or grading permit application. Any proposed phasing is reviewed by the appropriate agency/department. Final approval of the constructions plans and cost estimate (including phasing plans) rests with that particular agency/department.

For example ... if water and sewer main extensions are required for a new building under an approved development plan, the plans and cost estimate will be routed to the Public Works Department (water main) and to the sanitation district (sewer main). ***All items in the cost estimate must be guaranteed by letter of credit, cash, or bond prior to issuance of the first grading/building permit***, with the exception of trees, shrubs, and irrigation, which do not need to be guaranteed until the request for the certificate of occupancy.

After Routing and Review ...

You must provide copies of the approved construction plans that have been stamped and signed by an engineer to the appropriate agency(ies) or department(s).

_____ The Planning Department will request verification from each agency/department that they have approved the construction plans and that you have provided them with signed construction plans in all formats required (such as mylar, digital, and/or paper copies).

_____ **Verification of the engineer's cost estimate in standard format**

Once the final construction plans have been approved by each reviewing agency, the engineer's cost estimate will be reviewed to ensure that any changes made to the plans are reflected in the estimate. The Planning Department will reroute the cost estimate for final approval (via email and .pdf). You may be required to submit an updated cost estimate.

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Submittal and Approval of Construction Plans and Engineer's Cost Estimate — Process for DEVELOPMENT PLANS continued

Submit the following items to the Planning Department PRIOR to issuance of the first grading/building permit:

_____ **A signed improvement agreement, including the final approved
engineer's cost estimate (see STEP 2)**

_____ **11"x17" copy of approved plans showing the improvements listed in
the engineer's cost estimate**

_____ **Security / Financial guarantee (Letter of credit, cash guarantee, or bond—see STEP 2)**

STEP 2 Improvement Agreement and Security (Financial Guarantee)

The Planner who reviewed the subdivision or development plan will provide you with an improvement agreement, which must be signed by the owner/developer, as well as Mayor of Estes Park or the Chair of the County Commissioners.

What is an Improvement Agreement?

- * The improvement agreement is a legal document.
- * The agreement is between the owner/developer and the Town of Estes Park (for properties inside Town limits) OR Larimer County (for properties within the unincorporated Estes Valley).
- * It describes the developer's responsibilities to complete public or private improvements.
- * It includes the amount of security the owner/developer must provide.
- * It includes the timeframe for completion of the improvements.
- * It includes remedies in the event of default.
- * It includes the length of the warranty period.
- * It includes the final approved engineer's cost estimate as an attachment.
The cost estimate itemizes the improvements the owner/developer is required to complete or install.

The Three Types of Improvement Agreements

Town of Estes Park

- a. Subdivision Improvement Agreement
- b. Development Plan Improvement Agreement

Unincorporated Larimer County

Larimer County utilizes a standard Development Agreement that is prepared by staff and reviewed by the County Attorney prior to approval.

The term improvement agreement used throughout this document refers to all three types of agreements described above.

Administration of Improvement Agreements

The Planning Department administers all improvement agreements and processes all requests for reductions in security.

Amount of Security (Financial Guarantee) to be Provided

The security is a letter of credit, cash, or bond, and must be 115% of the engineer's cost estimate for all improvements except landscaping. Landscaping improvements must be guaranteed for 125% of the engineer's cost estimate.

Length of Term Required for Security (Financial Guarantee)

If a letter of credit (LOC) is provided as security, the term of the LOC must be for a minimum of two years and 60 days.

Important notes about security (financial guarantees):

- * ***DO NOT obtain the security without first consulting with the Planning Department about the total amount required.***
- * ***DO NOT obtain a letter of credit (LOC) without first consulting with the Planning Department about the LOC expiration date.***

STEP 3 Construction and Installation of Improvements

Time Allowed for Construction

- a. **Improvements must be constructed and/or installed concurrent with the impacts of development** (see Estes Valley Development Code §7.12 and your signed improvement agreement)

For some improvements, specific timeframes are set.

For instance ... Up to 25% of building permits *may* be issued prior to installation all drainage improvements. Electric services must be installed up to, and including, mains and distribution boxes (such as transformers and secondary pedestals) prior to the issuance of the first building permit.

- b. **OR an agreement reached during review of the subdivision plan or development plan *may require a shorter timeframe.*** Planned phasing may also impact these timeframes.
- c. **For subdivisions, improvements must be installed no later than two (2) years from the date the plat/map is approved.**
(See Estes Valley Development Code §10.5.K.)

If improvements are not completed within two (2) years, review and approval of Town Board or County Commissioners is required to extend the improvement agreement. *If* an extension is approved, an updated cost estimate and security (financial guarantee) will be required.

Permits, Inspections, and Reports

Obtain required permits

Prior to construction obtain all required permits. For example, a Development Construction Permit, which is issued by the Larimer County Engineering Department, is required prior to construction in unincorporated Larimer County.

Inspections

Each agency or department will require inspection of installed improvements at stages determined by that agency. **Be sure to consult with each agency or department and request required inspections at appropriate stages.**
Inspection is required prior to release of security.

Submit required reports

Submit all required reports to the appropriate agency(ies) throughout the construction process.

For instance ... compaction tests are required for road base for both public and private roads. Within Town limits compaction tests are also required for paving of parking lots and shared driveways. Compaction tests must be submitted to the Public Works Department/Larimer County Engineering Department **PRIOR to paving**. Also, underground utilities that will be paved over must be accepted by the applicable agency, and proof of acceptance must be submitted to the Public Works Department **PRIOR to paving**.

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Enforcement and Penalties

If improvements are not constructed in accordance with the approved plans and the signed improvement agreement, the Community Development Director has the authority to withhold permits, inspections, and/or certificates of occupancy on the the project question or on other projects under the same ownership.

In the unlikely event of default, the Town/County has the authority to draw on and use the funds provided as security to complete the improvements (see Estes Valley Development Code §12 and your signed improvement agreement for complete details).

STEP 4 As-Built Drawings and Engineer's Certificates

Once an approved phase or portion of the project is complete, you must submit as-built drawings prepared by an engineer to the appropriate reviewing agency(ies) or department(s) for approval. The reviewing agency has the discretion to waive or add requirements for as-built drawings.

For instance ... when Phase I of a water main has been completed, a drawing showing the *actual location* of the main is completed by an engineer and submitted to the Town Water Department for review.

After the agency has reviewed the as-built drawing for accuracy and it has been approved, you must submit the final as-built drawing in all formats required by the reviewing agency. This *may* include:

_____ one paper copy *stamped and signed by an engineer (see attached Certification Requirements for As-Built Plans handout)*

_____ one signed mylar

_____ one digital copy in an approved format

Important notes about as-built drawings:

- * ***A certified engineer or someone under their direct supervision should be on-site during construction of any major utility.***
- * ***Photos of all underground service connections must be provided. Label the photos and include a measuring device in the photo to show the utility depth.***
- * ***Utilities must be located in the center of easements and verification of this must be provided.***
- * ***As-built drawings must reflect actual conditions. Requests for utility locates to facilitate the drawing of as-builts will not be honored and plans stating that engineers have not reviewed drainage improvements and/or the location of utilities will not be accepted.***
- * ***As-built drawings must provide the same level of detail as the approved construction plans.***
- * ***For properties within unincorporated Larimer County, also refer to the approved Development Construction Permit for requirements.***

Items that require As-Built Drawings

- * Public water improvements
- * Public sewer improvements
- * Public electric improvements (phone and cable must be shown on as-builts)
- * Public or private roads (utilities must be shown on as-builts)
- * Public drainage improvements
- * Private drainage improvements (such as detention facilities)
- * Private improvements *for projects with approved development plans*
- * Condominium projects (as-builts are required for *both public and private improvements*, including irrigation systems)
- * Landscaping (an engineer's stamp is not required)

STEP 5 Release/Reduction of Security

(Request for release or reduction of letter of credit, cash guarantee, or bond)

- _____ **Complete the Request for Reduction or Release of Security portion of the Cost Estimate spreadsheet (Improvement Agreement Exhibit A)**
- _____ **Review the completed spreadsheet with the Planning Department**
- _____ **Obtain approval for the release from the appropriate reviewing agencies. (Reviewing agencies sign the spreadsheet)**
- _____ **Submit the following to the Planning Department**
 - _____ Completed spreadsheet with all required signatures
 - _____ Letter requesting the reduction (in standard format; sample attached)
 - _____ Reduced-size copies of the plat or plans with the completed improvements identified/highlighted
 - _____ An Estes Valley Engineer's Drainage Certificate *(Submit only if staff has waived the requirement to submit drainage plan as-builts and a request for reduction in drainage security is requested.)*
 - _____ Proof of subdivision monumentation *(Submit only if release of subdivision monumentation funds is requested.)*
 - _____ Letter of release from the Larimer County Weed Control District
Note: This involves the developer contacting the Weed Control District to schedule a site visit and paying any applicable review fees to the District. *(Submit only if release of landscaping funds is requested.)*

STEP 6 Beginning the Warranty Period

_____ For property within the Town limits, once *all* improvements are constructed/installed, complete and sign the Improvement Acceptance and Warranty Agreement form and submit this to the Community Development Department for signature

_____ For property within the unincorporated Estes Valley, once *all* improvements are constructed/installed, contact the Planning Department for a warranty agreement.

Important notes about the warranty period and warranty amounts:

Which improvements require a warranty?

- * *All public improvements*
- * *All drainage improvements*
- * *All landscaping improvements*
- * *Private improvements do not require a warranty (unless they are drainage or landscaping improvements)*

How much warranty is required?

- * *25% of the guaranteed amount for all landscaping improvements*
- * *15% of the guaranteed amount for all other improvements*

How long is the warranty period?

- * *All improvements require a warranty period of two (2) years.*

When are the warranty funds released?

- * *The improvements must remain free from defects in material and workmanship for a period of two (2) years from the date of acceptance by the reviewing agency/department (or a longer period if so specified). After you provide confirmation from the agency/department that the improvements are free from defects, the Planning Department will release the warranty funds at the end of the warranty period. The Planning Department has ninety (90) days following the end of the warranty period to process warranty releases for properties inside Town limits and sixty (60) days following the end of the warranty period to process releases for properties in unincorporated Estes Valley. (See your signed improvement agreement for complete details.)*
- * *If a partial release of security is approved for a property within unincorporated Larimer County, you will be provided with a Resolution Regarding Release of Collateral signed by the Town.*

Reviewing Agencies / Departments

| | | |
|---|---|--|
| Sewer | — | Estes Park Sanitation District or Upper Thompson Sanitation District |
| Electric | — | Town Light & Power Department |
| Water | — | Town Water Department |
| Fire hydrants | — | Town Water Department |
| Drainage (Town) | — | Town Public Works Department |
| Drainage (County) | — | Town Planning Department |
| Roads (Town) | — | Town Public Works Department |
| Roads (County) | — | County Engineering Department / Town Planning Department |
| Roads (State) | — | Colorado Department of Transportation (CDOT) |
| Sidewalks (Town) | — | Town Public Works Department |
| Sidewalks (County) | — | Town Planning Department |
| Landscaping | — | Town Planning Department |
| Postal cluster boxes on private property | — | Town Planning Department |
| Postal cluster boxes in public right-of-way | — | Town Public Works Department |